

Labor and Public Employees Committee

JOINT FAVORABLE REPORT

Bill No.: HB-5249

Title: AN ACT CONCERNING NONCOMPETE AGREEMENTS.

Vote Date: 3/10/2022

Vote Action: Joint Favorable

PH Date: 3/3/2022

File No.: 128

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SPONSORS OF BILL:

Labor and Public Employees Committee

Rep. Michael A. Winkler, 56th Dist.,
Rep. Travis Simms, 140th Dist.,
Rep. Anne M. Hughes, 135th Dist.,
Rep. Corey P. Paris, 145th Dist.,

Rep. Joshua M. Hall, 7th Dist.,
Rep. Anthony L. Nolan, 39th Dist.,
Rep. Minnie Gonzalez, 3rd Dist.,
Rep. Susan M. Johnson, 49th Dist.

REASONS FOR BILL:

Employment in Connecticut, like a majority of the United States, is “at will” which means that unless employees have the benefit of a collective bargaining agreement or another employment contract, Connecticut workers can be terminated from their jobs for any reason or no reason, as long as the reason is not an unlawful one. Non-compete agreements are contracts between workers and firms that delay employees’ ability to work for competing business. Employers use these agreements for various reasons including reducing costs associated with turnover. These types of agreements were traditionally more common in professional or managerial jobs whereas today they are becoming common in entry-level jobs. This bill would limit the use of non-compete and exclusivity agreements and would be enforceable only if specific requirements are met, including that the employee must earn at least three times the minimum wage.

RESPONSE FROM ADMINISTRATION/AGENCY:

Office of Governor Ned Lamont, Governor’s Associate Policy Director, Patrick Hulin; supports this bill stating that it will make a considerable difference for low-wage workers, especially women and people of color. It is stated that noncompete agreements are harming the economy and individuals who work within the state as they depress wages, make it challenging to switch jobs, and reduce entrepreneurship.

NATURE AND SOURCES OF SUPPORT:

University of Florida, Levin College of Law, Gerald A. Rosenthal Chair in Labor and Law, Professor Rachel Arnow-Richman; supports this bill stating that the usage of noncompete agreements can have a negative impact on the economy and that legislation is needed to describe the limits of noncompete use and to penalize abuse. It is stated that a majority of workers can easily be taken advantage as they have limited legal knowledge and, therefore, this bill is needed to protect vulnerable workers and other companies who may not want to be sued by former employers.

Connecticut Trial Lawyers Association; supports this bill stating that it places fair restrictions on the right of employers or companies to force employees to sign covenants. It is stated that this protection is already offered to medical professionals within the State of Connecticut and, therefore, should be extended to employees of all sectors. It is stated that COVID has made the workforce increasingly challenging for workers to navigate and noncompete agreements can ban workers from other jobs in their chosen fields. It is further stated that noncompete agreements limit competition which is negative for the state economy and labor market.

Economists, Matthew Johnson and Evan Starr; supports this bill stating that noncompete agreements often have negative consequences for workers including difficulties pursuing similar jobs and earning a more desirable wage. It was further stated the non-compete agreements disproportionately impact employees occupying low-wage jobs, are rarely negotiated by both parties, negatively impact both employees and firms. It is recommended in this statement to penalize companies that require employees to sign noncompete agreements in states where noncompete agreements are unenforceable as they make it challenging for companies to hire and they reduce dynamism.

National Employment Law Project, Senior Staff Attorney, Najah Farley; supports this bill stating that it would minimize the use of non-compete agreements for employees and independent contractors in Connecticut which, it is stated, has a negative impact on workers as they limit job opportunities and workers rarely have the opportunity to negotiate these agreements. It is stated that this bill is beneficial as it would alleviate the forcible nature of these agreements. It is also stated that the wage threshold included in this bill would better protect workers in low wage positions.

Harvard Labor and Worklife Program, Senior Fellow, Economic Policy Institute, Director of the State and Local Enforcement Project, Terri Gerstein; supports this bill stating that noncompete agreements negatively influence a worker's ability to switch jobs and to receive more competitive wages. It is further stated that this bill prevents unneeded non-competes and protects vulnerable workers.

Garrison, Levin-Epstein, Fitzgerald & Pirrotti, P.C.; supports this bill stating that no roadblocks should interfere with an employee leaving a job or an employer lawfully firing an employee. It is stated that this bill would reduce non-compete agreements to a rational scope, limit non-competes to higher-wage workers, require employees are notified ahead of time that they may be subject to sign a non-compete. It is recommended that the Appropriations Committee should amend the bill by disallowing employers from imposing non-competes onto laid off employees. It is further recommended that this bill be retroactive.

Connecticut AFL-CIO, President, Ed Hawthorne; supports this bill stating that non-competes limit a worker's right to move to a higher paying job. It is stated that non-competes suppress wages for everyone, which negatively impacts economic growth.

Connecticut Women's Education and Legal Fund, MSW Policy Practice Intern, Emma O. Heintz; supports this bill stating that it will defend workers from being forced to stay in an unfulfilling position or from being forced to seek careers not in their area of expertise. It is stated that non-compete agreements impact low-wage workers who are typically women or people of color. It is stated that non-compete agreements negatively impact the state economy as they encourage workers to move to states that have barred these agreements.

Connecticut Legal Services Program, Legislative/Policy Advocate, Sara Parker McKernan; supports this bill stating that it will protect low wage workers. It is stated that it will protect workers as it does not allow for employers to require their workers to sign an agreement not to work in a specific geographical area or skill-area if they leave their job. It is stated that 27 states have passed bills similar to this legislation.

Service Employees International Union, Stacey Zimmermann; supports this bill.

NATURE AND SOURCES OF OPPOSITION:

Connecticut Bar Association Business Law Section, Legislative Liaison, Danielle Edwards, Esq. opposes this bill stating that the bill would have unintended consequences, is impermissibly vague, is too far-reaching, and is confusing for employers. It is further stated that this bill would make Connecticut less appealing to businesses as other states have not passed similar legislation and, therefore, companies may be more interested in settling in other states.

Insurance Association of Connecticut, President, Eric George; opposes this bill stating that non-compete agreements provide protection to businesses and insurance companies from losing trade secrets, innovative technologies, and other important information. It is stated that these agreements are already limited, and no further changes are needed as employers could be irrevocably harmed.

Connecticut Business & Industry Association, Vice President of Public Policy, Eric Gjede; opposes this bill stating that non-competes are necessary for businesses to protect "trade secrets, emerging technologies, client lists, and other confidential and proprietary information." It is stated that non-competes are already limited by the courts. It is also stated that the minimum wage threshold included in this bill is negative as it could invalidate an agreement.

Connecticut Society of Certified Public Accountants, Chief Executive Officer, Bonnie Stewart; opposes this bill stating that it will have negative consequences for CPA businesses and the CPA industry. It is stated that non-compete agreements are beneficial for CPA businesses as they protect "the loss of client lists, trade secrets, and other confidential and proprietary information." It is stated that this bill will make it easier for employees fired for misconduct to share company trade secrets.

Resident, Connecticut, David Godbout; opposes this bill.

Reported by: Riona Casey

Date: March 22, 2022