



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
Luis P. Salaveria
Director
Department of Business, Economic Development, and Tourism
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
Friday, January 10, 2017
9:00 AM
State Capitol, Conference Room 309

In consideration of
HB590
RELATING TO THE CREATIVE MEDIA INDUSTRY.

Chair Nakashima, Vice Chair Keohokalole, and Members of the House Committee on Economic Development and Tourism.

The Department of Business, Economic Development and Tourism (DBEDT) supports the intent and offers comments on HB590, which seeks to 1) establish a film commission; 2) repeal the Hawaii Television and Film Development Board; 3) rename the Hawaii Television and Film Development 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 Hawaii Film Office (HFO) of Creative Industries Division (CID), DBEDT.

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 development.

We have concerns establishing a "Film Commission" that would operate along-side the current Hawaii Film Office in CID/DBEDT, which is currently recognized as the State's Film Commission by the industry within and outside of the State. Currently, the state and county film offices work collaboratively as the Film Offices of the Hawaiian Islands (FOHI) and are members of the Association of Film Commissioners International (AFCI) which is comprised of more than 200 film commissioners from around the world.

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 and provide new business development and career opportunities for Hawaii's creative workforce.

Attached is a mark-up draft for your consideration. Thank you for the opportunity to testify on this measure.

A BILL FOR AN ACT

RELATING TO THE CREATIVE MEDIA INDUSTRY.

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

1 SECTION 1. The purpose of this Act is to:

- 2 (1) ~~Establish a statewide film commission~~ ^{CREATIVE INDUSTRIES ADVISORY GROUP} within the
3 department of business, economic development, and
4 tourism to ~~manage the marketing, promotion, rental,~~
5 ~~and operation of the Hawaii film studio and provide~~
6 ~~support and assistance to the creative media industry,~~ ^{and} ~~development~~
7 (2) Repeal the Hawaii television and film development
8 board, which has been inactive for about ten years,
9 along with the grant and venture capital programs to
10 be implemented by the board;
11 (3) Rename the Hawaii television and film development
12 special fund as the creative media and film
13 infrastructure special fund;
14 (4) Broaden the sources of revenue for the creative media
15 and film infrastructure special fund; and
16 (5) Amend the purposes for which the creative media and
17 film infrastructure special fund may be used, in order



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1 to enable the department of business, economic
 2 development, and tourism to fulfill its statutory *and*
 3 *business development* duties regarding the *creative industries, film and media* ~~film~~ programs.

4 SECTION 2. Chapter 201, Hawaii Revised Statutes, is
 5 amended by adding two new sections to part IX to be
 6 appropriately designated and to read as follows: *

7 ~~"§201- Hawaii state film commission; establishment;~~
 8 ~~president and chief executive officer]~~ (a) There is
 9 established the Hawaii ~~state film commission,~~ *CREATIVE INDUSTRIES ADVISORY GROUP* ~~which shall be~~
 10 ~~placed within the department for administrative purposes only.~~

11 (b) *CREATIVE INDUSTRIES ADVISORY GROUP* The ~~commission~~ shall be composed of seven members, ~~two~~
 12 ~~of whom shall be appointed by the governor pursuant to section~~ *representing a cross section of creative and media sectors, recommended*
 13 ~~through a process to be developed in collaboration with state and~~ *through a process to be developed in collaboration with state and*
 14 ~~county economic development leadership and county and state film offices;~~ *county economic development leadership and county and state film offices;*
 15 ~~member's successor is appointed and confirmed by the Senate.~~

16 ~~One of the governor's appointees shall be a representative~~ *The CREATIVE INDUSTRIES ADMINISTRATOR, ITS BRANCH CHIEFS, WILL CONVENE THE GROUP*
 17 ~~of a labor organization whose members provide services to the film~~ *and music* ~~creative media industry.~~ *industry.* The other gubernatorial appointee
 18 ~~shall be a representative of the International Alliance of~~
 19 ~~Theatrical Stage Employees. The two appointed members shall~~
 20 ~~each possess at least five years of experience in the creative~~
 21 ~~media industry. The business development program manager of the~~



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1 ~~department's film industry branch and the chairs of the four~~
 2 ~~county film commissions, or their equivalent, shall serve as ex~~
 3 ~~officio voting members, who may be represented on the commission~~
 4 ~~by designees.~~ *and the director of the department or his*
 designee.

