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
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

HOUSE COMMITTEE ON WATER & LAND
Tuesday, March 19, 2013
9:00 a.m.
State Capitol, Conference Room 312
in consideration of

SB463, SD2
RELATING TO FILM AND DIGITAL MEDIA INDUSTRY DEVELOPMENT.

Chairs Tsuji & Evans, Vice Chairs Ward & Lowen and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) offers comments on SB463, SD 2, which extends the repeal date of Act 88, SLH 2006, from January 1, 2016, to January 1, 2023; repeals the $8 million cap on the tax credit that may be claimed per qualified production; and increases the amount of the credit. SB463, SD2 also 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 a new infrastructure credit but we recommend eliminating the geographic restriction. At this juncture, DBEDT is concerned that the 5% increase to the base credit as proposed in SB463, SD2, may not be fiscally prudent at this time, given the State's current economic situation.

The Department agrees with the establishment of a Hawaii film office special fund but requests the fund be administered by DBEDT rather than Department of Taxation. Should any measures regarding infrastructure tax credits pass this session, the department will require additional staffing to manage the program.

Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR

FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

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DEPARTMENT OF TAXATION
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To: The Honorable Clift Tsuji, Chair
and Members of the House Committee Economic Development & Business

Date: Tuesday, March 19, 2013
Time: 9:00 a.m.
Place: Conference Room 312, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 463, S.D. 2, Relating to Digital Media Industry Development

The Department of Taxation (Department) **appreciates the intent** of S.B. 463, S.D. 2. As written, the Department is concerned that it will not be able to implement the provisions of the S.D. 2 due to its broad scope and lack of specific definitions.

<u>Motion Picture, Digital Media, and Film Production Income Tax Credit</u>

Part II of S.B. 463, S.D. 2: (1) changes the motion picture, digital media, and film production tax credit amount from 15% to an unspecified amount of the qualified production costs incurred in a county with a population over 700,000, and from 20% to an unspecified amount of the qualified production costs incurred in a county with a population of 700,000 or less, (2) repeals the credit ceiling of $8 million per qualified production, and (3) extends the sunset date of Act 88, Session Laws of Hawaii 2006, from January 1, 2016 to January 1, 2023.

The Department defers to the Department of Business Economic (DBEDT) on the merits of amendments made in Part II of S.B. 463, S.D. 2.

<u>Media Infrastructure Project Tax Credit</u>

Part III of S.B. 463, S.D. 2, adds a new section to Chapter 235, Hawaii Revised Statutes, to create a media infrastructure project tax credit. The credit is a nonrefundable tax credit of an unspecified percentage of the qualified infrastructure costs for a facility located in West Oahu or on the most populous island in a county with a population between 100,000 and 175,000, beginning July 1, 2013 and ending December 31, 2015.

The Department is concerned about the broad range of costs (the development, construction, renovation, or operation of a film, video, television, or media production or postproduction facility, or any other facility that supports the project, including a movie theater or other commercial exhibition facility) that could qualify for the tax credit. This broad scope and lack of definitions will create administration and enforcement difficulties for the Department.

This measure also requires DBEDT to approve an audit of the infrastructure tax credit conducted by an independent certified public accountant and certify the expenditures for the project, including: a detailed description of the project; a preliminary budget; a complete detailed business plan and market analysis; an estimated start and completion dates; and a letter from the mayor and council of the county. However, section 5 of this measure requires the Department of Taxation, not DBEDT, to collect data and submit an annual cost benefit analysis of the tax credit to the legislature. The Department suggests that DBEDT is the more appropriate agency to conduct the cost benefit analysis of the tax credit, as they are the agency which will approve and certify the expenditures. Moreover, the Department does not perform any cost benefit analysis based on taxpayer data.

