
A BILL FOR AN ACT

RELATING TO MEDICAL ENTERPRISE ZONES.

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

1 SECTION 1. The legislature finds that many factors,
2 including demographics, education, lukewarm business and tax
3 environments, and Hawaii's unique and geographically isolated
4 location have contributed significantly to a chronic shortage of
5 medical and research facilities and health care professionals in
6 the State. The legislature further finds that the establishment
7 of medical enterprise zones in the State that provide a range of
8 county and state incentives will assist in stimulating the
9 creation of integrated campuses that will attract a critical
10 nucleus of medical and research facilities and create a large
11 number of highly skilled jobs in the medical and research
12 fields, including biotechnology, biomedicine, and pharmaceutical
13 research and development.

14 The purpose of this Act is to encourage the establishment
15 of modern medical and research facilities within the State and
16 attract highly skilled general and specialized medical,
17 research, and health care professionals to work in Hawaii by
18 establishing a medical enterprise zone program that initially



1 consists of a single pilot medical enterprise zone in west Maui.
 2 Limiting potential investments in a medical enterprise zone to
 3 west Maui will minimize the impact on the State and allow the
 4 State to evaluate the zone's impact without negatively affecting
 5 income streams.

6 SECTION 2. The Hawaii Revised Statutes is amended by
 7 adding a new chapter to be appropriately designated and to read
 8 as follows:

9 "CHAPTER

10 MEDICAL ENTERPRISE ZONES

11 § -1 Definitions. As used in this chapter:

12 "Department" means the department of business, economic
 13 development, and tourism.

14 "Establishment" means a single physical location where
 15 medical or research services are provided in a medical or
 16 research facility. A qualified business may include one or more
 17 establishments, any number of which may be in a medical
 18 enterprise zone.

19 "Full-time employee" means any employee for whom the
 20 employer is legally required to provide employee fringe
 21 benefits.



1 "Medical enterprise zone" means any area in the State
2 declared by the department to be eligible for benefits pursuant
3 to this chapter.

4 "Medical or research facility" includes:

- 5 (1) Acute critical access hospitals;
- 6 (2) Long-term care facilities;
- 7 (3) Medical research facilities that perform primarily
8 research and development activities relating to the
9 medical sciences, pharmaceutical development, or
10 medical treatment modalities for specific human
11 diseases or disorders and may include biomedical
12 research facilities;
- 13 (4) Offices of physicians, dentists, nurses, clinical
14 specialists, other medical or research professionals,
15 or other practitioners of the healing arts either in
16 private practice or within organized ambulatory health
17 care facilities; and
- 18 (5) Any other facility as determined by the department.

19 "Qualified business" means any medical or research facility
20 that is:

- 21 (1) Authorized to do business in this State; and
- 22 (2) Is located within the medical enterprise zone.



1 "Taxes due the State" means income taxes due under chapter
2 235.

3 § -2 **Administration.** The department shall administer
4 this chapter and have the power and duty to:

- 5 (1) Monitor the implementation and operation of this
6 chapter;
- 7 (2) Conduct a continuing evaluation program of the medical
8 enterprise zones;
- 9 (3) Assist the counties in obtaining the reduction of
10 rules within medical enterprise zones;
- 11 (4) Submit annual reports to the legislature and the
12 governor evaluating the effectiveness of the program
13 and proposing any recommended legislation;
- 14 (5) Administer and enforce rules adopted by the
15 department; and
- 16 (6) Administer this chapter in a manner such that the
17 areas designated as medical enterprise zones will
18 provide the most benefit to the areas and the State.

19 § -3 **Medical enterprise zone designation; approval.** (a)
20 Within thirty days of receiving:

- 21 (1) A description of a proposed location in a county for a
22 medical enterprise zone; and



1 (2) A general statement identifying proposed county
2 incentives to complement any state and federal
3 incentives;

4 from the governing body of the county, the department shall
5 designate the proposed area as a medical enterprise zone.

6 (b) The department shall acquire from the county any
7 additional information that the department deems necessary, and,
8 within sixty days of the date of designation pursuant to
9 subsection (a), the department shall approve the establishment
10 of the medical enterprise zone for a period of seven years.

11 § -4 **Duplicative tax incentives; prohibition.** There
12 shall be no duplication of existing state tax incentives to
13 qualified businesses that locate in a medical enterprise zone.

14 § -5 **Rules.** (a) The department, in consultation with
15 the department of taxation, shall adopt rules pursuant to
16 chapter 91 to implement this chapter, including rules relating
17 to health, safety, building, planning, zoning, and land use.
18 Rules adopted pursuant to this section shall supersede all other
19 inconsistent ordinances and rules relating to the use, zoning,
20 planning, and development of land and construction in a medical
21 enterprise zone; provided that rules adopted pursuant to this
22 section shall conform to existing law, rules, and ordinances as



1 closely as possible to comply with minimum standards for energy
2 efficiency, health, and safety.

