

HB 1308

HD2, SD1



UNIVERSITY OF HAWAI'I SYSTEM
Legislative Testimony

Testimony Presented Before the
Senate Committee on Ways and Means
April 7, 2011 at 9:30 a.m.
By Gene I. Awakuni
Chancellor, University of Hawai'i – West O'ahu

HB 1308 HD2 SD1 – RELATING TO DIGITAL MEDIA

Dear Chair Ige, Vice Chair Kidani and Members of the Committee:

Thank you for this opportunity to reiterate our support for HB 1308 HD 2 SD 1, which creates digital media subzones surrounding University of Hawai'i campuses. As you know, UH West O'ahu is building a new campus in Kapolei that will make a university education more accessible to residents in Hawaii's fastest growing region. We are also building a campus that will serve as a driver for economic growth.

One of the ways we are contributing to job creation is through the development of the Center for Creative Media. We envision the center as the premiere media school in the Pacific Rim that capitalizes on the wealth of creative talent, recognized achievement and entrepreneurial spirit of West O'ahu schools and programs including Waianae's Searider Productions and Makaha Studios.

To further leverage our programs and create synergies that will propel the development of new digital industry jobs, we are also embarking upon the development of a science and technology park next to the campus with the goal of attracting digital media companies to locate there. Therefore we support the intent of this bill, which would assist us in our efforts to grow the emerging industry of digital media.

Thank you for your support of UH West O'ahu.

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SUBJECT: INCOME, MISCELLANEOUS, Digital media infrastructure tax credit

BILL NUMBER: HB 1308, SD-1

INTRODUCED BY: Senate Committees on Economic Development and Technology and Education

BRIEF SUMMARY: Adds a new part to HRS chapter 209E to establish a digital media enterprise subzone as a geographic area located within an enterprise zone which is: (1) located within a ____ mile radius of a University of Hawaii campus, on or off campus; or (2) any other delineated geographic area designated as a digital media enterprise subzone by the legislature; provided that effective July 1, 2011 to June 30, 2013 the establishment of a subzone shall be limited to an area located within a ____ mile radius, on or off campus, of the University of Hawaii-West Oahu.

Allows a taxpayer to claim a tax credit for investment expenditures made for all qualified digital media infrastructure projects within a digital media enterprise subzone in the amount of ____% of the taxpayer's base investment; provided that the tax credit shall be reduced by any credit claimed by the taxpayer under HRS chapter 235 for the same base investment. No more than \$ ____ in total tax credits under this section shall be authorized in any one taxable year.

Tax credits in excess of a taxpayer's tax liability shall not be refunded but may be carried forward to offset net income tax liability under HRS chapter 235 in subsequent tax years for a period not to exceed 10 tax years or until exhausted, whichever occurs first. Stipulates that the credit shall be claimed after all other tax credits available to the taxpayer have been claimed. Allows a taxpayer eligible to claim a tax credit under this section to assign all or a portion of a tax credit to any assignee. Allows an assignee to subsequently assign a tax credit or any portion of a tax credit to one or more assignees. A taxpayer may claim a portion of a tax credit and assign the remaining tax credit amount. A tax credit assignment under this subsection shall be irrevocable. The tax credit assignment under this subsection shall be made on a form prescribed by the department of taxation.

Further delineates procedures to qualify for the credit including the submission of a \$100 application fee and a tax credit certification fee to cover the costs of administering the tax credit certification program by DBEDT. Also delineates conditions to qualify for the credit by the taxpayer. If, at the close of any taxable year: (1) the digital media infrastructure project no longer qualifies for the tax credit established under this section; (2) the digital media infrastructure project or an interest in the digital media infrastructure project has been sold by the taxpayer making a base investment in the qualified digital media infrastructure project; or (3) the taxpayer has withdrawn the taxpayer's base investment wholly or partially from the qualified digital media infrastructure project, the tax credit claimed under this section shall be recaptured in the amount equal to 25% of the amount of the total tax credit claimed in the preceding two taxable years. The amount of the recaptured tax credit shall be added to the taxpayer's tax liability for the taxable year in which the recapture occurs under this subsection.

The credit shall be repealed on June 30, 2021.

