

SENATE No. 2125

[Pin Slip]

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

1 by striking all after the enacting clause and inserting in place thereof the following:-

2 SECTION 1. Chapter 29 of the General Laws, as appearing in the 2012 Official Edition,
3 is hereby amended by adding the following section:-

4 Section 2JJJJ. There is hereby established and set up on the books of the commonwealth
5 a separate fund to be known as the Living Wage Empowerment Fund, hereinafter called the
6 fund. The fund shall be administered by the commissioner of revenue. Amounts credited to the
7 fund shall be expended, without further appropriation, to taxpayers who receive a tax credit
8 under section 6(h) of chapter 62 and have 1 or more qualifying dependent children.

9 The commissioner shall provide taxpayers with 1 or more qualifying dependent children
10 20 per cent of the amount said person qualified for, claimed, and received under section 6(h) of
11 chapter 62.

12 The department of revenue shall be the administrator of the fund and shall maintain the
13 fund as a separate fund and shall cause it to be audited by an independent accountant on an
14 annual basis in accordance with generally-accepted accounting principles.

15 There shall be credited to the fund any revenue from appropriations or other monies
16 authorized by the general court and specifically designated to be credited to the fund, and any
17 gifts, grants, private contributions, investment income earned on the fund's assets and all other
18 sources, including federal funds for the temporary assistance to needy families program. Money
19 remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

20 The fund shall supplement and not replace existing credits received under section 6(h) of
21 chapter 62.

22 SECTION 2. Section 1 of chapter 151 of the General Laws, as appearing in the 2012
23 Official Edition, is hereby amended by striking out, in line 5, the figure "8.00" and inserting in
24 place thereof the following figure:- 8.75.

25 SECTION 3. Said section 1 of said chapter 151 is hereby further amended by striking out
26 the figure “8.75”, inserted by section 2, and inserting in place thereof the following figure:- 9.50

27 SECTION 4. Said section 1 of said chapter 151, as so appearing, is hereby further
28 amended by striking out, in line 12, the figure “.10” and inserting in place thereof the following
29 figure:- .50

30 SECTION 5. Said Section 1 of said chapter 151, as so appearing, is hereby further
31 amended by adding the following sentence:-

32 Notwithstanding the provisions of this section, no wage rate greater than \$1.00 per hour
33 more than the effective federal minimum rate shall be presumed to be oppressive or unreasonable
34 if the employer provides the wage collector “minimum credible coverage” under section 1 of
35 chapter 111M.

36 SECTION 6. Section 7 of said chapter 151, as so appearing, is hereby further amended by
37 striking out, in lines 30 and 31, inclusive, the words “the cash wage required to be paid such an
38 employee on July 1, 1999” and inserting in place thereof the following:-

39 “\$2.89; provided, however, that if an employer certifies with the department that its
40 tipped employees receive at least twice the wage in effect under section 1, then the amount paid
41 to such employee by the employer shall be an amount equal to: (1) the cash wage paid such
42 employee which for purposes of such determination shall be not less than the cash wage required
43 to be paid such an employee on July 1, 1999; and (2) an additional amount on account of the tips
44 received by such employee which amount is equal to the difference between the wage specified
45 in clause (1) and twice the wage in effect under section 1.”

46 SECTION 7. Said Section 7 of said chapter 151, as so appearing, is hereby amended by
47 striking out the figure “\$2.89”, inserted by section 6, and inserting in place thereof the following
48 figure:- \$3.15.

49 SECTION 8. The minimum wage shall be reviewed every two years beginning July 1,
50 2016, by the secretary of administration and finance, in consultation with the secretary of
51 housing and economic development, and the secretary of labor and workforce development, to
52 recommend to the governor and the general court any changes to the minimum wage, effective
53 January 1st. Such recommendations shall consider but not be limited to the following factors: the
54 rate of inflation, the minimum wage in other states, the commonwealth’s competitiveness, the
55 status of the commonwealth’s labor market, the commonwealth’s teen unemployment, the
56 effectiveness of increasing the minimum wage in helping the target population and there shall be
57 at least 3 public hearings held in various geographic regions in the commonwealth.

58 SECTION 9. The secretary of labor and workforce development, in consultation with the
59 secretary of administration and finance and the secretary of housing and economic development,

60 shall study the impact of the minimum wage rate and minimum wage rate increases as they relate
61 to New England City and Town Area's (NECTAs) and Labor Market Areas (LMAs) in
62 Massachusetts. The study shall analyze the cost of living in said NECTAs and LMAs and the
63 effective minimum wage rate adjusted for the cost of living in said NECTAs and LMAs,
64 detailing the impact of minimum wage rates on employment, the ability of employers to hire
65 additional employees, and the effectiveness of the minimum wage rate at reducing poverty and
66 helping financial independence. The report, together with any legislative recommendations,
67 shall be filed electronically with the clerks of the house of representatives and the senate and the
68 joint committee on labor and workforce development not later than May 15, 2015.

