

SENATE No. 1418

The Commonwealth of Massachusetts

PRESENTED BY:

Katherine M. Clark

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to job creation and strengthening small business.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|----------------------------|------------------------------|
| <i>Katherine M. Clark</i> | <i>Fifth Middlesex</i> |
| <i>Stephen L. DiNatale</i> | <i>3rd Worcester</i> |
| <i>Robert M. Koczera</i> | <i>11th Bristol</i> |
| <i>Thomas P. Kennedy</i> | |
| <i>Michael R. Knapik</i> | |
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> |
| <i>James J. Dwyer</i> | <i>30th Middlesex</i> |
| <i>Barry R. Finegold</i> | |

SENATE No. 1418

By Ms. Clark, a petition (accompanied by bill, Senate, No. 1418) of Katherine M. Clark, Stephen L. DiNatale, Robert M. Koczera, Thomas P. Kennedy and other members of the General Court for legislation to create jobs and strengthen small business. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to job creation and strengthening small business.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Small business jobs creation incentive payment

2 Section 1. "Chapter 62C of the General Laws, as appearing in the 2006 official edition, is
3 hereby amended by inserting after section 67D the following section:-

4 Section 67E. (a) When used in this section, the following words shall have the following
5 meaning:

6 "Application year", the calendar year for which a small business submits the information
7 required for a determination as to a jobs incentive payment.

8 "Small Business", a corporation, sole proprietorship, partnership, limited liability
9 company or any other form of business organization that had total annual sales in its most
10 recently completed fiscal year of less than one million dollars, has 50 or less employees and
11 which has a principal place of business within the commonwealth.

12 "Commissioner", the commissioner of revenue.

13 "Eligible Jobs", a number determined by first multiplying each of the local jobs created
14 by a small business during a single calendar year by the job qualifier for that job, and then
15 totaling the number for all of the local jobs created.

16 "Full time employee", means a Massachusetts resident who is employed for consideration
17 for at least 35 hours per week and whose salary is subject to withholding as provided in chapter
18 62B; but without limitation, partners, independent contractors and household employees shall not
19 be treated as employees within the meaning of this definition.

20 "Job qualifier fraction", in the case of either a full-time employee or a part-time employee
21 of a small business, the figure that determines the extent to which that employee is employed in
22 the commonwealth during a single calendar year. The job qualifier fraction for each employer
23 shall be determined by multiplying the following percentages together: (i) the percentage of
24 time that an employee worked while employed by the small business expressed as average hours
25 worked per week out of 35 hours, not to exceed 100 per cent; (ii) that employee's time
26 attributable to work in the commonwealth, as a portion of that employee's total work for the
27 small business; and (iii) the portion of the year the employee worked for the company.

28 "Jobs incentive payment", a business employment incentive payment for small businesses
29 as provided for in this section.

30 "Local jobs created", the total number of jobs created by a small business during a single
31 calendar year, including jobs performed by persons that are transferred within the company to
32 work at an in-state location from a location based outside the state.

33 "Part-time employee", means a Massachusetts resident who is employed for
34 consideration for less than 35 hours per week and whose salary is subject to withholding as
35 provided in chapter 62B; but without limitation, partners, independent contractors and household
36 employees shall not be treated as employees within the meaning of this definition.

37 "Payment years", in the case of a small business that is determined to be eligible for a
38 jobs incentive payment, the 3 calendar years following the application year.

39 "Weighted, average employment", for a calendar year, the total number of jobs
40 maintained by a small business located in Massachusetts. The number is to be determined by first
41 multiplying each of the individual jobs maintained by the small business for that year by the job
42 qualifier fraction for that job and then totaling the number for all of these jobs.

43 (b) A small business that creates 3 or more eligible jobs in Massachusetts during a single
44 calendar year shall be entitled to a jobs incentive payment if it's weighted average employment
45 for such year reflects a net increase of at least 3 jobs over the company's weighted average
46 employment for the prior calendar year. The jobs incentive payment shall be equal to 50 per cent
47 multiplied by the applicable Massachusetts income tax rate for the salary paid to the persons who
48 perform the newly created eligible jobs for the calendar year in question; provided, however, that
49 such salary shall be subject to Massachusetts withholding pursuant to chapter 62B for such year.
50 For the purposes of this provision, an eligible job shall be deemed created in the commonwealth
51 on the first day for which Massachusetts withholding is required in connection with the
52 compensation paid to the employee.

53 (c) The jobs incentive payment shall be paid to a small business in 3 equal installments in
54 each of the 3 calendar years commencing with the calendar year subsequent to the application

55 year. If, for the first or second payment year, the company's weighted average employment falls
56 below its weighted average for the application year, the company shall be disqualified from
57 receiving its second installment payment, it may still receive its third installment payment if its
58 weighted average employment for its second payment year is above its weighted average
59 employment for the application year.