Amends HRS chapter 431 by adding Section 431:7- to provide that the digital media infrastructure tax credit shall be applicable to this article on July 1, 2011. Repeals this section on June 30, 2021.

Renames the Hawaii television and film development special fund as the Hawaii film office special fund, delineate moneys that shall be deposited into the fund and that the monies in the fund shall be used for operations of the Hawaii film office, including personnel costs of staff positions existing on November 1, 2010; provided that the use of the fund for personnel costs shall be limited to employees performing specialized duties and assigned solely to the Hawaii film office. This section shall be effective until June 30, 2021.

Amends HRS section 201-113 to delineate uses of the Hawaii film office special fund. This section shall take effect on July 1, 2021.

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: The proposed measure establishes a digital media enterprise subzone within enterprise zones and surrounding areas of the University of Hawaii campuses. It also proposes a tax credit for investment expenditures made for all qualified digital media infrastructure projects within a digital media enterprise subzone in the amount of _____% of the taxpayer's base investment in addition to any other tax incentives afforded to businesses in an enterprise zone. While this measure proposes tax credits that would result in a payout of state funds, it is incredulous that a proposal such as this would be submitted given the financial crisis in state finances.

In addition, while the measure allows any excess tax credit for investment expenditures to be assigned to any assignee who subsequently may assign a tax credit to one or more assignees, this would create an administrative and record keeping nightmare for the department of taxation.

In an enterprise zone, businesses are attracted and encouraged to relocate to the zone through tax incentives, bonds, and other appropriate measures. Businesses located in an enterprise zone may claim a credit against taxes paid for a period of seven years and also allows the sale of items sold by such businesses to be exempt from the general excise tax.

While it appears that it is the intent of the legislature to encourage the development of digital media in the state, enterprise zones merely exacerbate what is already considered a poor climate in which to do business. Singling out businesses for preferential treatment merely confers preferences for those businesses at the expense of all other taxpayers.

Concurrent efforts must be made to improve Hawaii's business climate to enhance the economic prospects for all businesses. Enterprise zones are merely an abdication of government's responsibility to create a nurturing and supportive business climate so that all businesses can thrive in Hawaii and provide the jobs the people of Hawaii need.

Instead of expanding the enterprise zone program, the program should be repealed in favor of across-the-board tax relief for all businesses in Hawaii. For example, the consultant to the most recent Tax Review Commission suggested that all business-to-business transactions be exempt from the general excise tax as a means of reducing not only the cost of doing business in Hawaii but the overall cost of living.

Indeed, has there been a comprehensive evaluation of the program and do lawmakers know exactly how much enterprise zone businesses have benefitted and whether or not they have created the jobs promised when the program was first established? If, in fact, lawmakers believe that they need these special zones to attract businesses and to create jobs, what does that say about those areas of the state that are not so favored? Does, in fact, Hawaii's harsh business climate and poor reputation for a place to invest come as a result of providing such tax breaks at the expense of those businesses and individuals who cannot claim these tax incentives? Does the high burden of taxes have to be maintained because "tax relief" is extended to only a chosen few? This is the problem that lawmakers have created in recent years as they singled out zones like these or select industries for most favored status. If that is the case, then lawmakers should hang out a sign that says don't come to Hawaii or don't invest in Hawaii unless you can secure a tax break from the legislature.

Inasmuch as this proposal seems to benefit the University of Hawaii as the subzones would be located within an unspecified mile radius of a University campus, consideration should be given to offsetting the revenues losses with a reduction in general fund appropriations to the University. At least that trade off would insure revenue neutrality for the state general fund.

This, along with proposals from film producers, seems to have caught the eye and excitement of lawmakers. Certainly the promise of the land of milk and honey seems all too good to be true especially amidst the doom and gloom of an \$850 million budget shortfall. However, the harsh reality is that on the other end taxpayers are looking at proposals to raise taxes, tax pensions, raise alcohol taxes, slap new taxes on sugary drinks and yet another round of fee and user charge increases. With the loss of millions of dollars in tax breaks and tax credits, how can local taxpayers buy into proposals like these, especially in light of the fact that lawmakers are unwilling to make cuts in other programs? Before lawmakers go off the deep end entranced by all of these wonderful offers to bring the state to the land of milk and honey, they need to address the fiscal realities on the road before them. On top of this all, lawmakers have yet to address the unfunded liability of the state's retirement and health system.

