



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

DAVID Y. IGE
GOVERNOR

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Statement of
Luis P. Salaveria
Director
Department of Business, Economic Development, and Tourism
HOUSE COMMITTEE ON FINANCE
Tuesday, February 28, 2017
1:00 PM
State Capitol, Conference Room 308

In consideration of
HB590, HD1
RELATING TO THE CREATIVE MEDIA INDUSTRY.

Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance.

The Department of Business, Economic Development and Tourism (DBEDT) **strongly supports** HB590, HD1, which seeks to: 1) establish a statewide creative industries advisory group; 2) repeal the Hawaii Television and Film Development Board; 3) rename the Hawaii Television and Film Development Special Fund to Creative Media and Film Infrastructure Special Fund; 4) Broaden the sources of revenue for a creative media and film infrastructure special fund; and 5) amend the purposes of the use of the fund, while retaining the Creative Industries Division (CID) and its branches.

DBEDT supports establishing a special fund within the department to capture studio rents from the existing Hawaii Film Studio, as well as expanding the revenue sources, providing these funds are utilized for existing and new infrastructure and workforce development.

DBEDT would support the establishment of a Creative Industries Advisory Group to provide guidance to the Creative Industries Division and its branches, comprised of creative sector industry professionals to provide a conduit for ongoing dialogue with our creative community to better serve the industry to help provide ongoing dialogue on new business development and career opportunities for Hawaii's creative workforce.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



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

To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Tuesday, February 28, 2017
Time: 1:00 P.M.
Place: Conference Room 308, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 590, H.D. 1, Relating to the Creative Media Industry

The Department of Taxation (Department) appreciates the intent of H.B. 590, H.D. 1 and provides the following comments for your consideration.

The prior version of H.B. 590, H.D. 1 created the Hawaii Film Commission within the Department of Business, Economic Development, and Tourism (DBEDT). The H.D. 1 version of this measure instead creates the Hawaii Creative Industries Advisory Group, which has different powers and duties. Section 3 of the measure creates an exemption to the general excise tax (GET) for certain revenue related to the Hawaii film studio, including revenues from improvements made to the studio and revenues from the operation of the film studio. Section 6 of this measure changes the Hawaii television and film development special fund to the Creative Media and Film Infrastructure Special Fund, and deposits revenues from several sources, including any revenues, fees, and charges from the processing of the motion picture, digital media, and film production income tax credit into the fund. Section 7 of the measure creates an exemption to the use tax for certain corresponding items related to the Hawaii film studio. The measure has a defective effective date of July 1, 2038.

The Department notes that there are two GET exemptions proposed by this measure. The first is for "amounts received from...the improvements to the Hawaii film studio under a financing agreement pursuant to chapter 37D." It is unclear from the wording of this exemption what taxpayers are eligible for and what amounts the exemption is for. Specifically, the word "improvements" should be thoroughly defined. In addition, certification by DBEDT will serve to eliminate any type of confusion as to the amounts intended to be exempt.

The second GET exemption is for "amounts received from...the operations of the Hawaii film studio." This exemption should be certified by DBEDT because it would have the relevant information on hand as the contracting agency. The certification by DBEDT should include the taxpayer's name, taxpayer's GET license number, and the amounts received for operation of the

Film Studio.

Second, the special fund created by Section 6 of this measure receives funds from, among other sources, all revenues, fees, and charges from the processing of the motion picture, digital media, and film production income tax credit. The Department notes that there is currently no provision in section 235-17, Hawaii Revised Statutes (HRS), allowing a fee to be charged for the processing of the motion picture, digital media, and film production tax credit. If the intent is to allow a fee to be charged for processing this tax credit, then an amendment also should be made to section 235-17, HRS, allowing a fee to be assessed.

Third, the use tax exemption in Section 7 of this measure is broadly worded. It applies to “materials, parts, or tools” imported and “used for the Hawaii film studio, including any improvements to the Hawaii film studio under a financing agreement pursuant to chapter 37D.” This provision should be amended to be more similar to the corresponding GET exemption, as the use tax is meant to complement the GET. The Department suggests DBEDT certification of this exemption as well.

Finally, the Department requests that GET and use tax exemptions be made applicable for taxable periods beginning January 1, 2018 to allow for the necessary form, instruction and computer system changes.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, USE, Exemption for Hawaii Film Studio

BILL NUMBER: HB 590, HD-1

INTRODUCED BY: House Committee on Economic Development & Business

EXECUTIVE SUMMARY: Among other things, this measure provides general excise tax and use tax exemptions for operations and improvements of the Hawaii Film Studio. If this is passed, other agencies will be wanting similar exemptions to stretch their budget dollars a little further.

