STATE OF CONNECTICUT

GOVERNOR NED LAMONT

Labor & Public Employees Committee

House Bill 6594 – An Act Concerning Noncompete Agreements

February 7, 2023

Good morning Senator Kushner, Representative Sanchez, Senator Sampson, Representative Ackert, and members of the Labor and Public Employees Committee. Thank you for the opportunity to testify **in support of HB 6594**, An Act Concerning Noncompete Agreements. My name is Patrick Hulin, and I am the Governor's deputy policy director, testifying on behalf of the Governor. I appreciate the Committee's consideration of this bill to reform the usage of noncompete agreements in Connecticut. Placing limits on these agreements will make a real difference for workers who are bound by them, especially low-wage workers who are disproportionately women and people of color.

HB 6594 is before you because the proliferation of noncompete agreements is harming Connecticut's workers and the state's economy. These agreements inhibit economic opportunity for workers, and harm the ability of businesses to innovate. They depress wages across the economy for far too many workers. As several national experts demonstrate in written testimony filed for the hearing today, research in recent years shows clearly that noncompete reform would lift wages and promote equity and entrepreneurship. A shocking percentage of workers nationally, even low-income workers, are subject to noncompete agreements: the best data we have indicates that 18% of workers nationally are subject to a noncompete agreement, including 14% of low-wage workers.[1] Many employers apply these agreements to every employee, regardless of that employee's job duties or whether that employee has access to confidential information.[2]

This bill prohibits noncompete agreements for all workers earning under three times the minimum wage, or independent contractors earning under five times the minimum wage. Above that threshold, where workers generally have more bargaining power, agreements must be provided to workers in advance, must generally be limited to one year at most, and must abide by several common-sense restrictions on their temporal and geographic scope. If a noncompete is added to an existing employment agreement, it must be supported by a raise or other consideration sufficient to indicate that the worker was able to bargain for benefits in return for the addition of the noncompete. The restrictions would be enforced by the Attorney General.

[1] https://home.treasury.gov/system/files/226/Non_Compete_Contracts_Econimic_Effects_and_Policy_Implications_MAR2016.pdf

[2] https://www.epi.org/publication/noncompete-agreements/

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Existing provisions governing noncompetes for physicians, physical therapists, and broadcast employees are not modified by HB 6594. The bill affects only noncompete agreements and does not change the rules around nonsolicitation agreements like those at issue in the home health industry; that conversation can remain separate from the one around this bill. There may be a role for noncompete agreements for high-level and highly compensated employees, but these agreements should not be applied on a blanket basis. HB 6594 strikes that balance.

HB 6594 would allow workers greater freedom to change jobs, and therefore greater bargaining power and higher wages. Research has made clear that noncompete reform makes a substantial difference in worker pay: other states have seen 4 to 5% increases in pay for all workers after reforms have passed.[3]

Noncompetes also substantially reduce entrepreneurship, by as much as 18% by some estimates, by placing a legal cloud over workers who want to start a new business.[4] In a time of tight labor markets, it makes no sense for employees to be prevented from moving into the job that's best for them by a noncompete agreement.

Noncompete reform is an emerging national movement. Studies have repeatedly shown that the longtime ban on noncompete agreements in California was a key ingredient of the emergence of Silicon Valley in the 1970s and 1980s. HB 6594 is modeled closely on legislation in Washington that has restricted the use of noncompetes in a state home to another hub of technological innovation. Massachusetts, New Hampshire, Rhode Island, and Maryland have all passed substantial noncompete reform legislation in the last four years. Just last month, the FTC proposed a rule banning noncompetes for essentially all workers. While it is encouraging to see national action beginning, Connecticut cannot wait for policies that may be held up in the courts for years.

For national perspective on this bill and this issue, I would encourage the Committee to review as well the testimony submitted by a number of experts on this bill and last year's similar HB 5249: Terri Gerstein, Rachel Arnow-Richman, Najah Farley, Matt Johnson, Evan Starr, and Karla Walter.

I will flag that I believe some minor drafting issues have arisen in this year's version of the bill. I would be happy to share details and language with the committee offline.

The General Assembly has now considered noncompete reform legislation in several successive sessions, and this proposal builds on the work done in this committee and in others. This is a policy that will make a real difference in workers' lives and in the economic competitiveness of the state. I urge you to support this proposal. I stand ready to assist the committee however I can.

[3] https://ssrn.com/abstract=2905782
[4] https://ssrn.com/abstract=3040393