

The Tennessee Journal

The weekly insiders newsletter on Tennessee government, politics, and business

Vol. 41, No. 39
October 9, 2015

Strickland thumps Wharton in Memphis mayoral race

Attorney and councilman Jim Strickland convincingly won the Memphis mayoral election Thursday, crushing incumbent A C Wharton, whose political troubles seemed only to mount as a difficult campaign wore on.

Strickland, 50, who campaigned on themes of fiscal austerity and improved public safety, offers a fresh face as Memphis grapples with a shrinking revenue base and long-term fiscal problems. He out-pollled Wharton, 71, by 20 percentage points.

The challenger's call for change clearly resonated with voters more than Wharton's experience did. For Wharton, who won more than 60% of the vote in each of four previous elections and who five weeks earlier held a slight lead in an independent poll, the margin of defeat amounted to a stunning rejection.

Strickland will be the majority-black city's first white mayor in 24 years, no doubt having benefited from being the lone Caucasian in a field of 10. He won with just under 42% of the vote, but there is no runoff in the mayoral election, as a federal judge banned such follow-up balloting in 1991, holding that citywide runoffs in Memphis functioned to thwart minority candidates.

Now, of course, whites are a minority in the city, which is 63% African American.

Strickland, a life member of the NAACP, campaigned in black churches and said his internal polling indicated he had 20% of the black vote.

He has served on the Memphis City Council since 2007, representing portions of Midtown and East Memphis, and he chaired the body in 2014. He will be sworn in as mayor Jan. 1.

Wharton told supporters Thursday evening he had enjoyed "a good run." He became the first black elected mayor of Shelby County in 2002, won a special election for city mayor in 2009, and then won a full term in 2011.

Wharton's woes. After dealing with budgetary crises virtually non-stop over the past few years, Wharton strained his previously cordial relations with city employees and unions. And he doubtless suffered from a couple of scandals involving associates that erupted during the campaign, though given the margin of his

defeat they may merely have widened the gap. In late August, a sex scandal led to the ouster of Housing and Community Development director Robert Lipscomb. Then, in the final weeks of the campaign, controversy arose over an \$880,000 contract awarded to the consulting firm of Wharton's campaign manager, Deidre Malone, by a company the city had hired to provide police body cameras. The company and Malone eventually terminated her contract.

Wharton got some help from influential friends outside the city. Former governor Phil Bredesen, U.S. Rep. Jim Cooper (D-Nashville), and then-mayor Karl Dean hosted a fundraiser in Nashville for him a month ago. Last weekend, former United Nations ambassador, congressman, and Atlanta mayor Andrew Young flew in to endorse him. But in the end, none of it mattered.

The vote. A total of 100,607 citizens, roughly 25% of registered voters, cast ballots in the race. Wharton, who finished second with 22% of the vote, wasn't far ahead of two other serious contenders, City Councilman Harold Collins, who captured 18%, and Memphis Police Association president Mike Williams, who pulled in 16%. No one else in the field received more than 598 votes.

Although all the candidates are Democrats, Strickland, who in 1995 served as Shelby County Democratic Party chairman, had received the "recommendation" of the county Republican Party.

The mayor-elect is the law partner — in the firm Kustoff & Strickland — of David Kustoff, who perhaps is best remembered in political circles as the Tennessee director of George W. Bush's 2000 presidential campaign, in which Bush carried the state over native son Al Gore.

Strickland, who attends St. Louis Catholic Church, is a graduate of Christian Brothers High School and the University of Memphis, where he also received his law degree. He and his wife, Melyne, have two children.

Racial breakdown. Not only is Memphis heavily African American, Shelby County as a whole is 53% black. It will not escape attention that all elected full-time county officials, including the county mayor and sheriff, are white, as are the district attorney and an

inner city congressman, and, soon, the Memphis mayor. African Americans barely constitute majorities — seven of 13 members in each case — on the city council and county commission. Nine of Shelby County's 14 state representatives are black. Two of its five senators are.

Team recommends prison changes

Correction Commissioner Derrick Schofield insists that despite some problems, including a personnel shortage in West Tennessee, his department is operating smoothly and the state's prisons are safe.

His toughest critics, especially House Democratic Caucus Chairman Mike Stewart of Nashville, contend things are so bad the prison system is at risk of a federal lawsuit and another takeover by the courts such as occurred in the 1980s.

So what is going on?

First, it should be remembered that prisons are populated by criminals. If someone is looking for trouble involving murderers, rapists, and robbers, it usually isn't hard to find. The question is whether it's under control. Schofield says it is. Democrats in the legislature argue a reporting system that understates assaults on correctional officers is making the prisons look safer than they are. They have called for an independent audit.

