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STATE OF HAWAII
DEPARTMENT OF TAXATION
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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

JOSEPH K. KIM
DEPUTY DIRECTOR

To: The Honorable Gilbert S.C. Keith-Agaran, Chair
And Members of the Senate Committee on Judiciary and Labor

Date: March 18, 2016
Time: 10:00 A.M.
Place: Conference Room 016, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 1870, H.D. 2, Relating to Taxation.

The Department of Taxation (Department) appreciates the intent of H.B. 1870, H.D. 2, and offers following comments for your consideration.

H.B. 1870, H.D. 2, creates an income tax credit for businesses that hire persons totally disabled. The bill requires certification of disability from a qualified physician. The credit is to be claimed against the taxpayer's net income tax liability. The credit is effective for taxable years beginning after December 31, 2017, but currently has a defective effective date of July 1, 2030.

The Department notes that the proposed credit is similar to an existing credit at section 235-55.91, Hawaii Revised Statutes (HRS). That credit is equal to twenty per cent of wages paid to vocational rehabilitation referrals during the first year of employment. To qualify for this credit, the employer must hire a person with a physical or mental disability who was referred to the employer by the Department of Human Services Vocational Rehabilitation and Services for the Blind Division.

For clarity, the Department suggests section 235-__(b)(2) be amended to read as follows:

(2) Any amounts upon which any other tax credit or deduction is calculated under this chapter shall not be qualified wages for purposes of this section.

The Department further suggests that this provision may be more appropriate in subsection (e).

Thank you for the opportunity to provide comments.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
919 ALA MOANA BOULEVARD, ROOM 113
HONOLULU, HAWAII 96814
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
March 18, 2016

The Honorable Gilbert S.C. Keith-Agaran, Chair
Senate Committee on Judiciary and Labor
Twenty-Eighth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Senator Keith-Agaran and Members of the Committee:

SUBJECT: HB 1870 HD2- Relating to Taxation

The State Council on Developmental Disabilities **SUPPORTS HB 1870 HD2**. The bill provides a taxpayer who hires an individual who has a disability a non-refundable tax credit for the six-month period the individual is initially hired by the taxpayer.

Employment of individuals with intellectual and developmental disabilities (I/DD) is a means toward economic self-sufficiency, contributing to their communities as tax paying citizens, establishing relationships and social networking. Employment of people with I/DD is a priority for the Council and is reflected in our 2012-2016 State Plan Employment Goal that states "People with I/DD will have supports to obtain and sustain their chosen life goal to prepare students at all educational levels for the transition from high school to adult life, including employment, self-employment, and/or post-secondary education and training."

HB 1870 HD2 represents one component of providing employment opportunities of hiring people with disabilities. Another component includes educating and training private and public employers about accommodating people with disabilities in the workforce and the benefits of this. Both of these components combined would have a positive impact in increasing employment opportunities, as well as meeting the workforce demands of the private and public sectors.

The Council appreciates the Legislature's initiative to provide incentives, such as tax credits for hiring people with disabilities.

Thank you for the opportunity to submit testimony in **support of HB 1870 HD2**.

Sincerely,

Waynette K.Y. Cabral, MSW
Executive Administrator

Josephine C. Woll
Chair

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Credit for Hiring an Individual with a Disability

BILL NUMBER: HB 1870, HD-2

INTRODUCED BY: House Committee on Finance

EXECUTIVE SUMMARY: Establishes an income tax credit for the hiring of an individual with a disability of ___% of the wages paid to such individual for the first six months. The adoption of this credit would provide tax relief to taxpayers regardless of their need for tax relief. It also would shift the burden of paying for government to the rest of us.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow employers to claim an income tax credit for the hiring of an individual with a disability equal to ___% of the qualified wages for the first six months after the individual is hired.

Tax credits that exceed the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. In no taxable year shall the total amount of tax credits claimed under this section exceed \$ _____ per taxpayer. Provides that in no taxable year shall any other deduction or credit claimed based on the person be used as the basis to calculate the tax credit.

Contains no definition for "person totally disabled," which appears to mean the term is the same as used in HRS section 235-1.

