

# The Tennessee Journal

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## Could deal on 2028 convention ease GOP's anti-Nashville frenzy?

Nashville Metro Council members were left with few illusions last year about whether Republicans would seek retribution if they failed to approve a framework to host the GOP presidential convention in 2024. Members nevertheless plunged ahead with rejecting the event, arguing they were accustomed to getting shafted by the General Assembly and that matters could hardly get much worse. They were wrong.

Republican lawmakers have since introduced a series of measures aimed at punishing the liberal city, led by a bill to slash the size of the Metro Council from 40 elected members to 20. Subsequent proposals would restrict how the city can spend money generated through a privilege tax collected at its convention center and usurp mayoral appointments to the airport and sports authority boards.

House Speaker Cameron Sexton (R-Crossville) has suggested the state exert its jurisdiction over the segment of the state route comprising Lower Broadway to “clean up” the tourist district. And a measure sponsored by freshman Sen. Brent Taylor (R-Memphis) and Rep. Jason Zachary (R-Knoxville) would eliminate runoff elections in mayor's races, a change that would give a conservative candidate a better chance of prevailing in a crowded field.

With numerous caption bills parked in the legislative hopper, further punitive measures could be brought to bear against Nashville. Unless something changes, that is. And it just so happens there's a solution available in the not-too-distant future. According to legislative leaders, the Republican National Committee wants to lock down the site of its 2028 convention by as early as April. For Nashville to get into the running, the Metro Council would have to approve the framework by the end of February. If it does, the reasoning goes, the General Assembly's supermajority might dial back its assault. But if not, watch out.

Reversing course on a Republican convention would certainly be an exercise in humility for council members who led the charge against the event last summer. In the final vote, only 10 members backed the agreement, while 22 voted against. At the time, several raised concerns about security, pushing out other convention business, and being a platform for what was then expected to be a coronation for Donald Trump's comeback. Last year's vote also came amid

the raw emotions following the Supreme Court's decision to overturn *Roe v. Wade*, as reflected in the national elections that denied Republicans a widely anticipated rout.

With five years to prepare, there is little reason why the city couldn't be ready to host the RNC. But for the council to change its position on the event now would still require some major backtracking, and members are bound to resent being forced to do so under duress. But the prospect of additional punitive measures is equally unappealing.

A major difference between last year and now is that Mayor John Cooper is no longer running for re-election. Unlike last time, Cooper might now be persuaded to actually go to bat for the agreement he had negotiated with Republicans, only to drop it on the council with nary a lobbying effort. Counting against an active Cooper role — even if he were so inclined — would be his lame duck status and the fact that the two council members already running for his job might yet be joined by several more.

And then there's the matter of how much Republicans would really be willing to give up even if they get the desired deal on the convention. Rural hostility toward the state's urban centers has been a feature of the Tennessee General Assembly for more than a century, and the thirst for lashing out at Nashville may never truly be slaked, even if the GOP's biggest party ends up being held in the capital city in 2028.

### Legislative roundup

#### **\$3.3B in play for Lee roads plan, Sexton talks nixing feds' ed money**

When Gov. Bill Lee started talking about overhauling the state's education funding formula last year, several lawmakers expressed reservations about whether he would be able to accomplish such an ambitious proposal in so little time. The roll-out of the plan came with the promise of \$1 billion in new education funding.

Meanwhile, every high school in the state was promised \$1 million in career and technical education grants. While the funding formula details were being hashed out, lawmakers were encouraged to go ahead and approve the funding stream so the money would be locked into the budget.