The department asked the American Correctional Association, through which the state's prisons are fully accredited, to undertake a review focused on areas of public concern. Three experts, two of them former heads of state prison systems, spent three days visiting five Tennessee prisons and issued their report Wednesday.

Members of the Senate State and Local Government Committee's Corrections Subcommittee questioned how much the inspectors could discern from a few hours at each prison. But Richard Stalder, a retired secretary of the Louisiana Department of Public Safety and Corrections, said that with decades of experience at all levels of corrections and law enforcement, they are capable of sizing up a prison fast by observing movement, security procedures, and various key indicators. The group split up at each facility and struck up conversations with staff members and inmates, he said.

Core function. The report found the department solid in its core mission to operate safe and sanitary prisons. But it offered recommendations in two areas of concern, work schedule and definition of assault, both of which have been focal points of the recent criticism.

The report recommends the state move away from the 28-day work period it adopted more than a year ago and institute a 14-day period with 12-hour shifts. Stalder told senators the present work period, which was adopted to create scheduling flexibility and save on overtime, has led to morale problems. One issue is the unavoidable lag time in receiving overtime pay. Another is that under present staffing arrangements, double shifts have been needed.

The fact that some guards have ended up working two shifts has made others worry, justifiably or not, that they'll have to do so, too, he said. Schofield told lawmak-

ers in August that mandatory double shifts had ended, but some correctional officers said they nonetheless felt pressured to work them. Stalder said the ACA's proposal for a 14-day work period with 12-hour shifts should solve the double-shift problem and also give workers a three-day weekend twice a month.

ACA's other recommendation is to change classifications for assault so that inmates can be charged with assaulting staff members without an "intentional injury." The experts suggested the change would lead to fewer attacks on guards.

Under present policy, non-injurious attacks such as flinging a liquid at the pants legs of a guard are classified as "staff-inmate provocations." The report recommends a broadening of several disciplinary offense definitions to treat aggressive behavior more seriously.

Schofield said he believed the recommendations made sense but wanted to study them to see if some "tweaks" might be necessary based on the system's unique circumstances.

Watchful eyes. Sen. Mike Bell (R-Riceville), chairman of the Government Operations Committee, which will hold a sunset hearing on the department later this month, sat with the subcommittee by invitation.

In the audience were four representatives of the Tennessee State Employees Association, which has been invited to comment to the panel next week — as has the commissioner. Also observing was Rep. Bob Ramsey (R-Maryville), chairman of the House State Government Committee.

Security. A bit of quibbling took place in the hearing, and in some responses afterward, over the report's note that "there have been no escapes from secure custody since February 2009," which the ACA regards as "a critical measure" of public safety.

Sen. Paul Bailey (R-Sparta) brought up a well-publicized incident from July, in which a low-security inmate at Northwest Correctional Complex in Lake County walked off a work detail outside the prison. ACA officials noted that wasn't an escape from "secure custody." The inmate, serving time for theft of property and bad checks, was recaptured hours later.

Political roundup

Local revenue from Hall income tax will again make repeal problematic

Sen. Brian Kelsey (R-Germantown), who 2½ weeks ago scrapped a proposal for a phase-out of the Hall income tax and filed an amendment for its immediate repeal, produced yet another amendment this week, one to hold cities and counties harmless.

With the legislature not reconvening until January, Kelsey's activity may seem like much ado about nothing immediate, but it's an indication that, as is always the case when the state enjoys a budget surplus, lawmakers too will have a surplus — of money-costing ideas.

Once upon a time, this meant pork-barrel spending schemes. While the pork proclivity hasn't entirely perished, the Republican supermajorities now in control

Tennessee News Digest

- Tennessee Farm Bureau Federation president Lacy Upchurch announced Monday he will not seek another term in December. The Cumberland County beef cattle producer has served since 2005.
- Meeting in Memphis Monday, the Tennessee State Museum Commission began the process of finding a successor to Lois Riggins-Ezzell, 75, executive director of the museum for 34 years. The colorful director, practically an institu-

tion herself, has landed in the middle of several controversies of late, including art acquisition policies.

- Former state senator Bob Burleson (R-Roan Mountain) died Oct. 3 at age 81. The funeral was set for today (Oct. 9) at Magill Memorial Presbyterian Church in Roan Mountain, where he was an elder and Sunday school teacher. The longtime restaurateur served in the House from 1973 to '78 and then in the Senate till '86.

