



MASSACHUSETTS
MEDICAL SOCIETY



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March 24, 2015

The Honorable Stanley C. Rosenberg
President of the Senate
State House, Suite 332
Boston, MA 02133

The Honorable Robert A. DeLeo
Speaker of the House
State House, Room 356
Boston, MA 02133

Mr. President and Mr. Speaker:

We write today as a coalition of business groups and professional organizations to voice our concern over **M.G.L. c. 149 s. 148B** as it relates to the classification of independent contractors and respectfully request your support of **Senate Docket 883**, *An Act to Enhance Employment Opportunities*, filed by Senator Michael Rodrigues. This important legislation is vital to maintaining and growing Massachusetts' economy.

As you may know, "An Act Further Regulating Public Construction in the Commonwealth" was signed into law in 2004. The law included a change to the Commonwealth's independent contractor statute in an effort to address potential misclassification of employees by public contractors who might then underbid their union counterparts. The result was codification of an unworkable and overly restrictive three-part test for determining when a person is classified an independent contractor. The problem, however, as determined through two Attorneys' General Advisories in 2004 and 2008, is that the test inadvertently applies to almost all occupations and industries, making it virtually impossible for an individual in Massachusetts to legally qualify as an independent contractor. This has hindered opportunities for that sizeable portion of the Commonwealth's educated workforce who otherwise choose to work as freelancers and contractors.

As organizations that represent thousands of workers from all sectors of our economy, we have seen the adverse effects of this law. The current determination process has stifled job creation and the ability of employers to hire workers on an as-need basis to better control work flow and meet customer needs. This stifles entrepreneurial growth and the desire of cutting edge companies to choose Massachusetts to locate and grow. For many people, especially young mothers looking to reenter the workforce, young professional and students looking to gain experience, older workers who want to scale back on their hours and others seeking a better work-life balance, this law limits such flexible work arrangements by making it virtually impossible to be classified as an independent contractor.

As you examine ways to improve the Massachusetts' economy, we urge you to consider this piece of legislation a priority. **Senate Docket 883** aims to improve job growth and boost economic growth and opportunity by eliminating the onerous 3-part test for determining when a person is an independent contractor and replacing it with the more reasonable 11-part test used by the Internal Revenue Service and the Massachusetts Department of Revenue. By aligning with the federal standard, Massachusetts will provide consistency and uniformity for Massachusetts employers and individuals within the workforce. The proposed change will also eliminate complexity for multi-state employers by eliminating the Massachusetts specific test, making the Commonwealth a

more attractive place for doing business. The point of the letter, however, is to express our direct interest in updating the law to reflect the changing dynamics of the current workforce. We are aware of other legislation pending before the legislature regarding this issue and are happy to work with your team to address the concerns of all parties involved in the discussion.

Again, thank you for the opportunity to share our concerns and for your consideration of this legislation. In the meantime, if you or your staff has any questions or concerns, please do not hesitate to contact us.

Sincerely,



Zachary M. Donah
Director, Government Affairs
Massachusetts Society of CPAs



William B. Vernon
Massachusetts State Director,
National Federation of Independent
Business



Paul H. Guzzi
President & CEO,
Greater Boston Chamber of Commerce



Bradley A. MacDougall
Vice President, Government Affairs
Associated Industries of Massachusetts



Eileen P. McAnneny
President,
Massachusetts Taxpayers Foundation



Christopher Anderson
President,
Massachusetts High Technology Council

Charles Alagero
Vice President & General Counsel
Massachusetts Medical Society



Robert K. Coughlin
President & CEO
Massachusetts Biotechnology Council

cc: The Honorable Charles D. Baker, Governor
The Honorable Karyn Polito, Lieutenant Governor
The Honorable Maura Healey, Attorney General
The Honorable Kristen Lepore, Secretary of Administration and Finance
The Honorable Jay Ash, Secretary of Housing and Economic Development
The Honorable Ronald L. Walker, II, Secretary of Labor and Workforce Development
The Honorable Bruce E. Tarr, Senate Minority Leader
The Honorable Bradley H. Jones, Jr., House Minority Leader
The Honorable Karen E. Spilka, Chair, Joint Committee on Ways and Means
The Honorable Brian S. Dempsey, Chair, Joint Committee on Ways and Means
The Honorable Eileen M. Donoghue, Chair, Joint Committee on Economic Development and Emerging Technologies
The Honorable Joseph F. Wagner, Chair, Joint Committee on Economic Development and Emerging Technologies
The Honorable Daniel A. Wolf, Chair, Joint Committee on Labor and Workforce Development
The Honorable John W. Scibak, Chair, Joint Committee on Labor and Workforce Development