

Testimony of Tim O’Shaughnessy

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Committee on Labor & Workforce Development

Chair Elissa Silverman

Hearing on “The Non-Compete Conflict of Interest Clarification Amendment Act of 2021”

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I am submitting written testimony in opposition to the ban on non-competes in the District of Columbia.

My career has been devoted to the world of business, trying to help create the future, along with better ways of living and operating in our world. I have both worked at (AOL, Revolution Health) and founded technology companies (LivingSocial). Now I lead Graham Holdings, which operates a variety of businesses in a variety of sectors, both inside and outside of DC. The DC-based businesses include Framebridge and Clyde’s Restaurant Group, as well as technology & media companies Code3, Decile, Slate and Foreign Policy. In addition to being a business operator, I am currently a DC resident and have been for 20 of the last 21 years.

I have had the experience of launching a startup, raising capital and quickly hiring large numbers of employees. I also understand the perspective of investors and corporate management.

The non-competes ban has been framed as a way to clear barriers to economic advancement for workers. But this ban will harm DC’s economy, business environment—and ultimately will harm the DC residents that this ban intends to help.

Tech can be an incredible income escalator for employees. The average DC tech job pays \$113,930¹, with potential for career and financial advancement. This can be in contrast to many DC employees who hail from the government, non-profits, associations or legal professions, industries that are more mature and traditionally have had more limited advancement opportunities.

A ban on non-competes will deal a blow to human capital intensive sectors like tech. An entrepreneur will become less likely to start a company in the District if his or her competitor in Arlington can orchestrate a one-sided poach of their software programmers. Perhaps equally as important, any existing technology company looking to setup a new office in the DMV area is

¹ Source: May 2020 State Occupational Employment and Wage Estimates for the District of Columbia from the Bureau of Labor Statistics for major occupational code “15-0000 Computer and Mathematical Occupations”.

highly unlikely to consider DC as an option and expose themselves to one-sided poaching from nearby jurisdictions. Would an up-and-coming e-commerce company like Shopify set up an engineering shop in DC if they knew Amazon could poach its employees from across the river with no protections? The ban will help Virginia and Maryland and provide another challenge for DC businesses to overcome.

DC's lack of representation already puts DC operations at a relative disadvantage to Maryland and Virginia. We have no Senators and no voting member of the House to care about our interests. I know the Council shares the desire in seeking this representation and I am optimistic we are closer than ever before. But the fact remains DC is accumulating an ever-larger set of hurdles for its businesses to jump over.

Leaders of businesses are constantly making assessments of the future. I worry the non-compete ban will be taken as an unambiguous sign that businesses should think twice before setting up shop in DC, both because of the ban itself and because of what it signals about DC's desire to help employers grow and thrive. The ban unequivocally will make DC a less welcoming place to businesses.

I urge the DC Council to repeal the ban and collaborate with DC businesses to make it easier for companies to grow their DC operations with DC resident employees.