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# A BILL FOR AN ACT

RELATING TO MEDICAL ENTERPRISE ZONES.

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

1           SECTION 1. The legislature finds that many factors,  
2 including demographics, education, lukewarm business and tax  
3 environments, and Hawaii's unique and geographically isolated  
4 location have contributed significantly to a chronic shortage of  
5 medical and research facilities and health care professionals in  
6 the State.

7           The legislature further finds that the establishment of  
8 medical enterprise zones in the State that provide a range of  
9 county and state incentives will assist in stimulating the  
10 creation of integrated campuses that will attract a critical  
11 nucleus of medical and research facilities and create a large  
12 number of highly skilled jobs in the medical and research  
13 fields, including biotechnology, biomedicine, and pharmaceutical  
14 research and development.

15           Accordingly, the purpose of this Act is to encourage the  
16 entrance into and establishment of modern medical and research  
17 facilities within the State and to attract highly skilled  
18 general and specialized medical, research, and health care



1 professionals to work in Hawaii by establishing a medical  
2 enterprise zone program in the State, that initially shall  
3 consist of a single pilot medical enterprise zone in west Maui.  
4 Furthermore, limiting the potential pending investments for a  
5 medical enterprise zone in west Maui will minimize the impact to  
6 the State and will allow the State to evaluate the zone's impact  
7 without negatively affecting income streams.

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

11 "CHAPTER

12 MEDICAL ENTERPRISE ZONES

13 § -1 **Definitions.** As used in this chapter:

14 "Department" means the department of health.

15 "Establishment" means a single physical location where  
16 medical or research services are provided in a medical or  
17 research facility. A qualified business may include one or more  
18 establishments, any number of which may be in a medical  
19 enterprise zone.

20 "Full-time employee" means any employee for whom the  
21 employer is legally required to provide employee fringe  
22 benefits.



1 "Medical enterprise zone" means any area in the State  
2 declared by the department to be eligible for the benefits of  
3 this chapter.

4 "Medical or research facility" includes but is not limited  
5 to:

- 6 (1) Acute critical access hospitals;
- 7 (2) Long-term care facilities;
- 8 (3) Medical research facilities that perform primarily  
9 research and development activities relating to the  
10 medical sciences, pharmaceutical development, or  
11 medical treatment modalities for specific human  
12 diseases or disorders and may include biomedical  
13 research facilities;
- 14 (4) Offices of physicians, dentists, nurses, clinical  
15 specialists, other medical or research professionals,  
16 or other practitioners of the healing arts either in  
17 private practice or within organized ambulatory health  
18 care facilities; and
- 19 (5) Any other facility as determined by the department.

20 "Qualified business" means any medical or research facility  
21 that is:

- 22 (1) Authorized to do business in this State; and



1 (2) Is located within the medical enterprise zone.

2 "Taxes due the State" means income taxes due under chapter  
3 235.

4 § -2 **Administration.** The department shall administer  
5 this chapter and have the power and duty to:

6 (1) Monitor the implementation and operation of this  
7 chapter;

8 (2) Conduct a continuing evaluation program of the medical  
9 enterprise zones;

10 (3) Assist the counties in obtaining the reduction of  
11 rules within medical enterprise zones;

12 (4) Submit annual reports evaluating the effectiveness of  
13 the program and any recommendations for legislation to  
14 the legislature and the governor;

15 (5) Administer and enforce the rules adopted by the  
16 department; and

17 (6) Administer this chapter in such a manner that the  
18 areas designated as medical enterprise zones will most  
19 benefit the areas and the State.

20 § -3 **Medical enterprise zone designation; approval.** (a)

21 Within thirty days of the receipt, from the governing body of

22 any county in the State, of a description of the proposed



1 location in the State as a medical enterprise zone and a general  
2 statement identifying proposed county incentives to complement  
3 any state and federal incentives, the department shall designate  
4 the proposed area as a medical enterprise zone.

5 (b) The department shall secure any additional information  
6 that the department deems necessary and, within sixty days of  
7 the date of designation pursuant to subsection (a), shall  
8 approve the establishment of the medical enterprise zone for a  
9 period of seven years.

10 § -4 **Government assistance; prohibition.** There shall be  
11 no duplication of existing state tax incentives to qualified  
12 businesses that locate in a medical enterprise zone.

13 § -5 **Rules.** The department, in consultation with the  
14 department of taxation, shall adopt rules pursuant to chapter 91  
15 to implement this chapter, including rules relating to health,  
16 safety, building, planning, zoning, and land use that shall  
17 supersede all other inconsistent ordinances and rules relating  
18 to the use, zoning, planning, and development of land and  
19 construction in a medical enterprise zone. Rules adopted under  
20 this section shall follow existing law, rules, and ordinances as  
21 closely as is consistent with standards meeting minimum  
22 requirements of energy efficiency, health, and safety. The



1 department may provide by rule that lands within a medical  
2 enterprise zone shall not be developed beyond existing uses or  
3 that improvements thereon shall not be demolished or  
4 substantially reconstructed or provide other restrictions on the  
5 use of the zone.

