

JAN 23 2015

A BILL FOR AN ACT

RELATING TO THE MILITIA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Employer tax credit; national guard employee
5 insurance coverage. There shall be allowed to each taxpayer
6 subject to the taxes imposed by this chapter, an employment
7 increase tax credit for the taxable year in which the credit is
8 properly claimed. The tax credit shall be equal to the amount
9 of the actual expenses incurred by the taxpayer to maintain
10 employee insurance coverage for members of the national guard
11 for the duration of the national guards' state active duty."

12 SECTION 2. Section 121-30, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§121-30 Order to active service. (a) In case of war,
15 insurrection, invasion, riot, or imminent danger thereof; an
16 emergency or public disaster; or danger from flood, fire, storm,
17 earthquake, civil disturbances, or terrorist events; any



1 forcible obstruction to the execution of the laws, or reasonable
2 apprehension thereof; or for assistance to civil authorities in
3 disaster relief or emergency management, the governor may order
4 the national guard or other component of the militia or any part
5 thereof into active service. The governor or the governor's
6 designated representative may also order the national guard into
7 active service:

8 (1) In nonemergency situations for duty and training in
9 addition to the drill and instruction required by
10 section 121-28;

11 (2) To provide support to other states in response to a
12 request for assistance under the Emergency Management
13 Assistance Compact under chapter 128F; and

14 (3) To detect, prevent, prepare for, investigate, respond
15 to, or recover from any of the events for which an
16 order to active service may be made.

17 (b) The adjutant general may order the national guard or
18 other component of the militia or any part thereof into active
19 service for nonemergency purposes that are necessary and
20 attendant to the mission of the department of defense."



1 SECTION 3. Section 121-43, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~]**\$121-43**[~~f~~] **Nonforfeiture for absence.** (a) Every
4 employee of a private employer who is a member of the national
5 guard shall be entitled to absent oneself from the employee's
6 employment duties while engaged in the performance of ordered
7 national guard service and while going to and returning from
8 such service. [~~such~~] The person shall:

- 9 (1) If still qualified to perform the person's employment
10 duties, be restored by [~~such~~] the employer or the
11 employer's successor in interest to [~~such~~] the
12 position or to a position of like seniority, status,
13 and pay; or
- 14 (2) If not qualified to perform the person's employment
15 duties, by reason of disability sustained during
16 ordered national guard service, but qualified to
17 perform the duties of any other position in the employ
18 of [~~such~~] the employer or the employer's successor in
19 interest, be offered employment and, if [~~such~~] the
20 person so requests, be employed by [~~such~~] the employer
21 or the employer's successor in interest in such other



1 position the duties of which [~~such~~] the person is
2 qualified to perform as will provide [~~such~~] the person
3 like seniority, status, and pay, or the nearest
4 approximation thereof consistent with the
5 circumstances in [~~such~~] the person's case,
6 unless the employer's circumstances have so changed as to make
7 it impossible or unreasonable to do so.

8 (b) (1) Any person who is restored to or employed in a
9 position in accordance with the provisions of
10 subsection (a) shall be considered as having been on
11 furlough or leave of absence; shall be so restored or
12 reemployed without loss of seniority; shall be
13 entitled to participate in insurance or other benefits
14 offered by the employer pursuant to established rules
15 and practices relating to employees on furlough or
16 leave of absence in effect with the employer at the
17 time [~~such~~] the person was ordered to national guard
18 service; and shall not be discharged from such
19 employment position without cause within one year
20 after such restoration or reemployment[~~-~~];



- 1 (2) Any person who is restored to or employed in a
2 position in accordance with the provisions of
3 subsection (a) should be so restored or reemployed in
4 such manner as to give [~~such~~] the person such status
5 in the person's employment as the person would have
6 enjoyed if [~~such~~] the person had continued in such
7 employment continuously from the time [~~such~~] the
8 person became engaged in the performance of ordered
9 national guard service until the time of [~~such~~] the
10 person's restoration to such employment, or
11 reemployment[~~-~~]; and
- 12 (3) Any person who holds a position described in
13 subsection (a) shall not be denied retention in
14 employment or any promotion or other incident or
15 advantage of employment because of any obligation as a
16 member of the national guard.
- 17 (c) The rights granted to members of the national guard
18 shall be in addition to the rights granted to them by federal
19 law, including the Servicemembers Civil Relief Act and the
20 Uniformed Services Employment and Reemployment Rights Act. The
21 Uniformed Services Employment and Reemployment Rights Act (38



1 U.S.C. 4301 et seq., as amended) and any subsequent federal law
2 governing reemployment of a member of the national guard, is
3 incorporated into this section by reference. Any right,
4 benefit, or protection that may accrue to a member of the
5 national guard under the Uniformed Services Employment and
6 Reemployment Rights Act as a result of an order to military duty
7 under Titles 10 or 32 of the United States Code shall be
8 extended to a member of the national guard who is called to
9 state active duty for any period of time by the governor. The
10 Servicemembers Civil Relief Act (50 U.S.C. section 501 et seq.,
11 as amended), is incorporated into this section by reference.
12 Any right, benefit, or protection that may accrue to a member of
13 the national guard as a result of an order to military duty
14 under Titles 10 or 32 of the United States Code shall be
15 extended to a member of the national guard who is called to
16 state active duty by the governor, if the orders are for ten
17 consecutive days or longer."

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

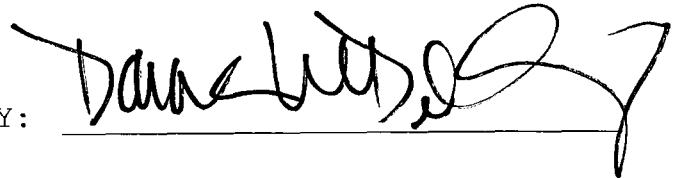


S.B. NO. 177

1 SECTION 5. This Act shall take effect upon its approval;
2 provided that section 1 shall apply to taxable years beginning
3 after December 31, 2015.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Dan Claitor", is written over a horizontal line. The signature is stylized and cursive.

S.B. NO. 177

Report Title:

Public Safety; National Guard

Description:

Establishes an employer income tax credit for taxpayers who maintain employee insurance coverage for national guard members for the duration of the national guards' 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.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

