

# PUBLICATION

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## Employment Reform Legislation Passes Tennessee Legislature

April 17, 2014

On April 16, 2014, the Tennessee General Assembly, at the urging of Baker Donelson, passed significant employment litigation reform that will benefit employers throughout Tennessee. The bill places caps on compensatory damages, such as emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses that can be recovered in employment litigation. These caps apply to claims brought under the Tennessee Human Rights Act, the Tennessee Disability Act, and the Tennessee Public Protection Act ("TPPA"). The caps range from \$25,000 to \$300,000, depending on the number of employees employed by the employer. The practical effect of this legislation will be to bring Tennessee employment claims in line with federal statutes, and to assist employers in quantifying their potential exposure in employment litigation. Prior to this legislation, employees often brought uncapped claims under state statutes to circumvent the limits already in place under federal statutes.

This legislation also eliminates common law claims for retaliatory discharge in any litigation that could be brought under the TPPA. Currently, Plaintiffs can bring both common law and statutory claims for "whistleblowing" (refusing to participate in or remain silent about illegal activity). Under the new legislation, an employee may only proceed under the statutory claim, which requires the employee to prove that the alleged whistleblowing was the "sole cause" of the termination. This effectuates the legislature's "sole cause" standard already incorporated into the TPPA, and it prevents employees from invoking the common law's lower causation standard. The effect of this legislation will be to facilitate the defense of questionable whistleblower claims.

Finally, the legislation eliminates individual supervisor liability under the Tennessee Human Rights Act. This conforms state statutes to federal law, so that employees must bring their claims against their employer, rather than the individual supervisors or managers involved in decision-making relating to the employee's employment.

The bill next heads to Governor Haslam's desk, and if implemented, will apply to all causes of action accruing on or after July 1, 2014.

Baker Donelson attorneys proposed these reforms, drafted the majority of the legislation, and worked with the National Federation of Independent Business and the Tennessee Chamber of Commerce and Industry to advocate for this legislation's passage.