

SENATE AMENDMENT NO. _____

TO

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SA to SS/Senate Bill No. 400, Page 1, Section _____, Line 2,

2 by inserting after all of said line the following:

3 "431.202. 1. A reasonable covenant in writing
4 promising not to solicit, recruit, hire or otherwise
5 interfere with the employment of one or more employees shall
6 be enforceable and not a restraint of trade pursuant to
7 subsection 1 of section 416.031 if:

8 (1) Between two or more corporations or other business
9 entities seeking to preserve workforce stability (which
10 shall be deemed to be among the protectable interests of
11 each corporation or business entity) during, and for a
12 reasonable period following, negotiations between such
13 corporations or entities for the acquisition of all or a
14 part of one or more of such corporations or entities;

15 (2) Between two or more corporations or business
16 entities engaged in a joint venture or other legally
17 permissible business arrangement where such covenant seeks
18 to protect against possible misuse of confidential or trade
19 secret business information shared or to be shared between
20 or among such corporations or entities;

21 (3) Between an employer and one or more employees
22 seeking on the part of the employer to protect:

23 (a) Confidential or trade secret business information;
24 or

25 (b) Customer or supplier relationships, goodwill or
26 loyalty, which shall be deemed to be among the protectable
27 interests of the employer; or

28 (4) Between an employer and one or more employees,
29 notwithstanding the absence of the protectable interests
30 described in subdivision (3) of this subsection, so long as
31 such covenant does not continue for more than one year
32 following the employee's employment; provided, however, that
33 this subdivision shall not apply to covenants signed by
34 employees who provide only secretarial or clerical services
35 or employees who are paid on an hourly basis.

36 2. Whether a covenant covered by this section is
37 reasonable shall be determined based upon the facts and
38 circumstances pertaining to such covenant, but a covenant
39 covered exclusively by subdivision (3) or (4) of subsection
40 1 of this section shall be conclusively presumed to be
41 reasonable if its postemployment duration is no more than
42 one year.

43 3. Nothing in subdivision (3) or (4) of subsection 1
44 of this section is intended to create, or to affect the
45 validity or enforceability of, employer-employee covenants
46 not to compete.

47 4. Nothing in this section shall preclude a covenant
48 described in subsection 1 of this section from being
49 enforceable in circumstances other than those described in
50 subdivisions (1) to (4) of subsection 1 of this section,
51 where such covenant is reasonably necessary to protect a
52 party's legally permissible business interests.

53 5. Nothing in this section shall be construed to limit
54 an employee's ability to seek or accept employment with
55 another employer immediately upon, or at any time subsequent

56 to, termination of employment, whether said termination was
57 voluntary or nonvoluntary.

58 6. This section shall have retrospective as well as
59 prospective effect.".