

Missouri takes another shot at Whistleblowers

Last week the Missouri House passed a bill that the sponsor calls the Whistleblower Protection Act. The law actually removes protections from whistleblowers rather than enacting them. This is the latest version of a bill commonly called the Enterpris

e Rent-A-Car bill because the Clayton, Mo. firm has been lobbying to weaken whistleblower protections for the past six years. Earlier versions of the bill have passed but been vetoed by Gov. Jay Nixon.

Enterprise has made weakening whistleblower protections a top legislative priority ever since the firm lost a whistleblower lawsuit filed by its fired corporate comptroller, Thomas P. Dunn. Dunn testified that he was fired after taking the position that Enterprise was not following the accounting principles required of a public company. At the time of the dispute, around the time of the Enron debacle, Enterprise was planning to go public, although it later decided against that course. To go public, it needed Dunn to attest to the company's adherence to generally accepted accounting principles.

The bill that passed the House last week weakens whistleblower protections in these ways:

- It exempts from coverage the employee of any state or local public body and entities operated by a religious or sectarian groups. The exception for governmental bodies includes state universities and colleges.
- It caps punitive damages that a whistleblower can win at from \$50,000 to \$300,000 depending on the size of the firm.

- It tosses out the broad whistleblower protections recognized previously by state courts and bars the courts from expanding whistleblower protections in the future.
- It only protects a whistleblower who is punished for warning of a "clear violation of the law." That means a whistleblower who reasonably believes a practice may violate a law may not be covered if courts ultimately conclude the law violation is not clear.

The bill is sponsored by Rep. Kevin Elmer, a Republican from Christian County. He told a wire reporter that, "We're trying to balance the rights of individuals and the right to earn a living."

The 86-66 vote margin by which the bill passed is not big enough to overcome a veto, if Nixon decides to issue one. The bill, HB 2099, is at: <http://www.house.mo.gov/-billsummary.aspx?bill=HB2099&year=2012&code=R>