

JAN 23 2009

A BILL FOR AN ACT

RELATING TO INCOME TAX CREDITS.

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

1 SECTION 1. Traffic-related congestion on Hawaii's roadways
2 continues to increase every year. The morning and evening
3 commutes are marked by long delays and increased time spent on
4 the road as thousands of cars traverse Hawaii's highways and
5 streets. With longer commute times, the working people of
6 Hawaii are spending more time in their cars as opposed to using
7 that time productively, either at work or with their families.

8 Furthermore, with the increase in cars that are on Hawaii's
9 roadways, the people of Hawaii are more dependent on foreign
10 fossil fuel sources. Currently, Hawaii has one of the highest
11 prices for gas in the nation. Thus, in comparison to their
12 mainland peers, the workers of Hawaii are using a larger
13 percentage of their disposable income to pay for transportation
14 to work. Moreover, massive commutes to work by car will
15 continue to force Hawaii to rely on foreign fossil fuel sources
16 and also continue to allow carbon emissions to deteriorate
17 Hawaii's fragile environment.



1 The legislature finds that the concept of telecommuting to
2 work has emerged as a viable workplace alternative. According
3 to a federal Office of Personnel Management survey in 2004, more
4 than twenty-three million workers in the United States
5 telecommuted to work. In 2002, a private research firm reported
6 that thirty-five per cent of all employees in the United States
7 used a home computer for work-related purposes. As of 2005,
8 roughly five per cent of the federal workforce telecommuted to
9 work and nine states have enacted state telecommuting policies.
10 In 2007, the State of Georgia was the first to enact an income
11 tax credit for employers who have their employees telecommute to
12 work. Today, the numbers reported in each of the various
13 studies above have likely increased, or are on the verge of
14 increasing, because of the advancements in technology,
15 escalating traffic congestion, rising transportation costs,
16 health concerns, or environmental reasons.

17 Furthermore, the legislature finds that numerous studies
18 across the nation have demonstrated that telecommuting provides
19 an opportunity for employers to increase employee productivity,
20 decrease employee sick leave, increase the labor pool, and even
21 improve employee retention. The growth of telecommuting is
22 partly attributable to the greater availability of broadband



1 technology, employees placing a greater emphasis on work-life
2 balance, rising office rents, and improvements in internet
3 security.

4 The purpose of this Act is to implement a statewide
5 telecommuting income tax credit to help alleviate Hawaii's high
6 costs for transportation-related expenses to work, to reduce
7 Hawaii's dependence on fossil fuel, to reduce traffic congestion
8 on Hawaii's roadways, and to provide the workers of Hawaii with
9 an opportunity to spend more time either working from home or
10 with their families, rather than in traffic.

11 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§235- Telecommuting income tax credit. (a) The income
15 tax credit allowed under this section shall be available for
16 taxable years beginning after December 31, 2009, and shall not
17 be available for taxable years beginning after December 31,
18 2011. Any income tax credit allowed under this section shall be
19 claimed against the taxpayer's net income tax liability, if any,
20 for the taxable year. A properly claimed income tax credit
21 under this section shall allow an employer a state income tax
22 credit for a percentage of eligible telecommute expenses



1 incurred in the calendar years 2010 and 2011. The amount of the
2 credit shall be calculated as follows:

3 (1) For employers in nonattainment areas, the credit shall
4 be equal to one hundred per cent of the eligible
5 telecommute expenses incurred pursuant to a
6 telecommute agreement requiring the participating
7 employee to telecommute at least twelve days per month
8 if the employer's principal place of business is
9 located in an area designated by the United States
10 Environmental Protection Agency as a nonattainment
11 area under the federal Clean Air Act, title 42 United
12 States Code section 7401 et seq.;

13 (2) For employers in attainment areas, the credit shall be
14 equal to seventy-five per cent of the eligible
15 telecommute expenses incurred pursuant to a
16 telecommute agreement requiring the participating
17 employee to telecommute at least twelve days per
18 month; or

19 (3) For employers who have employees telecommute at least
20 five days, but less than twelve days, per month, the
21 credit shall be equal to twenty-five per cent of the
22 eligible telecommute expenses incurred pursuant to a



1 telecommute agreement requiring the participating
2 employee to telecommute at least five days per month.

3 (b) For purposes of the income tax credit under this
4 section, the determination of the employer's taxable year and
5 the employer's eligible telecommute assessment expenses require
6 that:

7 (1) In addition to the tax credit provided by subsection
8 (a), an employer conducting a telecommute assessment
9 on or after July 1, 2009, shall be allowed a tax
10 credit in the calendar year of implementation of the
11 employer's formal telecommute program against the
12 employer's net income tax liability, if any, for one
13 hundred per cent of the cost, up to a maximum credit
14 of \$20,000 per employer, of preparing the assessment.
15 The costs shall not be eligible for the tax credit if
16 they are otherwise the subject of a deduction from
17 income claimed by the employer in any tax year. Costs
18 incurred on or after July 1, 2009, and before
19 January 1, 2010, shall be treated as being incurred on
20 January 1, 2010, for purposes of this section. The
21 tax credit provided by this subsection is intended to
22 include program planning expenses, including direct



1 program development and training costs, raw labor
2 costs, and professional consulting fees; the credit
3 shall not include expenses for which a credit is
4 claimed under any other provision of this chapter.

5 This credit shall be allowed only once per employer;
6 and

7 (2) All telecommute assessments shall meet any standards
8 for eligibility that are adopted by the director of
9 taxation.

10 (c) In no event shall the total amount of any tax credit
11 under this section for a taxable year exceed the employer's net
12 income tax liability. No unused tax credit shall be allowed to
13 be carried forward to apply to the employer's succeeding years'
14 tax liability. No unused tax credit shall be allowed by the
15 employer against prior years' tax liability.

