

AN ACT PROVIDING FOR SMALL BUSINESS JOB CREATION
Detailed Summary

1. Small business jobs creation tax credit:
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1. Small Business Jobs Creation Tax Credit

The proposed legislation creates a \$2,500 refundable tax credit on withholding tax for employers with 50 or fewer total employees who hire new full-time Massachusetts employees during the 12-month period beginning April 1, 2010. Calculation of the net increase in the number of Massachusetts employees is based on the employer's number of Massachusetts employees as of March 31, 2010. The credit is available to qualifying employers for each new full-time Massachusetts job created and sustained for at least one year.

- Application for the credit may be made as soon as a new full-time Massachusetts employee is hired and begins providing services.
- Refundable credits will be issued for each new position, up to a maximum cumulative amount of \$50 million, on a first-come-first-served basis determined by date of application.
- The credits will be issued beginning April 1, 2012.
- The credit does not depend on the employer's form of organization: employers may be corporations, partnerships, associations, or individuals, and may be for-profit or non-profit.
- The determination of whether an employer has fewer than 30 employees on March 31, 2010 will include all employees in every location.
- Employer subsidiaries created for purposes of benefiting from the credit will not qualify for the credit under aggregation rules; related businesses will be treated as one business.
- Eligibility for the credit does not require that a particular individual employee be retained for one year, only that a new full-time Massachusetts job be created and sustained for one year.
- New employers hiring their first Massachusetts employee may qualify for the credit.
- The credit may be claimed for an hourly employee working an average of at least 35 hours per week or for a full-time salaried employee, but not for a partner or an independent contractor.
- Tax credits granted will not change the recognition of withholding tax paid for either employer or employee.

2. Massachusetts Growth Capital Corporation

Establishes a Massachusetts Growth Capital Corporation (MGCC), which would function as a one-stop resource for debt and equity financing for small businesses. This entity would include what is now CDFC, EST and MTDC. The purpose of the GCC is to create and preserve jobs and promote economic development in underserved, gateway municipalities, and low- and moderate-income communities. Funding will allow MGCC to continue its revolving loan fund program, expand its annual loan volume, and provide technical assistance to small businesses.

The MGCC will have broad authority to use its resources to leverage private capital for small businesses, including loan guarantees.

The MGCC would be capitalized by a \$25 million capital bond authorization and by a \$15 million transfer from MassDevelopment's Emerging Technology Fund.

3. Addressing Small Business Health Care Costs

A. Offering More Affordable Options

1) Plans with Reduced Networks of Providers

Purpose: Give small employers the choice of more affordable plans beginning July 2010.

The largest health carriers have networks that include almost all Massachusetts providers whether high-cost or low-cost providers and either do not offer or do not aggressively market products that exclude the high-cost providers. This proposal would require carriers in the small group market to offer at least one reduced network plan with premiums that are at least 10% lower than the premiums for the full network product. The selective network plan will be required to meet DOI network adequacy standards.

2) Moratorium on New Mandated Benefits

Purpose: Suspend additional health insurance benefit requirements until July 1, 2012.

This proposal will suspend the addition of new mandated benefit requirements during this period of small group insurance market premium and health service price limitations.

B. Technical Changes to Health Reform

1) Create Open Enrollment Periods for Individuals Buying Coverage on Their Own

Purpose: Address loophole that is driving up small group costs

Prior to the merger of the nongroup and small group markets, in order to prevent adverse selection (e.g., individuals buying health coverage only when they needed it), the law permitted carriers to apply a six-month pre-existing condition limitation or waiting period if the individual did not have prior coverage. Following the merger, carriers ceased imposing such 6-month periods on individuals since they were not applying limitations to group plans. Since the merger, individuals have been buying coverage and terminating coverage shortly after receiving services, driving up the overall costs of the

merged market. By reverting to two annual open enrollment periods, individuals will tend to buy and hold coverage rather than buying it when they need it.

2) Allow Commissioner to Adjust Rating Rules to Save Administrative Costs and Monitor Rate Fluctuation

Purpose: Eliminate duplicate or administrative costs and monitor rate fluctuation

This proposal would give the commissioner the authority annually to examine the small group market and amend regulations in order to generate administrative cost savings where charges are duplicative or unwarranted. . It would also allow the commissioner to address the issue of rate fluctuation due to, for example, changes in the demographics of a group's employees or dependents. This proposal gives the commissioner the authority to determine annually the cap on the allowable group-specific adjustments to prevent drastic increases in rates for individuals and employers.

C, Strengthen the Commonwealth's Authority to Review Carrier and Provider Rates

Require Advance Filings of Small Group Health Insurance Rates

Purpose: Obtain the details to review rates and determine which increases are unwarranted

This proposal will require carriers to submit rate filings to the DOI at least 30 days before the effective date with sufficient detail for the DOI to determine if the rates should be disapproved because they are inadequate, excessive or unreasonable in relation to the benefits provided. If a carrier submits a rate filing requesting an increase over its previous year's base rate that is greater than 150% of the prior year's consumer price index for medical care services, the rate filing will be presumptively disapproved and subject to a hearing. This proposal will also allow the Division of Health Care Finance and Policy to review contracts for medical services between insurers and hospitals, physician group practices and imaging service providers to determine if payment increases are less than or equal to the Consumer Price Index for Medical Care Services. Contracts that provide for larger price increases will be presumptively disapproved.

4. Unemployment Insurance Rate Freeze and Reforms

A. Establishing long term solvency

Increasing and Indexing the Taxable Wage Base.

