



TENNESSEE VOTER

The League of Women Voters of Tennessee

PO Box 158369, Nashville TN 37215-8369 | 615-297-7134 | www.LWVTN.org | LWVTenn@gmail.com

Summer 2014

Officers

Co-presidents **Margie Parsley**, Nashville, & **Jo Singer**, Franklin

1st Vice President—Membership
Laurel Karp, Johnson City

2nd Vice President—VOTE 411
Judy Raines, Nashville

Secretary **Judy Poulson**,
Knoxville

Treasurer **Marian Ott**, Nashville

Directors

Special Events **Michele
Brandenburg**, Oak Ridge

Webmaster **Alan Karp**, Johnson City

Voter Editor **Sue Bredensteiner**,
Nashville

Action **Barbara Gay**, Nashville

Amy Greene, Murfreesboro

Kathy Gilbert, Dunlap

Nominating Committee

Chair **Kathy Edwards**, Oak Ridge

Barbara Devaney, Nashville

Lorelei Gould, Gallatin

LWVTN Education Fund Board of Trustees

The Elected Officers

Office Administrator

Karen Fairbend

Presidents' Message

Summer and fall will be much busier this election year for the LWVTN. In addition to a large cast of candidates for the **August 7** state primary and county general election, the **November 4** state and federal general election also will include four constitutional amendments. LWVTN will provide informational materials across the state about these issues, using a variety of formats to reach as many Tennesseans as possible.

Many voters do not understand the importance of the August retention election for the impartial and merit-based selection of **Supreme Court Justices** in Tennessee nor do they understand the ramifications of the constitutional amendments that will appear on the November ballot. It is LWVTN's mission to supply unbiased information to Tennessee voters. We hope Tennessee's local Leagues also will be doing voter education with an important community focus.

The LWVTN Action Committee is taking a lead in preparing materials about issues important to our state government. When you receive the information, please share it widely. We are sure the committee would welcome input and help from members across the state on how to reach as many Tennesseans as possible. You may contact **Margie Parsley**, **Jo Singer**, or Action Committee Chair **Barbara Gay** to find out more.

Knowing how involved local Leagues will be with elections, the LWVTN Board decided at its May meeting not to hold a **Fall Conference** this year. We do look forward to seeing you at **Spring Convention 2015** when we will elect officers, approve a new two-year budget, and participate in the League's hallmark education programs. We return to a two-day format for that event, based on input from across the state that one day was not working for those coming from long distance, no matter where the event was held. The two-day event gives us a better chance to network, share ideas, and form working relationships with League members from across the state as we chart a stronger organization.

We want to thank those of you who are supporting the LWVTN **Lobbyist Fund**, **Operating Fund**, and **Education Fund**. LWVTN is pleased to be on the front lines for many issues, and the support of our members is vital to ensure continued vitality. We know you value the work the League is doing and it shows through your support of ongoing fundraising efforts.

As you receive this message, the LWVUS National Convention will be in progress in Dallas. **Jo Singer** will represent LWVTN. We hope many of you will have taken the opportunity to add your local League's voice to the national discussion of issues and direction. That way a number of us can bring back energy and ideas to further League work here in Tennessee!

In League, **Margie Parsley** and **Jo Singer**, Co-presidents

LWVTN Spring Council May 3, 2014

by Director of Special Events Michele Brandenburg

Hosted by **League of Women Voters of Oak Ridge (LWVOR) Spring Council** was held at the DoubleTree Hotel on Saturday, May 3, 2014 from 10 am to 5 pm. Attendees enjoyed a delicious light breakfast, lunch, and beverages throughout the day, with a fun make your own trail mix snack in the afternoon.

LWVOR planned an informative agenda for the day. A huge thank you goes to **Brenda Parker** and her committee for seeking and scheduling speakers to address a variety of issues.

The day's business began with a warm welcome from LWVOR President **Anne Adamson** and the official Call to Council by LWVTN Co-president **Jo Singer**. Then LWVTN Treasurer **Marian Ott** presented the proposed revised budget.

Charles Jernigan, board chairman of the **Oak Ridge Land Bank Corporation**, described a pilot program that is endeavoring to build a stronger community by redeveloping no longer viable properties throughout Oak Ridge. This is a model that uses federal, state, and local resources to spark real estate change and has proved successful in many parts of the nation. Jernigan's presentation was interesting and well received.



Leaguers from across Tennessee—ready, set, Go!



Kee Bryant-McCormick

A panel of Oak Ridge League members discussed the importance of understanding your community to successful Voter Service Projects, and their success with membership luncheons and Monday Breakfasts with Legislators.

Following lunch, LWV Hendersonville President **Kee Bryant-McCormick** provided an energized and effective mini-seminar about charting policy advocacy that works, which summarized and enhanced the training she had received last winter in Chicago at **Wellstone Action**. Wellstone is dedicated to making change happen through hundreds of trainings, events, and strategy sessions across the country each year designed to inspire leaders and transform organizations to win progressive change. Bryant-McCormick's presentation was creative, interactive, and replicable.

A discussion of the four **Tennessee Constitutional Amendments** that will appear on the November 2014 ballot followed. Oak Ridge National Laboratory Researcher **David Reiste** presented historical information about Amendment 1, Legislative Powers Regarding Abortion. **Neil McBride**, retired founder of Rural Legal Services of Tennessee, helped attendees understand Amendment 2, Judicial Selection. Former Mayor of Knoxville **Randy Tyree** was assisted by long time League Member and Tennesseans for Fair Taxation Board

Member **John Stewart** in explaining the ramifications of Amendment 3, Income Tax Prohibition. LWVOR 2nd Vice President **Brenda Parker** presented information about Amendment 4, Veterans Organization Gambling, which aims to include 501(c)19 organizations under the same fundraising guidelines as those with a 501(c)3 designation.

