

SB2163

Measure Title: RELATING TO TAXATION.
Report Title: Hawaii State Association of Counties Package; Individual with a Disability; Employment; Income Tax Credit
Description: Provides a taxpayer who hires an individual with a disability a nonrefundable tax credit for the 6-month period after the individual is initially hired by the taxpayer. Applies to taxable years beginning after 12/31/2018.
Companion: [HB1795](#)
Package: Hawaii State Association of Counties
Current Referral: LBR/HMS, WAM
Introducer(s): KOUCHI (Introduced by request of another party)

<u>Sort by</u> <u>Date</u>	Status Text
1/19/2018	S Introduced.
1/19/2018	S Passed First Reading.
1/22/2018	S Referred to LBR/HMS, WAM.
2/8/2018	S The committee(s) on LBR/HMS has scheduled a public hearing on 02-12-18 2:50PM in conference room 016.

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

SB2163

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF TAXATION**

830 PUNCHBOWL STREET, ROOM 221
HONOLULU, HAWAII 96813

<http://tax.hawaii.gov/>
Phone: (808) 587-1540 / Fax: (808) 587-1560
Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Jill N. Tokuda, Chair
And Members of the Senate Committee on Labor

The Honorable Josh Green, Chair
And Members of the Senate Committee on Human Services

Date: Monday, February 12, 2018
Time: 2:50 P.M.
Place: Conference Room 016, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 2163, Relating to Taxation.

The Department of Taxation (Department) offers the following comments on S.B. 2163 for your consideration.

S.B. 2163 creates a nonrefundable income tax credit for businesses that hire individuals with a disability. The bill requires certification of disability from a qualified physician. The credit is to be claimed against the taxpayer's net income tax liability. The credit is effective for taxable years beginning after December 31, 2018.

First, the Department notes that the proposed credit is similar to an existing credit at Hawaii Revised Statutes (HRS) section 235-55.91. That credit is equal to twenty per cent of wages paid to vocational rehabilitation referrals during the first year of employment. To qualify for this credit, the employer must hire a person with a physical or mental disability who was referred to the employer by the Department of Human Services Vocational Rehabilitation and Services for the Blind Division. If the committees wish to amend or expand income tax incentives for hiring disabled persons, they can do so by amending HRS section 235-55.91.

Second, the Department notes that the wages allowed as the base of this credit are also allowed as a deduction to the employer. Thus, the employer would be provided a double tax benefit; the employer could claim both a deduction and a tax credit for the same amount expended.

If the committees wish to add a provision to disallow the tax deduction for any amounts used to calculate the tax credit, they can do so by amending subsection (b) to read as follows:

(b) The amount of the credit shall be equal to per cent of the qualified wages for the first six months after an individual with a disability is initially hired. A tax credit that exceeds the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted; provided that in no taxable year shall:

- (1) The total amount of the tax credit claimed under this section exceed \$ per taxpayer; and
- (2) Any amounts upon which any other tax credit or deduction is calculated under this chapter be qualified wages for purposes of this section.

Third, the Department notes that subsection (d) does not make clear that the Department may disqualify wages paid to a non-qualified employee without the employer receiving notice that the certification was based on false information provided by the employee. It is consistent with general tax compliance policy that the Department has the authority to make the final administrative determination on HRS title 14, matters. If the Committees wish to clarify that the Department has the authority to disqualify wages paid to non-qualified employees without the employer first receiving notice that the certification was based on false information, they may do so by amending subsection (d) to read as follows:

(d) An individual shall not be treated as an individual with a disability unless, on or before the day on which the individual begins work for the employer, the employer has received certification from a qualified physician. If an individual has been certified as an individual with a disability and the certification is incorrect because it was based on false information provided by the individual, the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is received by the employer shall not be treated as qualified wages[-]; provided that the department may disqualify wages that were paid to a non-qualified employee without the employer receiving notice that the certification was based on false information. In any request for a certification of an individual as an individual with a disability, the employer shall

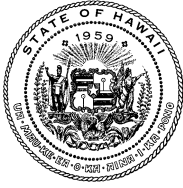
certify that a good faith effort was made to determine that such individual is an individual with a disability.

Fourth, the Department notes that the bill does not specify whether the tax credit can be claimed by succeeding employers of the individual with a disability or by subsidiaries of the original employer, which could result in multiple tax credits being claimed for hiring of the same employee. Subsection (f) addresses the possibility that a successor employer might hire the same employee, but does not clarify which of the taxpayers may claim the credit, nor proscribe the credit from being claimed multiple times for the hiring of the same employee. If the committees wish to clarify who may claim the credit, they may do so by amending subsection (f) to read as follows:

(f) In the case of a successor employer referred to in section 3306(b)(1) of the Internal Revenue Code, the determination of the amount of the tax credit allowable under this section with respect to wages paid by the successor employer shall be made in the same manner as if the wages were paid by the predecessor employer referred to in section 3306(b)(1) of the Internal Revenue Code~~[-]~~; provided that only the final successor employer that employed the individual with a disability during the taxable year may claim the credit; provided further that the credit shall not be claimed multiple times for the same employee.