60 (d) A small business that seeks a jobs incentive payment shall apply to the commissioner
61 to receive such payment on a form to be prescribed by the commissioner. This form shall
62 reference the necessary information concerning the eligible jobs created by the small business in
63 the commonwealth during the application year and also the small business' weighted average
64 employment for such year and the prior calendar year. The commissioner shall advise the small
65 business of his or her determination in writing.

66 (e) Not later than March 1 of each calendar year for which a small business has been
67 approved to receive a jobs incentive payment, the company shall submit to the commissioner, in
68 a form prescribed by the commissioner, the information necessary to evaluate the company's
69 prior year weighted employment average.

70 (f) A small business that has previously been approved to receive a jobs incentive
71 payment is entitled to re-apply for an additional payment for a second or third application year.
72 In such cases, the company may be entitled to receive a jobs incentive payment that relates to
73 different application years in the same calendar year. When a company has previously been
74 granted a jobs incentive payment for 3 application years, it shall not request an additional jobs
75 incentive payment.

76 (g) The commissioner shall issue payments, as authorized in subsection (b), without
77 further appropriation. The commissioner may issue rules and regulations as necessary or helpful
78 to implement this section, including rules and regulations to ensure compliance with this section.

79 (h) Notwithstanding any other provision of this section, the cumulative dollar amount of
80 all jobs incentive payments available under this section shall not exceed \$50,000,000.

81 (i) The commissioner may prescribe rules, guidelines or procedures regarding, without
82 limitation, the definition of employer, the application process, limitation on total payments
83 allowable, determination of hiring date and application date, and guidelines necessary to
84 determine whether an employer is part of a related group for purposes of determining a qualified
85 employer, as needed to carry out the purposes of this section. The commissioner may require
86 that applications be submitted in electronic form. The commissioner may disallow applications
87 to the extent that she determines, under the facts of a particular case, that there has been no bona
88 fide sustained increased in Massachusetts employment.

89 (j) An incentive payment shall not be conferred under this section for an employee hired
90 after January 1, 2014.

91 (k) Amounts paid under this section shall be paid without interest and shall be subject to
92 offset under chapters 62C and 62D for any unpaid tax or other obligations of the employer, as
93 specified therein.

94 (l) Amounts withheld by an employer shall be credited against the individual income tax
95 liability of employees under chapter 62, and the employees' credit for such withholding shall not
96 be affected by any refundable credit received by an employer.

97 (m) For purposes of determining whether an employer is a qualified employer under this
98 section, a trade or business carried by related persons shall be treated as one business. The
99 commissioner may adopt rules for aggregation of related businesses or employers in order to
100 determine eligibility for the payment under this section. For purposes of this determination, the
101 employer's employees shall be deemed to include the employees of any individuals or entities
102 with which or to which the employer is related within the meaning of Internal Revenue Code
103 section 318, or as otherwise determined by the commissioner. "

104 Veteran Jobs Tax Credit

105 SECTION 14. Chapter 63 of the General Laws, as appearing in the 2008 Official Edition,
106 is amended by inserting after section 31M the following section: -

107 Section 31N: (a) As used in this section, the following words shall, unless the context
108 otherwise requires, have the following meanings:

109 'Qualified veterans', a Massachusetts resident who: (i) was a member of the Armed
110 Forces of the United States, a member of the Massachusetts National Guard, or a member of any
111 reserve component of the Armed Forces of the United States; (ii) served on active duty in
112 connection with the Vietnam Conflict, Operation Desert Storm, Operation Enduring Freedom, or
113 Operation Iraqi Freedom; (iii) who has provided the taxpayer with documentation showing
114 honorable discharge; and (iv) was initially hired by the taxpayer on or after January 1, 2010.

115 'Sustained employment', a period of employment that is at least 185 days during a
116 taxable year.

117 (b) For each taxable year on or after January 1, 2010, each taxpayer is entitled to a credit
118 against the excise due under this chapter in an amount equal to 5%, but in no event to exceed
119 \$600, of the gross wages paid by the taxpayer to a qualified veteran in the course of that
120 veteran's sustained employment during the taxable year.

121 (c) If a taxpayer is subject to a minimum excise under this chapter, the amount of credit
122 allowed shall not reduce the excise to an amount less than the minimum excise.

123 (d) A taxpayer entitled to a credit under this section for any taxable year may carry over
124 and apply to its excise for any 1 or more of the next succeeding 5 taxable years, the portion, as
125 reduced from year to year, of those credits which exceed the excise for the taxable year. The tax
126 credit shall be applied to the earliest year for which there is a tax liability. If there are credits for
127 more than one year that are available to offset a liability, the earlier credit shall be applied first.

128 (e) A taxpayer that has previously been approved to receive a credit under this section
129 shall not be eligible to receive said payment for more than one calendar year. A taxpayer may
130 apply to receive a credit under this section that relates to a different application in the same
131 calendar year or a different application in a different calendar year.