

DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LT. GOVERNOR



ISAAC W. CHOY  
DIRECTOR OF TAXATION

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1540  
FAX NO: (808) 587-1560

To: The Honorable Sean Quinlan, Chair;  
The Honorable Daniel Holt, Vice Chair;  
and Members of the House Committee on Economic Development

From: Isaac W. Choy, Director  
Department of Taxation

Date: Friday, February 11, 2022  
Time: 10:00 A.M.  
Place: Via Video Conference, State Capitol

**Re: H.B. 2228, Relating to Film Infrastructure Tax Credit**

The Department of Taxation (Department) has strong reservations regarding H.B. 2228 and provides the following comments for your consideration.

H.B. 2228 creates a tax shelter in the form of a nonrefundable twenty percent film infrastructure tax credit, provided that at least \$3,000,000 is be spent on buildings, facilities, or installations. The credit is capped at \$10,000,000 per year, with DBEDT having the responsibility of approving projects and certifying the credit. The measure is applicable to taxable years beginning after December 31, 2021.

First, the Department notes that this measure fails to adequately define "eligible infrastructure costs." The term is currently defined only as *including*, but not limited to, certain specified costs. The Department suggests that the measure specifically specify the costs to which the credit will be allowed to avoid any dispute regarding the qualification of any particular costs.

Second, the measure allows the credit to be sold, assigned, or transferred from the original claimant to any other taxpayer. The Department is deeply concerned that allowing the credit to be transferred in such manner could lead to fraud and other abuse. It is important to note that these types of transfers were allowed with the Act 221 Qualified High Technology Business Investment Tax Credit.

Third, the measure provides that no tax credits which are transferred is subject to a post-certification remedy, which is defined as "the recapture, disallowance, recovery, reduction, repayment, forfeiture, decertification or any other remedy that would have the effect of reducing or otherwise limiting the use of a tax credit." The Department is strongly opposed to the

provision as the Department of Business, Economic Development and Tourism (DBEDT) does not conduct a comprehensive tax examination on credit claims. DBEDT performs a preliminary review and allocates the credits so that the aggregate cap is not exceeded. If the DBEDT is to be the final arbiter, this tax credit should be converted to a grant program administered by DBEDT.

Fourth, the Department notes that subsections (c) and (d) conflict. Subsection (c) requires that all claims be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. However, the disallowance of any post certification remedy would mean that the Department would not be able to deny the credit claims based on late filings.

Finally, the measure provides that the “sole and exclusive remedy of the department and the director shall be to seek collection of the amount of the tax credits from the taxpayer that committed the fraud or misrepresentation”. This provision will allow a taxpayer to set up an empty shell entity with no assets and make a fraudulent misrepresentation with impunity, as the only recourse of the Department would be to pursue an empty shell with no assets. The Department strongly believes that this provision should be deleted in its entirety.

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



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented to the  
House Committee on Economic Development  
Friday, February 11, 2022 at 10:00 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 2228 – RELATING TO FILM INFRASTRUCTURE TAX CREDIT

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

The University of Hawai'i (UH) strongly supports HB 2228 which will enhance the state's successful motion picture/television/streaming production industry by incentivizing the building of much needed physical infrastructure. The production industry is an essential component of the diversification of Hawai'i's economy. While numbers are not finalized, 2021 is likely to be another record year of positive impact for the local economy, with a direct spend of over \$400 million.

As noted by economists Sumner La Croix and James Mak in their March 2021 UHERO report, *Understanding the Role of the Hawaii Film/TV/Digital Production Tax Credit In Diversifying the Hawaii Economy*: "There is more to building a robust film industry in Hawai'i than just having a competitive film credit. Two other factors that attract film/TV productions to Hawai'i are availability of workers with skills valued by the industry and availability of state-of-the-art production studios."

