

Fiscal: No Fiscal Impact

Revenue: No Revenue Impact

Action Date: 04/15/15

Action: Do Pass As Amended And Be Printed Engrossed.

Meeting Dates: 04/03, 04/15

Vote:

Yeas: 10 - Barton, Doherty, Esquivel, Evans, Fagan, Heard, Holvey, Kennemer, Nosse, Weidner

Nays: 1 - Barreto

Prepared By: Jan Nordlund, Committee Administrator

WHAT THE MEASURE DOES:

Limits enforceability of noncompetition agreements to 18 months. Applies to noncompetition agreements entered into on or after January 1, 2016.

ISSUES DISCUSSED:

- Whether 18 months is appropriate length of time to enforce noncompetition agreements
- Courts determine whether terms of agreement are reasonable
- Whether noncompetition agreements are partly responsible for Oregon's low average income level

EFFECT OF COMMITTEE AMENDMENT:

Limits enforceability of noncompetition agreements to 18 months instead of the proposed period of one year.

BACKGROUND:

Under current Oregon law, a noncompetition agreement may not exceed two years from the date of the employee's termination; any remainder of a noncompetition agreement that exceeds two years is voidable and may not be enforced in Oregon courts. A noncompetition agreement is enforceable only if the employer provides, while the employee is restricted from working, the greater of either compensation equal to at least 50 percent of the median family income for a four-person family, or 50 percent of the gross annual base salary and commission the employee was receiving at the time of termination. Additional criteria must be met in order for a noncompetition agreement to be enforceable. The criteria include that the employee be informed in writing at least two weeks prior to the start of employment that a noncompetition agreement is required as a condition for employment or that the agreement is entered into upon advancement of the employee. Also, the employer must have a protectable interest and the employee must be receiving compensation that exceeds the median family income for a four-person family at the time of termination. The current restrictions on noncompetition agreements were established by the Legislative Assembly in 2007 through Senate Bill 248.

House Bill 3236-A reduces the enforceable term of a noncompetition agreement from two years to 18 months.