Thank you for the opportunity to provide comments.

edbtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 18, 2013 12:48 PM
To: edbtestimony
Cc: film@filmbigisland.com
Subject: Submitted testimony for SB463 on Mar 19, 2013 09:00AM

SB463
Submitted on: 3/18/2013
Testimony for EDB on Mar 19, 2013 09:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
John L Mason	Big Island Film Office	Oppose	No

Comments: I'm the Film Commissioner here on The Big Island of Hawaii. I am in general support of the intent of this bill, which is to expand the film and digital media industries here in the state. I am not in support of the language in this bill pertaining to the tax credit for infrastructure. Unless I am reading it wrong, the bill says that this tax credit will be available in West Oahu and in counties with a population of between 100,000 and 175,000. The current census has the population of the Big Island at almost 190,000. This seems to say that the Big Island would be excluded from the infrastructure tax credit. On the face of it, this kind of restrictive language seems exclusionary, anti-Big Island, and probably unconstitutional. If there is going to be a tax credit for film infrastructure, we must do everything we can do to make all sections of the state equally open to this opportunity. It is also not a good idea to attach this piece of legislation to the current Act 88. That program is a stand along program which works very well and would be compromised by adding the infrastructure piece to it. A separate organization needs to administer this program, if enacted. Thank you for your consideration, John Mason Big Island Film Office

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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SUBJECT: INCOME, Extend and increase motion picture, digital media and film production credit; media infrastructure project tax credit

BILL NUMBER: SB 463, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Amends HRS section 235-17 to increase the motion picture, digital media, and film production tax credit from 15% to ___% for the costs incurred in a county with a population over 700,000 for qualified production costs incurred by a qualified production company and from 20% to ___% for costs incurred in a county with a population of 700,000 or less.

Repeals the provision limiting the total tax credits that may be claimed per qualified production to $8 million.

Amends Act 88, SLH 2006, to extend the motion picture, digital media and film production credit from December 31, 2015 to December 1, 2022.

Adds a new section to HRS chapter 235 to allow taxpayers, between July1, 2013 and December 31, 2015, to claim a credit of ___% of the qualified costs incurred for qualified media infrastructure projects situated in West Oahu or on the most populous island in a county with a population between 100,000 and 175,000.

To qualify for the credit: (1) the base investment for a qualified media infrastructure project shall be in excess of $_______; (2) the qualified media infrastructure project tax credit shall be non-refundable so any tax credit that exceeds the tax liability of the taxpayer may be carried forward to offset net income tax liability in subsequent tax years for up to ten years or until exhausted, whichever occurs first, the director of taxation may require the tax credits to be taken or assigned in the tax period in which the credit is earned or may structure the tax credit in the initial certification of the project to provide that only a portion of the tax credit be taken over the course of two or more years; (3) the total qualified media infrastructure project tax credit allowed for any state-certified infrastructure project shall not exceed $_______; (4) if any portion of an infrastructure project is a facility that may be used for other purposes unrelated to production or post production activities, then the project shall be approved only if a determination is made that the multiple use facility will support and will be necessary to secure production or post production activity for the production and post production facility; provided that no tax credits shall be earned on such multiple use facilities until the production or post production facility is complete; (5) tax credits for infrastructure projects shall be earned only if: (a) construction of the infrastructure project begins within six months of the initial certification and shall be ___% completed within a ___ year time frame; (b) expenditures shall be certified by the department of business, economic development and tourism (DBEDT) and credits shall not be earned until certification is received; (c) the tax credits shall be deemed earned at the time the expenditures are made, provided that all requirements of this subsection have been met and the tax credits have been certified; (6) for state-certified infrastructure projects, the application for a qualified media infrastructure project tax credit shall be submitted to the DBEDT and include: (a) a detailed description of the infrastructure project; (b) a preliminary budget; (c) a complete detailed business plan and market analysis; (d) estimated start and completion dates; and (e) if the application is incomplete, additional information may be requested prior to further action by the director of DBEDT; (7) an application fee of ___% times the estimated total incentive tax credits shall be submitted with the application for a qualified media infrastructure project tax credit; (8) prior to any final certification of a tax credit for a state-certified infrastructure project, the applicant for the infrastructure project tax credit shall submit to the director of DBEDT an audit of the expenditures certified by an independent certified public accountant as determined by rule. Upon approval of the audit, the director of DBEDT shall issue a final tax credit certification letter indicating the amount of tax credits certified for the state-certified infrastructure project to the investors. Bank loan finance fees applicable to the qualified media infrastructure project expenditures, as certified by the director of DBEDT, and any general excise taxes that have been paid on the bank loan finance fees and remitted to the state may be included as part of the qualifying media structure project expenses and qualify for the tax credit.