However, Hawai'i is limited by having only one stage worthy of a television series -- the state-owned Diamond Head Studio -- which can only accommodate one show at a time and is insufficient for feature films. Blockbusters like *Jumanji*, *Pirates of the Caribbean*, *Godzilla* and *Jurassic Park* are forced to do the bulk of their interior shooting, visual effects and post production elsewhere. It means that Hawai'i is only getting a small portion of the overall spend on a film. As successful as the production industry is currently, it is severely constrained by lack of physical capacity. HB 2228 is an important measure in ensuring the continued growth of the industry and keeping UH graduates in the islands with living wage jobs.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
DIRECTOR

GLORIA CHANG  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**  
TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT  
ON  
HOUSE BILL NO. 2228

**February 11, 2022**  
**10:00 a.m.**  
**Room 312 and Videoconference**

**RELATING TO FILM INFRASTRUCTURE TAX CREDIT**

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 2228 establishes a non-refundable tax credit for each taxpayer that invests \$3,000,000 or more in a film infrastructure project and caps the credit at \$10,000,000 per year.

B&F notes that the federal American Rescue Plan (ARP) Act restricts states from using ARP Coronavirus State Fiscal Recovery Funds (CSFRF) to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation beginning on March 3, 2021, through the last day of the fiscal year in which the CSFRF have been spent. If a state cuts taxes during this period, it must demonstrate how it paid for the tax cuts from sources other than the CSFRF, such as:

- By enacting policies to raise other sources of revenue;
- By cutting spending; or
- Through higher revenue due to economic growth.

If the CSFRF provided have been used to offset tax cuts, the amount used for this purpose must be repaid to the U.S. Treasury.

The U.S. Department of Treasury has issued rules governing how this restriction is to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with this ARP restriction.

Thank you for your consideration of our comments.



## 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 ECONOMIC DEVELOPMENT**

Friday, February 11, 2022  
10:00 AM

State Capitol, Conference Room #312

In consideration of  
**HB 2228**  
**RELATING TO FILM INFRASTRUCTURE TAX CREDIT.**

Chair Quinlan, Vice Chair Holt and members of the Committee.

The Department of Business, Economic Development & Tourism (DBEDT) supports the intent of HB2228, which seeks to create a nonrefundable twenty percent film infrastructure tax credit. As proposed, the film infrastructure project must spend at least \$3,000,000 on buildings, facilities, or installations, caps the credit at \$10,000,000 per year.

DBEDT defers to the Department of Taxation (DoTAX) on the anticipated fiscal impacts of this measure as it relates to the Administration budget and administrative rules governing HRS 235-17, the Hawaii Motion Picture, Digital Media, and Film Production Tax Credit program.

DBEDT and its Creative Industries Division (CID) agrees with incentivizing purpose-built production, related growth industries in visual effects and post-production, as well as music production facilities, given the potential job creation for our student's future employment, working in areas where they are already excelling in.

Hawaii is one of a few states which has not adopted an infrastructure credit.

As the lead agency for economic development, it is our obligation to build the necessary framework, broadband infrastructure, and incentivize facilities to ensure a thriving ecosystem in which residents with aspirations to work in media, entertainment and music industries can remain home here in Hawaii to pursue their careers.

DBEDT requests your consideration of the following amendments to this measure:

Regarding the department required management of this infrastructure credit as delineated in this measure, beginning on Page 4, Line 18, Item (1) through Page 10, Item (4) line 13, require additional exempt staffing positions to properly manage the infrastructure credit with expertise in infrastructure and public, private partnerships.

DBEDT and its Creative Industries Division looks forward to working with the lawmakers, the counties and our industry to provide input to advance this measure through the legislative process.

Thank you for the opportunity to testify.



February 9, 2022

Committee on Economic Development  
Chair Quinlan  
Vice Chair Holt

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

RE: [HB 2228](#) - RELATING TO FILM INFRASTRUCTURE TAX CREDIT

DATE: Friday, February 11, 2022

TIME: 10:00 am

PLACE: Conference Room 312

VIA Videoconference

State Capitol 415 South Beretania Street, Honolulu HI

Aloha Chair Quinlan, Vice Chair Holt and the members of the committee,

Thank you for the opportunity to testify in SUPPORT of HB 2228 - RELATING TO FILM INFRASTRUCTURE TAX CREDIT.

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.

