



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**  
KA 'OIHANA HO'OMOHALA PĀ'OIHANA, 'IMI WAIWAI  
A HO'OMĀKA'IKĀ'I

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Statement of  
**CHRIS J. SADAYASU**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS**  
Tuesday, February 14, 2023  
Time 3:15 PM  
State Capitol, Conference Room 224 and Videoconference

In consideration of  
**SB 822**  
**RELATING TO CREATIVE DISTRICTS.**

Chair Lee, Vice Chair Inouye and members of the Committee. The Department of Business, Economic Development and Tourism (DBEDT) and its Creative Industries Division (CID) offers comments on SB 822, which seeks to establish creative districts under the direction of the State Foundation for Culture and the Arts, an agency attached to the Department of Accounting and General Services (DAGS) and proposes a five-year tax credit and county incentives for established districts. DBEDT defers to DAGS and its agency the State Foundation on Culture and the Arts (SFCA), and Department of Taxation (DoTAX) on sections related to establishment and implementation of tax credits in this measure.

CID supports the concept of Creative Districts, noting that the initiative must be coupled with an economic strategy which bolsters the talent and business acumen of all artists and gig workers, beyond the designation of an area. Development of creative districts is a recognized mechanism to unify businesses and organizations in areas with significant cultural resources, boosting economic development in their communities and regions.

As recently reported in the World Economic Forum in 2022, [the Unseco](#) 2021 and the Brookings Institute [Lost Art: The Impact of COVID-19 on Americas Creative Economy](#), the creative sectors globally and regionally, particularly in the performing, cultural and visual arts, were disproportionately impacted due to the pandemic. Hawaii is one of 5 states in the nation with a higher concentration of culture and arts sectors affected, then and now.

According to the National Assembly of State Arts Agencies (NASAA), there are currently 16 States with active cultural district programs with 343 unique cultural districts across the counties in these regions. As noted in a 2020 Policy Brief by NASAA, “Cultural districts have evolved into focal points that feature many types of businesses, foster a high quality of life for residents, attract tourism and engender civic pride.”

The broader ecosystem of any creative economy is crucial to enacting the Creative Districts plan. With clusters of creatives across the neighbor islands and Oahu, this effort would further catalyze opportunities and potentially investments in much needed affordable housing and coworking facilities for creatives in these areas of our state.

The department looks forward to partnering with SFCA, our county offices of Arts and Culture, Economic Development and culture and arts nonprofit sector should this measure pass.

Thank you for the opportunity to testify.

JOSH GREEN M.D.  
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SYLVIA LUKE  
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STATE OF HAWAII  
**DEPARTMENT OF TAXATION**

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**TESTIMONY OF  
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

**TESTIMONY ON THE FOLLOWING MEASURE:**

S.B. No. 822, Relating to Creative Districts

**BEFORE THE:**

Senate Committee on Transportation and Culture and the Arts

**DATE:** Tuesday, February 14, 2023

**TIME:** 3:15 p.m.

**LOCATION:** State Capitol, Room 224

Chair Lee, Vice-Chair Inouye, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 822 for your consideration.

S.B. 822 seeks to amend chapter 9, Hawaii Revised Statutes (HRS), to establish creative districts in designated areas of the State. The Foundation on Culture and the Arts ("Foundation") will be responsible for the establishment and administration of the creative districts, including collaboration with the counties where application for a creative district is made as well as extension of the approval beyond the undetermined duration as currently written.

For taxation purposes, the new section 9-D, beginning on page 6 of the bill, provides for a nonrefundable income tax credit for taxpayers who are deemed to be "creative enterprises" within a "certified creative district." The amount of the credit shall be equal to an unspecified percent of the tax due for each of the first five years. The credit will be applicable to a taxpayer's income tax liability, as long as the taxes are on the gross proceeds attributable to a designated creative district, with any excess credit carried forward to the following year. The Foundation will be responsible for certifying the applicability of the tax credit on an annual basis. Section 23-94, HRS, will also be amended with the addition of the creative district tax credit. The Foundation must also submit an annual report to the legislature no later than twenty days prior to the

convening of the regular session.

