



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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January 25, 2011

To: The Honorable Angus L.K. McKelvey, Chair
and Members of the House Committee on Economic Revitalization & Business

Date: Thursday, January 27, 2011
Time: 9:00 a.m.
Place: Conference Room 312, State Capitol

From: Dwight Takamine, Director
Department of Labor and Industrial Relations

Re: H.B. No. 811 Relating to Employment

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 811 proposes to use information furnished by a taxpayer in form UC-B6 submitted to the Department of Labor and Industrial Relations (DLIR) Unemployment Insurance (UI) Division to determine eligibility of a tax credit.

II. CURRENT LAW

There is no current provision. A new section will be created in Chapter 235, Hawaii Revised Statutes.

III. HOUSE BILL

While the DLIR does not oppose this measure, the following are some limitations of the information contained on the Form UC-B6 that should be considered in determining whether or not its use is appropriate to achieve the bill's intended purpose:

1. The "covered employees" on form UC-B6 pertains only to those employees covered under Chapter 383. Not all workers are covered for unemployment insurance purposes.

The number of employees on form UC-B6 is the count of all full-time and part-

time workers in covered employment who worked during or received pay for the payroll period as of the twelfth day of each month. If the number of employees fluctuates from month to month or within a month, the UC-B6 will not reflect such variances.

In addition, covered worker counts reported for each calendar month cannot be added when trying to determine the number of covered employees an employer had in its employ during the calendar year. For example, an employer who has one employee for the year would report that one employee in each of the 12 months. Under HB 811, the number of covered employees would be 12 employees for the year when, in fact, this employer had only one employee during the entire calendar year.

2. Information on form UC-B6 is not validated by the UI Division.
3. Taxpayers will be responsible for retaining their own copy of form UC-B6 to provide to the State Department of Taxation as the UI Division may not be able to provide a copy to them upon request.

From: Tina Desuacido [tina500@juno.com]
Sent: Wednesday, January 26, 2011 2:13 PM
To: ERBtestimony
Subject: Tax Foundation Testimony
Attachments: h0801-11.pdf; h0810-11.pdf; h0811-11.pdf

TRANSMISSION OF TESTIMONY

DATE: Wednesday, January 26, 2011

TO: House Committee on Economic Revitalization & Business

FROM: Tax Foundation of Hawaii

Total Pages 6

FOR: Rep. Angus McKelvey, Chair

Testifier: Lowell L. Kalapa, President - Tax Foundation of Hawaii

(Mr. Kalapa will not appear in person at the hearing.)

Date of Hearing - Thursday, January 27, 2011

Time of Hearing - 9:00 am

HB 801 - Relating to Taxation (2 pages)

HB 810 - Relating to Employment (2 pages)

HB 811 - Relating to Employment (2 pages)

Number of copies - 4

Thank you.

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SUBJECT: INCOME, Employment increase tax credit

BILL NUMBER: HB 811

INTRODUCED BY: Say

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim an employment increase tax credit of up to \$50,000 each year beginning after December 31, 2010, or December 31, 2011. A taxpayer shall be eligible for the tax credit in either or both taxable years if the taxpayer increased the: (1) number of covered employees in the taxpayer's business in calendar year 2011 or 2012 by at least 10% than the number of covered employees in the taxpayer's business in the immediately preceding calendar year; and (2) total wages paid to covered employees by the taxpayer in calendar year 2011 or 2012 by at least 10% more than the total wages paid in the immediately preceding calendar year.

The amount of the credit shall be 10% of the amount of the increase in total wages paid to covered employees in calendar year 2011 or 2012, as applicable, over the total wages paid in the immediately preceding calendar year. Stipulates that the tax credit for increases of covered employees and total wages paid in calendar year 2011 shall be deductible from the taxpayer's net income tax liability for the taxable year beginning after December 31, 2010; and the tax credit for increases of covered employees and total wages paid in calendar year 2012 shall be deductible from the taxpayer's net income tax liability for the taxable year beginning after December 31, 2011.

Delineates provisions for the calculation of the credit if a taxpayer acquires the business of or succeeds an employer who employed covered employees and paid total wages in calendar years 2010, 2011, or 2012.

If any tax credit claimed by a taxpayer under this section exceeds the taxpayer's income tax liability for the taxable year beginning after December 31, 2010, or December 31, 2011, as applicable, the excess of tax credit over liability may be claimed against the taxpayer's future income tax liability until exhausted.

