

Honolulu, Hawaii

April 28, 2017

RE: H.B. No. 423
H.D. 2
S.D. 2
C.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 423, H.D. 2, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO FILM AND DIGITAL MEDIA INDUSTRY DEVELOPMENT,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to ensure that the Motion Picture, Digital Media, and Film Production Tax Credit (Tax Credit) continues to benefit Hawaii by:

- (1) Extending the sunset date of the Tax Credit for five years to January 1, 2024, and allowing taxpayers to claim unused credits through calendar year 2024;
- (2) Clarifying that qualifying production costs are those costs that are expended, in addition to incurred, within the State;



- (3) Specifying that to qualify for the Tax Credit, a production must provide evidence of:
 - (A) Ability to understand and navigate and recognition of cultural and environmental sensitives unique to Hawaii; and
 - (B) Reasonable efforts to comply with the guidelines for filming in sensitive locations established by the Hawaii Film Office;
- (4) Specifying that to qualify for the Tax Credit, a production must:
 - (A) Employ or contract for the services of cultural resources or historical, cultural, or language experts to advise the production;
 - (B) Agree, if it claims more than \$8,000,000 in credits, to provide a community screening of the finished products in the county of the island in which the majority of the production took place; and
 - (C) Prequalify for the Tax Credit by registering with the Hawaii Film Office of the Department of Business, Economic Development, and Tourism (DBEDT)) and obtain certification from the Film Office;
- (5) Specifying that a taxpayer's failure to comply with DBEDT's reporting requirements may constitute a waiver of the right to claim the Tax Credit; and
- (6) Establishing an annual aggregate cap of \$30,000,000 on the Tax Credit and allowing a taxpayer to claim all or part of the credit in subsequent years if the cap has been reached in the year the taxpayer was eligible to claim the Tax Credit.

The measure also requires DBEDT to;

- (1) Submit an annual report on the activities and expenditures of the Tax Credit to the Legislature prior to the convening of each Regular Session until the Tax Credit expires;



- (2) Hire an independent third party to audit each film production that claims the Tax Credit; and
- (3) Collaborate with the Department of Taxation and submit an independently verified and audited annual report to the Governor and Legislature on the jobs created by and fiscal impact to the State of, those productions receiving the Tax Credit.

Your Committee on Conference has amended this measure by, among other things:

- (1) Clarifying that the production to qualify for the Tax Credit must, among other things, provide the State:
 - (A) A qualified Hawaii promotion; and
 - (B) Evidence that reasonable efforts were unsuccessful to secure and use comparable products or services within the State;
- (2) Deleting any requirements to qualify for the Tax Credit that:
 - (A) Relates in any way to cultural and environmental sensitivities; and
 - (B) Requires a community screening of the finished production for any production that claims a credit of more than \$8,000,000;
- (3) Clarifying that the taxpayer shall first prequalify the production for the Tax Credit by registering with DBEDT, and repealing the provisions relating to the failure to comply may constitute a waiver of the right to claim the Tax Credit and the certification requirements;
- (4) Requiring a taxpayer claiming the Tax Credit to submit a verification review of any claims for the Tax Credit using procedures prescribed by DBEDT and deleting the provision that failure to comply with the reporting requirements of DBEDT may constitute a waiver of the right to claim the Tax Credit;



- (5) Increasing the aggregate tax credit cap to \$35,000,000, and any tax credit claims in excess of the \$35,000,000 cap shall be treated as having been applied for in the subsequent year and claimed in such year, provided that no excess shall be allowed to be claimed after December 31, 2025;
- (6) Extending the Tax Credit to January 1, 2026;
- (7) Deleting the provision permitting a taxpayer to claim any unused Tax Credit through calendar year 2024;
- (8) Clarifying that no later than January 1, 2018, and each January 1 thereafter, each film production that has production expenditures of \$1,000,000 or more and is claiming the Tax Credit shall obtain an independent third party certification of qualified production costs eligible for the Tax Credit for submission to DBEDT;
- (9) Deleting the requirement that DBEDT's report to the Governor and the Legislature be independently verified and audited for accuracy;
- (10) Changing its effective date to December 31, 2018;
- (11) Clarifying that the amendments to the Tax Credit shall apply to taxable years beginning after December 31, 2018; and
- (12) Making technical, nonsubstantive amendments, including conforming amendments, for clarity, consistency, and style.

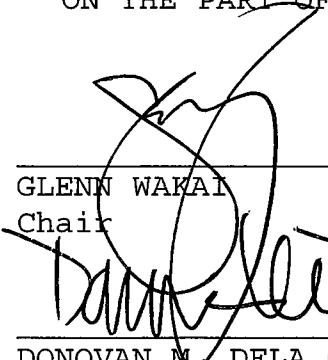
As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 423, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 423, H.D. 2, S.D. 2, C.D. 1.




Respectfully submitted on behalf
of the managers:

ON THE PART OF THE SENATE

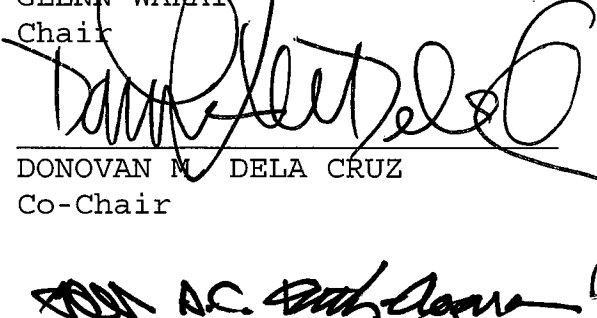
ON THE PART OF THE HOUSE



GLENN WAKAI
Chair




MARK M. NAKASHIMA
Co-Chair



DONOVAN M. DELA CRUZ
Co-Chair



SYLVIA LUKE
Co-Chair



GILBERT S.C. KEITH-AGARAN
Co-Chair



Hawaii State Legislature
 Record of Votes of a
 Conference Committee

CCR 190

Bill / Concurrent Resolution No.: HB 423, HD 2, SD 2	Date/Time: 4/28/17 3:40 pm
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The recommendation of the House and Senate managers is to pass with amendments (CD).

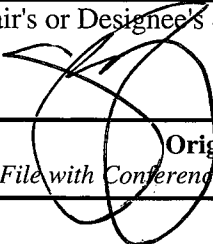

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
WAKAI, Glenn, Chr.	X				NAKASHIMA, Mark M., Co-Chr.	X			
DELA CRUZ, Donovan M., Co-Chr.	X				LUKE, Sylvia, Co-Chr.	X			
KEITH-AGARAN, Gilbert S.C., Co-Chr.	X				CULLEN, Ty J.K.	X			
					WOODSON, Justin H.				X
					WARD, Gene	X			
TOTAL	3	0	0	0	TOTAL	4	0	0	1

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature: 
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Distribution:

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