

NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
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STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
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HONOLULU, HAWAII 96813-2437

March 14, 2012

**TESTIMONY TO THE
HOUSE COMMITTEES
ON
ECONOMIC REVITALIZATION & BUSINESS
AND
TOURISM**

For Hearing on Thursday, March 15, 2012
11:15 a.m., Conference Room 312

BY

BARBARA A. KRIEG
INTERIM DIRECTOR

Senate Bill No. 3050, S.D. 2
Relating to Film, Television, Digital, and New Media Development

WRITTEN TESTIMONY ONLY

TO CHAIRPERSONS MCKELVEY AND BROWER AND MEMBERS OF THE
COMMITTEES:

The purpose of S.B. No. 3050, S.D. 2 is to assign to the Hawaii Tourism Authority the responsibilities for film, television, digital, and new media development; repeal the film industry activities within the Department of Business, Economic Development and Tourism; and make several conforming amendments.

The Department of Human Resources Development has **comments** on the proposed transfer language for employees. To protect the rights and benefits of the employees to be transferred, we recommend the following proposed transfer language be used in place of the transfer language in Section 9, lines 7-22 on page 28 and lines 1- 2 on page 29 of this bill:

“All employees who occupy civil service positions and whose functions are transferred to the Hawaii tourism authority by this Act shall retain their civil service status (permanent or temporary). Employees shall be transferred without loss of salary, seniority, retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act, provided that the employees possess the minimum qualifications and public employment requirements for the class or position to which transferred or appointed, as applicable, provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act, may continue to retain the employee’s exempt status, but shall not be appointed to a civil service position because of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, any vacation and sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act, provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The chief executive officer may prescribe the duties and qualifications of such employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.”

Thank you for the opportunity to offer comments on this measure.

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, GENERAL EXCISE, USE, Exempt construction of a Hawaii film facility

BILL NUMBER: SB 3050, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Adds a new section to HRS chapter 237 to provide that amounts received from the construction or operation of a Hawaii film facility under a financing agreement pursuant to HRS chapter 37D, shall be exempt from the general excise tax.

Amends HRS section 235-17 to replace references to the department of business, economic development and tourism (DBEDT) with Hawaii Tourism Authority.

Adds a new paragraph to HRS section 238-1 to provide that the use tax shall not be applicable to the use of material, parts, or tools imported or purchased by a person licensed under HRS chapter 237 that are used for a Hawaii film facility or the construction of a Hawaii film facility.

Amends HRS chapter 201B to establish a new part titled "Film, television, digital, and new media development" and provides that the Hawaii Tourism Authority shall be responsible for such development while repealing the film industry responsibilities of DBEDT. Also establishes a film, television, digital, and new media development special fund to be used by the authority to assist in and provide incentives for the production of eligible projects in the state. A portion of the moneys in the fund shall be used for the staffing and operation of the Hawaii film office and the operation and maintenance of the Hawaii film studio.

Repeals HRS chapter 201, part IX, which established the Hawaii television and film development board and the Hawaii television and film development special fund and transfers all rights, powers, functions, and duties related to Hawaii television and film development to the Hawaii Tourism Authority.

Requires the Hawaii Tourism Authority to restructure the debt service of the convention center and may enter into an agreement with the department of budget and finance to restructure the debt. Appropriates out of the convention center enterprise special fund \$_____ from any savings from the restructuring in fiscal 2013 and fiscal 2014 to be deposited into the film, television, digital and new media development special fund established by this measure.

Appropriates \$_____ out of the film, television, digital, and new media development special fund for fiscal 2013 and fiscal 2014 to the Hawaii Tourism Authority for the implementation of the film, television, digital, and new media development activities.

These appropriations shall take effect on July 1, 2012.

The amendments made by this act shall not be repealed when that section is reenacted on January 1, 2016, by Act 88, SLH 2006.