Further requires the taxpayer claiming the credit to file a progress report of a qualified media project with DBEDT, deliver a performance bond in a form prescribed by DBEDT in an amount equal to 100% of total projected expenditures determined upon initial certification; and either: (1) a pledge of a lien on the qualified media infrastructure project in favor of the state; or (2) collateral security.

Also requires any taxpayer eligible to claim a qualified media infrastructure project tax credit to file with DBEDT an annual report by March 1 following each taxable year for which the credit is claimed delineating: (1) the amount of general excise tax paid; (2) the amount of transient accommodations tax paid; (3) the amount of tax credits claimed under this section; (4) gross proceeds of each project; (5) number of full-time employees, part-time employees employed on each qualified media infrastructure project; (6) number of independent contractors contracted to work on each qualified media infrastructure project; (7) amount disbursed as payroll on each qualified media infrastructure project; and (8) list of job classifications with average wage level.

Defines "qualified media infrastructure project" as the development, construction, renovation, or operation of a film, video, television, or media production or post-production facility and the immovable property and equipment related thereto, or any other facility that supports and is a necessary component of the proposed infrastructure project, that is located in the state. The facility may include a movie theater or other commercial exhibition facility to assist in offsetting operating costs of the production or post-production facility, but shall not include a facility used to produce pornographic matter or a pornographic performance.

A taxpayer may claim the media infrastructure project tax credit for investments made on a qualified media infrastructure project prior to January 1, 2016 if construction of the media infrastructure project commenced prior to January 1, 2016. Delineates recapture provisions if the qualified media infrastructure project no longer qualifies for the tax credit and the recapture shall be equal to ___% of the amount of the tax credit claimed in the preceding five years.

Establishes a Hawaii film office special fund administered by the department of taxation into which shall be deposited all application fees collected pursuant to this section. The monies in the fund shall be expended for the purpose of managing infrastructure development credits and related programs.

Requires the department of taxation to submit an annual report to the legislature 20 days prior to each regular session beginning with the 2014 regular session which shall include a cost benefit analysis of the tax credit established in this part, and a report of the data collected under this section along with a cumulative total of tax credits granted for each qualified media infrastructure project.

EFFECTIVE DATE: July 1, 2050, applicable to tax years beginning after December 31, 2012

STAFF COMMENTS: 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 exclusion of income received from royalties was initially established by Act 178, SLH 1999, as an incentive to attract high technology businesses to Hawaii. The original proposal would have applied to royalties and other income received from high technology businesses. This section of the law was later amended in 2000 by Act 297 which added the inclusion of royalties from "performing arts products" and again amended by Act 221, SLH 2001, to include authors of "performing arts products."

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 the credit from15% to ___% in a county with a population over 700,000 and from 20% to ___% in a county with a population of 700,000 or less. The measure also repeals the $8 million limit of tax credits that may be claimed per qualified production and extends the motion picture, digital media and film production credits from December 31, 2015 to December 31, 2022. The proposed measure would allow taxpayers to claim a media infrastructure project tax credit in West Oahu or on the island of Maui.