Lee is taking a similar approach by tying \$3.3 billion in new spending to his effort to speed up road construction timetables by changing the rules to give the state more leeway over how major projects are bid and contracted, and creating a public-private partnership arrangement for new express lanes near urban centers. The proposal calls for spending \$750 million in each of the Tennessee Department of Transportation's four administrative districts (a separate \$300 million would be distributed to local governments as grants). Each region covers a similar area, but has vastly differing population density:

TDOT District	Population	Per capita
Region 1 (Knoxville)	1.77 million (26%)	\$423
Region 2 (Chattanooga)	1.12 million (16%)	\$667
Region 3 (Nashville)	2.45 million (35%)	\$307
Region 4 (Memphis)	1.57 million (23%)	\$479

On a per-capita basis, Region 2 — which happens to be home to the House speaker and the two chambers' finance chairs — would receive more than double the amount of the district that is home to the state's biggest traffic snarls around Nashville. To keep lawmakers from other parts of the state on board, the administration argues that engaging in public-private partnerships near the cities will free up funds to make long overdue upgrades in other areas of the state, like adding a third lane to rural interstates.

**From toll to user fee.** The administration is going to great pains to emphasize the plan doesn't involve toll roads — which it defines as those requiring payment for all lanes. Lee's plan instead calls for "choice lanes," which would be in addition to existing general-purpose roadways. Just to make it official, the legislation deletes the term "toll" in the relevant code section and replaces it with "user fee."

**Electric vehicle fees.** While electric vehicles make up a small portion of cars and trucks in Tennessee, officials worry about lost gas tax revenues as they become more prevalent. Under the legislation, the current \$100 registration fee for EVs would be hiked to \$274 per year — and adjusted for inflation annually starting in 2025. When lawmakers were debating then-Gov. Bill Haslam's IMPROVE Act in 2017, they rejected his proposal to tie the state's gas tax to changes in the consumer price index.

**You can't fire me because I quit.** Sexton is floating a proposal to opt out of nearly \$1.8 billion in annual federal education funding, the Associated Press reported this week. He argues the state's flush revenue situation could make up for the forgone money. Sexton told the AP the nation's first such move would allow the state to "educate the kids how Tennessee sees fit" without having to follow guidelines set by the U.S. Department of Education.

The risk of losing federal education funds has been used in the past to halt various legislative proposals, including ones targeting transgender students and efforts to exclude public school access to children of people living in the country without legal authorization. Sexton's proposal follows a move by the Lee administration to opt out of a federal HIV-AIDS program because it would have required money to be directed to Planned Parenthood. Lee this week proposed spending \$7 million in state funds to replace the lost funds.

## From the courts

### Nominee Tarwater talks personal tragedy, plans for Supreme Court

Gov. Bill Lee has nominated Knoxville civil defense attorney Dwight Tarwater, 67, to fill an upcoming vacancy on the state Supreme Court created by the planned retirement of Justice Sharon Lee. Tarwater, a former legal counsel to then-Gov. Bill Haslam, spoke about a variety of issues during his interview with the Governor's Council for Judicial Appointments last month. Here are some of Tarwater's remarks to the panel, edited for clarity and grammar (the questions are paraphrased):

**Q: You are at a different stage in your career than other applicants. How much of a factor is your age?**

**Tarwater.** I realize I am a little older. As the old song goes, as you get older and wiser, you need to be a little leaner. I'm in really good health, physically, mentally, emotionally, and most importantly, spiritually. I intend to keep working. If nominated and appointed, I will serve out the term, which ends in 2030. That would be seven years. I note Justice Lee served 14. . . . My parents both passed away in their mid to late 90s. I'm not going to serve that long, but I can assure you that I'll serve out this term and hopefully get into the next one.

**Q: Your life was struck by personal tragedy when your wife died unexpectedly.**

**Tarwater:** It's a little easier to talk about that now than it used to be. It's hard when Christmas Eve is the worst day of your life. She suffered a fatal cardiac arrest on Christmas Eve in 2012. There was no notice. There were no good-byes. There was no last 'I love you.' My oldest son had just returned from the 2012 Olympics with a gold medal. My daughter had just gotten engaged. My youngest son was playing basketball at Cornell. And for that period of time, we became the four urchins huddled together for warmth as we tried to figure out how to put our lives back together.