5 (c) ~~The commission shall elect a chairperson from among~~
 6 ~~its members,~~ *and all members shall serve without compensation.*
 SERVE AS

7 (d) ~~Four members shall constitute a quorum, and a minimum~~
 8 ~~of four affirmative votes shall be necessary for all actions by~~
 9 ~~the commission. The members shall serve without compensation~~
 10 ~~but shall be reimbursed for expenses, including travel expenses,~~
 11 ~~necessary for the performance of their duties.~~

12 (e) ~~The commission shall appoint one person to serve as~~
 13 ~~president and chief executive officer, exempt from chapters 76~~
 14 ~~and 88, who shall oversee the commission staff; provided that~~
 15 ~~the compensation package shall not include private sector moneys~~
 16 ~~or other contributions. The commission shall set the president~~
 17 ~~and chief executive officer's duties, responsibilities,~~
 18 ~~holidays, vacations and other leaves, hours of work, and working~~
 19 ~~conditions. The commission may grant other benefits as it deems~~
 20 ~~necessary.~~

21 §201- Powers and duties. *ADVISORY GROUP* The ~~commission~~ shall:



- 1 (1) Adopt any rules, pursuant to chapter 91, necessary to
2 carry out its duties and functions under this part;
- 3 (2) Through its president and chief executive officer,
4 make and execute contracts and all other instruments
5 necessary or convenient for the exercise of its powers
6 and functions under this part;
- 7 (3) Through its president and chief executive officer,
8 provide for the appointment of employees, subject to
9 the approval of the commission, prescribe their duties
10 and qualifications, and fix their salaries, without
11 regard to chapter 76; provided that employees shall be
12 members of the employees' retirement system of the
13 State and shall be eligible to receive the benefits of
14 any state or federal employee benefit program
15 generally applicable to officers and employees of the
16 State;
- 17 (4) Through its president and chief executive officer,
18 purchase supplies, equipment, or furniture and
19 allocate the space or spaces that are to be occupied
20 by the commission and appropriate staff;



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- 1 ~~(5) Manage the marketing, promotion, rental, and operation~~
- 2 ~~of the Hawaii film studio using a private entity or~~
- 3 ~~entities contracted in accordance with chapter 103D;~~
- 4 ~~(6) Set and collect rents, fees, charges, and other~~
- 5 ~~payments for the lease, use, or occupancy of the~~
- 6 ~~Hawaii film studio without regard to chapter 91;~~
- 7 ~~(7) Establish programs and initiatives for creative media~~ ^{RECOMMEND and}
- 8 ~~industry development;~~
- 9 ~~(8) Establish programs that expand the skill sets of~~ ^{RECOMMEND}
- 10 ~~Hawaii's resident workforce in the creative media~~ ^{and}
- 11 ~~industry.~~ ^{es}
- 12 ~~(9) Establish advisory groups that include persons with a~~ ^{ADVISORY} ~~chapter 92.~~ ^{AN INTERESTING GROUP EXEMPT FROM CHAPTER 26-34 and}
- 13 ~~working knowledge of the film industry, the county~~
- 14 ~~film commissions, and government departments and~~
- 15 ~~agencies controlling resources necessary to support~~
- 16 ~~development of the creative media industry in the~~ ^{film and industries}
- 17 ~~State; and~~
- 18 ~~(10) Provide direct support and assistance to the creative~~
- 19 ~~media industry, to the extent that it is not already~~
- 20 ~~being provided by the department's film industry~~
- 21 ~~branch."~~



1 SECTION 3. Chapter 237, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§237- Hawaii film studio. This chapter shall not apply
5 to amounts received from:

- 6 (1) The improvements of the Hawaii film studio under a
7 financing agreement pursuant to chapter 37D; or
8 (2) The operations of the Hawaii film studio."

