

DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
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ISAAC W. CHOY  
DIRECTOR OF TAXATION

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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To: The Honorable Sylvia Luke, Chair;  
The Honorable Kyle T. Yamashita, Vice Chair;  
and Members of the House Committee on Finance

From: Isaac W. Choy, Director  
Department of Taxation

Date: Monday, February 28, 2022  
Time: 11:00 A.M.  
Place: Via Video Conference, State Capitol

**Re: H.B. 1495, H.D. 1, Relating to Motion Picture, Digital Media, and Film Production**

The Department of Taxation (Department) appreciates the intent of H.B. 1495, H.D. 1, and offers the following comments for your consideration.

H.B. 1495, H.D. 1, prevents a production from qualifying for the motion picture, digital media, and film production tax credit under section 235-17, Hawaii Revised Statutes, if the production hires or compensates an employee of the State or county whose official capacity is related to motion picture, digital media, or film production for certain services, and requires a taxpayer claiming the tax credit to identify any such employee in the statements required to be submitted to the Department of Business, Economic Development and Tourism. H.D. 1 is effective upon approval and applies to taxable years beginning after December 31, 2021.

The Department suggests clarifying the term “compensated for services.” For example, it is not clear if providing a free parking pass or a complimentary lunch is sufficient to constitute compensation. Clarifying this definition will help to prevent any misunderstanding and avoid unnecessary litigation.

Thank you for the opportunity to provide testimony on this measure.



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

DAVID Y. IGE  
GOVERNOR

MIKE MCCARTNEY  
DIRECTOR

CHUNG I. CHANG  
DEPUTY DIRECTOR

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Statement of  
**MIKE MCCARTNEY**  
Director

Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON FINANCE**

Monday, February 28, 2022  
11:00 AM  
State Capitol, Conference Room 308

In consideration of  
**HB 1495, HD1**  
**RELATING TO MOTION PICTURE, DIGITAL MEDIA, AND FILM PRODUCTION.**

Chair Luke, Vice Chair Yamashita and members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) offers comments on HB1495, HD1, which prohibits a production from qualifying for the motion picture, digital media, and film production tax credit if the production hires or compensates an employee of the State or county whose official capacity is related to supporting the production in areas of film permitting, production support or film tax credit management.

The department recognizes that there are state and county salaried personnel who support water and land safety, forestry and law enforcement, which have required duties for any filming activities at locations statewide.

DBEDT understands the Legislative intent of the proposed amendments in HB1495, HD1 and suggest that we provide any productions filing for the credit or permits to refer to the current ethics guidance, which guide conduct for all government employees.

We request the committee's consideration of adding reference to HRS 235-17 on page 2, Section 1, Item 7, and page 3, subsection (h) item 4:

“Not hire or compensate any employee of the State or county whose official capacity is related to issuing film permits, tax credits or facilitating film production as a government salaried employee.”

DBEDT wants to assure lawmakers and industry that there are no unintended consequences from inclusion of this language which may inadvertently negatively impact the state or the much-needed production activity going forward.

We appreciate the Legislature's commitment and support to this industry which is a key aspect of Hawaii's economic recovery. Thank you for the opportunity to testify.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented to the  
House Committee on Finance  
Monday, February 28, 2022 at 11:00 a.m.

by

Christopher P. Lee, Founder/Director, Academy for Creative Media System  
on behalf of

Vassilis L. Syrmos, Vice President for Research and Innovation  
University of Hawai'i System

HB 1495 HD1 – RELATING TO MOTION PICTURE, DIGITAL MEDIA, AND FILM  
PRODUCTION

Chair Luke, Vice Chair Yamashita, and Members of the Committee:

The University of Hawai'i (UH) understands the intent and appreciates the amendments made in HB 1495 HD1, but the inclusion of the phrase “facilitating film production” may, in passage, result in unintended consequences that may prevent or deprive faculty members from necessary professional development and scholarship opportunities vital to their teaching career.

Thank you for the opportunity to comment on this measure.

