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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEES ON TOURISM, CULTURE & INTERNATIONAL AFFAIRS and ECONOMIC REVITALIZATION, BUSINESS & MILITARY AFFAIRS

Monday, February 8, 2010
9:30 p.m.
State Capitol, Conference Room 312

in consideration of

HB 2408
RELATING TO ECONOMIC DEVELOPMENT

Chairs Manahan and McKelvey, Vice Chairs Tokioka and Choy, and Members of the respective Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) has concerns regarding HB2408 which seeks to provide additional resources that would enhance the functions of the respective programs – DBEDT's Film Industry Branch, Community-Based Economic Development Program and Enterprise-Zone Partnership. We agree that all these programs are important economic generators for the State and these statutorily-mandated programs identified in this measure are currently being managed capably by existing staff who have the knowledge and expertise to carry out these mandates.

HB2408 addresses the existing Chapter 231, HRS and specifically the television and film development special fund, suggesting changes that redirect the income, purpose and uses of the fund to provide perpetual support to the functions of the film office. We prefer the approach in the administration's proposed SB2682/HB2529 also addresses changes to Chapter 231, HRS but takes a broader perspective to support creative media development that includes film and television sectors. The measure looks to rename and broaden the purpose and responsibility of the current film and television development board to create a creative media commission and to rename and broaden the scope of the Hawaii television and film development special fund into the creative media development special fund. The measure provides a means to tap resources that will allow the department to carry out its functions and operations in developing, promoting and assisting film television digital media as well as other creative industries in Hawaii. We respectfully request the committee's consideration of this broader scope approach.

In the 2010 draft of Hawaii's Creative Industries report by DBEDT's research and economic analysis division (READ), the digital media, film, music, culture and arts sectors collectively contributed $4 billion to the State's GDP in 2008 and represent a workforce of 44,649 .

Hawaii's film and television production activity this year is projected to exceed $200 million in production expenditures. The computer and digital media sector employment has grown 15.9% since READ began tracking the creative sector activity in 2002. We bring this to your attention to point out that building a strong creative economy at home is just as important as attracting and servicing film production from off shore. Film, television as well as digital media, and other emerging industry sectors that support island based development of creative product should be collectively supported as all are integral to Hawaii's economic recovery.

Infrastructure is a key component of our creative industries division's mission, and we are focused on its development that crosses many sectors of the creative economy. Our digital sectors are beginning to achieve a critical mass, thanks to education and workforce development programs such as the numerous high school digital media programs, the University of Hawaii's

Academy for Creative Media, Kapiolani Community College and Leeward Community College programs in animation, interactive design and digital media production. We have a growing number of entrepreneurs and start-up companies in game design and 3D animation that are now making it possible such as Avatar Realty and new companies such as Hawaii Animation Studios have signaled an important milestone in the advancement of this sector, with their hiring of a significant number of Hawaii-based residents for full- and part-time employment.

DBEDT supports the intent of the section of HB2408 that proposes that the Community-Based Economic Development (CBED) and Enterprise Zone (EZ) Programs' personnel and operating costs be funded through the Community-Based Economic Development Revolving Fund. However, we note that legislation fails to provide adequate up-front financial support for the CBED Revolving Fund to carry the personnel and operating costs of the CBED and EZ Programs, provide grants and loans to community nonprofit organizations, and identify and obtain other funding sources besides state general funds. Although the CBED and EZ programs generate state tax revenues to the state through the assistance it provides to non-profit organizations and businesses located in economically distressed areas of our state by creating and strengthening communities, the programs do not directly general revenues to sustain its programs through fees or charges to the organizations they serve.

