**Call to Action! PLEASE READ!**

The Chamber is asking you to come to the State House this week and/or contact your legislators TODAY!

**Tangible Tax Exemption – Tuesday, May 9th**

On the business-friendly side of the ledger, S.928 and S.955, Acts Relating to Taxation – Statewide Tangible Property Tax Exemption are being heard in the Senate Finance Committee Tuesday, May 9th at the Rise (approximately 4:30 pm). S.928 provides a tangible property assessed value exemption up to $100,000 beginning in the tax year ending December 31, 2024. The exemption applies to both municipal and fire district assessments. Similar to the car excise tax phase-out, the state would reimburse the taxing entity for the loss in revenue. S.955 provides tangible tax relief as well, and reimbursement to the taxing entity, but phases it in over a longer period of time. The exemption starts at $5,000 of assessed value in the tax year ending December 31, 2024; increases to $20,000 in 2025; $50,000 in 2026; $100,000 in 2027; and $250,000 in the tax year ending December, 31, 2028.

An estimated 85% of all current tangible property taxpayers would have no tax liability once the $100,000 exemption level is reached. That means approximately 32,000 small businesses may no longer be required to file the annual tax form and to pay the tax.

Property taxes levied by cities and towns represent arguably the most onerous and anticompetitive tax burden imposed on businesses in Rhode Island. Rhode Island has some of the nation’s highest property taxes in the country – 9th highest property tax collections per capita. Why is this important? Because, studies have shown that high commercial real estate and tangible taxes discourage investment and hinder economic development, and tangible taxes may also discourage businesses from making the capital investments needed to expand or to become more productive.

Please send an email to SenateFinance@rilegislature.gov before 3:00 pm Tuesday, May 9th. Simply tell the committee, your name, company name and location, and how the paying of the tangible tax affects your business. Thank them for considering your testimony.

**Wage Theft and Independent Contractor Misclassification Felony – Thursday, May 11th**

The Chamber does not ask you to come to the State House often, but we are asking now. On Thursday, May 11th at the Rise, approximately 4:30 pm in the House Lounge, the House Judiciary Committee will be taking testimony on H.5902, An Act Relating to Labor and Labor Relations – Payment of Wages. This will likely be the only hearing on this House bill, regardless of any amendments that may come after the initial hearing Thursday. Why does that matter? Please read this entire article to understand the potential scope of this proposal.

The Attorney General has requested a change in the law to increase the criminal consequences for failing to pay employees properly and for classifying individuals as independent contractors when the government believes those individuals should be considered employees. There are two distinct pieces to this bill – failure to pay wages properly and the misclassification of employees as independent contractors:

Failure to pay employees includes:

* Willful failure to pay wages on a regular pay day. This will likely include any businesses paying employees on a bi-weekly basis without permission or a specific exemption from the state.
* Willful failure to pay any employee wages owed at the time of termination of employment. Businesses are required to pay employee wages owed on the “next regular payday.” If the business is liquidating or merging, employee wages are due within 24 hours of the separation of employment
* Willful failure to withhold union dues and pay those dues to the union
* Willful failure to pay wages owed to a deceased employee to the appropriate person/entity within 30 days of death

If the amount of wages owed in any of the scenarios mentioned above, is valued between $1,500 and $5,000, the employer is subject to imprisonment for up to three years and a fine equal to two times the value of the wages. If the amount owed is between $5,000 and $10,000, the employer is subject to imprisonment for up to six years and a fine equal to two times the value of the wages. If the amount of wages owed is more than $10,000, the employer is subject to imprisonment up to ten years and a fine equal to two times the wages owed. It is unclear who would stand in the shoes of the employer to be subject to prison time.

