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STATE OF HAWAII
DEPARTMENT OF TAXATION
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JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Gilbert Kahele, Chair
and Members of the Senate Committee on Tourism

Date: Monday, March 17, 2014
Time: 2:45 P.M.
Place: Conference Room 229, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 2170, H.D. 2, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 2170, H.D. 2, to support our State's tourism industry.

H.B. 2170, H.D. 2, creates a nonrefundable income tax credit equal to an unspecified percentage of construction or renovation costs incurred for new hotel facilities, provided the construction or renovation costs are incurred during taxable years beginning after December 31, 2014, but not during taxable years beginning after December 31, 2019, and further provides that the costs are pre-certified by the Department of Business, Economic Development and Tourism (DBEDT). The H.D. 2 draft has a defective effective date of July 1, 2030.

The House Committees on Tourism and Finance adopted all of the Department's suggested amendments to the previous version of this bill. The Department appreciates consideration of its suggested amendments and defers to DBEDT regarding the pre-certification requirements of subsection (g).

Thank you for the opportunity to provide comments.



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Neil Abercrombie
Governor

Mike McCartney
President and Chief Executive Officer

Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
on
H.B. 2170, H.D.2
Relating to Taxation
H.B. 2169, H.D. 1
Relating to Tourism Stimulus Incentives.

Senate Committee on Tourism
Monday, March 17, 2014
2:45 p.m.
Conference Room 229

The Hawai'i Tourism Authority (HTA) supports H.B. 2170, H.D.2; and H.B. 2169, H.D. 1, which propose tax credits for hotel construction and the hiring of employees at a new or renovated hotel or resort facility.

The HTA is tasked with marketing and promoting Hawaii as a visitor destination, with the goal of increasing visitor spending. One of the keys to branding the Hawaii visitor industry product and increasing visitor spending is the improvement and enhancement of the tourism product, which includes the physical infrastructure. As such, the HTA supports the proposals in the listed bills, which provides the private sector with investment incentives to improve hotel facilities. How the incentives are to be implemented and the amount and duration of the incentives are a matter for the Legislature to determine.

Thank you for the opportunity to offer these comments.

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, Hotel construction tax credit

BILL NUMBER: HB 2170, HD-2

INTRODUCED BY: House Committee on Finance

EXECUTIVE SUMMARY: This bill establishes a hotel construction tax credit as a percentage of costs incurred on or between January 1, 2015 and December 31, 2019.

As a policy matter, an evaluation should be done to ascertain the effectiveness of this credit as it existed before, in order to make sure that lawmakers know that is effective.

We also suggest a technical amendments and clarification. First, in order to prevent unintended leakage, we recommend that the credit be based on basis of the qualified hotel facility improvements as opposed to costs, so there is no double benefit (deduction plus credit) and so as to ensure that the costs are reliably linked to the improvements to real estate; and second, the credit shall be made nonrefundable. As drafted, it does not specify whether it is refundable or nonrefundable.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers subject to HRS chapter 235 to claim a hotel construction tax credit for the construction costs incurred after 12/31/14 and before 1/1/20. The credit shall be ___% of the construction costs incurred during the taxable year and shall not be applicable to costs of construction for which another income tax credit was claimed for the taxable year. Defines “construction costs” as those incurred for plans, design, construction, and equipment related to construction of a new hotel facility located in the state.

In the case of a partnership, S corporation, estate or trust, the credit shall be based on qualified costs incurred by the entity with costs on which the credit is computed determined at the entity level. If a deduction is taken under IRC section 179 (with respect to election to expense depreciable business assets), no tax credit shall be allowed for such qualified costs for which the deduction was taken. The basis of eligible property for depreciation or accelerated cost recovery system purposes shall be reduced by the amount of credit allowable and claimed.

Requires the taxpayer to obtain precertification from the department of business, economic development and tourism prior to claiming the credit.

Defines “net income tax liability,” “hotel facility” and “taxpayer” for purposes of the measure.

EFFECTIVE DATE: July 1, 2030; applicable to tax years beginning after December 31, 2014

STAFF COMMENTS: The legislature by Act 195, SLH 2000, enacted a hotel construction and renovation tax credit of 4% for hotel renovations effective for tax years beginning after 12/31/98 but before 12/31/02. Act 10 of the Third Special Session of 2001 increased the hotel renovation tax credit to 10%

for construction costs incurred before 7/1/03. Act 10 also provided that the credit revert back to 4% on 7/1/03 and sunset on 12/31/05. This measure proposes a similar credit for new hotel construction costs incurred in a taxable year.

The original tax credit was promoted as an incentive for hotels to refurbish their properties in order to remain competitive with other destinations around the world. The credit amount was set at a refundable 4%, perhaps to offset the 4% general excise tax. When 9/11 hit, the momentum of the crisis fostered support for an increase in the credit to 10% to supposedly keep projects that were already in progress going. However, the governor objected and threatened to veto the sweetened credit. The legislature compromised and provided that the 10% credit would be nonrefundable.

This measure proposes to establish a hotel construction tax credit. No evaluation has been done to validate the effectiveness of these types of credits in spurring new hotel construction or substantial renovations of hotel resort properties. Some may argue that this credit is necessary for the hotel industry, but is it the role of government to subsidize private investments? While the credit might be viewed as critical to a taxpayer's project, how long must all other taxpayers suffer the heavy burden of taxation so that this subsidy can be extended to a few? Now, more than ever, lawmakers need to recognize that they need to set priorities for what precious few dollars taxpayers can part with to run state and local government.

