
A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM.

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

1 SECTION 1. The legislature recognizes the economic and
2 tourism benefits of Hawaii's film and creative industries, which
3 represents fifty-four thousand entrepreneurs and businesses in
4 the film, media, arts, culture, music, design, interactive,
5 literary, broadcasting, and publishing industries. These
6 industries are the foundation of Hawaii's creative economy.
7 Anchored by the State's film industry, which had a record year
8 in 2018 of an estimated \$477,000,000 in production expenditures,
9 these collective industry clusters, along with technology, are
10 integral to the State's innovation economy. Representing
11 \$3,600,000,000 of Hawaii's gross domestic product and cited as
12 one of the State's emerging industry clusters in a recent report
13 from the research and economic analysis division of the
14 department of business, economic development, and tourism, the
15 legislature sees the creative sectors as key facets of the
16 State's innovation strategy. With local screenwriters and



1 songwriters from Hawaii island to Hanalei successfully pitching
2 and having their work produced for networks, such as Lifetime
3 Television, and licensing original songs for placement in many
4 television series, such as Fox's "Empire" or CW's "Nashville",
5 the growth of entrepreneurial creative sector jobs in film and
6 media are accelerating, aided by initiatives such as Creative
7 Lab Hawaii, Ohina Labs, Hawaii Women and Film, and Pacific
8 Islanders in Communications.

9 The creative industries division of the department of
10 business, economic development, and tourism has grown beyond the
11 startup phase in 2003 into a catalyst for our innovation economy
12 through its expanded responsibilities to develop talent,
13 infrastructure, and access to capital. The creative industries
14 division focused on key initiatives including strengthening
15 operations at the Hawaii film office, developing a pipeline of
16 creative talent and workforce, providing creative access to
17 decision-makers in media, music, and fashion design, providing
18 creative co-working sites, and partnering with the university of
19 Hawaii and the private sector to develop a commercial creative
20 media sound stage and incubator facility in west Oahu, which
21 will generate a pipeline of opportunities for students,



1 generating high-wage jobs in creative media sectors statewide
2 and in the region.

3 The creative industries division is comprised of the Hawaii
4 film office, as well as the arts and culture development branch.
5 The legislature finds that a restructuring of these
6 organizations is needed to better provide growth in jobs within
7 the State's creative sectors. The legislature also recognizes
8 the need to better serve the neighbor islands to ensure that
9 they are integrated into an overall strategy of growth for the
10 State's creative economy. Therefore, it is in the interest of
11 the State to rename the creative industries division as the
12 office of creative film and media industries Hawaii, and
13 transfer the employees and resources of the Hawaii film office
14 to the office of creative film and media industries Hawaii.

15 Furthermore, the legislature finds that the creative
16 industries division and the Hawaii film office have also been
17 responsible for meeting the statutory requirements of film
18 permitting and management with regard to the motion picture,
19 digital media, and film production income tax credit. It is
20 crucial to ensure that the State's investment in these
21 industries will continue to be managed by accounting and audit



1 staffing in the office of creative film and media industries
2 Hawaii. As recommended in the department's response to a 2016
3 state auditor's report, the legislature concurs that additional
4 positions dedicated to management, data collection, tracking,
5 and reporting are critical to protecting the State's investment
6 in this core industry. Therefore, the legislature finds that to
7 adequately fulfill and strengthen Hawaii's creative economy, the
8 office of creative film and media industries Hawaii must be
9 provided with adequate staffing.

10 Accordingly, the purpose of this Act to:

- 11 (1) Rename the creative industries division as the office
12 of creative film and media industries Hawaii and
13 establish the office in statute;
- 14 (2) Provide that the Hawaii film office and the arts and
15 culture development branch shall be agencies of the
16 office of creative film and media industries Hawaii;
- 17 (3) Specify that the office of creative film and media
18 industries Hawaii shall include an administrative
19 officer; an accountant for the film tax credit
20 program; a general professional position for
21 infrastructure, creative ecosystems, and workforce



- 1 development; a film industry development specialist;
2 and employees as necessary to operate the office;
- 3 (4) Require Hawaii Film Office employees to be transferred
4 to the Office without any consequence to their
5 employment benefits or status;
- 6 (5) Define "creative industries" and "creative media";
- 7 (6) Rename the Hawaii television and film development
8 special fund as the creative film and media
9 development special fund, and expand the uses of the
10 fund to support creative intellectual property and
11 related infrastructure development within the
12 department of business, economic development, and
13 tourism;
- 14 (7) Provide appropriations for positions within the
15 creative industries division; and
- 16 (8) Provide additional appropriations for the office of
17 creative film and media industries Hawaii.

