

LATE TESTIMONY

From: fidell@lava.net
Sent: Wednesday, March 14, 2012 6:23 PM
To: ERBtestimony
Subject: LATE TESTIMONY - ERB Hearing on SB 2941
Attachments: RDTESTIMONY.docx

To the members of the House ERB Committee:

Enclosed is my testimony regarding SB 2941.

Thanks for your consideration of my views.

Best,

Jay Fidell
(808) 780-9254

JAY M. FIDELL
Suite 710, 1001 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 780-9254

TESTIMONY TO THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION AND BUSINESS

Thursday, March 14, 2012 at 9:45 a.m.

Conference Room #312

RE: SB 2941 "RELATING TO HIGH TECHNOLOGY"

Chair Fukunaga, Vice Chair Wakai, and members of the EDT Committee:

My name is Jay Fidell and I am an attorney with Bendet Fidell, attorneys at law. I am testifying as an individual associated with ThinkTech Hawaii, Inc., a Hawaii non-profit whose mission it is to raise public awareness about the importance of technology to the future of Hawaii's economy.

My testimony is in support of the intent of SB 2941.

The High Technology industry's research and development (R&D) function is one that could employ Hawaii's brightest and best STEM graduates and could grow to be a substantial contributor to the kind of green "clean" economy we are striving to develop.

Tech workers are the kind of high paying innovation jobs Hawaii should most want, both for their high wage jobs and also for the type of people tech workers tend to be, entrepreneurial individuals that often start up additional companies and significantly expand the economy.

The latest Hawaii Business talks about the wealthiest people in Hawaii and 4 out of 5 of those people made their fortunes in the technology industry. Tech workers make up ~5% of the workforce in the State but produce ~15% of the revenue.

Unfortunately, the 2008 economic downturn and corresponding lack of funding for research and development dealt a severe blow to the High Technology industry and the local technology community. The suspension last year of the R&D Tax credit was crippling to many small R&D firms. Some were sold to off island interests, and some severely cut back on employees, or closed.

Given the lost of its federal and state support and the resultant loss or reduction of tech companies in Hawaii, the R&D support has never been more critical to retain and grow tech jobs here. Large numbers of highly trained workers have left the state and it takes years to regain that human resource capability.

Because the industry is based on invention, innovation and development of intellectual property, tech firms are transportable - large factories are not necessary. Many sections of the country offer incentives to attract high tech to their cities. As a result, the competition for high tech companies is always there.

Tech companies inspire STEM education through internships, relationships with local universities and schools, science fairs, robotic competitions, and so forth. STEM education in Hawaii is weak and will become weaker without a tech industry to provide these opportunities. We need to provide work opportunities for STEM educated students after they complete school.

Unless Hawaii offers a competitive economic environment many of our most promising workers will leave and the dream of a society of smart young folks solving problems and innovating new ideas, and the concomitant diversification and development of our economy, will forever disappear.

If the Legislature values the High Technology capability and the leveraged benefits it can provide for our people, our economy and our future, I urge you to support the industry with a re-instatement of the R&D tax credit as a proven incentive for its development.

Thank you for your consideration of my views on the matter.

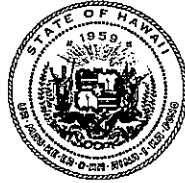
Respectfully,

Jay M. Fidell

Jay M. Fidell

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

LATE TESTIMONY

To: The Honorable Angus L. K. McKelvey, Chair
and Members of the House Committee on Economic Revitalization and Business

Date: Thursday, March 15, 2012
Time: 9:15 a.m.
Place: Conference Room 312, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 2941 S.D. 2 Proposed H.D. 1 Relating to High Technology

The Department of Taxation (Department) appreciates the intent of S.B.2941 SD2, and provides the following comments for the Committee's consideration.

S.B. 2941 SD2 reinstates the tax credit for research activities for a period of five years beginning with taxable years beginning after December 31, 2011. The measure changes the definition of a qualified high technology business to one which owns property or maintains an office in this State which does at least 50% of its business activities are in qualified research and of that amount, at least 50% of such qualified research is done in this State and reduces the amount of the credit for Hawaii purposes from 20 percent to 10 percent. The measure also eliminates the requirement that qualified research be done in Hawaii in order to qualify for the credit and requires any company claiming the credit to provide certain specified information to the Department.

The Department first notes that due to the elimination of the requirement that qualified research be performed in Hawaii (provided that at least 50% of the total qualified research was done in Hawaii), it means that Hawaii taxpayers could end up paying for the cost of research done throughout the United States without any direct benefit to Hawaii.

For example, a company that had offices both in California and Hawaii would be able to claim the credit on all qualified research costs, provided only that the Hawaii office performed more than 50 percent of the qualified research. In addition, there is no cap or ceiling on the amount a company may claim. The potential revenue impact of this measure could be substantial since it is a refundable credit, whereas the federal credit is non-refundable.

The Department also notes that the broad definitions for "research" have made it difficult for the Department to administer the credit. A result is protracted and complex litigation for the Department, requiring the Department to expend considerable resources to hire subject matter experts to address the type of expenses that maybe eligible and which taxpayers may claim the credit.

While qualified research does not include research funded by a federal grant, the issue of whether a project is funded or not is complex and litigation prone. In addition, funded and non funded research projects often overlap, with no clear distinctions on where one ends and the other begins.

In the broader sense, the lack of clarity not only creates administrative problems for the Department, but creates uncertainty for taxpayers. If the Department is unable to administer and implement the law, we are unable to provide taxpayers with guidance.

Lastly, the measure requires that a business claiming the credit is required to submit a report to the Department, and based upon them report to the legislature on the effectiveness of the tax credit under this section. The Department would note that it does not have the expertise to evaluate the effectiveness of the tax credit.

Thank you for the opportunity to provide comments.