

S.B. NO. 2744

JAN 25 2010

A BILL FOR AN ACT

RELATING TO TIP CREDIT.

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

1 SECTION 1. It is necessary to amend Hawaii's tip credit
2 law because the current law concerning tips does not accurately
3 reflect actual earnings, including tips, received by tipped
4 employees in the food and beverage industry.

5 The state minimum wage is currently \$7.25 per hour. In
6 1969, when the minimum wage was \$1.40, the State allowed
7 employers of tipped employees to take a credit of 20 cents of
8 every wage dollar paid to a tipped employee if that tipped
9 employee received at least \$20 per month in tips. Hawaii's tip
10 credit, which has only been adjusted once since 1969, has been
11 eroded by inflation.

12 Hawaii's "tip credit" is significantly less than the
13 federal tip credit and the tip credit in the majority of other
14 states. Further, it is counterproductive to increasing the
15 wages of the lowest paid workers in businesses when tipped
16 employees earn two to six times the minimum wage in tips per
17 hour, as employers are mandated to increase the wages of the
18 highest wage earners when tip income is taken into account.

1 Additionally, the current "tip credit" does not take into
2 consideration the investment the employer makes to create the
3 conditions that enable tipped employees to earn tips. It
4 creates a significant disparity in earning ability between
5 tipped and non-tipped employees within a business.

6 As such, tipped employees in the food and service industry
7 generally earn substantially more than the minimum wage because
8 their income includes a mandatory wage of \$7.25 per hour, plus
9 tips. The tip credit, which is set at 25 cents, should
10 therefore be changed to account for past inflation and to
11 reflect the level of tips currently received by tipped employees
12 in the food and beverage industry. This change would assist the
13 service industry in providing greater benefits and wages to
14 those employees who are not tipped and are paid at a lower pay
15 scale. These employees are usually the cooks and food
16 preparation personnel who are also more likely to be parents and
17 grandparents who are the main providers for their families.

18 This Act provides relief to Hawaii employers by increasing
19 the tip credit from 25 cents to \$1.25 upon approval. This
20 legislation also provides a formula to be enacted January 1,
21 2011, that will allow for the tip credit to automatically adjust
22 to inflation.

1 SECTION 2. Section 387-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§387-2 Minimum wages.** Except as provided in section 387-9
4 and this section, every employer shall pay to each employee
5 employed by the employer, wages at the rate of not less than [+
6 (1) ~~\$6.25 per hour beginning January 1, 2003;~~
7 (2) ~~\$6.75 per hour beginning January 1, 2006;~~ and
8 (3)] \$7.25 per hour beginning January 1, 2007.

9 The hourly wage of a tipped employee may be deemed to be
10 increased on account of tips if the employee is paid not less
11 than [~~25 cents~~] \$1.25 below the applicable minimum wage by the
12 employee's employer and the combined amount the employee receives
13 from the employee's employer and in tips is at least 50 cents
14 more than the applicable minimum wage.

15 Beginning January 1, 2011, the hourly wage of a tipped
16 employee may be deemed to be increased on account of tips if the
17 employee is paid not less than twenty-five per cent of the tips
18 claimed by the employee as income below the applicable minimum
19 wage; and the combined amount the employee receives from the
20 employee's employer and in tips is at least 50 cents more than
21 the applicable minimum wage provided that the cash wage paid by
22 the employer is not less than \$6 per hour."

S.B. NO. 2744

1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

4
5
6

INTRODUCED BY:

~~_____~~
BY REQUEST

Report Title:

Tip Credit Adjustment

Description:

Provides a segment of Hawaii's lowest paid employees and business community with economic relief by increasing Hawaii's tip credit from 25 cents to \$1.25 upon approval in 2010, and to 25 per cent of the tips claimed by an employee as income beginning January 1, 2011.

JUSTIFICATION SHEET

DEPARTMENT: Office of the Lieutenant Governor

TITLE: A BILL FOR AN ACT RELATING TO TIP CREDIT.

PURPOSE: To provide a segment of Hawaii's lowest paid employees and business community with economic relief by increasing Hawaii's tip credit from 25 cents to \$1.25 upon approval in 2010, and to 25 per cent of the tips claimed by an employee as income beginning January 1, 2011.

MEANS: Amend section 387-2, Hawaii Revised Statutes.

JUSTIFICATION: Hawaii's tip credit, which allows some of a tipped employee's pay to come directly from patrons, has only been adjusted once since 1969 when the minimum wage was \$1.40.

The tip credit is significantly less than the federal tip credit and the tip credit in the majority of other states. Further, it is counterproductive to increasing the wages of the lowest paid workers in businesses when tipped employees earn two to six times the minimum wage in tips per hour, as employers are mandated to increase the wages of the highest wage earners when tip income is taken into account.

The current "tip credit" does not take into consideration the investment the employer makes to create the conditions that enable tipped employees to earn tips. It creates a significant disparity in earning ability between tipped and non-tipped employees within a business. Moreover, income from tips is sometimes underreported, which represents a significant amount of unrealized state income tax.

Impact on the public: Businesses will be able to offer the lowest paid employees,

such as cooks and dishwashers, greater wages. Tipped employees reporting higher income from tips will be entitled to higher Social Security, unemployment and workers compensation benefits. The increase in reported income from tips will also increase the State's income tax revenue.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LBR-171.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.