June 20, 2013

To: Senator Michael J. Rodrigues, Chair
   Representative Jay R. Kaufman, Chair
   Joint Committee on Revenue

From: Michael Weekes, President/CEO

Re: Testimony in opposition to Senate Bill 1357, An Act establishing a special commission on payment in lieu of taxes to municipalities in which group homes are located.

Chairman Rodrigues, Chairman Kaufman and members of the Joint Committee on Revenue, thank you for the opportunity to submit testimony in opposition to Senate Bill 1357, legislation that would create a commission to study and establish a payment in lieu of taxes mechanism for nonprofit group homes that serve our most vulnerable residents in our communities across the state.

As you know, the Providers’ Council is a statewide association of home- and community-based human services organizations that provide an array of services on behalf of the Commonwealth. The Council, the state’s largest human services membership association, feels this bill is unclear and potentially discriminatory. Further, the legislation has the potential to create an unfunded mandate that would force human services organizations to direct funding away from these vulnerable residents who need essential supports.

**Human services nonprofits in Massachusetts**

Nearly all of the organizations in the human services sector are registered as tax-exempt nonprofits that provide community-based care to one-in-ten state residents. These organizations are classified as charitable nonprofits under state law (M.G.L. Chapter 59, Section 5, Clause 3) and federal law (section 501(c)(3) of the internal revenue code). These nonprofits, therefore, receive exemptions from income taxes (both federal and state) and local property taxes.

The primary focus of these nonprofit human services organizations is twofold: to care for the state’s most vulnerable residents and to provide a benefit to the public and the communities they serve. The value these nonprofits provide to the community is far greater and more impactful than any potential tax contributions they could make. They were formed to serve the public good, and they provide essential services on behalf of the state’s residents.
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Tax-exempt, community-based human services organizations make many contributions, including:

- taking care of residents who are sick, elderly or disadvantaged;
- educating our young people who may be at risk;
- supporting individuals with disabilities;
- caring for those with a mental illness;
- sheltering those experiencing homelessness;
- assisting individuals with a visual or hearing impairment;
- protecting women and children who may be in danger;
- helping our veterans and our nation’s heroes who protect our country; and
- providing residents with services that might otherwise be unavailable but are essential to protect and care for people in our society.

If not for the work of charitable human services nonprofits, communities across the state would need to find different, more costly, and perhaps inefficient solutions to these public issues.

**Specific problems with Senate Bill 1357**

The Providers’ Council and its members recognize the revenue issues facing governments at the federal, state and local levels. Most of our state’s nonprofits, particularly human services organizations, also struggle with revenue problems and stagnant state funding; these organizations are often asked to do more with less, which could compromise the level and quality of services nonprofits deliver. This bill would only further compound these already existing problems.

The legislation seeks to circumvent state and federal law by creating a mechanism to “tax” nonprofit group homes, masking it as a “payment in lieu of taxes.” We ask this bill not be reported favorably out of the committee for four reasons:

1. **Nonprofits are tax-exempt entities.** Our nation and our communities have a long-established compact that nonprofits serve our most vulnerable residents and contribute to the public good. The trade off is that these organizations are exempt from property taxes. These organizations are cited in municipalities so they can serve residents living in that city or town; they benefit the residents in the area where they are cited. Group homes and programs should not be weakened by diverting funds to various municipal purposes.
2. **Unclear funding mechanism for PILOT payments.** This bill does not explicitly state what the “statewide procedure to compensate municipalities for the properties and buildings occupied by group homes” would be. We are concerned that human services nonprofits would be asked to pay this cost. The Commonwealth of Massachusetts is a significant funding source to many nonprofit human services organizations; would, then, these organizations receive a reimbursement for payments in lieu of taxes from the state? Or perhaps more troubling, would organizations be expected to redirect funding for services to municipalities to satisfy a PILOT?

3. **Nonprofits ignored in makeup of commission.** Human services nonprofits, the target of this bill, are all but ignored in the makeup of the proposed commission. While the Massachusetts Municipal Association receives representation, nonprofit human services organizations that have contracts with the Commonwealth are absent. We find this extremely problematic, as one of the most important voices in the process would be absent.

4. **This legislation would discourage the right of individuals with disabilities or other special needs to live in a community of their choosing.** This bill is in opposition to the state’s Community First agenda and is discriminatory toward residents who live in nonprofit, community-based group homes. By establishing PILOTs, we fear this bill would fuel “Nimby-ism” (not in my backyard) throughout the state and encourage other discriminatory actions, making it difficult or nearly impossible for group home residences to exist anywhere in the state. These group homes are cited to serve individuals needing care in their own community; nonprofits must be able to cite residences without the threat of payments in lieu of taxes.

**Conclusion**

We ask that this bill not receive a favorable report. It seeks to create a commission that could propose findings that undermine state and federal law and allow municipalities to charge a tax, fee or payment in lieu of taxes.

We hope this committee agrees that the value provided by human services nonprofits far outweighs any potential benefit municipalities would gain through a payment in lieu of taxes. We must continue to provide first-rate care for residents in their communities across the Commonwealth. Thank you.