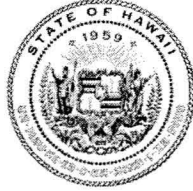


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**LATE TESTIMONY**

## HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

### TESTIMONY REGARDING HB 3271 RELATING TO TAX CREDITS

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: FEBRUARY 12, 2008**

**TIME: 8:50AM**

**ROOM: 309**

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This bill proposes to amend Chapter 235 by adding a new section, which contains a tax credit for employers of telecommuters.

The Department of Taxation (Department) **provides comments** on this legislation.

#### **IMPORTANCE OF TELECOMMUTING**

The legislation is an interesting incentive that provides a tax credit for employers that allow employees to work from home. Telecommuting can have several benefits to not only individual employees, but also the community at-large. For example, there is one less car on the roads for every employee working from home. Moreover, telecommuting provides flexibility with childcare and other duties during a workday.

#### **TECHNICAL MATTER – UNCLEAR PROVISION**

Subsection (c) of Section 1 of the bill calculates the amount of the credit by multiplying an unspecified percentage by the number of employees who telecommute "for the entire year."

It is unclear what is meant by "for the entire year," when considered in conjunction with the definition of the term "telecommute" in subsection (a). The definition of "telecommute" requires the employee to complete at least 75% of his or her job duties via telecommuting. The phrase "for the entire year" implies that the credit is only available with regard to employees who have entered specifically into a telecommuting arrangement for the entire year. If this is the correct interpretation of the phrase "for the entire year," then, for example, an employee who never telecommutes enters into an agreement with his or her employer in February whereby the employee will complete 100% of his or her job functions via telecommuting, resulting in a net yearly telecommuting percentage in excess of 75%, that employer may not be able to claim the credit for that employee because the

arrangement was not in existence for the entire year.

The Department recommends amending the language of subsection (a) to read as follows:

For purposes of this section, an employee "telecommutes" when, over the course of an entire taxable year, the employee completes at least seventy-five per cent of the employee's job or duties at the employee's residence instead of commuting to a place of employment that is situated away from the employee's residence.

### **CALCULATION OF COSTS**

The Department questions whether the calculation of costs should be multiplied by the number of employees. The credit should be a percentage of the employers actual cost to allow telecommuting for all employees and not broken down on an employee basis.

### **THE DEPARTMENT RECOMMENDS A PROVISION TO PREVENT ABUSE BY SOLE PROPRIETORSHIPS OR OTHER "ONE-PERSON" BUSINESSES, UNLESS INTENDED**

The Department notes that the statute should contain a limitation to prevent sole proprietorships from claiming this credit where the employer and the employee are the same person. However, if the Committee intends to allow even those that run their own business where the employer and employee are the same person, this should be expressly provided.

### **TECHNICAL MATTER – UNNECESSARY LANGUAGE**

Subsection (f)(3) of Section 1 of the bill contains unnecessary language. The Department has already been granted rulemaking authority at section 231-3 and 235-2.5.

Subsection (b)(2) is unadministerable.

### **REVENUE IMPACT**

The amount of the credit is unspecified. The revenue impact is likewise indeterminate.