

MASSACHUSETTS
HIGHTECHNOLOGYCOUNCIL

Dedicated to Growth... Committed to Action

January 23, 2019



Millionaires' Tax Part 2: A Massachusetts Exit Strategy?

On January 18, Senator Jason Lewis (D-Winchester) filed a proposed amendment to the state constitution that would impose an income tax surcharge on any income over \$1 million by adding 4% to the applicable tax rate (currently 5.05% for earned income). The filing triggers a four-year process to eliminate a 100-year old Constitutional prohibition on a graduated income tax that Massachusetts citizens

have overwhelmingly voted to preserve five times. The net effect of the current proposal is identical to the citizens' initiative declared unconstitutional by the State Supreme Court last year in *Anderson, et al. vs. Healy*, and could appear on the 2022 Massachusetts state-wide ballot.

Because the legislature is proposing the amendment--not private citizens via an Initiative Petition-- the Attorney General does not need to certify the question and different constitutional restrictions on permissible language apply than those considered by the Court in our successful suit.

Meanwhile, legislatures in several high-cost states are turning away from similar tax proposals, partly in response to new federal tax laws that cap the deductibility of state and local taxes. During the 2018 election cycle, voters in states spanning the ideological and political spectrum rejected proposals to impose new or increased taxes on individuals and businesses with revenues dedicated to education and transportation. In other states, voters approved ballot initiatives that impose additional controls on the imposition of new or increased taxes. (See a multi-state recap in the [November 2018 High Tech Agenda](#).)

The revival of this effort by Massachusetts legislators comes on the heels of record budget growth: the Commonwealth collected \$9.2 billion more revenue in FY18 than it did just a decade previously a 50% increase compared to FY09). Massachusetts' higher income earners pay the vast majority of all state income taxes. According to 2017 data from the Massachusetts Department of Revenue, the top 20% of Massachusetts earners paid 73% of all income taxes collected by the state and had average effective tax rates of 4.7%-nearly DOUBLE the average effective rate paid by the bottom 40% of earners.

Any shift in state policy that weakens the private sector performance, or any weakness in the economy in general as a result of a national recession, will create significant state budget challenges in Massachusetts in the not-to-distant future. The Council will focus on collaborating with like-minded partners to prepare for such an economic downturn, while pursing transformative policy goals to "move the needle" in key areas that support investment, job growth, our quality of life, and strong private sector performance. See the Council's [full statement](#) and coverage in the [Boston Globe](#) and [CommonWealth](#)

2019 High Tech Agenda Focuses on Private Sector Growth and Fiscal Stability as Foundation for Public Progress

As noted in a November 25, 2018 [Commonwealth Magazine op-ed](#) co-authored by Council Board member Bob Reynolds, CEO of Putnam Investments and Council President Chris Anderson, navigating opportunities and challenges over the next 4 years requires sustained, nonpartisan advocacy to increase engagement among private employers, civic leaders, and elected officials that focus on policy solutions to improving Massachusetts' fiscal position and preserving its ability to invest in shared priorities without damaging the enviable performance of our private sector.

Core teams of Council leaders, in partnership with subject matter experts and Council staff, will be working to develop and advance specific strategies around the following policy priorities:

Transportation: Drive innovative and effective approaches to solve transportation challenges, including through the implementation of selected recommendations of the [Future of Transportation Commission](#).

- Create new public-private models to fund, operate and govern our key transportation infrastructure and systems;
- Embrace innovation in emerging technologies and smart connected products through the Transportation Technology Transformation Initiative to partner public and private resources with innovators; and
- Streamline and modernize public construction laws to optimize innovation and efficiency in the design, construction and operation of transportation infrastructure and systems.

Health Care: Enhance structural controls to effectively manage costs of the MassHealth/Medicaid program, which currently consumes 40% of the state budget.

- Support the adoption of enforceable MassHealth growth, cost and spending benchmarks and limitations to secure the financial underpinnings of MassHealth and ensure funding for other critical state investments in transportation, education and economic development are not "crowded out" by MassHealth.
- Identify opportunities to address cost impacts of pharmaceuticals on public health spending.

Housing: Address the negative impacts of housing costs on quality of life and talent recruitment in Massachusetts.

- Support policy changes that boost the production of market rate and affordable housing, including modifications to local land use laws proposed in Governor Baker's 2018 Housing Choices legislation.

Tax and Fiscal Policy: Address persistent weaknesses in the state's fiscal condition in order to solidify the financial foundation that supports or undermines every public objective we choose to pursue as a Commonwealth.

- Oppose "blank check" spending and taxation policy proposals.
- Preserve and enhance a tax regime that is fair and competitive and oppose tax proposals that would negatively impact the Commonwealth's ability to compete for jobs.

Governor, Legislative Leaders Outline Policy Priorities for 2019-20

[Governor Baker](#) was inaugurated for a second term on January 3 and the 2019-20 biennial legislative session commenced on January 2. Lawmakers filed more than 6,000 bills by the January 18 bill filing deadline and



thousands more of new or redrafted bills will be filed during the two-year session. This month, the governor and legislative leaders are outlining their priorities for the next several years.

In his inaugural address and public comments, Governor Baker stated that among his administration's highest priorities for a second term are addressing K-12 educational achievement gaps and updating the way in which state education funds are allocated to municipalities. The Governor also pledged to focus on the

ongoing investment of \$8 billion in available capital in repairs and improvements to public transportation infrastructure, and the enactment of state laws that will promote the production of workforce and affordable housing.

In remarks to colleagues and media around her re-election, [Senate President Karen Spilka](#) expressed an interest in pursuing "bold" responses to the Commonwealth's challenges (as opposed to more incremental policy changes) and specifically identified as priorities:

- Changes and increases to state funding allocations for K-12 public education;
- Improvements and investments in transportation infrastructure and systems; and
- Responses to climate change.