Testimony of Walea Constantinou,  
Film Commissioner, Honolulu Film Office  
City and County of Honolulu

COMMITTEE ON FINANCE

February 28, 2022

11:00 AM

State Capitol, via Videoconference; Conference Room 308

**RE: HB1495, HD1  
RELATING TO MOTION PICTURE, DIGITAL MEDIA, AND FILM PRODUCTION**

Dear Chair Luke, Vice-chair Yamashita, and members of the committees:

**I oppose the measure as written.** It is too broad and could create unintended consequences affecting a wide range of county employees including but not limited to our first responders in ocean safety, paramedics, and fire and the police department personnel as well as department directors and deputies, managerial and line staff who do have, as the bill states, an “official capacity relating to the issuing of film permits or facilitating film production,” many of who would violate the law if passed in their normal course of their duties.

For example, payment of special duty police officers is done by the company that does the hiring as a standard procedure (be it a construction or production company). They are required in the permit to be hired to facilitate the production in a safe manner for the general public while they are on streets, in parks and neighborhoods.

The measure does not contain any definition or procedures with regard to the scope of time, expiration or scale of involvements. For example, a city employee like a parks department groundskeeper or recreational specialist could be cast as an extra at the start of a television season or have participated in a previous season and not have a conflict, but a future story line could emerge that would then require the involvement of that employee for either their approval or to assist with facilitating a request that would unintentionally affect a production’s tax credit.

Thank you for your kind attention and the opportunity to provide these comments.



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February 25, 2022

Committee on Finance  
Chair Luke  
Vice Chair Yamashita

The House of Representatives  
The Thirtieth-First Legislature  
Regular Session of 2022

RE: [HB 1495](#) HD1 - RELATING TO MOTION PICTURE, DIGITAL  
MEDIA, AND FILM PRODUCTION  
DATE: Monday, February 28, 2022  
TIME: 11:00 am  
PLACE: Conference Room 308  
VIA Videoconference  
State Capitol 415 South Beretania Street, Honolulu HI

Aloha Chair Luke, Vice Chair Yamashita and the members of the committee,

Thank you for the opportunity to testify in SUPPORT of HB 1495 HD1- RELATING TO MOTION PICTURE, DIGITAL MEDIA, AND FILM PRODUCTION.

SAG-AFTRA represents over 1200 actors, recording artists, and media professionals in our state. We are the professional performers working in front of the camera and behind the microphone.

Even through a pandemic and supply chain shortages, the film and television industry has continued to thrive and grow in Hawaii. We are grateful for the Legislature's continued support. The tax credit to qualified producers has been a beneficial incentive, creating thousands of jobs for local people to support their families and enrich our community.

We support the Legislature's intent to quell any undue influence of persons employed by the state or counties whose official capacity is related to motion picture, digital media or film production may exert on the productions they oversee. This HD 1 appears to address the concerns of vagueness or overbreadth. We welcome the opportunity to discuss further.

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SCREEN ACTORS GUILD - AMERICAN  
FEDERATION OF  
TELEVISION AND RADIO ARTISTS  
SAGAFTRA.org  
Associated Actors & Artistes of America / AFL-CIO



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Respectfully,

*Mericia Palma Elmore*

Mericia Palma Elmore, Executive Director SAG-AFTRA Hawaii Local

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# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Prohibits Production from Compensating Relevant State Employee

BILL NUMBER: HB 1495 HD 1

INTRODUCED BY: House Committee on Economic Development

EXECUTIVE SUMMARY: This bill prohibits a production from qualifying for the motion picture, digital media, and film production tax credit if the production hires or compensates an employee of the State or county whose official capacity is related to motion picture, digital media, or film production for certain services. Requires a taxpayer claiming the tax credit to identify any such employee in the statement submitted to DBEDT. The conflict of interest identified in this bill is already addressed in the State Ethics Code and it is unclear why this industry and its regulators are being targeted for special treatment.

SYNOPSIS: Amends section 235-17(d), HRS, to require that, in order to qualify for the production credit, a production not hire or compensate any employee of the State or county whose official capacity is related to issuing film permits or facilitating film production.

Amends section 235-17(h), HRS, to require a production to identify any such employee in its production cost report.

EFFECTIVE DATE: Taxable years beginning after December 31, 2021.

