

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Medical enterprise zone

BILL NUMBER: HB 553, HD-1

INTRODUCED BY: House Committee on Economic Revitalization, Business, and Military Affairs

**BRIEF SUMMARY:** Adds a new chapter to the HRS to establish a pilot medical enterprise zone in West Maui. The governing body of the county of Maui shall transmit to the director of health by November 30, 2009, a description of a proposed location in West Maui. The director of health shall designate the proposed area as a medical enterprise zone for seven years.

A medical or research facility may be eligible to be designated a qualified business if the facility: (1) begins the operation of a medical or research facility within a medical enterprise zone; (2) during each taxable year has at least \_\_\_ percent of its medical enterprise zone establishment's gross receipts attributable to its operation within the medical enterprise zone; (3) increases its average annual number of full-time medical or research professional employees by at least \_\_\_ percent by the end of its first tax year of participation; and (4) during each subsequent taxable year at least maintains that higher level of employment for medical or research professional employees.

Requires each qualified business in the zone to annually complete and submit to the department of business, economic development and tourism (DBEDT) information necessary to determine whether the medical or research facility qualifies or continues to qualify as a qualified business. If the department determines that the medical or research facility qualifies as a qualified business, the department shall approve the completed form and forward copies of the completed and approved form to the department of taxation and the governing body of the county.

DBEDT shall certify annually to the department of taxation the applicability of the tax credit provided in this chapter for a qualified business against any income taxes imposed under title 14 that are due the state. The credit shall be: (1) eighty percent of the tax due for the first taxable year that the business qualifies as a qualified business; (2) seventy percent of the tax due for the second taxable year that the business qualifies as a qualified business; (3) sixty percent of the tax due in the third taxable year that the business qualifies as a qualified business; (4) fifty percent of the tax due in the fourth taxable year that the business qualifies as a qualified business; (5) forty percent of the tax due in the fifth taxable year that the business qualifies as a qualified business; (6) thirty percent of the tax due in the sixth taxable year that the business qualifies as a qualified business; and (7) twenty percent of the tax due in the seventh year that the business qualifies as a qualified business.

If a partnership is eligible for a tax credit under this section, each partner shall be eligible for the tax credit provided for in this section on the partner's income tax return in proportion to the partner's income tax liability from the partnership. Any qualified business earning taxable income from the provision of the qualified business' services, both within and without the medical enterprise zone, shall allocate and apportion its taxable income attributable to that provision of services. Tax credits provided for in this

section shall only apply to taxable income of a qualified business attributable to the services provided within the medical enterprise zone.

In addition to any tax credit authorized under this section, a qualified business shall be entitled to a tax credit against any taxes due the state in an amount equal to a percentage of unemployment taxes paid pursuant to chapter 383. The amount of the credit shall be equal to: (1) eighty percent of the unemployment taxes paid for during the first taxable year that the business qualifies as a qualified business; (2) seventy percent of the unemployment taxes paid for the second year that the business qualifies as a qualified business; (3) sixty percent of the unemployment taxes paid for the third year that the business qualifies as a qualified business; (4) fifty percent of the unemployment taxes paid for the fourth year that the business qualifies as a qualified business; (5) forty percent of the unemployment taxes paid for the fifth year that the business qualifies as a qualified business; (6) thirty percent of the unemployment taxes paid for the sixth year that the business qualifies as a qualified business; and (7) twenty percent of the unemployment taxes paid for the seventh year that the business qualifies as a qualified business. These tax credits shall only apply to the unemployment tax paid on employees employed at the qualified business' establishment or establishments located within the medical enterprise zone.

DBEDT shall certify annually to the department of taxation that any qualified business is exempt from the payment of general excise taxes on the gross proceeds from the provision of medical or research services. The department shall also certify annually to the department of taxation that any qualified business is exempt from the use tax for purchases by the qualified business. The gross proceeds received by a contractor licensed under chapter 444 shall be exempt from the general excise tax for construction within a medical enterprise zone performed for a qualified business within a medical enterprise zone. The exemption shall extend for a period not to exceed seven years after the effective date of this act.

Allows any county to propose local incentives, including: (1) reduction of permit fees; (2) reduction of user fees; and (3) reduction of real property taxes. A county may also propose measures for regulatory flexibility including but not limited to: (1) special zoning districts; (2) permit process reform; (3) exemptions from local ordinances; and (4) other public incentives proposed in the locality's application, which shall be binding upon the locality upon designation of the medical enterprise zone.

Upon designation of the area as a medical enterprise zone, the proposals for regulatory flexibility, tax incentives, and other public incentives specified in this chapter shall be binding upon the governing body of the county to the extent and for a period of seven years. If the governing body of the county is unable or unwilling to provide any of the incentives or other incentives acceptable to the department, and the department has not adopted rules that supersede inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction in a medical enterprise zone, then the medical enterprise zone shall terminate. Qualified businesses located in the medical enterprise zone shall be eligible to receive the state tax incentives provided by this chapter even though the zone designation has terminated.

Directs DBEDT, in consultation with the department of taxation, to submit a written report to the legislature by December 31 of each year beginning in 2010, regarding the implementation of the pilot medical enterprise zone in West Maui, including an evaluation of the success or failure of the pilot medical enterprise zone to fulfill its intended purpose.

This act shall be repealed on February 28, 2017.

EFFECTIVE DATE: July 1, 2112

STAFF COMMENTS: This measure proposes to establish a medical enterprise zone in West Maui. In an enterprise zone, businesses are attracted and encouraged to relocate to the zone through tax incentives, bonds, and other appropriate measures. Businesses located in an enterprise zone may claim a credit against taxes paid, including unemployment taxes, for a period of seven years and also the sale of items sold by such businesses are exempt from the general excise tax.

While it appears that it is the intent of the legislature to encourage new and existing businesses to expand their employment bases and increase their marketing territories, enterprise zones merely exacerbate what is already considered a poor climate in which to do business. Singling out businesses for preferential treatment merely confers preferences for those businesses at the expense of all other taxpayers.

Concurrent efforts must be made to improve Hawaii's business climate to enhance the economic prospects for all businesses. Enterprise zones are merely an abdication of government's responsibility to create a nurturing and supportive business climate so that all businesses can thrive in Hawaii and provide the jobs the people of Hawaii need. In this case, it is the provision of medical care in rural communities of the state and in this case specifically West Maui.

As the legislature has learned in recent years, the hurdles to the provision of quality health care in rural areas of the state go far beyond financial challenges that these tax incentives would seem to attempt to abate. Medical tort reform, provision of adequate support staff and the high cost of medical infrastructure are but a few of the issues facing the provision of medical care in rural communities.

Finally, while this proposal attempts to provide oversight to the administration of the tax incentives, one must ask the question of who pays for this oversight? This is an additional cost that will be incurred by both the department of taxation and DBEDT. Thus, the incentive does not come free of costs in addition to the lost revenues.

Instead of expanding the enterprise zone program, the program should be repealed in favor of across-the-board tax relief for all businesses in Hawaii. For example, the consultant to the 2007 Tax Review Commission suggested that all business-to-business transactions be exempt from the general excise tax as a means of reducing not only the cost of doing business in Hawaii but the overall cost of living.

Indeed, has there been a comprehensive evaluation of the program and do lawmakers know exactly how much enterprise zone businesses have benefitted and whether or not they have created the jobs promised when the program was first established?

It should be noted that while the current draft of the measure replaced the department of health with the DBEDT as the department designating the area as a medical enterprise zone, section 2 of the measure, paragraph \_\_\_-11 still makes reference to the director of health as the person who makes such designation.

Digested 2/12/09