As the latest DBEDT figures indicate, in 2019 our Film and Television industry “generated an estimated \$707 million of economic impact, \$43.7 million in estimated tax revenues and total job impacts of 3,303 jobs.”<sup>1</sup> State support and incentives to help build a stable infrastructure for our industry will go a long way to grow and sustain this industry and provide jobs for local people.

Respectfully,

*Mericia Palma Elmore*

Mericia Palma Elmore, Executive Director SAG-AFTRA Hawaii Local

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<sup>1</sup> [https://files.hawaii.gov/dbedt/economic/data\\_reports/hawaii-creative-report/HI\\_Creative\\_Ind\\_2019.pdf](https://files.hawaii.gov/dbedt/economic/data_reports/hawaii-creative-report/HI_Creative_Ind_2019.pdf)

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Mericia Palma Elmore, Executive Director  
SAG-AFTRA Hawaii Local  
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Ph: 808-596-0388 Fax: 808-593-2636

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





**Local 665**  
**HAWAII'S TECHNICIANS**  
for  
**FILM, TELEVISION, STAGE AND PROJECTION**  
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

The Thirty-First Legislature, State of Hawai'i  
Hawai'i House of Representatives, Regular Session 2022  
Hawaii State Capitol, 415 South Beretania Street, Honolulu, HI

**COMMITTEE ON ECONOMIC DEVELOPMENT**

Representative Sean Quinlan, Chair. Representative Daniel Holt, Vice Chair

DATE: Friday, February 11, 2022  
TIME: 10:00 AM  
PLACE: Conference Room 312 & Videoconference

**RE: HOUSE BILL 2228 – RELATING TO FILM INFRASTRUCTURE TAX CREDIT**

Mahalo Chair Quinlan, Vice Chair Holt, and Members of the House Committee for allowing us to testify in **STRONG SUPPORT of H.B. 2228.**

IATSE Local 665 represents Entertainment Technicians in the Stagecraft, Tradeshow, Convention, Film and TV industries across the State of Hawaii, and we truly appreciate the continued support the State has shown toward the growth of our film industry. Having this tax incentive to build a film stage is exactly what is needed to take Hawai'i to the next level as a serious film location.

The jobs the Hawai'i film industry provides are highly technically, highly creative, and command a high rate of pay. One television series can provide a steady income to a full-time worker for nine months out of the year. With the upgrades to the Hawai'i Film Studio over 20 years ago, we have hosted several long-running TV shows, such as **"Baywatch Hawai'i" (2 Seasons)**, **"Lost" (6 Seasons)**, **"Hawai'i Five-O" (10 Seasons)**, and **"NCIS- Hawai'i" (1<sup>st</sup> Season - 2021)**. Retrofitting a military base in Kalaeloa as an interior stage space has allowed additional shows to film here, too, namely **"Inhumans" (Pilot)** and **"Magnum P.I." (4 Seasons)**. Not only do these stages provide for interior sets to be built, they also provide office space and secured storage for props, set dressing, and picture vehicles. Without these two stages, shows have to find separate buildings to work out of. This is **logistically difficult** and makes **Hawai'i less desirable as a film locale.**

**"Jungle Cruise"** built their entire exterior set on Kaua'i and then packed up everything and shipped it to Atlanta to film the interior scenes. Atlanta has no film tax cap and very large film stages where many films are done. Had we an interior stage available, **"Jungle Cruise"** may have filmed their interior shots here, too.

TV and film is a fast-paced industry. Having a cohesive stage helps the show save time, money and energy. There are two more TV series that are planning to film here, and one more considering Hawai'i as a location. We need more film stages to keep these shows in Hawai'i longer.

**Please pass H.B. 2228** to help grow our film industry. It's definitely a step in the right direction. Mahalo!

Respectfully submitted,

  
Irish Barber  
Business Representative

BLACKSAND  
CAPITAL

February 9, 2022

The Honorable Sean Quinlan, Chair  
The Honorable Daniel Holt, Vice Chair  
Members of the Committee on Economic Development  
Hawaii State Capitol  
415 S Beretania Street  
Honolulu, Hawaii 96813

**RE: HB 2228 – Relating to Film Infrastructure Tax Credit**

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

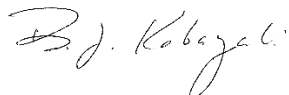
Thank you for the opportunity to testify in **STRONG SUPPORT** of HB2228 – RELATING TO FILM INFRASTRUCTURE TAX CREDIT. BlackSand Capital is a locally owned and operated real estate investment firm based in Honolulu. A large part of BlackSand Capital’s investor base is composed of people who live in or have a connection to Hawaii — including beneficiaries of local retirement funds and endowments. We invest in, finance, and develop real estate projects solely in the state of Hawaii.

