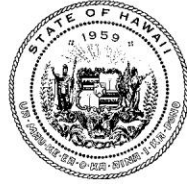


NEIL ABERCROMBIE
GOVERNOR

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JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Wednesday, February 20, 2013

Time: 2:00 p.m.

Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 1298 Relating to Taxation

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

H.B. 1298 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 effective for tax years beginning after December 31, 2012.

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 the disabled employees meet the criteria such that the employer may claim the tax credit. The Department also notes that not all non-profit organizations may have the appropriate personnel to make such determinations to qualify employers for the tax credit.

This bill is also does not specify whether the tax credit can be claimed by succeeding employers of the disabled individual or whether another tax credit could be claimed by subsidiaries of the original employer, which could result in multiple tax credits being claimed for hiring of the same disabled employee. If the intent of H.B.1298 is to limit the credit to the first employer, the Department suggests that a provision be added to indicate this limitation.

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 every six months to reset the six month qualifying period.

If approved, the bill becomes effective upon approval and applies to the current tax year. This effective date gives the Department very little time to complete forms and instructions required for the claiming of this credit. The Department respectfully requests that this tax credit be made 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. For the purposes of this credit, the employee having a physical or mental disability is one of the requirements. The operation of the credit is very detailed and enlists the Departments of Human Service and Labor and Industrial Relations to certify qualification for the credit. The 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.

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

Thank you for the opportunity to provide comments.

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, Credit for employment of disabled individuals

BILL NUMBER: HB 1298

INTRODUCED BY: Kawakami, Tokioka and 1 Democrat

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: 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 2/12/13

finance1-Christie

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 17, 2013 8:21 PM
To: FINTestimony
Cc: tabraham08@gmail.com
Subject: *Submitted testimony for HB1298 on Feb 20, 2013 14:00PM*

HB1298

Submitted on: 2/17/2013

Testimony for FIN on Feb 20, 2013 14:00PM in Conference Room 308

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Troy Abraham | Individual | Support | No |

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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