NEIL ABERCROMBIE
GOVERNOR

CRAIG K. HIRAI
EXECUTIVE DIRECTOR

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IN REPLY REFER TO:

Statement of
**Craig K. Hirai**
Hawaii Housing Finance and Development Corporation
Before the

**HOUSE COMMITTEE ON HOUSING**
January 27, 2014 at 9:00 a.m.
State Capitol, Room 329

In consideration of
**H.B. 2085**
**RELATING TO ECONOMIC SUSTAINABILITY.**

The HHFDC ***supports the intent*** of H.B. 2085, which provides an income tax credit for projects located in location efficient areas. Similar legislation has been enacted in Illinois and New Jersey to address urban sprawl issues and encourage new businesses to locate in areas near public transportation and affordable workforce housing.

HHFDC has concerns, however, that the administrative requirements of the proposed tax credit may be beyond our area of expertise. We also are concerned with our capacity to comply with applicable financial privacy laws and regulations, given the bill's requirements that we review and maintain records relating to new employees' wages and withheld taxes.

Thank you for the opportunity to testify.

SUBJECT: INCOME, Location efficiency tax credit

COMMENTS

BILL NUMBER: HB 2085

INTRODUCED BY: Har, Cabanilla, Choy, Cullen, Oshiro, Say, Tokioka, Yamashita

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a qualified taxpayer to claim a location efficiency tax credit which shall be deductible from the taxpayer's net income tax liability for the taxable year in which the credit is properly claimed. Requires a taxpayer to submit a location efficiency report to the Hawaii housing finance and development corporation (HHFDC) who may grant a tax credit to the taxpayer if in the corporation's discretion the taxpayer's location efficiency report demonstrates that the taxpayer seeks a tax credit for a project to be located in an area that satisfies this section's standards for affordable workforce housing or accessible and affordable mass transit.

Allows taxpayers who employ new employees for a project during the taxable year to receive a tax credit equal to 10% of the new employees' withheld taxes; provided that the tax credit may not exceed the taxpayer's annual state income tax liability for any taxable year and the tax credit shall be non-refundable.

Requires a taxpayer claiming a tax credit to annually report to the HHFDC the number of new employees employed by the taxpayer for the project and the amount of taxes withheld by the applicant in connection with the new employees. Requires the HHFDC to maintain records and submit to the legislature a report on the tax credits allowed prior to the convening of each regular legislative session.

Defines "location efficiency" as a project that maximizes the use of existing investments in infrastructure, avoids or minimizes additional government expenditures for new infrastructure, and has nearby affordable workforce housing or accessible and affordable mass transit, or some combination of both. Defines "accessible and affordable mass transit" as access to transit stops with regular and frequent service within one mile from the project site and pedestrian access to transit stops. Also defines "affordable workforce housing," "corporation" and "new employee" for purposes of the measure.

Repeals this act on January 1, 2018.

EFFECTIVE DATE: Tax years beginning after December 31, 2013

STAFF COMMENTS: This measure proposes a "location efficiency" tax credit of 10% of a new employee's withheld income taxes provided the taxpayer submits a location efficiency report to the HHFDC and the HHFDC approves the request for the tax credit.

The tax credit proposed in this measure does not have any bearing on the taxpayer's tax burden. This measure merely uses the tax system to promote relocation of projects near affordable housing and mass transit. While the credit proposed by this measure would rely on the approval of the HHFDC, it does not delineate any further qualification, approval or administration by the department of taxation who normally administers the tax credits.

The amount of the credit is based on state tax withheld. This feature of the credit is susceptible to abuse because any employee is able to designate an "additional amount withheld" on Form HW-4. Employers seeking more than their share of the credit easily could make it worthwhile for an employee to withhold a large amount of tax. To that point, what does the amount withheld from a worker's paycheck have to do with the employer's ability or inability to locate near housing and transit? From a pragmatic viewpoint, this proposal would be difficult to administer and enforce and, therefore, is untenable.

Tax credits generally are designed to reduce the tax burdens of certain groups by refunding a portion of taxes paid on purchases of essential items and services. The proposed tax credit amounts to nothing more than a partial subsidy of state funds to the favored taxpayer as there is no obvious undue burden of taxes that is to be addressed.

Finally, lawmakers should keep in mind that unless spending is reduced by an amount equal to the loss of revenues this bill represents, all other taxpayers will have to pick up the tab for this tax incentive.

Digested 1/24/14

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| **From:** | mailinglist@capitol.hawaii.gov |
| **Sent:** | Monday, January 27, 2014 7:19 AM |
| **To:** | HSGtestimony |
| **Cc:** | robertscottwall@yahoo.com |
| **Subject:** | Submitted testimony for HB2085 on Jan 27, 2014 09:00AM |

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**HB2085**
Submitted on: 1/27/2014
Testimony for HSG on Jan 27, 2014 09:00AM in Conference Room 329

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---|---|---|---|
| Scott Wall | Community Alliance for Mental Health | Support | No |

Comments: Aloha Chair Belatti and members of the committee, On behalf of the Community Alliance for Mental Health along with United Self Help we would like to support HB2085. This bill is necessary in addressing our critical housing shortage. It also plays an important role in our health care transformation. Scott Wall VP/Legislative Advocate Community Alliance for Mental Health

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LATE

COMMENTS

To: The Honorable Mark J. Hashem, Chair
and Members of the House Committee on Housing

Date: Monday, January 27, 2014
Time: 9:00 a.m.
Place: Conference Room 329, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 2085 Relating to Economic Sustainability

H.B. No. 2085 establishes an income tax credit for projects which are to be located in areas that are location efficient. It establishes procedures for the Hawaii Housing Finance and Development Corporation (HHFDC) to determine whether proposed projects meet the requirements necessary to qualify for the tax credit, and requires HHFDC to submit a report on the tax credit claimed under this provision annually to the legislature. The measure would be effective for taxable years beginning after December 31, 2013 and is repealed on January 1, 2018.

The Department defers to HHFDC on the merits of this measure, but has several concerns on the mechanics of the tax credit. The credit is set at ten percent of the State income taxes withheld by the qualified taxpayer from the wages of new employees. However, the amount of State income taxes withheld from wages is not a good indication of wages paid. In particular, the amount of State income taxes withheld is determined by the employee, based upon the number of qualified exemptions the employee is entitled to take, the amount of itemized deductions (if any), other sources of income, tax payments from other sources (i.e. a second job), estimated tax payments, and a myriad of other factors. Two employees having the same pay may have vastly different State tax withholding requirements.

In addition, "new employee" is defined in part as not including "an employee of the taxpayer who performs a job that was previously performed by another employee". However, this definition can be easily manipulated and create significant enforcement issues for the Department. For example, simply adding or deleting a minor duty to the employee's workload could be sufficient to cause the employee not to be performing a job previously done by another employee. It should also be noted that the definition would not disqualify siblings or other relatives from the being a new employee.

Thank you for the opportunity to provide comments.