HB2228 creates a non-refundable twenty percent film infrastructure tax credit. The Bill requires that the film infrastructure project must spend at least \$3,000,000 on buildings, facilities, or installations and caps the credit at \$10,000,000 per year.

The COVID-19 pandemic has emphasized the need to make the State’s economy more resilient, and HB2228 will be a catalyst to achieve this goal. Significant and meaningful investments in infrastructure for industries such as motion picture, digital media and film can create new employment opportunities for our island residents and strengthen our economy. Acting now will allow our State to create new jobs and grow our island economy expeditiously.

Mahalo for the opportunity to submit testimony for HB2228. We commend the House of Representatives for proposing bold ideas to spur economic growth and to provide new employment opportunities for our island residents.

Sincerely,



B.J. Kobayashi  
Chairman and CEO



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

COMMITTEE ON ECONOMIC DEVELOPMENT  
Sen. Sean Quinlan, Chair  
Sen. Daniel Holt, Vice Chair

RE: HB 2228 RELATING TO FILM INFRASTRUCTURE TAX CREDIT

Date: Friday, February 11, 2022  
Time: 10:00 a.m.  
Conference Room 312  
State Capitol  
415 South Beretania Street

February 10, 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 Goodsill 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 variety of commercial productions.

**We SUPPORT the intent of HB 2228**, which proposes a 20% tax credit based upon a minimum investment in a film infrastructure project, with the following proposed changes:

- The minimum spend amount should be reduced to \$500k. There are beneficial production and post-production technologies, as well as infrastructure upgrades, that could be added to current facilities that would not require \$3m of expenditures.
- The tax credit should be made refundable. Non-refundable credits require that the credits be “sold” to taxpayers with Hawaii tax liability. Such sales are done at a discount (as high as 20%), which means that the economic value to the infrastructure project is reduced even though the State of Hawaii is still obligated for the full amount of the tax credit.

Me ke aloha,



Roy Tjioe and Ricardo Galindez  
Co-Founders  
Island Film Group  
Honolulu, Hawaii



February 9, 2022

The Honorable Sean Quinlan, Chair  
The Honorable Daniel Holt, Vice Chair  
Members of the Committee on Economic Development  
Hawaii State Capitol  
415 S Beretania Street  
Honolulu, Hawaii 96813

RE: HB 2228 – Relating to Film Infrastructure Tax Credit

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

Thank you for the opportunity to testify today in STRONG SUPPORT of HB2228 – RELATING TO FILM INFRASTRUCTURE TAX CREDIT.

My name is David Zelon and I am a Founder of the Manhattan Beach Studio Group's Advisory Board. MBS specializes in building, operating and servicing independent studios around the world. Through our affiliate Hackman Capital we own 123 stages across 16 studios and operate another 15 studios for other property owners and major content creators. We currently supply lighting and grip equipment to over 450 stages as well, across more than 65 locations in six different countries. One of our strongest attributes are our excellent relationships, cultivated over the past 30 years, with every network, content studio and streaming service. Through this we know every project going into production which allows us to fill our studios with TV shows, films and streaming programs. We are the largest independent studio operator in the world.

We have been reviewing and researching the possibility of building a major studio on the island of Oahu for the past 24 months. This studio would consist of approximately 6-10 soundstages, production offices, construction mills and associated warehouse buildings. **It would be the biggest studio in the State since filming started there over a century ago and be one of the most technically advanced studios in the world.**

Building this studio complex will translate to jobs -- literally hundreds of living wage jobs during construction and hundreds more as the studio complex becomes the operational hub for Hawaii's growing production industry. Films, television shows, streaming content and commercials in 2021 will exceed \$400 million in direct spend in the State of Hawaii. With a first-class studio complex, that number could more than double to a consistent \$1 billion a year in direct spend. Large studio complexes such as the ones we



manage globally create entire eco-systems through the innumerable tertiary businesses they foster and support.