LWVTN Action Committee Chair **Barbara Gay** updated attendees about recent activities of her busy committee. And LWVTN Lobbyist **Stewart Clifton** presented a wrap up of the 2014 Legislative Session.

Director of Special Events **Michele Brandenburg** presented a mini-book review of the *New York Times* best seller—*The Girls of Atomic City* by Denise Kiernan—before giving a special copy as the event's door prize to LWVTN 1st Vice President **Laurel Karp**.

The day concluded with a vote to accept the proposed LWVTN budget and adjournment by Co-president Singer.

As many Leaguers across Tennessee know, **John** and **Nancy Stewart** have been active in the League along with other social justice and economic justice issues and groups for many years. In the 1960s,



Stewart Clifton

John Stewart was legislative director for Senator **Hubert H. Humphrey** and played a key role in coordinating the strategy and staff support contributing to the passage of the Civil Rights Act of 1964. We thank Stewart for sharing copies of his new book, *When DEMOCRACY Worked: Reflections on the Passage of the Civil Rights Act of 1964* with each of the meeting's registrants.

We also thank LWVOR 1st Vice President **Peter Scheffler** for taking and sharing the excellent photo chronology of the Council meeting.

LWVTN Council 2014 in Pictures



LWVOR President
Anne Adamson



LWVTN Co-president
Jo Singer



LWVTN Treasurer
Marian Ott



ORLB Board Chairman
Charles Jernigan



LWVTN Secretary Judy Poulson



LWVTN Voter Editor Sue Bredensteiner



LWVN President Debby Gould



LWV Hendersonville President Kee Bryant-McCormick



Neil McBride, John Stewart, & Randy Tyree



John Stewart



LWVOR 2nd VP Brenda Parker



LWVTN Director of Special Events Michele Brandenburg



LWVTN Co-president Jo Singer & LWVTN Treasurer Marian Ott

LWVTN Thanks Alan & Laurel Karp

The LWVTN Board learned with regret at its May 2 meeting that two members, 1st Vice President (Membership) **Laurel Karp** and Webmaster **Alan Karp** had purchased a new home in Florida and would be leaving their Johnson City community of many years to become “Snow Birds.” The Karpes have been a mainstay of the Johnson City League and have served on the LWVTN Board for a number of years. Their dedication and expertise will be missed. League members are excited for them and wish them well in this new adventure.

It seemed fitting that Laurel Karp had the winning number for the Council’s door prize—*The Girls of Atomic City*. She was delighted to receive it!



LWVTN Member Spotlight: Kee Bryant-McCormick

Q: *Kee how did you become involved in the League of Women Voters?*

A: From my first meeting, I fell in love with the League. I had seen an advertisement for the Hendersonville League’s Fall Kickoff meeting and I wanted to attend but I didn’t know if I had missed the RSVP date or not. So I called a friend who was the former secretary to one of the co-presidents at the time. She, in turn, called the co-president on my behalf and asked if it was too late for me to attend. Ironically, the co-president had recently read an article about me in the newspaper and was going to call my friend that same day to get her to invite me to the meeting. So, it was serendipity! I attended the meeting

and loved it. I not only joined the League that night, but I also joined a committee. Just a week later, I attended my first committee meeting and the rest is history.



Kee Bryant-McCormick is an attorney in Hendersonville and owner of the law firm Bryant-McCormick, PLLC. She previously served as assistant public defender for the 18th Judicial District, which encompasses all of Sumner County, and has worked as a corporate defense lawyer. Kee comes from a very large family of nine girls and has lived in five states. She attended the University of Missouri – Columbia, Mississippi College, Texas Wesleyan University (Texas A&M) School of Law, and Vanderbilt Law School. She is married to Sjohn McCormick (pronounced Shaun) and they have one son, Chase, who has autism. Kee is a Christian and very dedicated to public service. In addition, she is currently planning commissioner for the City of Hendersonville. She is president of the Hendersonville League of Women Voters, and serves on a variety of Board of Directors including the Rotary Club of Hendersonville, the Hendersonville Senior Center, Nashville Alumnae Chapter of Delta Sigma Theta, and the Nashville Chapter of Jack and Jill of America. She also is a trustee for Volunteer State Community College, and currently a member of Leadership Sumner. Kee coaches Beech High School’s Mock Trial team and is a member of the Autism Society of Middle Tennessee. Her professional affiliations include the Sumner County Bar Association, Tennessee Bar Association, Tennessee Association of Criminal Defense Lawyers, Napier Looby Bar Association, and the American Bar Association. She also has served as an arbitrator for the Better Business Bureau since graduating from law school.

Q: *Why did you love those first League meetings?*

A: I love the League for many reasons including, the League’s focus on education, advocacy, and voter service, but the main reasons for me was the acceptance that I felt from my other League members. It was so welcoming to become part of a truly nonpartisan organization. It is amazing to be able to talk about politics in an non-adversarial environment, to be with men and women that respect your views regardless of whether they agree or not, and to be a part of an organization that has pure motives and actually lives up to its mission and purpose. In my local Hendersonville League, we are like a family. We genuinely care for each other and we respect each other. In addition, it was important to me to be a part of an organization that had a good reputation. Our League has an amazing reputation in our city as well as in our county, and we work hard to protect that. We are very transparent, genuine, and operate in a spirit of excellence. The League also provides such amazing educational tools. I am constantly amazed that while we teach and educate the public about issues, we also are simultaneously learning new things.

