

1 "Establishment" means a single physical location where a
2 business is conducted. A business may include one or more
3 establishments, any number of which may be in a fixed guideway
4 station enterprise zone.

5 "Fixed guideway station enterprise zone" means an area:

6 (1) Designated by the governor, upon the recommendation of
7 the director of business, economic development, and
8 tourism under this chapter that is within a one-half
9 mile radius of a fixed guideway station;

10 (2) That is within the jurisdiction of a county
11 government; and

12 (3) That is eligible for the benefits under this chapter.

13 "Full-time employee" means any employee for whom the
14 employer is legally required to provide employee fringe
15 benefits.

16 "Qualified business" means any corporation, partnership, or
17 sole proprietorship authorized to do business in the State that
18 is qualified under section -6, subject to the state corporate
19 or individual income tax under chapter 235, and includes the
20 construction, operation, administration, or maintenance of
21 affordable housing, and retail, services, or parking businesses.



1 "Taxes due the State" means income taxes due under chapter
2 235.

3 § -3 Fixed guideway station enterprise zone designation;

4 rules. (a) The governor, upon the recommendation of the
5 director, shall:

6 (1) Approve the designation of areas within the State as
7 fixed guideway station enterprise zones that are
8 within one-half mile radius of fixed guideway station
9 and fix their boundaries for a period of twenty years;
10 and

11 (2) Allow the Hawaii community development authority to
12 develop affordable housing, workforce housing, and
13 retail, services, and parking businesses within a
14 fixed guideway station enterprise zone; provided that
15 income eligibility for workforce housing shall be one
16 hundred sixty per cent or less of the median household
17 income within the zone as determined by the United
18 States Department of Housing and Urban Development.

19 A fixed guideway station enterprise zone shall not be subject to
20 the requirement for prior authorization of the legislature by
21 concurrent resolution under section 171-53.

1 (b) The director shall adopt rules in accordance with
2 chapter 91 to carry out the effect of this section.

3 § -4 **Government assistance; prohibition.** There shall be
4 no duplication of existing state tax incentives to qualified
5 businesses that locate in a fixed guideway station enterprise
6 zone.

7 § -5 **Rules, generally.** The department shall adopt rules
8 in accordance with chapter 91 to implement this chapter,
9 including rules relating to health, safety, building, planning,
10 zoning, and land use, which shall supersede all other
11 inconsistent ordinances and rules relating to the use, zoning,
12 planning, and development of land and construction in a fixed
13 guideway station enterprise zone. Rules adopted under this
14 section shall follow existing law, rules, and ordinances as
15 closely as is consistent with standards meeting minimum
16 requirements of energy efficiency, health, and safety. The
17 department may provide by rule that lands within a fixed
18 guideway station enterprise zone shall not be developed beyond
19 existing uses or that improvements thereon shall not be
20 demolished or substantially reconstructed, or may provide other
21 restrictions on the use of the zone.



1 § -6 **Eligibility; qualified business.** (a) Any business
2 may be eligible to be designated a qualified business for
3 purposes of this chapter if the business:

4 (1) Begins the operation of a business within a fixed
5 guideway station enterprise zone;

6 (2) Increases its average annual number of full-time
7 employees by at least ten per cent by the end of its
8 first tax year of participation; and

9 (3) During each subsequent taxable year at least maintains
10 that higher level of employment.

11 (b) A business also may be eligible to be designated a
12 qualified business for purposes of this chapter if the business:

13 (1) Is actively engaged in conducting a business in an
14 area immediately prior to an area being designated a
15 fixed guideway station enterprise zone; and

16 (2) Increases its average annual number of full-time
17 employees employed at the business's establishment or
18 establishments located within the fixed guideway
19 station enterprise zone by at least ten per cent by
20 the end of the first tax year of participation.

21 During each subsequent tax year, the establishment



1 shall maintain at least that higher level of
2 employment.

3 (c) After designation as a fixed guideway station
4 enterprise zone, each qualified business in the zone shall
5 submit annually to the department an approved form supplied by
6 the department that provides the information necessary for the
7 department to determine if the business qualifies as a qualified
8 business. The approved form shall be submitted by each business
9 to the governing body of the county in which the fixed guideway
10 station enterprise zone is located, then forwarded to the
11 department by the governing body of the county.

12 (d) The form referred to in subsection (c) shall be prima
13 facie evidence of the eligibility of a business for the purposes
14 of this section.

