

# Labor and Public Employees Committee

## JOINT FAVORABLE REPORT

**Bill No.:** HB-6594

**Title:** AN ACT CONCERNING NONCOMPETE AGREEMENTS.

**Vote Date:** 2/16/2023

**Vote Action:** Joint Favorable Substitute

**PH Date:** 2/7/2023

**File No.:**

***Disclaimer:** The following JOINT FAVORABLE Report is prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose.*

### SPONSORS OF BILL:

Labor and Public Employees Committee

### REASONS FOR BILL:

The reason for this bill is to limit the scope under which non-compete and exclusivity agreements are enforceable against workers in the state, to prevent them being unfairly applied to low-wage workers who do not possess confidential information. The bill outlines several parameters including, but not limited to, a wage threshold and restricting enforceability to one year after separation of employment. This proposal aims to address situations pertaining to unilateral abuse of non-compete agreements by employers against employees.

The substitute language makes minor technical changes on lines 21 and 113.

### RESPONSE FROM ADMINISTRATION/AGENCY:

**Ned Lamont, Governor, Office of the Governor:** He offered testimony in support of this legislation. He stated that non-compete agreements are harming both Connecticut workers and the state's economy, and that many employers apply these agreements universally regardless of an employee's duties or access to confidential information. He cited statistics that 18% of workers nationally are subjected to non-compete agreements, as well as 14% of low wage workers. He further claimed that this legislation strikes a balance and would allow workers greater freedom to change jobs resulting in greater bargaining power and higher wages. Other states that have enacted similar reform have seen wage increases between 4% to 5% for all workers. Furthermore, he argued that noncompete agreements harm entrepreneurship by 18%, making it harder for workers to start new businesses. Lastly, he expressed optimism regarding the FTC rule proposal banning non-competes for almost all members of the work force but emphasized the fact that legal challenges may delay this

process, and that Connecticut needs to act on its own to support workers and the state's economic competitiveness.

## **NATURE AND SOURCES OF SUPPORT:**

**Christopher Murphy, Senator, United States Senate:** He offered comments in favor of this legislation. He stated that non-compete clauses limit job mobility, suppress wages, reduce upward economic mobility, and harm historically marginalized workers. Furthermore, he stated that noncompete clauses harm employers as well as employees by limiting the availability of qualified workers. He believes that this proposal would lead to an increase in wages for workers along with increased entrepreneurship and spur innovation.

**Sara Parker McKernan, Legislative Policy Advocate, New Haven Legal Assistance Association:** They offered testimony in favor of this legislation. They argued that non-compete agreements limit low wage workers employment opportunities, many of whom are not able to challenge these agreements due to lack of bargaining power and lack of financial resources to hire an attorney. They believe this proposal will help address the concerns mentioned above, while balancing constraints on both the employers and employees.

**Tanya Hughes, Executive Director, CHRO:** They submitted comments in support of the proposed legislation. They stated that non-compete agreements ultimately lead to a restrictive work environment preventing workers from speaking up against acts of discrimination or harassment. They believe that this dynamic is even more severe for employees who already face discrimination, such as Black, Indigenous and other people of color. It is their belief that this proposal will protect the ability of employees to speak out when facing prevalent forms of discrimination.

**Ed Hawthorne, President, CT AFL-CIO:** They offered comments in support of this legislation. They stated that non-competes are another way of employers rigging the system against employees. Through limiting a workers right to move to better paying positions, their wages are artificially suppressed resulting in harm to workers and overall economic growth. They expressed optimism that this proposal will protect the lowest wage workers.

**Joshua Goodbaum, CT Trial Lawyers Association:** They offered testimony in favor of this legislation. They argued that at will employment in Connecticut has been undermined by the prevalence of non-compete agreements effectively reducing employee bargaining power and causing stagnant wage growth. They believe that this proposal would address this issue by limiting the scope non-competes to a reasonable level, restricting them to higher-income workers, providing notice to employees and clarifying that Connecticut employees can litigate their non-competes in court. Furthermore, they stated that this proposal will not have any impact on a companies ability to protect confidential information or prohibit departing employees from soliciting their customers.

**Terri Gerstein, Fellow, Harvard Center for Labor:** They provided comments on H.B. 6594. She stated that this legislation is a step in the right direction to protect Connecticut workers by diminishing abusive uses of non-competes but should go further. She suggests that it should prohibit more non-competes than currently written and should also include a private right of action to provide meaningful enforcement opportunities for workers.