These 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 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 as proposed in this measure. 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 increasing and continuing 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, spam musubi, and plate lunches with two scoops rice. 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. Sponsors try to make an argument that Hawaii needs to enact such incentives 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, a scenario akin to the bread and circus of ancient Rome.

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 have had to bear increasing tax burdens.

Instead of creating sustainable economic development incentives, the film tax credits waste money that could otherwise create an environment that is nurturing for all business activity, activity that lasts more than the six or eight months of a production. The overall tax burden could be lowered not only for families but for the businesses that provide long-term employment for Hawaii's people.

Instead of handing out a tax credit to build the film infrastructure, be it a studio or a sound stage, lawmakers should appropriate a specific sum of money and put a request for proposals to build such a project and see which bidder would come forward with the best proposal and offer to match the state's share. This way, each bidder could be evaluated as to what they have to offer and what benefit the state would get. Inasmuch as the state would probably be able to offer the land for such a facility, it could also offer a streamlined permitting process which would also be an in-kind contribution. Based on the responses to the request, a careful review done by experts in the field could be made and the best proposal selected. The persons responsible for making the final selection would then be held accountable for their selection and provide the justification for the selection. Another alternative would be the use of special purpose revenue bonds. These alternatives would be far more efficient and transparent than by the tax credit proposed by this measure. Lawmakers need to exert a little creativity if indeed they believe that such infrastructure is necessary to the development of this industry in the islands. Consideration should be given to the many assets the state brings to the table including land availability, streamlined permitting, tax free interest debt financing and the like. Instead of just handing out a tax credit, lawmakers need to take a more active role in the development of this infrastructure and should be held accountable for the success or failure of such an initiative.

Digested 3/11/13

HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION 2013

COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
Representative Clift Tsuji, Chair
Representative Gene Ward, Vice Chair
Members of the Committee

COMMITTEE ON WATER & LAND
Representative Cindy Evans, Chair
Representative Nicole E. Lowen, Vice Chair
Members of the Committee

SENATE BILL SB 463, SD2
RELATING TO FILM AND DIGITAL MEDIA INDUSTRY DEVELOPMENT

The film industry unions, SAG-AFTRA, the International Alliance of Theatrical Stage Employees (IATSE) Mixed Local 665, the American Federation of Musicians (AFM) Local 677 and the Hawaii Teamsters Local 996, collectively represent over 2,500 union members who work in the film, television, digital and new media industry.

We **support** the intent of SB 463, SD2 as it would repeal the $8 million cap and extend the sunset date from 2016 to 2023, and it amends the current application of Act 88 to exclude advertising messages for internet distribution only. We suggest that if there is an increase to the tax credit, that any amount above the current 15% and 20% tax credit be applied specifically to local labor hires with respect to the application of Act 88 as it will ensure that rebated revenues would remain in the State.

We do not support portions of bill, specifically "Part III" as it includes language for a media infrastructure project tax credit that we have concerns with:

- The proposed SB 463, SD2 language restricts the development of a media infrastructure project to particular locations and excludes other areas within the State that could be feasible and suitable;
- The proposal of a special fund to manage and expend the infrastructure project tax credits is too vague and needs careful structural and accountability considerations;

- Act 88 has proven to be a fiscally responsible measure. It is an economic driver and continues to attract productions to the State and create jobs. **A media infrastructure project tax credit should not be part of Act 88.**

We appreciate your careful consideration of this measure. Thank you for giving us the opportunity to submit testimony on SB 463, SD2.

