HB799 HD3

Establishes a Workforce Development Training Program that provides wage reimbursement for on-the-job training by entities who receive a Motion Picture, Digital Media, and Film Production Tax Credit. Deletes Internet-only distribution exclusion for advertising; clarifies definitions of qualified production costs; and extends the sunset date of the Tax Credit to January 1, 2025. Appropriates funds for the Training Program. (HB799 HD3)

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development and Tourism
before the
COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING
Monday, March 11, 2013
2:45 p.m.
State Capitol, Conference Room 16
in consideration of

HB799, HD3, Proposed SD1
RELATING TO CREATIVE MEDIA DEVELOPMENT.

Chair Dela Cruz, Vice Chair Slom, and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) offers comments on HB799, HD3, proposed SD 1, which introduces a new non-refundable credit equal to 25 percent of the qualified costs for qualified digital media infrastructure projects, specifically in West Oahu or the most populous island in a county with a population of 100,000 to 175,000.

We support the intent of this new infrastructure credit but would recommend eliminating the geographic restriction.

Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR

DWIGHT Y. TAKAMINE
DIRECTOR

AUDREY HIDANO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
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March 8, 2013

To: The Honorable Donovan M. Dela Cruz, Chair,
The Honorable Sam Slom, Vice Chair, and
Members of the Senate Committee on Economic Development, Government Operations and Housing

Date: Monday, March 11, 2013
Time: 2:45 p.m.
Place: Conference Room 16, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 799, Proposed SD1, Relating to Creative Media Development

I OVERVIEW OF PROPOSED LEGISLATION

H.B. 799, Proposed SD 1, proposes to amend Chapter 235, HRS, by adding a new section that will do the following:

- Establish a media infrastructure project tax credit for qualified media infrastructure projects in West Oahu or on the most populous island in a county with a population between 100,000 and 175,000;
- Provide for recapture of the media infrastructure project tax credit in certain circumstances;
- Require the Department of Taxation to submit annual reports to the Legislature; and
- Have the Act effective on July 1, 2050.

II. CURRENT LAW

Chapter 235-17, HRS, established a tax incentive to attract film and digital media productions to Hawaii. To qualify for the tax credit, a production company must:

1. Meet the definition of a qualified production;
2. Have qualified production costs totaling at least $200,000;
3. Provide the State, at a minimum, a shared-card, end-title screen credit, where applicable;

4. Provide evidence of reasonable efforts to hire local talent and crew; and
5. Provide evidence of financial or in-kind contributions or educational or workforce development efforts, in partnership with related local industry labor organizations, educational institutions, or both, toward the furtherance of the local film and television and digital media industries.

III. COMMENTS ON PROPOSED SD 1

The department respectfully requests that the language of HB799, HD 3, Section 2, relating to workforce development training program be retained. Also, the department requests that in Section 2, page 3, line 21, of HD 3, that the word, "upon", be replaced with "until" so that the entire sentence starting from line 19 reads as follows:

"The new hire must be guaranteed full-time employment of a minimum of thirty-two hours per week with the entity upon successful completion of the training period or until the termination of the motion picture, digital media, television, or film production."

This change will enable productions of short durations to participate in the workforce development training program. The department supports this bill with the requested revisions provided that its passage does not replace or adversely impact priorities indicated in the Executive Budget.

DLIR defers to other departments regarding the other substantive provisions in this measure.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Extend motion picture, digital media and film production credit

BILL NUMBER: HB 799, HD-3

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends HRS section 235-17 to amend the definition of "digital media" to include the production of digital media content that may be distributed over the Internet. Amends the definition of "qualified production costs" to exclude state and county facility and location fees that are not subject to the general excise tax or state income tax.

Directs the department of business, economic development, and tourism (DBEDT) to submit an annual report to the legislature prior to each regular session beginning with the 2014 regular session which shall contain a cost benefit analysis of the tax credits established in this act including: (1) the total number of full-time, part-time, and contract personnel on the payroll necessary to administer this act; and (2) the average wage of each of the above personnel groups and total earnings for the year. Requires DBEDT to report the data collected under this section along with a cumulative total of tax credits granted for each qualified production. The legislature may use the information to determine whether the tax credits are meeting the objectives of this act.

Amends Act 88, SLH 2006, to extend the motion picture and television film credit from January 1, 2016 to January 1, 2025.

Makes nontax amendments to establish a workforce development training program administered by the department of labor and industrial relations (DLIR).