**Najah Farley, Senior Staff Attorney, National Employment Law Project:** They offered testimony in favor of this proposal. They stated that H.B. 6594 would ensure that noncompete agreements will no longer obstruct Connecticut workers from changing positions to obtain better pay and or working conditions. They argued that this proposal would provide workers access to state remedies ensuring they are treated fairly.

**Patrick Brien, Research and Policy Director, CT Voices For Children:** They submitted testimony in favor of this proposal. They believe limiting the use of noncompete agreements for low wage workers would lead to a reduction of wage inequality as well as the substantial gender, racial and ethnic wage gaps.

**Jeffrey Zyjeski, CT Trial Lawyers Association:** They offered testimony in favor of this legislation. They stated that this proposal would substantially improve both predictability and fairness regarding Connecticut's non-competes. Furthermore, they stated that this legislation would limit the duration and geographical scope noncompetes; allow Connecticut workers to litigate their noncompetes in Connecticut courts; prohibit noncompetes for lower income and nonexempt workers. They believe that this legislation remains necessary and urgent.

**Karla Walter, Director, Center for American Progress Action Fund:** They offered testimony in favor of this legislation. They stated the following would be achieved through this proposal: Strengthen protections for workers from exploitative non-compete agreements; support economic growth and entrepreneurship in Connecticut; and establish Connecticut as a national leader in protecting low and middle wage workers from hostile employment contracts.

**Ryan Smith:** He offered comments supporting this legislation. He related his experience being trapped in a hostile non-compete agreement with his employer.

**SEIU 1199NE:** They offered testimony in favor of this legislation. They stated that non-compete agreements today have differed from their original purpose, which was to protect trade secrets or confidential information and now often cover all rank-and-file workers most of whom do not work in positions pertaining to sensitive material. They also commented that non-disclosure agreements would have the same affect protecting employer's sensitive information while still allowing employees to pursue new employment opportunities.

**Nicole Sanclemente, Policy Manager, CWEALF:** They offered comments in support of this proposal. They argued that noncompete agreements disproportionately affect low wage workers, the majority of whom are women and people of color, limiting their ability to switch to jobs that offer better working conditions and higher wages. They argue that this proposal will combat the problems mentioned above, along with fostering new economic growth in the state of Connecticut.

**Rachel Richman, Professor, University of Florida, Levin College of Law:** She offered testimony in favor of this legislation. Her testimony consists of three main points: employers overuse noncompete agreements, causing adverse effects to the economy; legislation is needed to define the bounds of noncompete agreements and so that abuse can be effectively penalized; H.B. 6594 strikes a balance between individual business interests, workers protections and free competition.

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

**Eric Gjede, Vice President, CBIA:** They offered comments in opposition of this proposal. They believe that non-compete agreements provide critical protections for many industries, and that the following proposal effectively eliminating non-competes would cause irreparable economic harm towards employers. Furthermore, they expressed concerns for the minimum wage threshold on invalidating non-competes since it may lead to situations where non-competes are invalidated over time.

**Brooke Foley, General Counsel, Insurance Association of Connecticut:** They offered comments in opposition to this proposal claiming that currently non-compete agreements are highly restricted through the courts to protect employees and this proposal would take it a step further causing employer's irreparable economic harm. Specifically economic harm would stem from the invalidation of non-competes where the employee determines "good cause" to terminate an employment relationship, before a court could validate these claims.

**Bonnie Stewart, CEO, CTCPA:** They stand opposed towards this legislation as written, unless Certified Public Accountants and other professionals employed by CPA are granted an exemption. They are concerned that this proposal may lead to a potential loss of independence and economic harm resulting from loss of trade secrets, proprietary information, client lists and or other confidential information.

## **OTHER TESTIMONY:**

**Michael Ryan, President, CT Broadcasters Association:** They offered comments on H.B. 6594. The comments and clarifications they seek are as followed: They stated that 30 – 50b is a typographical error that needs to be corrected; They seek clarification that this legislation does not supersede 31-50b; they seek clarification on how this legislation would be applied in cases that conflict with collectively bargained agreements.

**Reported by:**  
**Sebastian Musante, Assist. Clerk**

**Date: 2/26/2023**