16 (d) The certification of telecommute expenses by the
17 employer, application for tentative approval by the director of
18 taxation, and the annual limits to the income tax credit under
19 this section shall be imposed as follows:

20 (1) An employer seeking to claim a tax credit provided for
21 under subsections (a) and (b) of this section shall
22 submit an application to the director of taxation for



1 tentative approval of the tax credit provided for in
2 subsections (a) and (b) between September 1 and
3 October 31 of the year preceding the calendar year for
4 which the tax credit is to be claimed. The director
5 of taxation shall adopt the rules and forms on which
6 the application is to be submitted. Amounts specified
7 on the application shall not be amended by the
8 employer after the application is approved by the
9 director of taxation. The application shall certify
10 that the employer would not have incurred the eligible
11 telecommute expenses stated therein but for the
12 availability of the tax credit. The director of
13 taxation shall review the application and shall
14 tentatively approve the application upon determining
15 that it meets the requirements of this section;

16 (2) The director of taxation shall provide tentative
17 approval of the applications by the date provided in
18 paragraph (3). In no event shall the aggregate amount
19 of tax credits approved by the director of taxation
20 for all qualified employers under this section in a
21 calendar year exceed:



1 (A) \$2,000,000 for credits earned in calendar year
2 2009; and

3 (B) \$2,000,000 for credits earned in calendar year
4 2010; and

5 (3) The department of taxation shall notify each employer
6 of the tax credits tentatively approved and allocated
7 to the employer by December 31st of the year in which
8 the application was submitted. If the tax credit
9 amounts on the tax credit applications filed with the
10 director of taxation exceed the maximum aggregate
11 limit of tax credits under this subsection, then the
12 tax credits shall be allocated among the employers who
13 filed a timely application on a pro rata basis based
14 upon the amounts otherwise allowed by this section.
15 Once the tax credit application has been approved and
16 the amount approved has been communicated to the
17 applicant, the employer may make purchases approved
18 for the tax credit at any time during the calendar
19 year following the approval of the application. The
20 employer may then apply the amount of the approved tax
21 credit to its tax liability for the tax year or years
22 for which the approved application applies. If the



1 employer has a tax year other than a calendar year and
2 the calendar year expenses are incurred in more than
3 one taxable year, the credit shall be applied to each
4 taxable year based upon when the expenses were
5 incurred.

6 (e) An employer may claim up to a limit of \$1,200 for each
7 participating employee in a given calendar year to enable a
8 participating employee to begin to telecommute, which expenses
9 are not otherwise the subject of a deduction from income claimed
10 by the employer in any tax year. Eligible telecommute expenses
11 shall include, but not be limited to, expenses paid or incurred
12 to purchase computers, computer-related hardware and software,
13 modems, data processing equipment, telecommunications equipment,
14 high-speed internet connectivity equipment, computer security
15 software and devices, and all related delivery, installation,
16 and maintenance fees. Eligible telecommute expenses shall not
17 include replacement costs for computers, computer-related
18 hardware and software, modems, data processing equipment,
19 telecommunications equipment, or computer security software and
20 devices at the principal place of business when that equipment
21 is relocated to the telecommute site. These expenses shall not
22 include expenses for which a credit is claimed under any other



1 provision of this chapter. Telecommute expenses may be incurred
2 only once per employee. These expenses may be incurred directly
3 by the employer on behalf of the participating employee or
4 directly by the participating employee and subsequently
5 reimbursed by the employer.

6 (f) The director of taxation shall adopt rules in
7 accordance with chapter 91 that are necessary to implement and
8 administer this section.

9 (g) For purposes of this section, the following terms
10 shall have the following meanings:

11 "Employer" means any employer upon whom an income tax is
12 imposed by this chapter.

13 "Participating employee" means an employee who has entered
14 into a telecommute agreement with the employee's employer on or
15 after July 1, 2009. This term shall not include an individual
16 who is self-employed or an individual who ordinarily spends a
17 majority of the workday at a location other than the employer's
18 principal place of business.

19 "Telecommute" means an alternative work arrangement whereby
20 employees perform the normal duties and responsibilities of
21 their positions through the use of telecommunication devices,



1 either at home or another place apart from the employees' usual
2 place of work.

3 "Telecommute agreement" means an agreement signed by the
4 employer and the participating employee, on or after July 1,
5 2009, that defines the terms of a telecommute arrangement,
6 including the number of days per year the participating employee
7 will telecommute, as provided in subsection (a), in order to
8 qualify for the credit, and any restrictions on the place from
9 which the participating employee will telecommute.

10 "Telecommute assessment" means an optional assessment
11 leading to the development of policies and procedures necessary
12 to implement a formal telecommute program that would qualify the
13 employer for the credit provided in subsection (a), including
14 but not limited to a workforce profile, a telecommute program
15 business case and plan, a detailed accounting of the purpose,
16 goals, and operating procedures of the telecommute program,
17 methodologies for measuring telecommute program activities and
18 success, and a deployment schedule for increasing telecommute
19 activity."

20 SECTION 3. New statutory material is underscored.

21 SECTION 4. This Act shall take effect upon its approval;
22 provided that:



- 1 (1) The telecommuting income tax credit established in
2 section 2 of this Act, chapter 235- (a), Hawaii
3 Revised Statutes, shall apply to taxable years
4 beginning after December 31, 2009; and
- 5 (2) The tax credit allowed for employers conducting a
6 telecommute assessment in section 2 of this Act,
7 chapter 235- (b), Hawaii Revised Statutes, shall
8 take effect on July 1, 2009.
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Report Title:

Telecommute; Telework; Income Tax Credit

Description:

Provides an income tax credit for employers when their employees telecommute for work.

