

STAND. COM. REP. NO. 1237

Honolulu, Hawaii
March 23, 2017

RE: S.B. No. 1086
S.D. 2
H.D. 1

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

Sir:

Your Committee on Economic Development & Business, to which was referred S.B. No. 1086, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE MOTION PICTURE, DIGITAL MEDIA, AND FILM PRODUCTION INCOME TAX CREDIT,"

begs leave to report as follows:

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

- (1) Extending the Tax Credit an additional five years to January 1, 2024;
- (2) Clarifying that qualifying production costs must be expended in the State to qualify for the Tax Credit;
- (3) To qualify for the Tax Credit, requiring a production to provide evidence of ability to understand and navigate, recognition of, and reasonable efforts to respect cultural and environmental sensitivities, including complying with guidelines when filming in sensitive areas and retaining the services of cultural resources



or historical, cultural, or language experts to advise the production;

- (4) Specifying that a production that claims more than \$8,000,000 in Tax Credits must provide an advanced community screening of the finished production in the county where the majority of the production took place;
- (5) Requiring taxpayers to prequalify the production for the Tax Credit by registering with and receiving a certification from the Hawaii Film Office;
- (6) Providing that the failure to submit the required written, sworn statement to the Department of Business, Economic Development, and Tourism (DBEDT) identifying qualified production costs, tax credits claimed, and local hiring information may constitute a waiver of the right to claim the Tax Credit;
- (7) Establishing an annual aggregate cap of \$30,000,000 on the Tax Credit and allowing taxpayers to claim the credit in subsequent years if the cap has already been reached;
- (8) Specifying that the DBEDT annual reporting requirement regarding fiscal impact to the State entails reporting on those film productions receiving the Tax Credit; and
- (9) Clarifying that the amendments of this measure to section 235-17, Hawaii Revised Statutes, relating to the Tax Credit, shall be applicable to taxable years beginning after December 31, 2050.

The County of Kauai Office of Economic Development, Commissioner of the Honolulu Film Justice Film Commission of the City and County of Honolulu, International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artist and Allied Crafts Local 665, Screen Actors Guild-American Federation of Television and Radio Artists, Hawaii Teamsters & Allied Workers Local 996, American Federation of Musicians Local 667, Hawaii State AFL-CIO, and International Longshore and Warehouse Union Local 142 supported this bill. The Department of Business, Economic Development, and Tourism supported the intent of this measure. The Department of Taxation, University of Hawaii, Office



of Auditor, Mayor of the County of Hawaii, Tax Foundation of the Hawaii, Motion Picture Association of America, Inc., and NBC Universal Media, LLC submitted comments.

Upon further consideration, your Committee has amended this measure by deleting its contents and inserting the substantive provisions of H.B. No. 423, H.D. 2, which addresses issues confronting the Tax Credit and was previously heard in the House earlier this session. As amended, this measure:

- (1) Extends the Tax Credit to January 1, 2024;
- (2) Provides an optional 35 percent credit for qualified production costs in a county with a population of 700,000 or less; provided that certain criteria are met;
- (3) Provides an optional credit of ten percent of qualified payroll costs for local employees in any county with a population of 700,000 or less; provided that certain criteria are met;
- (4) Grants a taxpayer the option of providing the State alternative marketing opportunities as a condition of claiming the Tax Credit and updates reporting requirements accordingly;
- (5) Requires evidence of reasonable efforts to acquire products and services locally as a condition of claiming the Tax Credit;
- (6) Requires a verification review of the information submitted to DBEDT to determine the credit amount; and
- (7) Takes effect on July 1, 2038.

Your Committee notes that the University of Hawaii suggested amendments to require production companies to contribute to workforce development efforts of the University of Hawaii through its creative media program.

Your Committee further notes that the Tax Foundation of Hawaii expressed concerns regarding the Tax Credit that merit further consideration. The Tax Foundation of Hawaii noted that



this measure appears to address the Auditor's recent audit of the Tax Credit and suggested further examination of the following:

- (1) The Department of Taxation's inclusion of out-of-state expenses and insurance premiums as qualified production costs contrary to the plan language of the statute;
- (2) Whether the Tax Credit is justified by interstate competition to attract production business to the State; and
- (3) Whether a study is needed to determine what the Tax Credit has done for the State's economy or tax revenue.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1086, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1086, S.D. 2, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Economic
Development & Business,



MARK M. NAKASHIMA, Chair



