

MASSACHUSETTS  
**HIGHTECHNOLOGYCOUNCIL**

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## **TESTIMONY**

### **Statement before the Joint Committee on Labor and Workforce Development**

#### **In Support of:**

### **S. 1002, AN ACT TO ENHANCE EMPLOYMENT OPPORTUNITIES**

**June 23, 2015**

#### **Mark J. Gallagher, Executive Vice President Massachusetts High Technology Council**

Thank you, Chairman Wolf and Chairman Scibak and members of the Committee for the opportunity to speak today in support of important reforms to the Commonwealth's laws relative to independent contractors. My name is Mark Gallagher and I am Executive Vice President for Public Policy and Communications at the Massachusetts High Technology Council.

The Mass. High Tech Council is the Commonwealth's oldest and only cross-sector association of CEO-level leaders of technology-focused organizations. The Council has a 37-year history of non-partisan advocacy in support of one overarching mission: To make Massachusetts the world's most attractive place in which to live and work, and in which to create, operate, and grow high technology businesses. The Council is also a member of a broad coalition of Massachusetts business organizations supporting reforms to the independent contractor law and we are proud to join them here today.

The High Tech Council's members include technology-focused organizations of all types and sizes, from large well-established companies with multi-billion dollar valuations to start-up partnerships and sole proprietorships. The ability of these organizations to access talent and expertise, including though the use of independent contractors, is critical to their success. Unfortunately, under current state law our technology organizations are discouraged from engaging independent contractors and face enormous risk if and when they do so. The law creates a barrier to success for technology companies and a barrier to opportunity for many skilled workers in the Commonwealth.

As you are well-aware, the legislature amended Chapter 149 in 2004 with the stated and limited purpose of addressing classification issues for employers and employees engaged in public construction in the Commonwealth. Subsequent opinions from the Attorney General's office and Supreme Judicial Court, however, have made clear that the law applies to all industries, employers and their would-be contractors.

We believe it is neither fair nor appropriate to allow a law with an intended application so narrow to impact the potential success of so many companies and the economic opportunities of so many individuals. We encourage you to amend Chapter 149 to eliminate this unnecessary drag on the state's innovation economy and growth.

As a native of Massachusetts and someone who has lived their entire life here, I take pride in the many ways in which Massachusetts is unique. Indeed throughout its history, the Commonwealth has set itself apart with forward-looking public policy. Unfortunately, our uniquely burdensome independent contractor standard is not something to be proud of. Rather, it has a significant negative impact on Massachusetts' "brand" as a hub for innovative companies and individuals. Our laws should reflect that a large and growing percentage of American workers are eschewing traditional, single-employer, 9-to-5 jobs and studies (including a recent GAO report) show a very high percentage enjoy and prefer to work as independent contractors.

We believe the Commonwealth would be well-served by enacting Senate 1002 and adopting the 11-part test used by the Internal Revenue Service. By aligning with the federal standard, Massachusetts will provide uniformity for Massachusetts employers and workers and reduce regulatory complexity for multi-state employers. Other legislation before this committee would make valuable, but more incremental, improvements to the independent contractor law, and would have a more limited effect on the quality of the state's business environment for the technology sector.

We understand and appreciate the Commonwealth's interest in ensuring that working men and women are not unfairly classified as independent contractors to their detriment. But we should not allow that legitimate interest to unnecessarily impede opportunities for other workers who prefer to work as independent contractors and not employees. We believe the 11-part IRS test provides the needed protections in a way that balances the needs of our innovative technology sector with the interests of workers in a way is easy for employers and employees to understand.

Again, thank you for the opportunity to share our concerns and for your consideration of this legislation. If you or your staff have any questions or concerns, please do not hesitate to contact me.