EFFECTIVE DATE: July 1, 2030; applicable to tax years beginning after December 31, 2012 and before January 1, 2025

STAFF COMMENTS: This was an administration measure submitted by the department of business, economic development and tourism BED-06(13). The legislature by Act 107, SLH 1997, enacted an income tax credit of 4% for costs incurred as a result of producing a motion picture or television film in the state and 7.25% for transient accommodations rented in connection with such activity. The credit was adopted largely to address the impost of the state's general excise tax on goods and services used by film producers.

The legislature by Act 88, SLH 2006, increased the 4% credit to 15% in a county with a population over 700,000 and to 20% in a county with a population of 700,000 or less. Act 88 also repealed the income tax credit for transient accommodations and expanded the credit to include commercials and digital media productions, and limited the credit to $8 million per qualified production. The proposed measure would expand the existing tax credits to include digital media content that may be used over the Internet and extends the credit from January 1, 2016 to January 1, 2025.

These motion picture credits have been morphing and expanding into full-blown tax credits since they "got their foot in the door" in 1997. It should be remembered that the perpetuation and expansion of the motion picture credits are a drain on the state treasury. It is incredulous how lawmakers can bemoan the fact that there are insufficient resources to catch up on the backlog of school repairs and maintenance, to fund social programs and not being able to provide tax relief to residents and yet they are willing to throw additional public resources at a subsidy of film production and media infrastructure. Taxpayers should be insulted that lawmakers can provide breaks for film productions but refuse to provide tax relief for residents, many of whom work two or three jobs just to keep a roof over their head and food on the table.

There is absolutely no rational basis for expanding and extending these tax credits other than that other states are offering similar tax credits. Then again those states can't offer paradise, year-round good weather during which to film. Instead of utilizing back door subsidies through tax credits, film industry advocates need to promote the beauty that is synonymous with Hawaii.

Income tax credits are designed to reduce the tax burden by providing relief for taxes paid. Tax credits are justified on the basis that taxpayers with a lesser ability to pay should be granted relief for state taxes imposed. While the sponsors try to make an argument that Hawaii needs to enact such an incentive to compete for this type of business, one has to ask "at what price?" Promoters of the film industry obviously don't give much credit to Hawaii's natural beauty and more recently its relative security. Just ask the actors of "Lost" or "Hawaii 5-0" who have bought homes here if they would like to work elsewhere. While film producers may moan that they will lose money without the proposed tax credits, is there any offer to share the wealth when a film makes millions of dollars? If promoters of the film industry would just do their job in outlining the advantages of doing this type of work in Hawaii and address some of the costly barriers by correcting them, such tax incentives would not be necessary. From permitting to skilled labor to facilitating transportation of equipment, there are ways that could reduce the cost of filming in Hawaii. Unless these intrinsic elements are addressed, movie makers will probably demand subsidies, such as this incentive. Unfortunately, they come at the expense of all taxpayers and industries struggling to survive in Hawaii. While lawmakers look like a ship of fools, movie producers and promoters are laughing all the way to the bank and the real losers in this scenario are the poor taxpayers who continue to struggle to make ends meet.

So while there may be the promise of a new industry and increased career opportunities, lawmakers must return to the cold hard reality of solving the problems at hand. The long and short of it is that due in large part to the irresponsibility of handling state finances in the past, taxpayers cannot afford proposals like this. Thanks to the gushing generosity of those lawmakers who gave the state's bank away in all sorts of tax incentive schemes in recent years, taxpayers cannot afford what looks like a promising opportunity.

Robert Tannenwald, a senior fellow at the Center for Budget and Policy Priorities, drew the following conclusions in a report entitled "State Film Subsidies Offer 'Little Bang for the Buck'," published in State Tax Notes Magazine, December 13, 2010:

> "State film subsidies are a wasteful, ineffective, and unfair instrument of economic development. While they appear to be a 'quick fix' that provides jobs and businesses to state residents with only a short lag, in reality they benefit mostly nonresidents, especially well-paid nonresident film and TV professionals. Some residents benefit from these subsidies, but most end up paying for them in the form of fewer services - such as education, healthcare and police and fire protection - or higher taxes elsewhere. The benefits to the few are highly visible; the costs to the majority are hidden because they are spread so widely and detached from the subsidies.
>
> State governments cannot afford to fritter away scarce public funds on film subsidies, or, for that matter, any other wasteful tax break. Instead, policymakers should broaden the base of their taxes to create a fairer and more neutral tax system. Economic development funds should be targeted on programs that are much more likely to be effective in the long run, such as support of education and training, enhancement of public safety, and maintenance and improvement of public infrastructure. Effective public support of economic development may not be glamorous, but at its best, it creates lasting benefits for residents from all walks of life."