Requires the director of taxation to prepare any forms necessary to claim a credit, may require a taxpayer to furnish reasonable information in order to validate a claim for the credit, and adopt rules pursuant to HRS chapter 91. Requires claims for the credit, including any amended claims, to be filed on or before the end of the twelfth month following the taxable year for which the credit is claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit.

Defines "wages" so as not to count income excluded from gross income (pension income, for example). Also excludes wages paid by a related party as determined under IRC section 152. Provides that no wages shall be taken into account under this section with respect to any elderly individual if, prior to the day the individual is hired by the employer, the individual was previously at any time employed by the same employer.

If the taxpayer is a successor employer referred to in section 3306(b)(1) of the Internal Revenue Code, the determination of the amount of the credit shall be made in the same manner as if the wages were paid by the predecessor employer.

Requires the director of taxation to prepare any forms necessary to claim a credit, may require a taxpayer to furnish reasonable information in order to validate a claim for the credit, and adopt rules pursuant to HRS chapter 91. Requires claims for the credit, including any amended claims,

to be filed on or before the end of the twelfth month following the taxable year for which the credit is claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit.

EFFECTIVE DATE: July 1, 2030; applies to taxable years beginning after December 31, 2017.

STAFF COMMENTS: This measure is proposed as an incentive to entice employers to hire an individual who is physically or intellectually disabled, but the tax system is a poor means of achieving such social goals. Providing such credits against the state income tax merely reduces state revenues, and if the size of government does not go down, then the tax burden shifts to other taxpayers who are not able to claim the credit.

The measure is similar to the income tax credit for the hiring of vocational rehabilitation referrals. If it is the intent of the legislature to encourage the hiring of individuals with a disability, it would be preferable to amend HRS-235-55.91 to include these individuals rather than to adopt a new credit which may have loopholes and technical issues.

Digested 3/15/16



a program of
LANAKILA
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Building Independence for Challenged Lives

PRESIDENT & CEO
Marian E. Tsuji

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Committee on Judiciary and Labor
The Honorable Senator Gilbert S.C. Keith-Agaran, Chair
The Honorable Senator Maile S.L. Shimabukuro, Vice Chair

March 18, 2016; 10:00 a.m.
Conference Room 016
HB 1870, HD2 Relating to Taxation

Good morning, Chair Keith-Agaran and Vice Chair Shimabukuro and members of the Committee on Judiciary and Labor.

Lanakila Pacific supports the intent of HB 1870, to provide tax credits for businesses hiring individuals with disabilities. However, we urge you to consider providing clear and strict parameters to protect the Health Privacy of individuals and to prevent possible civil rights infractions against employees. Requiring an employer to obtain proof of a disability with no specific process allows for myriad opportunities for privacy to be compromised.

According to the U.S. Bureau of Labor Statistics, in 2014, only 17.1% of people with disabilities were employed compared to 64.6% of those without disabilities. This bill would help decrease the employment gap by bringing more people with disabilities into the workforce translating into more consumers putting money back into the economy, and more contributing taxpayers. Additionally, these kinds of steps go a long way toward increasing an individual's self-esteem, independence and self-sufficiency.

Lanakila Pacific is a 76 year old Hawaii-based non-profit organization, whose mission is to build independence for challenged lives. Our programs include employment training and job placement assistance for individuals with disabilities.

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

Respectfully submitted,

Marian E. Tsuji
President & CEO

Mary Beth Lum
Senior Employee Development
Coordinator

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 15, 2016 5:54 PM
To: JDLTestimony
Cc:
Subject: Submitted testimony for HB1870 on Mar 18, 2016 10:00AM

HB1870

Submitted on: 3/15/2016

Testimony for JDL on Mar 18, 2016 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Support	No

Comments: Employment of people with disabilities is one area that has lagged behind the other gains they have made. It is important to encourage opportunities for that in order for them to achieve full integration into the community. This proposal is a good step in that direction as it would create incentives for employers to hire them.

