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Associated Industries of Massachusetts

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STATEMENT OF ASSOCIATED INDUSTRIES OF MASSACHUSETTS BEFORE SENATE CHAIR THOMAS M. MCGEE, HOUSE CHAIR CHERYL A. COAKLEY RIVERA AND MEMBERS OF THE JOINT COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT IN OPPOSITION TO [S.688](#) AND [H.1815](#).

For the record, I am Bradley A. MacDougall, Associate Vice President for Government Affairs. On behalf of our membership, which represents every sector of the Massachusetts economy, I wish to express our strong opposition to S.688 and H.1815, An Act Establishing Paid Sick Days.

AIM's focus is to promote the prosperity of the Commonwealth of Massachusetts by improving the economic climate, proactively advocating fair and equitable public policy, and providing relevant, reliable information and excellent services on behalf the thousands of members throughout the state.

While many supporters of these bills testified that they are filed in the interest of the employer community and their passage will make for a more productive workforce, AIM believes that decisions regarding any employee benefit provided to employees are best left to the discretion of the individual employer based on economic circumstances, the size of the company, the nature of the employment relationship with each employee and the competitive environment.

Notwithstanding the perceived advantages expounded by those who support these bills, the ultimate judge of the costs and the benefits of sick leave or any other employment benefit must be left to the individual business owner to determine.

Massachusetts is a difficult competitive environment in which to do business - adopting a Massachusetts only burdens places our state in a negative position to retain and create jobs. Decisions about employment benefits and the return on investment that they yield must be left to employers to determine without legislative intervention or mandate. AIM is opposed to these bills before the committee today because they would put Massachusetts at a disadvantage, subjecting the state's economy to great costs while imposing an illogical and inefficient, "one size fits all" prescription on the state's employers.

AIM continues to receive hundreds of calls from employers throughout the Commonwealth looking for solutions to manage through this economic crisis. Nearly half of those calls are employers asking "How can I prevent a layoff?" or "How can I protect my employees benefits and cut costs?" Employers are in survival mode and these proposals restrict flexibility for benefit design that allow employer to adjust to the economic conditions and competitive labor market demands and also reduces choices for employees.

State and municipal governments face similar challenges of providing competitive benefits with limited resources. When Governor Deval Patrick asked constitutional officers to voluntarily cut their budgets each constitutional office and agencies responded with a variety of cuts. State Auditor Joe DeNucci responded by asking all his employees to take seven days of unpaid leave by the end of the 2009 fiscal year.¹ Seven unpaid days would result in \$1.1million dollars in savings equivalent to 7 percent of the auditor's budget. Clearly there are significant costs and greater implications associated paid sick days.

Since last spring Associated Industries of Massachusetts has been raising awareness about the H1N1 swine flu. AIM has been urging employers to consider changes to their operations, which may include telecommuting or policies that could encourage positive behavior, such as staying home when sick. AIM has specifically urged members to take a proactive approach to review and adapt communications and other policies to protect their workforce. AIM believes that employers are capable of making these policy adjustments without a statewide mandate that would cause greater harm than help individuals and families. Most recently, AIM hosted a webinar with Public Health Commissioner Jon Auerbach and other public health officials to educate and provide guidance for businesses to prepare for the H1N1 swine flu. AIM will continue to work with our members and state public health officials to educate and raise awareness among the business community.

Since 2006 only 3 localities have instituted paid sick days including San Francisco, CA, Washington, DC and Milwaukee, Wisconsin all of which do not represent state wide economies.² The Urban Institutes' March 2009 report on the "Employers' Perspectives on San Francisco's Paid Sick Leave Policy cautions public policy decision makers regarding the San Francisco experience "that it is critical to consider the policy environment affecting employers, such as health insurance or other mandates, when debating the addition of new labor costs".

