

STAND. COM. REP. NO.

2391

Honolulu, Hawaii

FEB 17 2012

RE: S.B. No. 2111  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Economic Development and Technology, to which was referred S.B. No. 2111 entitled:

"A BILL FOR AN ACT RELATING TO FILM AND DIGITAL MEDIA  
INDUSTRY DEVELOPMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Increase the motion picture, digital media, and film production income tax credit to twenty-five percent of qualified production costs for any county with a population over 700,000 and thirty percent of qualified production costs for all other counties;
- (2) Increase the total tax credit cap to \$16,000,000;
- (3) Apply to qualified production costs incurred on or after January 1, 2012, and before January 1, 2027; and
- (4) Repeal the Act on January 1, 2027.

Your Committee held a hearing on this measure on February 6, 2012, and subsequently posted a proposed S.D. 1, for a hearing on February 13, 2012. As amended, this measure:

- (1) Establishes the minimum expenditure for a qualified digital media production at \$50,000;



- (2) Requires from fifty to seventy-five percent of production cast and crew positions to be filled by a legal resident of the State;
- (3) Authorizes the Director of Taxation to revoke or modify the eligibility for the production tax credit, establish grounds for forfeiture of the tax credit, and establish a penalty for submission of fraudulent information;
- (4) Requires the Department of Business, Economic Development, and Tourism to report annually on the return on investment and economic benefits of the tax credit to the State;
- (5) Adds definitions of "legal resident", "production expenditures", "qualified digital media project", and "qualified expenditures", and deletes the definition of "qualified production costs";
- (6) Incorporates language from S.B. No. 2462, to establish a motion picture, digital media, and film production infrastructure tax credit of fifty percent of qualified productions costs;
- (7) Requires the expenditure of at least \$10,000,000 in qualified infrastructure costs;
- (8) Provides for an annual payment to the Hawaii Film Office equal to one percent of the tax credit received by the taxpayer;
- (9) Provides for a 100 percent recapture of the tax credit if the infrastructure project ceases to meet the requirements of a qualified infrastructure project; and
- (10) Makes the infrastructure tax credit applicable to taxable years beginning after December 31, 2011.

Your Committee received testimony in support of this measure from Blue Water Multimedia, LLC; Cinderscape L.L.C.; International Game Developers Group; Island Film Group; Hyperspective Studios, Inc.; 1001 Stories LLC; Hawaii Media Inc.; SHM Partners/Film Studio Group; and two individuals. Your Committee received comments on this measure from the Department of Business, Economic



Development, and Tourism; Department of Taxation; and the Mayor of Maui County.

Your Committee finds that the success of the Act 88, Session Laws of Hawaii 2006, film and television production credits in generating increased production activity in Hawaii provides the State with an opportunity to evaluate the cost benefits of the Act 88 credits in comparison with actions taken by other jurisdictions to stimulate film and digital media production activity, as well as identifying the best practices among other state and international production venues.

As such, your Committee notes that Act 88 production credits have raised the level of qualified production expenditures in Hawaii to an unprecedented level of \$383,520,000 in 2010, and over \$1,200,000,000 during the period 2006-2011, and should be lauded for establishing a benchmark for the local film and television industry. It is now appropriate to evaluate the level of direct and indirect benefits to the State that have been realized through use of these credits since 2006.

Your Committee finds that, during the period 2006-2011, the costs of the Act 88 production credits exceeded the tax revenue gains reported by the Department of Business, Economic Development, and Tourism in the following years: in 2010, when qualified expenditures were \$383,520,000, the estimated cost of the credits was \$47,890,000 as compared with an estimated \$34,520,000 in tax revenue gains; and in 2011, when qualified expenditures were \$184,070,000, the cost of the credits was \$20,050,000 as compared with an estimated \$16,570,000 in tax revenue gains. For the six-year period from 2006-2011, the Department of Business, Economic Development, and Tourism's estimate of the costs of the credits was \$122,590,000 as compared with an estimated \$113,740,000 in tax revenue gains.

During this six-year period, the numbers of full-time equivalent jobs directly related to Act 88 activity rose from 458 in 2006, to 3,696 in 2010, and 1,631 in 2011. However, data compiled from a number of sources make it difficult to quantify the exact numbers of full-time equivalent jobs being created through use of Act 88 credits, and your Committee believes that a consistent set of measurements for job growth reporting would aid in the evaluation of state benefit.



