

Representative Eric K. Hutchings proposes the following substitute bill:

EMPLOYEE NONCOMPETITION CONTRACT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Judicial Code to address the enforcement of noncompetition contract amendments.

Highlighted Provisions:

This bill:

- enacts definitions; and
- provides when a noncompetition contract may not be enforced.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-8-701, Utah Code Annotated 1953

78B-8-702, Utah Code Annotated 1953

78B-8-703, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:



Section 1. Section **78B-8-701** is enacted to read:

Part 7. Noncompetition Contract Act

78B-8-701. Title.

This part is known as the "Noncompetition Contract Act."

Section 2. Section **78B-8-702** is enacted to read:

78B-8-702. Definitions.

As used in this part:

(1) "Employee" means an individual in the service of an employer for compensation.

(2) "Employer" means a person who has one or more workers employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(3) "Reduction in force" means the involuntary separation of an employee from employment because of one or more of the following requiring an employer to reduce the number of positions of employment:

(a) a shortfall of funding;

(b) lack of work; or

(c) organizational changes.

Section 3. Section **78B-8-703** is enacted to read:

78B-8-703. Enforcement of contract prohibited -- Exceptions.

(1) Subject to Subsection (2), a provision of a contract between an employer and an employee that restricts or prohibits the activities of the employee after the employee no longer works for the employer to such a degree that the employee is unable to secure gainful employment in the employee's chosen profession may not be enforced if the employee's employment is terminated pursuant to a reduction in force.

(2) This section does not prohibit the enforcement of a provision of a contract that restricts a former employee from:

(a) disclosing confidential information or a trade secret;

(b) soliciting a customer or client of the employer;

(c) engage in activities similar to those described in Subsection (2)(a) or (b):

(i) related to proprietary information; or

(ii) that would materially harm the employer.

