

Preliminary

Fiscal Note

2023-2024 Legislative Session

HF295 - 0 - Covenants Not to Compete in Employment Agreements

Chief Author: **Steve Elkins**
 Committee: **Labor and Industry Finance & Policy**
 Date Completed:
 Agency: Labor and Industry Dept

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		
		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karl Palm **Date:** 1/21/2023 11:33:17 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Total	-	-	-	-	-
Biennial Total			-		-
2 - Revenues, Transfers In*					
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

Subdivision 1 Definitions

Defines a “covenant not to compete” as an agreement between an employer and an employee that restricts where, when, or the type of work an employee can perform after termination of employment. This section also defines “employer” to include individuals, partnerships, associations, corporations, business trusts or any person or group of persons acting in the interest of an employer.

Subdivision 2 Covenants not to compete void and unenforceable

Makes covenants not to compete void and unenforceable, unless:

- The employee earned an annual salary at least equal to the median family income for a four-person family in Minnesota (per US Census Bureau) at the time of termination, and
- The employer pays the employee at least 50% of the employee’s highest salary for the duration of the restricted period

Subdivision 3 Choice of law; venue

The employer cannot require the employee to agree to adjudicate outside of Minnesota a claim arising in Minnesota or deprive an employee of protections under Minnesota law for controversy arising in Minnesota.

Any provision in a contract that violates these provisions is voidable by the employee and shall be adjudicated in Minnesota and Minnesota law shall govern.

The employee may be entitled to injunctive relief as well as reasonable attorney fees and any other remedies available.

This subdivision does not apply to employees who are individually represented by an attorney in negotiating terms of an agreement regarding venue or forum.

Subdivision 4 Severability

Any provision of this section is found unconstitutional and void, the rest of the bill remains valid.

This bill would apply to contracts and agreements entered on or after the day following enactment.

Assumptions

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This bill does not include enforcement or penalty authority for the Minnesota Department of Labor and Industry (DLI).

DLI may receive some inquiries from employers seeking information about updating their practices to align with the new law if enacted. DLI will work with its communication staff to update its website with information related to the law change if enacted and continue to guide inquirers to the new law for further reference and assistance when contacted. The inquiries and communication efforts would be immaterial.

Expenditure and/or Revenue Formula

NA

Long-Term Fiscal Considerations

NA

Local Fiscal Impact

NA

References/Sources

NA

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