The same report by the Urban Institute recognizes that "Information on the business impacts of providing paid sick leave is more limited" and further that "mandated employer benefits increase labor costs for businesses, which can lead to employer action to minimize or offset these costs. A large body of research on employer mandates shows that businesses will generally pass on any increased costs to their employees, through reduced wages and benefits or to their customer, through increased prices. To minimize cost, employers may also reduce workers' hours to avoid worker's benefits from accruing, or maintain lower staffing levels than otherwise would, for example by reducing the number of employees". If Massachusetts were to pass a mandatory

¹ State House News Service: Auditor's Office to Implement Furloughs, Oct 15, 2008

² National Partnership for Women and Families

paid sick days legislation - employers will be forced to shift benefits and their very limited resources to reduce or eliminate vacation days, reduce workforce numbers and part-time positions and other options that would dramatically reduce employers and employees ability to choose.

The Institute for Women's Policy Research report on “Valuing Good Health in Massachusetts: The Cost and Benefits of Paid Sick Days”³ recognizes their cost estimate for implementing paid sick “does not include any cost to employers of replacing workers who are taking paid sick days” and further downplays the disruptive impacts of such a policy by considering the “hiring of temporary workers is likely to be relatively uncommon for the short leaves possible under the proposed paid sick days plan”. AIM believes that the total cost associated with temporary workers represents a significant challenge, especially to small and medium size businesses, especially where one member of a team can cause significant disruption.

Massachusetts stands to lose its competitive advantage by further damaging job growth and productivity should elected officials choose to mandate that all employers provide paid sick days. Ultimately mandatory paid sick days reduces choice, wages and benefits for employees and prohibits employers from implementing the most innovative benefits programs to be competitive and retain employees. AIM urges the committee to consider the following issues and examples:

- ***Solutions vs. Mandates:*** Employers are best suited to work with employees to manage paid time off. This type of mandate would have devastating effects for the economy and would be crippling for small employers. For example, an employer of 20 employees would face up to 140 lost work days per year due to state-mandated paid days alone, in addition to the holidays, vacations, personal days, etc., currently provided. There would be significant impact on productivity and customer service as well as the expense of replacement workers and the pay for the absent employees. The smaller the employer, the greater the relative impact of mandating time-off.
- ***Mandates stifle flexibility for employees as well as employers:*** Many employers today utilize a “paid time off” (PTO) concept, which combine all paid time off (vacation holidays, sick time, personal time, etc.) into one “bank” of days which can be managed and used by the employee for any purpose without reporting the specific reason. These programs work very well for employees as well as employers. Mandating a specific number of “sick” days creates significant complexity in these generous and flexible programs where sick days are not broken out as a separate benefit.
- ***A False Presumption:*** Although advocates of “Paid Sick Leave” believe that employers are not doing enough, the reality is that flexibility in this area allows employers and employees to develop individualized solutions, which recognize the employee’s needs and allow the company to adjust to business and market conditions. Mandated benefits invariably come to be viewed by many, if not most, employees as time off to which they

³ Institute for Women’s Policy Research, February 2009; IWPRN No. B269

are “legally entitled” regardless of true need. Employers know this and would, by necessity, adjust their overall benefit programs accordingly. Ultimately, business, financial markets and overall economic conditions will be the drivers.

- ***Employers must remain competitive in a changing global economy:*** There is finite amount of money to invest in pay and benefits (“total compensation”) for their employees. Currently, each business allocates these funds very carefully based on what it can afford to offer and what the market dictates for the recruitment and retention of appropriate staff. It is unreasonable to expect that there would be new and additional funds for mandated paid time off. Many employers would have to face the financial reality of having to reduce pay and/or other benefits in order to fund a mandated benefit. The market-driven system that works very well would be disrupted.

Since 2008 AIM members have sent hundreds of messages expressing their concerns about mandatory paid sick day and paid leave policies. Last month, AIM members again sent hundreds of messages specifically to the Joint Committee on Labor and Workforce Development to indicate their strong objections to these proposals. An addendum to this testimony includes a representative sample of these messages to the legislature.

We appreciate the opportunity to comment on these proposals and urge that you give both of these bills an adverse report.