Thank you for the opportunity to provide these comments.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, Motion picture, digital media and film production tax credit

BILL NUMBER: SB 2144; HB 2408 (Identical)

INTRODUCED BY: SB by Fukunaga, Ige and 1 Democrat; HB by B. Oshiro

BRIEF SUMMARY: Adds a new section to HRS chapter 231 to require the department of taxation to use the information collected pursuant to HRS 235-17(h) and (I) to study the effectiveness of the motion picture, digital media, and film production income tax credit. Directs the department to report on the aggregate amount of all qualified production costs per qualified production and per qualified production per taxable year, jobs created by category and by county, compensation levels, and other factors as the department of taxation determines. The report shall be submitted to the legislature by December 1 of each year.

Amends HRS section 201-113 to rename the Hawaii television and film development special fund the Hawaii film office special fund. The first $500,000 or ____% of the net tax revenue realized by the state in each calendar year from the economic development impact of the motion picture, digital media, and film production income tax credit under HRS section 235-17, shall be deposited into the special fund. Amends the uses of the fund by deleting references to the implementation of a grant program and a venture capital program.

In order to determine the amount of tax revenue attributable to the economic development impact of the motion picture, digital media, and film production income tax credit for the purpose of determining the amount of tax revenue to be deposited into the special fund, the department of taxation is to measure the degree of economic activity generated from the motion picture, digital media, and film production income tax credit, including job creation, hotel room occupancy, restaurant sales, and other sources of related income generating activities.

Moneys in the fund shall be used for the operations of the Hawaii film office; provided that the use of moneys from the fund for current and future personnel costs shall be limited to those employees performing specialized duties and assigned to the Hawaii film office operations. Requires the department of taxation to report annually to the legislature beginning on July 1, 2011 on the deposits, appropriations, and balance in the special fund for the immediately preceding fiscal year.

Amends HRS section 210D-4 to provide that the Hawaii community-based economic development revolving fund is to fund the operations of the community-based program and the enterprise zone program under HRS chapter 209E.

Repeals HRS section 201-112 to repeal the Hawaii television and film development board.

EFFECTIVE DATE: July 1, 2010

STAFF COMMENTS: The legislature by Act 107, SLH 1997, enacted an income tax credit of 4% for costs incurred as a result of producing a motion picture or television film in the state and 7.25% for transient accommodations rented in connection with such activity. The credit was adopted largely to address the impost of the state's general excise tax on goods and services used by film producers. The legislature by Act 88, SLH 2006, increased the 4% credit to 15% of qualified production costs if the film is made on Oahu and 20% of qualified costs if filmed on a Neighbor Island. The credit is to revert back to 4% on 1/1/16.

The proposed measure would direct the department of taxation to study the effectiveness of the motion picture, digital media, and film production income tax credit. It should be noted that income tax credits are designed to reduce the tax burden by providing relief for taxes paid. Tax credits are justified on the basis that taxpayers with a lesser ability to pay should be granted relief for state taxes imposed. As it was pointed out when the Act was originally enacted, this measure merely results in a subsidy by government at the expense of all taxpayers. While the proponents of the credit try to justify the argument that Hawaii needs to enact such an incentive to compete for this type of business, one has to ask "at what price?" Perhaps when wages are paid to these select workers, there should be a phrase at the bottom of the check that says: "Paid for by the working poor taxpayers of Hawaii."

Promoters of the film industry obviously don't give much credit to Hawaii's natural beauty and more recently its relative security. If promoters of the film industry would just do their job in outlining the advantages of doing this type of work in Hawaii and address some of the costly barriers by correcting them, such tax incentives would not be necessary. From permitting to skilled labor to facilitating transportation of equipment, there are ways that could reduce the cost of filming in Hawaii. Unless these intrinsic elements are addressed, movie makers will probably demand subsidies such as this incentive. Unfortunately, they come at the expense of all taxpayers and industries struggling to survive in Hawaii.

If lawmakers want to subsidize the film industry in Hawaii, then a direct appropriation of public funds is more accountable and would subject that expenditure to public scrutiny. If taxpayers do not agree with the subsidy or the amount of public funds being spent, they can hold their lawmakers accountable for that expense.