So while there is the promise of a new industry and increased career opportunities, lawmakers must return to the cold hard reality of solving the problems at hand. The long and short of it is the due in large part to the irresponsibility of handling state finances in the past, taxpayers cannot afford proposals like this. Thanks to gushing generosity of those lawmakers who gave the state's bank away in all sorts of tax incentive schemes in recent years, taxpayers cannot afford what looks like a promising opportunity.

Digested 3/29/11

TESTIMONY IN SUPPORT OF HB 1308
SENATE WAYS AND MEANS COMMITTEE
APRIL 7, 2011, 9:30A

SENATOR DAVID IGE, CHAIR
SENATOR MICHELLE KIDANI, VICE CHAIR

CHAIR IGE, VICE CHAIR KIDANI, MEMBER OF THE COMMITTEE,

THANK YOU FOR THE OPPORTUNITY TO TESTIFY TODAY IN SUPPORT OF
HB 1308, RELATING TO DIGITAL MEDIA.

I AM VERY PLEASED TO COME BEFORE YOU AS A PRIVATE CITIZEN AND
AS THE FOUNDER AND DIRECTOR OF THE ACADEMY FOR CREATIVE
MEDIA AT THE UNIVERSITY OF HAWAII SYSTEM WHICH THIS COMMITTEE
WAS INSTRUMENTAL IN FUNDING BACK IN 2004.

I AM PROUD TO REPORT THAT THROUGH YOUR EFFORTS AND A GREAT
FACULTY, OUR FIRST PROGRAM AT MANOA IS OVER SUBSCRIBED WITH
AN AGGREGATE ENROLLMENT OF 361 STUDENTS, 145 MAJORS, AND 103
BA DEGREES ALREADY CONFERRED.

BUT WHAT REALLY MATTERS IS THE NUMBER OF GRADUATES WHO
HAVE FOUND EMPLOYMENT IN THE MEDIA INDUSTRY RIGHT HERE IN
HAWAII.

ACM WAS DESIGNED TO BE A CATALYST FOR THE DIVERSIFICATION OF
OUR ECONOMY.

TODAY WHEN YOU WATCH THOSE COMMERCIALS FROM HAWAIIAN TEL
"ALWAYS LOCAL, ALWAYS ON" YOU SHOULD KNOW THAT THEY WERE
SHOT IN HIGH DEFINITION STATE OF THE ART RED CAMERA SYSTEMS
BY OUR GRADUATES WHO FOUNDED THE 1001 STORIES PRODUCTION
COMPANY.

OR WHEN YOU SEE THE WALKING TALKING STORAGE UNITS OR THE
GIANT TARO OR TALKING OMILU, YOU SHOULD BE PROUD THAT THOSE
ANIMATED ELEMENTS WERE DESIGNED AND EXECUTED BY ANOTHER
ACM GRADUATES' COMPANY, BLUE WATER MULTI MEDIA – THE FIRST 3D
EFFECTS COMPANY IN THE STATE.

IF YOU WERE TO VISIT HAWAII ANIMATION STUDIO, YOU WOULD FIND
THAT THE MAJORITY OF THEIR EMPLOYEES COME FROM THE ACM OR
KCC'S NEW MEDIA ARTS.

ON THE SETS OF HAWAII FIVE-0, LOST, OFF THE MAP, PIRATES OF THE CARIBBEAN, THE DESCENDANTS, AND VIRTUALLY EVERY TV AND FILM SHOT IN HAWAII, THERE ARE ACM GRADUATES NOW FULLY EMPLOYED IN THE UNIONS BEHIND THE CAMERAS.

AND JUST THIS WINTER, THE FIRST HAWAIIAN LANGUAGE FILM EVER TO SHOW AT THE PRESTIGIOUS SUNDANCE FILM FESTIVAL, "STONES," FROM ACM GRAD TY SANGA, PREMIERED TO GREAT ACCLAIM.

BUT THIS IS NOT LIMITED TO ACM. GO OUT TO WAIANAE AND YOU'LL FIND A HUNDRED HIGH SCHOOL STUDENTS CREATING 3D ANIMATION WITH THE SAME SOFTWARE AS THE PIXAR MOVIES.

