

## **BILL ANALYSIS**

H.B. 1043  
By: Hinojosa  
Business & Industry  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Non-compete agreements, or "covenants not to compete" in Texas statute, are contracts that prohibit workers at a certain company from going to work for a competing employer within a certain period after leaving a job. The primary rationale for these agreements is to prevent workers with proprietary business information from transferring technical and intellectual property of companies to rival firms. While non-compete agreements might make sense for high-level employees with proprietary business information, the restriction of low-income employees' mobility hampers the business interests of the state. The Federal Trade Commission has reported that one in five American workers, or approximately 30 million people, are currently bound by a non-compete clause. As of 2016, data from the White House found approximately 15 percent of workers without a college degree are subject to non-compete agreements and 14 percent of individuals earning less than \$40,000 are subject to them. Public policy makes clear that there is no need for non-competes for employees under a certain income threshold, since low-wage positions rarely have access to the trade secrets non-competes attempt to protect. H.B. 1043 seeks to address this issue by prohibiting private employers from requiring certain low-wage employees to enter into a covenant not to compete.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 1043 amends the Business & Commerce Code to prohibit a private employer who employs one or more employees from requiring an employee who earns not more than the greater of the federal minimum wage or \$15 an hour to enter into a covenant not to compete that restricts the employee from performing work for another employer for a specified period of time, in a specified geographical area, or for another employer similar to the employee's work for the current employer. The bill renders such a covenant void and unenforceable and exempt from statutory provisions prescribing procedures and remedies in actions to enforce a covenant not to compete.

H.B. 1043 applies only to a covenant entered into on or after the bill's effective date.

### **EFFECTIVE DATE**

September 1, 2023.