9 SECTION 4. Chapter 201, Hawaii Revised Statutes, is
10 amended by amending the title of part IX to read as follows:

11 "~~[+] PART IX. []- HAWAII TELEVISION]~~ CREATIVE MEDIA
12 AND FILM DEVELOPMENT"

13 SECTION 5. Section 201-111, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~[+] §201-111 []-~~ Definitions. As used in this part:

16 "~~["Applicant" means a person applying for a grant or venture~~
17 ~~capital investment from the board under this part.~~

18 "~~Board" means the Hawaii television and film development~~
19 ~~board.~~

20 "~~Eligible Hawaii project" or "project" means an~~
21 ~~entertainment project in which at least seventy five per cent of~~



1 ~~the budget for the production costs, excluding salaries and~~
2 ~~costs for the producer, director, writer, screenplay, and actors~~
3 ~~in the project, is dedicated for the purchase or lease of goods~~
4 ~~or services from a vendor or supplier who is located and doing~~
5 ~~business in the State.~~

6 ~~"Fund" means the Hawaii television and film development~~
7 ~~special fund.~~

8 ~~"Venture capital investment" means any of the following~~
9 ~~investments in a project:~~

- 10 ~~(1) Common or preferred stock and equity securities~~
11 ~~without a repurchase requirement for at least five~~
12 ~~years;~~
- 13 ~~(2) A right to purchase stock or equity securities;~~
- 14 ~~(3) Any debenture, whether or not convertible or having~~
15 ~~stock purchase rights, which is subordinated, together~~
16 ~~with security interests against the assets of the~~
17 ~~borrower, by their terms to all borrowings of the~~
18 ~~borrower from other institutional lenders, and that is~~
19 ~~for a term of not less than three years, and that has~~
20 ~~no part amortized during the first three years; and~~
- 21 ~~(4) General or limited partnership interests.]~~



~~"CREATIVE INDUSTRIES" includes all sectors identified by
as comprising creative industries.~~

1 "Creative media" includes film, motion pictures,
2 television, and digital media as defined in section 235-17.

3 "Department" means the department of business, economic
4 development, and tourism."

5 SECTION 6. Section 201-113, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~[f]~~§201-113~~[j]—Hawaii television]~~ Creative media and film
8 ~~[development]~~ infrastructure special fund. (a) There is
9 established in the state treasury the ~~[Hawaii television]~~
10 creative media and film ~~[development]~~ infrastructure special
11 fund into which shall be deposited:

- 12 (1) Appropriations by the legislature;
- 13 (2) Donations and contributions made by private
14 individuals or organizations for deposit into the
15 fund;
- 16 (3) Grants provided by governmental agencies or any other
17 source; ~~[and~~
- 18 ~~(4) Any profits or other amounts received from venture~~
19 ~~capital investments.]~~
- 20 (4) All revenues, fees, and charges from the rental and
21 operation of the Hawaii film studio;



1 (5) All revenues, fees, and charges from the processing of
2 film permits pursuant to section 201-14; and

3 (6) All revenues, fees, and charges from the processing of
4 the motion picture, digital media, and film production
5 income tax credit pursuant to section 235-17.

6 (b) The fund shall be used by the [~~board to assist in, and~~
7 ~~provide incentives for, the production of eligible Hawaii~~
8 ~~projects that are in compliance with criteria and standards~~
9 ~~established by the board in accordance with rules adopted by the~~
10 ~~board pursuant to chapter 91. In particular, the board shall~~
11 ~~adopt rules to provide for the implementation of the following~~
12 ~~programs:~~

13 ~~(1) A grant program. The board shall adopt rules pursuant~~
14 ~~to chapter 91 to provide conditions and qualifications~~
15 ~~for grants. Applications for grants shall be made to~~
16 ~~the board and shall contain such information as the~~
17 ~~board shall require by rules adopted pursuant to~~
18 ~~chapter 91. At a minimum, the applicant shall agree~~
19 ~~to the following conditions:~~

20 ~~(A) The grant shall be used exclusively for eligible~~
21 ~~Hawaii projects;~~