Hawaii's successful diversification of the economy through the filmed production industry is currently constrained by the severe lack of physical infrastructure. There is only one small stage complex -- Diamond Head Studios, which can only accommodate one tv show at a time and is not fit for any large films. The blockbuster films of today require not just Hawaii's beautiful scenery and culture, but extensive studio sound stages and post production facilities. Through the University of Hawaii Academy for Creative Media, the State has developed a steady pipeline of qualified production workers. This human infrastructure coupled with responsible economic incentives still lacks the physical facilities to significantly magnify the full potential of the film & TV industry.

**We have been working with our local development, architectural and construction partners to develop a significant film studio on Oahu. A major obstacle to launching this project is the vastly increased cost of construction. Any developer who wishes to build a film studio in the State will encounter this hurdle. The passage of Bill HB 2228, a non-refundable twenty percent film infrastructure tax credit, would be a crucial step to making this project a reality.**

I would be happy to make myself or any of my colleagues available to discuss our plan so you could see the enormous benefit it would have for the local film community and the number of jobs it would create immediately and over the next decade.

Thank you for your consideration.

Sincerely,  
David Zelon

**David Zelon**  
Founder, Advisory Board  
The MBS Group  
c) 310-567-2700  
e) dzmgmt@hotmail.com



February 10, 2022

The Honorable Sean Quinlan, Chair  
The Honorable Daniel Holt, Vice Chair  
Members of the Committee on Economic Development  
Hawaii State Capitol  
415 S Beretania St  
Honolulu, HI 96813

**RE: HB 2228 - Relating to Film Infrastructure Tax Credit**

IN SUPPORT

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

Thank you for the opportunity to testify today in **STRONG SUPPORT** of HB2228 – RELATING TO FILM INFRASTRUCTURE TAX CREDIT.

My name is Dan Lin and I am the founder and CEO of Rideback, a film and television production company. My company and I have produced films that have generated over \$5 billion in global box office sales, including the SHERLOCK HOLMES, LEGO, and GODZILLA movies. We are based at our headquarters at Rideback Ranch in the Historic Filipinotown area of Los Angeles. Our work is focused on promoting diversity and inclusion in the world of entertainment and we offer numerous training programs to educate the next generation of under-represented voices.

I moved to Honolulu full-time 2 years ago to raise my family here as I believe there is no better place for children to grow up than in Hawaii. I commute to the mainland for my work as I am currently in production on films and TV series in Vancouver, Atlanta, New Orleans, and Austin. The reason I film in these cities is because they have built state-of-the-art production complexes and offer economic incentives that make local productions financially viable. For example, I am currently filming the movie THE HAUNTED MANSION for Disney at Trilith Studios in Atlanta, GA. They not only offer top notch production stages and tax rebates for us to film there, but they have also built a local community including housing and businesses that thrive due to the productions that shoot there.

However, despite those incentives, my crews and I would strongly prefer to work in Hawai'i! Hawai'i offers outdoor landscapes and a rich culture that are second to none, but we don't have adequate indoor facilities to accommodate interior filming. I am actively developing film and TV scripts that I can shoot in Hawaii to create jobs here and showcase our local talent to the rest of the world, but we lack the facilities to make the large-scale productions that I produce. Diamond Head Studios is constantly booked by CBS and is not big enough to film a large film. The budgets for my films and TV shows typically exceed \$100 million and require much more stage space than what Oahu currently offers.

The passage of HB2228 would incentivize investors and developers to build physical infrastructure – such as a film/TV studio in Oahu - that would attract many more films and TV productions, thus creating hundreds of jobs and training for the next generation. Just as importantly, we would be able to share more stories that promote Hawai'i and its culture to the rest of the world.

I am happy to discuss my thoughts further on this subject if it would be helpful to you and the committee.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Lin', with a long horizontal flourish extending to the right.

