



Massachusetts' Technology Tax an Unnecessary Detour

by Greg Sullivan and Charles Chioppo

Executive Summary

On January 23, 2013, Governor Patrick proposed as part of his FY2014 state budget bill an outside section entitled "Adequate Revenues to Support Critical Investments" that included a new sales tax on computer and data processing services. His proposal passed the state legislature and was expected to generate approximately \$160 million in revenue during this fiscal year, according to the administration.

Massachusetts technology companies fought the tax, pointing out that it puts Massachusetts at a competitive disadvantage in attracting new companies and would drive existing ones out of state. Last month, Florida Gov. Rick Scott even sent letters to 100 Massachusetts business leaders urging them to buy a one-way ticket to a state where software services grow tax free. The high-tech community also disagreed with the \$160 million estimate, arguing that because of the expansive reach of the new tax revenues could be as high as \$500 million.

Governor Patrick now concedes it was a bad idea and it appears that the so-called tech tax will be repealed. Repeal will leave a \$160 million hole in state transportation funding. But that hole need not be filled exclusively by new revenue. It can be filled by savings, revenue, or a combination of the two, and Pioneer Institute research shows there are plenty of savings to be had from a series of reforms.

Exempt the MBTA from the Commonwealth's Anti-Privatization Law

One money-saving reform would be to exempt the MBTA from the nation's most restrictive anti-privatization statute, known as the Pacheco Law. According to Massachusetts Supreme Judicial Court, Pacheco effectively

Greg Sullivan is Pioneer's Research Director, and oversees the Centers for Better Government and Economic Opportunity. Prior to joining Pioneer, Sullivan served two five-year terms as Inspector General of the Commonwealth of Massachusetts, where he directed many significant cases, including a forensic audit that uncovered substantial health care over-billing, a study that identified irregularities in the charter school program approval process, and a review that identified systemic inefficiencies in the state public construction bidding system. Prior to serving as Inspector General, Greg held several positions within the state Office of Inspector General, and was a 17-year member of the Massachusetts House of Representatives. Greg is a Certified Fraud Investigator, and holds degrees from Harvard College, The Kennedy School of Public Administration, and the Sloan School at MIT.

Charles Chioppo is a Pioneer Senior Fellow. Previously, he was Policy Director in Massachusetts' Executive Office for Administration and Finance and directed Pioneer's Shamie Center for Restructuring Government. In 2000, Charlie was a member of the MBTA's Blue Ribbon Committee on Forward Funding.

Massachusetts' Technology Tax an Unnecessary Detour

superseded the MBTA Management Rights Law that was passed in 1981. Pioneer Institute's report, issued in June 2013, showed that the MBTA could save more than \$250 million over six years by bringing its bus maintenance costs into line with those of comparable American bus transit agencies. To do so, the T must be allowed to take advantage of its Management Rights Law. Under the Pacheco Law, managers must overcome virtually insurmountable obstacles before contracting out any service currently delivered by state employees. The MBTA's procurement director told the T's Board of Directors in December 2012 that it would cost 50% more to perform a major bus overhaul at its own facilities than to outsource the work. When the Legislature passed Chapter 581 of the Acts of 1980 - the MBTA management rights law - it granted the MBTA the right "to determine whether goods or services should be made, leased, contracted for, or purchased on either a temporary or permanent basis." The 1993 passage of the Pacheco Law nullified that right according to a February 2000 Massachusetts Supreme Judicial Court decision.

Deregulate Taxi and Livery Services

Massachusetts could deregulate taxi and livery services, as New York Mayor Michael Bloomberg did last year. The move (which was authorized by the New York State Assembly) is expected to generate more than \$1 billion for the city over five years. Bloomberg got the state assembly to allow the mayor's taxi regulating body to unilaterally issue a new class of 18,000 non-transferable permits to for-hire livery vehicles authorized to pick up passengers by street hail anywhere outside of certain specified sections of the city.

In addition, the legislation authorized the city to sell 2,000 new transferrable taxi medallions, all of which will be restricted to vehicles accessible to the handicapped, at public auction. A New York appeals court upheld the Assembly's action in June.

Mayor Bloomberg's proposal was aimed at addressing problems in New York similar to those identified by the Boston Globe's Spotlight Team investigation of the Boston taxicab market, which are caused by regional restrictions, protectionist licensing practices, and

unreasonable limits on cab licenses. The legislature should empower MassDOT and the Department of Public Utilities to issue a new class of regional for-hire livery vehicles in Greater Boston, in an amount determined by market study, with licensing fees shared by the state and affected municipalities. This is a bona fide state issue for three reasons: first, taxi and livery services are a regional issue, not just a municipal one; second, MassDOT needs additional means to reduce traffic congestion by getting more multi-passenger vehicles on the road as an alternative to building more highway lanes; and third, the public has a right to share to a reasonable degree in the monetary value of taxi and livery medallions issued by government.

Commuter Rail Proof-of-Payment Smart Cards

Another way to save money would be to direct the MBTA to institute electronic transit fare proof-of-payment smart cards on commuter rail trains, similar to what San Francisco has done with its Clipper Card system, to reduce overstaffing on commuter rail trains. This would result in savings for the MBTA by reducing the salary and benefit costs incurred by its commuter rail operator. The MBTA is currently in the midst of re-procuring its commuter rail operations contract and the savings would translate into lower contract costs.

The MBTA typically has one conductor for every two cars, even though the T has already instituted a smart phone app that allows passengers to purchase tickets on-line. Today, MBTA conductors still collect and punch tickets and passes from each passenger, and visually verify the smart phone receipt. In San Francisco and other cities, passengers use electronic proof-of-payment smart cards on commuter rail lines, which reduces manpower needs by eliminating ticket collection responsibilities and allowing the remaining conductors to provide boarding safety and security services.

Align Prevailing Wages with Bureau of Labor Statistics Wage Data

Massachusetts is one of only five states to stipulate that prevailing wages for public construction projects be set at a level at least equal to those established by existing collective bargaining agreements with organized labor in the area. In contrast, the federal government and the 27 other states with prevailing wage laws use both market labor rates and collective bargaining rates to set prevailing wages for public construction projects.

Studies show that prevailing wage rates pegged to collective bargaining agreements often exceed market rates by staggering amounts. A 2008 study done by New York State Economic Development Council found that prevailing wages exceeded market wages by 48% in upstate New York and 119% downstate and in New York City. New York, like Massachusetts, bases its prevailing wage rates on collective bargaining labor rates. So does Michigan. A study by the Mackinac Center for Public Policy in Michigan in 2007 concluded that “Michigan’s prevailing wage law and its requirement that union wages be used on state construction projects adds roughly 40 percent to 60 percent to the cost of labor.”

The federal Bureau of Labor Statistics conducts extensive, detailed and statistically verified surveys of area wages by occupation. Instead of continuing to pay an enormous and unnecessary price for public construction, Massachusetts should more closely link prevailing wage rates to actual area wages as determined by the Bureau of Labor Statistics.

The intent of prevailing wage laws is to prevent companies engaged in public construction from paying construction workers less than the market wage for similar work performed in the area. But in Massachusetts, the intent and effect of the prevailing wage law is to require state and municipal taxpayers to pay the highest wage rather than the prevailing wage. The net effect is to artificially and substantially inflate the cost of public construction projects, including transportation projects.



PIONEER INSTITUTE
PUBLIC POLICY RESEARCH

85 Devonshire Street, 8th Floor, Boston, MA 02109
T: 617.723.2277 | F: 617.723.1880
www.pioneerinstitute.org