

Labor and Public Employees Committee

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

H.B. 5249: An Act Concerning Non-Compete Agreements

H.B. 5246: An Act Extending Recall Rights of Certain Laid Off Employees

H.B. 5252: An Act Concerning Employees

S.B. 221: An Act Concerning Working Conditions

Submitted by: Emma O. Heintz, MSW Policy Practice Intern

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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-eight years, CWEALF has been a leader in the development of policy solutions that enhance women's economic security and combat discrimination.

CWEALF submits this testimony in support of H.B. 5249, H.B. 5246, H.B. 5252 and S.B. 221.

CWEALF urges the committee to support H.B. 5249: *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. 5249 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

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>.

11 percent and new hire wages grew by 4 percent. Implementing the same ban by passing of H.B. 5249 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 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

Additionally, as of July 2021, President Biden issued an executive order to promote competition in the American economy. In section 5(g) of the Executive Order it asks the federal Trade Commission(FTC) to “curtail the unfair uses of non-compete clauses and other clauses or agreements that may unfairly limit worker mobility.”⁴

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.⁵

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 H.B. 5249 this session.

CWEALF also supports H.B. 5246: *An Act Extending Recall Rights of Certain Laid Off Employees*. Recall Rights enable laid off workers the opportunity to return to their jobs. Due to the COVID-19 pandemic, where many individuals were laid off, recall rights are more important than ever.

The COVID-19 pandemic has created a jobs crisis and tens of thousands of Connecticut workers are unemployed through no fault of their own. An unprecedented number of workers, who are disproportionately women and people of color, have lost their incomes

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>.

³ Marx, “The Firm Strikes Back.”

⁴ Spiggle, T. (2021, December 10). *President Biden's recent Executive Order takes aim at non-competes*. Forbes.

<https://www.forbes.com/sites/tomspiggle/2021/07/16/president-bidens-recent-executive-order-takes-aim-at-non-competes/?sh=2f3b55bb2cc4>

⁵ 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/>

and access to healthcare. Requiring companies to rehire former employees mitigates the effects of the current catastrophic situation, which has disproportionately impacted workers of color.

The COVID-19 crisis has widened the racial unemployment gap, especially between white and Black workers. In Connecticut unemployment was 30% for Black workers, 42% for Native American Workers, 27% for Hispanic workers, and 26% for Asian/Pacific Islander compared to the 20% of White Workers⁶. Additionally during the pandemic layoffs affected women and lower income workers more than men.⁷ Studies show that nonwhite workers face greater discrimination in finding new jobs and that Black and Latina women take longer to recover from unemployment than any other group. This bill addresses the racial unemployment gap because it enables affected workers to avoid these obstacles and return to work.

Lastly, CWEALF supports H.B. 5252 and S.B. 221.

With regards to H.B. 5252, CWEALF supports a comprehensive study of the state workforce and encourages the study to take a gender and racial equitable lens, specifically for women of color. There has not been a comprehensive study of the gender wage gap for both private and public employees since 2014⁸ and up to date research is needed to fully examine how the COVID-19 crisis has impacted women in the workforce. Consequently, CWEALF urges the committee to update the research on the gender wage gap in the state. CWEALF also supports the concept of S.B. 221. As S.B. 221 is drafted, we urge lawmakers to center the experiences of women and workers of color.

⁶ CTData . (n.d.). *Covid-19 unemployment*. CTData.<https://www.ctdata.org/covid19-unemployment>

⁷ Ibid

⁸ Radelat, A. (2014, January 31). Connecticut women victims of pay gap. CT Mirror. <https://ctmirror.org/2014/01/31/connecticut-women-victims-of-pay-gap/>