

HB 1298, HD1

Measure Title: RELATING TO TAXATION.

Report Title: Tax Credit; Developmental, Intellectual, or Physical Disability;
Employment

Description: Provides a nonrefundable income tax credit at fifty per cent of qualified wages for the first six months for a taxpayer who hires a developmentally, intellectually, or physically disabled individual. Effective July 1, 2030. (HB1298 HD1)

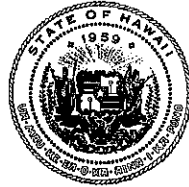
Companion:

Package: None

Current Referral: HMS, WAM

Introducer(s): KAWAKAMI, TOKIOKA, Cullen

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

Senate Committee on Human Services

HB1298, HD 1 Relating to Taxation

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

March 14, 2013

WRITTEN TESTIMONY ONLY

1 **Department's Position:** The Department of Health appreciates the intent and supports the concept of
2 the bill and recommends amendments.

3 **Fiscal Implications:** The Department of Health defers to the Department of Taxation.

4 **Purpose and Justification:** HB1298, HD 1 offers incentives to taxpaying employers who hire and
5 employ individuals with developmental disabilities (DD) or intellectual disabilities (ID). The State of
6 Hawaii currently has 104 people with I/DD who have full or part-time jobs that are paid minimum wage
7 or more. This number comprises 7% of the number of people who are currently receiving Home and
8 Community Based Services (HCBS) under the HCBS Medicaid Waiver Program. Hawaii is one of the
9 lowest ranking states in the nation who employs individuals with I/DD. The national average of such
10 employment is approximately 20.1%. Currently, the Department is working with service providers to
11 assist such individuals to become employment ready by providing pre-vocational, individual and group
12 employment training.

1 The Department appreciates the importance of this bill to assist these individuals to gain
2 meaningful work experience and contribute unique services to Hawaii's work force; however, the
3 Department recommends amending the bill's definition of "disabled." There are two options.

4 Option One: "Disabled" means a physically or intellectually and/or developmentally disabled
5 individual who has documented proof of such disability from a licensed physician, and is eligible for
6 Department of Health Developmental Disabilities Division's services, and is known to the Department
7 of Human Services' Division of Vocational and Rehabilitative (DVR) Services. This first option will
8 limit this tax credit to employers who employ individuals with I/DD who qualify for government
9 assistance in this bill.

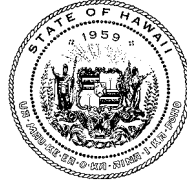
10 Option Two: "Disabled" means a physically or intellectually and/or developmentally disabled
11 individual who has documented proof of such disability from a licensed physician and is known to the
12 Department of Human Services' DVR Services. This second option allows for a broader group to
13 benefit from this tax credit to employers who employ individuals with disabilities that includes persons
14 with I/DD and other physical and mental disabilities.

15 The Department of Health is available to work with the legislature and stakeholders to refine the
16 statutory language for this bill.

17 Thank you for this opportunity to testify.

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
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FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Suzanne Chun Oakland, Chair
and Members of the Senate Committee on Human Services

Date: Thursday, March 14, 2013
Time: 1:00 p.m.
Place: Conference Room 016, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

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

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

H.B. 1298, H.D.1 creates a tax credit for hiring developmentally, intellectually, or physically disabled employees. The credit is to be claimed against net income tax liability. The credit is to apply to tax years beginning after December 31, 2012. The bill 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. The Department suggests a provision be added that would require an agency other than the Department of Taxation, or a licensed doctor with the capability of determining whether a person is developmentally, intellectually, or physically disabled, make the determination as to whether employees meet the criteria of the credit. The Department also notes that some non-profit organizations may not have the appropriate personnel to determine which employees meet the criteria of the credit.

The bill does not specify whether the tax credit can be claimed by succeeding companies or subsidiaries employing the disabled employee. The bill as written may encourage this behavior as it will allow multiple credits for the hiring of the same employee. If the intent of H.B. 1298, H.D.1 is to limit the credit to the first employer, the Department suggests that a provision indicating this limitation be added.

The Department also suggests the following amendment on page 2, line 15, after "is" insert "initially". This amendment will help preempt the firing and rehiring of each disabled employee after every six months to reset the six month qualifying period.

If the defective date were amended to have the bill become effective immediately, the application of the credit to the current tax year would give the Department very little time to complete forms and instructions for the claim of this credit. Due to the technological challenges of the Department's computer system, the Department respectfully requests that this tax credit be effective for taxable years beginning after December 31, 2013.

The Department notes that the proposed credit is similar to an existing credit at section 235-55.91, HRS. That 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. This existing credit also prohibits deductions for amounts used to calculate the credit. The Department merely wishes to note the existence of this similar credit and its potential as guidance or substitute for the credit proposed by H.B. 1298, H.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
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
919 ALA MOANA BOULEVARD, ROOM 113
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TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
March 14, 2013

The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services
Twenty-Seventh Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Senator Chun Oakland and Members of the Committee:

SUBJECT: HB 1298 HD1 – RELATING TO TAXATION

The State Council on Developmental Disabilities **SUPPORTS THE INTENT OF HB 1298 HD1**. 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.

