

EDITORIAL

ObamaCare: Job-killer or proud vote?

To many people's surprise, Massachusetts held a senate primary this week, and the Democrats propelled a 36-year House veteran to the final against novice Republican Gabriel Gomez.

We are looking forward to the campaign for the final election, but not because we favor one candidate over the other. Campaigns are a rare opportunity to have open and earnest debates about issues that usually don't receive much local attention, not the least of which are the merits of ObamaCare. As it rolls out into full implementation, the sweeping array of health care laws continue to astound even political insiders with their unanticipated impact. Not only will the new law extract some \$400 million in new taxes from the top 19 medical device makers in Massachusetts, according to a study from the Pioneer Institute, it will likely raise insurance rates for many small companies.

These unintended consequences are a source of great consternation in local business and policy circles. Gov. Deval Patrick has devoted much of his political capital for the last several years toward coercing insurance companies and hospitals to rein in costs, and along comes ObamaCare to change the rules in ways that will dictate even higher insurance costs for small businesses.

The bottom line: Massachusetts already had near-universal health care before the Affordable Care Act was rammed through Congress. Now the higher costs associated with the new rules and mandates are going to cost the commonwealth jobs.

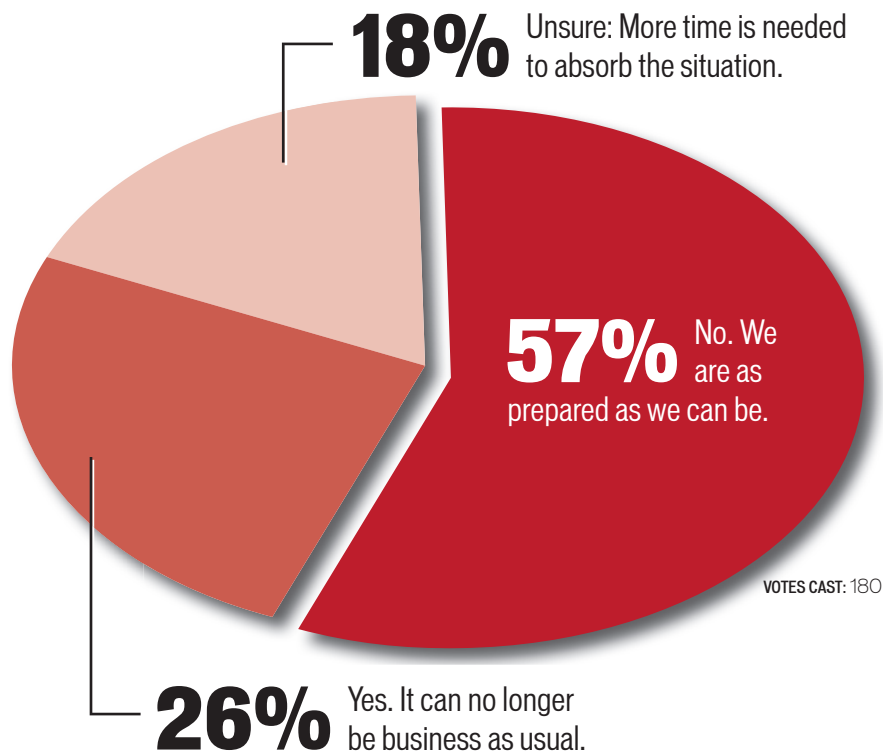
The obvious economic harm from ObamaCare seems completely lost on Ed Markey, who has called his support for the law "the proudest vote of my career." He seems oblivious to this job-creation wrecking ball. Markey even got away with castigating his opponent, Stephen Lynch, who was a rare, independent Democrat who saw enough flaws in the bill to vote against it.

Like any large, new entitlement program, ObamaCare is going to cost taxpayers a heap of money. Yet the president and Democrats sold it as a cost-saver. It's becoming obvious that the bulk of middle class and small businesses won't see any cost savings. Instead, they will pay for this massive expansion of health care in the form of higher premiums.