15 § -7 **State business tax credit.** (a) The director shall
16 certify annually to the department of taxation the applicability
17 of the tax credit provided in this chapter for a qualified
18 business against any taxes due the State. Except for the
19 general excise tax, the credit shall be:

- 20 (1) Eighty per cent of the tax due for the first tax year;
21 (2) Seventy per cent of the tax due for the second tax
22 year;



- 1 (3) Sixty per cent of the tax due for the third year;
- 2 (4) Fifty per cent of the tax due the fourth year;
- 3 (5) Forty per cent of the tax due the fifth year;
- 4 (6) Thirty per cent of the tax due the sixth year; and
- 5 (7) Twenty per cent of the tax due the seventh year.

6 Any tax credit not usable shall not be applied to future tax
7 years.

8 (b) When a partnership is eligible for a tax credit under
9 this section, each partner shall be eligible for the tax credit
10 provided for in this section on the partner's income tax return
11 in proportion to the amount of income received by the partner
12 from the partnership. Any qualified business having taxable
13 income from the active conduct of a business, both within and
14 without the fixed guideway station enterprise zone, shall
15 allocate and apportion its taxable income attributable to that
16 production. Tax credits provided for in this section shall only
17 apply to taxable income of a qualified business attributable to
18 the active conduct of a business within the fixed guideway
19 station enterprise zone.

20 (c) In addition to any tax credit authorized under this
21 section, any qualified business shall be entitled to a tax
22 credit against any taxes due the State in an amount equal to a



1 percentage of unemployment taxes paid. The amount of the credit
2 shall be equal to:

3 (1) Eighty per cent of the unemployment taxes paid during
4 the first year;

5 (2) Seventy per cent of the taxes paid during the second
6 year;

7 (3) Sixty per cent of the taxes paid during the third
8 year;

9 (4) Fifty per cent of the taxes paid during the fourth
10 year;

11 (5) Forty per cent of the taxes paid during the fifth
12 year;

13 (6) Thirty per cent of the taxes paid during the sixth
14 year; and

15 (7) Twenty per cent of the taxes paid during the seventh
16 year.

17 (d) Tax credits provided for in subsection (c) shall only
18 apply to the unemployment tax paid on employees employed at the
19 qualified business' establishment or establishments located
20 within the fixed guideway station enterprise zone. Any tax
21 credit not usable shall not be applied to future tax years.



1 § **-8 State general excise and use tax exemptions.** The
2 director shall certify annually to the department of taxation
3 that any qualified business is exempt from the payment of
4 general excise taxes on the gross proceeds from the conduct of a
5 business within a fixed guideway station enterprise zone. The
6 director shall also certify annually to the department of
7 taxation that any qualified business is exempt from the use tax
8 for purchases by the qualified business. The gross proceeds
9 received by a contractor licensed under chapter 444 shall be
10 exempt from the general excise tax for construction within a
11 fixed guideway station enterprise zone performed for a qualified
12 business within a fixed guideway station enterprise zone. The
13 exemption shall extend for a period not to exceed seven years.

14 § **-9 Local incentives.** A county may propose local
15 incentives to be made available in a fixed guideway station
16 enterprise zone, including:

- 17 (1) Reduction of permit fees;
18 (2) Reduction of user fees;
19 (3) Reduction of real property taxes; and
20 (4) Regulatory flexibility, including, but not limited to:
21 (A) Special zoning districts;
22 (B) Permit process reform;



1 (C) Exemptions from local ordinances; and
 2 (D) Other public incentives,
 3 which shall be binding upon the locality upon
 4 designation of the fixed guideway station enterprise
 5 zone.

6 § -10 **Termination of fixed guideway station enterprise**
 7 **zone.** Upon designation of an area as a fixed guideway station
 8 enterprise zone, the proposals for regulatory flexibility, tax
 9 incentives, and other public incentives specified in this
 10 chapter shall be binding upon the county governing body to the
 11 extent and for the period of time specified by the director
 12 pursuant to section -3. If the county governing body is
 13 unable or unwilling to provide any of the incentives set forth
 14 in section -9 or other incentives acceptable to the director,
 15 and the director has not adopted rules pursuant to section -5
 16 that supersede inconsistent ordinances and rules relating to the
 17 use, zoning, planning, and development of land and construction
 18 in a fixed guideway station enterprise zone, then the fixed
 19 guideway station enterprise zone shall terminate. Qualified
 20 businesses located in the fixed guideway station enterprise zone
 21 shall be eligible to receive the state tax incentives provided
 22 by this chapter even though the zone designation has terminated.



H.B. NO. 898

1 No business may become a qualified business after the date of
2 zone termination."

3 SECTION 2. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun, before its effective date.

6 SECTION 3. This Act shall take effect on July 1, 2007.

7

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Report Title:

Fixed Guideway Station Enterprise Zones

Description:

Creates enterprise zones within a half-mile radius of stations of a fixed guideway system on Oahu. Grants various tax concessions relating to enterprise zones to qualified businesses, including new construction of affordable housing within those zones.