So let me say a couple of things about that. My kids did great. They're all doing great. I've got five grandkids now. So the four urchins turned into 12. And that experience has formed me into the person that I am today. . . . The hardest decision that I've ever had to make in my life was to remove the life support. But it was also the greatest act of love. And how does that relate to this? I promise you, I am not afraid.

**Q: Do you have enough of a background in criminal law to decide over that category of cases?**

**Tarwater:** I handled three criminal cases in my career: a shoplifter, a burglar, and a lawyer. [But] I became immersed in criminal law and policy when I was in the governor's office. I was his criminal policy adviser to the National Governors Association. I served on the indigent representation task force of the Tennessee Supreme Court. I was chair of the governor's public safety sub-cabinet, where we made numerous recommendations to enhance sentences in cases that needed it, like domestic violence and aggravated burglary, which is so often associated with drug use and trafficking. So I saw a lot, and I had to learn all the ins and outs of the criminal statutes and the policies. But I suppose my greatest experience would have been with clemency cases.

# Tennessee News Digest

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- Professional wrestling legend and former Memphis mayoral candidate Jerry “The King” Lawler, 73, was hospitalized in Florida after suffering a major stroke.
- The parents of Tyre Nichols, the Memphis man killed following a police traffic stop last month, attended President Joe Biden’s State of the Union address in Washington.
- FedEx Corp. plans to cut as much as \$3.7 billion in spending amid flagging earnings

following a boom during the COVID-19 pandemic. Reductions by the Memphis-based company include laying off 10% of its officer and director teams.

- U.S. Treasury Secretary Janet Yellen toured the construction of the Ultium Cells battery plant in Spring Hill on Wednesday.
- The National Labor Relations Board overturned a 2021 decision by one of its regional offices that had blocked a union vote by about

86 tool-and-die technicians at the Nissan plant in Smyrna. The group wants to be represented by the International Association of Machinists and Aerospace Workers.

- *Forbes* estimates Nashville’s 3-year-old Major League Soccer franchise is worth \$500 million, placing it 18th out of 29 teams.
  - Tennessee State University’s Aristocrat of Bands won a Grammy in the roots gospel category for *The Urban Hymnal* album.
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## **Q: How does your career defending corporate clients qualify you for the Supreme Court?**

**Tarwater:** In life, we all make choices. We choose who to marry, we choose where to send our kids to school, we choose who to represent. I chose to represent a bunch of big companies. I also chose to represent a homeless man who lived in a doghouse. And I can promise you that I brought this same zeal to my representation of the homeless man in the doghouse as I did for General Electric. It didn’t matter to me. Both were my clients, my duty was to my client.

When I was in Nashville, I was called to advise the governor. And I advised him of what the rule of law was. It didn’t matter what a constituency was advocating for either side. The rule of law is what’s important. And if I’m permitted to serve, I would uphold the rule of law.

## **Q: What about your lack of judicial experience?**

**Tarwater:** I’ve been in a lot of tough fights. And I know whenever you’re in the arena, you get an appreciation for the process and how it works. In my practice, I’ve seen the issues from the very simple to the most complex.

I would not have been a finished product to present myself to you had I not been counsel to the governor. My time in Nashville was so valuable. I saw laws being made. I traveled freely between all three branches of government. I came to know all of the Supreme Court justices very well because they had issues that they needed to discuss with the administration and I was the first one they came to for that.

I can be all that I am and nothing that I’m not. I believe that my experience as a litigator and my experience in the statehouse are unique experiences that should be offered.

## **Obituaries**

### **Redistricting advocate Maclin Davis, senator and lobbyist Tommy Haun**

As a freshman lawmaker from Nashville in 1955, Maclin Davis was among the marginalized urban Democrats and East Tennessee Republicans who wanted to require the General Assembly to follow the state constitution’s reapportionment requirements that had been roundly ignored since the beginning of the century.