6 § -6 Eligibility; qualified business; sale of property

7 or services. (a) Any medical or research facility may be  
8 eligible to be designated a qualified business for purposes of  
9 this chapter if the medical or research facility:

- 10 (1) Begins the operation of a medical or research facility  
11 within a medical enterprise zone;
- 12 (2) During each taxable year has at least per cent  
13 of its medical enterprise zone establishment's gross  
14 receipts attributable to its operation within the  
15 medical enterprise zone;
- 16 (3) Increases its average annual number of full-time  
17 medical or research professional employees by at least  
18 per cent by the end of its first tax year of  
19 participation; and
- 20 (4) During each subsequent taxable year at least maintains  
21 that higher level of employment for medical or  
22 research professional employees.



1 (b) A medical or research facility may be eligible to be  
2 designated a qualified business for purposes of this chapter if  
3 the medical or research facility:

4 (1) Is actively engaged in the operation of a medical or  
5 research facility in an area immediately prior to the  
6 area being designated a medical or research enterprise  
7 zone;

8 (2) Meets the requirements of subsection (a)(2); and

9 (3) Increases its average annual number of full-time  
10 employees employed at the medical or research  
11 facility's establishment or establishments located  
12 within the medical enterprise zone by at least  
13 per cent annually.

14 (c) After approval of the medical enterprise zone, each  
15 qualified business in the zone shall annually complete and  
16 submit to the department, on a form supplied by the department,  
17 the information necessary for the department to determine  
18 whether the medical or research facility qualifies or continues  
19 to qualify as a qualified business. If the department  
20 determines that the medical or research facility qualifies as a  
21 qualified business, the department shall approve the completed



1 form and forward copies of the completed and approved form to  
2 the department of taxation and the governing body of the county.

3 (d) A completed form approved by the department, referred  
4 to in subsection (c), shall be prima facie evidence of the  
5 eligibility of a medical or research facility for the purposes  
6 of this section.

7 (e) Any operations or services provided by a medical or  
8 research facility outside of the medical enterprise zone shall  
9 not be included in the determination of gross receipts  
10 attributable to the active provision of services under  
11 subsection (a)(2).

12 § -7 **State business tax credit.** (a) The department  
13 shall certify annually to the department of taxation the  
14 applicability of the tax credit provided in this chapter for a  
15 qualified business against any income taxes imposed under title  
16 14 that are due the State. The credit shall be:

17 (1) Eighty per cent of the tax due for the first taxable  
18 year that the business qualifies as a qualified  
19 business;

20 (2) Seventy per cent of the tax due for the second taxable  
21 year that the business qualifies as a qualified  
22 business;





1           (3) Sixty per cent of the tax due in the third taxable  
2           year that the business qualifies as a qualified  
3           business;

4           (4) Fifty per cent of the tax due in the fourth taxable  
5           year that the business qualifies as a qualified  
6           business;

7           (5) Forty per cent of the tax due in the fifth taxable  
8           year that the business qualifies as a qualified  
9           business;

10          (6) Thirty per cent of the tax due in the sixth taxable  
11          year that the business qualifies as a qualified  
12          business; and

13          (7) Twenty per cent of the tax due in the seventh year  
14          that the business qualifies as a qualified business.

15 Any tax credit not usable shall not be applied to future taxable  
16 years.

17          (b) When a partnership is eligible for a tax credit under  
18 this section, each partner shall be eligible for the tax credit  
19 provided for in this section on the partner's income tax return  
20 in proportion to the partner's income tax liability from the  
21 partnership. Any qualified business earning taxable income from  
22 the provision of the qualified business' services, both within



1 and without the medical enterprise zone, shall allocate and  
2 apportion its taxable income attributable to that provision of  
3 services. Tax credits provided for in this section shall only  
4 apply to taxable income of a qualified business attributable to  
5 the services provided within the medical enterprise zone.

6 (c) In addition to any tax credit authorized under this  
7 section, a qualified business shall be entitled to a tax credit  
8 against any taxes due the State in an amount equal to a  
9 percentage of unemployment taxes paid pursuant to chapter 383.

10 The amount of the credit shall be equal to:

- 11 (1) Eighty per cent of the unemployment taxes paid for  
12 during the first taxable year that the business  
13 qualifies as a qualified business;
- 14 (2) Seventy per cent of the unemployment taxes paid for  
15 the second year that the business qualifies as a  
16 qualified business;
- 17 (3) Sixty per cent of the unemployment taxes paid for the  
18 third year that the business qualifies as a qualified  
19 business;
- 20 (4) Fifty per cent of the unemployment taxes paid for the  
21 fourth year that the business qualifies as a qualified  
22 business;



1           (5) Forty per cent of the unemployment taxes paid for the  
2           fifth year that the business qualifies as a qualified  
3           business;

4           (6) Thirty per cent of the unemployment taxes paid for the  
5           sixth year that the business qualifies as a qualified  
6           business; and

7           (7) Twenty per cent of the unemployment taxes paid for the  
8           seventh year that the business qualifies as a  
9           qualified business.