Finally, given all of the other proposals by the administration to exact this or that fee or tax out of the economy and from Hawaii's residents, one must ask just how much can we afford? At the very time, Hawaii residents are being asked to chip in another dime for a single- use bag, or another dollar on their vehicle registration fee for a parking program for the disabled, or a penny per ounce on sugary drinks, can taxpayers really afford to hand millions of dollars to a film production in the promise that it will bring more jobs. Let's see, we are going to put people out of business by raising taxes and fees to create jobs for people who will have nowhere to go to buy their plate lunch. Instead of handing out tax credits for which lawmakers have no clue of the overall drain on state tax dollars, subsidies for these film productions, if that is what lawmakers believe is needed, should be subject to legislative review and appropriation like any other expenditure of state tax dollars.

Lawmakers must reconcile this measure which hands out millions of tax dollars to the film industry against all of the demands for the expenditure of tax dollars such as the administration's push for the funding of early childhood education, watershed restoration and preservation, and alternate energy and food safety. Do lawmakers realize the size of the tax burden now borne by their constituents just so tax incentive programs like these can be pursued? Although advocates may drag out workers employed in this industry, what about workers in other industries who are still sitting on the bench?

Digested 3/8/13

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March 8, 2013
TESTIMONY OF STANLEY CHANG
COUNCILMEMBER FOR THE CITY AND COUNTY OF HONOLULU
On
H.B. No. 799, HD3, RELATING TO CREATIVE MEDIA DEVELOPMENT
Monday, March 11, 2013
2:45 p.m.
Conference Room 16

Dear Chair Luke and Committee Members:

Thank you for allowing me the opportunity to submit testimony in support of H.B. 799, HD3 Relating to Creative Media Development as a Councilmember for the City and County of Honolulu.

The purpose of this H.B. 799, HD3 is to support the continued growth of the film and digital media industry in Hawaii. This Bill would extend the sunset date of the tax credit to 2025 making Hawaii a much more desirable and competitive location for projects in the future, which would in turn generate more tax revenue.

For these reasons, I respectfully ask for your favorable passage of H.B. 799, HD3 Relating to Creative Media Development and thank the Committee for allowing me to provide testimony.

Sincerely,

Stanley Chang
Councilmember – District IV

Council Chair
Gladys C. Baisa

Vice-Chair
Robert Carroll

Council Members
Elle Cochran
Donald G. Couch, Jr.
Stacy Crivello
Don S. Guzman
G. Riki Hokama
Michael P. Victorino
Mike White

Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL

COUNTY OF MAUI
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WAILUKU, MAUI, HAWAII 96793
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March 9, 2013

TO: The Honorable Donovan M. Dela Cruz, Chair
Senate Committee on Economic Development, Government Operations and Housing

FROM: Gladys C. Baisa
Council Chair

SUBJECT: **HEARING OF MARCH 11, 2013; TESTIMONY IN SUPPORT OF HB 799, HD3, PROPOSED SD1, RELATING TO CREATIVE MEDIA DEVELOPMENT**

Thank you for the opportunity to testify in support of this important measure. The purpose of this measure is to establish a media infrastructure project tax credit, with certain conditions, for qualified media projects in West Oahu or on the most populous island in a county with a population between 100,000 and 175,000.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. The film, television, and other creative arts industries in Hawaii are important components of a diversified economy. These industries attract large amounts of money, create much-needed jobs, and, with the proper incentives, provide long-term sustainable economic activity.

2. High production costs and limited infrastructure deter television and film productions from coming to Hawaii. Enhanced tax incentive programs will offset these obstacles, and attract more film and television productions to Hawaii.

3. Enactment of the bill will encourage growth of the film industry, thereby stimulating the economy, providing jobs for local people, and generating increased tax revenues.

For the foregoing reasons, I support this measure.

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Twenty-Seventh Legislature
Regular Session of 2013

THE SENATE
Committee on Economic Development,
Government Operations and Housing
Senator Donovan M. Dela Cruz, Chair
Senator Sam Slom, Vice Chair
State Capitol, Conference Room 016
Monday, March 11, 2013; 2:45 p.m.