Q: *Besides being on the committee that you initially joined, what is your other League involvement?*

A: I have been very active in my local League since I joined in 2010. During that first year in the League, I started attending board meetings and soon was elected to the LWVH Board. In addition, I have served on multiple committees and participated in several focus groups. In 2013, I was elected president and currently serve in that capacity.

Q: *What are your other interest besides family and career?*

A: As League president my main focus is the organization as a whole. From the beginning, I hit the ground running using my leadership skills to enhance committee and board service. I have not yet developed my own League portfolio but can truly say that I am intrigued by most areas—I just need to narrow it down. Right now I look forward to focusing on voter education and equality. As an African-American woman, I can’t help feeling overwhelmed when I hear people who are not willing to exercise their right to vote. I am so grateful for what the brave and pioneering women that came before us did to insure women the right to vote as well as the many African-Americans who sacrificed so that I could go to the poll and cast my vote. Lyndon B. Johnson said, “[T]he vote is the most powerful instrument ever devised by man for breaking down injustice and destroying the terrible walls which imprison men because they are different from other men.” This statement is so true. I’m forever grateful for the Fifteenth Amendment of the U.S. Constitution, which provided that race and color could not be a factor to deny a citizen the right to vote; for the Nineteenth Amendment which gave women the right to vote, and lastly for the Voting Rights Act of 1965 which prohibited discrimination in voting. While we have come a long way, we still have a ways to go, so I am grateful for the unwavering work that we do as League members continuing to advocate for fair elections. I am a humanitarian at heart and share my time, talent, and treasurer with many local nonprofit organizations.

Notes from the LWVTN Action Committee

by LWVTN Action Director Barbara Gay

The State Action Committee has been very busy during the last five months. In January, members **Sue Bredensteiner**, **Sarah Cooper**, **Barbara Gay**, **Joan Hamner**, **Diana Page**, and **Hazel Thornton** helped distribute the **2014 LWVTN Priority Issues** to every legislator. The committee increased its meetings from once a month to every other Monday during the Legislative Session from January through the mid April; members who are outside the 615 area code (as well as those within it!) may take advantage of the toll free number to participate in these meetings by phone.

In addition, the work of every League member that contacted their legislators and other government officials to support or defeat specific issues and bills is appreciated. Our issue chairs worked hard to keep interested members informed and sent them enhanced Action Alerts as specific issues needed response. And the results showed that:

The voice of the League of Women Voters through its individual members is powerful—we do make a difference!

LWVTN Lobbyist **Stewart Clifton** and his associate, **Sarah Cooper**, e-mail LWVTN members a weekly Legislative Report during the session; the final wrap up report was sent on May 1. Some of the areas that we influenced were:

- Opposition to for-profit Charter School management
- Opposition to state regulation of mining instead of Federal regulation
- Support for expanded community gardening programs
- Opposition to amendments to elect or appoint state Attorney General
- Opposition to reduction of revenue by reducing Hall Income Tax
- Support for in state tuition for children of illegal immigrants
- Opposition to open gun carry without permits.

You may have noticed that the League has worked against some alarming bills. This General Assembly is extremely conservative. Many of the bills we fought have originated from outside groups like ALEC and Americans for Prosperity. The League's careful study of issues and nonpartisan voice is needed more than ever to provide facts to combat or support bills. We hope to build enough trust with legislators through advocacy based on facts that they will be open to our positions.

Suggestions from members attending Spring Council were appreciated and included how to improve our State Action Committee communication. Members are confused about the time commitment they make when signing up to receive information from the State Action Committee. If each League member across the state chose one priority interest to follow and responded to action alerts received from the issue chair, we could have even more influence on the laws and policies formulated by the Tennessee Legislature. It only takes a few minutes to write a letter, send an email, or make a phone call to your representative, senator, or other leader. Some Leaguers also meet face to face with their legislators; it is a great opportunity to share facts and information that you are passionate about. Please look for a new, simplified and, hopefully, clearer Action Survey this fall. Let's make it a priority for each League member to support at least one issue.

A LWVTN Action Subcommittee is meeting to plan strategies addressing issues on the August 7 election ballot. This election will include an opportunity for voters to retain or replace three State Supreme Court justices: Justice **Connie Clark**, Justice **Sharon Lee**, and Chief Justice **Gary Wade**. Governor **Bill Haslam**, Speaker Harwell, and Lt. Governor Ramsey selected a judicial evaluation committee to determine the impartiality of the work and ethics of the these three justices and all three received high marks and were recommended for retention by the committee.

There is much controversy surrounding this election. The League wants to help voters understand why an impartial court is so important; voters need to vote based on the merit of the judges and not based on partisan politics.

The Action Committee also is looking ahead to the November 2014 election. We are working on the www.Vote411.org digital Voters Guide website, which provides information voters need about candidates as well as information about the four Tennessee constitutional amendments that will appear on the ballot. We encourage local Leagues to plan educational forums about these amendments, as well as advocate for LWVTN positions on those amendments. We will be publicizing **Vote411** and hope to reach voters in rural and urban areas. Let me know if you can help with this initiative at 615-297-4145.

A Retention Election To Remember—August 7, 2014

Write it on your calendar, tell your friends! This year's August 7 retention election for Tennessee's appellate judges is shaping up to be one of the most interesting and important retention elections in decades.

On August 7, voters across Tennessee will be voting in a statewide retention election for our appellate court judges. All of the current appellate judges seeking another eight-year term on the bench will be on the ballot. Included among them will be three of the five justices of the Tennessee Supreme Court and the judges currently sitting on the Court of Appeals and Court of Criminal Appeals.