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: The proposed measure would transfer the responsibilities for film, television, digital and new media development from DBEDT to the Hawaii Tourism Authority. The measure would also require the Hawaii Tourism Authority to restructure the debt service on the convention center and use any savings from the restructuring for implementation of the film, television, digital, and new media development activities for the 2013 and 2014 fiscal years. It is questionable whether there will be sufficient "savings" from the restructuring of the debt to fund the "lofty" goals of the programs to promote the movie and television industries in the state. According to the Hawaii film office website, the narrative on the film development board states that the board is currently inactive due to lack of funding. Therefore, a direct appropriation to this program area would ensure that there will be sufficient funds to accomplish the goals of this program.

The measure would transfer the duties of the film and television industry to the Hawaii Tourism Authority. It should be noted that the Hawaii Tourism Authority is responsible for the promotion of the state's largest industry, tourism, it is questionable whether the Authority would also have the expertise and knowledge to promote Hawaii as a place to make media productions.

The measure also directs the Hawaii Tourism Authority to develop, construct, operate, own, and manage a Hawaii film facility and proposes that the construction of such facility be exempt from the general excise tax and the related materials, parts or tools imported into the state be exempt from use taxes. The proposed measure would also exempt from the general excise tax, the operations of the Hawaii film facility. While the Hawaii film facility would be a state-owned facility, it is questionable why such an exemption is necessary. Unless the intent is to contract out the operation of the facility to a private provider of that service, the state is already exempt from being licensed under the general excise tax.

That said, the proposal to exempt the construction and materials from the general excise and use tax appears to reduce the cost of constructing the facility to the state. It confers a special privilege on the contractors who builds that particular state facility. Note well, that with the exception of affordable income housing constructed for low-income families, no other construction of state-owned facilities is exempt from the general excise and use taxes. If this exception is adopted, will it set a precedent for other "special" state facilities in the future? The long term effect would be an erosion of the general excise and use tax base. Given that this facility is not being built for people who cannot afford the rental or use of the facility, the exemption for the construction activity cannot be justified.

Digested 3/14/12

HAWAII FILM & ENTERTAINMENT BOARD



House of Representatives
The Twenty-sixth Legislature
Regular Session of 2012

*Brenda Ching, Chair
Screen Actors Guild Hawaii*

Chris Conybeare, Esq.

*Walea Constantinou
Honolulu Film Office*

*Harry Donenfeld
Maui Film Commission*

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

*Dana Hankins
Independent Filmmaker*

*Jeanne Ishikawa
Teamsters, Local 996*

*Leroy Jenkins
H.I.F.A.*

*John Mason
Big Island Film Office*

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

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

*Georja Skinner
DBEDT, Creative
Industries Division*

*Jason Suayaia
F.A.V.A.H.*

*Art Umezu
Kauai Film Commission*

To: Committee on Economic Revitalization & Business
Representative Angus L.K. McKelvey, Chair
Representative Isaac W. Choy, Vice-Chair
Members of the Committee

Committee of Tourism
Representative Tom Brower, Chair
Representative James Kunane Tokioka, Vice-Chair
Members of the Committee

Re: Relating to Film, Television, Digital, and New Media Development
Senate Bill 3050, SD2

The Hawaii Film and Entertainment Board (HFEB), whose members include the film industry labor unions, associations and film commissions, **strongly oppose** the transfer of the State Film Office to the Hawaii Tourism Authority (HTA) as proposed in SB 3050, SD2. We believe this action would be a misstep and detrimental to an industry that is quickly growing in size, strength and popularity.

We are a stand-alone creative industry and should not be viewed as part of tourism. Our focus is entirely different. We tell stories, inform, teach, educate and inspire. Our primary objective is in the development of the creative sector, which has generated over \$1 billion dollars and continues to be an economic driver.

In 2009, the film office suffered huge budgetary cutbacks which impacted staffing and operating funds for this agency that services our revenue generating industry.

The achievements over the last two years are a result of the collaborative efforts between the industry, the film office, city and state agencies, and the Creative Industries Division (CID) of the Department of Business and Economic Development and Tourism (DBEDT).