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- 1 ~~(B) The applicant shall have applied for or received~~
2 ~~all applicable licenses and permits;~~
- 3 ~~(C) The applicant shall comply with applicable~~
4 ~~federal and state laws prohibiting discrimination~~
5 ~~against any person on the basis of race, color,~~
6 ~~national origin, religion, creed, sex, age, or~~
7 ~~physical handicap;~~
- 8 ~~(D) The applicant shall comply with other~~
9 ~~requirements as the board may prescribe;~~
- 10 ~~(E) All activities undertaken with funds received~~
11 ~~shall comply with all applicable federal, state,~~
12 ~~and county statutes and ordinances;~~
- 13 ~~(F) The applicant shall indemnify and save harmless~~
14 ~~the State of Hawaii and its officers, agents, and~~
15 ~~employees from and against any and all claims~~
16 ~~arising out of or resulting from activities~~
17 ~~carried out or projects undertaken with funds~~
18 ~~provided hereunder, and procure sufficient~~
19 ~~insurance to provide this indemnification if~~
20 ~~requested to do so by the department;~~



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1 ~~(C) The applicant shall make available to the board~~
2 ~~all records the applicant may have relating to~~
3 ~~the project, to allow the board to monitor the~~
4 ~~applicant's compliance with the purpose of this~~
5 ~~chapter; and~~
6 ~~(H) The applicant, to the satisfaction of the board,~~
7 ~~shall establish that sufficient funds are~~
8 ~~available for the completion of the project for~~
9 ~~the purpose for which the grant is awarded; and~~
10 ~~(2) A venture capital program. The board shall adopt~~
11 ~~rules pursuant to chapter 91 to provide conditions and~~
12 ~~qualifications for venture capital investments in~~
13 ~~eligible Hawaii projects. The program may include a~~
14 ~~written agreement between the borrower and the board,~~
15 ~~as the representative of the State, that as~~
16 ~~consideration for the venture capital investment made~~
17 ~~under this part, the borrower shall share any~~
18 ~~royalties, licenses, titles, rights, or any other~~
19 ~~monetary benefits that may accrue to the borrower~~
20 ~~pursuant to terms and conditions established by the~~
21 ~~board by rule pursuant to chapter 91. Venture capital~~



1 ~~investments may be made on such terms and conditions~~
 2 ~~as the board shall determine to be reasonable,~~
 3 ~~appropriate, and consistent with the purposes and~~
 4 ~~objectives of this part.]~~

5 department to provide for:

- 6 (1) Operations, repair, and maintenance of the Hawaii film
 7 studio; OPERATIONS (stkt)
- 8 (2) Support for the operations of the department's film
 9 industry branch, and Hawaii state film commission;
- 10 (3) Programs and initiatives for creative media industry
 11 development; and
- 12 (4) Programs that expand the skill sets of Hawaii's
 13 resident workforce in the creative media and film
 14 industries."

15 SECTION 7. Section 238-1, Hawaii Revised Statutes, is
 16 amended by amending the definition of "use" to read as follows:

17 "Use" (and any nounal, verbal, adjectival, adverbial, and
 18 other equivalent form of the term) herein used interchangeably
 19 means any use, whether the use is of such nature as to cause the
 20 property, services, or contracting to be appreciably consumed or
 21 not, or the keeping of the property or services for such use or



1 for sale, the exercise of any right or power over tangible or
2 intangible personal property incident to the ownership of that
3 property, and shall include control over tangible or intangible
4 property by a seller who is licensed or who should be licensed
5 under chapter 237, who directs the importation of the property
6 into the State for sale and delivery to a purchaser in the
7 State, liability and free on board (FOB) to the contrary
8 notwithstanding, regardless of where title passes, but the term
9 "use" shall not include:

10 (1) Temporary use of property, not of a perishable or
11 quickly consumable nature, where the property is
12 imported into the State for temporary use (not sale)
13 therein by the person importing the same and is not
14 intended to be, and is not, kept permanently in the
15 State. For example, without limiting the generality
16 of the foregoing language:

