

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: HB 179; SB 161

INTRODUCED BY: SB by KOUCHI by request; HB by SAIKI by request (Hawaii State Association of Counties Package)

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.

To be treated as an individual with a disability, the employer must receive certification from a qualified physician before the individual begins work. If the certification is incorrect because it is based on false information provided by the individual, the certification shall be revoked and wages paid by the employer after the employer receives notice of revocation shall not be treated as qualified wages.

Payments between related parties are excluded, as are wages paid by any former employer.

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 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 like 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 1/25/2019

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COUNTY COUNCIL
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January 25, 2019

KTK

TO: Honorable Aaron Ling Johanson, Chair
House Committee on Labor & Public Employment

FROM: Kelly T. King, Secretary
Hawaii State Association of Counties ("HSAC")

SUBJECT: **HEARING OF JANUARY 29, 2019; TESTIMONY IN SUPPORT OF
HB179, RELATING TO TAXATION**

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

This measure is included in the HSAC Legislative Package. Therefore, I offer this testimony on the Maui County Council's behalf.

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

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HB-179

Submitted on: 1/25/2019 6:02:33 PM

Testimony for LAB on 1/29/2019 9:00:00 AM

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.

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

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**STATE OF HAWAII
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To: The Honorable Aaron Ling Johanson, Chair
and Members of the House Committee on Labor & Public Employment

Date: Tuesday, January 29, 2019
Time: 9:00 A.M.
Place: Conference Room 309, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 179, Relating to Taxation

The Department of Taxation (Department) provides the following comments regarding H.B. 179 for your consideration.

H.B. 179 creates a nonrefundable income tax credit for businesses that hire individuals with a disability. The bill requires certification of disability from a qualified physician, and is claimed against the taxpayer's net income tax liability for the year in which it is claimed, with any excess carried forward until used. The measure is effective upon approval and applies to taxable years beginning after December 31, 2018.

First, the Department notes that the proposed credit is similar to an already 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. The Department believes that it may be more effective and efficient to amend or expand the current vocational income tax incentive rather than creating an entirely new credit.

Second, the Department notes that the term "individual with a disability should be more clearly defined. As currently written, physicians will be unable to make consistent determinations of whether an individual would qualify for the credit. The Department also notes that the definition could be interpreted to cover situations where the impairment is readily treatable with medications, impairments which are only temporary in nature, and impairments from which one has fully recovered with no likelihood of relapse or reoccurrence.

Third, the Department notes that the wages allowed as the base of this credit are also allowed as a deduction as an expense to the employer. Thus, the employer would be provided a double tax benefit-claiming both an expense deduction and a tax credit for the same costs. In addition, a taxpayer could conceivably use the same expenditures to also claim the vocational rehabilitation credit. The Department suggests that the following provision should be added to the definition of “qualified wages”:

Qualified wages shall not include amounts for which another credit is claimed or a deduction is taken.

Fourth, the Department notes that “wages” is defined to include “the cash value of all remuneration paid in any medium other than cash and the cost-of living allowances and other payments”. This may lead to taxpayer confusion and compliance issues. The Department recommends that the credit be based solely on cash wages paid.

Fifth, the Department notes that the credit as currently written may be prone for abuse. While the measure attempts to prevent abuse by preventing the hiring of persons related to the taxpayer, it does not prevent the employers from hiring each other’s disabled employees to qualify for the credit.

Finally, the Department notes that there is no continuing requirement that the person remain in the employ of the taxpayer. After six months, the taxpayer could simply terminate employment yet retain all of the credit. The Department strongly believes that there should be a minimum amount of time for which the employee must be retained, beyond the period in which the credit is calculated.

Thank you for the opportunity to provide comments.

HB-179

Submitted on: 1/28/2019 8:54:53 AM

Testimony for LAB on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Oahu County Committee on Legislative Priorities, Democratic Party of Hawai'i	Support	No

Comments:



LATE

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January 29, 2019

The Honorable Representative Ling Johanson, Chair
House of Representatives Committee on Labor and Public Employment
Twenty-Ninth Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Representative Johanson and Members of the Committee:

SUBJECT: HB 179 - Relating to the Minimum Wage

The State Council on Developmental Disabilities **SUPPORTS HB 179**. The bill provides a taxpayer who hires an individual who has a disability a non-refundable tax credit for the six-month period 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.

HB 179 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 of these 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.

Thank you for the opportunity to submit testimony in **support of HB 179**.

Sincerely,

A handwritten signature in blue ink that reads "Daintry Bartoldus".

Daintry Bartoldus
Executive Administrator