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## Non-compete proposals back on Beacon Hill

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By David E. Frank

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ANDREW BOTTI A top official in Gov. Deval L. Patrick's administration told the Joint Committee on Labor & Workforce Development that the time has come to "substantially reform" the state's non-compete laws.

Executive Office of Housing & Economic Development Secretary Gregory Bialecki testified that efforts that began in 2009 to enact bills either eliminating or restricting the enforceability of non-competes have been met by heavy opposition and have ultimately failed.

At a Sept. 15 hearing, Bialecki said legislators and members of the business community would be wise to engage in serious discussion about changing the scope of non-compete provisions in Massachusetts.

"If the relevant stakeholders are not prepared to do so with a sense of urgency, then we ought to consider whether the outright elimination of enforceability altogether is the best course of action for the Massachusetts economy," he said.

The committee currently has three non-compete bills before it, all of which call for outright bans or serious restrictions on the use of non-competes.

Bialecki said current laws make it difficult for employees to leave their jobs and need to be changed.

"[W]hile non-competes may be helpful to any given individual company, that does not necessarily mean that they are good for the overall health of the Massachusetts economy," he said. "And it is the overall health of the Massachusetts economy that should be the deciding factor in your consideration of this issue."

Andrew P. Botti, who chairs the Smaller Business Association of New England, testified against the proposals, arguing that they are bad for business.

Botti, a litigator at McLane, Graf, Raulerson & Middleton in Woburn, said he is open to compromise legislation, but that prohibiting non-competes actually stifles innovation and productivity at the workplace.

"I'm happy that [Patrick] seems willing to talk, but with all due respect to him, I don't think the effect of non-competes is as Draconian as he would seem to believe," Botti said. "A lot of the arguments his administration is advancing just don't hold water."

– David E. Frank



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