69 SECTION 10. There is hereby established a living wage commission to address poverty
70 reduction and ensuring all workers are provided with a wage allowing them to live a healthy and
71 financially independent lifestyle. The commission shall consist of the following members or
72 their appointees: the secretary of labor and workforce development, the secretary of
73 administration and finance, the secretary of housing and economic development, the senate
74 president, the speaker of the house of representatives, the senate minority leader and the minority
75 leader of the house of representatives. The commission shall issue a report on an appropriate
76 wage rate to ensure that employees can afford the cost of living in their geographic area and a
77 healthy and financially independent lifestyle. Said report shall be submitted to the clerks of the
78 house of representatives and the senate and filed not later than June 15, 2015.

79 SECTION 11. Notwithstanding any general or special law to the contrary, following any
80 increase in the minimum wage the secretary of labor and workforce development shall report on
81 the impact of said increase on employment in the commonwealth, impacts on businesses,
82 particularly small businesses in the commonwealth, and success of increasing the minimum
83 wage in helping the target population. Said report shall be submitted to the clerks of the house
84 and senate, and the joint committee on labor and workforce development within one year of an
85 increase in the minimum wage.

86 SECTION 12. Section 2, 4 and 6 shall take effect January 1, 2015.

87 SECTION 13. Section 3 and 7 shall take effect January 1, 2016.

88 SECTION 14. Paragraph (2) of subsection (r) of section 1 of chapter 151A of the
89 General Laws, as so appearing, is hereby amended by adding the following sentence:-
90 "Notwithstanding any general or special law to the contrary, an individual employed as a
91 crewmember on a commercial fishing vessel shall be deemed to be in total unemployment during
92 any period of general closing of the individual's employer's fishing vessel due to the employer's
93 inability to conduct fishing operations as a result of state fisheries management restrictions and
94 or federal fisheries management restrictions and the individual performs no wage-earning
95 services whatsoever, and for which he receives no remuneration during those periods of general
96 closing of the individual's employer's fishing vessel."

97 SECTION 15. Section 1 of said chapter 151A, as so appearing, is hereby amended by
98 striking out, in lines 327 and 338, the word “sixteen” and inserting in place thereof, in each
99 instance, the following figure:- 20.

100 SECTION 16. Section 6A of chapter 151A of the General Laws, as appearing in the
101 2012 Official Edition, is hereby amended by inserting after subsection (6) the following: -

102 “(7) an election official or election worker if the amount of remuneration received by the
103 individual during the calendar year for services as an election official or election worker is less
104 than \$1000.”

105 SECTION 17. Section 14 of chapter 151A of the General Laws, as appearing in the 2012
106 Official Edition, is hereby amended by inserting in the definition of “reserve percentage”, after
107 the word “date” in line 57, the following:-

108 “provided, however, that not less than 6 months before the computation date, the
109 commissioner shall make available on its website and distribute to employers an assessment of
110 the projected unemployment compensation fund reserve percentage for the upcoming calendar
111 year.”

112 SECTION 18. Subsection (h) of Section 14 of chapter 151A of the General Laws, as
113 appearing in the 2012 Official Edition, is hereby amended by adding the following paragraph:-

114 “(4) For the purposes of determining the annual statewide contribution schedule provided
115 for in subsection (i), any determination that the schedule will yield a column resulting in
116 increased employer contributions shall be approved by the general court and governor
117 communicated to employers not less than 120 days prior to the first contribution under said
118 increased schedule being due.”

119 SECTION 19. Paragraph (l) of subsection (i) of said section 14 of said chapter 151A, as
120 so appearing, is hereby amended by striking out, in line 187 and 188, the date “January 1, 2004”
121 and inserting in place thereof the following date:- “January 1, 2015”

122 SECTION 20. Said paragraph (l) of said subsection (i) of said section 14 of said chapter
123 151A, as so appearing, is hereby further amended by striking out the table and inserting in place
124 thereof the following table:-

125

126 SECTION 21. Section 14F of chapter 151A of the General Laws, as appearing in the
127 2012 Official Edition, is hereby amended by inserting, in line 29, after the word “effect”, the
128 following: -

129 “; and provided further, that any requirement that employers will have to contribute from
130 a column in the annual statewide contribution schedule that results in increased contributions

131 shall be approved by the general court and governor, communicated to employers not less than
132 120 days prior to the first contribution under said increased schedule being due.

