L E G I S L A T I V E

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SUBJECT: INCOME, Veterans work opportunity tax credit

BILL NUMBER: HB 2146

INTRODUCED BY: McKelvey, Carroll and Evans

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim an income tax credit that shall be deductible from the taxpayer's net income tax liability for the taxable year in which the credit is properly claimed; provided that the taxpayer receives a federal tax credit under section 51 of the Internal Revenue Code for the employment of a qualified veteran, as defined in section 51(d)(3) of the Internal Revenue Code. The amount of the credit shall be equal to the tax credit provided under section 51 of the Internal Revenue Code for the employment of a qualified veteran.

Requires the director of taxation to prepare the necessary forms to claim the credit, may require the taxpayer to furnish information to ascertain the validity of the claim for credit, including copies of any Internal Revenue Service or Employment and Training Administration forms used by the taxpayer to qualify for a tax credit under section 51 of the Internal Revenue Code.

If the tax credit exceeds the taxpayer's income tax liability, any excess credit may be applied to subsequent income tax liability until exhausted. Requires all claims for the credit, including amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year. Allows the director of taxation to adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

Requires the director of taxation, with the assistance of the department of labor and industrial relations, to report to the legislature on the effect of this tax credit on employment at least 20 days prior to the convening of each regular session. The report shall include information on the number of jobs created and the length of service for those jobs.

EFFECTIVE DATE: Tax years beginning after December 31, 2011

STAFF COMMENTS: This measure would adopt a credit that is similar to the federal work opportunity credit that expired at the end of 2011. The work opportunity tax credit (WOTC) is a federal tax credit that encourages employers to hire workers from targeted groups - Temporary Assistance for Needy Families (TANF) recipients, veterans, ex-felons, Supplemental Security Income (SSI) recipients, high-risk youth, vocational rehabilitation referrals, youth employment program participants and food stamp recipients. The tax credit is designed to help job seekers gain on-the-job experience, move toward economic self-sufficiency, and help reduce employers' federal tax liability. The WOTC credit was equal to 40% of the qualified first year wages. For most target groups, the WOTC can be as much as $2,400 based on qualified wages paid to the new employee for the first-year of employment. Generally, qualified wages are capped at $6,000. The credit is 25% of qualified first-year wages for those employed at least 120 hours and 40% for those employed 400 hours or more. For disabled veterans, the

WOTC qualified wages could be as high as $24,000. On the federal level, to be eligible for the credit a new hire must be employed after December 31, 2005 and before September 1, 2011.

While this measure proposes to adopt a veterans work opportunity credit for Hawaii income tax purposes, 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 the proposed credit is 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 credit.

Instead of parroting federal tax incentives, such as the WOTC, lawmakers should instead look at state laws which impose barriers or additional costs to the creation of jobs in the states. For example, in recent years lawmakers have attempted to suspend the capital goods excise tax credit which recognizes the imposition of the state's general excise tax on the purchase of capital goods, capital goods that are imperative to the creation of new jobs. As a result of these vacillations, lawmakers have created uncertainty about the investment in capital equipment and, therefore, placed one more barrier in the way of economic recovery. If there is anything lawmakers can do to encourage the creation of jobs, it is to restore certainty to the availability of the capital goods excise tax credit.

In addition, it should be remembered that the payout of credits would result in a drain of state resources. It is questionable whether the state can afford this credit given its current financial crisis. 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 businesses 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.

If nothing else, this proposal reflects a lack of understanding of what the challenges are for businesses in Hawaii. If the costs of either opening a new business or staying in business are so prohibitive, tax credits such as these are meaningless. Over the past few years, the legislature has done everything possible to make it difficult to stay in business in Hawaii as evidenced by the number of closed doors and the empty office building and storefronts. Offering credits such as the one proposed ignores the costly maze of regulations and requirements imposed on businesses and families in Hawaii. Thus, while the federal government may want to encourage the employment of this target group, local lawmakers should instead be occupied with finding ways to make sure those employers remain in business so that this targeted group can find the jobs they need.

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Testimony of Thomas Smyth

Military Officers Association of America, Hawaii Chapter

Before the Committee on Economic Revitalization and Business

Tuesday, January 31, 2012, 8:30 am, Room 312

HB 2146 Relating to Taxation

Chair McKelvey, Vice Chair Choy and Committee Members

Our chapter of more than 400 retired and currently serving officers of the Uniformed Services strongly supports HB 2146 that provides a state income tax credit for taxpaying employers who hire unemployed or disabled veterans.

National statistics show that the unemployment rate for veterans, especially those under age 24, is much higher than for their non-veteran peers. The rate for those in Hawaii is likely to be similar. Women veterans especially have high unemployment.

There are a number of structural reasons for this unfortunate disparity, including the fact that many veterans chose to serve their country rather than continue their education or get on the job training in the civilian workforce. Many have had problems adjusting to their return to civilian life after multiple overseas deployments. Some have gained very valuable leadership and supervisory skills in military service, but that is often difficult to transfer to a civilian job.

While we do favor this measure, we note that the parallel federal "VOW to Hire Heroes Act" cited in HB 2146 refers to Internal Revenue Code, Section 51 (d) (3). That section provides for federal income tax credits, but also refers to other sections of the IRC that relate to "tax-exempt employers" who may not have income tax liability but can take the credit against their federal employee taxes, such as FICA.

We urge this committee to move the bill forward giving consideration to offering Hawaii non-profit employers some sort of similar financial incentive to hire our veterans. It will require some investigation to determine just what form these credits could take, such as credit against unemployment insurance or even a refundable credit.

There are many non-profit employers in Hawaii that might hire veterans such as medical facilities, educational institutions and even those entities that provide paid peer-to-peer counseling to veterans.

We should not overlook this expanded employer base, even though it may take some creative thinking to devise appropriate incentive formulas.

Thank you for the opportunity to provide testimony on this important bill.