- The Campaign for Accountability filed a complaint with the Office of Congressional Ethics this week over the receipt of campaign contributions from the payday loan industry by 11 congressmen, including Rep. Stephen Fincher (R-Frog Jump), who shortly afterward voted for a payday loan bill to which the group objects. An industry spokesman called the filing “a desperate attempt to gain publicity for their ill-conceived agenda.”

often find greater pleasure in tax cuts — which play well in GOP primaries. At least two organizations known for putting their advertising money where their priorities are — Americans for Prosperity-Tennessee and the Beacon Center of Tennessee — will push, again, for repeal of the Hall income tax, which they view as discriminatory and unfair to savers and retirees.

Gov. Bill Haslam, while no fan of the Hall tax, doesn't want to dig a hole in the state's revenue base and does want to boost education funding. He rhetorically has challenged advocates for the tax's termination to identify \$300 million in offsetting budget cuts.

Three-eighths of every payment of the Hall tax, a 6% levy on bond interest and stock dividends, including capital gains distributions, is returned to the city or county from which it is paid. The rest goes into the state's general fund. Under Kelsey's amended plan, not only would the state lose its present 62.5% share, it would pay to local governments in perpetuity the average annual amount they have received in the past five years.

The tax is a significant revenue source for many local governments. In some cases, one or two wealthy citizens can make a difference. The chart on this page reflects revenue from the 2014-15 fiscal year. Nashville and Davidson County proceeds were combined, since both go into their Metro government treasury. Satellite cities within Davidson County, such as Belle Meade, Forest Hills, and Oak Hill, receive their own Hall payments.

Local receipts vary greatly. Bristol, for example, took in \$614,294, Union City \$244,935, and Maury County \$132,443, while Hardin County received \$86,738, Haywood County \$9,975, and Parkers Crossroads \$39. Wartburg and Westmoreland didn't get a cent.

Haslam has questioned the fairness of billing all Tennessee taxpayers, in effect, for ongoing hold-harmless payments that would tend to benefit wealthy locales. But a repeal would stand virtually no chance without a hold-harmless provision of some nature.

Haslam managed to stop a repeal last year, despite Americans for Prosperity's collection of 92 signatures from lawmakers pledging their support.

The Hall income tax contains an exemption for the first \$1,250 in applicable income for single filers, \$2,500 for a couple. In addition, there is a total-income exemption for those 65 and older. It was raised last spring to \$68,000 for couples and \$37,000 for single filers.

Hall income tax top distributions for 2014-15

<i>Locale</i>	<i>County</i>	<i>Hall share</i>
Metro Nashville	(Davidson)	\$16,516,320
Memphis	Shelby	14,807,188
Knoxville	Knox	10,014,635
Brentwood	Williamson	4,200,196
Chattanooga	Hamilton	4,174,352
Franklin	Williamson	3,722,242
Knox County	-----	3,330,723
Germantown	Shelby	3,089,794
Cleveland	Bradley	2,236,010
Belle Meade	Davidson	2,081,879
Hamilton County	-----	1,587,094
Shelby County	-----	1,520,988
Murfreesboro	Rutherford	1,190,290
Collierville	Shelby	1,166,403
Williamson County	-----	1,166,345
Kingsport	Sullivan	1,115,662
Signal Mountain	Hamilton	960,066
Loudon County	-----	909,116
Johnson City	Washington	891,085
Gallatin	Sumner	869,060
Hendersonville	Sumner	814,449
Jackson	Madison	784,208
Clarksville	Montgomery	761,545
Forest Hills	Davidson	747,467
Oak Ridge	Anderson	708,454

U.S. House speaker. The announcement Thursday by House Majority Leader Kevin McCarthy (R-Calif.) that he is dropping out of the race to succeed John Boehner as speaker threw the contest into temporary chaos. Rep. Chuck Fleischmann (R-Chattanooga) said he was shocked. Rep. Jimmy Duncan (R-Knoxville) predicted a quick resolution of the matter and suggested “conservatives in our party need to realize that everybody can't be as conservative as maybe they want them to be.”

Rep. Scott DesJarlais (R-South Pittsburg), a member of the House Freedom Caucus, which had opposed McCarthy's bid, called for “a fresh face.”

Meanwhile, Daniel Schneider, executive director of the American Conservative Union, told *Breitbart News* that Rep. Marsha Blackburn (R-Brentwood) could unite the party and should run for the position.

Tennessee Notes & Quotes

■ Rep. **Mike Harrison** (R-Rogersville), chairman of the House Finance Subcommittee, will resign from the legislature in December to become executive director of the County Mayors Association of Tennessee, effective Jan. 1. He will be the second House member in two years to leave for a lobbying position with a county government association. **Charles Curtiss** (D-Sparta) resigned in January 2014 to take the executive director's post with the County Commissioners Association. Harrison, 57, who served as Hawkins County mayor prior to his election to the House in 2002, will succeed **Fred Congdon**, a former Unicoi County mayor who has held the executive director job since 1990. Under the state's "revolving door" law, Harrison will not be able to lobby for the group for a year after he leaves office. The Hawkins County Commission will appoint an interim state representative before the 2016 legislative session starts.