133 SECTION 22. Said Section 14F of said chapter 151A of the General Laws, as so
134 appearing, is hereby further amended by adding the following sentence:-

135 “All reports required by this section shall be made prominently available on the website
136 of the department of unemployment assistance.”

137 SECTION 23. Said chapter 151A of the General Laws, as so appearing, is hereby
138 amended by inserting after section 14P the following section:-

139 “Section 14Q. Treasury Offset Program. The commissioner may enter into an agreement
140 with the Secretary of the Department of Treasury, under the provisions of 26 U.S.C. § 6402 (f)
141 and 31 CFR § 285.8, to transmit valid, unpaid, and overdue unemployment compensation debts
142 to the Financial Management Service, a bureau of the U.S. Department of the Treasury, for
143 collection by offset of Federal tax refund payments through the Treasury Offset Program. If the
144 commissioner chooses to participate in the Treasury Offset Program to recover unemployment
145 compensation debt, the commissioner shall adhere to all rules, policies, and guidance as required
146 by the U.S. Department of the Treasury and the U.S. Department of Labor in implementing and
147 administering the program. The commissioner may promulgate such regulations as needed to
148 implement this section.”

149 SECTION 24. Section 15 of said chapter 151A of the General Laws, as so appearing, is
150 hereby amended by inserting after subsection (e), the following :-

151 “(f) If an assessment, or any administrative decision upon review thereof has become
152 final and the contributions, payments in lieu of contributions, interest, or penalties thereby
153 assessed remain unpaid, the Director may refer the unpaid and overdue amount to the Secretary
154 of the Department of Treasury for collection under the provisions of 26 U.S.C. § 6402 (f), the
155 Treasury Offset Program, provided that all procedures for notice and opportunity to present
156 evidence as required by 31 CFR § 285.8 have been followed.”

157 SECTION 25. Section 24 of chapter 151A of the General Laws is hereby amended by
158 striking paragraph (a) in its entirety and inserting in place thereof the following:-

159 “(a) Have been paid wages in the base period amounting to at least forty times the weekly
160 benefit rate; provided, however, that for the period beginning on January first, nineteen hundred
161 and ninety-five the individual has been paid wages in at least two quarters of the base period
162 amounting to at least forty times the weekly benefit rate; provided, further, that said amount shall
163 be increased annually proportionately, rounding to the nearest one hundred dollars, to any
164 increases which have occurred during the prior calendar year in the minimum wage as set forth

165 in section one of chapter one hundred and fifty-one; and, provided further, that any such increase
166 shall be effective beginning on the first Sunday in January.”

167 SECTION 26. Section 28A of said chapter 151A of the General Laws, as so appearing, is
168 hereby amended by inserting after subsection (d) the following:-

169 “(e) with respect to any services described in subsections (a) and (b) that are provided to
170 or on behalf of an education institution, benefits shall not be paid to any individual under the
171 same circumstances as described in subsections (a) through (c).”

172 SECTION 27. Section 30 of said chapter 151A of the General Laws, as so appearing, is
173 hereby amended by striking out subsection (a) in its entirety and inserting in place thereof the
174 following :-

175 “(a) Except as provided in subsection (b) and (d), the total benefits which an unemployed
176 individual may receive during his benefit year shall be an amount equal to thirty-six percent of
177 his wages in the base period, or an amount equal to thirty times his benefit rate, whichever is
178 less, plus dependency benefits payable under section 29; provided, that if in any month the
179 average state-wide unemployment rate for the prior 6 months, as determined by the United States
180 Department of Labor, is equal to or below 5.1 percent, the total benefits which an unemployed
181 individual who then files a claim may receive during his benefit year shall be an amount equal to
182 36 per cent of his wages in the base period or an amount equal to 26 times his benefit rate,
183 whichever is less, plus dependency benefits payable under said section 29. If such amount
184 includes a fractional part of a dollar, it shall be rounded to the next lower full dollar amount.”