The August 7 retention election represents the **last** such election under the much-respected Tennessee Plan—the 40 plus year old plan for merit selection and retention of appellate judges that was designed to reduce partisanship and outside influences in seating and retaining our appellate judges. The Tennessee Plan has been winding down (sunsetting) over the past two years. The last feature of the Plan—*merit retention*—expires next month.

What does merit retention mean?

It means that partisan politics and special interests should not play a role in influencing voters' decision whether to retain or replace a sitting appellate judge. Rather, under *merit retention*, consideration should be focused on whether the judge seeking retention has been doing a good job and meeting his or her responsibility to uphold and apply the law fairly and impartially. The expiring Tennessee Plan has assisted voters in determining whether an appellate judge has done a good job; under the Plan a bi-partisan committee conducts a probing and extensive evaluation of the performance of each judge sitting for retention in order to aid voters in making informed choices at the polls. The current judicial performance evaluation committee (JPEC), has conducted these extensive evaluations for each of the appellate judges on the August 7 ballot, and in each case the bi-partisan committee has recommended retention. Voters are invited to review the performance evaluation reports at <http://www.tsc.state.tn.us/node/2458533>.

Why, then, does the August 7 vote promise to be a retention election to remember?

LWVTN, and other fair and independent court advocates in our State, are deeply concerned that partisanship is being introduced into the upcoming retention election. There is concern that three Supreme Court justices in Tennessee—along with high court justices in seven other states across our nation—are being targeted by heavily financed campaigns organized by groups outside the state.

As the Tennessee Plan designed to ensure nonpartisan, merit-based selection and retention of appellate judges sunsets, and as Tennessee voters prepare to face a somewhat *complicated and separate ballot question in November 2014* about how to select and retain appellate judges in the future (Amendment 2)—we now have underway one of the most highly partisan and politicized retention elections in years. Not since a 1996 coordinated attack campaign succeeded in ousting then Supreme Court Justice **Penny White** from the bench for allegedly being “soft on crime,” has Tennessee seen as highly a politicized, partisan retention election.

How is it being politicized?

In the past several weeks, media has reported widely on partisan campaigning and political attacks on the judiciary. The office of Lt. Gov. **Ron Ramsey** publically launched a campaign to oust the three sitting justices of our Supreme Court—Chief Justice **Gary Wade**, Justice **Sharon Lee**, and Justice **Cornelia Clark**—all of whom were appointed by former Governor **Phil Bredesen**. (The two Republican-appointed justices are retiring and their replacements, recently appointed by Governor **Bill Haslam**, will not be on the ballot.) Reports have suggested that some are seeking to unseat the three current justices (appointed by a governor from the now minority political party) in order to allow the current majority party to appoint like-minded justices from the same political party. Also, since the state attorney general is appointed by the Tennessee Supreme Court, unseating the three current justices, and filling the bench with justices appointed exclusively by one party—the majority party—could result in unseating our current attorney general, and the appointment of a new attorney general from the majority party.

The coordinated campaign to unseat the three high court justices is taking shape: it has raised allegations that the justices are “soft on crime” and has criticized the court for appointing **Robert Cooper**, as state attorney general, calling him an “enemy of job creators.”

Fair court advocates are concerned that these coordinated partisan efforts to unseat high court justices have a dangerous potential for impacting our State's, and our nation's, fair and impartial courts. The infusion of politics and special interest money into judicial elections, political attempts to pack the court with like-minded individuals, attempts to remove state court judges because of a decision on a controversial issue, negative campaign ads, and the politicization of selection and retention processes all threaten to turn our judiciary into another partisan branch of government.

Governor Haslam recently expressed concern over fellow Republicans' efforts to defeat three Democratic state Supreme Court justices in August, saying that such efforts could “muddy the waters” for the separate, and somewhat confusing ballot question on the constitutional amendment on judicial selection that goes before voters two months later, in November 2014. In addition, according to one legal commentator, prominent fellow Republicans are voicing opposition to Senator Ramsey's

efforts, including former Tennessee Supreme Court Justice **Mickey Barker** and former Appellate Court Judge **Lew Conner**, who have expressed concern over the attack on these justices and the practice of “cherry-picking” specific cases to present the three justices in the worst possible light. For instance, the campaign to oust the three justices focuses on just one or two cases, and omits the fact that, as reported, 18 of the 20 death sentence cases reviewed by these justices have been upheld on appeal. This omission distorts the record in an effort to portray the justices as “soft on crime.”

Informed Voters

Fortunately, voters have a number of resources to fairly assess both judicial records and the sort of politicized messaging coming from coordinated campaigns to replace these justices. The soon to expire JPEC has done its work for this election season: every appellate judge on the August 7 ballot—including three of the five Supreme Court Justices—has had his or her judicial performance over the last term extensively evaluated after a probing, time-consuming, and open process (including multiple public hearings). The evaluations were based on relevant criteria, such as *integrity, knowledge and understanding of the law, ability to communicate, preparation and attentiveness, service to the profession and effectiveness in working with other judges and court personnel*.

Each judge and justice on the August 7 ballot has been recommended for retention.

LWVTN has been participating in a nonpartisan voter education project developed by the National Association of Women Judges—**The Informed Voters–Fair Judges**—designed to explain why politics and special interest attacks have no place in the courts, and to give voters the tools they need to exercise knowledge-based decisions in favor of fair and impartial courts (see <http://ivp.nawj.org/>). This August 7 it is more important than ever that informed voters go to the polls.

