
A BILL FOR AN ACT

RELATING TO FILM INFRASTRUCTURE TAX CREDIT.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Motion picture, digital media, and film
5 infrastructure tax credit. (a) Any law to the contrary
6 notwithstanding, there shall be allowed to each taxpayer,
7 subject to the taxes imposed by this chapter, an income tax
8 credit that shall be deductible from the taxpayer's net income
9 tax liability, if any, imposed by this chapter for the taxable
10 year in which the credit is properly claimed. The amount of the
11 credit shall be twenty per cent of the eligible infrastructure
12 costs made by the taxpayer in any county of the State.

13 In the case of a partnership, S corporation, estate, or
14 trust, the tax credit allowable is for eligible infrastructure
15 costs incurred by the entity for the taxable year. The cost
16 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 certain depreciable business assets) of the
5 Internal Revenue Code of 1986, as amended, no tax credit shall
6 be allowed for those costs for which the deduction is taken.

7 The basis for eligible property for depreciation or
8 accelerated cost recovery system purposes for state income taxes
9 shall be reduced by the amount of credit allowable and claimed.

10 (b) The credit allowed under this section shall be claimed
11 against the net income tax liability for the taxable year.

12 (c) If the tax credit under this section exceeds the
13 taxpayer's income tax liability, the excess of the credit over
14 liability may be used as a credit against the taxpayer's income
15 tax liability in subsequent years until exhausted. All claims,
16 including any amended claims, for tax credits under this section
17 shall be filed on or before the end of the twelfth month
18 following the close of the taxable year for which the credit may
19 be claimed. Failure to comply with the foregoing provision
20 shall constitute a waiver of the right to claim the credit.



1 (d) The total amount of tax credits allowed under this
2 section in any particular year shall be \$10,000,000; however, if
3 the total amount of credits applied for in any year exceeds the
4 aggregate amount of credits allowed for that year under this
5 section, the excess shall be treated as having been applied for
6 and claimed in the three immediately succeeding taxable years
7 and may be claimed in those years.

8 (e) To qualify for this tax credit, a film infrastructure
9 project shall:

10 (1) Satisfy the requirements of a film infrastructure
11 project, as defined in subsection (k); and

12 (2) Have eligible infrastructure costs totaling at least
13 \$3,000,000.

14 (f) Each taxpayer claiming a tax credit under this section
15 shall first prequalify for the credit by registering the film
16 infrastructure project with the department of business, economic
17 development, and tourism during the development or preproduction
18 stage. The taxpayer undertaking a film infrastructure project
19 shall apply to the department of business, economic development,
20 and tourism for a film infrastructure tax credit certificate no
21 later than ninety days after the first expenses or costs are



1 incurred, and shall provide with the application any information
2 the department of business, economic development, and tourism
3 may require to determine the project's eligibility as a film
4 infrastructure project.

5 Each application for a film infrastructure tax credit
6 certificate shall include:

7 (1) A detailed description of the film infrastructure
8 project;

9 (2) A preliminary budget;

10 (3) Estimated completion date; and

11 (4) Other information that the department of business,
12 economic development, and tourism may require.

13 The department of business, economic development, and
14 tourism may require an independent audit of all project costs
15 and expenditures before issuing a film infrastructure tax credit
16 certificate. If the department of business, economic
17 development, and tourism determines that the project has
18 eligible infrastructure costs, the department of business,
19 economic development, and tourism shall indicate the amount of
20 costs or expenditures that has been established to the
21 satisfaction of the department of business, economic



1 development, and tourism, and issue to the taxpayer a film
2 infrastructure tax credit certificate for investors indicating
3 the amount of tax credits available under this section. The
4 issuance of a film infrastructure tax credit certificate shall
5 serve as a reservation of tax credits applicable to the
6 aggregate cap amount under subsection (d). The department of
7 business, economic development, and tourism shall provide a copy
8 of the film infrastructure tax credit certificate to the
9 director of taxation, upon request.

10 Before the issuance of a film infrastructure project tax
11 credit voucher to a taxpayer, pursuant to subsection (h), the
12 taxpayer undertaking the film infrastructure project shall
13 provide the department of business, economic development, and
14 tourism with a description of the progress on the project and an
15 estimated completion date. The department of business, economic
16 development, and tourism may require an independent audit of all
17 project costs and expenditures before the issuance of the film
18 infrastructure tax credit voucher to a taxpayer. Upon issuance,
19 a film infrastructure tax credit voucher represents the actual
20 amount of tax credits that a taxpayer may claim under this
21 section.



1 (g) Every taxpayer claiming a tax credit under this
2 section for a film infrastructure project, no later than March
3 31 following the end of each calendar year in which eligible
4 infrastructure costs were incurred, shall submit a written,
5 sworn statement to the department of business, economic
6 development, and tourism, together with a verification review by
7 a qualified certified public accountant using procedures
8 prescribed by the department of business, economic development,
9 and tourism, identifying:

10 (1) All eligible infrastructure costs, if any, incurred in
11 the previous taxable year;

12 (2) The amount of tax credits claimed pursuant to this
13 section, if any, in the previous taxable year; and

14 (3) The number of total hires versus the number of local
15 hires by category and by county.