185 SECTION 28. Said section 30 of said chapter 151A of the General Laws, as so appearing,
186 is hereby amended by adding the following subsection:-

187 “(d) Notwithstanding the provisions of subsection (a), in any period that the average
188 state-wide unemployment rate exceeds 5.1 percent and is below 7.0 percent, an individual’s
189 rights to receive regular benefits under this chapter for any week in excess of 26 times the
190 individual’s weekly benefit amount, plus dependency benefits payable under section 29, shall be
191 dependent on the individual’s participation in an unpaid internship or volunteer program
192 approved by the commissioner. An individual may participate and receive a weekly benefit
193 amount in an approved unpaid internship program or volunteer program for 4 weeks in excess of
194 the 26 week benefit period. For each week in excess of said 26 weeks, in order to receive the
195 corresponding benefits for that week, the individual shall complete a week in such approved
196 internship or volunteer program. Approved participation in such program shall not result in a
197 decrease in an individual’s regular benefits. Benefits under this chapter in excess of 26 weeks
198 shall not be conditional upon participation in an unpaid internship or volunteer program if the
199 average state-wide unemployment rate for the prior 6 months is equal to or above 7.1 percent,
200 provided that in no case shall regular benefits be distributed in excess of 30 weeks.”

201 SECTION 29. Subsection (a) of section 62A of chapter 151A of the General Laws, as
202 appearing in the 2012 Official Edition, is hereby amended by adding the following paragraph:-

203 “The department shall yearly conduct at least 1 public hearing to seek the input of
204 Massachusetts employers. Said hearing shall be held at a time and location designated to
205 maximize employer participation. Not less than 20 days prior to a public hearing the
206 commissioner shall conspicuously post notice of the time and location of the hearing on its
207 website and send notice, electronically or otherwise, to members of the general court; every
208 employer with an account with the department; the Massachusetts and Greater Boston Chambers
209 of Commerce; the Massachusetts Taxpayers Association, Associated Industries of
210 Massachusetts, and the National Federation of Independent Businesses.”

211 SECTION 30. Section 69B of said chapter 151A of the General Laws, as so appearing, is
212 hereby amended by inserting, at the end thereof, the following :-

213 (b) In addition to any other remedy provided by this chapter, the commissioner may
214 request that the amount payable to the department by an individual resulting from an
215 overpayment of unemployment benefits which has become final as specified in 430 CMR 6.12
216 be set off against any Federal tax refund payment owed to such individual by the U.S.
217 Department of Treasury, in accordance with the requirements of the Treasury Offset Program
218 described in section 14Q of this chapter.

219 SECTION 31. There shall be a special commission to conduct an investigation and
220 study of the activities and efficacy of the adjudication of unemployment insurance claims by the
221 department of unemployment assistance under the executive office of labor and workforce
222 development. The commission shall consist of 11 members: 2 members who shall be appointed
223 by the state auditor, both of whom shall have experience with the adjudication of unemployment
224 disputes, and 1 of whom shall serve as chair; 2 members of the senate, 1 of whom shall be
225 appointed by the senate president and 1 of whom shall be appointed by the minority leader of the
226 senate; 2 members of the house of representatives, 1 of whom shall be appointed by the speaker
227 of the house and 1 of whom shall be appointed by the minority leader of the house; the director
228 of the department of unemployment assistance, or a designee; the president of the Massachusetts
229 taxpayer’s foundation, or a designee; the executive vice-president of the AFL-CIO, or a
230 designee; the executive vice-president of associated industries of Massachusetts, or a designee;
231 and the executive director of the Massachusetts municipal association, or a designee.

232 The study shall include, but not be limited to, an analysis of: (1) the number of claims
233 received by the department quarterly since January 1, 2010 and the resulting status of all claims,
234 including any information pertinent to the description of the status of said claims, including, but
235 not limited to (i) the results of all initial determinations of claims, (ii) the results of any appeals
236 resulting from said initial determination, (iii) the number of rulings reversed through the appeals
237 and review process, (iv) the number of claims arising from the provisions of subdivisions (1)

238 and (2) of subsection (e) of section 25 of chapter 151A, and (v) the number of claims settled in
239 favor of the claimant and in favor of the employer; (2) the average length of time of the appeals
240 and review process of a claim from initial determination to final disposition; (3) the procedures
241 through which the department hires and trains new employees to implement the provisions of
242 sections 39 through 41, inclusive, of chapter 151A, including a determination as to whether or
243 not employment procedures have been followed pursuant to section 9K of chapter 23.

244 The study shall also include the recommendations of the commission relative to: (1)
245 procedures through which the department may produce a quarterly report, to be posted on the
246 department's website, of the number of active claims and the status of said claims; (2)
247 procedures through which any current backlog of cases may be fairly and efficiently resolved
248 and avoided in future department proceedings; (3) procedures through which oversight and
249 quality control principles may be implemented to ensure the continuing prompt, equitable, and
250 transparent application of current law by the commissioner and the board of review; (4) a
251 complete review of current statute and regulations relative to the implementation of chapter
252 151A and any recommendations as to possible legislative reform and streamlined procedures,
253 including, but not limited to, recommendations and procedures for the uniform and effective
254 implementation of section 25 of chapter 151A.