Dan Lin  
Founder and CEO



# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Motion Picture, Digital Media, and Film Infrastructure Tax Credit

BILL NUMBER: SB 2167, HB 2228

INTRODUCED BY: SB by WAKAI, KEITH-AGARAN, MISALUCHA, Ihara, Kim, Riviere, San Buenaventura; HB by QUINLAN, AQUINO, BRANCO, GANADEN, HASHIMOTO, HOLT, ICHIYAMA, ILAGAN, MARTEN, MCKELVEY, MORIKAWA, NAKAMURA, ASNAKASHIMA, ONISHI, TAKAYAMA, TAM, TODD, WILDBERGER, YAMASHITA

EXECUTIVE SUMMARY: Creates a nonrefundable twenty percent motion picture, digital media, and film infrastructure tax credit. Requires that the film infrastructure project must spend at least \$3,000,000 on buildings, facilities, or installations. Caps the credit at \$10,000,000 per year. Our view is that rather than enact a tax credit and the blank check that comes with it, the legislature should appropriate money to plan and construct the infrastructure and then execute on that plan.

SYNOPSIS: Adds a new section to HRS chapter 235 to allow taxpayers to claim a nonrefundable credit of 20% of the qualified costs incurred for qualified media infrastructure projects in any county of the state; provided the credit shall not exceed \$10 million.

Further delineates requirements to qualify for and certification of the credit.

Requires the taxpayer claiming the credit to first prequalify for the credit by registering the project with DBEDT during the development or preproduction stage, and file an application including: (A) a detailed description of the film infrastructure project; (B) a preliminary budget; (C) estimated completion date; and (D) other information as the department may require.

Upon completion of the project, DBEDT may issue an infrastructure credit voucher to the taxpayer.

Requires any taxpayer eligible to claim a qualified media infrastructure project tax credit to file with DBEDT an annual report no later than 90 days following each taxable year for which the credit is claimed delineating: (A) all eligible infrastructure costs, if any, incurred in the previous taxable year; (B) the amount of tax credits claimed pursuant to this section, if any, in the previous taxable year; and (C) the number of total hires versus the number of local hires by category and by county.

Provides for sale, assignment, or transfer of credit to a transferee upon proper notification to DBEDT. Credits once transferred are not subject to reduction, so that the government's sole remedy would be to recoup any fraudulently obtained credits from the transferor.

Defines "film infrastructure project" as an infrastructure project undertaken in this State by an entity that: (1) meets the definition of a "qualified production" under section 235-17; (2) is authorized to conduct business in this State; (3) is not in default on a loan made by the State or a

loan guaranteed by the State, nor has ever declared bankruptcy under which an obligation of the entity to pay or repay public funds was discharged as a part of the bankruptcy; and (4) has been approved by the department as qualifying for a film infrastructure tax credit.

Defines “eligible infrastructure costs” as costs incurred by a film infrastructure project within the State that are subject to general excise tax or net income tax and that have not been financed by any investments for which an income tax credit was or will be claimed. Such costs include but are not limited to: (1) all expenditures to provide buildings, facilities, or installations, whether a capital lease or purchase, together with necessary equipment for a film, video, television, digital production facility, or digital animation production facility; (2) project development, including design, professional consulting fees and transaction costs; (3) development, preproduction, production, post-production and distribution equipment, and system access; and (4) fixtures and other equipment.

EFFECTIVE DATE: Upon Approval

STAFF COMMENTS: The legislature by Act 107, SLH 1997, enacted an income tax credit of 4% for costs incurred as a result of producing a motion picture or television film in the state and 7.25% for transient accommodations rented in connection with such activity. The credit was adopted largely to address the impost of the state’s general excise tax on goods and services used by film producers.

The legislature by Act 88, SLH 2006, increased the 4% credit to 15% in a county with a population over 700,000 and to 20% in a county with a population of 700,000 or less. Act 88 also repealed the income tax credit for transient accommodations and expanded the credit to include commercials and digital media productions, and limited the credit to \$8 million per qualified production. Act 89, SLH 2013, increased the motion picture, digital media, and film production tax credit from 15% to 20% for the costs incurred in a county with a population over 700,000 and from 20% to 25% for costs incurred in a county with a population of 700,000 or less. Act 89 also increased the total tax credits that may be claimed per qualified production from \$8 million to \$15 million. Act 143, SLH 2017, imposed a statewide cap on such credits of \$35 million; Act 275, SLH 2019, increased the statewide cap to \$50 million.

