

Labor and Public Employees Committee

Public Testimony of the CT Women's Education and Legal Fund (CWEALF)

S.B. 906: An Act Concerning Non-Compete Agreements

Submitted by: Hannah Halloran

March 3, 2021

The Connecticut Women's Education and Legal Fund (CWEALF) is a statewide nonprofit that advocates for and empowers women and girls in Connecticut, especially those who are underserved or marginalized. For forty-seven years, CWEALF has been a leader in the development of policy solutions that enhance women's economic security and combat discrimination.

CWEALF urges the committee to support S.B. 906: *An Act Concerning Non-Compete Agreements* which will protect workers by specifying certain conditions for covenants not to compete.

Noncompete agreements often reduce a workers' ability to leave a job, or even threaten to leave a job, since they are unable to advertise their skills to their employer's competition without threat of litigation. If an individual seeks a new job, they may be forced to work in a different field where their skills are less applicable and the pay may be lower.¹

Noncompete agreements disproportionately affect low-wage workers, the majority of whom are women and people of color. If an employer is not providing a sufficient number of hours or shifts, workers may seek additional employment at a company in the same industry. If a worker is forced to sign a noncompete agreement, they may be unable to earn the wages necessary to meet their or their family's basic needs.

Connecticut should prioritize retaining skilled-workers in the state by passing H.B. 6379 and barring the use of noncompete agreements. In one study, workers in states where non compete agreements were enforced were more likely to move across state lines to comply with geographic restrictions of their contract. Additional research in Hawaii found that after the state banned noncompete agreements for tech workers, job mobility increased by 11 percent and new hire wages grew by 4 percent. Implementing the same ban by passing of S.B. 906 would improve the economy of Connecticut.²

While noncompete agreements may support the interests of one individual company, by limiting workers' ability to switch jobs, they may harm the larger economy. High levels of

¹ Office of Economic Policy, *Non-compete Contracts: Economic Effects and Policy Implications* (U.S. Department of the Treasury, 2016), available at <https://www.treasury.gov/resource-center/economic-policy/Documents/UST%20Non-competes%20Report.pdf>.

² Natarajan Balasubramanian and others, "Locked In? The Enforceability of Covenants Not to Compete and the Careers of High-Tech Workers." Center for Economic Studies Paper 17-09 (U.S. Census Bureau, 2017), available at <https://www2.census.gov/ces/wp/2017/CES-WP-17-09.pdf>.

job mobility—the movement of workers between jobs—can help to stimulate the larger economy. Job mobility fosters innovation through information-sharing; entrepreneurship as workers leave jobs to start new companies; and even regional industry development, since firms can co-locate to share local talent pools.³

Furthermore, too many Connecticut workers are stuck in jobs they do not want with wages that are too low. Research shows that noncompete agreements are contributing to these negative trends in the American economy by reducing workers' wages and restricting job mobility.⁴

The COVID-19 pandemic has limited the opportunities workers have to earn money in the state and has most severely impacted women, specifically women of color, who are overrepresented in low-wage jobs. With a decrease in shifts available, workers are seeking additional employment in the industry that matches their skills. Noncompete agreements make it impossible for workers to work multiple jobs to earn wages that ensure their basic needs are met.

Workers deserve the right to support their family and contribute to the economy by seeking employment in the industry where they are skilled. CWEALF urges the committee and lawmakers to pass S.B. 906 this session.

Other notes:

Noncompete and no-poaching agreements not only prevent individual workers from moving to better jobs that will allow them to earn more and advance in their careers; they also contribute to larger negative trends in the American economy that are reducing economic dynamism, impeding labor market competition, and, consequently, driving wage stagnation across the economy.

1. Evan Starr, J.J. Prescott, and Norman Bishara, "Noncompetes in the U.S. Labor Force." Research Paper 18-013 (University of Michigan Law and Economics, 2018), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2625714. ↩

Noncompete and no-poaching agreements have contributed to this trend. A small but growing body of research indicates that when workers are forced to sign these sorts of agreements, their ability to bargain for better wages is reduced since they cannot leave a job—or even threaten to leave a job—for a competitor. One academic study found that workers' wages were significantly lower in states with strict enforcement of noncompetes than they were in states with the most lenient enforcement of noncompete agreements; the study also found that this wage gap increased as workers aged.

Research finds that workers may pay a penalty in the form of lower wages when they live in a state with strict enforcement of noncompete contracts—a penalty that is compounded as workers age. According to a 2016 report from the U.S. Department of Treasury, living in a state with strict enforcement of noncompete contracts, compared to one with the most lenient enforcement, is associated with a 5 percent reduction in pay for a typical 25-year-old worker

³ Marx, "The Firm Strikes Back."

⁴ The Center for American Progress (2019). *The Freedom to Leave*.
<https://www.americanprogress.org/issues/economy/reports/2019/01/09/464831/the-freedom-to-leave/>

Office of Economic Policy, *Non-compete Contracts: Economic Effects and Policy Implications*. ↵