Requires all claims for the credit to be filed on or before the end of the twelfth month following the close of the taxable year beginning after December 31, 2010 or December 31, 2011. If a portion of the tax credit is unused in that taxable year and carried forward, the carried forward credit shall be claimed on or before the twelfth month following the close of each succeeding taxable year until exhausted. Failure to comply with the foregoing provisions shall constitute a waiver of the right to claim the credit.

Allows the director of taxation to: (1) prepare the forms necessary to claim a tax credit; (2) require the taxpayer to furnish information to ascertain the validity of the claim for the tax credit under this section; and, (3) adopt rules necessary to effectuate the purposes of this section pursuant to HRS chapter 91.

Defines "covered employee" as an employee whose wage information is required to be furnished in form

UC-B6 to the department of labor and industrial relations by a taxpayer. Also defines “net income tax liability,” “number of covered employees,” “total wages paid to covered employees,” and “form UC-B6” for purposes of the measure.

This act shall be repealed on December 31, 2013; provided that the repeal of this act shall not prohibit a taxpayer from claiming any carryover tax credit after December 31, 2013.

EFFECTIVE DATE: Tax years beginning after December 31, 2010

STAFF COMMENTS: This measure would provide an income tax credit of up to \$50,000 in each of two years for those employers who are able to “grow” their business by 10% in covered employees and wages. It should be remembered that the use of the tax system to promote or encourage social goals is an inefficient use of the system. If enacted, this proposal would result in nothing more than a subsidy by the state to such employers and would not in any way address the employer’s need for tax relief.

This proposal, like many others, reflects the lack of understanding of the many challenges employers face in their attempt to stay in business and make a profit. This proposal assumes the business has access to credit or is sitting on substantial capital that it will be able to add to its workforce and payroll an amount greater than ten percent. The challenge for many businesses - both large and small - in recent years is the ability to access credit as the credit market froze beginning in late 2007. Thus, like many other legislative proposals which would establish tax credits as incentives to get taxpayers to undertake certain actions, they presume that the taxpayers have the resources to take that action. Thus, tax credits favor only those who have resources available and discriminates against those who do not have those resources.

It should be also noted that these proposed credits are worthless to any business that is not making a profit as any excess credits over tax liability will not be refunded to the employer. Thus, unless the business is profitable, there will be no profits to tax and there will be no tax liability against which to apply the proposed credits.

Further, because there is no limitation of the amount of credit that may be claimed by all employers, this measure could potentially result in an unanticipated drain of state resources. It is questionable whether the state can afford this credit given its current financial crisis. Also there appears to be no minimum time period the additional covered employees must be retained in order to claim the credit. As proposed, a new covered employee may be hired and laid off in a few years and the employer would still be eligible for the credit.

Finally, while the intent of the measure is to encourage employers to expand their businesses, it should be remembered that a business must have sufficient growth or activity to justify the hiring of additional employees and an increase in wages paid. In the state that the economy is right now, it is commendable that many businesses are still around as compared to those that have shuttered their doors recently. Thus, while the intent of this measure is commendable, it falls far short of recognizing the challenges facing business in this economic environment. Rising costs of unemployment insurance, the possibility of an increase in the general excise tax, and increases in fees, as well a new maze of regulations with which to comply, merely increases the cost of doing business in Hawaii. Until these issues are addressed, no amount of tax incentives will improve the outlook for business and the jobs they create.



Representative Angus McKelvey, Chair
Representative Isaac Choy, Vice Chair
Committee on Economic Revitalization & Business

HEARING Thursday, January 27, 2011
9:00 am
Conference Room 312
State Capitol, Honolulu, Hawaii 96813

RE: **HB811, Relating to Employment**

Chair McKelvey, Vice Chair Choy and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to the support of the retail industry and business in general in Hawaii. The retail industry is the one of the largest single employers in the state, employing almost 23% of the labor force.

RMH supports the concept and intent of HB811, which provides a tax credit for increases in the total number of covered employees and total wages paid to covered employees by a taxpayer between 2010 and 2012.

It is imperative that, as the economy continues its fragile improvement, both government and employers focus on creating jobs as the path to true recovery for our State.

Our concern is that we have not had sufficient time to fully review this measure with our CEOs, human resources managers and tax accountants in order to provide informed and productive comments. We respectfully request the opportunity to participate in further dialogue with this committee before proceeding.

Thank you for your consideration and for the opportunity to submit testimony.

Carol Pregill, President

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