17 (A) In the case of a contractor importing permanent
18 equipment for the performance of a construction
19 contract, with intent to remove, and who does
20 remove, the equipment out of the State upon
21 completing the contract;



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- 1 (B) In the case of moving picture films imported for
2 use in theaters in the State with intent or under
3 contract to transport the same out of the State
4 after completion of such use; and
- 5 (C) In the case of a transient visitor importing an
6 automobile or other belongings into the State to
7 be used by the transient visitor while therein
8 but which are to be used and are removed upon the
9 transient visitor's departure from the State;
- 10 (2) Use by the taxpayer of property acquired by the
11 taxpayer solely by way of gift;
- 12 (3) Use which is limited to the receipt of articles and
13 the return thereof, to the person from whom acquired,
14 immediately or within a reasonable time either after
15 temporary trial or without trial;
- 16 (4) Use of goods imported into the State by the owner of a
17 vessel or vessels engaged in interstate or foreign
18 commerce and held for and used only as ship stores for
19 the vessels;



- 1 (5) The use or keeping for use of household goods,
2 personal effects, and private automobiles imported
3 into the State for nonbusiness use by a person who:
4 (A) Acquired them in another state, territory,
5 district, or country;
6 (B) At the time of the acquisition was a bona fide
7 resident of another state, territory, district,
8 or country;
9 (C) Acquired the property for use outside the State;
10 and
11 (D) Made actual and substantial use thereof outside
12 this State;
13 provided that as to an article acquired less than
14 three months prior to the time of its importation into
15 the State, it shall be presumed, until and unless
16 clearly proved to the contrary, that it was acquired
17 for use in the State and that its use outside the
18 State was not actual and substantial;
- 19 (6) The leasing or renting of any aircraft or the keeping
20 of any aircraft solely for leasing or renting to
21 lessees or renters using the aircraft for commercial



1 transportation of passengers and goods or the
2 acquisition or importation of any such aircraft or
3 aircraft engines by any lessee or renter engaged in
4 interstate air transportation. For purposes of this
5 paragraph, "leasing" includes all forms of lease,
6 regardless of whether the lease is an operating lease
7 or financing lease. The definition of "interstate air
8 transportation" is the same as in 49 U.S.C. 40102;

9 (7) The use of oceangoing vehicles for passenger or
10 passenger and goods transportation, from one point to
11 another within the State, as a public utility as
12 defined in chapter 269;

13 (8) The use of material, parts, or tools that are imported
14 or purchased by a person licensed under chapter 237
15 [which] and are used for aircraft service and
16 maintenance[7] or the construction of an aircraft
17 service and maintenance facility as those terms are
18 defined in section 237-24.9;

19 (9) The use of services or contracting imported for resale
20 where the contracting or services are for resale,



- 1 consumption, or use outside the State pursuant to
2 section 237-29.53(a); [and]
- 3 (10) The use of property, services, or contracting imported
4 by foreign diplomats and consular officials who are
5 holding cards issued or authorized by the United
6 States Department of State granting them an exemption
7 from state taxes[-]; and
- 8 (11) The use of material, parts, or tools that are imported
9 or purchased by a person licensed under chapter 237
10 and are used for the Hawaii film studio, including any
11 improvements made to the Hawaii film studio under a
12 financing agreement pursuant to chapter 37D.

13 With regard to purchases made and distributed under the
14 authority of chapter 421, a cooperative association shall be
15 deemed the user thereof."

16 SECTION 8. Section 201-112, Hawaii Revised Statutes, is
17 repealed.

18 ~~["§201-112] Hawaii television and film development board.~~
19 ~~(a) There is established the Hawaii television and film~~
20 ~~development board. The board shall be attached to the~~
21 ~~department of business, economic development, and tourism for~~



1 ~~administrative purposes only. The board shall administer the~~
2 ~~grant and venture capital investment programs and the Hawaii~~
3 ~~television and film development special fund established under~~
4 ~~this part. The board shall also assess and consider the overall~~
5 ~~viability and development of the television and film industries~~
6 ~~and make recommendations to appropriate state or county~~
7 ~~agencies.~~

