

# Labor and Public Employees Committee

## JOINT FAVORABLE REPORT

**Bill No.:** HB-6913

**Title:** AN ACT CONCERNING COVENANTS NOT TO COMPETE.

**Vote Date:** 3/21/2019

**Vote Action:** Joint Favorable

**PH Date:** 2/14/2019

**File No.:**

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### SPONSORS OF BILL:

Labor and Public Employees Committee.

### REASONS FOR BILL:

There is no protection for employees from employers who require them to sign unfair covenants not to compete.

### RESPONSE FROM ADMINISTRATION/AGENCY:

None submitted.

### NATURE AND SOURCES OF SUPPORT:

**CT Trial Lawyers Association:** This bill encourages reasonable limitations on the right of employers to force their employees to sign a non-competition agreement as a condition of employment. Healthy competition in the labor market encourages employers to pay fair wages and provide reasonable benefits while promoting fair pricing and motivation to provide better services/goods. This bill codifies existing law. It limits covenants not to compete for a time period of less than one year which make it exceedingly difficult for trades persons, professionals and individuals with specific expertise to remain relevant in their professions. It will not have any impact on a company's ability to require restriction of the use and dissemination of confidential and proprietary information/ trade secrets or affect their right to protect itself from the solicitation of customers by departing employees. This bill provides a reasonable balance.

**Lisa Levy, Attorney, Greater Hartford Legal Aid, Inc.:** The traditional use of the non-compete covenant was to protect an employer's competitive advantage by preventing more

highly trained and compensated employees from taking a job at a competing business and disclosing specialized knowledge/skills acquired at the former job. Low-wage workers don't usually possess specialized technical skills or are privy to trade secrets and proprietary information held by more highly compensated employees. Even a one year restriction on engaging in the same type of work in a within a mile area adversely impacts the employment prospects of low wage workers. They offer substitute language that ensures both employer and employee are adequately protected. The language safeguards low- wage workers from being required to adhere to covenants not to compete.

**Sal Luciano, President, CT AFL-CIO:** Non-compete agreements were traditionally more common in professional or managerial jobs with higher rates of pay and greater levels of responsibility. Today these agreements are becoming common in entry-level and low-wage jobs, such as in the restaurant and hospitality industries. Even Amazon requires its warehouse employees to sign these agreements. This is another way employers are rigging the system. By eliminating a worker's right to move to a better paying position, they artificially suppress wages, which in turn reduces overall economic growth.

#### **NATURE AND SOURCES OF OPPOSITION:**

**Polivy, Lowry & Clayton, LLC, Attorneys at Law:** This bill is unacceptably vague. No one can oppose it until a court needs to enforce it. Then no one knows what it means. For instance, it concerns "certain employees". What does that mean? There are no standards to determine this. Also the bill prohibits "unfair covenants not to compete". How does one determine what an 'unfair covenant' is?

**Eric Gjede, Vice President of Government Affairs, CBIA:** Non-compete agreements have already been largely restricted via the courts in terms of their scope, geography, length of time and industry type.

**David Denvir, General Counsel, Companions & Homemakers, Inc:** Not-to-compete covenants vary considerably depending on the industry, the activity to be restrained and the jurisdiction where the agreement was entered. In the homecare field, agencies rely on employment agreements with non-solicitation covenants to protect their goodwill. They don't restrict a caregiver's employment /competition or prevent them from taking on independently-sourced private clients. Their agreement says the caregiver can't leave the company and immediately provide services to the same clients they served through their job for a period of only six months. These agreements assure homecare employees, recipients and employers benefit from supportive, long term relationships that include full benefits .

**Reported by: Marie Knudsen**

**Date: March 26, 2019**