



Massachusetts Taxpayers Foundation

MASSACHUSETTS  
HIGHTECHNOLOGYCOUNCIL

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Greater Boston Chamber of Commerce

July 19, 2016

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House Committee on Ways and Means

Senator Daniel A. Wolf, Chair  
Committee on Labor & Workforce Development

Chairman John Scibak  
Committee on Labor &  
Workforce Development

Senator William Brownsberger, Chair  
Committee on Judiciary

Representative Jay Barrows

Senator Ryan Fattman  
Assistant Minority Whip

Dear Conferees:

We are writing to convey our support for H.4434 and our strong objection to S.2418.

We continue to believe that there is little evidence that the use of non-compete agreements harms Massachusetts' position as a globally recognized leader in innovation. Massachusetts and/or Boston are at the top of national rankings of innovation, start-ups, and tech. In fact, Bloomberg recently named Massachusetts AND California as the most innovative states in the country. Given that California bans some, but not all non-compete agreements, they are clearly not a determining factor. Employers believe selective use of non-competes enables them to protect legitimate business interests, including the significant investments that allow their companies to be global leaders in their industries and to create jobs in the commonwealth.

As a part of our good faith effort to reach a workable compromise on the use of non-compete agreements, however, we are willing to collectively support certain further restrictions which can provide significant protections to employees. Employers believe selective use of non-competes protects the significant investments that allow their companies to be global leaders in their industries and to create jobs in the commonwealth. The House compromise legislation recognizes that Massachusetts employers need flexibility and legal options to protect intellectual property. It protects the rights of both employers and workers. Conversely, the Senate bill would effectively end of the use of non-competition agreements in Massachusetts and is unacceptable. Several employers have characterized the Senate bill as "worse than a ban".

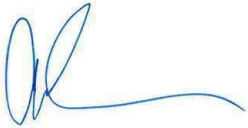
The compromise provisions that we support include:

- Minimum one-year duration;
- A "garden leave" provision that requires the employer to pay 50% of the employees' prorated salary during the restricted period, or other mutually-agreed upon compensation;

- Maintaining and clarifying the ability of a court to reform or alter non-compete contracts to ensure that both parties are treated fairly;
- Those subject to non-compete agreements would have to be given prior notice of the need to sign the agreement, as well as the opportunity to consult with legal counsel;
- Exemption for low-income workers; and
- The non-compete would extend to a second year should an employee unlawfully take property belonging to the employer, as included in the House version.

We respectfully urge the Senate to recede to the House. We believe the non-compete legislation passed by the House represents a good faith effort on behalf of the business community to negotiate the right balance on this issue.

Sincerely,



Christopher Anderson  
Massachusetts High Technology Council



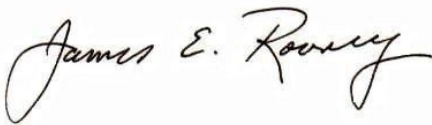
Richard Lord  
Associated Industries of  
Massachusetts



JD Chesloff  
Massachusetts  
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Eileen McAnney  
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James Rooney  
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