Before a bill could even be filed, the rural bloc that controlled the statehouse at the time had rival legislation drafted and made the successful motion to officially reject it on the House floor — a parliamentary move that blocked any further measures on the same subject from being considered that session.

When Davis, who died last month at age 96, tried to file his bill anyway, it was summarily defeated. During the traditional end-of-session lawmaker hijinks, Davis was presented with a huge “crying towel” for his efforts to force the redistricting question. But the last laugh would come later when Davis joined a team of lawyers who filed suit in state court over the matter.

The *Kidd v. McCannless* case was successful at the trial court level, but the state Supreme Court overruled the decision and sided with lawmakers who resisted the change. But the case had the important effect of exhausting state judicial remedies and clearing the path for the federal courts to take up the next challenge, *Baker v. Carr*, which led to the U.S. Supreme Court’s one person, one vote standard.

Davis went on to become a name partner with the Waller Lansden Dortch & Davis law firm, a vocal opponent of a state income tax and judicial retention elections, and legal counsel for the state GOP from 1977 to 2003. Davis became the subject of media coverage during the 2010 governor’s race when he asked Republican candidate Ron Ramsey whether he agreed President Barack Obama was not a U.S. citizen. “I’m not saying you’re not right, Mac,” Ramsey responded. “But that’s not how you win elections.”

**Haun.** Tommy Haun, a former state senator and lobbyist, died from a stroke Thursday at age 72. The Greeneville Republican served six years in the House before winning the Senate seat vacated by future federal judge Ronnie Greer in 1994. Haun was appointed chair of the Transportation Committee as a freshman. His 1997 act to require the state gas tax to automatically rise to make up any reduction in the federal levy became known as the “Tommy Haun Law.”

Haun proudly displayed a “Thank You for Smoking” sign in his office. In 1994, he helped lead a tea party-style rally in which farmers tossed 200 pounds of tobacco into a Greeneville creek in protest of a federal cigarette tax hike.

In 2001, Haun briefly considered running to succeed term-limited Gov. Don Sundquist. Haun had taken issue with leading candidates’ criticism of lawmakers for pursuing a state income tax to combat a deep budget crisis (he was quoted as calling eventual GOP nominee Van Hilleary “an idiot”). The income tax ultimately failed, and Haun paid a political price for supporting it, losing his 2002 GOP primary to Steve Southerland, who still holds the seat today.

After leaving office, Haun gained work as a lobbyist. His clients included Community Health Systems, Blue Cross Blue Shield, and the Tennessee Sheriff’s Association.

## Tennessee Notes & Quotes

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■ Senate Speaker **Randy McNally** has been hospitalized after experiencing an irregular heartbeat. The Oak Ridge Republican said in a tweet the tests performed at Vanderbilt University Medical Center indicated he would likely need a pacemaker to regulate his cardiac issues.

■ McNally wasn't feeling well on Thursday when the heart monitor on his watch alerted him to a low heartbeat. After gaveling in the session, he handed proceedings over to Speaker Pro Tem **Ferrell Haile** (R-Gallatin), and Sen. **Richard Briggs** (R-Knoxville), a surgeon, recommended the 79-year-old go to the hospital for an examination.

■ Tennessee issued 67,385 handgun carry permits in 2022, a 54% decrease compared with the last full year before the state in 2021 dropped requirements to undergo background checks and training to be authorized to carry loaded firearms in public. Despite the decreased interest in obtaining a state-issued permit, last year's 2,786 suspensions and revocations for criminal charges or orders of protection in domestic violence cases were 35% more than in 2020.

■ Former legislative aide **Cade Cothren** has been granted a delay until the end of the year in the Registry of Election Finance case against him for refusing a subpoena to appear and provide documents relating to a political action committee called the Faith Family Freedom Fund. A former girlfriend testified under oath Cothren had persuaded her to secretly open the PAC on his behalf. Moving the hearing until December places the matter after the scheduled federal bribery and kickback trial of Cothren and former House Speaker **Glen Casada** (R-Franklin).

