

JAN 18 2013

A BILL FOR AN ACT

RELATING TO JOB CREATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Hawaii has felt the adverse impacts of national
2 and global economies that have seen rising unemployment,
3 business closures, personal and business bankruptcies, and
4 contraction of economic activity. Hawaii's unemployment rate
5 has risen from 3.0 per cent in January 2008 to 6.5 per cent in
6 November 2011. While the November 2011 unemployment rates for
7 the islands of Oahu and Lana'i were below the national average,
8 the rates for the remaining islands ranged between 7.4 per cent
9 and 15.5 per cent. It is unacceptable to have this many people
10 without work.

11 The State recognizes that encouraging job creation is one
12 of the most significant steps that can be taken to help the
13 State regain its economic footing and help families regain their
14 ability to support themselves. The State also recognizes that
15 our economy is built upon thousands of small businesses that are
16 the backbone of our economic well-being and provide the vast
17 majority of employment in the State.



1 However, these businesses are facing uncertainty and thus
2 are hesitant to create additional employment until such time as
3 the current economic trends improve. Job creation incentives
4 have been successfully used in other states including Ohio,
5 Alabama, Kentucky, Tennessee, Indiana, and Kansas.

6 The purpose of this Act is to help encourage businesses to
7 employ Hawaii residents and spur economic growth by providing a
8 tax credit for creating and maintaining new full-time positions
9 in the workforce.

10 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§235- Job creation tax credit. (a) There shall be
14 allowed to each taxpayer that qualifies as a business firm
15 subject to taxes imposed by this chapter a job creation tax
16 credit that shall be deductible from the business firm's net
17 income tax liability, if any, for the taxable year in which the
18 credit is properly claimed.

19 (b) The amount of the job creation tax credit a business
20 may claim for a taxable year shall be equal to the amount of
21 unemployment insurance taxes paid to the State during that
22 taxable year on each eligible employee hired after April 30,



1 2013, and before May 1, 2014, into a new permanent full-time
2 employment position created above the base employment level.

3 (c) A business firm's eligibility to claim the credit
4 shall be suspended until after the eligible employee has been
5 continuously employed by the firm for at least nine months,
6 including the eligible employee's date of hire, unless that
7 employee dies or is terminated for cause.

8 (d) If the eligible employee is employed for the time
9 period required in the foregoing provision, but the suspension
10 of eligibility prevents the firm from claiming the credit earned
11 in a taxable year, the credit earned during that taxable year
12 may be used as a credit against the business firm's income tax
13 liability in subsequent years until exhausted.

14 (e) Upon hiring the eligible employee, the business firm
15 shall continue to employ at least the number of full-time
16 employees on an annualized basis that the business firm had as a
17 result of hiring the additional full-time employee. If the firm
18 fails to comply with the foregoing provision during the
19 suspension period described in subsection (c), the firm shall
20 not be eligible to claim any amount of tax credit.

21 (f) If the business firm complies with the requirements of
22 subsections (c) and (d), the firm may continue to earn



1 additional tax credits on unemployment insurance taxes paid to
2 the State on the eligible employee, up to the end of that
3 employee's second year of employment with the firm, so long as
4 the eligible employee has been continuously employed by the
5 business firm since the date of hire, and the business firm
6 continues to employ at least the same number of full-time
7 employees on an annualized basis.

8 (g) The job creation tax credit shall be taken against the
9 net income tax liability of the business firm after all other
10 tax credits have been taken. Any tax credit that exceeds the
11 business firm's income tax liability in a taxable year may be
12 used as a credit against the business firm's income tax
13 liability in subsequent years until exhausted.

14 (h) Claims for tax credits under this section, including
15 amended claims, shall be filed on or before the end of the
16 twelfth month following the taxable year for which the tax
17 credit may be claimed. Failure to file within the twelve-month
18 period shall constitute a waiver of the right to claim the
19 credit.

20 (i) The director of taxation may prepare any forms and
21 procedures that may be necessary to claim a credit under this
22 section. The director may also require the business firm to



1 furnish information to ascertain the validity of the claims for
2 credit made under this section and may adopt, pursuant to
3 chapter 91, rules necessary to effectuate the purposes of this
4 section.

5 (j) A business firm applying for a tax credit under this
6 section shall not be eligible to claim a tax credit or use an
7 exemption under sections 209E-10, 209E-11, or 235-55.91.

8 (k) Any business firm receiving credit under this section
9 shall maintain substantial operations in the State for at least
10 two years beyond the term of its last receipt of income tax
11 credits. Failure to comply with the foregoing provision shall
12 result in recapture of fifty per cent of the credit claim under
13 this section in all prior taxable years. In determining whether
14 a business firm is maintaining substantial business operation in
15 the State, the department may consider:

16 (1) The number of employees of and wages paid by the firm;

17 (2) The revenues of the firm; and

18 (3) Other factors as determined by rule.

19 (1) Notwithstanding any other law to the contrary limiting
20 the disclosure of tax returns or return information, the
21 department of business, economic development, and tourism and
22 the department of labor and industrial relations shall be



1 entitled to inspect and receive tax returns and return
2 information in the administration of this credit.

3 (m) As used in this section:

4 "Base employment level" means the number of persons
5 employed by an eligible business on the effective date of this
6 Act, as evidenced by payroll records submitted as part of the
7 firm's monthly remittance of unemployment tax payments to the
8 State.

9 "Business firm" means any corporation, partnership,
10 subchapter S corporation, limited liability company, or sole
11 proprietorship registered to do business in the State with the
12 department of commerce and consumer affairs and the department
13 of taxation, subject to the taxes imposed under this chapter.

14 "Eligible employee" means an individual who resides in the
15 State and who is receiving unemployment insurance benefits or is
16 eligible to receive such benefits.

17 "New permanent full-time position" means a position newly
18 created in the State and, prior to the ninetieth day preceding
19 the business firm's filling of that position, did not exist in
20 the State as a job position of the business firm or of another
21 related business entity; and the job position was filled during



1 the first year of credit eligibility and continued to exist at
2 the end of that year.

3 "Permanent full-time employment" means a job of indefinite
4 duration at a business firm located within the State and
5 requiring either:

- 6 (1) A minimum of thirty-five hours of an employee's time a
7 week for the entire taxable year of the business firm
8 where the taxable year consists of not less than
9 forty-eight weeks or a portion thereof when the
10 employee was initially hired by the business firm; or
11 (2) A minimum of 1,680 hours a year of employment, or the
12 pro-rata share from the initial hire date within the
13 year, when two thousand eighty hours is considered a
14 full work year."

15 SECTION 3. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2013, and
17 shall apply to taxable years beginning after December 31, 2012;
18 provided that this Act shall be repealed on December 31, 2016;
19 provided further that even though this Act has been repealed,
20 all unexhausted tax credits allowed under this Act shall be
21 valid until exhausted; provided further that applications for
22 tax credits and tax credits claimed under this Act for taxable



1 years ending before January 1, 2017, shall be valid even though
2 claimed after December 31, 2016.

3

INTRODUCED BY: *Anzanne Cruz Calles*



S.B. NO. 521

Report Title:

Job Creation Tax Credit

Description:

Provides for a job creation income tax credit for each new full time employee hired after 04/30/2013 and before 05/01/2014.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

