

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO SHIP REPAIR INDUSTRY.

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

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

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

14           The legislature finds that the impact of losing surface  
15 vessel repair work would be far-reaching, well beyond the loss  
16 of direct military jobs associated with surface ships leaving  
17 the area. The Navy's drydock capacity shortfalls will refocus



1 nearly one hundred per cent of the current Pearl Harbor drydock  
2 capacity on submarine maintenance and displace nearly all  
3 surface ship drydock maintenance and modernization to the west  
4 coast. The adverse economic impacts of displaced ship repair  
5 activities over the next seven years include loss of nearly  
6 \$1,310,000,000 in Hawaii gross domestic product, \$351,000,000 in  
7 lost labor earnings, and an annual average decrease of nine  
8 hundred jobs each year. The loss of Navy surface ship drydock  
9 maintenance to the Pearl Harbor private-sector ship repair  
10 community would significantly shrink the local industry and be  
11 unrecoverable.

12 The legislature further finds that the construction of a  
13 purpose-built floating drydock capable of accommodating any of  
14 the submarines and surface ships currently in and planned for at  
15 Pearl Harbor represents the best mitigating solution for the  
16 State of Hawaii. This floating drydock will not only protect  
17 private-sector maritime jobs that are expected to be lost, but  
18 will stimulate overall job growth in this sector, prevent the  
19 erosion of Hawaii's private ship repair capability, and provide  
20 greater strength and stability to the Navy's Mid-Pacific Surface  
21 Force. This offers a shared solution for the industry, State of



1 Hawaii, and Navy that results in a fifth drydock. Given that a  
2 drydock's life cycle is fifty years or more, additional Pearl  
3 Harbor drydocking capacity will provide economic gains well into  
4 the future.

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

8 SECTION 2. Section 235-17.5, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§235-17.5 [~~Capital infrastructure~~] Ship repair industry  
11 tax credit. (a) There shall be allowed to each taxpayer  
12 subject to the taxes imposed by this chapter a [~~capital~~  
13 ~~infrastructure~~] ship repair industry tax credit that shall be  
14 deductible from the taxpayer's net income tax liability, if any,  
15 imposed by this chapter [~~for the taxable year in which the~~  
16 ~~capital infrastructure capital infrastructure costs were paid or~~  
17 ~~incurred~~].

18 (b) For the purpose of this section:

19 [~~"Capital infrastructure costs"~~] "Ship repair industry  
20 costs" means capital expenditures, as used in section 263 and  
21 1012 of the Internal Revenue Code and the regulations



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1 promulgated thereunder, or capital expenditures for real  
2 property, fixtures, structures, machinery, equipment, or capital  
3 assets that are paid or incurred in connection with the  
4 ~~[displaced tenant's move of the tenant's current active trade or~~  
5 ~~business to the tenant's new location within Honolulu harbor;]~~  
6 construction of a purpose-built floating drydock; provided that  
7 the ~~[capital infrastructure]~~ ship repair industry costs shall  
8 not include amounts for which another credit is claimed or any  
9 amounts received in any form from the State.

10 "Net income tax liability" means income tax liability  
11 reduced by all other credits allowed under this chapter.

12 ~~["Qualified infrastructure tenant" means a business:~~

13 ~~(1) That currently owns capital or property or maintains~~  
14 ~~an office, operations, or facilities at the former~~  
15 ~~Kapalama military reservation site;~~

16 ~~(2) Whose principal business is maritime, and waterfront~~  
17 ~~dependent, and is included under the State's plan to~~  
18 ~~relocate the business to piers twenty four through~~  
19 ~~twenty eight within Honolulu harbor; and~~

20 ~~(3) That will be displaced and relocated by the State~~  
21 ~~pursuant to the Kapalama container terminal project.]~~



1        "Qualified entity" means a not-for-profit entity with the  
2 principal purpose of facilitating and enhancing the ship repair  
3 business in Hawaii and that is involved in the design and  
4 construction of a purpose-built floating drydock to be used by  
5 the United States Navy in Pearl Harbor.

6        (c) The amount of the tax credit shall be equal to [fifty]  
7 \_\_\_\_\_ per cent of the [~~capital infrastructure~~] total costs paid  
8 or incurred by the qualified [~~infrastructure tenant during the~~  
9 ~~taxable year, up to a maximum credit of \$2,500,000 per qualified~~  
10 ~~infrastructure tenant per taxable year. If the capital~~  
11 ~~infrastructure costs paid or incurred by the qualified~~  
12 ~~infrastructure tenant business result in a tax credit in excess~~  
13 ~~of \$2,500,000 in any taxable year, the excess capital~~  
14 ~~infrastructure costs may be carried over to a subsequent tax~~  
15 ~~year or years, until exhausted, for generation of the credit,~~  
16 ~~provided that:] entity to design and construct the purpose-built  
17 floating dry dock to be used by the United States Navy in Pearl  
18 Harbor. A qualified entity shall become eligible for the  
19 maximum credit of \$ \_\_\_\_\_ per qualified entity after  
20 construction of the floating drydock has been completed and the~~



