
A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

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

1 SECTION 1. The State recognizes that Hawaii has felt the
2 adverse impacts of national and global economies that have seen
3 rising unemployment, business closures, personal and business
4 bankruptcies, and contraction of economic activity worldwide.
5 Hawaii's unemployment rate has risen from 3.0 per cent in
6 January 2008 to 6.5 per cent in November 2011.

7 The purpose of this Act is to spur economic growth by
8 encouraging businesses to hire recently laid-off employees
9 through the provision of a tax credit for hiring those
10 employees. The credit shall be equal to a fraction of the
11 Federal Insurance Contributions Act taxes that businesses will
12 pay on the newly-hired employees.

13 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§235- Hiring incentive tax credit. (a) There shall be
17 allowed to each taxpayer that qualifies as an eligible business
18 subject to taxes imposed by this chapter a hiring incentive tax



1 credit that shall be deductible from the eligible business's net
2 income tax liability, if any, for the taxable year in which the
3 credit is properly claimed.

4 (b) The amount of the hiring incentive tax credit shall be
5 calculated as follows:

6 (1) For each eligible employee that the eligible business
7 hired above the base employment level into a full-time
8 permanent position after January 24, 2012, and before
9 June 1, 2012, and was continuously employed for the
10 minimum qualifying term of employment from the date of
11 hire, two-thirds of the eligible business's total
12 taxes imposed on the eligible business during the
13 minimum qualifying term of employment pursuant to
14 title 26 United States Code section 3111 for that
15 eligible employee; and

16 (2) For each eligible employee that the eligible business
17 hired above the base employment level into a full-time
18 permanent position after May 31, 2012, and before
19 January 1, 2013, and was continuously employed for the
20 minimum qualifying term of employment from the date of
21 hire, one-third of the eligible business's total taxes
22 imposed on the eligible business during the minimum



1 qualifying term of employment pursuant to title 26
2 United States Code section 3111 for that eligible
3 employee.

4 (c) The hiring incentive tax credit provided under this
5 section shall be only be applied to the taxable year during
6 which the eligible employee's minimum qualifying term of
7 employment ended, except as provided in subsection (e).

8 (d) Upon hiring the eligible employee, the eligible
9 business must continue to employ, on average, at least the
10 number of full-time employees that the eligible business had as
11 a result of hiring the eligible employee. If the business fails
12 to comply with the foregoing provision during the eligible
13 employee's minimum qualifying term of employment, the business
14 will be ineligible to claim the tax credit for hiring the
15 eligible employee.

16 (e) The hiring incentive tax credit shall be taken against
17 the net income tax liability of the eligible business after all
18 other tax credits have been taken. Any tax credit that exceeds
19 the eligible business's income tax liability may be used as a
20 credit against the eligible business's income tax liability for
21 up to five subsequent taxable years.



1 (f) Claims for tax credits under this section, including
2 amended claims, shall be filed on or before the end of the
3 twelfth month following the taxable year for which the tax
4 credit may be claimed. Failure to file within the twelve-month
5 period shall constitute a waiver of the right to claim the
6 credit.

7 (g) When claiming credits authorized in this section, the
8 eligible business shall submit to the department an affidavit
9 signed under penalty of perjury, stating:

- 10 (1) The eligible business's name;
11 (2) The eligible business's federal employer
12 identification number or social security number;
13 (3) The number of eligible employees hired;
14 (4) The date each eligible employee was hired;
15 (5) The base employment level;
16 (6) The factual basis upon which each eligible employee is
17 declared to be an eligible employee;
18 (7) That each eligible employee was retained by the
19 eligible business for a minimum qualifying term of
20 employment;



1 (8) The reason, if applicable, why any eligible employee's
2 minimum qualifying term of employment was less than
3 one full year;

4 (9) That during each eligible employee's minimum term of
5 employment, the eligible business continued to employ,
6 on average, at least the number of full-time employees
7 that the eligible business had as a result of hiring
8 the eligible employee; and

9 (10) That without the tax credit allowed in this section,
10 the eligible business would not have hired the
11 eligible employee during the calendar year of 2012.