8 ~~(b) The board shall be composed of nine members, four of~~
9 ~~whom shall be appointed by the governor pursuant to section 26-~~
10 ~~34, and all of whom shall serve four year staggered terms. One~~
11 ~~of the governor's appointments shall be made from a list of~~
12 ~~nominees submitted by the president of the senate and another~~
13 ~~appointment shall be made from a list of nominees submitted by~~
14 ~~the speaker of the house of representatives. The four appointed~~
15 ~~members shall possess a current working knowledge of the film,~~
16 ~~television, or entertainment industry. The director of~~
17 ~~business, economic development, and tourism, and the chairs of~~
18 ~~the four county film commissions or its equivalent, shall serve~~
19 ~~as ex officio voting members, who may be represented on the~~
20 ~~board by designees.~~



1 ~~The chairperson and vice chairperson of the board shall be~~
2 ~~selected by the board by majority vote. Five members shall~~
3 ~~constitute a quorum, whose affirmative vote shall be necessary~~
4 ~~for all actions by the board. The members shall serve without~~
5 ~~compensation but shall be reimbursed for expenses, including~~
6 ~~travel expenses, necessary for the performance of their duties.~~

7 ~~(c) The film industry branch development manager shall~~
8 ~~serve as the executive secretary of the board.~~

9 ~~(d) The board may adopt rules pursuant to chapter 91 to~~
10 ~~effectuate the purposes of this part."]~~

11 SECTION 9. Section 201-114, Hawaii Revised Statutes, is
12 repealed.

13 ~~[" §201-114 Inspection of premises and records. The~~
14 ~~board shall have the right to inspect, at reasonable hours, the~~
15 ~~plant, physical facilities, equipment, premises, books, and~~
16 ~~records of any applicant in connection with the processing of a~~
17 ~~grant to the applicant."]~~

18 SECTION 10. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so much
20 thereof as may be necessary for fiscal year 2017-2018 and the
21 same sum or so much thereof as may be necessary for fiscal year



1 2018-2019 to be deposited into the creative media and film
2 infrastructure special fund.

3 SECTION 11. There is appropriated out of the creative
4 media and film infrastructure special fund the sum of \$ or
5 so much thereof as may be necessary for fiscal year 2017-2018
6 and the same sum or so much thereof as may be necessary for
7 fiscal year 2018-2019 for the purposes of the fund.

8 The sums appropriated shall be expended by the department
9 of business, economic development, and tourism for the purposes
10 of this Act.

11 SECTION 12. Notwithstanding the establishment of the ^{ADVISORY} CREATIVE
12 ~~HAWAII STATE FILM COMMISSION~~ INDUSTRIES ~~GROUP~~ GROUP as provided in this Act, the film
13 industry branch within the department of business, economic
14 development, and tourism ^{and CREATIVE INDUSTRIES DIVISION} shall continue to be maintained without
15 any reduction in staffing or funding and all officers and
16 employees in the branch shall continue to perform their
17 functions and duties ~~to the extent feasible~~ under this Act.

18 SECTION 13. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20



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1 SECTION 14. This Act shall take effect on July 1, 2017.

2

INTRODUCED BY:

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

JAN 20 2017



H.B. NO. 590

Report Title:

Creative Media Industry; Creative Media and Film Infrastructure Special Fund; General Excise Tax; Use Tax; Appropriation

Description:

Establishes the Hawaii ~~State Film Commission~~ ^{CREATIVE INDUSTRIES} while retaining the Film Industry Branch of DBEDT. Repeals the Hawaii Television and Film Development Board along with the grant and venture capital programs to be implemented by the Board. Renames the Hawaii Television and Film Development Special Fund as the Creative Media and Film Infrastructure Special Fund. Expands funding sources for the Creative Media and Film Infrastructure Special Fund to support creative industries development within the Department of Business, Economic Development, and Tourism. Amends the purposes for which the Creative Media and Film Infrastructure Special Fund may be used. Provides general excise and use tax exemptions for operations and improvements of the Hawaii Film Studio. Makes an appropriation. ^{ADVISORY} GROUP

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





**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:

H.B. NO. 590, RELATING TO THE CREATIVE MEDIA INDUSTRY.