If nothing else, it would be refreshing to hear Markey held accountable for his "proudest" vote.

BUSINESS PULSE

THE QUESTION: Have the terror events changed the way your firm prepares for emergencies?



NEXT WEEK'S QUESTION: What's your reaction to reports of the housing market's recent gains? Go to: boston.bizjournals.com

BUSINESS VIEW

New software tax does not compute

The Massachusetts House and Senate recently approved nearly identical plans to expand the sales tax to software-related services, including "computer systems design" and modifications to pre-written software. The Legislature's proposals are scaled-down versions of Gov. Patrick's plan, which would tax the same services, plus customized software, cloud computing, data processing, data storage and more.

Estimates vary on how much the plans would raise, from \$161 million to \$265 million. What's more predictable is that they would negatively impact companies, large and small, while also creating new confusion about the specific services to be taxed.

These tax plans are the latest advance in software tax creep that dates back to the 1980s. When the software industry first flourished, states decided to tax "canned" software, meaning prewritten programs such as Windows or Lotus 1-2-3 stored on mass-produced floppy disks. But they did not tax customized, original software programs, which are considered services. This distinction makes sense because the sales tax traditionally applies only to tangible goods, not services.

Technology progressed and by the year 2000, software companies began regularly delivering canned software elec-

tronically instead of via tangible media. These sales were not taxable because they involved no tangible property. But many states, including Massachusetts in 2006, expanded their tax laws to include software downloaded by companies for use by their employees.

Today, cloud computing and software as a service, where you pay to use software that resides on someone else's computer, have complicated matters. Even so, the ultimate question is still whether the transaction involves prewritten software, which is taxable, or a service, which is not.

Now the Legislature would expand the sales tax to cover "computer design systems" services. This would create a huge new taxable category, affecting businesses when they hire software companies such as Oracle or SAP to write, design or configure enterprise systems to suit their needs.

The governor has targeted raising the income tax, eliminating tax exemptions and deductions, and lowering the sales tax.

The Legislature has focused on gas and cigarette taxes. Both seem to believe that taxing software-related service would be a rich source of revenue. For them, maybe it is less tangible to regular taxpayers than raising the gas or income tax. But for many Massachusetts companies, the impact would be far more concrete.

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BUSINESS VIEW

Mass. leads revolution in health care ... again

During the presidential campaign last year, there was much attention paid across the country to the reformed health care system in Massachusetts. Under almost all assessments, the state's plan has measurably improved the health of Massachusetts residents — just as the law's proponents predicted — and it is the plan on which the federal Patient Protection and Affordable Care Act ("ObamaCare") was ultimately modeled.

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PRESIDENT OF RISARC

The state plan was passed under Mitt Romney's administration, but it fell to his successor, Gov. Deval Patrick, to effectively implement and make this historic state legislation work. The most recent twist, of course, has been Patrick's leadership on cost containment.

Neither the state nor the federal care plans will work unless they are affordable and sustainable.

Most of the media attention — and policy-wonk controversy — across Massachusetts this winter has been over these new cost-containment provisions of the most recent state legislation, passed in October.

Hidden away, however, in the state's earlier plan is a bold innovation that may drive the greatest savings in Massachusetts — the mandatory introduction in Massachusetts of electronic health care reports.

In October of last year, Patrick sent his own personal health care record electronically from Massachusetts General Hospital in Boston to Bay-state Medical Center in Springfield — the first set of medical records to officially travel on what quickly became a busy electronic state turnpike that has now conveyed many millions of health records.

But electronic records are still being resisted by far too many private doctors and hospitals that remained concerned about liability and privacy issues.

Patrick and the state of Massachusetts announced in October their determination to overcome these impediments. I predict that Massachusetts will again prevail and that its latest victory will be the shot heard round the world in the current battle to bring down the cost of contemporary health care.