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To: The Honorable Mark M. Nakashima, Chair
and Members of the House Committee on Labor & Public Employment

Date: Tuesday, February 10, 2015
Time: 9:00 A.M.
Place: Conference Room 309, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 343, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 343 and provides the following comments for your consideration.

H.B. 343 creates a nonrefundable income tax credit for taxpayers who hire persons with disabilities equal to fifty per cent of qualified wages for the first six months of employment. The bill requires certification of disability from a qualified physician. The credit is effective for taxable years beginning after December 31, 2015.

The Department defers to the Department of Health on the merits of this bill, and offers the following comments and technical amendments to the bill.

First, the Department notes that the proposed credit is similar to an existing credit at section 235-55.91 of the 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.

Second, the Department notes that the wages allowed as the base of this credit are also allowed as a deduction to the employer. Thus, the employer would be provided a double tax benefit; the employer could claim both a deduction and a tax credit for the same amount expended. The Department recommends adding a provision to disallow the tax deduction for any amounts used to calculate the tax credit.

Finally, the Department suggests that subsection (d) is amended to clarify that the Department may disqualify wages paid to a non-qualified employee without receiving notice that certification was based on false information provided by the employee. This is consistent with general tax compliance policy that the Department has the authority to make the final administrative determination on title 14, HRS, matters.

Thank you for the opportunity to provide comments.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
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February 10, 2015

The Honorable Mark M. Nakashima, Chair
House Committee on Labor & Public Employment
Twenty-Eighth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Representative Nakashima and Members of the Committee:

SUBJECT: HB 343 – Relating to Taxation

The State Council on Developmental Disabilities **SUPPORTS HB 343**. 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 343 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.

The Honorable Mark M. Nakashima
Page 2
February 10, 2015

Thank you for the opportunity to submit testimony in support of HB 343.

Sincerely,



Waynette K.Y. Cabral, M.S.W.
Executive Administrator



Rosie Rowe
Chair

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, Credit for hiring an individual with a disability

BILL NUMBER: HB 343

INTRODUCED BY: Kawakami, Choy, Cullen, Ichiyama, McKelvey, Morikawa, Say, Takayama, Tokioka and 2 Democrats

EXECUTIVE SUMMARY: Establishes an income tax credit for the hiring of disabled individuals of 50% 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 may provide unintended tax relief (*i.e.*, leakage) because the criteria to qualify appears broad.

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 50% 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 \$ _____.

Defines "individual with a disability" as having a physical or intellectual impairment that substantially limits one or more major life activities, having a record of that impairment, or being regarded as having that impairment provided that the disabling impairment is certified by a qualified physician.

Delineates provisions relating to the application and certification of the credit. Also specifies which wages are ineligible for the credit. No deduction shall be allowed for wages paid by a taxpayer in the same taxable year a credit is claimed under this section.

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: Tax years beginning after December 31, 2015

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.

In a similar bill introduced last year, the House Committee on Human Services noted there may be a technical issue with the bill as it may allow an employer to terminate and then rehiring the same worker to restart the six-month credit period in order to receive the tax credit.

In addition, the employee becomes credit eligible upon receiving a doctor's certification of a disability, defined as a "physical or intellectual impairment that substantially limits one or more major life activities." Those criteria would appear to allow qualification of a temporary impairment, such as someone who has a back strain and has to stay in bed for a couple of days.

The measure is similar to the income tax credit for the hiring of vocational rehabilitation referrals, which this measure repeals. 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 technical issues.

Digested 2/6/15