18 SECTION 2. Chapter 201, Hawaii Revised Statutes, is
19 amended by adding a new section to part IX to be appropriately
20 designated and to read as follows:



1 "§201- Office of creative film and media industries
 2 Hawaii; administration; Hawaii film office. (a) There is
 3 established an office of creative film and media industries
 4 Hawaii within the department. The office of creative film and
 5 media industries Hawaii shall have:

6 (1) An administrative officer who shall report to the
 7 chief officer of the creative industries division;

8 (2) An accountant position to support activities with
 9 regard to the motion picture, digital media, and film
 10 income tax credit program;

11 (3) A general professional position to support
 12 infrastructure, creative ecosystems, and workforce
 13 development;

14 (4) A film industry development specialist to support
 15 development of online systems for film permitting; and

16 (5) Employees as necessary to operate the office.

17 (b) The Hawaii film office and the arts and culture
 18 development branch shall be agencies of the office of creative
 19 film and media industries Hawaii."

20 SECTION 3. Chapter 201, Hawaii Revised Statutes, is
 21 amended by amending the title of part IX to read as follows:



1 " [f] PART IX. [f] ~~HAWAII TELEVISION~~ CREATIVE FILM AND MEDIA
2 INDUSTRIES AND FILM DEVELOPMENT"

3 SECTION 4. Section 201-111, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[f] §201-111 [f] Definitions. As used in this part:

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

8 [~~"Board" means the Hawaii television and film development
9 board.~~

10 [~~"Eligible Hawaii project" or "project" means an
11 entertainment project in which at least seventy five per cent of
12 the budget for the production costs, excluding salaries and
13 costs for the producer, director, writer, screenplay, and actors
14 in the project, is dedicated for the purchase or lease of goods
15 or services from a vendor or supplier who is located and doing
16 business in the State.]~~

17 "Creative industries" means sectors which comprise the
18 State's creative economy, including but not limited to arts,
19 culture, music, design, fashion, publishing, animation, and
20 interactive and emerging media.



1 "Creative media" includes film, motion pictures,
2 television, interactive, over-the-top direct-to-consumer
3 television, virtual reality, multi-player videogames, and other
4 digitally developed content for theatrical or digital
5 distribution, streaming, mobile, and broadcast media.

6 "Department" means the department of business, economic
7 development, and tourism.

8 "Fund" means the [Hawaii television and film] creative film
9 and media development special fund.

10 ~~["Venture capital investment" means any of the following~~
11 ~~investments in a project:~~

- 12 ~~(1) Common or preferred stock and equity securities~~
13 ~~without a repurchase requirement for at least five~~
14 ~~years;~~
- 15 ~~(2) A right to purchase stock or equity securities;~~
- 16 ~~(3) Any debenture, whether or not convertible or having~~
17 ~~stock purchase rights, which is subordinated, together~~
18 ~~with security interests against the assets of the~~
19 ~~borrower, by their terms to all borrowings of the~~
20 ~~borrower from other institutional lenders, and that is~~



1 ~~for a term of not less than three years, and that has~~
2 ~~no part amortized during the first three years; and~~
3 ~~(4) General or limited partnership interests.] "~~

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

6 " [+] §201-113 [-] ~~Hawaii television and film~~ Creative film
7 and media development special fund. (a) There is established
8 in the state treasury the [~~Hawaii television and film~~] creative
9 film and media development special fund into which shall be
10 deposited:

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



1 studios and post-production facilities operated or
2 managed by the department, effective on July 1, 2019;

3 (5) All revenues, fees, and charges from the processing of
4 film permits pursuant to section 201-14, effective on
5 July 1, 2020; and

6 (6) All revenues, fees, and charges from the processing of
7 the motion picture, digital media, and film production
8 income tax credit pursuant to section 235-17,
9 effective January 1, 2020.