STATEMENT OF THE ILWU LOCAL 142 ON H.B. 799, HD3 AND PROPOSED SD1 RELATING TO CREATIVE MEDIA DEVELOPMENT

The ILWU Local 142 strongly supports H.B. 799, HD3, which establishes a Workforce Development Training Program that provides wage reimbursement for on-the-job training by entities who receive a Motion Picture, Digital Media, and Film Production Tax Credit, which is extended to January 1, 2025. We also strongly support H.B. 799, proposed SD1 with our suggested amendments.

Throughout Hawaii's history, one or two industries have dominated the economy. For a time, sugar was king, then pineapple. But when sugar prices declined and plantations began to close, and when competition from foreign grown and canned pineapple prompted companies to cease operations in Hawaii, the ILWU, which represented workers in those industries saw a decline in membership. ILWU brothers and sisters from other industries, like longshore, stepped up to support sugar and pineapple workers but soon realized that economic diversification was the key to jobs in Hawaii.

Today, tourism is our main industry, but many other visitor destinations compete with Hawaii for tourist dollars. Now, more than ever, Hawaii's economy needs to be diversified. An ideal industry to promote in Hawaii is the motion picture and film industry. Our climate, scenic views, diverse culture, and locations make Hawaii attractive to film producers, but incentives will further encourage productions to come to Hawaii.

H.B. 799, either HD3 or proposed SD1, provides the vehicle needed for these incentives. We support this bill because it will bring revenue into the state and provide good-paying jobs for workers who live and work in Hawaii. Further, HD3 will promote the development of a locally trained film industry workforce similar to that in New Mexico, which is now benefiting from a thriving film industry.

H.B. 799, proposed SD1 provides for a similar tax credit to encourage film production in Hawaii. If SD1 is to be the vehicle moving forward, we respectfully request that SD1 be amended to include another section to Chapter 394, HRS, which will read as follows:

"(a) The department of labor and industrial relations shall administer a workforce development training program that provides wage reimbursement for on-the-job training to persons who are newly hired by motion picture, digital media, television, and film production entities that are prequalified by the department of business and economic development, and tourism to receive a tax credit as described in section 235-17(f). These prequalified entities shall be eligible for a fifty per cent reimbursement of wages, not to exceed a maximum duration of 1,040 hours per employee who receives on-the-job training, is newly hired in a job paying at least thirty-two hours per week. Wages, fringe benefits, and other benefits paid to the new hire must be the same or comparable to others similarly employed by that entity. The entity shall not be reimbursed for fringe and other benefits. **Pending satisfactory performance,** the new hire must be guaranteed full-time employment of a minimum of thirty-two hours per week with the entity upon successful completion of the training period or **until** the termination of the motion picture, digital media, television, or film production.

"(b) The director may adopt rules pursuant to chapter 91 to carry out the purposes of this section."

The requested amendment is already a part of HD3. However, the language above includes two changes (noted in **bold**) to the language in HD3. The first change is to require "satisfactory performance" before the new hire is guaranteed full-time employment to ensure that the new hire is capable of performing the work required. The second change is to replace the word "upon" at the end of the last sentence in (a) with "until" to correct what was likely a typographical error. This clarifies that the guarantee of employment will start upon successful completion of the training period and end with termination of the production.

The ILWU is especially supportive of extending the sunset of HRS 235-17(f) to the year 2025 to provide industry decision-makers with the stability and predictability they need to invest in Hawaii as a location for their productions. Film and media productions will come to Hawaii if a trained workforce exists and long-term tax credits are available.

The ILWU urges passage of H.B. 799, SD1 with the inclusion of the amended language as provided above. The amended SD1 will provide necessary incentives to attract production companies to Hawaii, support workforce development, and create good-paying jobs. However, if the committee chooses instead to pass H.B. 799, HD3, we respectfully request that the two corrections noted in bold above be made.

Thank you for the opportunity to share our views on this important matter.

Dane Wicker

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 08, 2013 10:29 PM
To: EGHTestimony
Cc: todd@hyperspective.com
Subject: Submitted testimony for HB799 on Mar 11, 2013 14:45PM

HB799
Submitted on: 3/8/2013
Testimony for EGH on Mar 11, 2013 14:45PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Todd Robertson	Hyperspective Studios, Inc.	Support	No

Comments: I support this bill, because it will help grow the digital media arts industry - an industry with a promise to be a pillar of Hawaii's future economy.

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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