In addition to the existing credits, the proposed measure would allow taxpayers to claim a media infrastructure project tax credit in any county of the state.

Instead of handing out a tax credit to build the film infrastructure, be it a studio or a sound stage, lawmakers should appropriate a specific sum of money and issue a request for proposals to build such a project and see which bidder would come forward with the best proposal and offer to match the state’s share. This way each bidder could be evaluated as to what they have to offer and what benefit the state would get. Inasmuch as the state would probably be able to offer the land for such a facility, it could also offer a streamlined permitting process which would also be an in-kind contribution. Based on the responses to the request, a careful review done by experts in the field could be made and the best proposal selected. The persons responsible for making the final selection would then be held accountable for their selection and provide the justification for the selection. Another alternative would be the use of special purpose revenue bonds. These

alternatives would be far more efficient and transparent than the tax credit proposed by this measure.

Merely handing out a tax credit to entice an economic activity is the “easy way” out for lawmakers. To really ensure the success of this venture, it will take creative thinking and hard work. An appropriation of funds, perhaps the issuance of special purpose revenue bonds, a joint venture, contributions of land or acceleration of the permitting process are but a few ways government could incentivize such a project without spending one cent of cold hard cash. If, in fact, lawmakers believe this infrastructure to be critical to the development of this industry, then lawmakers need to take a more active role as opposed to sitting back and letting the tax credit drive the activity.

Digested: 1/26/2022

February 10, 2022

Committee on Economic Development  
Representative Sean Quinlan, Chair  
Representative Daniel Holt, Vice Chair



*Working together for Kapolei*

Friday, February 11, 2022,  
10:00 a.m. via Videoconference

**RE: HB 2228, RELATING TO FILM INFRASTRUCTURE TAX CREDIT**

Dear Chair Quinlan, Vice Chair Holt and members of the Committee

My name is Kiran Polk, and I am the Executive Director of the Kapolei Chamber of Commerce. The Kapolei Chamber of Commerce is an advocate for businesses in the Kapolei region. The Chamber works on behalf of its members and the entire business community to improve the regional and State economic climate and help Kapolei businesses thrive. We are a member-driven, member-supported organization representing the interests of all types of business: small, medium or large, for profit or non-profit businesses or sole proprietorship.

The Kapolei Chamber of Commerce **strongly supports HB 2228** which will incentivize the film industry to build much needed infrastructure to support the growing film industry in the State of Hawai'i. According to the HI Dept. of Business Economic Development and Tourism, each dollar of qualified film credit in 2019 (pre-pandemic) increased the state's GDP by between \$2.51 to \$3.92 and increased household income by between \$1.58 and \$2.44. Hawai'i's unique geography between Asia and North America makes it an optimal location for the world's leaders in technology and health care to meet, collaborate and invest.

Furthermore, it is evident that the current film studio in Diamond Head cannot sustain the growing need for additional infrastructure **and West O'ahu provides an optimal location for these facilities including an additional film studio to be situated and is perfectly positioned to support the efforts.** The proximity of the newly constructed and dynamic Academy of Creative Media, Kalaeloa Airport, Barber's Point Harbor, local agriculture and farms, impressive coastlines, private and public buildings, and unique offerings like Ko Olina Resort, make West O'ahu a convenient and dynamic location for film production, technology incubators, and innovative workspaces.

These incentives for film infrastructure will result in more jobs and revenue into our state in these times we need to elevate and stimulate our economic revitalization efforts.

Thank you for this opportunity to provide testimony.

Best,

Kiran Polk  
Executive Director

**HB-2228**

Submitted on: 2/9/2022 11:30:16 AM

Testimony for ECD on 2/11/2022 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Sandie Wong	Individual	Support	Yes

Comments:

I support HB2228 and echo the testimony of Island Film Group. Thank you.