There are many ways to prepare yourself to be an **Informed Voter** when you cast your vote in the August 7 retention election for Tennessee Supreme Court justices and other appellate judges.

Consult multiple sources

You may read the full 2014 performance evaluation reports and view the individual “retain” recommendations for each of the three Supreme Court justices, as well as for the Court of Appeals and Court of Criminal Appeals judges also seeking retention, here: <http://www.tsc.state.tn.us/node/2458533>.

In addition, biographies of the appellate judges are available on Tennessee State Courts’ website at www.tsc.state.tn.us/citizens.

The LWVTN Vote411 website (www.vote411.org) is another source of information.

You also might wish to review published polls of attorneys and others highlighting approval ratings of judges or justices, such as the Tennessee Supreme Court Candidate Evaluation Poll of members of the Tennessee Bar Association, scheduled to be released in mid-June (<http://www.tba.org/info/2014-tennessee-judicial-selection-information-center>).

Check for public reprimands or other disciplinary actions to see if the judge has any history of discipline either on the bench or previously as a lawyer (<http://www.tba.org/info/2014-tennessee-judicial-selection-information-center>).

Most important, *think critically* about the role of judges in our constitutional system, and the source of the information you are receiving. In the face of negative ad campaigns, read the decisions/opinions in the cases being highlighted to examine judicial reasoning rather than listening only to sound bites.

And remember, in all likelihood, the retention election portion of the August 7 ballot will be at the end of the ballot form and the ballots this August promise to be long! So **VOTE THE WHOLE BALLOT**— **all the way to the end of the form, and tell your family, friends, and neighbors to do the same.**

Why We Need a Voters Guide in Tennessee

by 2nd Vice President (Vote411) Judy Raines

Voting is a **Great American Tradition** so why has it become so hard to vote In America? This question impassions our citizens and invokes myriad of emotions. The right to vote just wasn’t handed to Americans; it took hundreds of years as citizens in various sectors fought for the opportunity to participate fully in their government. And voting rights are not constant—they evolve.

The League of Women Voters is a leading nonpartisan organization that monitors changes and challenges to voting rights and ensures citizens have the information they need to successfully participate in elections. Its digital Vote411 Guide is a one-stop website (www.Vote411.org) that provides critical election information in all 50 states about federal, state, and local elections.

League members need Vote411 to be indelibly etched in our memory. And they need to share this resource broadly so please tell your family, friends, and neighbors. Everyone will benefit from this very important resource so join me by sending emails to your church, organizations, schools, and newspapers so wider networks can pass it along. List it on your Facebook page, put it on your Pinterest page, and send a tweet. Did I say tweet? In 5 minutes you can create a Twitter account and pass Vote411 along at www.twitter.com. Here is a sample tweet in 44 words or less: Search by State & Topic | Vote411.org: <http://www.vote411.org/search-by-topic#.U4KWYVHqUME.twitter>.

Remember life before the advent of Googling? Think of life without it. Often folks ask questions and individuals Leaguers cannot possibly know all the answers for voting dates, places, ballots, issues, amendments, and candidates but can remember to say **Vote411**. Think of it just like Google. And remember that candidate information has come directly from them in response to League questions; it is not edited or reframed.



Reprinted from **THE NASHVILLE VOTER**

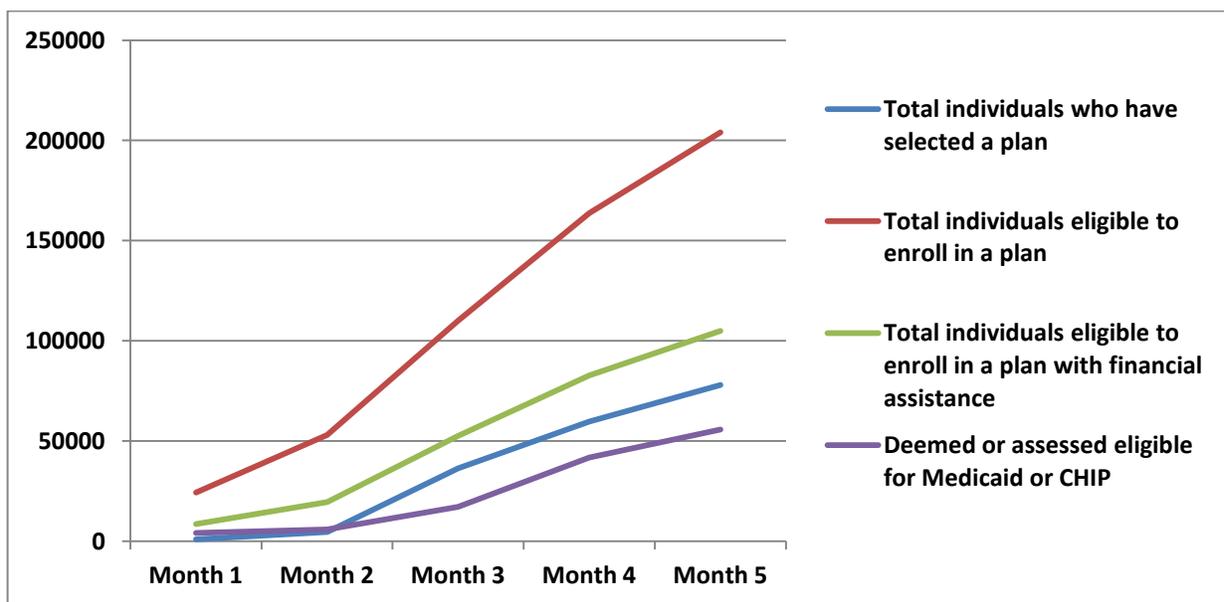
The League of Women Voters of Nashville
 PO Box 158369, Nashville TN 37215 | 615-297-7134
www.LWVnashville.org