To nurture continued growth, the Creative Industries Division must have immediate access to the resources and interaction of the day-to-day activities within DBEDT. Infrastructure and workforce development along with daily interaction with state agencies is vital to the operation and growth of the sector. The film office should not be removed from where it is most effective.

HAWAII FILM & ENTERTAINMENT BOARD



House of Representatives
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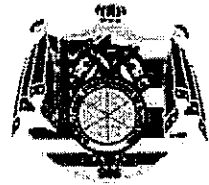
Committee on Economic Revitalization & Business
Committee of Tourism
Relating to Film, Television, Digital, and New Media Development
Senate Bill 3050, SD2

page two

We appreciated the wisdom of the legislature for restoring some of the funding and positions to the State film office however, it was not enough. Rather than move the film office to HTA, what is needed is full funding and staffing of the film office under the Creative Industries Division in DBEDT.

We thank you for the opportunity to provide testimony on SB 3050, SD2.

LATE TESTIMONY



HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS
Representative Angus L.K. McKelvey, Chair
Representative Isaac W. Choy, Vice-Chair

COMMITTEE ON TOURISM
Representative Tom Brower, Chair
Representative James Kunane Tokioka, Vice-Chair

TESTIMONY ON SENATE BILL 3050, SD2
RELATING TO FILM, TELEVISION, DIGITAL, AND NEW MEDIA DEVELOPMENT

The Screen Actors Guild (SAG), the International Alliance of Theatrical Stage Employees (IATSE) Mixed Local 665, the American Federation of Musicians (AFM) Local 677 and Hawaii Teamsters Local 996, collectively represents over 2,000 union members who work in the film, television, digital and new media industry.

We *strongly* oppose Senate Bill 3050, SD2 that would transfer the State film office out of the Department of Business and Economic Development and Tourism (DBEDT) to the Hawaii Tourism Authority (HTA).

The film industry is a stand-alone creative industry. While it may compliment tourism, it is **NOT** tourism and does not belong in HTA. These are two entirely different industries, fundamentally different in its components and objectives.

Thank you for giving us this opportunity to submit testimony on Senate Bill 3050, SD2.

Glenn Cannon, SAG
President
596-0388

Henry Fordham, IATSE
Business Agent
596-0227

Brien Matson, AFM
President
596-2123

Jeanne Ishikawa, Teamsters
Business Agent
847-6633

Re: Senate bill 2433 SD2 Relating to Challenge Course Technology

I am the mother of Ted William Callaway, the man who lost his life on a Zip Line on 9/21/11, in Hilo, Hawaii. I give this testimony representing all of Teddy's heartbroken friends and family.

Although Ted was a thrill seeker and loved his new job constructing Zip Lines, I doubt he believed he would lose his life because of the failure of one. I am also sure that the thousands of tourists that innocently participate in this activity do not believe this could happen to them. The sad fact is, it could have been a tourist that plunged 200 feet to their death. Instead of the local news reporting "Construction Worker falls from Zip Line", it could have been in the National news reading "Vacationing Family Falls to their death on Hawaii Tourist Attraction".

Although, it shouldn't matter whether it was a vibrant and passionate, 36 yr. old father of 7 construction worker or a tourist. A life is a life. I choose to point this out because I believe that not only is better Zip Line regulations an urgent safety issue but also makes good business sense for the State of Hawaii.

As tragic as losing Ted would have been under any circumstances it is even more of a tragedy to realize that it is very probable that his death could have been prevented.

A business license certainly isn't enough of a requirement to construct something that puts people hundreds of feet in the air. There have been laws created that require one to use safety belts while riding in a car. Recently more states have adopted cell phone laws prohibiting use of hand held cell phones while driving. These laws have been put into effect because of concern for the safety of the public. Certainly having careful regulations in place for a Zip Line should be of equal concern.

I realize that putting stricter standards in place for the Zip Line Industry will take much work. But concerning the risk involved, it needs to be a question of "how" to implement it and not "if" you should do pass this bill.

