

PUBLICATIONS

From Michigan to Washington: Proposed Legislation to Ban Non-Competes Could Have a Chilling Effect on Innovation and Economic Growth

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Non-compete agreements continue to face a steady attack from a variety of circles in the business, legal, political and academic communities. Those attacks are often coupled with calls on state legislatures to ban or drastically limit enforcement of restrictive covenant agreements. Indeed, recently proposed legislation in both Michigan (House Bill 4198) and Washington (House Bill 1926) seeks to ban outright non-compete clauses in employment agreements. In 2014, Massachusetts state legislators also considered a bill to severely limit non-compete agreements as part of Governor Patrick's proposed economic recovery legislation; however, the economic bill ultimately passed did not include any change to non-compete laws in Massachusetts. Yet, the effort to ban or severely limit non-compete agreement enforcement has been renewed by the 2015 Massachusetts legislature with at least two new proposed bills being offered to ban most employee non-competes (House Bills 730 and 2157) as well as four other bills that take a more limited approach to restricting non-compete agreements (House Bill 2332, Senate Bill 809, Senate Bill 334 and House Bill 709). On the flip side, Wisconsin's legislature has before it a bill (Senate Bill 69) that would make it easier to enforce non-compete agreements. If enacted, that would be a dramatic change to the landscape of non-compete enforcement in Wisconsin, which has historically been one of the most reluctant of states for non-compete enforcement.

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