255 The commission may request from all state agencies such information and assistance as
256 the commission may require. The commission shall report the results of its investigation and
257 study, together with drafts of legislation, if any, necessary to carry its recommendations into
258 effect, by filing the same with the clerks of the senate and house of representatives, who shall
259 forward the same to the joint committee on public health and the house and senate committees on
260 ways and means on or before December 31, 2014.

261 SECTION 32. The department of unemployment assistance shall, beginning on
262 December 31, 2014 and continuing annually through December 31, 2016, prepare a report on the
263 number of unemployment claimants who are over the age of 50 and those recipients experiencing
264 long-term unemployment. For the purposes of this section, the term "long-term unemployment"
265 shall apply to those workers who have been unemployed for more than 27 weeks. Said report
266 shall be made available on the department's website and submitted to the clerk of the house, the
267 clerk of the senate, and the house and senate chairs of the joint committee on labor and
268 workforce development.

269 In conjunction with said report, the department shall also develop specialized training
270 programs and strategies for addressing the unique needs of older workers and the long-term
271 unemployed. The focus of these programs shall include, but not be limited to, retraining, the
272 development of marketing skills, job search training, resume assistance and job placement. The
273 department's annual report to the legislature shall include details on the success of said programs
274 in assisting older workers and the long-term unemployed with securing employment.

275 SECTION 33. Notwithstanding any general or special law to the contrary, the
276 commissioner or director of the department of unemployment assistance shall issue a report on
277 the unemployment trust fund. Said report shall include, but not be limited to, the balance in the
278 fund in each of the past 12 months and a projection of both the future balances in the fund for
279 each of the next 12 months after the enactment of this legislation and the future balance
280 projections without the enactment of this legislation, and the assumptions used to generate said
281 projections. Said report shall be made available on the website of the department and submitted
282 to the clerks of the house of representatives and the senate and to the joint committee on labor
283 and workforce development not later than April 15, 2014.

284 SECTION 34. Notwithstanding any general or special law to the contrary, the
285 commissioner, as defined in section 1 of chapter 151A, shall establish a program through which
286 in-state employers may offer unpaid internships or job training to individuals receiving state
287 unemployment benefits and an approval process for the inclusion of any business in such
288 program; provided, however, that said program shall allow for employers to begin formal
289 employment with an individual for not more than 1 week while the individual receives
290 unemployment benefits. The purpose of this program shall be to maximize opportunities for
291 worker training and establish connections between businesses and the state workforce.”

292 SECTION 35. Notwithstanding section 14 of chapter 151A of the General Laws, for
293 calendar year 2015, the experience rate of an employer qualifying under subsection (b) of said
294 section 14 of said chapter 151A shall be the rate in column “C” in paragraph (1) of subsection (i)
295 of said section 14 of said chapter 151A.

296 SECTION 36. Notwithstanding section 14 of chapter 151A of the General Laws, for
297 calendar year 2016, the experience rate of an employer qualifying under subsection (b) of said
298 section 14 of said chapter 151A shall be the rate which appears in column “A” of paragraph (1)
299 of subsection (i) of said section 14 of said chapter 151A; provided however, if the rate appearing
300 in said column “A” is projected to result in a balance in the Unemployment Compensation Fund
301 of less than \$250,000,000, or greater as needed to ensure the minimum solvency of the
302 Unemployment Compensation Fund, at the end of calendar year 2016, then the secretary of labor
303 and workforce development shall submit a report to the clerks of the house of representatives and
304 senate, the house and senate chairs of the joint committee on labor and workforce development
305 and the house and senate chairs of the committees on ways and means, not later than December
306 31, 2015, with recommendations on the necessary rate change according to the rates set under
307 said paragraph (1) of said subsection (i) of said section 14 of said chapter 151A to maintain an
308 end of calendar year 2016 balance of \$250,000,000, or greater as needed to ensure the minimum
309 solvency of the Unemployment Compensation Fund; provided, further that said recommended
310 rate change shall not exceed the rate set forth in column “C” of said paragraph (1) of said
311 subsection (i) of said section 14 of said chapter 151A.

312 SECTION 37. Notwithstanding section 14 of chapter 151A of the General Laws, for
313 calendar year 2017, the experience rate of an employer qualifying under subsection (b) of said
314 section 14 of said chapter 151A shall be the rate in column “C” in paragraph (1) of subsection (i)
315 of said section 14 of said chapter 151A.