

**TESTIMONY OF**  
**THOMAS M. HIGGINS**  
**BROADCAST DIRECTOR**  
**AMERICAN FEDERATION OF TELEVISION AND RADIO**  
**ARTISTS**  
**NEW ENGLAND LOCAL**

**BEFORE THE**  
**STATE OF CONNECTICUT**  
**COMMITTEE ON LABOR AND PUBLIC EMPLOYEES**

**RE:**  
**RAISED HOUSE BILL NO. 6989**  
**AN ACT CONCERNING NONCOMPETE AGREEMENTS**

**FEBRUARY 20, 2007**

## STATEMENT OF THOMAS M. HIGGINS

The American Federation of Television and Radio Artists (AFTRA) represents on-air broadcasters at three television and two radio stations in Connecticut. The majority of broadcasters work under employment contracts containing "non-compete" clauses. Such clauses prohibit former employees from working for competing stations for a period of time after termination of employment, usually from six months to one year.

### A Bill Banning Non-Compete Clauses in the Broadcast Industry Is Necessary

We respectfully request the Committee consider a modification to House Bill No. 6989 that would prohibit non-compete agreements in broadcasting. Non-compete clauses are fundamentally unfair to broadcast employees and serve no legitimate business interest.

Non-competes are imposed on employees as "non-negotiable" terms of employment. With the consolidation of broadcast media, a few large companies such as General Electric, Meredith, LIN, CBS and Clear Channel own the majority of stations in markets like Connecticut. Broadcast employers are able to impose these onerous contract provisions on employees on a "take it or leave it" basis. For the vast majority of broadcast employees, there is no "freedom to contract" and no negotiation over non-competes. Broadcasters know they must sign them or they will not get the job.

Non-compete clauses impose an artificial ceiling on wages. Non-competes unfairly burden broadcast employees by artificially eliminating the competitions that exists for their services in the free market. When a broadcast employee's contract is up for renegotiation, he or she is often forced to accept terms far less favorable than he or she could get from a competitor because the employee is faced with the choice of either accepting the employer's offer; sitting out the non-compete period without working in broadcasting (which can be detrimental to a career); or to pack up his or her family and move out of the state to escape the non-compete restrictions.

### There Is No Justifiable Basis For Non-competes In The Broadcast Industry

Broadcast employees do not possess "trade secrets", "confidential information" or "client lists" belonging to a former employer. Broadcasters are simply not privy to this type of proprietary information. Broadcast companies often cite their "investment" or "promotion" of employees in order to justify non-compete covenants. However, the investment is really only their advertising expenses, which are simply a cost of doing business. Stations will recoup these costs relatively quickly through their advertising revenues, which are based on ratings. Otherwise, they would simply get rid of the employee. Unlike other industries, broadcast employers do not pay for education or training programs and do not wait years to "recoup" such investments. Further, stations do not promote all the employees whom they force to sign non-competes. A former reporter who worked at a television station in Connecticut for seventeen years told me more than once that she never got a billboard yet was always required to accept a non-

compete clause in her contract. And off-air employees such as writers and producers are also required to sign non-competes.

Certainly eliminating non-competes will pose no devastating effects on the broadcast industry. Legislation banning broadcast non-competes has been in effect in a number of states, including Massachusetts, Maine, Illinois, Arizona and Washington D.C. for a number of years and has contributed to making those markets more competitive.

Broadcast employers know that there is no legitimate business interest in having non-competes. Instead, they insist on having non-competes because they know that non-competes keep wages down. And that simply is not a legitimate justification for these onerous restrictions on the free flow of goods and services that is the hallmark of our free market system.