3 (b) The department may provide by rule that lands within a
4 medical enterprise zone shall not be developed beyond existing
5 uses or that improvements thereon shall not be demolished or
6 substantially reconstructed or provide other restrictions on the
7 use of the zone.

8 § -6 Eligibility; qualified business; sale of property

9 or services. (a) Any medical or research facility may be
10 eligible to be designated a qualified business for purposes of
11 this chapter if:

12 (1) The medical or research facility begins operations in
13 a medical enterprise zone and:

14 (A) During each taxable year has at least per
15 cent of its medical enterprise zone
16 establishment's gross receipts attributable to
17 its operation within the medical enterprise zone;

18 (B) Increases its average annual number of full-time
19 medical or research professional employees by at
20 least per cent by the end of its first tax
21 year of participation; and



1 (C) During each subsequent taxable year maintains the
2 level of employment in paragraph (1)(B) or
3 greater for medical or research professional
4 employees; or

5 (2) The medical or research facility:

6 (A) Is actively engaged in the operation of a medical
7 or research facility in an area immediately prior
8 to the area being designated a medical or
9 research enterprise zone;

10 (B) Meets the requirements of paragraph (1)(B); and

11 (C) Increases its average annual number of full-time
12 employees employed at the medical or research
13 facility's establishment or establishments
14 located within the medical enterprise zone by at
15 least per cent annually.

16 (c) After approval of the medical enterprise zone, each
17 qualified business in the medical enterprise zone shall annually
18 complete and submit to the department, on an application
19 prescribed by the department, the information necessary for the
20 department to determine whether the medical or research facility
21 qualifies or continues to qualify as a qualified business. If
22 the department determines that the medical or research facility



1 qualifies as a qualified business, the department shall approve
2 the application and notify the department of taxation and the
3 relevant governing body of the county.

4 (d) A completed form approved by the department, referred
5 to in subsection (c), shall be prima facie evidence of the
6 eligibility of a medical or research facility for the purposes
7 of this section.

8 (e) Any operations or services provided by a medical or
9 research facility outside of the medical enterprise zone shall
10 not be included for the purposes of determining gross receipts
11 attributable to the active provision of services under
12 subsection (a).

13 § -7 **State business tax credit.** (a) The department
14 shall certify annually to the department of taxation the
15 applicability of the tax credit provided in this section for a
16 qualified business against any income taxes imposed under
17 chapter 235. The credit shall be:

18 (1) Eighty per cent of the tax due for the first taxable
19 year that the business qualifies as a qualified
20 business;



- 1 (2) Seventy per cent of the tax due for the second taxable
2 year that the business qualifies as a qualified
3 business;
- 4 (3) Sixty per cent of the tax due in the third taxable
5 year that the business qualifies as a qualified
6 business;
- 7 (4) Fifty per cent of the tax due in the fourth taxable
8 year that the business qualifies as a qualified
9 business;
- 10 (5) Forty per cent of the tax due in the fifth taxable
11 year that the business qualifies as a qualified
12 business;
- 13 (6) Thirty per cent of the tax due in the sixth taxable
14 year that the business qualifies as a qualified
15 business; and
- 16 (7) Twenty per cent of the tax due in the seventh year
17 that the business qualifies as a qualified business.

18 Any tax credit not used in a taxable year shall not be
19 applied to future taxable years.

20 (b) When a partnership is eligible for a tax credit under
21 this section, each partner shall be eligible for the tax credit
22 in proportion to that partner's income tax liability from the



1 partnership. Any qualified business earning taxable income from
2 the provision of the qualified business's services, both within
3 and without the medical enterprise zone, shall allocate and
4 apportion its taxable income attributable to that provision of
5 services. Tax credits provided for in this section shall only
6 apply to taxable income of a qualified business attributable to
7 the services provided within the medical enterprise zone.

8 (c) In addition to any other tax credit authorized under
9 this section, a qualified business shall be entitled to a tax
10 credit against any taxes due the State in an amount equal to a
11 percentage of unemployment taxes paid pursuant to chapter 383.
12 The amount of the credit shall be equal to:

13 (1) Eighty per cent of the unemployment taxes paid for
14 during the first taxable year that the business
15 qualifies as a qualified business;

16 (2) Seventy per cent of the unemployment taxes paid for
17 the second year that the business qualifies as a
18 qualified business;

19 (3) Sixty per cent of the unemployment taxes paid for the
20 third year that the business qualifies as a qualified
21 business;



1 (4) Fifty per cent of the unemployment taxes paid for the
2 fourth year that the business qualifies as a qualified
3 business;

4 (5) Forty per cent of the unemployment taxes paid for the
5 fifth year that the business qualifies as a qualified
6 business;

7 (6) Thirty per cent of the unemployment taxes paid for the
8 sixth year that the business qualifies as a qualified
9 business; and

10 (7) Twenty per cent of the unemployment taxes paid for the
11 seventh year that the business qualifies as a
12 qualified business.

