
A BILL FOR AN ACT

RELATING TO MEDICAL ENTERPRISE ZONES.

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

1 SECTION 1. The legislature finds that many factors,
2 including demographics, education, lukewarm business and tax
3 environments, and Hawaii's unique and geographically isolated
4 location have contributed significantly to a chronic shortage of
5 medical and research facilities and health care professionals in
6 the state.

7 The legislature further finds that the establishment of
8 medical enterprise zones in the state that provide a range of
9 county and state incentives will assist in stimulating the
10 creation of integrated campuses that will attract a critical
11 nucleus of medical and research facilities and create a large
12 number of highly skilled jobs in the medical and research
13 fields, including biotechnology, biomedicine, and pharmaceutical
14 research and development.

15 Accordingly, the purpose of this Act is to encourage the
16 establishment of modern medical and research facilities within
17 the state and attract highly skilled general and specialized
18 medical, research, and health care professionals to work in

1 Hawaii by establishing a medical enterprise zone program that
2 initially consists of a single pilot medical enterprise zone in
3 west Maui. Limiting potential investments in a medical
4 enterprise zone to west Maui will minimize the impact on the
5 State and will allow the State to evaluate the zone's impact
6 without negatively affecting income streams.

7 SECTION 2. The Hawaii Revised Statutes is amended by
8 adding a new chapter to be appropriately designated and to read
9 as follows:

10 **"CHAPTER**

11 **MEDICAL ENTERPRISE ZONES**

12 § -1 **Definitions.** As used in this chapter:

13 "Department" means the department of business, economic
14 development, and tourism.

15 "Establishment" means a single physical location where
16 medical or research services are provided in a medical or
17 research facility. A qualified business may include one or more
18 establishments, any number of which may be in a medical
19 enterprise zone.

20 "Full-time employee" means any employee for whom the
21 employer is legally required to provide employee fringe
22 benefits.

1 "Medical enterprise zone" means any area in the state
2 declared by the department to be eligible for the benefits of
3 this chapter.

4 "Medical or research facility" includes:

- 5 (1) Acute critical access hospitals;
- 6 (2) Long-term care facilities;
- 7 (3) Medical research facilities that perform primarily
8 research and development activities relating to the
9 medical sciences, pharmaceutical development, or
10 medical treatment modalities for specific human
11 diseases or disorders and may include biomedical
12 research facilities;
- 13 (4) Offices of physicians, dentists, nurses, clinical
14 specialists, other medical or research professionals,
15 or other practitioners of the healing arts either in
16 private practice or within organized ambulatory health
17 care facilities; and
- 18 (5) Any other facility as determined by the department.

19 "Qualified business" means any medical or research facility
20 that is:

- 21 (1) Authorized to do business in this state; and
- 22 (2) Is located within the medical enterprise zone.

1 "Taxes due the State" means income taxes due under chapter
2 235.

3 § -2 **Administration.** The department shall administer
4 this chapter and have the power and duty to:

5 (1) Monitor the implementation and operation of this
6 chapter;

7 (2) Conduct a continuing evaluation program of the medical
8 enterprise zones;

9 (3) Assist the counties in obtaining the reduction of
10 rules within medical enterprise zones;

11 (4) Submit annual reports evaluating the effectiveness of
12 the program and any recommendations for legislation to
13 the legislature and the governor;

14 (5) Administer and enforce the rules adopted by the
15 department; and

16 (6) Administer this chapter in a manner that the areas
17 designated as medical enterprise zones will most
18 benefit the areas and the State.

19 § -3 **Medical enterprise zone designation; approval.** (a)

20 Within thirty days of the receipt, from the governing body of
21 any county in the state, of a description of the proposed

22 location in the state of a medical enterprise zone and a general

1 statement identifying proposed county incentives to complement
2 any state and federal incentives, the department shall designate
3 the proposed area as a medical enterprise zone.

4 (b) The department shall secure any additional information
5 that the department deems necessary and, within sixty days of
6 the date of designation pursuant to subsection (a), shall
7 approve the establishment of the medical enterprise zone for a
8 period of seven years.

9 § -4 **Duplicative tax incentives; prohibition.** There
10 shall be no duplication of existing state tax incentives to
11 qualified businesses that locate in a medical enterprise zone.

12 § -5 **Rules.** The department, in consultation with the
13 department of taxation, shall adopt rules pursuant to chapter 91
14 to implement this chapter, including rules relating to health,
15 safety, building, planning, zoning, and land use that shall
16 supersede all other inconsistent ordinances and rules relating
17 to the use, zoning, planning, and development of land and
18 construction in a medical enterprise zone. Rules adopted under
19 this section shall follow existing law, rules, and ordinances as
20 closely as is consistent with standards meeting minimum
21 requirements of energy efficiency, health, and safety. The
22 department may provide by rule that lands within a medical

1 enterprise zone shall not be developed beyond existing uses or
2 that improvements thereon shall not be demolished or
3 substantially reconstructed or provide other restrictions on the
4 use of the zone.

