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HOUSE COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS & MILITARY
AFFAIRS

TESTIMONY REGARDING HB 898
RELATING TO TAX CREDITS

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 19, 2009

TIME: 9:30AM

ROOM: 312

This bill proposes to amend Chapter 235 by adding a new section, which contains a tax credit for employers of telecommuters.

The Department of Taxation (Department) **take no position on the merits** of this legislation; **however opposes the bill due to its revenue impact.**

IMPORTANCE OF TELECOMMUTING

The legislation is an interesting incentive that provides a tax credit for employers that allow employees to work from home. Telecommuting can have several benefits to not only individual employees, but also the community at-large. For example, there is one less car on the roads for every employee working from home. Moreover, telecommuting provides flexibility with childcare and other duties during a workday.

GENERAL COMMENTS

ADMINISTRATIVE BURDENS—The bill requires the Department to provide tentative approval of the credit costs prior to the costs being incurred. The Department appreciates the intent of the preapproval requirement in order to maintain the statutory cap; however the Department's already limited resources would be further impacted. The bill also needs to adequately define critical components of the credit, such as "attainment areas."

FINANCING THE ASSESSMENT—The Department questions whether the law also needs to finance the assessment on the feasibility and modifications necessary to accomplish telecommuting. The Department suggests eliminating the credit for the telecommute assessment and allow the employers to shoulder this cost. This would also allow for more credits to be available for

the actual telecommuting. It would be unfortunate to see a majority of the credit be spent on feasibility studies; with no credits available to finance the actual costs of accomplishing the goal of this bill.

RECAPTURE—The Department points out that this bill lacks a recapture provision. For a credit as potentially generous as this, the Department recommends that there be a 100% recapture for any telecommuting agreement that ceases in the first few years. The recapture could be crafted such that if an employee quits or is fired, the credit-funded telecommuting equipment and facilities need to be transferred to another employee.

OPPOSED DUE TO COST— The Department cannot support the tax provision in this measure because it is not factored into the budget. The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. Given the forecasted decrease in revenue projections, this measure would add to the budget shortfall.

REVENUE IMPACT

This bill will result in a revenue loss of \$2 million per year due to its cap.

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SUBJECT: INCOME, Telecommuting tax credit

BILL NUMBER: SB 255; HB 898 (Identical)

INTRODUCED BY: SB by Gabbard, Chun Oakland, Green, and 3 Democrats; HB by Har

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow an employer to claim a telecommuting tax credit for telecommuting expenses.

Employers in nonattainment areas shall be eligible for a credit of 100% of the expenses incurred pursuant to a telecommute agreement requiring the employee to telecommute at least 12 days per month if the employer's place of business is located in an area designated by the U.S. Environmental Protection Agency as a nonattainment area.

Employers in attainment areas shall be eligible for a credit of 75% of the eligible expenses incurred pursuant to a telecommute agreement requiring the participating employee to telecommute at least 12 days per month.

Employers who have employees that telecommute at least five days, but less than 12 days per month shall be eligible for a credit of 75% of the expenses incurred pursuant to a telecommute agreement requiring the participating employee to telecommute at least five days per month

An employer may claim up to \$1,200 for each employee in a calendar year to enable a participating employee to begin to telecommute. Eligible telecommute expenses may include: expenses to purchase computers, computer-related hardware and software, modems, data processing equipment, telecommunications equipment, high-speed internet connectivity equipment, computer security software and devices, and all related delivery, installation, and maintenance fees. Expenses shall not include replacement costs for computers, computer-related hardware and software, modems, data processing equipment, telecommunications equipment, or computer security software and devices at the principal place of business when that equipment is relocated to the telecommute site. These expenses shall not include expenses for which a credit is claimed under any other provision of this chapter. Telecommute expenses may be incurred only once per employee. The telecommuting income tax credit shall be applicable to tax years beginning after December 31, 2009.

Also allows an employer to claim a tax credit for costs associated with a telecommute assessment in the calendar year of implementation of the employer's telecommute program, up to a maximum credit of \$20,000 for the preparation of the assessment. Assessment costs incurred on or after July 1, 2009, and before January 1, 2010, shall be treated as being incurred on January 1, 2010 for purposes of this section. Assessment costs may include telecommute program planning expenses, including direct program development and training costs, raw labor costs, and professional consulting fees. This credit may be claimed only once by the employer and stipulates that all telecommute assessments shall meet any standards for eligibility that are adopted by the director of taxation.

Credits in excess of an employer's net income tax liability shall not be refunded and any unused credit shall not be allowed to be carried forward to any succeeding years' tax liability. No unused tax credit shall be allowed by the employer against prior years' tax liability. Further delineates procedures and the time period to apply for the credit by an employer. The tax credit for employers to conduct a telecommute assessment shall take effect on July 1, 2009.

