

Client Alert | January 8, 2024

Governor Hochul Vetoes Bill That Would Have Banned Non-Compete Agreements in New York State

On December 22, 2023, Governor Kathy Hochul vetoed a bill that would have prohibited non-compete agreements for employees and various service providers in New York State. The proposed legislation, which had passed both houses of the New York legislature back on June 20, 2023 (see our prior Client Alert [here](#)), would have imposed nearly universal restrictions on non-compete agreements and established New York as one of the most stringent states in the country against such agreements.

Governor Hochul initially seemed to support a limited ban on non-compete agreements for middle and lower wage employees, but expressed concern about the bill's "one size fits all" approach. Notably the bill did not include any of the common exceptions contained in similar laws in other states, such as a minimum salary threshold, exceptions for the sale of a business or a partner separating from a partnership, or an option for employers to provide additional compensation or other consideration in exchange for employees agreeing not to compete for a period of time post-employment. Negotiations between the Governor and the New York State legislature were ongoing until the day of the veto, but the two sides were ultimately unable to come to a compromise before the end of the Governor's 10-day consideration period. Discussions between the Governor and legislators focused on adding a minimum salary threshold (with some proposals suggesting at least \$250,000 per year) and whether other forms of compensation, such as bonuses and equity awards, should be factored into the salary threshold.

As a result, non-compete agreements for employees and service providers generally remain enforceable in New York, so long as they are deemed reasonable and serve a legitimate protectable business interest. However, both Governor Hochul and the principal sponsors of the bill have expressed an intent to revisit the non-compete ban again in the near future. Employers should be prepared that a revised version of the bill will likely be presented during the 2024 legislative session.

The Morrison Cohen LLP Executive Compensation & Employee Benefits and Labor & Employment teams will continue to monitor any further developments related to this legislation and its potential impact for employers and employees working in New York State.

Key Contacts

If you have any questions or require assistance in navigating this new legislation, please do not hesitate to contact any of the lawyers listed below.

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