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

17 ~~(1) A grant program. The board shall adopt rules pursuant~~
18 ~~to chapter 91 to provide conditions and qualifications~~
19 ~~for grants. Applications for grants shall be made to~~
20 ~~the board and shall contain such information as the~~
21 ~~board shall require by rules adopted pursuant to~~



1 ~~chapter 91. At a minimum, the applicant shall agree~~
2 ~~to the following conditions:~~

3 ~~(A) The grant shall be used exclusively for eligible~~
4 ~~Hawaii projects;~~

5 ~~(B) The applicant shall have applied for or received~~
6 ~~all applicable licenses and permits;~~

7 ~~(C) The applicant shall comply with applicable~~
8 ~~federal and state laws prohibiting discrimination~~
9 ~~against any person on the basis of race, color,~~
10 ~~national origin, religion, creed, sex, age, or~~
11 ~~physical handicap;~~

12 ~~(D) The applicant shall comply with other~~
13 ~~requirements as the board may prescribe;~~

14 ~~(E) All activities undertaken with funds received~~
15 ~~shall comply with all applicable federal, state,~~
16 ~~and county statutes and ordinances;~~

17 ~~(F) The applicant shall indemnify and save harmless~~
18 ~~the State of Hawaii and its officers, agents, and~~
19 ~~employees from and against any and all claims~~
20 ~~arising out of or resulting from activities~~
21 ~~carried out or projects undertaken with funds~~



1 ~~provided hereunder, and procure sufficient~~
2 ~~insurance to provide this indemnification if~~
3 ~~requested to do so by the department,~~

4 ~~(G) The applicant shall make available to the board~~
5 ~~all records the applicant may have relating to~~
6 ~~the project, to allow the board to monitor the~~
7 ~~applicant's compliance with the purpose of this~~
8 ~~chapter, and~~

9 ~~(H) The applicant, to the satisfaction of the board,~~
10 ~~shall establish that sufficient funds are~~
11 ~~available for the completion of the project for~~
12 ~~the purpose for which the grant is awarded, and~~

13 ~~(2) A venture capital program. The board shall adopt~~
14 ~~rules pursuant to chapter 91 to provide conditions and~~
15 ~~qualifications for venture capital investments in~~
16 ~~eligible Hawaii projects. The program may include a~~
17 ~~written agreement between the borrower and the board,~~
18 ~~as the representative of the State, that as~~
19 ~~consideration for the venture capital investment made~~
20 ~~under this part, the borrower shall share any~~
21 ~~royalties, licenses, titles, rights, or any other~~



1 ~~monetary benefits that may accrue to the borrower~~
2 ~~pursuant to terms and conditions established by the~~
3 ~~board by rule pursuant to chapter 91. Venture capital~~
4 ~~investments may be made on such terms and conditions~~
5 ~~as the board shall determine to be reasonable,~~
6 ~~appropriate, and consistent with the purposes and~~
7 ~~objectives of this part.]~~

8 department to provide for:

- 9 (1) A grant program to provide seed capital for creative
10 intellectual property development projects for export,
11 as determined by the department;
- 12 (2) Programs that expand the skills of the State's
13 resident workforce in the creative industries; and
- 14 (3) Marketing programs that attract business opportunities
15 within the creative film and media industries in the
16 State."

17 SECTION 6. Section 201-114, Hawaii Revised Statutes, is
18 repealed.

19 [~~§201-114~~] ~~Inspection of premises and records.~~ The
20 board shall have the right to inspect, at reasonable hours, the
21 plant, physical facilities, equipment, premises, books, and



1 ~~records of any applicant in connection with the processing of a~~
2 ~~grant to the applicant."]~~

3 SECTION 7. Notwithstanding the renaming of the creative
4 industries division as the office of creative film and media
5 industries Hawaii as provided in this Act, the office of
6 creative film and media industries Hawaii shall continue to be
7 maintained without any reduction in staffing or funding, and all
8 officers and employees of the office shall continue to perform
9 their functions and duties under this Act.

10 SECTION 8. All rights, powers, functions, and duties of
11 the Hawaii film office of the creative industries division are
12 transferred to the office of creative film and media industries
13 Hawaii.

