

JAN 25 2023

A BILL FOR AN ACT

RELATING TO WORKFORCE DEVELOPMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the Hawaii film and
2 television industry has continued to grow over the past twenty
3 years due to state tax incentives and the resulting increase in
4 the number of feature film, television series, and commercial
5 productions filming in Hawaii, which has directly contributed to
6 the increase in the number of trained local crew members as well
7 as service and equipment vendors.

8 The legislature further finds that the existing motion
9 picture, digital media, and film production income tax credit,
10 which currently provides a twenty-two or twenty-seven per cent
11 refundable tax credit for Hawaii-based film and television
12 projects, has attracted a number of blockbuster feature films
13 and long-running television series to the State. This tax
14 incentive is ideally suited for large, studio-funded projects
15 that search locations across the globe to find ones that meet
16 both their artistic and financial requirements.



1 The legislature also finds that the tax credit claiming
2 process is both expensive and time-consuming. Voluminous
3 reports are required, department of taxation rules relating to
4 the tax credit are confusing and cumbersome, and it can take
5 more than two years to receive the tax credit. While these
6 issues do not deter large-budget projects, the burden on
7 smaller-budget projects is substantial.

8 The legislature additionally finds that smaller projects,
9 with total budgets in the range of \$5,000,000 and wages in the
10 range of \$2,000,000, generally rely more heavily on local crew
11 members since the cost of hiring a nonresident crew member can
12 exceed \$2,000 per week in additional costs. Some smaller
13 projects may also attempt to pay crew members as independent
14 contractors in order to save money. That practice does not meet
15 federal and state labor laws, subjects local crew members to
16 potentially uninsured injury claims, and results in a reduction
17 in state tax and unemployment insurance collections.

18 Accordingly, the purpose of this Act is to address these
19 issues and encourage the growth of local independent film and
20 television productions by requiring the department of business,
21 economic development, and tourism to administer a workforce



1 development incentive rebate program that incentivizes local
2 independent film and television productions.

3 SECTION 2. Chapter 201, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§201- Workforce development incentive; rebate program.

7 (a) The department of business, economic development, and
8 tourism shall administer a workforce development incentive
9 rebate program that incentivizes local independent film and
10 television productions.

11 (b) Beginning January 1, 2024, each eligible employer
12 shall receive a rebate equal to fifty per cent of all Hawaii W-2
13 wages paid for the filming of film, television, commercial, and
14 print projects, which shall be capped at \$50,000 per employee,
15 per project; provided that no project shall receive more than
16 \$1,000,000 in total rebates.

17 (c) To receive a rebate under this section, an eligible
18 employer shall submit project information, a cost report, a
19 payroll report, and the department of taxation statement of
20 Hawaii income tax withheld and wages paid (form HW-2), or an



1 equivalent document showing all Hawaii W-2 wages paid, to the
2 department quarterly or after completion of the project.

3 (d) An eligible employer shall receive the rebate within
4 thirty days of submitting the documentation required under
5 subsection (c).

6 (e) An eligible employer who claims a rebate under this
7 section shall not be eligible for the motion picture, digital
8 media, and film production income tax credit under section
9 235-17 for the same project.

10 (f) Rebates issued pursuant to this section shall not be
11 subject to income tax or general excise tax.

12 (g) For the purposes of this section, "eligible employer"
13 means the common law employer that:

- 14 (1) Hires the employee;
15 (2) Is registered to do business in the State;
16 (3) Obtains a general excise license number; and
17 (4) Has production insurance."

18 SECTION 3. Section 235-17, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Any law to the contrary notwithstanding, there shall
21 be allowed to each taxpayer subject to the taxes imposed by this



1 chapter, an income tax credit that shall be deductible from the
2 taxpayer's net income tax liability, if any, imposed by this
3 chapter for the taxable year in which the credit is properly
4 claimed. The amount of the credit shall be:

5 (1) Twenty-two per cent of the qualified production costs
6 incurred by a qualified production in any county of
7 the State with a population of over seven hundred
8 thousand; or

9 (2) Twenty-seven per cent of the qualified production
10 costs incurred by a qualified production in any county
11 of the State with a population of seven hundred
12 thousand or less.

13 A qualified production occurring in more than one county may
14 prorate its expenditures based upon the amounts spent in each
15 county, if the population bases differ enough to change the
16 percentage of tax credit.

17 In the case of a partnership, S corporation, estate, or
18 trust, the tax credit allowable is for qualified production
19 costs incurred by the entity for the taxable year. The cost
20 upon which the tax credit is computed shall be determined at the



1 entity level. Distribution and share of credit shall be
2 determined by rule.

3 If a deduction is taken under section 179 (with respect to
4 election to expense depreciable business assets) of the Internal
5 Revenue Code of 1986, as amended, no tax credit shall be allowed
6 for those costs for which the deduction is taken.

7 Any taxpayer who claims a tax credit under this section
8 shall not be eligible for a workforce development incentive
9 rebate under section 201- for the same project.

10 The basis for eligible property for depreciation of
11 accelerated cost recovery system purposes for state income taxes
12 shall be reduced by the amount of credit allowable and claimed."

13 SECTION 4. This Act shall take effect upon its approval;
14 provided that:

15 (1) Section 3 shall apply to taxable years beginning after
16 December 31, 2022; and

17 (2) The amendments made to section 235-17, Hawaii Revised
18 Statutes, by section 3 of this Act shall not be
19 repealed when that section is reenacted on January 1,
20 2033, pursuant to section 4 of Act 88, Session Laws of
21 Hawaii 2006, as amended by Act 89, Session Laws of



S.B. NO. 1616

1 Hawaii 2013, as amended by Act 143, Session Laws of
2 Hawaii 2017, as amended by Act 217, Session Laws of
3 Hawaii 2022.

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INTRODUCED BY: *Samuel A. Hironaka*



S.B. NO. 1616

Report Title:

Creative Industries; Workforce Development Incentive; Rebate Program; DBEDT

Description:

Beginning 1/1/2024, requires the department of business, economic development, and tourism to administer a workforce development incentive rebate program that incentivizes local independent film and television productions.

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