Ted's Dad and I have lost our son, our children have lost their brother, His 7 children their father. To us, his family and his many friends nothing can make it OK. At least not while we are on this earth. But, we would like to find peace knowing this won't happen to someone else. Although I believe he is now being protected by a higher law, I don't believe the laws of the State of Hawaii were adequately protecting him while he was alive.

Please consider this while making a decision concerning the safety of Zip Lining. Make sure you make decisions that will reverence the life of my son and protect all that participate in this tourist attraction.

Sincerely,
Ilene Callaway
Kennewick, Washington

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



STATE OF HAWAII
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FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

LATE TESTIMONY

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

The Honorable Tom Brower, Chair,
and Members of the House Committee on Tourism

Date: Thursday, March 15, 2012
Time: 11:15 A.M.
Place: Conference Room 312, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 3050 S.D. 2 Relating to Film, Television, Digital, and New Media Development

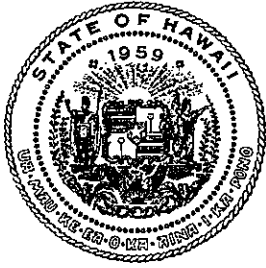
The Department of Taxation (Department) defers to the Department of Business Economic Development and Tourism (DBEDT) and the Hawaii Tourism Authority (HTA) on the merits of S.B. 3050 S.D. 2.

S.B. 3050 S.D. 2 proposes to: (1) transfer the authority of the responsibilities for film, television, digital, and new media development from the DBEDT to the Hawaii Tourism Authority (HTA); (2) permit the HTA to develop, manage and operate a film facility; (3) establish a new special fund to collect revenues and develop other incentives to support the industry; (4) exempt the construction of the film facility and operating revenues from the general excise tax under Chapter 237, Hawaii Revised Statutes (HRS); (5) exempt purchases of materials for construction or use by the film facility from use tax under Chapter 238, HRS; and (6) provide an appropriation to the newly established film, television, digital, and new media development special fund for fiscal year 2012-2013.

S.B. 3050 S.D. 2 clarified that amendments to section 235-17, HRS, made by this measure shall not be repealed when that section is reenacted on July 1, 2016, by section 4(2) of Act 88, SLH 2006. The bill has an effective date of July 1, 2010 to facilitate further discussion on the measure.

Should this measure be adopted, the Department will support both agencies in addressing any matters related to the development of a new film facility.

Thank you for the opportunity to provide comments.



NEIL ABERCROMBIE
Governor

MIKE MCCARTNEY
President and
Chief Executive Officer

Hawai'i Tourism Authority

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Telephone: (808) 973-2255
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Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
on
S.B. 3050, S.D. 2
Relating to Film, Television, Digital, and New Media Development

House Committee on Economic Revitalization & Business
House Committee on Tourism
Thursday, March 15, 2012
11:15 a.m.
Conference Room 312

The Hawai'i Tourism Authority (HTA) supports the intent of S.B. 3050, S.D.2, which assigns to the HTA the responsibilities for the development of film, television, digital, and new media industry activities in Hawai'i.

The 2000 Film and Television Study found that the film business is good business for Hawai'i's visitor-based economy. The study found that key visitor business can be substantially affected, as when the film and television related business for an O'ahu hotel totaled 4,300 room nights, valued at \$1.6 million. Film and television projects provide millions in dollars of free advertising and marketing by simply showcasing a Hawai'i location and consequently, the Hawai'i brand. In addition, the film and television industry contributes to the economy by utilizing the services of other businesses such as hotels, airlines, vehicle rentals, restaurants and caterers, and various suppliers and retailers.

S.B. 3050 provides a structure to optimize the development of the industry by pooling diverse and fragmented resources to aggressively market and nurture the growth of a film industry. It will create a sound base that can be built upon to develop the programs and infrastructure to expand Hawai'i's opportunities in film, television, digital and new media.

Thank you for the opportunity to offer these comments.