Are We There Yet? The Rocky Road to Implementation of the ACA—Part IX by Health Care Directors Rashonda Lewis and Jessica Mathewson

Patient Protection and Affordable Care Act (ACA) Enrollment Update

Tennesseans who need health insurance have approximately two weeks left to enroll in a health plan through the Health Insurance Marketplace (www.Healthcare.gov)—the enrollment deadline is March 31. Organizations such as Get Covered America–Nashville and the Tennessee Health Care Campaign are working hard to make sure navigators, counselors, and volunteers have the information and resources needed to make these last two weeks count. Get Covered America–Nashville is hosting a Volunteer Gathering to discuss what happens after the deadline and provide volunteers with outreach resources for this last big push; plan to attend on Tuesday, March 18 from 5:30 pm to 7:00 pm at Casa Azafrán at 2195 Nolensville Pike, 37211. For more information contact **Mike Kessen** at 615-340-9735.

As of March 1, 2014, over 77,000 Tennesseans have selected a health plan through the Health Insurance Marketplace. The chart below summarizes the steady climb of Tennessee eligibility and enrollment numbers for both marketplace plans and Medicaid/CHIP for the period of October 1, 2013 through March 1, 2014. Among people determined eligible to enroll in a marketplace plan (204,075), 38 percent have selected a plan. Policy experts have predicted a significant bump in numbers for Tennessee and throughout other states during this last month of open enrollment.



Cumulative monthly totals. Sources: US DHHS ASPE Issue Brief, Health Insurance Marketplace: November Enrollment Report, November 13, 2013; US DHHS ASPE Issue Brief, Health Insurance Marketplace: December Enrollment Report, For the period: October 1 – November 30,

December 11, 2013; US DHHS ASPE Issue Brief, Health Insurance Marketplace: January Enrollment Report, For the period: October 1 – December 28, January 13, 2014; US DHHS ASPE Issue Brief, Health Insurance Marketplace: February Enrollment Report, For the period: October 1 – February 1, February 12, 2014; US DHHS ASPE Issue Brief, Health Insurance Marketplace: March Enrollment Report, For the period: October 1 – March 1, March 11, 2014

Individuals, who miss the deadline on March 31 and do not have insurance from another source, could face a penalty. The penalty is \$95 or one percent of income, whichever is higher. Everyone will have the opportunity to select a plan during the next open enrollment period, which will likely run from November 15, 2014 to January 15, 2015. There are certain qualifying events, however, that enable consumers to apply for a health exchange plans outside of the current open enrollment period such as a change in family status. Find out more about these qualifying events at www.Healthcare.gov.

Medicaid Expansion

There is no indication that Medicaid expansion or an expansion look-alike will happen in Tennessee anytime soon. In fact, things are looking rather bleak. In February and March, the House and Senate passed a bill that requires Governor **Bill Haslam** to seek and win legislative approval before expanding Medicaid under ACA. This bill (SB804/HB937) reflects a legislature keenly out of step with thousands of Tennesseans who fall below 138 percent of federal poverty level, but are locked out of health care, as well as professional medical organizations, patient advocacy groups, civic groups, academic medical centers, community health centers, mental health centers, and hospitals that continue to push for this expansion. In February, the governor indicated he was still in talks with Health and Human Services Secretary **Kathleen Sebelius** about the Tennessee Plan and that he has requested that DHS offer up a proposal for expansion that can work for Tennessee. In other words folks, although Tennessee has not submitted a waiver application, the governor thinks that the ball now lies on the HHS court.

Healthcare Reform Legislation

The 2014 legislative session has not been short on action, drama, and national media coverage. A special thanks to **Stewart Clifton** and **Sarah Cooper** who do a wonderful job helping League of Women Voters across Tennessee identify and monitor bills that impact League program priorities. The next two paragraphs summarize two types of health reform bills: bills that have fallen by the wayside and bills still in play. A number of health reform bills have stalled in committee and are not likely to be resurrected this session.

- A bill (SB604/HB290 sponsored by Sen. **Lowe Finney** and Rep. **Craig Fitzhugh**) that authorizes the department of finance and administration to cooperate “in any reasonable manner” with a federal department to implement the Patient Protection and Affordable Care Act failed in a Senate committee and was taken off notice in a House committee.
- SB666/HB476, sponsored by Sen. **Delores Gresham** and Rep. **Vance Dennis** and recently amended, prohibits entities from selling or offering health insurance through an exchange failed in a senate committee.
- SB2234/HB1886 sponsored by Sen. **Jim Tracy** and Rep. **Vance Dennis** prohibits a health insurance issuer from accepting payment related to risk corridors under ACA. The ACA’s risk corridor provision is a stop-gap measure that helps insurers control risk and thus draw more insurers into the marketplace. This bill is set for review by the Senate Commerce & Labor Committee on March 18, but has been taken off notice in House Insurance & Banking Subcommittee.
- A bill (SB1975/HB1723 sponsored by Sen. **Lowe Finney** and Rep. **Craig Fitzhugh**) that requires Medicaid expansion while the federal assistance matching rate is 100 percent for the expansion population, but reverts to the current coverage limits once the 100 percent federal matching rate stops.

Four bills that deserve a place on our radar are in play and will be considered in legislative committees this week.