The bill is effective upon approval and will apply to taxable years beginning after December 31, 2023.

The Department suggests amending new section 9-D(d) to clarify that any taxpayers considered to be creative enterprises shall allocate and apportion its taxable income to designate business conducted inside and outside of the creative district.

Further, the Department defers to the Foundation on Culture and the Arts on its ability to certify and administer the designation of creative districts and eligibility for this credit, but requests that the third-party certification requirement be maintained.

Finally, the Department notes that it is able to administer this bill by the current effective date.

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

# OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Transportation and Culture and the Arts

From: Cheryl Kakazu Park, Director

Date: February 14, 2023, 3:15 p.m.  
State Capitol, Conference Room 224

Re: Testimony on S.B. No. 822  
Relating to Creative Districts

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Thank you for the opportunity to submit testimony on this bill, which would create a process for the establishment of creative districts. The Office of Information Practices (OIP) takes no position on the substance of the bill, but offers comments and a **proposed amendment** regarding the creative district advisory committee(s) created by this proposal.

Subsection 9-C(b), on bill page 6 lines 6-9, requires an advisory committee considering a petition to establish a creative district to conduct that meeting under chapter 92, HRS, which includes both the Sunshine Law (part I of chapter 92) and miscellaneous other provisions, most of which have nothing to do with board meetings. The bill also requires the advisory committee to be subject to chapter 91, HRS, which sets separate notice requirements for public hearings on proposed agency rules and for notice of a contested case hearing. It is not clear which type of chapter 91 notice the proposal requires.

An advisory committee would meet the definition of a board subject to the Sunshine Law, so it will have to follow the Sunshine Law's standards at all times, not just for meetings in which it considers a petition. A Sunshine Law board

holding a public hearing on proposed rules must give both the required Sunshine Law notice and the rulemaking notice required by section 91-3. However, a Sunshine Law board holding a contested case hearing under section 91-9 is specifically exempted from the Sunshine Law during the exercise of its adjudicatory function. Thus, depending on whether the advisory committee is supposed to be treating the meeting as a rulemaking hearing or as a contested case hearing, this proposal may be requiring it to give a double notice that would not ordinarily be required.

OIP recommends that this Committee amend this proposal to clarify its intent: should an advisory committee be required to provide double notice under both the Sunshine Law and a type of chapter 91 notice, and if so, which type of chapter 91 notice must be given – notice of rulemaking under section 91-3, HRS, or of a contested case hearing under section 91-9, HRS? **If this Committee’s intent is to require only Sunshine Law notice, subsection 9-C(b) at page 6, lines 6-9, can be deleted entirely** because the advisory committee will already be subject to the Sunshine Law for all its meetings as a Sunshine Law board. **If this Committee’s intent is to require contested case notice and the Committee also wants the advisory committee to follow Sunshine Law during the contested case hearing, subsection 9-C(b) should read:**

**(b) The advisory committee shall give public notice of any public meeting to consider a petition pursuant to the requirements of section 91-9 but shall not be exempt from part I of chapter 92 in conducting the meeting.**

And finally, **if this Committee’s intent is to treat the petition hearing as a form of rulemaking**, subsection 9-C(b) should read:

(b) The advisory committee shall give public notice of any public meeting to consider a petition pursuant to the requirements of section 91-3, which shall be in addition to the notice and other requirements set out in part I of chapter 92.

Thank you for considering OIP's testimony.



**HAWAII**

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**TESTIMONY OF  
THE STATE FOUNDATION ON CULTURE AND THE ARTS  
TO THE SENATE COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS  
February 14, 2023 Conference Room 309 & Videoconference at 3:15PM  
S.B. 822  
RELATING TO CREATIVE DISTRICTS**

Chair Lee and members of the Committee, the State Foundation on Culture and the Arts (SFCA), is pleased to offer testimony in **SUPPORT** of S.B.822. S.B.822 creates a process for the establishment of a creative district. Establishes a five-year tax credit for creative districts. Permits counties to enact incentives for creative districts.

Hawaii's unique creative economy is one of our most important resources that separates us from all other destinations. When we invest in our creative economy, we invest in the economic stability of Hawaii. By developing policies that create economic incentives for the private sector to put financial backing behind the creative economy, we create economies of belonging that are sustainable and can absorb the visitor impact.