Finally, the Department notes that, in contrast to the term "individual with a disability," the term "person totally disabled" is already defined for Hawaii income tax purposes under HRS section 235-1. The Department has already promulgated administrative rules clarifying the term and has already created forms for the certification of a disability under this definition. If the committee wishes to take advantage of this existing definition and regulatory structure, it may do so by deleting the definition of "individual with a disability," and amending the credit to apply to the hiring of "persons totally disabled" rather than "individuals with a disability."

Thank you for the opportunity to provide comments.



State Rehabilitation Council

Vocational Rehabilitation and Services for the Blind Division
601 Kamokila Boulevard, Room 515
Kapolei, Hawaii 96707

Voice: (808) 692-7715
TTY: (808) 692-7715
FAX: (808) 692-7727

February 10, 2018

To: Committee on Labor &
Services

Committee of Human

Re: SB2163 – RELATING TO TAXATION

Testimony in Support

Chair Tokuda, Chair Green and members of the joint committees. We are here today on behalf of the State Rehabilitation Council to offer our support on SB2163, which would create a nonrefundable tax credit for a six-month period for a taxpayer who hires an individual with a disability.

The State Rehabilitation Council is statewide federally mandated council created to advise the Hawaii Division of Vocational Rehabilitation (DVR) about how well its programs and services match the needs of people with disabilities.

As the committee members are aware, Hawaii has the lowest unemployment rate in the nation at 2.1%. However, the unemployment for disabled individual remains high at over 10%. The rate is much higher if you consider the fact many of Hawaii's disabled have abandoned looking for employment because of negative perceptions by employer surrounding their ability to perform specific job function.

We believe that SB2163, may allay in part some of the negative perceptions that are barriers to disabled employment.

We would like to make two recommendations to the committee to incentivize employers even more by increasing the amount of the tax credit and extending the credit duration for an additional six months.

Rene Berthiaume & George Massengale
State Rehabilitation Council, Legislative Committee Members



LATE

STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
1010 Richards Street Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543

February 12, 2018

The Honorable Jill Tokuda, Chair
Senate Committee on Labor
and
The Honorable Josh Green, Chair
Senate Committee on Human Services
Twenty-Ninth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Senator Tokuda, Senator Green and Members of the Committee:

SUBJECT: SB 2163 – Relating to Taxation

The State Council on Developmental Disabilities **SUPPORTS SB2163**. The bill provides a taxpayer who hires an individual with a disability a nonrefundable tax credit for the 6-month period after the individual is initially hired by the taxpayer.

Employment of individuals with intellectual and developmental disabilities (I/DD) is a means toward economic self-sufficiency, contributing to their communities as tax paying citizens, establishing relationships and social networking. Employment of people with I/DD is a priority for the Council and is reflected in our 2017-2021 State Plan Employment Goal that states, "Individuals with intellectual and developmental disabilities have increased access to and opportunities for the education, training, and support services that they need to succeed in the labor market."

SB2163 represents one component of providing employment opportunities of hiring people with disabilities. Another component includes educating and training private and public employers about accommodating people with disabilities in the workforce and the benefits of this. Both components combined would have a positive impact in increasing employment opportunities, as well as meeting the workforce demands of the private and public sectors. The Council appreciates the Legislature's initiative to provide incentives, such as tax credits for hiring people with disabilities.

The Honorable Jill Tokuda
The Honorable Josh Green
February 12, 2018
Page 2

Thank you for the opportunity to submit testimony in support of SB2163.

Sincerely,

A handwritten signature in blue ink that reads "Daintry Bartoldus". The signature is written in a cursive, flowing style.

Daintry Bartoldus
Executive Administrator

Hawai'i State Association of Counties (HSAC)

Counties of Kaua'i, Maui, Hawai'i and City & County of Honolulu

71-5011 Aie Koa Highway, Hilo, HI 96740



February 8, 2018
TESTIMONY OF DRU KANUHA
HSAC PRESIDENT
ON SB 2163, RELATING TO TAXATION
Committee on Labor
Committee on Human Services
Monday, February 12, 2018
2:50 p.m.
Conference Room 016

Aloha Chair Tokuda, Chair Green and Members of the Committee:

I thank you for the opportunity to testify on behalf of the Hawai'i State Association of Counties in **support** of Senate Bill 2163, relating to taxation which is included in the 2018 Hawai'i State Association of Counties Legislative Package.

