

## ACT 260

S.B. NO. 972

A Bill for an Act Relating to Ship Repair Industry.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Pearl Harbor Naval Shipyard, one of four naval shipyards in the United States, comprises six per cent of Hawaii's gross domestic product. While the submarine footprint in Pearl Harbor will continue to grow slightly by 2025, the surface combatant fleet currently homeported in Pearl Harbor may be significantly reduced.

Based on the current Navy Workload Schedules, there are plans to relocate surface ships to San Diego for deep maintenance, with some of these ships at risk of not returning. These types of surface vessel repairs are typically outsourced to private-sector ship repair companies and constituted a major part of the estimated \$180,000,000 to \$200,000,000 in civilian ship repair activities in Hawaii during 2018.

The legislature finds that the impact of losing surface vessel repair work would be far-reaching and would directly cause the loss of military jobs associated with surface ships. The Navy's drydock capacity shortfalls will refocus nearly one hundred per cent of the current Pearl Harbor drydock capacity on submarine maintenance and displace nearly all surface ship drydock maintenance and modernization to the west coast. The adverse economic impacts of displaced ship repair activities over the next seven years include the loss of nearly \$1,310,000,000 in Hawaii gross domestic product, \$351,000,000 in lost labor earnings, and an annual average decrease of nine hundred jobs each year. The loss of Navy surface ship drydock maintenance to the Pearl Harbor private-sector ship repair community would significantly diminish the local ship repair industry to an unrecoverable degree.

The legislature further finds that the construction of a purpose-built floating drydock capable of accommodating any of the submarines and surface ships currently in and planned for at Pearl Harbor represents the best mitigating solution for the State. This floating drydock will protect private-sector maritime jobs that are expected to be lost and will stimulate overall job growth in the ship repair industry, prevent the erosion of Hawaii's private ship repair capability, and provide greater strength and stability to the Navy's Mid-Pacific Surface Force. The legislature believes that a ship repair industry tax credit will ultimately result in a fifth drydock. Given that a drydock's life cycle is fifty years or more, additional Pearl Harbor drydocking capacity will benefit the State's economy well into the future.

The purpose of this Act is to establish the ship repair industry tax credit to incentivize construction of a new drydock at Pearl Harbor for use by the United States Navy.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§235- Ship repair industry tax credit.** (a) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter a ship repair industry tax credit that shall be deductible from the taxpayer’s net income tax liability, if any, imposed by this chapter.

(b) The amount of the tax credit shall be equal to thirty per cent of the ship repair industry costs paid or incurred by the qualified entity to design and construct the purpose-built floating dry dock to be used by the United States Navy in Pearl Harbor; provided that:

- (1) A qualified entity may form a special purpose entity for the purposes of raising investor capital and claiming the credit on behalf of the qualified entity;
- (2) The qualified entity, together with all of its special purpose entities, including all partners and members of the qualified entity and its special purpose entities, shall not claim any credit in any one taxable year that exceeds \$6,000,000; however, if the total amount of credits applied for in any particular year exceeds the aggregate amount of credits allowed for such year under this section, the excess shall be treated as having been applied for in the subsequent year and shall be claimed in such year; provided that no excess shall be allowed to be claimed after December 31, 2026; and
- (3) In no event shall a qualified entity or any of its special purpose entities or any other taxpayer claim a credit under this section prior to January 1, 2022, or after December 31, 2026.

A qualified entity shall become eligible to claim a credit under this section only after construction of the floating drydock has been completed and the floating drydock has been placed into service.

(c) In the case of an entity taxed as a partnership, credit shall be determined at the entity level, but distribution and share of the credit may be determined notwithstanding sections 704 or 706 of the Internal Revenue Code.

(d) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. If the tax credit under this section exceeds the taxpayer’s income tax liability, the excess of the tax credit over liability may be used as a credit against the taxpayer’s net income tax liability in subsequent years until exhausted. All claims, including amended claims, for a tax credit under this section shall 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. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(e) The director of taxation shall prepare any forms that may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish information to ascertain the validity of the claim for credit made under this section. The director of taxation may adopt rules to effectuate the purposes of this section pursuant to chapter 91.

(f) Any taxpayer claiming a tax credit under this section, within ninety days of the end of the calendar year in which the credit is properly claimable, shall submit the following information to the department of taxation:

- (1) The amount of the eligible costs for which the tax credit may be claimed; and

(2) The qualified entity that incurred the costs. Failure to timely submit the information shall be subject to a penalty of \$5,000 per month or a fraction thereof, not to exceed \$25,000.

(g) This section shall not apply to taxable years beginning after December 31, 2026.

(h) For the purpose of this section:

“Net income tax liability” means income tax liability reduced by all other credits allowed under this chapter.

“Qualified entity” means an entity with the principal purpose of facilitating and enhancing the ship repair business in the State and that is involved in the design and construction of a purpose-built floating drydock to be used by the United States Navy in Pearl Harbor.

“Ship repair industry costs” means capital expenditures, as used in section 263 of the Internal Revenue Code and the regulations promulgated thereunder, or capital expenditures for real property, fixtures, structures, machinery, equipment, or capital assets that are paid or incurred in connection with the construction of a purpose-built floating drydock; provided that the ship repair industry costs shall not include amounts for which another credit is claimed or any amounts received in any form from the State.”

SECTION 3. Section 235-17.5, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on January 1, 2020, and shall apply to taxable years beginning after December 31, 2021.

(Approved July 5, 2019.)

#### Note

1. Edited pursuant to HRS §23G-16.5.