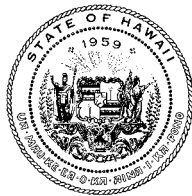


TESTIMONY

SB 2248

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**SENATE COMMITTEE ON LABOR
TESTIMONY REGARDING SB 2248
RELATING TO TAXATION**

*****WRITTEN TESTIMONY ONLY*****

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 9, 2010

TIME: 3PM

ROOM: 224

This measure provides for a nonrefundable tax credit for employer expenditures on continuing education and skills-development programs for employees.

The Department of Taxation (Department) **opposes** the tax credit in this measure because it is **outside the budget priorities this legislative session.**

The Department defers to the Department of Labor on the policy aspects of this measure.

Notwithstanding the merit of this measure, the Department cannot support the tax impact in this measure because these tax breaks are not factored into the budget. The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. Given the forecasted decrease in revenue projections, this measure would add to the budget shortfall.

The Department simply cannot support this tax incentive given the other competing priorities for general fund revenues.

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SUBJECT: INCOME, Employer continuing education tax credit

BILL NUMBER: SB 2248; HB 2842 (Identical)

INTRODUCED BY: SB by Hanabusa by request; HB by Say by request

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a qualified taxpayer to claim an employer continuing education income tax credit equal to ____% of the qualified costs incurred during the taxable year up to a maximum of \$ ____ in qualified costs in any taxable year; provided that the qualified taxpayer shall not be eligible to claim the qualified costs toward the tax credit under this section until the taxable year following the taxable year in which the qualified costs were incurred. Defines “qualified taxpayer” as an employer that has at least ____ full-time employees and expends moneys on the continuing education of a full-time employee that has been employed by the employer for at least 12 consecutive months.

Defines “continuing education” and “qualified costs” for purposes of the measure. No other income tax credit may be claimed for the qualified costs used to claim the proposed tax credit.

Credits in excess of a taxpayer’s income tax liability shall be applied to subsequent tax liability until exhausted. The director of taxation may adopt rules pursuant to HRS chapter 91 and prepare the necessary forms to claim the credit and may require proof of the claim for the credit. Claims for the credit shall be on forms provided by the department of taxation. In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for the qualified costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of the tax credit shall be determined pursuant to IRC section 704(b) (with respect to partner’s distributive share).

Adds a new section to HRS chapter 383 to limit the amount of employer contributions paid under the employment security laws for the 2010 and 2011 calendar years even if the employer hires a certain number of additional employees effective July 1, 2010.

EFFECTIVE DATE: Tax years beginning after December 31, 2009

STAFF COMMENTS: The proposed measure would permit an employer to claim an income tax credit for the cost of continuing educational programs that improve the skills or knowledge of an employee that would enable the employee to obtain a higher paying position with the employer or increase the employee’s level of productivity. It should be remembered that the use of the tax system to promote or encourage social goals is an inefficient use of the system. If enacted, this proposal would result in nothing more than a subsidy by the state to employers and would not in any way address the taxpayer’s need for tax relief.

Unless there is some sort of tax burden associated with the provision of such programs, there is

absolutely no relationship between the provision of such services and the burden that the tax system imposes on the employer. If any of this measure is enacted, it may open the door for similar requests for tax subsidies.

It should be remembered that this proposal, like many others, reflects the lack of understanding of the many challenges employers face in their attempt to stay in business and make a profit. Speaking of profit, it should be noted that these proposed credits are worthless to any business which is not making a profit as any excess credits over tax liability will not be refunded to the employer. Thus, unless the business is profitable, there will be no profits to tax and there will be no tax liability against which to apply the proposed credits.

Finally, while this measure would result in a drain of state resources, it is questionable whether the state can afford this credit given its current financial crisis.

This proposal also attempts to patronize businesses by freezing unemployment insurance premiums for calendar years 2010 and 2011 to the amount the employer contributed in the calendar year 2009 even though the employer has more employees provided the number exceeds some unspecified percentage of more employees, than the freeze on premiums would not apply. While this may be welcomed by employers, it ignores the harsh reality that the unemployment fund is running short of resources and may, in fact, be depleted before the end of the current year. While some sort of increased contributions will be necessary to keep the fund solvent, lawmakers also need to look at the benefits paid out which were increased temporarily two and half years ago. Consideration should also be given to borrowing resources from the federal government to shore up the fund.

Digested 2/8/10