



**Date:** September 7, 2023

**To:** All Legislators

**From:** Representative Jimmy Anderson  
Senator Chris Larson

**Re:** Co-Sponsorship of LRB-3971: covenants not to compete in employment contracts

**DEADLINE: Friday, September 22nd by noon**

We are introducing the Workers First package to ensure every worker has access to fair wages, good benefits, workplace protections, and a high quality of life. For too long, the Legislature has ignored the needs of working people, from rolling back workers' rights to undermining local control and diminishing the economic well-being of the men and women who work hard for a living. As our state continues to experience a worker shortage, it is past time to put Wisconsin workers first.

LRB 3971 would prohibit employment contracts from including clauses that prevent former employees from finding jobs in the fields in which they have expertise.

We have all heard stories of businesses struggling to hire workers. We have all seen the “NOW HIRING” signs in business windows. We need to have skilled employees, who are willing to work, finding jobs in their fields. And yet, many times there is one thing that is keeping many workers from finding jobs- non-compete clauses.

Non-compete clauses are agreements under which employees agree not to work at a similar job or trade that is a competitor to the employer for a certain period of time after their employment with the company ends. Many workers do not even know that these clauses are part of their contract when beginning their employment.

The Federal Trade Commission recently indicated it would vote to ban most non-compete clauses. However, that vote has been delayed to 2024, and we cannot simply sit back and rely on the federal government to do what is necessary. We must take action as a state to ensure that employers can fill open jobs.

American businesses should not be able to prevent people- with whom they no longer even have a connection- from finding work. These employees have honed their skills over years to be the best workers they can, and yet former employees are able to prevent them from finding work in their industry. While many non-competes may technically not be enforceable, the mere threat of a lawsuit from a company against an individual is enough to make non-competes de facto permissible in Wisconsin. LRB 3971 will clarify that it is not allowed in Wisconsin, and we can start to fill more open jobs across the state.

To be added as a co-sponsor to this bill, please reply to this email before **September 22nd, 2023 at noon.**

*Analysis by the Legislative Reference Bureau*

*Under current law, a restrictive covenant in an employment contract that prohibits an assistant, servant, or agent from competing with his or her employer or principal during the term of the employment or agency, or after the termination of the employment or agency, within a specified territory and during a specified time is lawful and enforceable if the restrictions imposed are reasonably necessary for the protection of the employer or principal. Such a covenant that imposes an unreasonable restraint is illegal, void, and unenforceable even as to any part of the covenant or performance that would be a reasonable restraint.*

*This bill makes most such covenants illegal, void, and unenforceable after the termination of employment or agency. A nondisclosure agreement related to personal information of the employer or principal or the customers of the employer or principal or a restrictive covenant prohibiting the unauthorized use by a former employee or agent of a customer list or intellectual property owned or licensed by the employer or principal is not illegal, void, or unenforceable under the bill.*