
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:

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PART I

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



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

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



1 will generate a pipeline of opportunities for students,
2 generating high-wage jobs in creative media sectors statewide
3 and in the region.

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

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



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

11 Accordingly, the purpose of this Act is to:

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



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



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

4 "§201- Office of creative film and media industries

5 Hawaii; administration; Hawaii film office. (a) There is

6 established an office of creative film and media industries

7 Hawaii within the department. The office of creative film and

8 media industries Hawaii shall have:

9 (1) An administrative officer who shall report to the
10 chief officer of the office of creative film and media
11 industries Hawaii;

12 (2) An accountant position to support activities with
13 regard to the motion picture, digital media, and film
14 production income tax credit program;

15 (3) A general professional position to support
16 infrastructure, creative ecosystems, and workforce
17 development;

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

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



1 (b) The Hawaii film office and the arts and culture
2 development branch shall be agencies of the office of creative
3 film and media industries Hawaii."

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

6 "~~[+] PART IX. []—HAWAII TELEVISION]~~ CREATIVE FILM AND MEDIA
7 INDUSTRIES AND FILM DEVELOPMENT"

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

10 "~~[+] §201-111 []~~ **Definitions.** As used in this part:

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

13 ~~"Board" means the Hawaii television and film development~~
14 ~~board.~~

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



1 "Creative industries" means sectors which comprise the
2 State's creative economy, including but not limited to arts,
3 culture, music, design, fashion, publishing, animation, and
4 interactive and emerging media.

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

10 "Department" means the department of business, economic
11 development, and tourism.

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

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

16 ~~(1) Common or preferred stock and equity securities~~
17 ~~without a repurchase requirement for at least five~~
18 ~~years;~~

19 ~~(2) A right to purchase stock or equity securities;~~

20 ~~(3) Any debenture, whether or not convertible or having~~
21 ~~stock purchase rights, which is subordinated, together~~



1 ~~with security interests against the assets of the~~
2 ~~borrower, by their terms to all borrowings of the~~
3 ~~borrower from other institutional lenders, and that is~~
4 ~~for a term of not less than three years, and that has~~
5 ~~no part amortized during the first three years; and~~
6 ~~(4) General or limited partnership interests.] "~~

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

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

- 14 (1) Appropriations by the legislature;
- 15 (2) Donations and contributions made by private
16 individuals or organizations for deposit into the
17 fund;
- 18 (3) Grants provided by governmental agencies or any other
19 source; [and
- 20 ~~(4) Any profits or other amounts received from venture~~
21 ~~capital investments.]~~



1 (4) Effective July 1, 2019, thirty-five per cent of all
2 revenues, fees, and charges from the rental and
3 operation of Hawaii film studios and post-production
4 facilities operated or managed by the department;

5 (5) Effective July 1, 2020, all revenues, fees, and
6 charges from the processing of film permits pursuant
7 to section 201-14; and

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

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

19 ~~(1) A grant program. The board shall adopt rules pursuant~~
20 ~~to chapter 91 to provide conditions and qualifications~~
21 ~~for grants. Applications for grants shall be made to~~



1 ~~the board and shall contain such information as the~~
2 ~~board shall require by rules adopted pursuant to~~
3 ~~chapter 91. At a minimum, the applicant shall agree~~
4 ~~to the following conditions:~~

5 ~~(A) The grant shall be used exclusively for eligible~~
6 ~~Hawaii projects;~~

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

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

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

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

19 ~~(F) The applicant shall indemnify and save harmless~~
20 ~~the State of Hawaii and its officers, agents, and~~
21 ~~employees from and against any and all claims~~



1 ~~arising out of or resulting from activities~~
2 ~~carried out or projects undertaken with funds~~
3 ~~provided hereunder, and procure sufficient~~
4 ~~insurance to provide this indemnification if~~
5 ~~requested to do so by the department;~~
6 (G) ~~The applicant shall make available to the board~~
7 ~~all records the applicant may have relating to~~
8 ~~the project, to allow the board to monitor the~~
9 ~~applicant's compliance with the purpose of this~~
10 ~~chapter; and~~
11 (H) ~~The applicant, to the satisfaction of the board,~~
12 ~~shall establish that sufficient funds are~~
13 ~~available for the completion of the project for~~
14 ~~the purpose for which the grant is awarded; and~~
15 (2) ~~A venture capital program. The board shall adopt~~
16 ~~rules pursuant to chapter 91 to provide conditions and~~
17 ~~qualifications for venture capital investments in~~
18 ~~eligible Hawaii projects. The program may include a~~
19 ~~written agreement between the borrower and the board,~~
20 ~~as the representative of the State, that as~~
21 ~~consideration for the venture capital investment made~~