■ **Guy Jones**, who in 2020 became the executive director of the Tennessee District Attorneys General Conference after a 23-year career lobbying for the association, plans to retire this summer.

■ State prosecutors "expect to be neutral" on a renewed effort to write greater privacy rights for crime victims into the state constitution and could swing toward favoring the measure if "lingering issues are resolved," according to a conference spokeswoman. The DAs helped defeat a similar effort in 2021 by Marsy's Law for All, a national campaign funded by a California billionaire whose sister was stalked and killed by her ex-boyfriend in 1983.

■ **Willie Herenton**, the former 17-year mayor of Memphis, wants his old job back. Herenton, 82, this week announced he will run to succeed term-limited Mayor **Jim Strickland**. Herenton ran against Strickland four years ago but finished 34 points behind. Eleven others have announced plans to run this August.

■ Former AllianceBernstein COO **Jim Gingrich**, who helped lead the wealth management firm's move from New York to Tennessee in 2018, announced plans to run for mayor of Nashville this year after incumbent **John Cooper** decided against seeking a second term. Also considering bids are **Alice Rolli**, a former campaign manager for then U.S. Sen. **Lamar Alexander** (R-Maryville), and firebrand former Vanderbilt professor **Carol Swain**.

■ U.S. Sen. **Marsha Blackburn** (R-Brentwood) has been named to the Senate Finance Committee to go along with her previous assignments to the Judiciary, Commerce, Transportation, and Veterans Affairs panels.

■ *Commercial Appeal* political reporter **Samuel Hardiman** has moved to the *Daily Memphian* to work as an enterprise and investigative reporter.

■ "House Republicans are trying to slash lifelines for middle class families on behalf of rich special interests. Who on earth thinks that welfare for Big Pharma is worth selling out over a million seniors in their home state?" — *White House spokesman Andrew Bates in a statement about a bill filed by freshman U.S. Rep. Andy Ogles (R-Columbia) seeking to repeal the Inflation Reduction Act, including its provisions to limit out-of-pocket drug costs and copays for insulin for Medicaid recipients.*

■ **Ogles** reportedly attended an Americans for Prosperity conference in Palm Springs, Calif., during which the political arm of the Koch network unveiled a plan to support a presidential candidate other than **Donald Trump** in 2024. Ogles is a former state director of the group.

■ "The best thing for the country would be to have a president in 2025 who represents a new chapter. . . . The American people have shown that they're ready to move on, and so AFP will help them do that." — **Emily Seidel**, chief executive of Americans for Prosperity.

■ The full Senate is poised to vote on a bill to require filings with registers of deeds to be submitted in a 12-point font size. Sponsor **Page Walley** (R-Savannah) amended his bill in committee to remove a requirement for the typeface to be Times New Roman. Sen. **John Stevens** (R-Huntingdon) noted the U.S. Department of State recently decided to move from Times New Roman to Calibri, which is less prone to cause errors by text recognition software. Sen. **Jeff Yarbro** (D-Nashville) agreed Calibri might be the better choice but said it might be unfair to expect filers to use anything but the default typeface.

■ It's almost always going to be **Comic Sans**, isn't it?

■ The state Senate voted 26-6 on Thursday to ban "male or female impersonators who provide entertainment that appeals to a prurient interest" from performing on public property or in private venues where minors are present. Opponents argue the measure would have the effect of likening all drag performers to strippers or topless dancers.

■ The urgency with which lawmakers embraced the measure recalls a 1978 push by churches and attorney **Larry Parrish** — who had previously prosecuted *Deep Throat* actor **Harry Reems** — to enact a new anti-obscenity law. Due to misgivings about its constitutionality, the attorney general's office hired Parrish to defend the inevitable legal challenge. The state Supreme Court in 1979 threw out the law on the basis that its definitions of terms like "contemporary community standards" and "prurient interests" went beyond the U.S. Supreme Court's First Amendment rulings.

■ Is there a law against impersonating serious lawmakers?