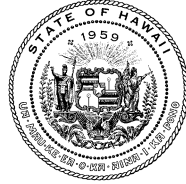


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To: The Honorable Angus L.K. McKelvey, Chair;
The Honorable Lisa Kitagawa, Vice Chair;
and Members of the House Committee on Economic Development & Business

From: Rona M. Suzuki, Director
Department of Taxation

Re: H.B. 1966, Relating to Business Development at Barbers Point

Date: Friday, January 31, 2020

Time: 8:30 A.M.

Place: Conference Room 309, State Capitol

The Department of Taxation (Department) offers the following comments regarding H.B. 1966.

H.B. 1966 seeks to incentivize investments for business development, housing, and electrical and water upgrades at Barbers Point, which is located in the Kalaeloa census district that was recently designated by the U.S. Treasury as an Opportunity Zone by doing the following:

1. The bill exempts from the general excise tax (GET) businesses that invest over \$500,000 over a ten-year period and creates a minimum of fifty job positions for the purpose of business development at Barbers Point.
2. It also creates a new Barbers Point Upgrade Tax Credit of up to \$50,000 per taxable year for a taxpayer's qualified expenses in upgrading the electrical and/or water systems at Barbers Point in the Kalaeloa Opportunity Zone. The bill directs the Department of Business, Economic Development, and Tourism (DBEDT), in cooperation with the Department, to adopt rules to establish criteria for the qualified expenses and business developments necessary to claim the credit. The measure is effective for taxable years beginning after December 31, 2020.

This measure, as currently written, will be difficult to administer because the \$500,000 investment requirement is over a ten-year period. The business would have ten years to invest the \$500,000 and create 50 jobs, therefore the Department would need to make a determination on qualification at the end of the ten-year period. If a business does not qualify at the end of the ten years, the Department would need to assess and recover any unpaid taxes including interest and penalties.

The ten-year period presents an extra obstacle because the statute of limitations (SOL) for assessment of taxes is generally three (3) years or six (6) years if there is a substantial understatement of income. Thus, even if the six-year SOL applies, the Department cannot assess taxes that may be due on the remaining four years that are outside of the allowable SOL.

In regard to the proposed tax credit, criteria for qualified expenses and businesses developed to obtain the proposed Barbers Point Upgrade Tax Credit need to be added. The Department recommends amending this measure to include definitions, criteria, and guidelines for the proposed tax credit in Section 3 to better effectuate the Legislature's desired policy goals, eliminate major administrative difficulties, and avoid unintended revenue losses.

This bill also allows entities to claim the income tax credit for their qualified expenses and calls for the expenses upon which the tax credit is computed to be determined by rule. The Department recommends amending Section 3, subsection (a)(2) so that distribution and share of credit are determined pursuant to section 704(b) of the Internal Revenue Code.

Finally, there is a formatting problem with bill text beginning at line 5 of page 7.

Thank you for the opportunity to provide comments.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

DAVID Y. IGE
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MIKE MCCARTNEY
DIRECTOR

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Statement of
Mike McCartney
Director
Department of Business, Economic Development and Tourism
before the
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
Friday, January 31, 2020
9:30 AM
State Capitol, Conference Room 309

In consideration of
HB 1966
RELATING TO BUSINESS DEVELOPMENT AT BARBERS POINT.

Chair McKelvey, Vice Chair Kitagawa and Members of the Committee on Economic Development & Business.

The Department of Business, Economic Development and Tourism (DBEDT) appreciates the intent and provides the following comments for HB1966, which promotes and provides incentives for business development within the Kalaeloa Opportunity Zone.

This bill includes initiatives supportive of our goals and objectives, particularly in the areas of industry infrastructure development. In order to monitor and maintain records for this tax incentive DBEDT would need funding of \$100,000 a year for one (1) FTE. DBEDT supports the overall concept of this bill provided that its passage does not replace or adversely impact priorities indicated in our Executive Budget.

We defer to the Department of Taxation and Budget and Finance for the fiscal impact of this measure.

Thank you for the opportunity to offer these comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, INCOME, Exemption and Credit for Kalaeloa Opportunity Zone

BILL NUMBER: HB 1966

INTRODUCED BY: MCDERMOTT

EXECUTIVE SUMMARY: Promote and incentivize business development within the Kalaeloa Opportunity Zone; authorizes GET exemption; provides tax credit for upgrading infrastructure.

SYNOPSIS: Amends section 237-24, HRS, to add an exemption for businesses investing over \$500,000 over a ten-year period and creating a minimum of fifty job positions for the purpose of business development at Barbers Point, located in the opportunity zone of Kalaeloa District.

Adds a new section to chapter 235, HRS, to allow an income tax credit for upgrading the electrical and/or water systems at Barbers Point in the Kalaeloa opportunity zone. The tax credit is 100% of the qualified expenses of the qualified taxpayer, up to \$50,000 per year. Qualified expenses and qualified taxpayer are not defined in the statute but authority is given to DOTAX and DBEDT to define these terms by administrative rule.

EFFECTIVE DATE: This Act shall take effect upon approval, shall take effect for taxable years beginning after 12/31/2020.

STAFF COMMENTS: Tax credits generally are designed to reduce the tax burdens of certain groups by refunding a portion of taxes paid on purchases of essential items and services.

This credit, like others before it, amounts to nothing more than a subsidy of state funds. As with any subsidy, this one needs to be paid for. Either government needs to shrink, or the cost of government must be borne by all other taxpayers who do not qualify for the subsidy.

We question why Kalaeloa is so unique and special as to merit an extraordinary incentive. Aren't jobs also necessary or desirable in Puna, or Hana, or Princeville, all of which have been designated enterprise zones because of the relatively high unemployment there?

Furthermore, these programs, like any other subsidy, should be considered an expenditure of state funds. If the cost of this credit is going to be \$20 million, for example, that would equate to \$20 million less revenue that otherwise would be available for education, homelessness, invasive species, or other causes that are priorities in the State.

Digested 1/28/2020



**HAWAII COMMUNITY
DEVELOPMENT AUTHORITY**

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JOHN WHALEN
CHAIR

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EXECUTIVE DIRECTOR

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LATE

STATEMENT OF
AEDWARD LOS BANOS, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
Before the
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Friday, January 31, 2020
9:30 A.M.
State Capitol, Conference Room 309

in consideration of

HB 1966
RELATING TO BUSINESS DEVELOPMENT AT BARBERS POINT

Chair McKelvey, Vice Chair Kitagawa, and Members of the Committee.

The Hawaii Community Development Authority (HCDA) has not yet taken a position on this measure. However, as the executive director of HCDA, I **support the intent of HB 1966**, which promotes and provides incentives for business development within the Kalaeloa Opportunity Zone. In general the HCDA supports economic development efforts, and improving infrastructure.

Thank you for the opportunity to testify on **HB 1966**.