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

10 department to provide for:

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

19 SECTION 6. Section 201-114, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§201-114] Inspection of premises and records. The~~
2 ~~board shall have the right to inspect, at reasonable hours, the~~
3 ~~plant, physical facilities, equipment, premises, books, and~~
4 ~~records of any applicant in connection with the processing of a~~
5 ~~grant to the applicant."]~~

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

13 SECTION 8. All rights, powers, functions, and duties of
14 the Hawaii film office of the creative industries division are
15 transferred to the office of creative film and media industries
16 Hawaii.

17 All employees who occupy civil service positions and whose
18 functions are transferred to the office of creative film and
19 media industries Hawaii by this Act shall retain their civil
20 service status, whether permanent or temporary. Employees shall
21 be transferred without loss of salary, seniority (except as



1 prescribed by applicable collective bargaining agreements),
2 retention points, prior service credit, any vacation and sick
3 leave credits previously earned, and other rights, benefits, and
4 privileges, in accordance with state personnel laws and this
5 Act; provided that the employees possess the minimum
6 qualifications and public employment requirements for the class
7 or position to which transferred or appointed, as applicable;
8 provided further that subsequent changes in status may be made
9 pursuant to applicable civil service and compensation laws.

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



1 of the office of creative film and media industries Hawaii may
2 prescribe the duties and qualifications of these employees and
3 fix their salaries without regard to chapter 76, Hawaii Revised
4 Statutes.

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

12 SECTION 10. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so much
14 thereof as may be necessary for fiscal year 2019-2020 and the
15 same sum or so much thereof as may be necessary for fiscal year
16 2020-2021 for the establishment of the following positions
17 within the office of creative film and media industries Hawaii:

- 18 (1) full-time equivalent (FTE) administrative
19 officer position;
- 20 (2) full-time equivalent (FTE) accountant V
21 position;



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

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

11 SECTION 11. There is appropriated out of the general
 12 revenues of the State of Hawaii the sum of \$ or so much
 13 thereof as may be necessary for fiscal year 2019-2020 and the
 14 same sum or so much thereof as may be necessary for fiscal year
 15 2020-2021 as follows:

- 16 (1) \$ to support creative media laboratory
 17 programs on neighbor islands; and
- 18 (2) \$ for website development for the office of
 19 creative film and media industries Hawaii.



1 The sums appropriated shall be expended by the department
2 of business, economic development, and tourism for the purposes
3 of this part.

4 SECTION 12. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$ or so much
6 thereof as may be necessary for fiscal year 2019-2020 and the
7 same sum or so much thereof as may be necessary for fiscal year
8 2020-2021, for equipment and staffing for creative media co-
9 working sites on multiple islands statewide.

10 The sums appropriated shall be expended by the department
11 of business, economic development, and tourism for the purposes
12 of this part.

13 PART II

14 SECTION 13. There is established a State of Hawaii office
15 of the business development and support division in Guangzhou,
16 Guangdong, China to promote trade in Hawaii, to be
17 administratively placed under the department of business,
18 economic development, and tourism.

19 SECTION 14. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much
21 thereof as may be necessary for fiscal year 2019-2020 to



1 establish a State of Hawaii office of the business development
2 and support division in Guangzhou, Guangdong, China to promote
3 trade in Hawaii pursuant to this part.

4 The sums appropriated shall be expended by the department
5 of business, economic development, and tourism for the purposes
6 of this part.

7 PART III

8 SECTION 15. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 16. This Act shall take effect on July 1, 2112.



Report Title:

DBEDT; Creative Film and Media Industries; Special Fund;
Business Development and Support Division; Appropriation

Description:

Amends structure and duties of DBEDT's Creative Industries Division, changes its name to the Office of Creative Film and Media Industries Hawaii, and amends the name and uses of its Special Fund accordingly. Establishes positions in the Office. Makes various appropriations. Establishes and appropriates funds for a DBEDT Business Development and Support Division satellite office in Guangzhou, Guangdong, China. (SB989 HD2)

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