14 All employees who occupy civil service positions and whose
15 functions are transferred to the office of creative film and
16 media industries Hawaii by this Act shall retain their civil
17 service status, whether permanent or temporary. Employees shall
18 be transferred without loss of salary, seniority (except as
19 prescribed by applicable collective bargaining agreements),
20 retention points, prior service credit, any vacation and sick
21 leave credits previously earned, and other rights, benefits, and



1 privileges, in accordance with state personnel laws and this
2 Act; provided that the employees possess the minimum
3 qualifications and public employment requirements for the class
4 or position to which transferred or appointed, as applicable;
5 provided further that subsequent changes in status may be made
6 pursuant to applicable civil service and compensation laws.

7 Any employee who, prior to this Act, is exempt from civil
8 service and is transferred as a consequence of this Act may
9 retain the employee's exempt status, but shall not be appointed
10 to a civil service position as a consequence of this Act. An
11 exempt employee who is transferred by this Act shall not suffer
12 any loss of prior service credit, vacation or sick leave credits
13 previously earned, or other employee benefits or privileges as a
14 consequence of this Act; provided that the employees possess
15 legal and public employment requirements for the position to
16 which transferred or appointed, as applicable; provided further
17 that subsequent changes in status may be made pursuant to
18 applicable employment and compensation laws. The chief officer
19 of the office of creative film and media industries Hawaii may
20 prescribe the duties and qualifications of these employees and



1 fix their salaries without regard to chapter 76, Hawaii Revised
2 Statutes.

3 SECTION 9. All appropriations, records, equipment,
4 machines, files, supplies, contracts, books, papers, documents,
5 maps, and other personal property heretofore made, used,
6 acquired, or held by the Hawaii film office relating to the
7 functions transferred to the office of creative film and media
8 industries Hawaii shall be transferred with the functions to
9 which they relate.

10 SECTION 10. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so much
12 thereof as may be necessary for fiscal year 2019-2020 and the
13 same sum or so much thereof as may be necessary for fiscal year
14 2020-2021 for the establishment of the following positions
15 within the office of creative film and media industries Hawaii:

- 16 (1) full-time equivalent (FTE) administrative
17 officer position;
- 18 (2) full-time equivalent (FTE) accountant V
19 position;
- 20 (3) full-time equivalent (FTE) film industry
21 development specialist IV position; and



1 (4) full-time equivalent (FTE) general
2 professional VI position for infrastructure, creative
3 ecosystems, and workforce development,
4 exempt from chapters 76 and 89, Hawaii Revised Statutes, and for
5 other expenses related to these positions.

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

9 SECTION 11. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so much
11 thereof as may be necessary for fiscal year 2019-2020 and the
12 same sum or so much thereof as may be necessary for fiscal year
13 2020-2021, to be expended by the department of business,
14 economic development, and tourism as follows:

15 (1) \$ to support creative media laboratory
16 programs on neighbor islands; and

17 (2) \$ for website development for the office of
18 creative film and media industries Hawaii.

19 The sum appropriated shall be expended by the department of
20 business, economic development, and tourism for the purposes of
21 this Act.



1 SECTION 12. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so much
3 thereof as may be necessary for fiscal year 2019-2020 and the
4 same sum or so much thereof as may be necessary for fiscal year
5 2020-2021, for equipment and staffing for creative media co-
6 working sites on multiple islands statewide.

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

10 SECTION 13. Statutory material to be repealed is bracketed
11, and stricken. New statutory material is underscored.

12 SECTION 14. This Act shall take effect on July 1, 2112.



Report Title:

DBEDT; Office of Creative Film and Media Industries Hawaii;
Creative Film and Media Development Special Fund; Appropriation

Description:

Establishes the Office of Creative Film and Media Industries Hawaii and provides that the Hawaii Film Office and Arts and Culture Development Branch shall be agencies of the Office. Requires Hawaii Film Office employees to be transferred to the Office without any consequence to employment benefits or status. Renames the Hawaii Television and Film Development Special Fund as the Creative Film and Media Development Special Fund and expands the funding sources and uses of the Fund. Establishes and appropriates funds for staffing within the Office. Appropriates funds for operations and programs. (HB773 HD2)

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