THANKS TO THE FORSIGHT AND FUNDING OF THIS LEGISLATURE, OUR STUDENTS ARE SUCCEEDING IN BUILDING A HAWAII BASED DIGITAL MEDIA INDUSTRY.

BUT THIS SUCCESSFUL WORKFORCE DEVELOPMENT OF 21ST CENTURY, LIVING WAGE JOBS IN THE GLOBAL ENTERTAINMENT BROADBAND ECONOMY NEEDS TO GO TO THE NEXT LEVEL.

WE'RE STILL A SMALL POND.

WITH HUNDREDS OF GRADUATES COMING ON LINE, IT'S NOT ENOUGH TO MAKE LOCAL COMMERCIALS OR FIND PRODUCTION WORK WHEN IT HAPPENS TO COME HERE.

WE NEED TO GROW THE PIE.

THIS BILL, HB 1308, HAS THE OPPORTUNITY TO BE A GAME CHANGER.

THIS BILL HAS THE CHANCE TO TRANSFORM OUR PRODUCTION CAPACITY AND MOVE US BEYOND THE "FEAST OR FAMINE" CYCLE THAT HAS CHARACTERIZED OUR TRADITIONAL FILM AND TELEVISION INDUSTRY.

HAWAII HAS BEEN BLESSED WITH LONG RUNNING EPISODIC SHOWS FILMED ENTIRELY IN OUR STATE, STARTING WITH HAWAII FIVE-0, CONTINUING WITH MAGNUM, PI, AND NOW, ONCE AGAIN, WITH FIVE-0 2.0.

WHY DO SHOWS COME HERE? WE ARE THE PREMIERE TROPICAL LOCATION IN THE WORLD. NO ONE CAN BEAT OUR BLUE SKIES, BEACHES, AND JUNGLES. THIS HAS PROVIDED A STEADY STREAM OF PRODUCTION WHEN HOLLYWOOD NEEDS THESE KINDS OF LOCATIONS.

THIS LAST YEAR, THE DESCENDANTS, PIRATES OF THE CARRIBEAN 4, SOUL SURFER, JOURNEY TO THE CENTER OF THE EARTH, BATTLESHIP, JUST GO WITH IT, THE TEMPEST AND OTHERS ALONG WITH FIVE-0 AND OFF THE MAP BROUGHT IN OVER \$400 MILLION IN DIRECT SPEND FROM PRODUCTION COMPANIES.

THIS YEAR, IT'S NOT LOOKING SO GREAT. HAWAII FIVE-0 WRAPS THIS MONTH AND THERE ARE RUMOURS OF SHOWS COMING IN THE FALL, BUT NOTHING DEFINITE.

WHY? WELL, I GUESS THERE AREN'T A LOT OF GREEN LIGHTS FOR SCRIPTS INVOLVING BEACHES AND JUNGLES.

AND WE'RE MORE EXPENSIVE OR JUST AS EXPENSIVE AS LOS ANGELES.

AND WE DON'T HAVE THE INFRASTRUCTURE TO SHOOT ANYTHING EXCEPT EXTERIORS SAVE FOR THE SINGLE, STATE OWNED STAGE AT DIAMOND HEAD OR WHEN SHOWS ARE LUCKY ENOUGH TO FIND LANDLORDS WILLING TO REPURPOSE EXISTING BUILDINGS – AS WITH HAWAII FIVE-0 AND THE FORMER ADVERTISER BUILDING.

BUT THAT'S A SHORT TERM LEASE.

AND THAT'S WHAT MAKES THIS BILL DIFFERENT – IT INCENTIVIZES THE BUILDING OF ACTUAL STUDIOS AND THE BUILD OUT OF THE PRODUCTION SERVICES COMPANIES – VISUAL EFFECTS, POST PRODUCTION, SET BUILDING, SOUND RECORDING, ANIMATION FOR PRE-VISUALIZATION, DIGITAL DAILIES AND DIGITAL INTERMEDIATE COLOR CORRECTION ETC – THAT ENHANCE OUR DESIRABLE LOCATIONS.

AND IT CALLS FOR BUILDING OUR WORKFORCE WITH JOBS THAT OUR STUDENTS ARE MORE THAN QUALIFIED TO DO.

