

SB 1287

Report Title:

RELATING TO THE MILITIA

Measure Title:

Establishes an employer income tax credit for taxpayers who maintain employee insurance coverage for national guard members for the duration of the national guard members' active duty. Expands the powers of the governor and governor's designee in calling the national guard into active duty. Allows the adjutant general to order the national guard into active service for nonemergency purposes that are necessary and attendant to the mission of the department of defense. Expands the rights granted to national guard members to incorporate rights granted under the Servicemembers Civil Relief Act and the Uniformed Services Employment and Reemployment Rights Act.

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To: The Honorable Will Espero, Chair
and Members of the Senate Committee on Public Safety, Intergovernmental and
Military Affairs

Date: Thursday, February 07, 2013

Time: 3:00 p.m.

Place: Conference Room 224, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 1287 Relating to the Militia

The Department appreciates the intent of S.B. 1287 and provides the following information and comments for your consideration.

S.B. 1287 creates a refundable credit against state income tax liability. The credit is equal to the cost paid for insurance coverage for employees who are actively serving in the National Guard. The tax credit applies to taxable years beginning after December 31, 2013.

The bill reduces the burden on employers if they choose to maintain an employee's insurance coverage when that employee is ordered for active duty in the National Guard. The Department does not take a position on the underlying merits of Section 1 of this bill, however, would like to note that the taxpayer claiming the credit may be asked to provide substantiation of the employee/National Guard member's active duty status upon commencement of an audit.

Thank you for the opportunity to provide comments.

SB1287

Submitted on: 2/5/2013

Testimony for PSM on Feb 7, 2013 15:00PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Lowell Kalapa	Tax Foundation of Hawaii	Comments Only	No

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SUBJECT: INCOME, Employer tax credit for insurance coverage

BILL NUMBER: SB 1287; HB 526 (Identical)

INTRODUCED BY: SB by Kidani, Chun Oakland, Green, Keith-Agaran, Nishihara, 7 Democrats and 1 Republican; HB by Takai, McDermott, Onishi

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow employers/taxpayers to claim a tax credit for the actual cost incurred by the taxpayer to maintain employee insurance coverage for members of the National Guard for the duration of the Guards' state active duty.

Credits in excess of the taxpayer's net income tax liability shall be refunded provided such amounts are in excess of \$1. Requires all claims, including any amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit. The director of taxation shall prepare any forms that may be necessary to claim a credit under this section and may also require the taxpayer to furnish information to ascertain the validity of the claims for credit, and may adopt rules necessary to effectuate the purposes of this section pursuant to HRS chapter 91.

Makes other nontax amendments relating to the militia.

EFFECTIVE DATE: July 1, 2013; applicable to tax years beginning after December 31, 2013

STAFF COMMENTS: This measure proposes an income tax credit equal to the amount paid by an employer to maintain insurance coverage for members of the National Guard for the duration of the National Guard's active duty. The adoption of this measure would provide a tax benefit to certain employers without their need for tax relief. Depending on the types and kinds of insurance, the amount of the credit could be substantial. On the other hand, the credit could be discriminatory between employers who offer a multitude of insurance coverages versus the employer who can offer only the legally required insurances such as prepaid healthcare and workers' compensation. Inasmuch as the authors of this proposal did not define "insurance," one has to assume that the credit could run the gamut of what an employer may offer employees.

Current law does not require employers to provide insurance coverage for employees who take leave for other than personal medical reasons. Under the prepaid healthcare act, such coverage is required for a period of three months if the employee is taking leave to address a personal medical problem such as maternity leave. It should be remembered that the tax system is a poor means of achieving such social goals. Such credits merely reduce state revenues and shift the tax burden to others 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 an employer who is able to maintain insurance coverage for the active duty National Guard member.

Digested 2/5/13