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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PETER L. FRITZ

TELEPHONE (SPRINT IP RELAY): (808) 568-0077
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THE SENATE THE TWENTY-EIGHTH LEGISLATURE REGULAR SESSION OF 2016

COMMITTEE ON JUDICARY AND LABOR Testimony on H.B. 1870 HD2 Hearing: March 18, 2016

Relating to Taxation

Chair Keith-Agaran, Vice Chair Shimabukuro, and members of the Committee. My name is Peter Fritz. I am an individual with a disability, advocate for the disabled, attorney with a practice that includes labor and tax law and a former Rules Specialist for the Department of Taxation. I support the intent of this bill however, I am testifying **in opposition to this bill as drafted** because this bill may cause employers to violate state and federal nondiscrimination laws and the use of the term “totally disabled” may cause certain people, who should be qualified for this credit, not to be hired because a physician interprets “totally disabled” under the standards used by the Social Security Administration which limit the amount that a totally disabled person can earn to a few thousand dollars.

I. Potential Violation of State and Federal Nondiscrimination Laws

Under this bill, to claim this credit, an employer must hire an individual that has been certified by a physician to be totally disabled. However, state and federal laws prohibit an employer from asking or requiring a job applicant to take a medical examination before making a job offer. An employer may condition a job offer on the satisfactory result of a post-offer medical examination or medical inquiry **only if this is required of all entering employees in the same job category.** It is more likely than not that an employer, that only required persons claiming to be totally disabled to have a physical examination, would violate state and federal nondiscrimination laws.

II. The Term Totally Disabled May Cause Some People Not to Receive a Certification

Using the term totally disabled may result in some people being excluded as totally disabled because one physician applies the standards for workers’ compensation, another uses the standards of the Social Security Administration which are very strict and another uses the standards for private disability insurance policies. The Department is aware of the problem with the definition totally disabled from testimony provided in 2014 regarding a proposed change to the administrative rules.¹ This bill is intended to benefit individuals with disabilities and such individuals might not be totally disabled. Tax laws should be updated to use current terminology.

III. Suggestions

It is recommended that this bill follow the structure of § 235-55.91 Hawaii Revised Statutes (“HRS”) and that it be amended to provide that qualified employees be hired from approved organizations. Currently, § 235-55.91, HRS provides a credit for an employer that hires a person with a physical or mental disability who was referred to the employer by the Department of Human Services

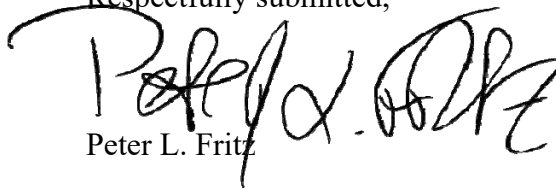
¹ The rules were not adopted.

Testimony of Peter L. Fritz
H.B. 1870 HD2
March 18, 2016
Page 2

Vocational Rehabilitation and Services for the Blind Division. This bill could be amended to provide for a credit for employers that to hire individuals from certain approved organizations such as Goodwill Industries. The Department would create a list of approved organizations. Such a list would be similar to the list of organizations that qualify as charitable organizations for purposes of a tax deduction.

Thank you for the opportunity to testify.

Respectfully submitted,



Peter L. Fritz

February 11, 2016

To: Representative Kawakami, Aquino, Cullen, Morikawa, Nakashima, Tokioka &
Members of the Committee on Human Services

Re: **In SUPPORT OF H.B. NO. 1870 Relating to Taxation**

From: Jack Yatsko, MSW, LSW, Island of Kauai

Chief Operating Officer, Clubhouse International

I am writing in support of House Bill 1870 related to an income tax credit for hiring disabled individuals.

I worked for 13 years at Friendship House on Kauai, which is a Clubhouse Model psychiatric rehabilitation program for people with mental illness. A major component of the program is helping adults with mental illness reintegrate back into society through employment. There are nine such Clubhouse Programs located on Oahu, Maui, Kauai and the Big Island serving over 1,000 'members.'

The people coming to these Clubhouses have the same hopes and dreams as anyone else has. They want a decent place to live, friends, a sense of belonging to society and wanting to become productive citizens in their respective communities. Nationally, only 10-15% of people with mental illness are currently employed, yet members of Clubhouse programs have employment rates of 40% or higher of their daily attendance.

While these statistics indicate a high degree of success integrating people with disabilities into the workforce, an income tax credit for employers hiring disabled individuals would create a much greater incentive to get a great employee. The stigma against people with disabilities, particularly those with mental illnesses is still very strong and creates a significant barrier to employment.

