HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAII

H.B. NO. 822

A BILL FOR AN ACT

RELATING TO TAXATION.

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

SECTION 1. The legislature finds that the island of Oahu currently lacks an operating motor sports facility. Hawaii Raceway Park opened for operation in Campbell Industrial Park in 1962, but closed in 2006. Kalaeloa Raceway Park closed in 2014.

The legislature further finds that the development of a planned motor sports facility will provide a temporary boost of jobs in planning and construction, and provide permanent jobs during the ongoing operations of the new facility.

The purpose of this Act is to establish investment tax credits for Hawaii taxpayers who invest in the private development of the motor sports recreation and public safety training and educational facility at Kalaeloa, parcel 9.

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

"<u>§235-   </u> **<u>Motor sports recreation and public safety training and educational facility investment tax credit;</u>**

Kalaeloa parcel 9. (a) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter a motor sports recreation and public safety training and educational facility investment tax credit that shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter and, at the election of the taxpayer, from the tax liability imposed by chapter 237. The motor sports recreation and public safety training and educational facility investment tax credit shall be available for the taxable year in which the qualified investment was made and for additional qualified investments made in any of the following five consecutive years; provided that the credit is properly claimed and does not exceed the limits as specified under this section.

(b) The tax credit shall be equal to the qualified investment made by the taxpayer in the project for any one or more years in the five consecutive years beginning after December 31, 2018, through December 31, 2023. The total tax credits claimed shall not exceed $50,000,000 in the aggregate for all qualified taxpayers for all five years; provided that notwithstanding the amount of tax credit earned in any year, a maximum of $10,000,000 of tax credit in the aggregate for all qualified taxpayers may be used in any one year. Any tax credits over $10,000,000 for a year shall be used as provided in subsection (d).

(c) To qualify for the investment tax credit, a taxpayer shall have expended qualified costs on and be developing a qualified project.

(d) If the tax credit under this section exceeds $10,000,000 in the aggregate for all qualified taxpayers for any taxable year or exceeds the taxpayer's tax liability under this chapter or chapter 237 for any year for which the tax credit is taken, the excess of the tax credit may be used as a tax credit against the taxpayer's tax liability for the taxes set forth in this section in subsequent years until exhausted; provided that the taxpayer may continue to claim the credit provided in this section if the qualified costs are incurred before December 31, 2023, subject to the monetary ceilings in subsection (b).

(e) Every claim, including amended claims, for a tax credit under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the tax credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit.

(f) If at any time during the five-year period in which the investment tax credits are earned under this section:

(1) The costs incurred no longer meet the definition of qualified costs, due to:

(A) The sale by the taxpayer of the taxpayer's interest in the qualified project; or

(B) The withdrawal by the taxpayer of the taxpayer's investment wholly or partially from the qualified project; or

(2) The project no longer qualifies as a qualified project,

the tax credit claimed under this section shall be recaptured. The recapture shall be equal to one hundred per cent of the total tax credits claimed under this section. The amount of the recaptured tax credits determined under this subsection shall be added to the taxpayer's tax liability for the taxable year in which the recapture occurs under this subsection.

(g) The director of taxation shall prepare any forms that may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish information to ascertain the validity of the claims for credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(h) Every qualified taxpayer, no later than March 31 of each year in which qualified costs were expended in the previous taxable year, shall submit a written, certified statement to the director of business, economic development, and tourism, in the form specified by the director of business, economic development, and tourism, identifying:

(1) Qualified costs, if any, made in the previous taxable year;

(2) The amount of tax credit claimed pursuant to this section, if any, in the previous taxable year; and

(3) The tax liability under this chapter and chapter 237 against which the tax credits are claimed.

The department of business, economic development, and tourism shall certify no more than $10,000,000 in credits in the aggregate for all taxpayers for each taxable year; provided that the department may verify qualified costs of no more than $50,000,000 from December 31, 2018, through December 31, 2023.

The taxpayer shall file the certificate with the taxpayer's return with the department of taxation.

(i) As used in this section:

"Kalaeloa, parcel 9" or the "project" means the property identified in the Naval Air Station Barbers Point Community Redevelopment Plan and Amendment (Helber Hastert & Fee, Planners, March and December 1997), and as designated in the special area plan of the city and county of Honolulu on which the motor sports recreation and public safety training and educational facility is to be developed.

"Qualified costs" means any costs for plans, design, and construction, costs for equipment that is permanently affixed to a building or structure, and land acquisition and closing costs, incurred after December 31, 2018, and through December 31, 2023, to develop a qualified project.

"Qualified project" means the development of a motor sports recreation and public safety training and educational facility at Kalaeloa, parcel 9, including:

(1) Multi-purpose driving surfaces, barriers, fencing, lighting, and driver communication systems;

(2) Training and educational facilities, including classrooms;

(3) Safety and first response medical facility, safety containment systems;

(4) Participant and spectator accommodations, including maintenance, security, storage, and other supporting facilities; and

(5) Equipment intended for permanent use in the facility.

"Qualified taxpayer" means a person who fulfills the requirements of subsection (c)."

SECTION 3. Section 235-2.45, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Section 704 of the Internal Revenue Code (with respect to a partner's distributive share) shall be operative for purposes of this chapter; except that section 704(b)(2) shall not apply to:

(1) Allocations of the high technology business investment tax credit allowed by section 235-110.9 for investments made before May 1, 2009;

(2) Allocations of net operating loss pursuant to section 235-111.5;

(3) Allocations of the attractions and educational facilities tax credit allowed by section 235-110.46; [~~or~~]

(4) Allocations of low-income housing tax credits among partners under section 235-110.8[~~.~~]; or

(5) Allocations of the motor sports recreation and public safety training and educational facility investment tax credit allowed by section 235-   ."

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

SECTION 5. This Act, upon its approval, shall apply to qualified costs, as defined in section 2 of this Act, incurred after December 31, 2018.

INTRODUCED BY: ____________________

JAN 2 3 2017

H.B. NO. 822

Report Title:
Investment Tax Credit; Motor Sports Facility; Kalaeloa, Parcel 9

Description:
Establishes a tax credit for taxpayers investing in a motor sports facility to be developed at Kalaeloa, parcel 9.

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