



GOVERNOR OF MISSOURI

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July 12, 2012

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 635 entitled:

AN ACT

To repeal sections 30.270, 34.070, 178.530, 228.368, 301.600, 306.400, 339.500, 339.501, 339.503, 339.505, 339.509, 339.511, 339.513, 339.515, 339.517, 339.525, 339.527, 339.529, 339.532, 339.533, 339.535, 339.537, 339.541, 339.543, 339.545, 339.549, 339.1100, 339.1105, 339.1110, 339.1115, 339.1120, 339.1125, 339.1130, 339.1135, 339.1140, 339.1145, 339.1150, 339.1155, 339.1160, 339.1170, 339.1175, 339.1180, 339.1185, 339.1190, 339.1200, 339.1205, 339.1210, 339.1215, 339.1220, 339.1230, 339.1235, 339.1240, 362.333, and 400.9-311, RSMo, and to enact in lieu thereof thirty-four new sections relating to financial transactions, with penalty provisions and an emergency clause for a certain section.

I disapprove of Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 635. My reasons for disapproval are as follows:

The Missouri Constitution requires that legislation adhere to certain procedural limitations in order "to keep individual members of the legislature and the public fairly apprised of the subject matter of pending laws . . ." as well as to prevent legislative log-rolling – where a number of unrelated amendments are cobbled together to garner support for provisions that could not alone command a majority. *Stroh Brewery Co. v. State*, 954 S.W.2d 323, 325-26 (Mo. banc 1997); *Hammerschmidt v. Boone County*, 877 S.W.2d 98 (Mo. banc 1994). These constitutional limitations are about more than procedure, they are safeguards on the democratic process.

The first such limitation is that "no bill shall be so amended in its passage through either house as to change its original purpose," which is established by a bill's "earliest title and contents." *Mo. Const. Art. III, Sec. 21*; *Legends Bank v. State of Missouri*, 361 S.W.3d 383, 386 (Mo. banc 2012). Notably, the content of the introduced version of this legislation was very much limited to the narrowly stated title of the introduced bill (i.e., "securities that are pledged for the safekeeping and payment of public funds deposited in banks and financial institutions").

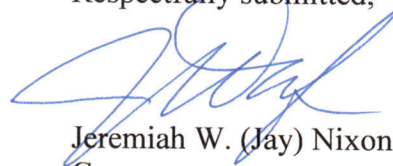
Throughout the legislative process, however, 33 new provisions were added. And while the original purpose requirement does not prohibit subsequent additions or changes, it does restrict “the introduction of matter that is not germane to the object of the legislation or that is unrelated to its original subject.” *Stroh*, 954 S.W.2d at 326. Regrettably, several of these new provisions deal with matters unrelated to the safeguarding of deposited public funds, to include the treatment of damages in a civil case and procedures for perfecting liens on refinanced motor vehicles and watercraft. Because these matters are outside the bounds of the legislation’s original purpose, Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 635 offends the tenets of Article III, Section 21 of the Missouri Constitution.

Next comes Article III, section 23, of the Missouri Constitution, which contains two related prohibitions – the first precludes a bill from containing more than one subject, and the second requires that single subject to be clearly expressed in the bill’s title. The “single subject” test is whether all provisions of the bill “fairly relate to the same subject, have a natural connection therewith or are incidents or means to accomplish its purpose.” *Hammerschmidt*, 877 S.W.2d at 102. Because a bill’s “single subject” is discerned from the title of the bill’s final version, the question then becomes whether all of the bill’s 34 sections relate to “financial transactions.” Indeed they do not. One provision deals with the responsibility of homeowners to maintain private roads, while another establishes standards for licensing real estate appraisers. Even applying the “single subject” test as broadly as the law allows is not enough to encompass these wholly unrelated matters.

Nor can it be said that the title of Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 635 would be able to withstand “clear title” scrutiny. “The touchstone of the clear title rule,” which is to ensure that the reader is not misled, “is that the bill’s title cannot be underinclusive.” *C.C. Dillon Company v. City of Eureka*, 12 S.W.3d 322, 329 (Mo. banc. 2000). With that in mind, no reasonable person would anticipate that legislation entitled “relating to financial transactions” would contain 23 pages on real estate appraisers or three pages on the maintenance of private roads.

In accordance with the above stated reasons for disapproval, I am returning Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 635 without my approval.

Respectfully submitted,



Jeremiah W. (Jay) Nixon
Governor