The purpose of this measure will provide an employer a nonrefundable tax credit for the 6-month period following the initial hiring of a person with a disability. Persons with disabilities can work just as efficiently as a regular employee and have been an untapped source of talent for the workplace. It has been proven that people with disabilities perform just as well, and in some cases even better than those who are not facing the same challenges. With the improvement of assistive technology, persons with disabilities are rapidly becoming a larger force in the workplace.

HSAC supports this measure for the reasons stated above and we urge the Committee on Labor and the Committee on Human Services to support this measure as well. Should you have any questions, please feel free to contact me at (808) 323-4267.

Mahalo for your consideration.

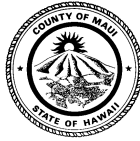
DRU KANUHA
HSAC PRESIDENT

Council Chair
Mike White

Vice-Chair
Robert Carroll

Presiding Officer Pro Tempore
Stacy Crivello

Councilmembers
Alika Atay
Elle Cochran
Don S. Guzman
Riki Hokama
Kelly T. King
Yuki Lei K. Sugimura



COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 8, 2018

TO: Honorable Jill N. Tokuda, Chair
Senate Committee on Labor

Honorable Josh Green, Chair
Senate Committee on Human Services

FROM: Stacy Crivello, Secretary *Crivello*
Hawaii State Association of Counties

SUBJECT: **HEARING OF FEBRUARY 12, 2018; TESTIMONY IN SUPPORT OF SB 2163, RELATING TO TAXATION**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this measure is to provide a taxpayer who hires an individual with a disability a nonrefundable tax credit for the 6-month period after the individual is initially hired.

This measure is included in the Hawaii State Association of Counties' ("HSAC") Legislative Package; therefore, I offer this testimony as HSAC's Secretary.

I am aware that the President of HSAC has submitted testimony, on behalf of HSAC, in support of this measure. As Secretary, I concur with the testimony submitted by the President, and urge you to **support** this measure.

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COUNTY COUNCIL

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Ross Kagawa, Vice Chair
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Mason K. Chock
Arryl Kaneshiro
Derek S.K. Kawakami
JoAnn A. Yukimura



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Jade K. Fountain-Tanigawa, County Clerk
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
E-mail: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

February 8, 2018

**TESTIMONY OF DEREK S.K. KAWAKAMI
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
SB 2163, RELATING TO TAXATION
Senate Committee on Labor
Senate Committee on Human Services
Monday, February 12, 2018
2:50 p.m.
Conference Room 016**

Dear Chair Tokuda, Chair Green, and Members of the Committees:

Thank you for this opportunity to provide testimony in strong support of SB 2163, Relating to Taxation. My testimony is submitted as Vice President of the Hawai'i State Association of Counties, and in my individual capacity as a member of the Kaua'i County Council and Chair of the Council's Economic Development & Intergovernmental Relations Committee.

SB 2163, Relating to Taxation, is included in the 2018 Hawai'i State Association of Counties Legislative Package. This measure will provide an employer a nonrefundable tax credit for the 6-month period following the initial hiring of a person with a disability. Persons with disabilities can work just as efficiently as regular employees and have long been an untapped source of talent for the workplace. It has been proven that people with disabilities perform just as well, and in some cases even better than those who are not facing the same challenges. With the improvement of assistive technology, persons with disabilities are rapidly becoming a larger force in the workplace.

For the reasons stated above, I urge the Senate Committee on Labor and the Senate Committee on Human Services to support this measure. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

DEREK S.K. KAWAKAMI
Councilmember, Kaua'i County Council

AMK:aa

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Credit for Hiring Individual with a Disability

BILL NUMBER: SB 2163; HB1795

INTRODUCED BY: SB by KOUCHI by request; HB by SAIKI by request

EXECUTIVE SUMMARY: Provides a taxpayer who hires an individual with a disability a nonrefundable tax credit for the 6-month period after the individual is initially hired by the taxpayer. The adoption of this credit would provide tax relief to taxpayers regardless of their need for tax relief. It also would shift the burden of paying for government to the rest of us.

SYNOPSIS: Adds a new section to HRS chapter 235 to allow employers to claim an income tax credit for the hiring of an individual with a disability equal to 50% of the qualified wages for the first six months after the individual is hired.

Tax credits that exceed the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. In no taxable year shall the total amount of tax credits claimed under this section exceed \$ _____ per taxpayer.

Defines "individual with a disability" as an individual having a physical or intellectual impairment that substantially limits one or more major life activities, having a record of that impairment, or being regarded as having that impairment; provided that the disabling impairment is certified by a qualified physician.

Requires the director of taxation to prepare any forms necessary to claim a credit, may require a taxpayer to furnish reasonable information to validate a claim for the credit, and adopt rules pursuant to HRS chapter 91. Requires claims for the credit, including any amended claims, to be filed on or before the end of the twelfth month following the taxable year for which the credit is claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit.

Defines "wages" as wages, commissions, fees, salaries, bonuses, and every and all other kinds of remuneration for, or compensation attributable to, services performed by an employee for the employee's employer, including the cash value of all remuneration paid in any medium other than cash and the cost-of-living allowances and other payments included in gross income by section 235-7(b), but excluding income excluded from gross income by section 235-7 or other provisions of the Income Tax Law. For example, employer funded pensions don't count.

If the taxpayer is a successor employer referred to in section 3306(b)(1) of the IRC, the determination of the amount of the credit shall be made in the same manner as if the wages were paid by the predecessor employer (as defined in IRC section 3306(b)(1)).

EFFECTIVE DATE: This Act, upon its approval, shall apply to taxable years beginning after December 31, 2018.

STAFF COMMENTS: This measure is proposed as an incentive to entice employers to hire an individual who is physically or intellectually disabled, but the tax system is a poor means of achieving such social goals. Providing such credits against the state income tax merely reduces state revenues, and if the size of government does not go down, then the tax burden shifts to other taxpayers who are not able to claim the credit.

The measure is similar to the existing income tax credit for the hiring of vocational rehabilitation referrals. If it is the intent of the legislature to encourage the hiring of individuals with a disability, it would be preferable to amend HRS-235-55.91 to include these individuals rather than to adopt a new credit which may have loopholes and technical issues.

Digested 2/8/2018

SB-2163

Submitted on: 2/9/2018 7:16:08 PM

Testimony for LBR on 2/12/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Support	No

Comments:

Employment of people with disabilities is a huge national and local priority and a key to allowing them to achieve full community integration. To the extent that this proposal will provide some incentives for employers to hire them we believe it is a good idea.

SB-2163

Submitted on: 2/11/2018 2:47:05 PM

Testimony for LBR on 2/12/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Howe	Lanakila Pacific	Support	Yes

Comments:

Lanakila Pacific supports SB 2163 that provides a 6-month tax credit to taxpayers who hire individuals with a disability. The measure incentivizes employers to hire individuals with disabilities who are seeking competitive employment, and helps those individuals build independence.

SB-2163

Submitted on: 2/9/2018 6:02:28 PM

Testimony for LBR on 2/12/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES**

DEMOCRATIC PARTY OF HAWAII

TO THE COMMITTEE ON LABOR

AND

COMMITTEE ON HUMAN SERVICES

THE SENATE

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Monday, February 12, 2018

2:50 p.m.

Hawaii State Capitol, Conference Room 016

RE: Testimony in Support of SB 2163, RELATING TO TAXATION

To the Honorable Jill N. Tokuda, Chair; the Honorable J. Kalani English, Vice-Chair and the Members of the Committee on Labor:

To the Honorable Josh Green, Chair; the Honorable Stanley Chang, Vice-Chair and the Members of the Committee on Human Services:

Good afternoon, my name is Melodie Aduja. I serve as Chair of the Oahu County Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you

for the opportunity to provide written testimony on Senate Bill No.2163, relating to the employment of individuals with a disability and an Income Tax Credit to the employer.

The OCC Legislative Priorities Committee is in favor of Senate Bill No. 2163 and support its passage.

Senate Bill No. 2163 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it provides a taxpayer who hires an individual with a disability a nonrefundable tax credit for the 6-month period after the individual is initially hired by the taxpayer.

The DPH Platform states that "[w]e seek programs that prepare people with disabilities for independent and productive lives." (Platform of the DPH, P. 3, Line 143 (2016)). Incentivizing employment of people with disabilities furthers the intent of the DPH Platform.

Given that Senate Bill No. 2163 incentivizes employment of individuals with disabilities by providing an Income Tax Credit to the employer, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/**Melodie Aduja**

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

LATE

SB-2163

Submitted on: 2/12/2018 9:06:00 AM

Testimony for LBR on 2/12/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Kobayakawa	Individual	Support	No

Comments:

Please pass this bill as the employment of people with disabilities is so important. I am the mother of a son with Intellectual and Developmental Disabilities and he has been employed as a courtesy clerk since exiting high school in 2010. He loves to work and is an excellent employee. People with disabilities have much to offer their employers. By giving potential employers incentives such as this tax credit my hope is more people will try to hire people like my son and find out what a great employee they are. We need to increase our numbers of employment in the disability population so that they can be contributing members of our community. Thank you for your time.