- SB2131/HB2248, sponsored by Sen. **Jack Johnson** and Rep. **Glen Casada**, “prohibits local education agencies (LEAs) from providing information on the Patient Protection and Affordable Care Act in mailings to families of students in school communications.” This bill has been amended to include medical assistance, TennCare, or the Children’s Health Insurance Program (CHIP). The Senate version of this bill will be up in Senate Education Committee next Wednesday, March 19. The House passed the bill as amended.
- A bill (SB804/HB937) sponsored by Sen. **Brian K. Kelsey** and Rep. **Jeremy Durham** prohibits Medicaid expansion under ACA and was amended to require a joint resolution of the general assembly before the governor can make any decision with regard to Medicaid expansion. The Senate and House passed this bill with its respective amendments.

- The Health Care Compact bill (SB2019/HB1837), sponsored by Sen. **Mae Beavers** and Rep. **Mark Pody** has been referred to Senate Government Operations Committee and set for House Insurance & Banking Committee on March 18. The Health Care Compact is a compact between states that transfers the authority for regulating federally provided healthcare from the federal government to the member states.
- Another Beavers/Pody bill (SB1888/HB1770) “prohibits any state entity from implementing or administering, or assisting in the implementation or administration of, any portion of the federal Patient Protection and Affordable Care Act. This bill is set for Senate Commerce & Labor Committee on March 18 and House Insurance and Banking Subcommittee on March 19.

In the event you missed the Tennessee Justice Center video “Tennessee Needs Health Care Expansion” in February, you can watch it at <http://youtu.be/HSeTl7ZcIag> and share it widely. You can access the LWVTN talking points that make the case for Medicaid expansion at <http://www.lwvtn.org/Health.html> and a new fact sheet, “Medicaid Expansion Could Cover at Least Half of the Uninsured Adults in Many Tennessee Counties” at <http://www.tnjustice.org/wp-content/uploads/2014/03/TN-Uninsured-by-County-Fact-Sheet-FINAL.pdf>. In addition, a recent *New York Times* article chronicles Tennessee’s long-term care Choices program at: <http://www.nytimes.com/2014/03/07/nyregion/pitfalls-seen-in-tennessees-turn-to-privately-run-long-term-care.html?hp>. And here is a link to a “Daily Show” segment about “Third World Health Care, Knoxville—The Poor Need to Just Stop Being Poor” at http://thedailyshow.cc.com/videos/cbbn22/third-world-health-care---knoxville--tennessee-edition?utm=playershare_twitter.



Are We There Yet? The Rocky Road to Implementation of the ACA—Part X

by Health Care Director Rashonda Lewis

Patient Protection and Affordable Care Act (ACA) Enrollment Update

The ACA open enrollment period has played out like many Hollywood movies or a really good Netflix series where the show is front loaded with drama and excitement to hook the audience, coasts a little during the middle, and then ends with a bang so you’ll be sure to tune in for Part II or the next episode. On March 31, the ACA concluded Season One with what I consider a bang—7.5 million people across the country and over 77,000 in Tennessee signed up for Marketplace plans.

The White House reported this month that 3 million people have enrolled in Medicaid through a federal or state exchange since October. As of March 1, over 55,000 Tennesseans have been deemed eligible for Medicaid. The RAND Corp estimates a net gain of 9.3 million people nationwide with health insurance coverage between September 2013 and mid-March 2014. Tennessee, which is the seventeenth largest state, ranks fourteenth in terms of number of people enrolled in Marketplace plans. Despite the website glitches and outages, sluggish enrollment during the first few weeks, super bad press in the media, and an undue reliance on volunteer community partners for enrollment information and assistance due to the absence of state support and resources, enrollment numbers in our state and others reflect a hard fought but largely successful effort to extend affordable health coverage to more people.

For individuals who missed the March 31 deadline, there are certain qualifying events that enable them to apply for a health exchange health plan after the deadline. Visit <http://HealthCare.gov> or <http://getcoveredtenn.org> for more information.

Medicaid Expansion Update

There are two closely-tied hurdles standing in the way of Medicaid expansion in Tennessee. First, Governor **Bill Haslam** and the U.S. Department of Health and Human Services have communicated about the possibility of a Tennessee expansion plan but have not agreed to a specific expansion plan. Other states, such as Arkansas and Pennsylvania, have submitted formal waivers and received HHS authorizations that allow state leaders to craft expansion plans that take into account unique state needs or preferences. Governor Haslam verbally proposed a Tennessee Plan about a year ago, which would leverage federal dollars to purchase health insurance on the private market for low-wage earners. However, talks about the Tennessee Plan or any other expansion plan have stalled.

The second hurdle is Senate Bill 804/House Bill 937, signed just a few days ago by Governor Haslam. This bill, like similar bills that have been introduced in other states that have opted-out of Medicaid, requires that the governor gain legislative approval before expanding Medicaid under ACA. These two hurdles stand in the way of approximately 160,000 Tennesseans who have incomes below 138 percent of the federal poverty level and would be eligible under the expansion for Medicaid coverage. While this bill does not mean an expansion will not happen, it certainly makes an

expansion less likely. League members will need to continue to reach out to legislators, voice support for the expansion, and remind our elected officials that two thirds of registered voters surveyed by Vanderbilt University researchers, health economists far (Massachusetts Institute of Technology) and near (University of Tennessee—Go Vols!), physicians, nurses, hospital executives, community health center directors, public health advocates, and low income working folks with no insurance see the expansion as a good thing and the right thing to do. As asked so pointedly by Tennessee Rep. **Gloria Johnson** at her March 27 press conference: “What better way to make sure Tennesseans are living healthy and have access to health care than by expanding Medicaid for thousands of working men and women?”