Quotes from Massachusetts Employers Opposed to Mandatory Paid Sick Days

AIM member quotes - September 2009

- *“As an employer in Fall River, I urge you to protect Massachusetts's jobs and employers especially through this economic recession and ask you to reject the mandatory paid sick leave legislation currently pending before the Committee on Labor and Workforce Development. As an elected official you must recognize the significant challenges that my business and the entire business community is currently facing. Job retention and growth is a top priority for AIM and my company - mandatory paid sick leave legislation is simply anti-choice and anti-jobs. I want to save jobs and in the future, if the business climate in Massachusetts improves, I hope to grow jobs for individuals and families. However, mandatory paid sick leave erases any serious hope for future job growth and threatens our ability to remain competitive in Massachusetts. Throughout this recession my company has struggled to retain jobs and benefits for your constituents and their families. Yet, we continue to struggle in this economy by making tough decisions such as pay cuts, layoffs, reductions in benefits among other ways we have tried to innovate, survive and work to maintain quality benefits for our employees. Mandatory paid sick leave would again put Massachusetts companies at a disadvantage, subjecting the state's economy to costs while imposing an illogical and inefficient, "one size fits all" prescription on the state's employers. This legislation is bad policy during any economic condition because it does not provide employers with the necessary flexibility to meet the ever changing needs of our current workforce or help our future prospects to grow jobs. This bill would rather make it more expensive to do business and would limit our ability to create benefit policies that accommodate our workforce and their families. In fact this type of policy effectively takes choice away from our employees and their families. Massachusetts is already headed towards a "jobless recovery" and mandatory paid sick leave would ensure additional and devastating job loss. I urge you to take a stand and help to improve the economic conditions of our State by rejecting the mandatory paid sick leave proposals currently pending before the Committee on Labor & Workforce Development and providing the legislation with an adverse report.”*

- *“As an employer of over 60 office and factory workers we have always tried to provide our employees the best, affordable health care insurance as well as provisions for illnesses. We feel that the circumstances and capability of each company differs and that some provisions to benefit employees are better determined by the individual employers. As such a provision to require up to 7 "sick days" no matter how written is likely to put the burden of an additional seven days of employee absence on every employer. We urge all to reconsider this provision especially in light of the present economic burdens that being felt by employers and employees alike. Thank you.”*

- *“Our company has been located in Massachusetts for the past 35 years. We have been successful even though our cost structures as a result of our location have been higher than most of our competitors located in other areas of the country. During this recession,*

we have been able to maintain our workforce, and have not resorted to job cuts, reduction in employee benefits, or other measures that would negatively impact our employees. We have always offered paid sick leave of five days. However, that has been our choice, not a mandate from the state. We object to having the state legislature determine what benefits we must offer, and at what cost. As we see more proposed costs in the form of state mandates, along with some of the highest energy costs in the nation, and as we see the potential for continued growth in our business being stymied by these costs, we will have to consider whether we will be able to be more competitive in a different geographical location. I would urge you as my representatives to take these thoughts under consideration when you make your decision as to whether you will support the Mandatory Paid Sick Leave bills that will be considered.”

- *“My husband and I own a furniture manufacturing plant in Western Mass. Over the last year we have gone from 15 employees down to 5 but we have managed to survive. As an employer and AIM member, I urge you to protect Massachusetts's jobs and employers especially through this economic recession and ask you to reject the mandatory paid sick leave legislation currently pending before the Committee on Labor and Workforce Development. We currently offer our employees health insurance for individuals and families of which we pay 70%. We pay 100% for life insurance and STD for all our employees. We give them up to 2 weeks paid vacation every year, 10 paid holidays and paid bereavement time if required. At our current rate of pay the addition of paid sick time will add another \$2,100 per employee to our annual expenses. Passing this bill will cause businesses to look elsewhere for a more business friendly location. With the increase in unemployment and the loss of potential tax revenue from the business community the Massachusetts state budget would suffer a severe blow. Who benefits by forcing more business to close or leave the state?”*

- *“Our company has three locations throughout the state. Our employment has gone from 190 people a year ago to 148 today due to the economic downturn. We are one of the few manufacturing companies left in Mass. Mandatory sick leave as envisioned in S688 and H1815 will only encourage the exodus of jobs from Massachusetts. It is a bad idea. Please leave us the flexibility to tailor our benefits to the needs of our workers and our business. Thank you.”*

- *“Our company is firmly opposed to legislation that would require the company to offer 7 paid sick days to each employee. That benefit would add over \$1 million annually to our total employee costs - costs we'd have to try to pass on to our customers and consumers. The cost of seafood is already significantly more expensive than alternative protein options - further increasing that price disparity would have serious negative consequences for our business. Now is not the time to increase the business costs in Massachusetts.”*

