SB1029

Amends section 235-17, Hawaii Revised Statutes, by deleting the Internet-only distribution exclusion for advertising messages; clarifying the definitions of qualified production costs to exclude state and county facility and location fees that are not subject to Hawaii general excise tax; raising the ceiling on total tax credit claim to $12,000,000 per qualified production; and extending the sunset date for the tax credit to January 1, 2025.

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
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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
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING
Friday, February 8, 2013
3:45 p.m.
State Capitol, Conference Room 016
in consideration of
SB1029

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) strongly supports SB1029, which amends the existing statute (HRS 235-17) to include Internet-only distribution as a qualified activity; clarifies the definitions of qualified production costs to include State and County facilities location fees as non-qualified expenditures; extends the sunset date for Act 88 (HRS 235-17) from January 1, 2016 to January 1, 2025; and raises the existing production credit cap from $8 million to $12 million. DBEDT has agreed to take the lead on reporting requirements in consultation with DoTAX, as noted in Section 3, Lines 13-7. We request amending the language in Section 3.

From 2006 – 2012, the film production tax credit program has generated over $1.4 billion in estimated production revenues and $2 billion in estimated economic impact. This program has positioned Hawaii as one of the world's top destinations for location filming. Together with infrastructure development, SB 1029 will assist Hawaii in maintaining this reputation, stimulating more direct and indirect spending, creating jobs, and growing support businesses statewide. DBEDT and the Hawaii Film Office appreciate the Legislature's support to maintain this effective credit which continues to grow our film and digital media sectors.

Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR

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

Date: Friday, February 8, 2013
Time: 3:45 p.m.
Place: Conference Room 016, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 1029 Relating to Creative Media Development

The Department of Taxation (Department) appreciates the intent of S.B. 1029 and provides the following comments. The Department defers to the Department of Business, Economic Development, and Tourism (DBEDT) on the merits of this measure.

S.B. 1029 amends section 235-17, Hawaii Revised Statutes, by increasing the ceiling on total tax credit claim from $8 million to $12 million per qualified production, deleting the Internet-only distribution exclusion for advertising messages, clarifying the definitions of qualified production costs to exclude state and county facility and location fees that are not subject to Hawaii general excise tax, requiring a cost benefit analysis of the credits, and extending the sunset date of Act 88, Session Laws of Hawaii 2006, from January 1, 2016 to January 1, 2025.

The Department notes that it is unable to comply with the reporting provisions of Section 3 of this measure, as the Department lacks resources to collect and generate dynamic analysis of the impact of the credit. We believe DBEDT is the more appropriate agency to provide this information.

Thank you for the opportunity to provide comments.

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

BILL NUMBER: SB 1029; HB 799 (Identical)

INTRODUCED BY: SB by Kim by request; HB by Souki by request

BRIEF SUMMARY: Amends HRS section 235-17 to increase the total amount of tax credits that may be claimed per qualified production from $8 million to $12 million. Amends the definition of "commercial" to include the production of advertising messages 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 general excise tax or state income tax.

Directs the department of taxation 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 the department of taxation 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 increase in the amount of the motion picture or television film credit from January 1, 2016 to January 1, 2025.

EFFECTIVE DATE: July 1, 2013; applicable to tax years beginning after December 31, 2012 and before January 1, 2025

STAFF COMMENTS: This is 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. This measure proposes to increase this amount to $12 million as well as extend the increase in tax credits for qualified production costs from January 1, 2016 to January 1, 2025. The proposed measure would also expand the existing tax credits to include advertising over the internet.

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 $8 million or $12 million 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 no where 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.

Digested 1/29/13