12 (h) The director may prepare any additional forms and
13 procedures that may be necessary to claim a credit under this
14 section. The director may also require the eligible business to
15 furnish additional information to ascertain the validity of the
16 claims for credit made under this section and may adopt,
17 pursuant to chapter 91, rules necessary to effectuate the
18 purposes of this section.

19 (i) A eligible business applying for a tax credit under
20 this section shall be ineligible to claim a tax credit or use an
21 exemption under sections 209E-10, 209E-11, or 235-55.91.



1 (j) Any eligible business receiving credit under this
2 section must maintain substantial operations in the State for at
3 least two years beyond the term of its last receipt of income
4 tax credits. Failure to comply with the foregoing provision
5 shall result in recapture of fifty per cent of the credit claim
6 under this section in all prior taxable years. In determining
7 whether a eligible business is maintaining substantial business
8 operation in the State, the department of taxation may consider:

- 9 (1) The number and wages of employees in the business;
10 (2) The revenues of the business; and
11 (3) Other factors as determined by rule.

12 (k) Notwithstanding any other law to the contrary limiting
13 the disclosure of tax returns or return information, the
14 department of business, economic development, and tourism, and
15 the department of labor and industrial relations shall be
16 entitled to inspect and receive tax returns and return
17 information in the administration of this credit.

18 (1) As used in this section:

19 "Base employment level" means the number of persons
20 employed by an eligible business on the effective date of
21 enactment of this Act as evidenced by payroll records submitted



1 as part of the business's monthly remittance of unemployment tax
2 payments to the State.

3 "Eligible business" means any business firm that is a
4 corporation, partnership, subchapter S corporation, limited
5 liability company, or sole proprietorship registered to do
6 business in the State with the department of commerce and
7 consumer affairs and the department of taxation, subject to the
8 taxes imposed under this chapter; provided that this definition
9 shall exclude any business firm that laid off any employee after
10 October 31, 2011, and before February 1, 2012.

11 "Eligible employee" means an individual who resides in the
12 State, and who, solely as the result of a layoff, lost
13 employment on a date occurring after October 31, 2011, and
14 before February 1, 2012, and who was not employed from the date
15 of layoff to the date the eligible business hired the employee
16 into a full-time permanent position.

17 "Laid off" or "Layoff" means a separation from a position
18 for lack of funds or lack of work; provided that this definition
19 shall exclude a separation due to termination for cause,
20 voluntary separation, or retirement.

21 "Minimum qualifying term of employment" means one full year
22 from a eligible business's initial date of hire of an eligible



1 employee; provided that if the eligible employee dies or is
2 terminated for cause prior to serving the eligible business for
3 one full year, then the term "minimum qualifying term of
4 employment" means the length of time the employee served until
5 the employee's date of death of termination for cause.

6 "Permanent full-time position" means a job of indefinite
7 duration at a eligible business located within the State and
8 requiring either:

- 9 (1) A minimum of thirty-five hours of an employee's time a
10 week for the entire taxable year of the eligible
11 business where the taxable year consists of not less
12 than forty-eight weeks or a portion thereof when the
13 employee was initially hired by the eligible business;
14 or
15 (2) A minimum of one thousand six hundred eighty hours a
16 year of employment, or the pro-rata share from the
17 initial hire date within the year, when two thousand
18 eighty hours is considered a full work year."

19 SECTION 3. New statutory material is underscored.

20 SECTION 4. This Act shall take effect upon approval;
21 provided that this Act shall be repealed on December 31, 2019.

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INTRODUCED BY:

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JAN 25 2012



H.B. NO. 2863

Report Title:

Hiring Incentive Tax Credit

Description:

Provides for a job creation income tax credit to businesses for hiring recently laid off employees. The credit is equal to a fraction of the Federal Insurance Contributions Act taxes that businesses will pay on the newly-hired employees.

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