Raise the taxable wage base from its current \$14,000 to \$20,900 and then index it to the rate of growth or decline in weekly benefit. Increasing the TWB and indexing it will also ensure that higher wage employers make a more equitable contribution toward the cost of the benefits collected by high wage workers.

B. Strengthening DUA's anti-fraud measures

Allowing DUA to Issue Stop Work Orders. This proposal would give DUA the authority to issue stop work orders. This provision is modeled on that used by the DIA.

DUA Compliance for State Contracts and Tax Credits. Require all businesses entering into a procurement contract or receiving tax credits over \$5,000 in value, to submit a current certificate of compliance issued by the DUA.

Sharing Data with JTF. Authorizing DUA to share such data with members of the Joint Task Force on the Underground Economy.

C. Providing relief to employers

Schedule Freeze for 2010. Schedule G was triggered on January 1, 2010. This represents an increase in the average contribution per employee of \$307 for 2010. Freezing the schedule at either E or F will add a modest amount of federal borrowing for 2010, and none for 2011 and 2012 (as long as the schedule is allowed to trigger G for those years). Schedule E represents an average per employee cost increase to \$694 in 2010 from \$584 in 2009. This would incur an additional \$390 million of borrowing in 2010 over schedule G. Average cost of surcharge on employers to pay interest would be \$10 (ten) per employee in 2011 and \$3 (three) in 2012.

Changing the Definition of Successor Employers. This amends the successor employer definition to state that the purchasing business would have to be a continuation of the original business operation in order to be assigned the prior employer's UI experience rate.

Making the Workforce Training Fund a Trust Fund. This makes the Workforce Training Fund a permanent Trust Fund, in order to protect employer contributions and ensure that the monies in the Trust Fund are used to fulfill its statutory purpose. For budget purposes in FY10 only, however, not all employer contributions will be credited to this fund.

Preventing Corporate Owners from Abusing the UI System. This section would prohibit UI benefits to anyone owning over 5% of the corporation or any family member of such person.

Distributing Solvency Charges More Equitably. This provision authorizes the DUA to establish a reasonable solvency charge on reimbursable employers via regulation.

D. Reducing unfair barriers to eligibility

Equity in UI Eligibility. Currently, the law provides for two similarly situated claimants to be treated unequally in their benefit amounts simply by an accident of when they were employed in a given base year. This proposal will ensure that claimants are treated equally in determining their benefit levels.

Eliminating Unreasonable Earnings Thresholds. This proposal requires that following a claimant's return to work, the person would only have to earn 8 times the amount he would have collected on UI instead of having to do earn 8 times in each of the 8 weeks.

Eliminating the Eligibility Obstacles for Temporary Employees. This proposal deletes the 2003 amendments to the UI law regarding temporary workers and their need to report

back to the temporary firm following an assignment before filing for benefits or they would otherwise be declared to have voluntarily quit. The impact of the amendment would be that temporary workers that finished their assignment would find it easier to qualify for UI benefits while seeking other full-time employment.

Eliminating part-time penalty. This section prevents claimants from being penalized for having voluntarily left a part-time job they had before being laid off from the full-time job.

Anti-Retaliation. This protects workers who testify on UI matters. Any employer found to have violated the statute would be liable for damages and attorney's fees.

Reforming the Eligibility Redetermination Process. This requires DUA to provide a claimant with a hearing before the redetermination is made along with any decision to stop benefits to a claimant. The current process of stopping on-going benefits before a hearing has constitutional defects.

E. Making the UI system a stepping stone to economic recovery

Self Employment Assistance Program. This creates a new program called the self-employment assistance program. The SEA would exempt up to 5% of all UI claimants who are deemed eligible for the program from their job search. To be deemed eligible, the UI claimant would have to work with the Commonwealth's small business development centers to develop and finalize a business plan.

5. Other Job-Creation Provisions.

A. \$25 million Bond Authorization to Capitalize the MA Growth Capital Corporation, the successor to the CDFC (see part 2 above):

Funding would recapitalize lending programs now administered through the Community Development Finance Corporation (CDFC) and the EST through the newly created MGCC.

B. \$50 million Bond Authorization to Fund the Growth Districts Initiative:

This capital authorization allows for infrastructure improvements in specific areas identified as being appropriate locations for significant new growth, whether commercial, residential or mixed-use. Infrastructure grant awards are made to municipalities in order to promote new commercial and residential growth that is consistent with the Commonwealth's sustainable development principles, throughout all regions of the Commonwealth.

C. Extended Permitting:

This permit extension proposal would add three years to the duration of certain permits issued in the last two years, so that developers could still use existing permits when the market supports construction.

D. District Improvement Financing (DIF) Program Amendment:

This would amend the DIF Program by:

(1) a) providing communities with the option of not having the original assessed value of a property included in a DIF agreement adjusted for inflation (i.e., not using the inflation

factor) and b) providing clarity on how to calculate the inflation factor for those communities that choose to use it; and,
(2) allowing communities the option to specify that the 30 year term (during which tax revenue from the project could be pledged to bonds) would commence when a project is first producing its expected full level of revenue (rather than during the construction period, when little revenue is flowing); this change would more efficiently match revenue to the term of repayment of the bonds.

E. Small Business Regulatory Statements:

Improves the present requirement for small business impacts statements for state agency regulations, by requiring the agency to make this statement when first proposing a regulation, rather than at the end of the rulemaking process. This will foster better public and business comments and participation, and better compliance by agencies.