WHY ARE DIGITAL COMPANIES SO IMPORTANT? BECAUSE THEIR COMPUTER ANIMATED OUTPUT IS NOT BASED ON OUR TROPICAL LOCATIONS. CGI ANIMATION CAN BE SET ANYWHERE.

HAWAII ANIMATION STUDIO HAS DONE "VEGGIE TALES," A CARTOON SERIES CALLED "FISH AND CHIPS" IN TANDEM WITH A STUDIO IN PARIS, AND NOW ARE CREATING DINOSAURS FOR THE DISCOVERY CHANNEL.

SB 318 MAKES POSSIBLE THE SHOOTING OF VISUAL EFFECTS DRIVEN FILMS LIKE "300" WHICH UTILIZE VAST GREEN SCREEN STAGES TO COMPOSITE VIRTUAL SETS. MOST BLOCKBUSTER TENTPOLE FILMS

REQUIRE THIS KIND OF STAGE SPACE TO EXECUTE. WE ARE NOT IN CONSIDERATION FOR THESE PICTURES.

A PICTURE LIKE "JOURNEY TO THE CENTER OF THE EARTH" SHOT ALL THEIR EXTERIORS HERE – THEN WENT TO NORTH CAROLINA TO USE THEIR STAGES. "BATTLESHIP" DID THE SAME THING – THEY WENT TO LOUISIANA FOR THEIR STUDIO WORK. "PIRATES OF THE CARIBBEAN 4," SAME THING, EXCEPT THEY WENT TO LONDON AND LA ONCE THEY HAD FINISHED IN KANEOHE BAY.

WE WILL NEVER GROW THE PIE UNTIL WE HAVE THE STUDIO SPACE AND THE COMPANIES THAT SUPPORT STUDIO BASED SHOOTING.

WHY STOP AT ONLY HALF THE PRODUCTION?

WE'RE LUCKY TO HAVE WHAT WE GET, BUT WE WILL NEVER TRULY MANAGE THIS AS A BUSINESS IF WE RELY SOELY ON WAITING FOR HOLLYWOOD TO GREENLIGHT PICTURES THAT HAVE TO HAVE BEACHES OR JUNGLES.

AND CAN AFFORD TO COME HERE.

HAWAII IS UNIQUE IN MANY WAYS. BUT ONE OF THE THINGS THAT SETS US APART FROM OTHER STATES AND THEIR DESIRE TO GROW THEIR FILM AND TELEVISION SECTOR IS THAT MEDIA HAS DEFINED OUR STATE.

OUR NUMBER ONE INDUSTRY – TOURISM – GETS AN INCALCULABLE BOOST WITH EVERY EPISODE OF HAWAII FIVE-O AIRING IN THE US AND 200 OTHER COUNTRIES.

EVEN SHOWS NOT SET IN HAWAII FROM "LOST" TO "PIRATES" BOOST OUR APPEAL TO VISITORS FROM AROUND THE WORLD.

BUT FOR ME, THE MAIN REASON FOR SUPPORTING THIS BILL IS THE OPPORTUNITIES IT WILL BRING FOR OUR STUDENTS, WHETHER FROM THE ACM OR OTHER MEDIA PROGRAMS ACROSS THE STATE.

THIS LEGISLATURE HAD THE FORESIGHT TO FUND AN EDUCATIONAL PROGRAM, THE ACADEMY FOR CREATIVE MEDIA AT UH TO GIVE OUR STUDENTS THE SKILLS TO CONNECT TO THE GLOBAL ENTERTAINMENT ECONOMY AND TO STAY IN HAWAII.

AND OUR KIDS HAVE RESPONDED WITH AWARD WINNING SHORTS, STARTING NEW BUSINESSES, AND BUILDING A NEW PILLAR FOR OUR ECONOMY.

THIS BILL WILL HELP THEM TO FULLY REALIZE THAT DREAM.

THANK YOU FOR THE OPPORTUNITY TO TESTIFY TODAY.

SINCERELY,

CHRIS LEE

FOUNDER AND DIRECTOR
ACADEMY FOR CREATIVE MEDIA
UNIVERSITY OF HAWAII SYSTEM