Nationwide, Creative Districts offer a variety of different strategies, each tailored to their respective communities. There is no one size fits all. The Creative District designation varies in complexity from the most complex including tax credits, to the simplest designation by name only. Overall, Creative Districts designation supports economic growth in communities.

The Washington State Arts Commission Arts WA website provides a good example of how [Creative Districts](#) can work.

Creative District programs help communities thrive by turning cultural activities into economic growth. As Hawaii looks to diversify its economy, creative district designation can play a role in Hawaii's economy by connecting the visitor with Hawaii's rich culture and arts resources including music, dance and food.

For more information on State Cultural Districts nationwide, there are several studies:

[State Cultural Districts Policy Brief](#) - National Assembly of State Arts Agencies

[National Cultural Districts Exchange Toolkit](#) - Americans for the Arts

The State Foundation On Culture and the Arts supports an appropriation and staff to facilitate the establishment of a Creative Districts Program in Hawaii.

Thank you for the opportunity to testify on this matter.



# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

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SUBJECT: INCOME, Tax Credit for Creative Districts

BILL NUMBER: SB 822

INTRODUCED BY: DELA CRUZ, CHANG, KEITH-AGARAN, MCKELVEY, Kidani, Moriwaki

EXECUTIVE SUMMARY: Creates a process for the establishment of a creative district. Establishes a five-year tax credit for creative districts. Permits counties to enact incentives for creative districts. Requires the State Foundation on Culture and the Arts to submit an annual report to the Legislature on creative districts.

SYNOPSIS: Adds a new part to chapter 9, HRS, to govern Creative Districts.

The income tax credit is granted by section 9-D to a “creative enterprise” within a creative district. It applies only to taxes on the gross proceeds attributable to a designated creative district. The tax credit shall be \_\_\_% of the tax due for the first year, \_\_\_% of the tax due for the second year, \_\_\_% of the tax due for the third year, \_\_\_% of the tax due for the fourth year, and \_\_\_% of the tax due for the fifth year. The credit is nonrefundable but may be carried forward until exhausted.

Amends section 23-94, HRS, to have the incentive created by this bill reviewed by the State Auditor periodically, like all credits and incentives are supposed to be.

EFFECTIVE DATE: Taxable years beginning after December 31, 2023.

STAFF COMMENTS: The apparent intent of the measure is to create arts districts with attached tax incentives that have some similarity to the incentives for Enterprise Zones under chapter 209E, HRS.

The enterprise zone program was enacted as a cooperative program between the state and the counties to promote jobs in areas of high unemployment. Certain areas are designated as enterprise zones through joint action of the state and counties. In a zone, the state offers an income tax credit for the tax attributable to the eligible business conducted in the zone, which is normally applied on a sliding scale – 80% for the first year, 70% for the second, and so on until the credit is 20% for the seventh and last year in the program. It also offers an unemployment tax credit for the tax attributable to employees doing the eligible business in the zone, on the same sliding scale. Finally, the state offers a general excise tax exemption for the eligible business attributed to the zone. The counties also offer incentives, which vary by county. In return, the business commits to either maintain or increase the number of employees in the zone doing the eligible activity, depending on whether it was already in the zone upon designation or moved to the zone.

As business incentives go, the enterprise zone program is better than most. The incentive applies to a specific activity (here, creating and maintaining employment) targeted to the problem the program seeks to address. The incentive tapers off over time and then stops. It requires accountability, namely required reports to DBEDT for a business to retain its eligibility. The business itself may need a different kind of assistance, such as financing, but the state is here focusing on creating and maintaining jobs in areas that need them.

To support the Creative District program, we suggest that the overseeing agency manage the creative enterprises in a district by securing the commitment of the enterprise to a metric that the Legislature finds relevant (such as creating and maintaining employment within the zone as is required under the enterprise zone program).

Digested: 2/11/2023

**SB-822**

Submitted on: 2/12/2023 7:30:59 PM

Testimony for TCA on 2/14/2023 3:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support SB822.