SYNOPSIS: Adds a new section to HRS chapter 237 that would exempt amounts received from: (1) the improvements of the Hawaii film studio under a financing agreement pursuant to chapter 37D; or (2) the operations of the Hawaii film studio.

Amends HRS section 238-1 to provide an exemption from use tax for the use of material, parts, or tools that are imported or purchased by a person licensed under chapter 237 and are used for the Hawaii film studio, including any improvements made to the Hawaii film studio under a financing agreement pursuant to chapter 37D.

EFFECTIVE DATE: July 1, 2038.

STAFF COMMENTS: Because our general excise tax is imposed on the vendor, procurements by state government agencies are not exempt from tax (the buyer is exempt, but the seller isn't). Commonly, the vendor passes on its tax cost to the State, either directly or through a price adjustment.

Use Tax is normally imposed on a customer when a customer imports goods, services, or contracting into Hawaii and the seller of those goods, services, or contracting is beyond Hawaii's taxing jurisdiction. The State and its agencies are exempt from this tax, but the State's suppliers are not. Thus, vendors who import property or services to sell to the State (repair parts for machinery, perhaps) would be exposed to this tax, normally at the wholesale rate of 0.5%. Naturally, that cost would be factored into the price charged by the vendor.

Apparently, the tax burden was enough of a drag on the Film Office's budget that they are now seeking an exemption to help its budgeted taxpayer money reach a little further. If this exemption is passed, we can expect to hear from other agencies large and small wanting the same treatment.

We also observe that the Department of Taxation, in prior testimony, found the GET and Use Tax exemptions proposed in this measure to be vague. We agree with that assessment.

Digested 2/25/2017



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AMENDED
2/28/17

Statement of
Luis P. Salaveria
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Department of Business, Economic Development, and Tourism

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DBEDT supports establishing a special fund within the department to capture studio rents from the existing Hawaii Film Studio, as well as expanding the revenue sources, providing these funds are utilized for existing and new infrastructure and workforce development.

DBEDT also supports the formation of a Creative Industries Advisory Group (CIAG) to provide an ongoing dialogue in industry development for the department, CID and its branches. The department requests the committee's consideration of clarifying amendments attached for Section 2, pages 2 and 3, which are attached to this testimony. The CIAG will provide a pathway to further develop education to workforce opportunities for Hawaii's creative entrepreneurs and businesses. Thank you for the opportunity to testify on this measure.

DBEDT REQUESTED AMENDMENTS TO HB590 HD1
Submitted attached to testimony – FIN - February 28, 2017

In Section 2, pages 2 and 3, the department requests your consideration to amend language as follows:

"§201- Hawaii creative industries advisory group;

establishment. (a) There is established the Hawaii creative industries advisory group, which shall be placed within the department for administrative purposes only.

(b) The Hawaii creative industries advisory group shall be composed of seven members appointed by the governor pursuant to section 26-34. The director of business, economic development, and tourism, and the administrator of the department's creative industries division, or their designated representatives, shall serve as ex officio voting members. One of the appointed members shall be a representative from a labor organization whose members provide services to the film industry, and one of the appointed members shall be a representative from a labor organization whose members provide services to the music industry. Three of the appointed members shall be selected on the basis of their knowledge and experience in the creative and media industries, ~~representing a cross section of creative and media sectors, recommended through a process to be developed in collaboration with state and county economic development leadership and county and state film offices. The creative industries administrator, and its branch chiefs will convene the group, which shall include representatives of two labor organizations whose members provide services to the film and music industries and the director or the director's designee.~~

§201- Powers and duties. The Hawaii creative industries advisory group shall:

- (1) Recommend programs and initiatives for creative and media industry development;
- (2) Recommend programs that expand the skill sets of Hawaii's resident workforce in the creative and media industries; and
- (3) ~~Establish an advisory group~~ Appoint an advisory committee to obtain expert advice on matters relating to the development of the creative and media industries in the State. Members of the committee may include ~~that includes~~ persons with a working knowledge of the film industry, representatives from the county film commissions, and representatives from government departments and agencies controlling resources necessary to support the development of the creative and media industries in the State; ~~provided that the advisory group.~~ The advisory committee shall be exempt from section 26-34 and chapter 92."

And on page 18, maintain the language as follows:

SECTION 12. Notwithstanding the establishment of the Hawaii creative industries advisory group as provided in this Act, the film industry branch within the department of business, economic development, and tourism and the creative industries division shall continue to be maintained without any reduction in staffing or funding and all officers and employees in the branch shall continue to perform their functions and duties under this Act.



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