1 floating drydock has been placed into service. A qualified  
2 entity may:

3 (1) [~~A qualified infrastructure tenant may form~~] Form a  
4 special purpose entity for the purposes of raising  
5 investor capital and claiming the credit on behalf of  
6 the [~~qualified infrastructure tenant,~~] qualified  
7 entity;

8 (2) The [~~qualified infrastructure tenant,~~] qualified  
9 entity, together with all of its special purpose  
10 entities, including all partners and members of the  
11 [~~qualified infrastructure tenant~~] qualified entity and  
12 its special purpose entities, shall not claim any  
13 credit in [~~any one taxable year that exceeds~~  
14 ~~\$2,500,000,~~] excess of \$ \_\_\_\_\_ ; and

15 (3) In no event shall a [~~qualified infrastructure tenant~~]  
16 qualified entity or any of its special purpose  
17 entities or any other taxpayer claim a credit under  
18 this section after December 31, [~~2019.~~] \_\_\_\_\_.

19 (d) In the case of an entity taxed as a partnership,  
20 credit shall be determined at the entity level, but distribution



1 and share of the credit may be determined notwithstanding  
2 section 704 or section 706 of the Internal Revenue Code.

3 (e) The credit allowed under this section shall be claimed  
4 against the net income tax liability for the taxable year. If  
5 the tax credit under this section exceeds the taxpayer's income  
6 tax liability, the excess of the tax credit over liability may  
7 be used as a credit against the taxpayer's net income tax  
8 liability in subsequent years until exhausted. All claims,  
9 including amended claims, for a tax credit under this section  
10 shall be filed on or before the end of the twelfth month  
11 following the close of the taxable year for which the credit may  
12 be claimed. Failure to comply with the foregoing provision  
13 shall constitute a waiver of the right to claim the credit.

14 (f) This section shall not apply to taxable years  
15 beginning after December 31, [2019.] \_\_\_\_.

16 ~~[(g) Any credit claimed under this section shall be~~  
17 ~~recaptured following the close of the taxable year for which the~~  
18 ~~credit is claimed if:~~

19 ~~(1) Within three years:~~



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- 1           ~~(A) The qualified infrastructure tenant fails to~~
- 2           ~~continue the line of business it conducted as of~~
- 3           ~~July 1, 2014; or~~
- 4           ~~(B) The interest in the qualified infrastructure~~
- 5           ~~tenant, whether in whole or in part, has been~~
- 6           ~~sold, exchanged, withdrawn, or otherwise disposed~~
- 7           ~~of by the taxpayer claiming a credit under this~~
- 8           ~~section; or~~
- 9           ~~(2) The qualified infrastructure tenant fails to relocate~~
- 10           ~~from the former Kapalama military reservation site to~~
- 11           ~~another location, pursuant to a lease with the~~
- 12           ~~department of transportation, within ninety days of~~
- 13           ~~the execution of the lease.~~

14 ~~The recapture shall be equal to one hundred per cent of the~~  
15 ~~amount of the total tax credit claimed under this section in the~~  
16 ~~preceding five taxable years, and shall be added to the~~  
17 ~~taxpayer's tax liability for the taxable year in which the~~  
18 ~~recapture occurs pursuant to this subsection.~~

19           ~~(h)]~~ (g) The director of taxation shall prepare any forms  
20 that may be necessary to claim a credit under this section. The  
21 director may also require the taxpayer to furnish information to





1 ascertain the validity of the claim for credit made under this  
2 section. The director of taxation may adopt rules to effectuate  
3 the purposes of this section pursuant to chapter 91.

4 ~~[(i)]~~ (h) Any taxpayer claiming a tax credit under this  
5 section shall, within ninety days of the end of the calendar  
6 year in which ~~[costs for which]~~ the credit is properly  
7 claimable, submit the following information to the department of  
8 taxation:

9 (1) The amount of the eligible costs ~~[for that year]~~ for  
10 which the tax credit may be claimed; and

11 (2) The qualified ~~[infrastructure tenant incurring]~~ entity  
12 which incurred the costs.

13 Failure to timely submit the information shall be subject to a  
14 penalty of \$5,000 per month or a fraction thereof, not to exceed  
15 \$25,000."

16 SECTION 3. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act, upon its approval, shall apply to  
19 taxable years beginning after December 31, 2018.

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INTRODUCED BY:

*Michelle Tedani*  
*Rep*



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*972*



# S.B. NO. 972

**Report Title:**

Ship Repair Industry Tax Credit; Pearl Harbor; Income Tax

**Description:**

Establishes the ship repair industry income tax credit for non-profit entities to offset costs incurred to construct and put into service purpose-built floating drydocks at Pearl Harbor for use by the United States Navy. Claims for the ship repair industry income tax credit can be made annually after the drydock is put into service and until the credit is exhausted. Repeals the capital infrastructure tax credit.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