Healthcare Reform Legislation

Special thanks again to **Stewart Clifton** and **Sarah Cooper** for keeping League of Women Voters members aware of bills that impact LWV program priorities. Most of the health care reform bills introduced this session have stalled including:

- SB604/HB290 sponsored by Sen. Lowe Finney and Rep. Craig Fitzhugh that authorizes the department of finance and administration to cooperate “in any reasonable manner” with a federal department to implement the Patient Protection and Affordable Care Act.
- SB666/HB476 sponsored by Sen. Delores Gresham and Rep. Vance Dennis that prohibits entities from selling or offering health insurance through an exchange failed in a senate committee.
- SB2234/HB1886 sponsored by Sen. Jim Tracy and Rep. Vance Dennis that prohibits a health insurance issuer from accepting payment related to risk corridors under ACA.
- SB1975/HB1723 sponsored by Sen. Lowe Finney and Rep. Craig Fitzhugh that requires Medicaid expansion while the federal assistance matching rate is 100 percent for the expansion population, but reverts to the current coverage limits once the 100 percent federal matching rate stops.
- SB2019/HB1837 sponsored by Sen. Mae Beavers and Rep. Mark Pody which creates a health care compact between states and transfers the authority for regulating federally provided healthcare from the federal government to the member states.
- SB1888/HB1770 also sponsored by Sen. Mae Beavers and Rep. Mark Pody, which “prohibits any state entity from implementing or administering, or assisting in the implementation or administration of, any portion of the federal Patient Protection and Affordable Care Act.”

SB2131/HB2248 is still in play. This bill is sponsored by Sen. Jack Johnson and Rep. Glen Casada and “prohibits local education agencies (LEAs) from providing information on the Patient Protection and Affordable Care Act in mailings to families of students in school communications.” This bill has been amended to include medical assistance, TennCare, or the Children’s Health Insurance Program (CHIP). As mentioned above, SB804/HB937 sponsored by Sen. Brian K. Kelsey and Rep. Jeremy Durham has been signed by the Governor. This bill prohibits Medicaid expansion under ACA and was amended to require a joint resolution of the general assembly before the governor can make any decision with regard to Medicaid expansion.



Are We There Yet? Yes to Ongoing Implementation of the ACA—Part XI

by Health Care Director Rashonda Lewis

Patient Protection and Affordable Care Act (ACA) Enrollment Update

The first open enrollment period for the Health Insurance Marketplace began October 1, 2014 and ended March 31, 2014. Early counts of www.Healthcare.gov website visits, call center encounters, and actual enrollments indicate a high level of consumer interest and participation surpassing initial predictions.

During the six month enrollment period, there were **98 million website visits** and **33 million calls to the call center**. Over **8 million Americans** selected a plan through the Marketplace. Over **6 million** were deemed or assessed eligible for Medicaid or CHIP determination through the Marketplace. The Congressional Budget Office recently estimated that an additional **5 million** people purchased insurance outside of the Marketplace. Experts predict that even though the enrollment deadline has passed, people with certain qualifying events, such as job loss or loss of coverage through a parent’s insurance, will be able to enroll after the enrollment period closure.

In Tennessee, **151,352 people have enrolled** in a Marketplace plan, with most enrolling in a BlueCross BlueShield of Tennessee plan. Among those enrolled, 80 percent received financial assistance for premiums. Over **83,000** people in Tennessee were determined or assessed eligible for Medicaid or CHIP through the Marketplace. These are folks who

were eligible for Medicaid, but for some reason had not yet signed up. An **additional 331,000 Tennesseans** would be eligible for Medicaid if Tennessee leaders would accept federal dollars to fund a Medicaid expansion.

We should definitely celebrate the open enrollment numbers. More Tennesseans have access to health care through affordable health insurance. But we must also continue to press our legislature to stop ignoring market signals and industry recommendations that support a Medicaid expansion. The legislature ended its session mid-April and blew, what **Daniel Horwitz** describes in a May 8, 2014 *Tennessean* article as a “common sense call.” By failing to expand Medicaid to insure individuals and families below 138 percent of the federal poverty level, Tennessee misses out on federal funding totaling \$10.5 billion over the next six years. In addition, the expansion is predicted to create 18,000 jobs in Tennessee. According to a report by the Congressional Budget Office, the state’s share of the cost of expansion, which maxes out at 10 percent in the year 2020, would be offset by costs saved in patient urgent care. **So what gives?**

Rather than creating jobs, the legislature’s failure to support a Medicaid expansion places jobs at risk. Just recently, Community Health Systems (CHS) announced that effective July 31, 2014 it will end both inpatient and emergency services at Haywood Park Community Hospital in Brownsville, Tennessee. The 62-bed hospital will become an urgent care center. According to CHS Chief Financial Officer, Tennessee’s failure to expand Medicaid was a contributing factor for the decision to convert the hospital to an urgent care clinic. And even some urban hospitals and community health centers throughout the state are financially distressed by large proportions of uninsured patients. The Tennessee Hospital Association warned us many months ago that rural hospitals would close if Tennessee did not expand Medicaid under ACA.

It is important to remember, that the millions of individuals now enrolled in health plans are people. **Not numbers but lives.** Take a moment to read about a few of the people in Arkansas who were able to enroll in affordable health care through the Arkansas Medicaid expansion in David Ramsey’s article for the *Arkansas Times* at <http://www.arktimes.com/arkansas/the-faces-of-health-care-expansion-in-arkansas/Content?oid=3284892>. Their stories should remind us that ensuring access to health care is both civil and fiscally sensible. These stories should inspire us to keep pushing for a Tennessee Medicaid expansion.