10          (d) Tax credits provided for in subsection (c) shall only  
11         apply to the unemployment tax paid on employees employed at the  
12         qualified business' establishment or establishments located  
13         within the medical enterprise zone. Any tax credit not usable  
14         shall not be applied to future tax years.

15          §   -8   **State general excise and use tax exemptions.** The  
16         department shall certify annually to the department of taxation  
17         that any qualified business is exempt from the payment of  
18         general excise taxes on the gross proceeds from the provision of  
19         medical or research services. The department shall also certify  
20         annually to the department of taxation that any qualified  
21         business is exempt from the use tax for purchases by the  
22         qualified business. The gross proceeds received by a contractor



1 licensed under chapter 444 shall be exempt from the general  
2 excise tax for construction within a medical enterprise zone  
3 performed for a qualified business within a medical enterprise  
4 zone. The exemption shall extend for a period not to exceed  
5 seven years after the effective date of this Act.

6       §   -9   **Local incentives.** (a) A county may propose local  
7 incentives, including:

- 8           (1) Reduction of permit fees;  
9           (2) Reduction of user fees; and  
10          (3) Reduction of real property taxes.

11          (b) A county may also propose measures for regulatory  
12 flexibility including but not limited to:

- 13           (1) Special zoning districts;  
14           (2) Permit process reform;  
15           (3) Exemptions from local ordinances; and  
16           (4) Other public incentives proposed in the locality's  
17 application, which shall be binding upon the locality  
18 upon designation of the medical enterprise zone.

19       §   -10   **Termination of medical enterprise zone.** Upon  
20 designation of the area as a medical enterprise zone, the  
21 proposals for regulatory flexibility, tax incentives, and other  
22 public incentives specified in this chapter shall be binding



1 upon the governing body of the county to the extent and for a  
2 period of seven years. If the governing body of the county is  
3 unable or unwilling to provide any of the incentives set forth  
4 in section -9 or other incentives acceptable to the  
5 department, and the department has not adopted rules pursuant to  
6 section -5 that supersede inconsistent ordinances and rules  
7 relating to the use, zoning, planning, and development of land  
8 and construction in a medical enterprise zone, then the medical  
9 enterprise zone shall terminate. Qualified businesses located  
10 in the medical enterprise zone shall be eligible to receive the  
11 state tax incentives provided by this chapter even though the  
12 zone designation has terminated. No medical or research  
13 facility may become a qualified business after the date of zone  
14 termination.

15 § -11 **Designation of pilot medical enterprise zone in**  
16 **west Maui.** The governing body of the county of Maui, pursuant  
17 to section -3, shall transmit to the director of health no  
18 later than November 30, 2009, a description of a proposed  
19 location in west Maui as a pilot medical enterprise zone. The  
20 director of health, pursuant to section -3, shall designate  
21 the proposed area as a medical enterprise zone for a period of  
22 seven years."



1           SECTION 3. The department of health, in consultation with  
2 the department of taxation, shall submit a written report to the  
3 legislature by December 31 of each year, beginning in 2010,  
4 regarding the implementation of the pilot medical enterprise  
5 zone in west Maui, including an evaluation of the success or  
6 failure of the pilot medical enterprise zone to fulfill its  
7 intended purpose.

8           SECTION 4. It is the intent of this Act not to jeopardize  
9 the receipt of any federal aid nor to impair the obligation of  
10 the State or any agency thereof to the holders of any bond  
11 issued by the State or by any such agency, and to the extent,  
12 and only to the extent, necessary to effectuate this intent, the  
13 governor may modify the strict provisions of this Act, but shall  
14 promptly report any such modification with reasons therefor to  
15 the legislature at its next session thereafter for review by the  
16 legislature.

17           SECTION 5. This Act does not affect rights and duties that  
18 matured, penalties that were incurred, and proceedings that were  
19 begun, before its effective date.

20           SECTION 6. If any provision of this Act, or the  
21 application thereof to any person or circumstance is held  
22 invalid, the invalidity does not affect other provisions or



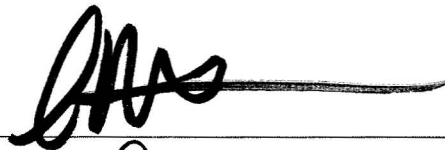




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1 applications of the Act, which can be given effect without the  
2 invalid provision or application, and to this end the provisions  
3 of this Act are severable.

4 SECTION 7. This Act shall take effect upon its approval  
5 and shall be repealed on February 28, 2017.

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INTRODUCED BY:

  
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JAN 23 2009



**Report Title:**

Medical Enterprise Zones; Pilot Project in West Maui

**Description:**

Establishes medical enterprise zones in the State to encourage the development of medical and research services. Creates a 7-year pilot medical enterprise zone in West Maui.

