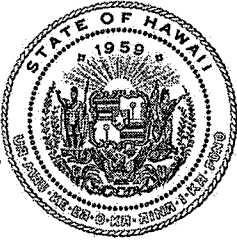


HB 986

HD2, SD1



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

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Statement of
RICHARD C. LIM
Director

Department of Business, Economic Development, and Tourism
before the
COMMITTEE ON WAYS AND MEANS
Wednesday, March 30, 2011
9:30 a.m.
State Capitol, Conference Room 211

in consideration of
HB 986 HD2 SD1
RELATING TO TELEVISION AND FILM PRODUCITON.

Chair Ige, Vice Chair Kidani, and members of the Committee. DBEDT strongly supports HB986 HD2 SD1. We appreciate this measure which allows the department to establish a surcharge for all film permits processed and deposit the surcharges into the Hawaii Film and Television Special Fund for use by the Creative Industries Division (CID).

The CID has had drastic reductions in this past fiscal year, losing fifty percent of its funding and staff. This bill assists the CID and its Hawaii Film Office to generate an additional revenue stream that can then be used for operations, including repairs and maintenance of the Hawaii Film Studio and programs that accelerate the growth and sustainability of Hawaii's creative sectors.

The department appreciates that HB 986 HD2 SD1 includes additional sources of potential revenue for the Hawaii Television and Film Development Special Fund including deposit of revenues received from the rental of the Hawaii Film Studio, film permit violation fees assessed by the department, and fees for processing tax incentive applications (HRS235-17).

The measure also allows for the DBEDT director to designate the use of these funds, which will enable the CID and the Hawaii Film Office to expend funds as the Hawaii Film and Television Board has been inactive for many years.

We respectfully request that the committee consider amending HB986 HD2 SD1 by reinserting the language that requires that revenues generated from the Hawaii Television and Film Development Special Fund shall not supplant general funds appropriated and allocated to CID which was in HB986 HD1 (page 8, lines 16-19). We anticipate that the majority of revenues deposited into the special fund will come from the rental of the Hawaii Film Studio. As the nature of the industry is cyclical, during the times when we do not have a tenant at the Hawaii Film Studio, there will not be enough revenue generated in the special fund to support personnel expenses and operating expenses of CID. Therefore, it is essential that the CID also receive, at a minimum, its current GF appropriation.

We also request that Section 1, item (i) (page 3, lines 11-15) be amended to read:

(i) The department shall have the latitude to establish and collect a surcharge based on the level of production expenditure on each film permit application it processes. The revenues received from the surcharge shall be deposited into the Hawaii television and film development special fund pursuant to section 201-113."

We request the committee amend the current appropriation language, in Section 4, for the Hawaii Television and Film Development Fund in order for the department to expend funds in Fiscal year 2011-2012:

There is appropriated out of Hawaii Television and Film Development special fund the sum of \$ _____ or so much thereof as may be necessary for fiscal year 2011-2012 and the sum of \$ _____ or so much thereof as may be necessary for fiscal year 2012-2013 to be expended for the purposes of §201-

113, *Hawaii Revised Statutes.*

Thank you for the opportunity to offer these comments.

HAWAII FILM & ENTERTAINMENT BOARD



*Brenda Ching, Chair
Screen Actors Guild*

Chris Conybeare, Esq.

*Walea Constantinau
Honolulu Film Office*

*Henry Fordham
I.A.T.S.E., Local 665*

*Dana Hankins
Independent Producer*

*Jeanne Ishikawa
Teamsters, Local 996*

*Stephan Kato
H.I.F.A.*

*John Mason
Big Island Film Office*

*Brien Matson
A.F.M., Local 677*

*David Rosen
A.I.C.P.*

*Brianne Savage
Maui Film Commission*

*Georja Skinner
DBEDT, Creative
Industries Division*

*Jason Suapaia
F.A.V.A.H.*

*Art Umezu
Kauai Film Commission*

*Randall Young
I.B.E.W., Local 1260*

COMMITTEE ON WAYS AND MEANS

March 30, 2011 – 9:30 am -- State Capitol, Conference Room 211

RE: HB 986 HD2 SD1 -- RELATING TO TELEVISION AND FILM PRODUCTION

Dear Chair Ige and Vice-chair Kidani, and members of the committee:

The Hawaii Film and Entertainment Board, whose members include all of the film industry labor unions, associations and film commissions, **supports the intent of the measure**, to find monies for the Creative Industries Division and specifically the film program to operate, **but has some concerns** and offers these additional comments.