In recent media interviews, the Senate President declined to express support for additional "broad-based" taxes, but stated she believes the state needs to ensure it has a "21st Century" tax system that reflects the growing importance of new and emerging industries. She has reiterated her support for a "Millionaires' Tax" surcharge on high income earners and confirmed her intent to pursue a legislatively initiated Constitutional Amendment to implement it.

[House Speaker Robert DeLeo](#) refrained from major policy announcements in his re-election remarks and plans to outline them in the coming weeks.

Council Urging Legislators, Governor to Back Elimination of EMAC Medicaid Surcharge

Baker Administration leaders deserve credit for implementing reforms that reduced annual MassHealth growth rates to under 3% compared to double-digit CAGR levels just 5 years ago. But embedded inefficiencies and cost drivers that are unnecessary to preserving MassHealth for the Commonwealth's most-needy and ensuring the availability of affordable health care coverage to all Massachusetts residents remain unaddressed.

A solution emerged in 2017, and the Council and other employer organizations supported a Baker Administration legislative proposal to "package" cost control reforms to the state's MassHealth/Medicaid program with a temporary increase in the amount that employers pay through the states Employer Medical Assistance Contribution ("EMAC"). The EMAC surcharge was designed to raise an additional \$400 million from employers and help support an interim financial "bridge" for MassHealth until specific cost saving reforms to the program could be adopted and implemented. It is now estimated to raise more than \$500 million.

Our support for the additional surcharge was conditioned absolutely on the contemporaneous adoption of significant reforms to MassHealth. Instead, lawmakers chose to enact legislation that only imposed the EMAC surcharge and included an explicit provision "sunsetting" the surcharge at the end of 2019. The tax-only bill was not vetoed by the Governor. Legislators closed out the 2017-18 legislative session having rejected cost saving MassHealth reforms advanced by the Baker Administration and failing to enact broader legislation to address health care costs more broadly.

The Council urges state legislators and the Baker administration to honor this commitment to eliminate the EMAC no later than December 31, 2019 and to give serious consideration to legislation filed by Senator Bruce Tarr (R-Gloucester) that would repeal the surcharge early in light of the ongoing failure to advance more robust MassHealth reforms and changing economic conditions.

Teachers' Unions Threaten Statewide Strike in 2019

This year, the Commonwealth will spend \$5.6 billion on K-12 education while cities and towns expend an additional \$11 billion. According to current US Census data in the Council's [MATTERS competitiveness dashboard](#), Massachusetts has the 7th highest level of spending on public education in the country at an average of more than \$15,000 per student.

Massachusetts teachers' unions, however, are backing a \$1.5B "no strings attached" state education spending increase and threaten a statewide teacher strike if it is not enacted. The Massachusetts President of the American Federation of Teachers union, pointing to teacher walkouts in Colorado, West Virginia and Arizona, stated: "It could happen here if the investments our schools need aren't addressed soon." Such a self-serving strike would be disastrous for the Commonwealth's students, families and its reputation as an attractive place to live, work and do business.

On January 10, the Council joined with colleagues from the Massachusetts Business Alliance for Education to [call on legislators](#) to reject any "blank check" approach and support instead a comprehensive K-12 education reform package that balances state financial support with high standards of accountability for students, teachers and administrators and ensures that public school students and parents have access to innovative and high performing schools.

Council Leaders Help Drive 2040 Transportation Vision

Improving the performance of Massachusetts' transportation infrastructure is a critically important issue across our private sector economy. In January 2018, Governor Baker formed a Special Commission on the Future of Transportation, including representatives from Council members McKinsey & Co. and ML Strategies.

On December 13, 2018, the Commission issued its [report](#) and recommendations which combine data and expert insight to present a compelling vision of what our transportation future could like in 2040. The report includes planning for autonomous and all-electric vehicles in the future, a resilient and "smart" transportation grid network and new models of public-private partnership. Council members are leading innovation in these very areas and are committed to partnering with the state to bring that vision to a reality.

State Begins Implementing Paid Family and Medical Leave Tax and Structure

The Commonwealth's task of implementing the Paid Family and Medical Leave mandate and \$800 million payroll tax enacted via 2018 legislation begins in earnest this week with the creation of a new Department of Family and Medical Leave underway and draft regulations expected to be published on January 23. Beginning July 1, 2019 employers will be obligated to pay a 0.63% payroll tax into a state administered fund that will support the benefits for leave-taking employees. The law requires employers to provide up 20 weeks of job-protected paid leave annually to an employee to recover from their own illness or injury and up to 12 weeks annually to care for a seriously ill or injured family member, to care for a new child, or to meet family needs arising from a family member's active duty military service. (Click [HERE](#) for more specifics.)

Council members are reminded that under the new mandate all employers are required by law to participate in and contribute to the state-administered plan, unless they affirmatively opt out. To opt out, an employer must establish that the employer-provided leave benefits are greater than or equal to the state

plan's, a standard that will be governed by the final regulations once promulgated.

Council staff have been engaged with senior officials at the Executive Office of Labor and Workforce Development and will circulate the proposed draft regulations with members once published. We strongly urge you to contact us to share questions, concerns and recommend changes so that we can ensure the regulations provide a meaningful and workable opt-out mechanism.

Our Mission

The goal of the Massachusetts High Technology Council is to help 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.

Achieving this goal will:

- expand and improve job opportunities for Massachusetts citizens throughout all sectors;
- increase the productivity and well-being of all Massachusetts businesses and citizens and will expand tax revenues to aid the disadvantaged, protect the environment, rebuild the state's infrastructure, and provide support for educational, medical, and cultural institutions.

For more information on our mission, beliefs and activities, [visit our website](#).