Brenda Ching	Henry Fordham	Brien Matson	Jeanne Ishikawa
SAG-AFTRA Hawaii	IATSE, Local 665	AFM, Local 677	Teamsters, Local 996
596-0388	596-0227	596-2123	258-0358

edbtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 18, 2013 10:18 AM
To: edbtestimony
Cc: toyofuku@hiadvocates.com
Subject: Submitted testimony for SB463 on Mar 19, 2013 09:00AM
Attachments: SB 463, SD 2 - EDB -film industry-1.doc

SB463
Submitted on: 3/18/2013
Testimony for EDB on Mar 19, 2013 09:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Bob Toyofuku	NBC Universal Media, LLC	Support	Yes

Comments: Either Johnnie Giles or Bob Toyofuku will be present to present testimony

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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TESTIMONY OF NBC UNIVERSAL MEDIA, LLC. IN SUPPORT OF S.B. NO. 463, SD 2 RELATING TO FILM AND DIGITAL MEDIA INDUSTRY DEVELOPMENT

DATE: Tuesday, March 19, 2013
TIME: 9:00 o'clock am

To: Chairman Cliff Tsuji and Members of the House Committee on Economic Development and Business:

NBC Universal Media, LLC ("NBC/U") develops, produces, broadcasts and distributes motion pictures, television programs and related content around the world. Over the last several years the Hawaii Legislature and the people of Hawaii have developed a clear consensus that the motion picture, television and related digital media industries (the "Film Industry") in Hawaii has become an important component of a diversified economy and has had a positive financial impact on the State of Hawaii which can be strengthened significantly if Hawaii's existing incentives for the Film Industry are enhanced.

While Hawaii may be perceived as a highly desirable destination that would instinctively attract the Film Industry, the State needs to take affirmative steps to ensure Hawaii is at the top of the list and not left behind in the wake of other domestic and international locales. SB 463, SD 2 will help to ensure that Hawaii is competitive with film destinations around the globe and does so in a manner that is sustainable and rational for the long term. NBC/U stands ready to work with the Hawaii Legislature, the Administration and local Film Industry stakeholders to improve and enhance Hawaii's film incentive program to help build a robust, stable and sustainable Film Industry in the State of Hawaii.

As an example, in the United Kingdom March 2012 Budget, the Chancellor of the Exchequer announced that the government will introduce tax incentives for animation, high-end television and video games to complement the already successful U.K tax incentives for feature films. The U.K. program is an example of the type of national level support for incentives in nations around the globe that poses a growing threat to the United States' retention of its signature knowledge- based industry.

NBC/U feels that as a result of the various film and television productions that the Film Industry has brought to Hawaii, there has been a significant increase in spending within the state and growth in workforce development due to these film and television productions. Further, such productions stimulate more direct and indirect tax revenue and that a properly designed tax incentive program can actually increase local tax revenues.

NBC/U strongly feels that in order to stimulate such dramatic growth it is necessary to enhance Hawaii's existing tax incentive program in order to allow Hawaii to effectively compete with other film production centers in attracting a greater number of significant projects to the islands and to continue to build Hawaii's local film industry.

We feel that this bill will accomplish these goals. The provisions of this bill will result in:

1. An infusion of significant amounts of new money into the economy, which in turn will benefit Hawaii's businesses and residents; and

2. Creating skilled, high-paying jobs; and

3. Creating a natural synergy with Hawaii's top industry, tourism, and can be used as a destination marketing tool for the visitor industry; and
4. Also acting to enhance Hawaii's music industry and thereby introducing millions of people around the world to Hawaii's recording artists, music, and dance.

The Film Industry also has a strong desire to hire locally and invest in the training and workforce development of island-based personnel and intends to continue the practice of hiring a significant number of residents and to support training and opportunities for those residents.

NBC/U supports the basic provisions of this bill relating to the qualified production tax credit and advocates for the following:

1. Although the percentage is left "blank", increasing the refundable production credit ("RPC") by 5%.
2. Removing the cap from the RFP or at least significantly increasing the per production RPC cap from $8,000,000.
3. Extending the sunset date of Act 88 to at least 2023 to assure certainty and predictability for long term production planning.

Hawaii's Act 88 has protected and preserved Hawaii's status as one of the world's dynamic and stunning film production centers. By adjusting the cost of doing business in Hawaii slightly downward with a 5% credit increase, and establishing predictability through the program's extension, SB 463, SD 2 will now serve as a catalyst for growth in jobs, infrastructure development and the attraction of additional tourism dollars across the state.