Finally, the proposed study is like the proverbial horse and the barn door, it is a day late and a dollar short. Indeed studies done on the national level have shown that the film industry has basically held states hostage demanding subsidies, such as the film tax credit, while creating only temporary economic activity. The attraction for elected officials is being able to bask in the limelight of stardom while doing very little to improve the overall economic outlook for their local communities. The tax credit subsidies allow these favored industries to increase their profit margins at the expense of local taxpayers.

It is incredulous that lawmakers would continue to push for these subsidies while entertaining substantial tax increases on their resident constituents. While lawmakers approve these targeted tax incentives in the name of creating jobs, the higher income tax and general excise tax burden they are pondering will have businesses and families in Hawaii struggling more just to survive in these difficult economic times. It would be interesting to see how a direct appropriation of general funds to subsidize these and other industries would fare when measured against other pressing needs of the state be it education, health care, or social welfare programs. How would proponents justify subsidizing some Hollywood actor's swimming pool against homeless families or starving children? No matter how much lawmakers may wish to argue that such tax incentives create jobs, the question that should really be asked is, at whose expense? In this case it is at the expense of not only the hungry and homeless, but at the expense of the family trying to make ends meet or the mom and pop neighborhood store trying to stay in business

Finally, the bemoaning of lawmakers about the "brain-drain" of Hawaii's brightest and best is somewhat disingenuous given proposals like this when the burden of running state government shifts to all other taxpayers. Why would the "brightest and best" want to move home to Hawaii when costs are two or three times as much just to have a decent house for their families and to be able to put food on the table? One has to ask if the beneficiaries of these tax credits truly give back to the community other than lending their presence at celebrity functions? In all truth, these beneficiaries have only taken and rarely have given back the way old time businesses did so willingly in the past.

While the measure also provides that the first $500,000 or an unspecified percentage of net tax revenue realized by the state due to the economic impact of the motion picture, digital media, and film production income tax credit shall be deposited into the Hawaii film office special fund, again, the use of general funds via the appropriation process would be preferable to ensure that the Hawaii film office receives adequate funding, instead of the back door approach of a special fund. Earmarking sources of revenue, such as this measure proposes, abrogates the accountability relationship between lawmakers and the taxpayers of this state. If lawmakers truly believe that funding of the film office is an essential public program then it should be funded through the appropriation process and be measured against all the other responsibilities of state government.

Digested 1/26/10

Testimony of Thomas J. Smyth, CEcD
Before the
Committee on Tourism, Culture, & International Affairs
Committee on Economic Revitalization, business & Military Affairs
Monday, February 8, 2010 9:35 a.m. Conference Room 312
On

HB 2408 Relating to Economic Development

Chairs Manahan and McKelvey, Vice Chairs Tokioka and Choy, Committee Members:

I strongly support expansion of the existing Film Development Special Fund to include funding of Hawaii Film Office staff. A very small portion of the revenues produced by filming and related activities in Hawaii, most of which is facilitated by the Film Office, would be used for this purpose.

I also strongly support expansion of the Community-Based Economic Development Revolving Fund to fund the administrative and personnel costs for the CBED grant program and the Enterprise Zone Partnership.

It is ironic that after two of the most successful years of film activities in Hawaii, funds for the Film Office are being cut drastically. I have previously testified before this committee on the illogic of this budget cut. Just last week the efforts of those who were laid off were rewarded with the announcement of two major film projects.

The cap on the amount put into the fund should be sufficient to cover the administrative and personnel costs of the office without allowing the fund to grow inordinately.

This reasoned approach will go far in reestablishing Hawaii as a desirable place to shoot. Not just because we have the scenery and qualified personnel, but because the State of Hawaii does want to market and facilitate this most important industry.

The recent amendment to §210D-4, HRS to allow the CBED Revolving Fund to accept outside funds will provide more than enough money to cover the administrative and staff costs of these two programs. Both are efficient and cost-effective, allowing communities to better serve the economic needs of their residents and letting specific types of businesses start and grow where most needed.

Thank you for the opportunity to provide comments.