



## CITY OF BOSTON IN CITY COUNCIL

### RESOLUTION IN SUPPORT OF ELIMINATING NON-COMPETE CLAUSES IN MASSACHUSETTS

- WHEREAS:* The City of Boston is home to a strong and growing innovation sector, with much economic growth driven by technology companies, startups and other businesses within the innovation economy and creative economy; and
- WHEREAS:* Many Massachusetts companies, particularly in the technology and life sciences industries, utilize non-compete agreements that restrict their employees from accepting positions at companies within the same field and/or geographic region; and
- WHEREAS:* Massachusetts does not currently have a statute or regulation governing non-compete clauses but Massachusetts courts have held non-compete clauses to be enforceable; and
- WHEREAS:* Non-compete agreements are also being used in a wide range of fields outside of the technology sector to restrict employee mobility and freedom, affecting employees such as low-wage medical translators, car salespeople, summer camp counselors and others; and
- WHEREAS:* Non-compete agreements are often enforceable whether the employee leaves their employer voluntarily or is laid off or fired by the employer; and non-compete agreements are implicitly non-negotiable contracts that are often the product of unequal bargaining power between the employer and employee; and
- WHEREAS:* California, which includes Silicon Valley, the largest technology and innovation hub in the United States, refuses to enforce non-compete clauses; and
- WHEREAS:* The enforcement of non-compete clauses in Boston and Massachusetts impedes the growth of new businesses because employees are prohibited from leaving their jobs to develop start-up companies within the same field or work for start-up companies within the same field, thus limiting start-up companies' access to talent from within the state and beyond as courts in Massachusetts readily enforce non-compete clauses from other states; and
- WHEREAS:* Non-compete clauses allow employers to pay lower wages because their employees have limited opportunity to leave, negatively impacting the local economy; and
- WHEREAS:* Non-compete clauses restrict the mobility of employees within the state and inhibit the spillover of knowledge between companies that has proven to be a successful model for growth and innovation in Silicon Valley; and

*WHEREAS:* Venture capitalists may hesitate to invest in entrepreneurs who previously signed non-compete clauses because they fear the possibility of litigation from previous employers; and

*WHEREAS:* Employees should have the freedom and mobility to determine one's own career, and today's great companies should be able to spawn tomorrow's great companies; and

*WHEREAS:* Strengthening the technology cluster in the region would stimulate economic growth through the creation of new companies and new jobs and increase the rate of success for start-up companies; and

*WHEREAS:* The continued enforcement of non-disclosure agreements, non-solicitation agreements, and confidentiality agreements would protect employers without hindering employees' opportunities for mobility.

*THEREFORE BE IT RESOLVED,*

That the Boston City Council, in meeting assembled, does hereby call on the Massachusetts Legislature to take action in ending the enforcement of non-compete clauses in Massachusetts, in order to continue supporting and strengthening the innovation economy in Boston and throughout the Commonwealth of Massachusetts.

Filed on: June 4, 2014