BEFORE THE:

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS

DATE: Friday, February 10, 2017

TIME: 9:00 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Margaret S. Ahn, Deputy Attorney General

Chair Nakashima and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill establishes a new Hawaii State Film Commission. Two of the Commission's members shall be appointed by the Governor pursuant to section 26-34, Hawaii Revised Statutes (HRS), "provided that each member shall hold office until the member's successor is appointed and confirmed by the [s]enate." (Emphasis added).

This proviso is not in conformance with section 26-34(b), HRS, which provides:

(b) Any member of a board or commission whose term has expired and who is not disqualified for membership under subsection (a) may continue in office as a holdover member until a successor is nominated and appointed; . . . (Emphasis added).

Because section 26-34, HRS, contains the holdover provision in subsection (b), additional holdover wording is not necessary.

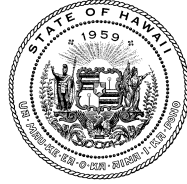
To avoid a conflict between the statutes, we recommend that page 2, lines 11-14, of this bill be amended to delete the proviso and to read:

(b) The commission shall be composed of seven members, two of whom shall be appointed by the governor pursuant to section 26-34.

We respectfully recommend that this bill be amended as described above.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable Mark M. Nakamura, Chair
and Members of the House Committee on Economic Development and Business

Date: Friday, February 10, 2017
Time: 9:00 A.M.
Place: Conference Room 309, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

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

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

Section 2 of H.B. 590 creates the Hawaii Film Commission within the Department of Business, Economic Development, and Tourism (DBEDT), which, among other duties, will operate the Hawaii film studio. 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 7 of the measure creates an exemption to the use tax for certain corresponding items related to the Hawaii film studio. The measure is effective July 1, 2017.

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 the Film Commission (DBEDT) will serve to eliminate any type of confusion as to the amounts exempted.

The second GET exemption is for “amounts received from... the operations of the Hawaii film studio.” This exemption should definitely be certified by the Film Commission (DBEDT). Such certification should include the taxpayer’s name, taxpayer’s GET license number, and the amounts received for operation of the Film Studio.

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 GET. The Department suggests Film Commission (DBEDT) certification of this exemption as well.

Finally, the Department requests that GET and use tax exemptions be made applicable 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.



The House of Representatives
The Twenty-Ninth Legislature
Regular Session of 2017

Committee on Economic Development & Business
Representative Mark M. Nakashima
Representative Jarrett Keohokalole, Vice Chair

RE: HB 590 RELATING TO CREATIVE MEDIA INDUSTRY

Date: Friday, February 10, 2017
Time: 9:00 a.m.
Conference Room 309
State Capitol, 415 South Beretania Street, Honolulu, HI

Aloha Chair Nakashima, Vice Chair Keohokalole and Members of the Committee,

We are the representatives of the film and entertainment industry unions, Brenda Ching, SAG-AFTRA Hawaii Local, Irish Barber, I.A.T.S.E. Local 665, Steve Pearson, American Federation of Musicians' Local 677 and Wayne Kaululaau, Hawaii Teamsters & Allied Workers Local 996. Collectively, we represent over 1700 members who work in film, television and new media productions as performers, crew, musicians and drivers in Hawaii.

We *oppose* HB 590 portion of the bill to establish a Statewide Film Commission within DBEDT. There needs to be more discussion on this subject as it affects numerous stakeholders and the community.

The film industry is a *vibrant* and *creative* industry. At its core, it promotes the State, provides numerous jobs and business opportunities for a broad spectrum of local companies and is a proven business and economic driver for our State.

We appreciate the legislature's strong support of the industry. Thank you for giving us the opportunity to offer testimony on this measure.