H.B. 1870 would not only be a good deed, it would also be a good deal. This tax incentive would help open opportunities for people with disabilities who otherwise remain marginalized by society, isolate at home and would cherish a chance to go to work again. When people with disabilities become a part of the workforce, they become tax contributing citizens, their isolation is reduced, and this often results in reduced hospitalizations and costs to society in other ways. It's a win-win.

It is hard to really give an accurate description of the look on the face of a Clubhouse member when he or she gets their first paycheck from their job, but I still remember back to 1989 when we helped a member get their first job at Pizza Hut in Kapaa. It made such a difference in his life and it continues to do so for others. H.B. 1870 can make a big difference to help more people with disabilities get that first paycheck and see life in a whole new way!

Thank you for your consideration of support of H.B. NO 1870.

As a point of clarification, I would suggest adding the word 'psychiatric' into the language of the bill defining the individuals who this bill is for. On page 5 in lines 13 & 14 the bill mentions 'physical' and 'intellectual' impairments but adding 'psychiatric' would be more inclusionary and reduce confusion for employers hiring people with disabilities.

Kind regards,

A handwritten signature in black ink, appearing to read "Jack Yatsko". The signature is fluid and cursive, with the first name "Jack" being more prominent and the last name "Yatsko" following in a similar style.

Jack Yatsko, MSW, LSW, Chief Operating Officer, Clubhouse International

Testimony in support of HB1870

I am in **support of H.B. 1870**. This bill provides employers a nonrefundable tax credit for the six month period after hiring an individual with a disability. The provided tax credit will serve as an incentive for employers to hire individuals with disabilities; thus, creating awareness, support and opportunities for this population.

As a social work practicum student within the Adult Mental Health Division and one-to-one skills trainer for teenagers with developmental disabilities, I recognize the importance of providing employment opportunities for this population. This bill encourages individuals with disabilities to become productive members of society, gain employment experience, increase economic independence, achieve inclusion to society and build lasting relationships.

Persons with disabilities retain the lowest employment rates of any minority group (Maier, Ulferts, & Howard, 2012). According to a study conducted by Yin and Shaewitz (2015) from the American Institute of Research, disability is a main cause of why American individuals are not employed. Yin and Shaewitz (2015) discovered that 25% of persons with disabilities were employed in the workforce in 2001. However, in comparison to the 2014 Current Population Survey, only 16% of individuals with disabilities were reported to be employed. These statistics indicate an 8.5% decrease in the workforce. A 2004 census completed by the National Organization on Disability (NOD)/Harris Poll, revealed that two-thirds of persons with disabilities want to work but are not able to find jobs (IDRM, 2004). The need to provide employment opportunities is important to increase self-sufficiency and improve the quality of life amongst this population.

Employment remains the largest gap between individuals with and without disabilities (Maier, Ulferts, & Howard, 2012). However, results from the United States Department of Labor, Bureau of Labor Statistics (2013) news release, indicates that employed individuals of this population were more likely to have flexible work hours, which is advantageous for employers needing to fill positions. According to the April 2013 news release, 44.1% of surveyed individuals reported they had no difficulties completing their work tasks and only 27.8% stated they had little difficulties finishing their duties (United States Department of Labor, Bureau of Labor Statistics, 2013). Another study conducted of large and small businesses states that the benefits of hiring persons with disabilities include higher morale, diverse perspective and loyalties to their employer (Maier, Ulferts, & Howard, 2012). Lastly, information collected from the United Nations Fact Sheet found that persons with disabilities in the United States, “have equal or higher performance ratings, better retention rates and less absenteeism” (Morris, 2005). The results of the studies mentioned, indicate that persons with disabilities are positive and capable individuals in the workforce. Therefore, I urge the Judicial and Labor committee to support H.B. 1870.

References

- International Disability Rights Monitor (IDRM). (2004). *Regional Report of the Americas 2004*. [Data file]. Retrieved from http://bbi.syr.edu/publications/blanc_docs/2003_2004/IDRM_Americas_2004.pdf
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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 15, 2016 2:03 PM
To: JDLTestimony
Cc:
Subject: Submitted testimony for HB1870 on Mar 18, 2016 10:00AM

HB1870

Submitted on: 3/15/2016

Testimony for JDL on Mar 18, 2016 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments: Everbody deserves a chance to work and least a sustainable living.

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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