The aggregate amount of tax credits approved by the director of taxation for all qualified employers in a calendar year shall not exceed: (1) \$2,000,000 for credits earned in calendar year 2009; and (2) \$2,000,000 for credits earned in calendar year 2010.

Defines "employer," "participating employee," "telecommute," "telecommute agreement," and "telecommute assessment" for purposes of the measure.

The telecommute tax credit shall be available for taxable years beginning after December 31, 2009 and shall not be available for taxable years beginning after December 31, 2011.

EFFECTIVE DATE: Upon approval as noted in the measure

STAFF COMMENTS: This measure proposes an incentive in the form of an income tax credit to encourage employers to allow their employees to telecommute and perform their work at home in an effort to alleviate heavy traffic congestion. It should be noted that the tax system is not an efficient means for accomplishing this goal.

It should be noted that income tax credits are designed to reduce the tax burden by providing relief for taxes paid. Tax credits are justified on the basis that low-income taxpayers, those with a lesser ability to pay, should be granted relief for taxes imposed. The proposed measure would merely result in a subsidy by the state of costs incurred by an employer to allow an employee to telecommute.

More importantly, the enactment of this measure would discriminate against those employers who need the physical presence of their employees at the workplace and against employers who may not have the means to allow their employees to telecommute. At the same time, the loss of revenues without a concurrent reduction in spending will insure that all taxpayers will continue to struggle with Hawaii's heavy burden of taxes.

It should be noted that the measure contains references to "nonattainment area," and "attainment area" that need to be defined for the purposes of this bill.

Digested 2/5/09

**Testimony to the House Committee on Economic Revitalization, Business and Military
Affairs**

Thursday, February 19, 2009

9:30 AM

Conference Room 312

RE: HOUSE BILL NO. 898 RELATING TO INCOME TAX CREDITS

:

Chair McKelvey, Vice Chair Choy and members of the committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I am here to state The Chamber's support to House Bill No. 898, relating to Income Tax Credits.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

HB 878 provides an income tax credit for employers when their employees telecommute for work.

Telework is a concept that changes the notion of work being a place to work being a process or activity. With today's affordable PCs, Internet access, on line services and software designed to support teleworking; businesses are in a position to leverage the concept.

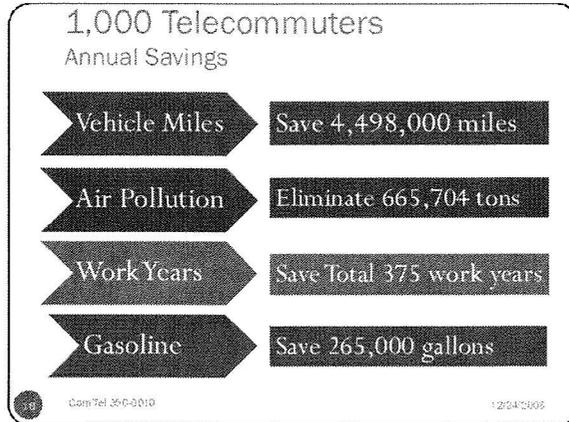
During our economic crises, we must rely on our own initiatives as well as those of government to keep our businesses viable and our employees on the job. The teleworking strategy reaches beyond the economic boundary and includes social and environmental benefits:

- Reduces rent, parking, etc. costs
- Increases worker productivity
- Sustains work force and provides better life/work balance
- Eases personal commuting costs and stress
- Compliments Rapid Transit to alleviate transportation congestion
- Supports good environmental policy and reduces carbon footprint

Teleworking is the norm in the Mainland and increased productivity has been extensively documented. Hawaii's relatively small homes may not lend themselves to support home offices, so we need to use empty office space to create telework centers. GSA in Washington D.C. has

eight buildings surrounding the belt way to support both federal and commercial teleworkers. We can do something significant now to relieve the congestion our Leeward employees endure.

In regard to our precious environment, the 2000 census counted 224,000 vehicles traveling from Leeward and Central Oahu during each 24 hour period. A reduction of 1,000 vehicles will create following savings:



In Hawaii, small businesses are the engine for Hawaii's economy through the creation of jobs which provide innovative products and services, and the generation of economic activity. They reflect all industries and a wide range of employment.

Keeping up with the rules and regulations contribute greatly to the cost of doing business in Hawaii. Therefore, providing incentives to small businesses, such as a telecommuting tax credit would help stimulate growth, especially at a time when Hawaii needs it most.

Thus, The Chamber respectfully requests HB 898 be passed for further discussion. Thank you for the opportunity to testify.