

DAVID Y. IGE
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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: Wednesday, February 9, 2022
Time: 10:00 A.M.
Place: Via Video Conference, State Capitol

Re: H.B. 2325, Relating to Business Development in Central Oahu

The Department of Taxation (Department) offers the following comments regarding H.B. 2325 for your consideration.

H.B. 2325 creates a refundable income tax credit for 100 percent of a taxpayer's expenses incurred to upgrade electrical and water systems in the Pearl City/Aiea and Waipahu Opportunity Zones. The Department of Business, Economic Development, and Tourism (DBEDT) is made responsible for certifying the credit.

The bill also creates a general excise tax (GET) exemption for taxpayers that invest more than \$750,000 over a ten-year period and creates at least 50 jobs in the Pearl City/Aiea or Waipahu opportunity zones. H.B. 2325 is effective upon approval and the proposed income tax credit applies to taxable years beginning after December 31, 2022.

First, the Department notes that both the proposed tax credit and the proposed GET exemption are for activity in designated Opportunity Zones. In general, an investment in an Opportunity Zone allows the taxpayer to defer, and permanently exclude, federal and state income tax on capital gains invested into a Qualified Opportunity Fund (QOF).

Investments in such zones qualify for federal and state tax deferral of realized capital gains only if the investment is made into a QOF. The proposed tax credit and GET exemption will apply to direct investments in the Pearl City/Aiea or Waipahu opportunity zones but those investments may not qualify for the general opportunity zone tax benefits.

Second, the Department appreciates that DBEDT is given responsibility for certifying the credit. The Department does not have the expertise necessary to monitor and manage ongoing investments in electricity and water infrastructure. The Department defers to DBEDT regarding its ability to certify the credit.

Third, the Department notes that the GET exemption requires an investment \$750,000 or more and the creation of 50 jobs. It is unclear when the GET exemption begins to apply and how long exemption valid for. It is important to note that consumer protection law does not allow the GET to be passed on if it is not due to the State. Thus, taxpayers who qualify for the exemption will not be able to pass the GET on. In addition, the Department suggests amending the GET exemption to require registration and proof of meeting the requirements to be allowed to claim the exemption.

Finally, the Department respectfully requests that the GET exemption be effective on January 1, 2023. The Department can administer the proposed income tax credit with the current effective date.

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

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

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

LATE

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT
ON
HOUSE BILL NO. 2325

February 9, 2022
10:00 a.m.
Room 312 and Videoconference

RELATING TO BUSINESS DEVELOPMENT IN CENTRAL OAHU

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

House Bill No. 2325 adds a new section to Chapter 235, HRS, and amends Section 237-23, HRS, to establish a general excise tax credit of up to \$150,000 for businesses investing more than \$750,000 over a ten-year period and creating a minimum of 50 job positions for the purpose of business development in the Pearl City, Aiea, and Waipahu opportunity zones.

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.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, GENERAL EXCISE, Central Oahu Infrastructure Upgrade Tax Credit and Exemption

BILL NUMBER: HB 2325

INTRODUCED BY: OKIMOTO

EXECUTIVE SUMMARY: Authorizes a GET exemption for businesses investing more than \$750,000 over a 10-year period and creating a minimum of 50 job positions for the purpose of business development in the Pearl-City Aiea and Waipahu opportunity zones. Establishes a tax credit for upgrading infrastructure in the Pearl-City Aiea and Waipahu opportunity zone.

SYNOPSIS: Adds a new section to chapter 235, HRS to establish the Central Oahu Infrastructure Upgrade Tax Credit.

Adds a new section in HRS chapter 235 that provides for an income tax credit equal to 100% of the taxpayer's qualified expenses of the taxpayer, up to a maximum of \$150,000. The credit is nonrefundable but may be carried forward until exhausted.

States that all credit claims, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the tax credit may be claimed. Failure to do so constitutes a waiver of the right to claim the tax credit.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for the qualified costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of the tax credit shall be determined by rule.

Provides that the director of taxation shall prepare any forms that may be necessary to claim a credit under this section, may require the taxpayer to furnish information to ascertain the validity of the claim for the tax credit made, and may adopt rules under chapter 91. Tasks DBEDT with certifying the credits.

Defines "qualified expenses" as costs that are necessary and directly incurred by the taxpayer for upgrading the electrical and water systems in the Pearl-City – Aiea and Waipahu opportunity zones as designated in their census tracts.

Amends section 237-23, HRS, which generally defines GET-exempt organizations, to add a new paragraph (a)(12) for businesses investing more than \$750,000 over a ten-year period and creating a minimum of fifty job positions for the purpose of business development in the Pearl-City Aiea and Waipahu opportunity zones.

EFFECTIVE DATE: Upon approval, provided Section 2 applicable to taxable years beginning after December 31, 2022.

Re: HB 2325

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STAFF COMMENTS: We question why Pearl City/Aiea is so unique and special as to merit an extraordinary incentive. Aren't jobs also necessary or desirable, and isn't infrastructure also necessary, in any of the other 22 census tracts federally designated as opportunity zones?

Digested: 2/7/2022



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TO: Committee on Economic Development
Rep. Sean Quinlan, Chair
Rep. Daniel Holt, Vice Chair

LATE

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

LATE

DATE: February 9, 2022
TIME: 10am
PLACE: Via Videoconference

RE: HB2325 Relating to

Position: Support Relating to Business Development in Central Oahu

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

HFIA is in support of this measure to authorize a GET exemption for businesses investing more than \$750,000 over a 10-year period and creating a minimum of 50 job positions for the purpose of business development in the Pearl-City Aiea and Waipahu opportunity zones. Establishes a tax credit for upgrading infrastructure in the Pearl-City Aiea and Waipahu opportunity zones.

Creating a strong diversified local economy is a goal we all share, and we support efforts by the state to enable new local economic growth. We believe there are a number of areas around our state that could benefit from this type of support from the legislature in order to promote the creation of new local businesses.

We encourage the committee to pass this measure and we thank you for the opportunity to testify.