

JAN 23 2009

# A BILL FOR AN ACT

RELATING TO MASS TRANSIT ROUTE ECONOMIC ZONES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

**"CHAPTER**

**MASS TRANSIT ROUTE ECONOMIC ZONES**

6 § -1 **Purpose.** The purpose of this chapter is to  
7 stimulate economic development, including the construction of  
8 affordable housing, along the routes of a mass transit system in  
9 a county having a population of more than five hundred thousand  
10 by creating economic zones along the routes that are designated  
11 by the relevant county council and approved by the governor.

12 § -2 **Definitions.** As used in this chapter, unless the  
13 context clearly requires otherwise:

14 "Department" means the department of business, economic  
15 development, and tourism.

16 "Director" means the director of business, economic  
17 development, and tourism.



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 mass transit  
4 route economic zone.

5 "Mass transit route economic zone" means an area:

- 6 (1) Approved by the governor, upon the determination by  
7 the relevant county council under this chapter;
- 8 (2) That is within the jurisdiction of the relevant county  
9 council; and
- 10 (3) That is eligible for the benefits under this chapter.

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

17 "Taxes due the State" means income taxes due under chapter  
18 235.

19 § -3 Mass transit route economic zone designation;

20 rules. (a) The governor, upon the determination by the  
21 relevant county council, shall:



1 (1) Approve the designation of areas within the relevant  
2 county as mass transit route economic zones and fix  
3 their boundaries for a period of twenty years; and

4 (2) Allow the Hawaii community development authority to  
5 develop affordable housing, workforce housing, and  
6 retail, services, and parking businesses within a mass  
7 transit route economic zone.

8 A mass transit route economic zone shall not be subject to the  
9 requirement for prior authorization of the legislature by  
10 concurrent resolution under section 171-53.

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

13 § -4 **Government assistance; prohibition.** There shall be  
14 no duplication of existing state tax incentives to qualified  
15 businesses that locate in a mass transit route economic zone.

16 § -5 **Rules, generally.** The department shall adopt rules  
17 in accordance with chapter 91 to implement this chapter,  
18 including rules relating to health, safety, building, planning,  
19 zoning, and land use, which shall supersede all other  
20 inconsistent ordinances and rules relating to the use, zoning,  
21 planning, and development of land and construction in a mass  
22 transit route economic zone. Rules adopted under this section



1 shall follow existing law, rules, and ordinances as closely as  
2 is consistent with standards meeting minimum requirements of  
3 energy efficiency, health, and safety. The department may  
4 provide by rule that lands within a mass transit route economic  
5 zone shall not be developed beyond existing uses or that  
6 improvements thereon shall not be demolished or substantially  
7 reconstructed, or may provide other restrictions on the use of  
8 the zone.

9 § -6 **Eligibility; qualified business.** (a) Any business  
10 may be eligible to be designated a qualified business for  
11 purposes of this chapter if the business:

12 (1) Begins the operation of a business within a mass  
13 transit route economic zone after the designation of  
14 the zone; or

15 (2) Is actively engaged in conducting a business in an  
16 area prior to that area being designated a mass  
17 transit route economic zone.

18 (b) After designation as a mass transit route economic  
19 zone, each qualified business in the zone shall submit annually  
20 to the department an approved form supplied by the department  
21 that provides the information necessary for the department to  
22 determine if the business qualifies as a qualified business.



1 The approved form shall be submitted by each business to the  
2 executive branch of the relevant county government, then  
3 forwarded to the department by the executive branch of the  
4 relevant county government.

5 (c) The form referred to in subsection (b) shall be prima  
6 facie evidence of the eligibility of a business for the purposes  
7 of this section.

8 § -7 **Nonrefundable tax credit.** (a) There shall be  
9 allowed to each qualified business having taxable income from  
10 the active conduct of business within a mass transit route  
11 economic zone, a nonrefundable tax credit which may be deducted  
12 from the qualified business' net tax liability due to the State  
13 under any of the provisions of title 14, except the general  
14 excise tax. The tax credit shall be as follows:

- 15 (1) per cent for a qualified business having  
16 annual gross revenues of up to \$ ;  
17 (2) per cent for a qualified business having  
18 annual gross revenues of more than \$ ; and  
19 (3) per cent for a qualified business engaged in  
20 the development of housing; provided that a qualified  
21 business under this paragraph shall not receive a tax  
22 credit under either paragraph (1) or (2).



1 (b) If the tax credit under this section exceeds the  
2 qualified business' tax liability, the excess of credits over  
3 liability shall not be refunded to the taxpayer. All claims,  
4 including any amended claims, for tax credits under this section  
5 shall be filed on or before the end of the twelfth month  
6 following the close of the taxable year for which the credit may  
7 be claimed. Failure to comply with the foregoing provision  
8 shall constitute a waiver of the right to claim the credit.

9 (c) When a partnership is eligible for a tax credit under  
10 this section, each partner shall be eligible for the tax credit  
11 provided for in this section on the partner's income tax return  
12 in proportion to the amount of income received by the partner  
13 from the partnership.

14 (d) Any qualified business having taxable income from the  
15 active conduct of business, both within and without the mass  
16 transit route economic zone, shall allocate and apportion its  
17 taxable income attributable to that production. Tax credits  
18 provided for in this section shall only apply to taxable income  
19 of a qualified business attributable to the active conduct of a  
20 business within the mass transit route economic zone.

21 (e) The department of taxation shall prepare forms as may  
22 be necessary to claim the credit under this section.



1 (f) The director shall certify annually to the department  
2 of taxation the applicability of the tax credit provided in this  
3 chapter for a qualified business against any taxes due the  
4 State."

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

8 SECTION 3. This Act shall take effect on July 1, 2009 and  
9 shall be repealed on June 30, 2029.

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**Report Title:**

Mass Transit Route Economic Zones

**Description:**

Creates for 20 years economic zones proximate to any mass transit route on Oahu. Grants nonrefundable tax credits in varying percentages to economic zone qualified businesses earning above and below \$        in gross annual revenues. Grants % tax credit for development of housing within zones.