With respect to the intent of the bill, the Council proposes the following amendments for your consideration:

1. Page 2, lines 4-8: The definition of “disabled” as indicated is consistent with the definition for disability under the Americans with Disabilities Act (ADA). Based on this definition, we ask the Committee to consider amending the bill by replacing all reference to “developmentally, intellectually, or physically disabled” to disability. Hence, developmentally, intellectually, or physically disabled individual(s) would be replaced by individual(s) with a disability. The term “individual(s) with a disability” is much broader and would include people with a developmental, intellectual, or physical disability.
2. Page 2, lines 8-12: Delete the provision “that the person has been confirmed of such a condition by a non-profit organization working with developmentally, intellectually, or physically disabled individuals, such as, but not limited to, the Easter Seals or the Friendship House.” Having a record of such impairment or being regarded as having such impairment would meet the definition under ADA. Furthermore, confirmation by a non-profit organization would be restrictive to only non profits, consequently leaving out for profit organizations and public agencies, such as the Department of Health, Department of Human Services, and Department of Education.


The Honorable Suzanne Chun Oakland
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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 testimony **supporting the intent of HB 1298 HD1 with proposed amendments.**

Sincerely,


Waynette K.Y. Cabral, MSW
Executive Administrator


J. Curtis Tyler III
Chair

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Credit for employment of disabled individuals

BILL NUMBER: HB 1298, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow employers to claim an income tax credit for the hiring of a developmentally, intellectually, or physically disabled individual equal to 50% of the qualified wages for the first six months after the individual is hired.

Tax credits that exceed the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. In no taxable year shall the total amount of tax credits claimed under this section exceed \$_____.

Defines "disabled" as having a physical or intellectual impairment which substantially limits one or more major life activity, having record of such impairment, or being regarded as having such impairment provided that the person has been confirmed of such a condition by a nonprofit organization working with developmentally, intellectually, or physically disabled individuals.

Requires the director of taxation to prepare any forms necessary to claim a credit, may require a taxpayer to furnish reasonable information in order to validate a claim for the credit, and adopt rules pursuant to HRS chapter 91. Requires claims for the credit, including any amended claims, to be filed on or before the end of the twelfth month following the taxable year for which the credit is claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit.

EFFECTIVE DATE: July 1, 2030 applicable to tax years beginning after December 31, 2012

STAFF COMMENTS: While this measure is proposed as an incentive to entice employers to hire an individual who is developmentally, intellectually, or physically disabled, it should be remembered that the tax system is a poor means of achieving such social goals. Providing such credits against the state income tax merely reduces state revenues that may necessitate a shift in the tax burden to other taxpayers who are not able to claim the credit.

Tax credits that have absolutely no relationship to the burden of taxes imposed on the employer/taxpayer and the taxpayer's ability or inability to pay those taxes cannot be justified. This credit is nothing more than a subsidy of state funds to an employer of 50% of a disabled employee's wages and would not in any way address the employer/taxpayer's need for tax relief. Magnanimous as this gesture may be, it comes at a cost to all other taxpayers. Further, there are few guidelines or specifications to prevent the possible abuse and fraud that could be perpetrated under this provision. With no oversight and little required in the way of reporting, this proposal could pose a serious drain on state resources.

Digested 3/12/13



Building Independence for Challenged Lives

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Marian E. Tsuji

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State of Hawaii
Senate Committee on Human Services
The Honorable Senator Suzanne Chun Oakland, Chair
The Honorable Senator Josh Green, Vice Chair
Hawaii State Legislature

March 14, 2013; 1:20 pm
Room 016

HB 1298, HD 1, Relating to Taxation

Good afternoon, Chair Chun Oakland, Vice Chair Green, and Members of the Human Services Committee,

Lanakila Pacific strongly supports HB 1298, HD 1, which provides a tax incentive for businesses who hire individuals with disabilities.

Founded in 1939, Lanakila Pacific is a Hawaii-based non-profit. Our programs and social enterprises currently serve over 2,300 Oahu and Kauai residents annually, with services that build independence and self-sufficiency, which in turn supports our greater community. Our programs include employment training and job placement assistance for people with disabilities.

Unfortunately, despite the progress, much more needs to be done to promote employment of people with disabilities. According to the U.S. Bureau of Labor Statistics, in 2011, only 17.8% of people with disabilities were employed compared to 63.6% of those without disabilities. The unemployment rate of persons with a disability was 15% in 2011, nearly twice the rate for those with no disability, at 8.7 percent. Clearly there is a huge disparity.

Although much more needs to be done, this bill will encourage more employers to hire people with disabilities. This not only benefits the individual's self-esteem, it also contributes to their economic self-sufficiency and makes them less dependent upon taxpayer funded assistance. More people with disabilities working means more consumers to put money back into the economy, more contributing taxpayers, and better use of state resources.

Thank you for the opportunity to provide testimony in support of this measure.

Respectfully submitted,

Marian E. Tsuji
President & CEO