Thank you for the opportunity to present this testimony in support of this bill.

edbtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 18, 2013 1:05 AM
To: edbtestimony
Cc: rgalindez@islandfilmgroup.com
Subject: Submitted testimony for SB463 on Mar 19, 2013 09:00AM
Attachments: Proposed QMIP Tax Credit.docx

SB463
Submitted on: 3/18/2013
Testimony for EDB on Mar 19, 2013 09:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Ricardo Galindez		Comments Only	Yes

Comments: Attache is proposed language for the Infrastructure Tax Credit, which is based on the current Production Tax Credit language.

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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§235-__ Media infrastructure project tax credit.

(a) Any law to the contrary notwithstanding, there shall be allowed to each taxpayer subject to the taxes imposed by this chapter, an income tax credit which shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

The amount of the credit shall be twenty five per cent of the qualified media infrastructure project costs incurred by a taxpayer in any county of the State on or after July 1, 2013, and prior to January 1, 2019.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for qualified media infrastructure production costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined by rule.

(b) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. For the purposes of this section, "net income tax liability" means net income tax liability reduced by all other credits allowed under this chapter.

(c) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of credits over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than $1.

(d) To be eligible for the tax credit, a media infrastructure project shall:

(1) Meet the definition of a qualified media infrastructure project specified in subsection (l);

(2) Have qualified media infrastructure project costs, as defined in subsection (l), totaling at least $20,000,000;

(e) To be receive the tax credit, the taxpayer shall first prequalify the qualified media infrastructure project by submitting an application to the department of business, economic development, and tourism, which shall include:

(1) A detailed description of the qualified media infrastructure project;

(2) A preliminary budget;

(3) A complete detailed business plan and market analysis;

(4) Estimated start and completion dates;

(5) A letter issued by the mayor and council of the county in which the qualified media infrastructure project is to be located indicating that the project has been approved; and

(6) Any additional information that may be requested prior to further action by the department of business, economic development, and tourism;

(f) An application fee shall be submitted with the application for a qualified media infrastructure project tax credit. The amount of the fee shall be $25,000;

(g) The department of business, economic development, and tourism, in its sole discretion, shall issue a prequalification letter to the taxpayer for the qualified media infrastructure project.

(h) The director of taxation shall prepare forms as may be necessary to claim a credit under this section. The director may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(i) Every taxpayer claiming a tax credit under this section for a qualified media infrastructure project shall, no later than one hundred eighty days following the end of each taxable year in which qualified media infrastructure costs were expended, submit a written, sworn statement to the department of business, economic development, and tourism, identifying:

(1) The percentage of completion of each qualified media infrastructure project;

(2) Amount of moneys expended on, and amount remaining to complete, the qualified media infrastructure project;

(3) Tax and labor clearances;

(4) The amount of general excise tax paid under chapter 237;

(5) The amount of transient accommodations tax paid under chapter 237D;

(6) The number of full-time employees employed on the qualified media infrastructure project;

(7) The number of part-time employees employed on each qualified media infrastructure project;

(8) The number of independent contractors contracted to work on each qualified media infrastructure project;

(9) The amount disbursed as payroll in the State on each qualified media infrastructure project; and

(10) A list of job classifications with average wage level.

(j) Prior to the final certification of a tax credit for a qualified media infrastructure project, the taxpayer shall submit to the department of business, economic development, and tourism an audit of the qualified media infrastructure costs that is performed and certified by an independent certified public accountant pursuant to rule.

Upon approval of the audit, the department of business, economic development, and tourism shall issue a final tax credit certification letter indicating the amount of the tax credit certified for the qualified media infrastructure project for that year.

The taxpayer shall file the letter with the taxpayer's tax return claiming the tax credit for the tax year in which the qualified media infrastructure costs were incurred.

