

**Council of the District of Columbia**  
**COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT**  
**MEMORANDUM**

1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

**To:** Chairman Phil Mendelson  
**From:** Elissa Silverman, Chairperson  
**Date:** June 23, 2022  
**Subject:** Request to Agendize Measures for the June 28, 2022, Legislative Meeting

---

I am writing to request that the following measures be agendized for the Committee of the Whole meeting and the Legislative Meeting to immediately follow:

- B24-256, the Non-Compete Clarification Amendment Act of 2022

This legislation amends the 2020 District law that banned the use of all non-compete agreements (except for medical specialists). After extensive conversation between the District's business community and the Chairperson and staff of the Committee on Labor and Workforce Development, the legislation was unanimously passed out of the Committee on June 16, 2022. However, the Chairperson and Committee staff continue to engage with business representatives and is considering a further revision to the legislation for the Tuesday, June 28, 2022 meetings.

In general, non-compete agreements prevent an employee from leaving a company to work for a competitor. In 2020, the Council passed a law generally banning non-compete agreements (except for highly compensated medical specialists), but the law has not yet taken effect and its applicability date is now October 1, 2022. After the law was passed, affected employers raised further policy and practical questions about it. B24-256 responds to those concerns and allows for the limited use of non-compete agreements with highly compensated employees.

Over the course of the last year, businesses told the Council that non-compete agreements were crucial to making sure they had exclusive use of their high-level employees (those employees with access to overall business strategy and other secretive information). The bill will now allow non-compete agreements only if they meet the following minimum standards:

- An employee's total compensation is at least \$250,000 per year;
- The non-compete agreement lasts 365 days (or less) after the employee leaves their job<sup>1</sup>;
- The agreement details the competitor(s) and geographical limitations; and
- The employee is given the proposed non-compete agreement at least 2 weeks before it must be signed.

The employer and employee are free to negotiate any other terms that suit them. While there are drawbacks to non-compete agreements for all workers, from lowering wages to limiting job mobility, the Committee determined that those in the highest income brackets are better positioned to negotiate

---

<sup>1</sup> Those employing medical specialists are limited to two years.

fair employment arrangements and weather time out of the workforce since they are more likely to have savings to rely on or the ability to travel for work.

The bill also states that the law does not supersede the terms of a Collective Bargaining Agreement (CBA); adopts a definition of “employee” used in existing DC laws, such as the Universal Paid Leave Act, to clarify how the law applies to those working remotely or in more than one state; and incorporates provisions of the Broadcast Industry Contracting Freedom Act of 2002, which provides that broadcast industry employees (other than salespeople) cannot be asked to sign non-competes, regardless of how much they earn.

If you have any questions or for further information about this legislation, please contact Margaret O’Hora, Legislative Counsel, [mohora@dccouncil.us](mailto:mohora@dccouncil.us).

cc: Members, Council of the District of Columbia  
Office of the Secretary  
Office of the General Counsel  
Office of the Budget Director  
Mayor’s Office of Policy and Legislative Affairs