16 This information may be reported from the department of
17 business, economic development, and tourism to the legislature
18 in a redacted format, pursuant to subsection (j)(5).

19 (h) The department of business, economic development, and
20 tourism shall:



1 (1) Maintain records of the names of the taxpayers and
2 film infrastructure projects thereof claiming the tax
3 credits under this section;

4 (2) Obtain and total the aggregate amounts of all eligible
5 infrastructure costs per film infrastructure project
6 per taxable year; and

7 (3) Provide a letter to the director of taxation
8 specifying the amount of the tax credit per film
9 infrastructure project for each taxable year that a
10 tax credit is claimed and the cumulative amount of the
11 tax credit for all years claimed.

12 Upon each determination required under this subsection, the
13 department of business, economic development, and tourism shall
14 issue a film infrastructure tax credit voucher to the taxpayer,
15 regarding the film infrastructure project, specifying the
16 eligible infrastructure costs and the tax credit amount
17 qualified for in each taxable year a tax credit is claimed. The
18 department of business, economic development, and tourism may
19 charge a reasonable administrative fee sufficient to cover the
20 department of business, economic development, and tourism's
21 costs to analyze applications submitted under this section. The



1 taxpayer for each film infrastructure project shall file the
2 film infrastructure tax credit voucher with the taxpayer's tax
3 return for the film infrastructure project to the department of
4 taxation. Notwithstanding the authority of the department of
5 business, economic development, and tourism under this section,
6 the director of taxation may audit and adjust the tax credit
7 amount to conform to the information filed by the taxpayer.

8 (i) The director of taxation shall prepare forms as may be
9 necessary to claim a credit under this section. The director
10 may also require the taxpayer to furnish information to
11 ascertain the validity of the claim for credit made under this
12 section and may adopt rules necessary to effectuate the purposes
13 of this section pursuant to chapter 91.

14 (j) The department of business, economic development, and
15 tourism shall submit a report to the legislature no later than
16 twenty days prior to the convening of each regular session
17 detailing the non-aggregated eligible infrastructure costs that
18 form the basis of the tax credit claims and expenditures,
19 itemized by taxpayer, in a redacted format to preserve the
20 confidentiality of the taxpayers claiming the credit.

21 (k) For the purposes of this section:



1 "Eligible infrastructure costs" means costs incurred by a
2 film infrastructure project within the State that are subject to
3 the general excise tax under chapter 237 or income tax under
4 this chapter and that have not been financed by any investments
5 for which a credit was or will be claimed under this chapter.

6 "Eligible infrastructure costs" includes:

7 (1) All expenditures to provide buildings, facilities, or
8 installations, whether a capital lease or purchase,
9 together with necessary equipment for a film, video,
10 television, digital production facility, or digital
11 animation production facility;

12 (2) Project development costs, including design,
13 professional consulting fees and transaction costs;

14 (3) Costs for development, preproduction, production,
15 post-production and distribution equipment, and system
16 access; and

17 (4) Costs for fixtures and other equipment.

18 "Film infrastructure project" means an infrastructure
19 project undertaken in this State by an entity that:

20 (1) Meets the definition of a "qualified production" under
21 section 235-17;



1 (2) Is authorized to conduct business in this State;

2 (3) Is not in default on a loan made by the State or a
3 loan guaranteed by the State, nor has ever declared
4 bankruptcy under which an obligation of the entity to
5 pay or repay public funds was discharged as a part of
6 the bankruptcy; and

7 (4) Has been approved by the department of business,
8 economic development, and tourism as qualifying for a
9 film infrastructure tax credit under this section.

10 "Infrastructure project" means a capital project to provide
11 one or more buildings, facilities, or installations needed for
12 the digital media and motion picture industry to function in
13 this State.

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

16 SECTION 2. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2022-2023 to
19 establish two full-time equivalent (2.0 FTE) staff positions,
20 exempt from chapter 76, Hawaii Revised Statutes, for the
21 operation and management of the motion picture, digital media,



1 and film infrastructure tax credit provided under section 1 of
2 this Act. These two staff positions shall be filled by persons
3 with expertise in infrastructure and public-private partnership
4 procurement.

5 The sum appropriated shall be expended by the creative
6 industries division of the department of business, economic
7 development, and tourism for the purposes of this Act.

8 SECTION 3. New statutory material is underscored.

9 SECTION 4. This Act shall take effect on July 1, 2050;
10 provided that:

11 (1) Section 1 shall apply to taxable years beginning after
12 December 31, 2021; and

13 (2) Section 2 shall take effect on July 1, 2022.



Report Title:

Motion Picture, Digital Media, and Film Infrastructure Tax Credit; DBEDT; Creative Industries Division; Appropriation

Description:

Establishes a film infrastructure income tax credit. Requires that the film infrastructure project spend at least \$3,000,000 on buildings, facilities, or installations. Sets an aggregate cap amount for the credit of \$10,000,000 per year. Appropriates moneys to the Department of Business, Economic Development, and Tourism's Creative Industries Division for two full-time equivalent (2.0 FTE) positions. Effective 7/1/2050. (SD2)

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

