

DISABILITY AND COMMUNICATION ACCESS BOARD

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March 28, 2013

TESTIMONY TO THE SENATE COMMITTEE ON WAYS AND MEANS

House Bill 1298, HD1, SD1 – Relating to Taxation

The Disability and Communication Access Board (DCAB) supports the intent of House Bill 1298, HD1, SD1 – Relating to Taxation. This bill provides a taxpayer who hires an individual with a disability with a nonrefundable income tax credit at fifty percent of qualified wages for the six-month period for which the individual is initially hired by the taxpayer.

DCAB is aware that the unemployment rate of people with disabilities in Hawaii is higher than the national average and that this bill is meant to create a tax incentive for employers to hire people with disabilities. We suggest that there are other avenues to provide incentives to hire people with disabilities to work, such as making them aware of how to provide reasonable accommodations for applicants and employees with disabilities and the cost of making an accommodation.

We have no opinion about whether or not providing a tax incentive will be the most effective means to increase employment of people with disabilities. We feel it is one means, and perhaps combining it with other options may make more of an impact to increase competitive employment of people with disabilities.

Thank you for the opportunity to testify.

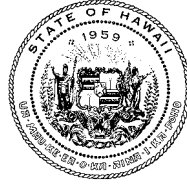
Respectfully submitted,

BARBARA FISCHLOWITZ-LEONG
Chairperson

FRANCINE WAI
Executive Director

NEIL ABERCROMBIE
GOVERNOR

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FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR



To: The Honorable David Y. Ige, Chair
and Members of the Senate Committee on Ways and Means

Date: Thursday, March 28, 2013
Time: 9:05 a.m.
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 1298, H.D.1, S.D.1 Relating to Taxation

The Department **appreciates the intent** of H.B. 1298, H.D.1, S.D.1 and provides the following information and comments for your consideration.

H.B. 1298, H.D.1, S.D.1 creates a tax credit for hiring individuals with a disability. The credit is to be claimed against net income tax liability. The credit is applicable to tax years beginning after December 31, 2013, and has a defective effective date of July 1, 2030.

The Department defers to the Department of Health on the merits of the bill, but notes that the taxpayer claiming the credit may be requested to provide substantiation of any claimed disabled employees in the event of an audit. As amended, this bill allows a credit for any "individual with a disability" that is hired. This standard is very vague and will result in taxpayer confusion and administrative difficulty for the Department.

The Department suggests including a provision for the certification of an individual with a disability by an office or agency other than the Department of Taxation, or possibly by a licensed physician with the capability of determining whether a person has a disability that qualifies for this proposed tax credit. Such a provision will help ensure the tax credit is available for those who qualify under the statute. If adopted, the Department has not ability or expertise to make a determination about whether an employee has a disability sufficient to meet the intent of the statutory language.

The bill also does not specify whether the tax credit can be claimed by succeeding companies or subsidiaries employing the disabled employee. As written, the bill allows for multiple credits being claimed for the hiring of the same qualifying person. If the intent of H.B. 1298, H.D.1, S.D.1 is to limit the credit to the first employer, the Department suggests including a provision indicating this limitation.

Subsection (b) sets a cap on an unspecified amount, however, as written, it is unclear what the cap applies to. The Department suggests clarifying the provision in accordance with the intent of the application of the cap. For example, if the intent is to limit the tax credit amount per taxpayer per taxable year, the provision should read: "provided that in no taxable year shall the total amount of the tax credit claimed under this section exceed \$_____ per taxpayer".

Also, the Department notes that it is unclear whether an "individual with a disability" who owns the business could pay themselves wages and claim the tax credit. For example, a single-member LLC owned by an "individual with a disability" could pay wages to him/herself as the employee and the LLC could claim the tax credit for wages paid. If the intent is to disallow this scenario, the Department suggests that a clarifying provision be inserted.

Finally, the Department notes that the proposed credit is similar to an existing credit at section 235-55.91, HRS. This tax credit is equal to twenty per cent of wages paid to vocational rehabilitation referrals during the first year of employment. To qualify for this credit the employee must have a physical or mental disability. The operation of the credit is very detailed and enlists the Departments of Human Services and Labor and Industrial Relations to certify its qualifications. The existing credit also prohibits deductions for amounts used to calculate the credit. The Department wishes to note the existence of this similar credit, and strongly recommends that it be used as guidance or substitute for the tax credit proposed by H.B. 1298, H.D.1, S.D.1.

The Department estimates this measure would result in an annual revenue loss of \$25 million.

Thank you for the opportunity to provide comments.



STATE OF HAWAII
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March 28, 2013

The Honorable David Y. Ige, Chair
Senate Committee on Ways and Means
Twenty-Seventh Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Senator Ige and Members of the Committee:

SUBJECT: HB 1298 HD1 SD1 – RELATING TO TAXATION


The State Council on Developmental Disabilities **SUPPORTS THE INTENT OF HB 1298 HD1 SD1**. The bill provides a nonrefundable income tax credit at 50 percent of qualified wages for the first six months for a taxpayer who hires an individual who is developmentally, intellectually, or physically disabled.

Employment of people with intellectual and developmental disabilities (I/DD) is a priority for the Council and is reflected in our 2012-2016 State Plan Employment Goal that states “People with intellectual and developmental disabilities will have supports to obtain and sustain their chosen life goal to prepare students at all educational levels for the transition from high school to adult life, including employment, self-employment, and/or post-secondary education and training.” Employment of individuals with I/DD is a means toward economic self-sufficiency, contributing to their communities as tax paying citizens, and establishing relationships and social networking.

The Council appreciates the Legislature’s initiative to provide incentives, such as tax credits for hiring people with developmental, intellectual, or physical disabilities. We defer to the Department of Taxation regarding the fiscal implications of carrying out the provisions in the bill.

Thank you for the opportunity to submit comments **supporting the intent of HB 1298 HD1 SD1**.

Sincerely,


Waynette K.Y. Cabral, MSW
Executive Administrator


J. Curtis Tyler III
Chair