We **support** the portion of the measure that allows the Hawaii Film Office / CID to **collect the monies paid for the Hawaii Film Studio into a special fund to help offset the cost and maintenance of the facility as well as Hawaii Film Office operations**. Additionally, we support the portion of the measure that seeks to **create a nominal application fee for applying for Act 88 and that those monies be placed in the same special fund as the film studio revenues**.

We do have concerns however with a small part of the bill Section 201-14 (i) that seeks to mandate that the film office charge a fee for **each** permit issued despite the fact that a number of permits issued have departmental fees attached to them by state agencies such as State Parks and DOT- Airports Division, DoBAR, etc. This would amount to a **double-fee system** that we do not believe is fair, particularly for smaller local productions. Community input to establish the fees should be obtained so as not to overburden smaller productions and stifle local industry growth.

We offer the following as suggested language to clean up this portion of the bill (page 3, line 11-12)

Current language:

~~“(i) The department shall establish and collect a surcharge of \$ _____ on each film permit application it processes.”~~

“(i) The department shall have the latitude to establish and collect a nominal fee for the processing of film permit requests and shall establish the fee structure based on community input that takes into account the small, medium and large scope of a production and if other state agency fees are assessed.

Thank you for the opportunity to provide these comments

Sincerely,

Brenda Ching,
Chair

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Surcharge fee on film permit applications

BILL NUMBER: HB 986, SD-1

INTRODUCED BY: Senate Committee on Economic Development and Technology

BRIEF SUMMARY: Amends HRS section 201-14 to allow the department of business, economic development and tourism (DBEDT) to establish and collect a surcharge of \$_____ on each film permit application it processes. The surcharge revenues shall be deposited into the Hawaii television and film development special fund.

Amends HRS section 201-112 to allow the director of DBEDT to determine the use of moneys in the Hawaii television and film development fund pursuant to HRS section 201-113(c).

Amends HRS section 201-113 to provide that the following shall be deposited into the Hawaii television and film development fund: (1) revenues collected by DBEDT for film permit surcharges; (2) revenues received from the rental of the Hawaii film studio; (3) film permit violation fees assessed by DBEDT; and (4) fees for processing tax incentive applications pursuant to HRS section 235-17; provided that revenues from the special fund shall be used to fund the creative industries division of DBEDT.

Appropriates \$_____ out of the Hawaii television and film development special fund for fiscal year 2013 to be used for the purposes of the fund pursuant to HRS section 201-113.

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: This measure proposes to impose a surcharge of \$___ on each film application processed by DBEDT. The revenues shall be collected from: (1) the surcharge; (2) revenues received from the rental of the Hawaii film studio; (3) film permit violation fees; and (4) fees for processing tax incentive applications pursuant to HRS section 235-17 and shall be deposited into the Hawaii television and film development special fund to be used to fund the creative industries division of DBEDT.

While the amount of the surcharge is not specified, it is questionable whether revenues of the special fund would be the only source of funding for the creative industries division of DBEDT. If the special fund is the sole source of funding for DBEDT, and if the revenues from the surcharge are insufficient, there is no doubt the surcharge amount will have to be increased to provide adequate funds to operate the creative industries division of DBEDT resulting in an indirect "tax increase" to taxpayers.

It should also be noted that the proposed measure would also perpetuate the use of special funds as a way to "hide" and use moneys for the stated purposes. It should also be remembered that the State Auditor's report on special funds noted that: "Special funds give agencies full control of these unappropriated cash reserves, provide a way to skirt the general fund expenditure ceiling, and over time erode the general fund. Many experts say that special funds are likely to hamper budget administration.

And from a legislative perspective, they are less desirable because they are not fully controlled by the appropriation process.”

Given the findings of the Auditor and the current financial crisis, it is quite clear that the creation of numerous special funds has eroded the integrity of state finances. It should be remembered that moneys in special funds are neither subject to the general fund expenditure limitation nor to the close scrutiny that general funds are subject to in the budgeting process. The use of special funds which fly under the radar will inevitably lead to a call for tax increases even though money abounds in these special funds. One only has to review the measures introduced each year that set up numerous new special funds or add new fees or charges the receipts of which are earmarked for special funds, to see the prolific establishment of special funds. Rather than perpetuate the use of special funds lawmakers should repeal the numerous special funds and require these programs to compete for general funds like all other programs.

Digested 3/29/11