Your Committee further notes that the Act 88 production credits currently require a shared-card, end-title screen credit, where applicable; evidence of reasonable efforts to hire local talent and crew; and financial or in-kind contributions to educational or workforce development efforts. Educational or workforce contributions required under the existing Act 88 production credits are identified as the lesser of 0.1 percent of a production's "qualified production costs" or \$1,000 to a Hawaii public or charter school in terms of financial contribution, or in-kind equipment or educational programs; a minimum of one on-set craft apprenticeship with a local labor organization; or participation in a film-related seminar organized by the Hawaii Film Office. The Department of Business, Economic Development, and Tourism has estimated that \$80,000 to \$150,000 in direct financial or in-kind contributions, seminars, and paid or unpaid internships have been provided to public and private and charter schools and University of Hawaii students since 2006.

Your Committee is strongly supportive of efforts to hire local residents for Hawaii's film and digital media industry. Currently, forty states and Puerto Rico offer motion picture incentives, including tax credits, rebates and exemptions. Twenty-one of these jurisdictions either have a local hire requirement in order to receive the incentive or have an increased award for hiring local residents. Five states - Colorado, Florida, Indiana, Minnesota, and Texas - have a local hire requirement in order to receive the incentive. In Colorado for example, at least twenty-five percent of the workforce must be Colorado residents in order for a project to meet state incentive guidelines, and in Texas, seventy percent of the cast and crew must be Texas residents unless it is determined and certified by the Texas Film Commission that a sufficient number of qualified cast and crew are not available. In addition, fifteen states and Puerto Rico offer a supplementary award for hiring local residents.

Based on recommendations from experienced film and digital media industry developers, your Committee therefore posted a proposed S.D. 1 incorporating the same local hiring requirements that the State of Florida has utilized with its entertainment industry financial incentive program for further comment. The amendments adopted by your Committee therefore reflect a first step toward utilizing specific local hire requirements to increase the range of film and digital media jobs created by enhanced production credits, and to require annual reporting on the job



creation and wages and salaries paid to such residents. By doing so, your Committee seeks to provide state agencies, policymakers, and Hawaii taxpayers with accurate measures of the cost benefits of tax credits used to develop Hawaii's emerging film and digital media industry.

Your Committee further finds that enhancement of the State's Act 88 credits offer an opportunity to leverage current state marketing efforts to achieve promotional or marketing opportunities far exceeding the dollar expenditure of the promotions. As a result, films such as "The Descendants" and "Pirates of the Caribbean", or television series such as "Hawaii 5-0" or "Lost" can and have already yielded promotional impacts far beyond the level of traditional spending by the Hawaii Tourism Authority and its local, national, and international marketing vendors.

Your Committee has further amended this measure by:

- (1) Expanding the purpose section to highlight the successes of Act 88, Session Laws of Hawaii 2006, and focus Hawaii's motion picture, digital media and film production credits on creating quality jobs for Hawaii residents and students;
- (2) Establishing the Hawaii film and digital media special fund; and repealing part IX, chapter 201, Hawaii Revised Statutes, relating to Hawaii television and film development;
- (3) Replacing the tax credit percentages and tax credit caps with unspecified amounts;
- (4) Clarifying that the annual reports shall include an estimate of the full-time equivalent positions for legal residents of this State and aggregate wages and salaries paid for positions created by each production or project;
- (5) Clarifying that "production expenditures" means the expenditures incurred by a qualified production within the State that are subject to the general excise tax under chapter 237, Hawaii Revised Statutes, or income tax under chapter 235, Hawaii Revised Statutes, and that have not been financed by any investments for which a




credit was or will be claimed pursuant to section 235-110.9, Hawaii Revised Statutes;

- (6) Adding a definition of "qualified independent and emerging media project";
- (7) Replacing an annual payment to the Hawaii Film Office equal to one percent of the tax credit received by the taxpayer with an annual payment to the State equal to fifteen percent of the qualified infrastructure project's taxable income until such time as the credit has been repaid;
- (8) Making the infrastructure tax credit applicable to taxable periods beginning after June 30, 2012;
- (9) Repealing the infrastructure tax credit on January 1, 2027;
- (10) Inserting an effective date of July 1, 2050, to ensure further discussion; and
- (11) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2111, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2111, S.D. 1, and be referred to the Committee on Ways and Means.

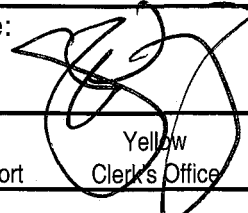
Respectfully submitted on  
behalf of the members of the  
Committee on Economic  
Development and Technology,

  
CAROL FUKUNAGA, Chair



The Senate  
Twenty-Sixth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Economic Development and Technology**  
**EDT**

Bill / Resolution No.:* <b>SB 2111</b>	Committee Referral: <b>EDT, WAM</b>	Date: <b>2/15/12</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
FUKUNAGA, Carol (C)	✓			
WAKAI, Glenn (VC)	✓			
BAKER, Rosalyn H.	✓			
SOLOMON, Malama	✓			
SLOM, Sam				✓
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; margin-top: 10px;">  </div>				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes