HOUSE OF REPRESENTATIVES
THIRTIETH LEGISLATURE, 2019
STATE OF HAWAII

H.B. NO. 534 H.D. 1

A BILL FOR AN ACT

RELATING TO SHIP REPAIR INDUSTRY.

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

SECTION 1. Pearl Harbor Naval Shipyard, one of four Naval shipyards in the United States, comprises six per cent of Hawaii's gross domestic product. While the submarine footprint in Pearl Harbor will continue to grow slightly by 2025, the surface combatant fleet currently homeported in Pearl Harbor is planned to be significantly reduced.

Based on the current Navy Workload Schedules, there are plans to relocate surface ships to San Diego for deep maintenance and some are at risk of not returning. These types of surface vessel repairs are typically outsourced to private-sector ship repair companies and constituted a major part of the estimated $180,000,000 to $200,000,000 in civilian ship repair activities in Hawaii during 2018.

The legislature finds that the impact of losing surface vessel repair work would be far-reaching, well beyond the loss of direct military jobs associated with surface ships leaving the area. The Navy's drydock capacity shortfalls will refocus nearly one hundred per cent of the current Pearl Harbor drydock capacity on submarine maintenance and displace nearly all surface ship drydock maintenance and modernization to the west coast. The adverse economic impacts of displaced ship repair activities over the next seven years include loss of nearly $1,310,000,000 in Hawaii gross domestic product, $351,000,000 in lost labor earnings, and an annual average decrease of nine hundred jobs each year. The loss of Navy surface ship drydock maintenance to the Pearl Harbor private-sector ship repair community would significantly shrink the local industry and be unrecoverable.

The legislature further finds that the construction of a purpose-built floating drydock capable of accommodating any of the submarines and surface ships currently in and planned for at Pearl Harbor represents the best mitigating solution for the State of Hawaii. This floating drydock will not only protect private-sector maritime jobs that are expected to be lost, but will stimulate overall job growth in this sector, prevent the erosion of Hawaii's private ship repair capability, and provide greater strength and stability to the Navy's Mid-Pacific Surface Force. This offers a shared solution for the industry, State of

Hawaii, and Navy that results in a fifth drydock. Given that a drydock's life cycle is fifty years or more, additional Pearl Harbor drydocking capacity will provide economic gains well into the future.

The purpose of this Act is to establish the ship repair industry tax credit to incentivize construction of a new drydock at Pearl Harbor for use by the United States Navy.

SECTION 2. Section 235-17.5, Hawaii Revised Statutes, is amended to read as follows:

"**§235-17.5 [~~Capital infrastructure~~] Ship repair industry tax credit.** (a) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter a [~~capital infrastructure~~] ship repair industry tax credit that shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter [~~for the taxable year in which the capital infrastructure capital infrastructure costs were paid or incurred~~].

(b) For the purpose of this section:

[~~"Capital infrastructure costs"~~] "Ship repair industry costs" means capital expenditures, as used in section 263 and 1012 of the Internal Revenue Code and the regulations promulgated thereunder, or capital expenditures for real property, fixtures, structures, machinery, equipment, or capital assets that are paid or incurred in connection with the [~~displaced tenant's move of the tenant's current active trade or business to the tenant's new location within Honolulu harbor,~~] construction of a purpose-built floating drydock; provided that the [~~capital infrastructure~~] ship repair industry costs shall not include amounts for which another credit is claimed or any amounts received in any form from the State.

"Net income tax liability" means income tax liability reduced by all other credits allowed under this chapter.

[~~"Qualified infrastructure tenant" means a business:~~

~~(1) That currently owns capital or property or maintains an office, operations, or facilities at the former Kapalama military reservation site;~~

~~(2) Whose principal business is maritime, and waterfront dependent, and is included under the State's plan to relocate the business to piers twenty-four through twenty-eight within Honolulu harbor; and~~

~~(3) That will be displaced and relocated by the State pursuant to the Kapalama container terminal project.~~]

"Qualified entity" means a not-for-profit entity with the principal purpose of facilitating and enhancing the ship repair business in Hawaii and that is involved in the design and construction of a purpose-built floating drydock to be used by the United States Navy in Pearl Harbor.

(c) The amount of the tax credit shall be equal to [~~fifty~~] _____ per cent of the [~~capital infrastructure~~] total costs paid or incurred by the qualified [~~infrastructure tenant during the taxable year, up to a maximum credit of $2,500,000 per qualified infrastructure tenant per taxable year. If the capital infrastructure costs paid or incurred by the qualified infrastructure tenant business result in a tax credit in excess of $2,500,000 in any taxable year, the excess capital infrastructure costs may be carried over to a subsequent tax year or years, until exhausted, for generation of the credit; provided that:~~] entity to design and construct the purpose-built floating dry dock to be used by the United States Navy in Pearl Harbor. A qualified entity shall become eligible for the maximum credit of $ _______ per qualified entity after construction of the floating drydock has been completed and the floating drydock has been placed into service. A qualified entity may:

(1) [~~A qualified infrastructure tenant may form~~] Form a special purpose entity for the purposes of raising investor capital and claiming the credit on behalf of the [~~qualified infrastructure tenant;~~] qualified entity;

(2) The [~~qualified infrastructure tenant,~~] qualified entity, together with all of its special purpose entities, including all partners and members of the [~~qualified infrastructure tenant~~] qualified entity and its special purpose entities, shall not claim any credit in [~~any one taxable year that exceeds $2,500,000;~~] excess of $_________; and

(3) In no event shall a [~~qualified infrastructure tenant~~] qualified entity or any of its special purpose entities or any other taxpayer claim a credit under this section after December 31, [~~2019.~~] _______.

(d) In the case of an entity taxed as a partnership, credit shall be determined at the entity level, but distribution and share of the credit may be determined notwithstanding section 704 or section 706 of the Internal Revenue Code.

(e) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the tax credit over liability may be used as a credit against the taxpayer's net income tax liability in subsequent years until exhausted. All claims, including amended claims, for a tax credit under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(f) This section shall not apply to taxable years beginning after December 31, [~~2019.~~] _______.

[~~(g) Any credit claimed under this section shall be recaptured following the close of the taxable year for which the credit is claimed if:~~]

~~(1) Within three years:~~

~~(A) The qualified infrastructure tenant fails to continue the line of business it conducted as of July 1, 2014; or~~

~~(B) The interest in the qualified infrastructure tenant, whether in whole or in part, has been sold, exchanged, withdrawn, or otherwise disposed of by the taxpayer claiming a credit under this section; or~~

~~(2) The qualified infrastructure tenant fails to relocate from the former Kapalama military reservation site to another location, pursuant to a lease with the department of transportation, within ninety days of the execution of the lease.~~

~~The recapture shall be equal to one hundred per cent of the amount of the total tax credit claimed under this section in the preceding five taxable years, and shall be added to the taxpayer's tax liability for the taxable year in which the recapture occurs pursuant to this subsection.~~

~~(h)~~] (g) The director of taxation shall prepare any forms that may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish information to ascertain the validity of the claim for credit made under this section. The director of taxation may adopt rules to effectuate the purposes of this section pursuant to chapter 91.

[~~(i)~~] (h) Any taxpayer claiming a tax credit under this section shall, within ninety days of the end of the calendar year in which [~~costs for which~~] the credit is properly claimable, submit the following information to the department of taxation:

(1) The amount of the eligible costs [~~for that year~~] for which the tax credit may be claimed; and

(2) The qualified [~~infrastructure tenant incurring~~] entity which incurred the costs.

Failure to timely submit the information shall be subject to a penalty of $5,000 per month or a fraction thereof, not to exceed $25,000."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on December 31, 2112, and shall apply to taxable years beginning after December 31, 2018.

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Report Title:
Ship Repair Industry Tax Credit; Pearl Harbor; Income Tax

Description:
Establishes the ship repair industry income tax credit for non-profit entities to offset costs incurred to construct and put into service a purpose-built floating drydock at Pearl Harbor for use by the United States Navy. Repeals the capital infrastructure tax credit. (HB534 HD1)

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