Notwithstanding the authority of the department of business, economic development, and tourism under this section, the director of taxation may audit and adjust the tax credit amount to conform to the information filed by the taxpayer.

(k) Total tax credits claimed per qualified media infrastructure project shall not exceed $12,500,000.

(l) For the purposes of this section:

"Qualified media infrastructure project” means the development, construction, renovation, or operation of a film, video, television, or media production or post-production facility and the immovable property and equipment related thereto, or any other facility that supports and is a necessary component of the proposed infrastructure project; and

"Qualified media infrastructure project costs" means the costs incurred by a taxpayer for a qualified media infrastructure project, including the acquisition of real property.

(m) If at the close of any taxable year the qualified media infrastructure project no longer qualifies for the tax credit established under this section, the tax credit claimed under this section shall be recaptured.

The recapture shall be equal to twenty percent of the amount of the total tax credit claimed under this section for each year for which the qualified media infrastructure project no longer qualifies for the tax credit during the five year period after the taxable year for which the tax credit was certified. The amount of the recaptured tax credit determined under this subsection shall be added to the taxpayer's tax liability for the taxable year in which the recapture occurs.

For purposes of this subsection (m), unless otherwise qualified by a determination of the department of business, economic development, and tourism, a qualified media infrastructure project will no longer qualify for the tax credit if less than seventy five percent of its annual income is derived from activities related to film and television production.

edbtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 18, 2013 11:04 AM
To: edbtestimony
Cc: Hawaii@KW.com
Subject: Submitted testimony for SB463 on Mar 19, 2013 09:00AM

SB463
Submitted on: 3/18/2013
Testimony for EDB on Mar 19, 2013 09:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Guagliardo	Individual	Oppose	No

Comments: This bill SB463 SD2 as written with the unnecessary statement of "or the most populous island in a county with a population of 100,000 to 175,000" deliberately and with prejudice removes Hawaii county from the bill, this is an injustice to the residents of Hawaii county and illegally serves only a small special interest group in Oahu and Maui. I request and demand that the bill be modified to strike the Antitrust statement of "or the most populous island in a county with a population of 100,000 to 175,000" This bill as written excluding Hawaii County violates Antitrust Laws. This bill as written excluding Hawaii County violates Antitrust Exclusive dealing Law. This bill as written excluding Hawaii County violates Antitrust Price Fixing Law. This bill as written excluding Hawaii County violates Antitrust Dividing territories Law. This bill as written excluding Hawaii County violates Antitrust Price Fixing Law. This bill as written excluding Hawaii County violates Antitrust Protectionism Law.

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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SB463 violates Antitrust and Excludes Hawaii County

http://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=463

RELATING TO FILM AND DIGITAL MEDIA INDUSTRY DEVELOPMENT.
SB463 violates Antitrust and Excludes Hawaii County

EXCLUDES HAWAII COUNTY!

This bill as written excluding Hawaii County violates numerous state laws of business and public interest.

This bill SB463 SD2 as written with the unnecessary statement of "or the most populous island in a county with a population of 100,000 to 175,000" deliberately, illegally and with prejudice removes Hawaii county from the bill. This is an injustice to the residents of Hawaii county and illegally serves only a small special interest group in Oahu and Maui.

I request and demand that the bill be modified to strike the Antitrust statement of "or the most populous island in a county with a population of 100,000 to 175,000"

This bill as written excluding Hawaii County violates Antitrust Laws.

This bill as written excluding Hawaii County violates Antitrust Exclusive dealing Law.

This bill as written excluding Hawaii County violates Antitrust Dividing territories Law.

This bill as written excluding Hawaii County violates Antitrust Price Fixing Law.

This bill as written excluding Hawaii County violates Antitrust Protectionism Law.

Regards,
A Very Concerned Citizen in Hawaii County
Jessie Brader