

S.B. NO. 2711

JAN 25 2010

A BILL FOR AN ACT

RELATING TO JOB CREATION.

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

1 SECTION 1. Hawaii has felt the adverse impacts of national
2 and global economies that have seen rising unemployment,
3 business closures, personal and business bankruptcies, and
4 contraction of economic activity worldwide. Hawaii's
5 unemployment rate has risen from 2.9 per cent in January 2008 to
6 6.9 per cent in December 2009. While still below the national
7 unemployment rate, job losses have been particularly severe on
8 the neighbor islands where unemployment rates in December 2009
9 have ranged between 8.7 per cent and 11.9 per cent. It is
10 unacceptable to have this many people without work.

11 The State of Hawaii recognizes that encouraging job
12 creation is one of the most significant steps that can be taken
13 to help the State regain its economic footing and help families
14 regain their ability to support themselves. The State of Hawaii
15 also recognizes that our economy is built upon thousands of
16 small businesses that are the backbone of our economic well-
17 being and provide the vast majority of employment in our State.

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1 However, these businesses are facing uncertainty and thus
2 are hesitant to create additional employment until such time as
3 the current economic trends improve. Job creation incentives
4 have been successfully used in other States including Ohio,
5 Alabama, Kentucky, Tennessee, Indiana, and Kansas.

6 The purpose of this Act is to help encourage businesses to
7 employ Hawaii residents and spur economic growth by providing a
8 tax credit for creating and maintaining new full-time positions
9 in the workforce.

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

13 "§235- Job creation tax credit. (a) There shall be
14 allowed to each taxpayer that qualifies as a business firm
15 subject to taxes imposed by this chapter a job creation tax
16 credit that shall be deductible from the business firm's net
17 income tax liability, if any, for a maximum of three taxable
18 years for each new permanent full-time employment position
19 created above the base employment level.

20 (b) To be eligible to claim the credit, the business firm
21 must continue to employ at least the number of full-time

1 employees on an annualized basis that the business firm had upon
2 hiring the additional full-time employee.

3 (c) The amount of the job creation tax credit shall be
4 equal to the amount of the new permanent full-time employee's
5 wages actually withheld by the business firm by calculating the
6 new permanent full-time employee's wages utilizing the methods
7 and procedures set forth by the department of taxation taking
8 into account one allowance under 235-61(g), and no more.

9 (d) The job creation tax credit shall be taken against the
10 net income tax liability of the business firm after all other
11 tax credits have been taken. Any tax credit that exceeds the
12 business firm's income tax liability may be used as a credit
13 against the business firm's income tax liability in subsequent
14 years until exhausted.

15 (e) Claims for tax credits under this section, including
16 amended claims, shall be filed on or before the end of the
17 twelfth month following the taxable year for which the tax
18 credit may be claimed. Failure to file within the twelve-month
19 period shall constitute a waiver of the right to claim the
20 credit.

21 (f) The director of taxation may prepare any forms and
22 procedures that may be necessary to claim a credit under this

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1 section. The director may also require the business firm to
2 furnish information to ascertain the validity of the claims for
3 credit made under this section and may adopt, pursuant to
4 chapter 91, rules necessary to effectuate the purposes of this
5 section.

6 (g) A business firm applying for a tax credit under this
7 section shall be ineligible to claim a tax credit or use an
8 exemption under sections 209E-10, 209E-11, or 235-55.91.

9 (h) Any business firm receiving credit under this section
10 must commit to maintaining substantial operations in the State
11 for at least two years beyond the term of the company's last
12 receipt of income tax credits. Failure to comply with the
13 foregoing provision shall result in recapture of fifty per cent
14 of the credit claim under this section in all prior taxable
15 years.

16 (i) Notwithstanding any other law to the contrary limiting
17 the disclosure of tax returns or return information, the
18 department of business, economic development, and tourism, and
19 the department of labor and industrial relations shall be
20 entitled to inspect and receive tax returns and return
21 information in the administration of this credit.

22 (j) As used in this section:

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1 "Base employment level" means the number of persons
2 employed by an eligible business on the effective date of
3 enactment of this Act as evidenced by payroll records submitted
4 as part of the firm's monthly remittance of unemployment tax
5 payments to the State of Hawaii.

6 "Business firm" means any corporation, partnership,
7 subchapter S corporation, limited liability company, or sole
8 proprietorship registered to do business in the State of Hawaii
9 with the department of commerce and consumer affairs and the
10 department of taxation, subject to the taxes imposed under this
11 chapter.