Brenda Ching
SAG-AFTRA Hawaii

Irish Barber
I.A.T.S.E. Local 665

Steve Pearson
A.F.M. Local 677

Wayne Kaululaau
Teamsters Local 996

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

INTRODUCED BY: NAKASHIMA, JOHANSON, KEOHOKALO, C. LEE, LUKE, NISHIMOTO, OHNO, ONISHI, SAN BUENAVENTURA, WOODSON, YAMASHITA, Takumi

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.

BRIEF SUMMARY: 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, 2017.

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.

Digested 2/8/2017

House of Representatives
The Twenty-Ninth Legislature
Regular Session of 2017

COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Rep. Mark M. Nakashima, Chair
Rep. Jarrett Keohokalole, Vice Chair

RE: HB 590 RELATING TO FILM AND DIGITAL MEDIA INDUSTRY
DEVELOPMENT

Date: Friday, February 10, 2017

Time: 9:00 AM

Conference Room 309

State Capitol, 415 South Beretania Street, Honolulu, HI

February 8, 2017

From: Roy Tjioe and Ricardo Galindez
Island Film Group
POB 3261
Honolulu, HI 96801
Ph: 808-536-7955

Aloha Chair Nakashima, Vice Chair Keohokalole and Members of the Committee,

We support HB 590, which seeks to establish a Hawaii State Film Commission and provide for the expansion of funding sources to support creative industries development with the following comments and suggestions.

We have been working in Hawaii's film and television industry since 2001, starting as attorneys at the Hawaii law firm of Goodsill Anderson Quinn & Stifel where we represented local, independent and studio clients alike (including the hit ABC series "Lost" and the Fox series "North Shore"). Since our formation of Island Film Group in 2007, we have been working full-time as producers of feature films such as "Princess Kaiulani" and "Soul Surfer", network and cable television movies and series such as "Beyond the Break" for the N Network, as well as local, national and international commercial productions.

While we support the intent of a state and county-wide film commission, we

believe more discussion needs to take place to determine the appropriate role of such a commission.

While the state and county film offices have some common goals, there are also goals and objectives that are specific, both at the governmental and county levels. History has shown that similar groups have not worked well together. Our suggestion is that the legislature direct the state and county film offices to propose a framework for a group that they believe would be effective and efficient, and that such proposal be considered in a subsequent legislative session.

The State Film Office is critical to the continued success of our local film and television industry.

As our film and television industry grows, resulting in increased studio rental fees, increased permit fees and increased tax credit applications, all of which require more work on the part of the State Film Office, these fees should go back to the department that is generating these fees and supporting this important part of our economy.

Me ke aloha,

Roy Tjioe and Ricardo Galindez
Co-Founders
Island Film Group
Honolulu, Hawaii

DATE: Friday, February 10, 2017

TIME: 9:00 AM

PLACE: Conference Room 309, State Capitol, 415 South Beretania Street

To: House Committee On Economic Development & Business

Rep. Mark M. Nakashima, Chair

Rep. Jarrett Keohokalole, Vice Chair

From: Keoni Fernandez, Mākaha Studios

RELATING TO THE CREATIVE MEDIA INDUSTRY - HB 590

In Support

Mākaha Studios supports HB 590 Relating To The Creative Media Industry.

We believe the establishment of the Hawai'i State Film Commission and Creative Media and Film Infrastructure Special Fund will catalyze our efforts to create a more qualified, college-educated workforce and sustainable digital media industry on O'ahu's west side, which in turn, will work to support the state's creative media industry.

We further believe the Hawai'i State Film Commission and Creative Media and Film Infrastructure Special Fund will make a positive impact on our community by building capacity and creating opportunities to expand training and education for youth in Wai'anae.

Mākaha Studios is a small business in Wai'anae, Hawai'i, operating as a social enterprise by and for graduates of Wai'anae High School Searider Productions' digital media program. Our goal is to forge a pathway to success through higher education for youth in our community. The company's core operations - video production, graphic design, and photography - leverage the creativity of our staff and college interns. Through the Kauhale Youth Leadership Training Program, our interns receive monthly stipends and paid tuition to Leeward Community College to achieve Associate's Degrees and Certificates in Digital Media, while benefiting from project-based learning experiences within the creative media industries.

Mahalo piha for allowing us to share our views.