



June 23, 2015

Massachusetts Taxpayers Foundation's Testimony Before Chairmen Wolfe and Scibak and Members of the Joint Committee on Labor and Workforce Development In Support Of Senate Bill 1002, *An Act To Enhance Employment Opportunities*.

Good Afternoon. I am Eileen McAnneny, President of the Massachusetts Taxpayers Foundation. MTF is a non-partisan, non-profit organization widely recognized as the state's premier public policy organization dealing with state and local fiscal, tax and economic policies. The Foundation's record of high quality research and non-partisan analysis has earned the organization broad credibility on Beacon Hill and across the Commonwealth. Our mission is to provide accurate, unbiased research with balanced, thoughtful recommendations that strengthen the state's finances and economy in order to foster the long-term well-being of the Commonwealth.

As a fiscal watchdog, the Massachusetts Taxpayers Foundation is well-versed in the current fiscal state of Massachusetts and it causes us some concern. Despite being in the midst of an economic recovery, tax revenue is not growing at the same rate as in previous recoveries at this point in the economic cycle. Growth in non-discretionary budget expenditures, however, has been sizeable, particularly for the MassHealth program. The combination of modest revenue growth and sizeable expenditure growth has resulted in a structural deficit of \$1.8 Billion for FY16. That trend is projected to continue for the foreseeable future, leaving very little money for other budget priorities and economic development incentives. Therefore, we need to look for innovative ways to improve our economic climate without further exacerbating the budgetary challenges, such as removing regulatory or statutory impediments to economic growth and job creation.

MTF offers its support of Senate Bill 1002: *An Act to Enhance Employment Opportunities* filed by Senator Michael Rodrigues as a way to do just that. A currently drafted, M.G.L. c. 149 s. 148B outlines the statutory test for classifying an individual as an independent contractor or an employee. Although the test was enacted as part of a 2004 reform to the public construction process to address potential misclassification of workers by public contractors, the statute has broad application to all employers in the Commonwealth. The codification of this three-part test for determining when a person is classified an independent contractor has proven to be overly restrictive, making it virtually impossible for an individual in Massachusetts to legally qualify as an independent contractor.

The current statutory test ignores the changing nature of employment and the new business models prevalent in the innovation economy. Massachusetts prides itself on having a highly educated workforce, yet we restrict the ability of these workers to freelance or work on a contractual basis through our current statutory restrictions. Many of these individuals prefer to work as an independent contractor so that they can control the hours they work in order to pursue their own entrepreneurial endeavors or simply achieve a work-life balance.



Young parents often want to perform meaningful work on a part-time basis so that they can raise their children but keep current in their professional field. On the other end of the career spectrum, many seniors want to slow down and pursue other interests but also continue to make professional contributions. The current test does not allow for any of the aforementioned flexible work arrangements because it prohibits a person from being classified as an independent contractor unless the service they are hired to perform is outside the usual course of the business of the employer. Editors, writers, artists, lawyers, certified public accountants, computer programmers, even doctors working at a clinic one-day a week could be in violation of the law as currently drafted.

The proposed legislation would codify the current federal test as it appears in the Internal Revenue Code and accompanying regulations for determining when an individual is an independent contractor. Employers are already subject to this federal standard so it does not impose an additional compliance burden or a contradictory set of rules. Massachusetts would also be able to leverage federal resources for auditing and ensuring compliance.

I appreciate the opportunity to provide comments on this important employer issue and am available for questions or follow-up discussion.