- *“As an employer and AIM member, I urge you to protect Massachusetts's jobs and employers especially through this economic recession and ask you to reject the*

mandatory paid sick leave legislation currently pending before the Committee on Labor and Workforce Development....Our company needs to have some degree of flexibility to meet the ever changing needs of our current workforce or help our future prospects to grow jobs. This bill would rather make it more expensive to do business and would limit our ability to create benefit policies that accommodate our workforce and their families. Being a manufacturer our business is heavily impacted by the price of oil. There was an enormous increase in cost of our raw materials with no way to have anticipated it. We have counted ourselves lucky to have avoided layoffs thus far, however business levels have dropped. Employers have enough challenges just trying to survive and provide good benefits for employees without having additional challenges like this in the mixture.”

- *“As a human resources manager for a closely-held Massachusetts employer with over 75 in-state employees, I urge you to protect jobs within the Commonwealth especially through this current economic recession AND TO REJECT THE MANDATORY PAID SICK LEAVE CURRENTLY PENDING BEFORE THE COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT. My company currently provides 5 paid sick leave days yearly to our employees. An additional two days, will be just another of many excessive costs of doing business in the Commonwealth, especially compared with the many states which are striving to have Massachusetts companies within their borders. If the Commonwealth continues with the never-ending increases in the costs of doing business here, it will become the only employer within its borders. I wonder how many people are interested in buying products generated by the Commonwealth of Massachusetts.”*

- *“As an officer of a significant employer in the Commonwealth of Massachusetts, I urge you to protect Massachusetts's jobs and employers especially through this economic recession and ask you to reject the mandatory paid sick leave legislation currently pending before the Committee on Labor and Workforce Development. Mandatory paid sick leave legislation is simply anti-choice and anti-jobs. When corporations grow their businesses and require additional employees to conduct those businesses, corporations have a choice as to where to employ any additional employees. The type of legislation that is being proposed will drive a corporation to locate its new employment opportunities outside Massachusetts. Accordingly, there will be fewer future employment opportunities for residents of Massachusetts if this proposal were to become law. I urge you to refrain from legislating additional impediments to job growth in the Commonwealth of Massachusetts. Massachusetts already has the worst job creation record in the country over the last 20 years. We certainly do not want to continue on this path in the future.”*

Quotes from Massachusetts Employers Opposed to Mandatory Paid Sick Days

AIM member quotes - June 2008

- *“We are a small group and we have provided many employee benefits to our employees. We have for many years given 5 sick days to all of our employees and other benefits beyond the usual health and dental benefits. By passing this bill at a time when small business particularly is hurting financially in Massachusetts, this will force us to relook at our entire benefit package.”*
- *“I believe that small business should have the right to develop our own benefit package. As a matter of fact, I believe this is critical. The healthcare addition was of major concern to small employers; now we have to possibly realize additional expense and burden to implement 1073 if it were to be passed. The small businesses of Massachusetts are in need of economic support from our State Government at this time in our economy. We are fighting for our lives in some cases-the future lives of our business and, therefore, the livelihood of our employees.”*
- *“Our business is real estate/multifamily management with affordable housing rental communities located in Worcester and Northampton, Massachusetts. With soaring utilities and our inability to increase rents due to HUD/IRS rent caps, one more cost should not be cast upon us at this time. We simply cannot do it economically nor want to implement a mandate such as this proposed.”*
- *“Our company employs fulltime over two hundred people in Holyoke Massachusetts. We have an extensive, carefully crafted benefit package for these employees which include provisions to protect their income if they become temporarily ill or disabled. We pride ourselves on the strong, positive, relationships we enjoy with our employees. Most of our employees have worked at our company for many years, often for most of their working lives. Ultimately, the customer is everybody's boss, and company management and company employees are partners in meeting customers' needs. In this regard company owners and managers are very much aware of how important a part the over all wellbeing of company employees plays in this equation and they do as much as they possibly can, given the economic constraints of the marketplace, to offer a comprehensive employee compensation package that will provide a solid standard of wellbeing for all employees.”*