



2023 ASSEMBLY BILL 902

January 4, 2024 - Introduced by Representatives J. ANDERSON, C. ANDERSON, BARE, MADISON, PALMERI and SINICKI, cosponsored by Senator CARPENTER. Referred to Committee on Labor and Integrated Employment.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber and amend* 103.465; *to amend* 103.465 (title); and *to*
2 *create* 103.465 (2) and (3) of the statutes; **relating to:** prohibitions on
3 postemployment nonsolicitation clauses in employment contracts.

Analysis by the Legislative Reference Bureau

Under current law, a covenant by an employee or agent not to compete with his or her employer or principal during the term of the employment or agency, or after the termination of that employment or agency, within a specified territory and during a specified time (covenant not to compete) is lawful and enforceable if the restrictions imposed are reasonably necessary for the protection of the employer or principal. Currently, any covenant not to compete that imposes an unreasonable restraint on an employee or agent is illegal, void, and unenforceable even as to any part of the covenant that would be a reasonable restraint.

This bill provides that a provision in an employment contract that prohibits a former employee or agent from recruiting an employee or agent of an employer or principal to work for a different employer or principal after the termination of the former employee's employment or agent's agency is illegal, void, and unenforceable.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 103.465 (title) of the statutes is amended to read:

ASSEMBLY BILL 902**SECTION 1**

1 **103.465** (title) **Restrictive covenants in employment contracts;**
2 **prohibitions.**

3 **SECTION 2.** 103.465 of the statutes is renumbered 103.465 (1) and amended to
4 read:

5 103.465 (1) COVENANTS IN EMPLOYMENT CONTRACTS NOT TO COMPETE. A covenant
6 by an assistant, servant, employee, or agent not to compete with his or her employer
7 or principal during the term of the employment or agency, or after the termination
8 of that employment or agency, within a specified territory and during a specified time
9 is lawful and enforceable only if the restrictions imposed are reasonably necessary
10 for the protection of the employer or principal. Any covenant, described in this
11 section, ~~imposing subsection, that imposes~~ an unreasonable restraint on trade is
12 illegal, void, and unenforceable even as to any part of the covenant or performance
13 that would be a reasonable restraint on trade.

14 **SECTION 3.** 103.465 (2) and (3) of the statutes are created to read:

15 103.465 (2) NONSOLICITATION PROVISIONS IN EMPLOYMENT CONTRACT AFTER
16 TERMINATION OF EMPLOYMENT OR AGENCY PROHIBITED. (a) In this subsection,
17 “solicitation” means recruiting an assistant, servant, employee, or agent of an
18 employer or principal to work for or provide agent services for a different employer
19 or principal.

20 (b) Any provision in an employment contract that prohibits solicitation by a
21 former assistant, servant, employee, or agent after the termination of the
22 employment or agency of such assistant, servant, employee, or agent imposes an
23 unreasonable restraint on trade and is illegal, void, and unenforceable.

24 (3) NOTICE POSTED. Each employer and principal shall post, in one or more
25 conspicuous places where notices to assistants, servants, employees, and agents are

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1 customarily posted, and in a conspicuous place on the employer's or principal's
2 website if the employer or principal maintains a website, a notice in a form approved
3 by the department that explains that an employment contract provision that
4 prohibits a former assistant, servant, employee, or agent from recruiting an
5 assistant, servant, employee or agent of the employer or principal after termination
6 of employment or agency is an unreasonable restraint on trade and is illegal, void,
7 and unenforceable.

8 **SECTION 4. Initial applicability.**

9 (1) NONSOLICITATION PROVISION IN EMPLOYMENT CONTRACTS. This act first applies
10 to a nonsolicitation provision in an employment contract that is entered into,
11 extended, modified, or renewed on the effective date of this subsection.

12

(END)