RIVERBENDER.COM

Durbin, Whitehouse, Brown: Corporations must give workers and retirees fair treatment in bankruptcy

March 8 2018 10:43 AM

WASHINGTON, D.C. – U.S. Senators Dick Durbin (D-IL), Sheldon Whitehouse (D-RI), and Sherrod Brown (D-OH) have introduced a bill to curb abuses that deprive employees and retirees of their earnings and retirement savings when businesses collapse. The *Protecting Employees and Retirees in Business Bankruptcies Act* would make several reforms to Chapter 11 bankruptcy law, putting workers' interests near the top when companies file for bankruptcy.

"It's unacceptable that when a big corporation files for bankruptcy, the interests of its employees and retirees can be placed below those of wealthy executives. This type of preferential treatment is unfair, and this bill seeks to level the playing field so those who give their lives to a company aren't kicked to the curb," Durbin said.

"When a company goes into bankruptcy, workers on the assembly line or in the branch office should be treated just as fairly as executives in the c-suite," said Whitehouse. "This bill would help put the interests of workers and retirees near the top of the list of considerations when a business craters."

"When a company files for bankruptcy, the workers and retirees who spent their careers fueling the business shouldn't get shortchanged to subsidize executive payouts,"said Brown.

Corporate bankruptcies are nothing new to American workers. In too many instances, workers' claims for compensation and benefits are denied while executives' claims are given preferential treatment. It is time for a more balanced and just approach.

The *Protecting Employees and Retirees in Business Bankruptcies Act* will protect workers from losing out by:

Improving Recoveries for Employees and Retirees:

- Increasing the amount of worker claims entitled to priority payment for unpaid wages and contributions to employee benefit plans up to $20,000;
- Eliminating the difficult-to-prove restriction in current law that wage and benefit claims must be earned within 180 days of the bankruptcy filing in order to be entitled to priority payment;
- Allowing employees to assert claims for losses in certain defined contribution plans when such losses result from employer fraud or breach of fiduciary duty;
- Establishing a new priority administrative expense for workers' severance pay; and
- Clarifying that back pay awards for WARN Act damages are entitled to the same priority as back pay for other legal violations.

Reducing Employees' and Retirees' Losses:

- Restricting the conditions under which collective bargaining agreements and commitments to fund retiree pensions and health benefits may be eliminated or adversely affected;
- Preventing companies from singling out non-management retirees for concessions;
- Requiring a court to consider the impact a bidder's offer to purchase a company's assets would have on maintaining existing jobs and preserving retiree pension and health benefits; and
- Clarifying that the principal purpose of Chapter 11 bankruptcy is the preservation of jobs to the maximum extent possible.

Restricting Excessive Executive Compensation Programs:

- Requiring full disclosure and court approval of executive compensation packages;
- Restricting the payment of bonuses and other forms of incentive compensation to senior officers and others; and
- Ensuring that insiders cannot receive retiree benefits if workers have lost their retirement or health benefits.

Today's bill is similar to bills Durbin, Whitehouse and Brown have introduced in the last three Congresses.