

September 26th, 2023

Representative Josh Cutler, Chair
Joint Committee on Labor and Workforce
Development
State House, Room 472
Boston, MA 02133

Senator Patricia Jehlen, Chair
Joint Committee on Labor and Workforce
Development
State House, Room 424
Boston, MA 02133

Dear Chair Cutler and Chair Jehlen,

On behalf of the Greater Boston Chamber of Commerce and our 1,200 members, I write to offer testimony in support of H.1944 and S.1182, *An Act clarifying the process for paying wages of dismissed employees*. This legislation addresses the negative consequences resulting from the Supreme Judicial Court's decision in *Reuter v. City of Methuen*, No. SJC-13121 (Mass. April 4, 2022). The *Reuter* decision upended decades of legal precedent governing the award of damages from alleged violations of the Wage Act for terminated employees and exposes employers to significant litigation costs for inadvertent, unavoidable, or good faith payroll delays. For the reasons outlined below, the Chamber supports the changes in H.1944 and S.1182 and urges the committee to give both bills a favorable report.

In Massachusetts, employers must pay terminated employees the wages owed to them, including accrued vacation, on the day their employment concludes. However, longstanding precedent ensured that terminated employees that received due wages prior to any lawsuit were only entitled to treble damages on the amount of interest on wages that an employee would have earned, given there is no other injury to the worker.

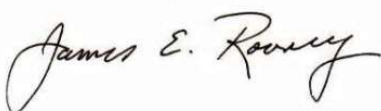
The 2022 *Reuter* decision overturned that precedent, and the Court determined that terminated employees are entitled to treble damages for due wages if the employer does not pay the employee immediately on the last day of employment. In this case, an employee was terminated after a felony conviction, and received payment for accrued vacation time 3 weeks after that termination. Under such circumstances, this interpretation of the law puts employers in a tremendously difficult position when terminating employees immediately for misconduct or during inadvertent payroll outages or delays, as the Court mentions itself in the *Reuters* decision.

H.1944 and S.1182 create a 15-day right to cure upon receiving a written demand letter to recover unpaid employment-based compensation from an employer. Employers would not be subject to treble damages or attorney's fees if the employer pays any deficiency in compensation within the 15-day window or if the delay is due to a good faith miscalculation, error, or reliance on erroneous information from a third party. These provisions allow responsible employers to ensure any terminated worker receives earned compensation in a timely manner while also reserving the significant penalty of treble damages for employers that violate the Wage Act in bad faith. The bill creates a reasonable balance between protecting workers and ensuring employers can accurately and promptly calculate and pay terminated employees without risking undue massive payouts and litigation.

The bill also allows Courts to determine on a case-by-case basis whether employers acted in good faith or otherwise had reasonable grounds for believing an act or omission was not a violation of the Wage Act. In these circumstances, a Court may decide that treble damages are not warranted. This proposal would allow Courts to consider the facts and circumstances of each case and differentiate between responsible and bad faith employers.

We urge the committee to give these bills a favorable report at its earliest convenience.

Sincerely,



James E. Rooney
President and CEO