STAFF COMMENTS: The thrust of the legislation appears to be to prevent a conflict of interest between a state employee having an official capacity related to motion picture, digital media, or film production and any such production. Such conflicts of interest are already prohibited by the State Ethics Code, HRS § 84-14, which states, in part:

**§84-14 Conflicts of interests.** (a) No employee shall take any official action directly affecting:

- (1) A business or other undertaking in which the employee has a substantial financial interest; or
- (2) A private undertaking in which the employee is engaged as legal counsel, advisor, consultant, representative, or other agency capacity.

The State Ethics Code already has an attached enforcement mechanism, namely the State Ethics Commission, which has authority to punish violators.

As such, we do not see the need to burden the tax code with this additional qualification.

Further it is unclear why motion pictures and digital media are being singled out in this bill for special unfavorable treatment. The measure seems unfair for that reason.

Digested: 2/26/2022



# IATSE LOCAL 665

FILM, TELEVISION, STAGE, PROJECTION AND TRADESHOWS  
Since 1937

INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING PICTURE TECHNICIANS, ARTISTS AND ALLIED CRAFTS  
OF THE UNITED STATES, ITS TERRITORIES AND CANADA, AFL-CIO, CLC

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The Thirty-First Legislature, State of Hawai'i  
Hawai'i State House of Representatives  
Committee on Finance

Testimony by  
IATSE Local 665  
February 26th, 2022

## **H.B. 1495 HD 1 - RELATING TO MOTION PICTURE, DIGITAL MEDIA, AND FILM PRODUCTION**

Aloha Chair Luke, Vice Chair Yamashita, and members of the House committee,

My name is Tuia'ana Scanlan, President of IATSE Local 665. We represent Entertainment Technicians in Stagecraft, Tradeshow & Conventions, and Film/TV industries across the State of Hawaii. We **support** H.B. 1495 HD 1

We are in full support of the intent to eliminate conflicts of interest and "double-dipping". This will aid in our efforts to maintain the ethical administration of the film tax incentive and the issuing of film permits while avoiding any unintended consequences.

Production companies already include Conflict of Interest disclosure forms within current "start paperwork" packets to be completed by new employees, but it is encouraging to see that the state is actively seeking the ethical administration of the Hawaii Film Tax incentive. It is imperative that no public figure, especially those assigned to the administration of the film tax incentive and/or the approval of filming permits, is allowed to use their public office either for personal gain or for unbalanced advantage in the approval of film permits.

We appreciate your consideration of our testimony and additional commentary on H.B. 1495 HD 1.

Respectfully submitted,



Tuia'ana Scanlan  
President, IATSE Local 665  
he/him/his



The House of Representatives  
The Thirty-First Legislature  
Regular Session of 2022

COMMITTEE ON FINANCE  
Rep. Sylvia Luke, Chair  
Rep. Kyle T. Yamashita, Vice Chair

RE: HB 1495, HD1 RELATING TO MOTION PICTURE, DIGITAL MEDIA, AND  
FILM PRODUCTION

Date: Monday, February 28, 2022  
Time: 11:00 a.m.  
Conference Room 308  
State Capitol  
415 South Beretania Street

February 27, 2022

From: Roy Tjioe and Ricardo Galindez  
Island Film Group  
99-1245 Halawa Valley St.  
Aiea, HI 96701  
808-536-7955

Aloha Chair Quinlan and Vice Chair Holt, and Members of the Committee:

### **Our Background**

Island Film Group is a locally owned and operated production company. We began working in Hawaii's film and television industry in 2001 as attorneys at Goodwill Anderson Quinn & Stifel, where we represented filmmakers and other production companies. Since our formation of Island Film Group in 2007, we have been working full-time as producers

of feature films such as “Princess Ka`iulani” and “Soul Surfer”, network and cable television movies and series, as well as a large number of commercial productions.

**We OPPOSE** the proposed language that would result in the denial of the production tax credit **for the entire project** if a State employee whose official capacity is related to motion picture, digital media, or film production, for services rendered to a production relating to consulting, is hired by the production.

Film and television productions often hire hundreds of people, including background actors or “extras”. Under the current draft of the bill, even the **inadvertent** hiring of a State employee as an extra would result in the denial of the tax credit for the entire project.

Me ke aloha,



Roy Tjioe and Ricardo Galindez

Co-Founders

Island Film Group

Honolulu, Hawaii