13 (d) Tax credits provided for in subsection (c) shall only
14 apply to the unemployment tax paid on employees employed at the
15 qualified business's establishment or establishments located
16 within the medical enterprise zone. Any tax credit not used in
17 a taxable year shall not be applied to future tax years.

18 § -8 **State general excise and use tax exemptions.** The
19 department shall certify annually to the department of taxation
20 that any qualified business is exempt from the payment of taxes
21 pursuant to chapter 237 on the gross proceeds from the provision
22 of medical or research services and taxes pursuant to chapter



1 238 for purchases by the qualified business. The gross proceeds
2 received by a contractor licensed under chapter 444 shall be
3 exempt from taxation under chapter 237 for construction within a
4 medical enterprise zone performed for a qualified business
5 within a medical enterprise zone. The exemption in this section
6 shall extend for a period not to exceed seven years after the
7 effective date of this chapter.

8 § -9 **Local incentives.** (a) A county may propose local
9 incentives, including:

- 10 (1) Reduction of permit fees;
- 11 (2) Reduction of user fees; and
- 12 (3) Reduction of real property taxes.

13 (b) A county may also propose measures for regulatory
14 flexibility including:

- 15 (1) Special zoning districts;
- 16 (2) Permit process reform;
- 17 (3) Exemptions from local ordinances; and
- 18 (4) Other public incentives proposed in the locality's
19 application, which shall be binding upon the locality
20 upon designation of the medical enterprise zone.

21 § -10 **Termination of medical enterprise zone.** Upon
22 designation of the area as a medical enterprise zone, the



1 proposals for regulatory flexibility, tax incentives, and other
2 public incentives specified in this chapter shall be binding
3 upon the governing body of the county for a period of seven
4 years. If the governing body of the county is unable or
5 unwilling to provide any of the incentives set forth in section
6 -9 or other incentives acceptable to the department, and the
7 department has not adopted rules pursuant to section -5 that
8 supersede inconsistent ordinances and rules relating to the use,
9 zoning, planning, and development of land and construction in a
10 medical enterprise zone, then the medical enterprise zone shall
11 terminate. Qualified businesses located in the medical
12 enterprise zone shall be eligible to receive the tax incentives
13 provided by this chapter even though the zone designation has
14 terminated. No medical or research facility may become a
15 qualified business after the date of zone termination."

16 SECTION 3. The governing body of the county of Maui,
17 pursuant to this Act, shall transmit to the director of
18 business, economic development, and tourism, no later than
19 November 30, 2011, a description of a proposed location in west
20 Maui as a pilot medical enterprise zone. The director of
21 business, economic development, and tourism, pursuant to this



1 Act, shall designate the proposed area as a medical enterprise
2 zone for a period of seven years.

3 SECTION 4. The department of business, economic
4 development, and tourism, in consultation with the department of
5 taxation, shall submit a written report to the legislature by
6 December 31 of each year, beginning in 2012, regarding the
7 implementation of the pilot medical enterprise zone in west
8 Maui, including an evaluation of the success or failure of the
9 pilot medical enterprise zone to fulfill its intended purpose.

10 SECTION 5. It is the intent of this Act not to jeopardize
11 the receipt of any federal aid nor to impair the obligation of
12 the State or any agency thereof to the holders of any bond
13 issued by the State or by any agency, and to the extent, and
14 only to the extent, necessary to effectuate this intent, the
15 governor may modify the strict provisions of this Act, but shall
16 promptly report any modification with reasons therefore to the
17 legislature at its next regular session thereafter for review by
18 the legislature.

19 SECTION 6. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun, before its effective date.

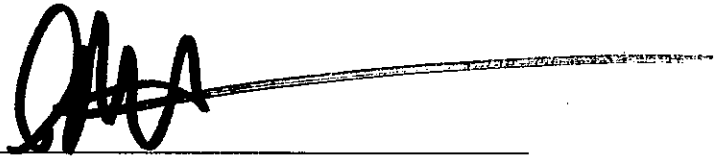


1 SECTION 7. If any provision of this Act, or the
2 application thereof to any person or circumstance is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act, which can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 8. This Act shall take effect upon its approval;
8 provided that this Act shall apply to taxable years beginning
9 after December 31, 2010, and shall be repealed on January 1,
10 2018.

11

INTRODUCED BY:



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JAN 20 2011



Report Title:

Medical Enterprise Zones; Pilot Project in West Maui

Description:

Establishes medical enterprise zones in the State to encourage the development of medical and research services. Creates a 7-year pilot medical enterprise zone in West Maui.

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