12 "First year of credit eligibility" means the first full
13 taxable year for which the business firm was eligible for and
14 applied for a credit under this part.

15 "Permanent full-time employment" means a job of indefinite
16 duration at a business firm located within the State and
17 requiring either:

18 (1) A minimum of thirty-five hours of an employee's time a
19 week for the entire taxable year of the business firm
20 where the taxable year consists of not less than
21 forty-eight weeks or a portion thereof when the
22 employee was initially hired by the business firm; or

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1 (2) A minimum of 1,680 hours a year of employment, or the
2 pro-rata share from the initial hire date within the
3 year, when 2,080 hours is considered a full work year
4 "New permanent full-time position" means a position newly
5 created in the State, and, for at least ninety days prior to
6 being filled by the business firm, did not exist in the State as
7 a job position of the business firm or of another related
8 business entity; and the job position was filled during the tax
9 year and continued to exist at the end of the tax year.

10 "Eligible employee" means an individual who resides in the
11 State of Hawaii and who is receiving unemployment insurance
12 benefits, is eligible to receive such benefits, or had received
13 benefits and exhausted those benefits and does not currently
14 have permanent full-time employment.

15 "Wages" has the same meaning as set forth in section 235
16 61(a)(1)."

17 SECTION 3. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon approval;
19 provided that this Act shall apply to taxable years beginning
20 after December 31, 2009; provided further that this Act shall be
21 repealed on December 31, 2012; provided further that even though
22 this Act is repealed all unexhausted tax credits allowed under

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1 this Act shall be valid until exhausted; and provided further
2 that applications for tax credits and tax credits claimed under
3 this Act for taxable years ending before January 1, 2013 shall
4 be valid even though claimed after December 31, 2012.

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INTRODUCED BY:

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BY REQUEST

Report Title:

Job Creation Tax Credit

Description:

Provides for a job creation income tax credit for each new full time employee hired during calendar years 2010, 2011, and 2012.

JUSTIFICATION SHEET

DEPARTMENT: OFFICE OF THE GOVERNOR

TITLE: A BILL FOR AN ACT RELATING TO JOB CREATION.

PURPOSE: To encourage business firms to hire new employees by authorizing an income tax credit equal to the wages withheld by the employer, including one allowance, for each new full-time permanent position created and filled by a State resident currently receiving unemployment insurance benefits or eligible to receive such benefits.

MEANS: Adds a new section to chapter 235, Hawaii Revised Statutes.

JUSTIFICATION: Hawaii has suffered as a result of the national and global economic downturn. Much of the impact has occurred in the loss of employment for people in the State. Hawaii's unemployment rate climbed from 2.9 percent in January 2008 to 6.9 percent in December 2009. For December 2009, Maui's unemployment level was 8.7 percent and Molokai Island experienced an 11.9 percent unemployment level. These unemployment levels are unacceptable and hurt families and their ability to support themselves. Additionally, this situation places a drain on the State's other resources including unemployment insurance benefits and social services.

To encourage businesses to create new full time positions in this economic climate, the costs of new job creation must be addressed. This bill would allow companies to receive an income tax credit in the amount equal to the wages withheld by the employer, including one allowance, for each new full-time permanent position created and filled by a State resident receiving unemployment benefits. By allowing a credit equal to the wages withheld by the employer, this method

will help offset the costs to the State in most cases.

The program would cover a three year period of 2010 through 2012, when Hawaii is projected to be in a slow economic recovery. To continue to draw credits, businesses would need to remain operational for two years after their final tax credits are received, thus ensuring that the credits go to those firms that make a lasting commitment to improving the economy.

Impact on the public: Similar programs have been operational in ten other states and have shown success in creating jobs that businesses might not otherwise decide to fill. The program will give those currently drawing unemployment the opportunity to be considered for new jobs. The program allows businesses of any size and industry sector to participate as long as they meet the basic program requirements.

Impact on the department and other agencies: The Department of Taxation will be responsible for administering the tax incentive provided in this measure.

GENERAL FUND: Not applicable

OTHER FUNDS: Unemployment Trust fund should show smaller draw downs and more deposits as positions are created and filled.

PPBS PROGRAM DESIGNATION: TAX-100

OTHER AFFECTED AGENCIES: Department of Labor and Industrial Relations, Department of Business, Economic Development, and Tourism, and Department of Commerce and Consumer Affairs.

EFFECTIVE DATE: Upon approval with credits applicable for calendar year 2010 through December 31, 2012, when the bill is repealed, provided

that valid credits applied for subsequent to the repeal date can be claimed until exhausted.