Misclassification of employees:

* Under current Rhode Island law, the ability of an individual to operate as an independent contractor (IC) is determined through the use of the US Internal Revenue Service’s common law factor analysis. There have been numerous legal cases and agency guidance documents issued over decades to help a very diverse business environment determine who can be an IC and who must be subject to employee status.
* Factors include items such as: level of control over the person, ownership of necessary equipment, written contract existence, how job-related expenses are handled, how vacations are handled, how long the relationship has lasted, does the individual have multiple clients, does the individual have the ability to make profits or losses, etc. There is no magic number of factors that need to be met to be considered an IC.
* The continued use of the IRS test is extremely important as industries are unique and emerging with new technologies and services. There is no “one size fits all” definition across industry sectors.

H.5902 changes the knowing and willful misclassification of an employee as an independent contractor to a felony subject to imprisonment up to three years and a fine of up to two times the value of the wages or $10,000, whichever is greater, for the first offense. Any subsequent offense, within a five-year timeframe, is a felony subject to imprisonment up to five years and a fine of three times the value of the wages or $20,000 whichever is greater. Again, it is unclear who within the company would serve actual prison time.

\*\*\* IMPORTANT\*\*\* There is an effort to change the definition of independent contractor in the State of Rhode Island to make it more difficult to classify an individual as an independent contractor. While H.5902 does not include language to change the definition, there is an effort underway to amend the bill after the Thursday hearing and no further hearing would be required under the legislative rules. The Senate has a bill that limits IC status to those who can meet all of the following: (1) free from control and direction of the hiring entity, (2) the activity is outside the usual course of the hiring entity’s business, and (3) the person is customarily engaged in an independently established trade, occupation, or business, of the same nature as that involved in the work performed. Should this language or some version of this language be inserted into H.5902, the ability of individuals to operate as an independent contractors will disappear and businesses that fail to place their independent contractors on the payroll as employees, will be guilty of a felony.

**We need you to contact your legislators now. If the wage theft piece of H.5902 is a concern to your business, tell them why. If you hire independent contractors, it is imperative that you tell your legislators not to change the definition of an independent contractor. Provide your name, the name and location of your business, and explanation of how you utilize independent contractors, and what will happen if you have to hire employees to replace your current independent contractors.**

Written testimony for the committee should be submitted by noon Thursday, May 11th at: HouseJudiciary@rilegislature.gov If you can attend the hearing Thursday, please submit written testimony as well. Thank you for your help!

The following new bill has been filed:

House Bill No. [6357](http://webserver.rilin.state.ri.us/BillText/BillText23/HouseText23/H6357.pdf) Morales, Henries, Stewart, Giraldo, J. Lombardi, Sanchez, Speakman, Batista, Cruz, Biah**,**AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -- CREATING GREEN JUSTICE ZONES AND FURTHERING ENVIRONMENTAL JUSTICE (Creates Green Justice Zones to further Environmental Justice for traditionally underserved Rhode Islander communities.)

<http://webserver.rilin.state.ri.us/BillText/BillText23/HouseText23/H6357.pdf>

Senate Bill No. [955](http://webserver.rilin.state.ri.us/BillText/BillText23/SenateText23/S0955.pdf) de la Cruz, Rogers, Tikoian, DiPalma, Lombardo, Ciccone, Burke, Pearson**,**AN ACT RELATING TO TAXATION -- STATEWIDE TANGIBLE PROPERTY TAX EXEMPTION (Phases in a permanent tax exemption over 5 years for tangible personal property of businesses of less than $250,000 of assessed value. Provides reimbursement from state revenues for the amount of lost tax revenue resulting from the exemption.)

<http://webserver.rilin.state.ri.us/BillText/BillText23/SenateText23/S0955.pdf>

House Bill No. [6372](http://webserver.rilin.state.ri.us/BillText/BillText23/HouseText23/H6372.pdf) Solomon**,**AN ACT RELATING TO HIGHWAYS -- CONSTRUCTION AND STATE MAINTENANCE OF STATE ROADS (Requires DOT to notify any surrounding residential property owners and commercial businesses of any proposed temporary or permanent closure to vehicular traffic of any street, highway or bridge, and to hold a public meeting in regards to closure.)

<http://webserver.rilin.state.ri.us/BillText/BillText23/HouseText23/H6372.pdf>