■ Wednesday, after the mayors association made **Harrison's** hiring official, House Speaker **Beth Harwell** announced that Speaker Pro Tem **Curtis Johnson** (R-Clarksville) will serve as "interim" chairman of the Finance Subcommittee in 2016. It is a powerful position, as all bills dealing with taxes or spending must clear the subcommittee, which is commonly known as the "Black Hole." Johnson will continue to serve as speaker pro tem.

■ Speaker **Harwell** told *The Commercial Appeal* editorial board in Memphis Monday she believes the legislature should clarify in 2016 the bill it passed this year preventing cities and counties from banning guns in their public parks. She said she has asked the National Rifle Association to help draft a bill to make sure guns can be barred in public facilities such as FedEx Forum in Memphis and Nissan Stadium in Nashville but has not heard back from the organization.

■ The NRA announced Wednesday it supports a lawsuit, filed the same day in Knox County Circuit Court, challenging Knoxville's decision to ban firearms in Chilhowee Park during the Tennessee Valley Fair last month. Mayor **Madeline Rogero**, the defendant, argues Chilhowee, despite its name, is not actually a city park and thus firearms can be banned. The plaintiff, **Pandora Vreeland** of Loudon, is a gun permit holder who contends the ban was unlawful and events in gun-free zones are "uniquely susceptible to violent crime." The Tennessee Firearms Association has said it will file a suit, but it has not yet done so.

■ "The gospel according to **Ron Ramsey**." — *Headline on an unflattering editorial in The Tennessean Wednesday concerning the lieutenant governor's Facebook comment last Friday in which he encouraged "my fellow Christians who are serious about their faith to think about getting a gun permit."*

■ A dispute concerning how amendments to the state constitution are ratified is turning into a legal brawl over venue. When Amendment 1 was approved last November, clearing the way for certain abortion restrictions, eight opponents challenged the historical interpretation

of ratification — in federal court. They contend votes cast on amendments by persons who skip over a governor's election on the ballot may not be counted. After U.S. District Judge **Kevin Sharp** declined to certify the question to the state Supreme Court, the state went to Williamson County Chancery Court arguing the federal court lacks authority to interpret the Tennessee Constitution and seeking a declaratory judgment. Now, the federal plaintiffs — defendants in the state action — have fired back with a motion asking Chancellor **Mike Binkley** to stay or dismiss the state's "unprecedented" attempt at an "end run," which they argue is "an affront to the judicial system." The state has not yet responded.

■ With the Volkswagen emissions scandal generating lawsuits, recalls, investigations, accusations, congressional hearings, cancellation of 2016 U.S. diesel model sales, and general financial uncertainty, Gov. **Bill Haslam** visited the Volkswagen plant in Chattanooga Wednesday and said he assured employees "the state of Tennessee is not going anywhere in terms of supporting you all." Haslam told reporters afterward that while VW will have to address the legal consequences of its actions, "there's been no conversation" about changing the state's economic incentives for the Tennessee plant.

■ The newspaper chain Gannett Co., which publishes *USA Today* and whose Tennessee papers include the dailies in Nashville, Clarksville, Murfreesboro, and Jackson, is acquiring Journal Media Group for \$280 million, the companies announced Wednesday. That means in early 2016 Gannett will control two more Tennessee papers, *The Commercial Appeal* in Memphis and the *News-Sentinel* in Knoxville. The only major daily in the state's largest cities not in Gannett hands will be the *Chattanooga Times Free Press*, which is owned by WEHCO Media, a private company in Little Rock.

■ **Billy Dycus**, who previously headed the United Steelworkers local in Morrison, was elected this week as president of the Tennessee AFL-CIO Labor Council. He succeeds former state legislator **Gary Moore**, 66, who had served since 2011 and chose not to seek another term. **A.J. Starling** was reelected secretary-treasurer.

■ "I have decided for safety and the best interest of all to turn my city phone in to the city and purchase a private phone." — *La Vergne Mayor Dennis Waldron, to The Daily News Journal, in response to accusations he made sex-related calls on a city cell phone. If he made such calls, the mayor said, it was by mistake.*

■ A resolution by Blount County Commissioner **Karen Miller** asking that God "pass us by in His coming wrath and not destroy our county" over legalized same-sex marriage drew national attention and attracted a throng to the county courthouse Tuesday night. The county commission, meeting only to approve an agenda for Oct. 15, quickly voted 10-5 to reject the entire agenda, including the budget, and fled. A special meeting will have to be called on the budget. Otherwise, the wrath of the state comptroller may not pass the county by.