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**From:** Tina Desuacido [tina500@juno.com]  
**Sent:** Wednesday, January 26, 2011 2:13 PM  
**To:** ERBtestimony  
**Subject:** Tax Foundation Testimony  
**Attachments:** h0801-11.pdf; h0810-11.pdf; h0811-11.pdf

**TRANSMISSION OF TESTIMONY**

**DATE:** Wednesday, January 26, 2011  
**TO:** House Committee on Economic Revitalization & Business  
**FROM:** Tax Foundation of Hawaii

**Total Pages 6**

**FOR:** Rep. Angus McKelvey, Chair  
**Testifier:** Lowell L. Kalapa, President - Tax Foundation of Hawaii

**(Mr. Kalapa will not appear in person at the hearing.)**

**Date of Hearing - Thursday, January 27, 2011**

**Time of Hearing - 9:00 am**

**HB 801 - Relating to Taxation (2 pages)**  
**HB 810 - Relating to Employment (2 pages)**  
**HB 811 - Relating to Employment (2 pages)**

**Number of copies - 4**

**Thank you.**

# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** INCOME, Employment increase tax credit

**BILL NUMBER:** HB 810

**INTRODUCED BY:** Say

**BRIEF SUMMARY:** Adds a new section to HRS chapter 235 to allow taxpayers to claim an employment increase tax credit of up to \$50,000 each year beginning after December 31, 2010 or December 31, 2011. A taxpayer shall be eligible for the tax credit in either or both taxable years if the taxpayer increased the: (1) number of employees employed in the taxpayer's business in calendar year 2011 or 2012 by at least 10% than the number of employees employed in the taxpayer's business in the immediately preceding calendar year; and (2) total wages paid by the taxpayer in calendar year 2011 or 2012 by at least 10% than the total wages paid in the immediately preceding calendar year.

The amount of the credit shall be 10% of the amount of the increase in total wages paid in calendar year 2011 or 2012, as applicable, over the total wages paid in the immediately preceding calendar year. Stipulates that the tax credit for increases of employees and total wages paid in calendar year 2011 shall be deductible from the taxpayer's net income tax liability for the taxable year beginning after December 31, 2010; and the tax credit for increases of employees and total wages paid in calendar year 2012 shall be deductible from the taxpayer's net income tax liability for the taxable year beginning after December 31, 2011.

Delineates provisions for the calculation of the credit if a taxpayer acquires the business of or succeeds an employer who employed employees and paid total wages in calendar year 2010, 2011, or 2012.

If any tax credit claimed by a taxpayer under this section exceeds the taxpayer's income tax liability for the taxable year beginning after December 31, 2010, or December 31, 2011, as applicable, the excess of tax credit over liability may be claimed against the taxpayer's future income tax liability until exhausted.

Requires all claims for the credit to be filed on or before the end of the twelfth month following the close of the taxable year beginning after December 31, 2010 or December 31, 2011. If a portion of the tax credit is unused in that taxable year and carried forward, the carried forward credit shall be claimed on or before the twelfth month following the close of each succeeding taxable year until exhausted. Failure to comply with the foregoing provisions shall constitute a waiver of the right to claim the credit.

Directs the director of taxation to use form HW-3 to determine the number of employees of and total wages paid by a taxpayer and the amount of the tax credit to which the taxpayer is entitled. If, before December 31, 2013, the director discontinues or revises form HW-3, the director shall ensure that the successor form enables a taxpayer to furnish the information necessary to claim a tax credit under this section. Allows the director of taxation to: (1) prepare the forms necessary to claim a tax credit; (2) require the taxpayer to furnish information additional to form HW-3 or a successor form, to ascertain the validity of the claim for the tax credit under this section; and (3) adopt rules necessary to effectuate the

purposes of this section pursuant to HRS chapter 91.

Defines “employee,” “form HW-3,” “net income tax liability,” “number of employees,” “total wages,” and “wages” for purposes of the measure.

This act shall be repealed on December 31, 2013; provided that the repeal of this act shall not prohibit a taxpayer from claiming any carryover tax credits after December 31, 2013.

**EFFECTIVE DATE:** Tax years beginning after December 31, 2010

**STAFF COMMENTS:** This measure would provide an income tax credit of up to \$50,000 in each of two years for those employers who are able to “grow” their business by 10% in employees and wages. 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 such employers and would not in any way address the employer’s need for tax relief.

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. It should be noted that these proposed credits are worthless to any business that 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.

While there is no limitation of the amount of credit that may be claimed by all employers, this measure could potentially result in a drain of state resources. It is questionable whether the state can afford this credit given its current financial crisis. Also, there appears to be no minimum time period the additional employees must be retained in order to claim the credit. As proposed, a new employee may be hired and laid off in a few years and the employer would still be eligible for the credit.

Finally, while the intent of the measure is to encourage employers to expand their businesses, it should be remembered that a business must have sufficient growth or activity to justify the hiring of additional employees and increases in wages paid. In the state that the economy is right now, it is commendable that many businesses are still around as compared to those that have shuttered their doors recently. Thus, while the intent of this measure is commendable, it falls far short of recognizing the challenges facing business in this economic environment. Rising costs of unemployment insurance, the possibility of an increase in the general excise tax, and increases in fees as well a new maze of regulations with which to comply merely increases the cost of doing business in Hawaii. Until these issues are addressed, no amount of tax incentives will improve the outlook for business and the jobs they create.

Digested 1/26/11



Representative Angus McKelvey, Chair  
Representative Isaac Choy, Vice Chair  
Committee on Economic Revitalization & Business

HEARING      Thursday, January 27, 2011  
                  9:00 am  
                  Conference Room 312  
                  State Capitol, Honolulu, Hawaii 96813

RE:      **HB810, Relating to Employment**

Chair McKelvey, Vice Chair Choy and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to the support of the retail industry and business in general in Hawaii. The retail industry is the one of the largest single employers in the state, employing almost 23% of the labor force.

**RMH supports the concept and intent of HB810**, which provides a tax credit for increases in the total number of persons employed and total wages paid by a taxpayer between 2010 and 2012.

It is imperative that, as the economy continues its fragile improvement, both government and employers focus on creating jobs as the path to true recovery for our State.

Our concern is that we have not had sufficient time to fully review this measure with our CEOs, human resources managers and tax accountants in order to provide informed and productive comments. We respectfully request the opportunity to participate in further dialogue with this committee before proceeding.

Thank you for your consideration and for the opportunity to submit testimony.

Carol Pregill, President

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