More importantly, if the intent of this measure is to entice new hotel construction, then the sponsors do not understand what is happening to the nation's economy. In order to undertake large scale construction, either the developer or hotel owner has to be cash rich or else have access to the credit markets. As the nation now knows, the credit markets froze beginning in late 2007 and hit a crisis at the end of 2008. The phenomenon was a major reason for the demise of Aloha Airlines and ATA which were highly dependent on credit lines to meet on-going expenditures. When the credit markets froze, there was no way to secure cash advances to meet current liabilities and the two airlines, along with thousands of other businesses, had to shut their doors.

Instead of subsidizing construction in order to get construction workers off the bench, government can assist in a number of other ways. For private projects, the permitting and planning process can be accelerated. One developer recently reported that it had taken two years to subdivide two parcels into seven house lots in rural Oahu at which time the planning and permitting department deferred approval citing eight issues to be addressed regarding subdivision approval. The interest on the seller had amounted to more than \$500,000 to that point and going forward, both the buyer and seller were shelling out more than \$27,000 a month for interest alone, not to mention the other planning and engineering costs. These are costs that could be mitigated if permitting officials would just work with developers and owners in streamlining these requirements. Apparently officials are reluctant to make decisions in fear that they might make the wrong decision. The result is costly delays while construction work goes begging.

Thus, rather than tinkering with the economy, lawmakers should rein back the role of government, or in other words, get out of the way and let the market lead the way to recovery.

While the proposed measure would base the credit on construction costs, rather than focusing on costs, we suggest that the credit be awarded on *tax basis* of the new construction, alterations, or modifications to the facility, thereby limiting the credit to costs properly capitalized into the basis of the hotel facility and disallowing double benefits (taxpayer deducts the costs and claims a credit as well).

HB 2170, HD-2 - Continued

This measure is similar to others proposing a hotel construction tax credit. However, while it is a nonrefundable credit it does not contain language allowing unused credits to be carried forward. Thus, if the measure is passed as is, any credit earned by a taxpayer that is unable to use it is permanently lost.

Digested 3/16/24



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the Senate Committee on Tourism
Monday, March 17, 2014 at 2:45 P.M.
Conference Room 229, State Capitol**

RE: HOUSE BILL 2170 HD2 RELATING TO TAXATION

Chair Kahele, Vice Chair Keith-Agaran, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **supports the intent** of HB 2170 HD2, which provides an income tax credit for costs incurred in new hotel construction.

The Chamber is the largest business organization in Hawaii, representing over 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We support the intent of this bill as it boosts Hawaii's economic status by promoting construction as well as the visitor industry. The construction would provide an immediate boost to the economy while also investing in Hawaii's economic future by securing future revenue for the visitor industry/tourism. The tax credit provided in HB 2170 HD2 would allow more development and improvements for Hawaii to maintain and expand its number one source of revenue – the tourism industry.

Thank you for the opportunity to testify.

**Testimony of
Gary M. Slovin / Mihoko E. Ito
on behalf of
Wyndham Vacation Ownership**

DATE: March 15, 2014

TO: Senator Gilbert Kahele
Chair, Committee on Tourism
Submitted Via TSMtestimony@capitol.hawaii.gov

RE: **H.B. 2170 H.D.2 – Relating to Taxation**
Hearing Date: Monday, March 17, 2014 at 2:45 p.m.
Conference Room: 229

Dear Chair Kahele and Members of the Committee on Tourism,

We submit this testimony on behalf of Wyndham Vacation Ownership.

Wyndham Vacation Ownership offers individual consumers and business-to-business customers a broad suite of hospitality products and services through its portfolio of world-renowned brands. Wyndham has a substantial presence in Hawaii through its Wyndham Vacation Resorts and WorldMark by Wyndham brands.

Wyndham **supports** H.B. 2170 H.D.2, which would provide tax credits for hotel construction.

Rejuvenating our resort inventory is critical if Hawaii is to remain competitive in the global tourism market. For both hotel and timeshare construction, attracting investment dollars is challenging, and tax credits are a proven means of attracting those investment funds. Accordingly, Wyndham respectfully requests that the Committee pass H.B. 2170 H.D.2 for further consideration.

Thank you for the opportunity to submit testimony in support of this measure.

Gary M. Slovin
Mihoko E. Ito
Tiffany N. Yajima
Jennifer C. Taylor

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The Senate
The Twenty-Seventh Legislature
Committee on Tourism
March 17, 2014, 2:45 p.m.
Room 229

Statement of the Hawaii Regional Council of Carpenters on
H.B 2169, HD1 **and** H.B. 2170, HD1, Relating to Taxation and Tourism Stimulus

The Hawaii Regional Council of Carpenters supports the intent of both Bills, which are needed to keep a respectable market share in the highly competitive, worldwide visitor industry.

While there are hopeful projections for increased construction activity in Hawaii, financing for the construction and renovation of transient accommodations remains limited. Tax credits will support the feasibility of projects, increasing the possibility that private funding will be secured. Our visitor industry has found the lack of available rooms to be a handicap.

Tax credits are State resources through which construction projects are undertaken, and we appreciate that the Bills give attention to the accountability of recipient taxpayers to serving State purposes and meeting State requirements. The passage of both Bills, or a combination of the two, will allow the refinement of a workable system for accountability.

Thank you for considering a stimulus to producing world class facilities for our visitor industry.