5 § -6 Eligibility; qualified business; sale of property

6 or services. (a) Any medical or research facility may be
7 eligible to be designated a qualified business for purposes of
8 this chapter if:

9 (1) The medical or research facility begins its
10 operations:

11 (A) During each taxable year has at least per
12 cent of its medical enterprise zone
13 establishment's gross receipts attributable to
14 its operation within the medical enterprise zone;

15 (B) Increases its average annual number of full-time
16 medical or research professional employees by at
17 least per cent by the end of its first tax
18 year of participation; and

19 (C) During each subsequent taxable year at least
20 maintains that higher level of employment for
21 medical or research professional employees; or

22 (2) The medical or research facility:

1 (A) Is actively engaged in the operation of a medical
2 or research facility in an area immediately prior
3 to the area being designated a medical or
4 research enterprise zone;

5 (B) Meets the requirements of paragraph (1) (B); and

6 (C) Increases its average annual number of full-time
7 employees employed at the medical or research
8 facility's establishment or establishments
9 located within the medical enterprise zone by at
10 least per cent annually.

11 (c) After approval of the medical enterprise zone, each
12 qualified business in the zone shall annually complete and
13 submit to the department, on a form supplied by the department,
14 the information necessary for the department to determine
15 whether the medical or research facility qualifies or continues
16 to qualify as a qualified business. If the department
17 determines that the medical or research facility qualifies as a
18 qualified business, the department shall approve the completed
19 form and forward copies of the completed and approved form to
20 the department of taxation and the governing body of the county.

21 (d) A completed form approved by the department, referred
22 to in subsection (c), shall be prima facie evidence of the

1 eligibility of a medical or research facility for the purposes
2 of this section.

3 (e) Any operations or services provided by a medical or
4 research facility outside of the medical enterprise zone shall
5 not be included in the determination of gross receipts
6 attributable to the active provision of services under
7 subsection (a) (1) (B).

8 § -7 **State business tax credit.** (a) The department
9 shall certify annually to the department of taxation the
10 applicability of the tax credit provided in this chapter for a
11 qualified business against any income taxes imposed under title
12 14 that are due the State. The credit shall be:

13 (1) Eighty per cent of the tax due for the first taxable
14 year that the business qualifies as a qualified
15 business;

16 (2) Seventy per cent of the tax due for the second taxable
17 year that the business qualifies as a qualified
18 business;

19 (3) Sixty per cent of the tax due in the third taxable
20 year that the business qualifies as a qualified
21 business;

1 (4) Fifty per cent of the tax due in the fourth taxable
2 year that the business qualifies as a qualified
3 business;

4 (5) Forty per cent of the tax due in the fifth taxable
5 year that the business qualifies as a qualified
6 business;

7 (6) Thirty per cent of the tax due in the sixth taxable
8 year that the business qualifies as a qualified
9 business; and

10 (7) Twenty per cent of the tax due in the seventh year
11 that the business qualifies as a qualified business.

12 Any tax credit not used in a taxable year shall not be applied
13 to future taxable years.

14 (b) When a partnership is eligible for a tax credit under
15 this section, each partner shall be eligible for the tax credit
16 provided for in this section on the partner's income tax return
17 in proportion to the partner's income tax liability from the
18 partnership. Any qualified business earning taxable income from
19 the provision of the qualified business' services, both within
20 and without the medical enterprise zone, shall allocate and
21 apportion its taxable income attributable to that provision of
22 services. Tax credits provided for in this section shall only

1 apply to taxable income of a qualified business attributable to
2 the services provided within the medical enterprise zone.

3 (c) In addition to any other tax credit authorized under
4 this section, a qualified business shall be entitled to a tax
5 credit against any taxes due the State in an amount equal to a
6 percentage of unemployment taxes paid pursuant to chapter 383.
7 The amount of the credit shall be equal to:

- 8 (1) Eighty per cent of the unemployment taxes paid for
9 during the first taxable year that the business
10 qualifies as a qualified business;
- 11 (2) Seventy per cent of the unemployment taxes paid for
12 the second year that the business qualifies as a
13 qualified business;
- 14 (3) Sixty per cent of the unemployment taxes paid for the
15 third year that the business qualifies as a qualified
16 business;
- 17 (4) Fifty per cent of the unemployment taxes paid for the
18 fourth year that the business qualifies as a qualified
19 business;
- 20 (5) Forty per cent of the unemployment taxes paid for the
21 fifth year that the business qualifies as a qualified
22 business;

1 (6) Thirty per cent of the unemployment taxes paid for the
2 sixth year that the business qualifies as a qualified
3 business; and

4 (7) Twenty per cent of the unemployment taxes paid for the
5 seventh year that the business qualifies as a
6 qualified business.

7 (d) Tax credits provided for in subsection (c) shall only
8 apply to the unemployment tax paid on employees employed at the
9 qualified business' establishment or establishments located
10 within the medical enterprise zone. Any tax credit not used in
11 a taxable year shall not be applied to future tax years.

12 § -8 **State general excise and use tax exemptions.** The
13 department shall certify annually to the department of taxation
14 that any qualified business is exempt from the payment of
15 general excise taxes on the gross proceeds from the provision of
16 medical or research services. The department shall also certify
17 annually to the department of taxation that any qualified
18 business is exempt from the use tax for purchases by the
19 qualified business. The gross proceeds received by a contractor
20 licensed under chapter 444 shall be exempt from the general
21 excise tax for construction within a medical enterprise zone
22 performed for a qualified business within a medical enterprise

1 zone. The exemption shall extend for a period not to exceed
2 seven years after the effective date of this chapter.

3 § -9 **Local incentives.** (a) A county may propose local
4 incentives, including:

- 5 (1) Reduction of permit fees;
6 (2) Reduction of user fees; and
7 (3) Reduction of real property taxes.

8 (b) A county may also propose measures for regulatory
9 flexibility including:

- 10 (1) Special zoning districts;
11 (2) Permit process reform;
12 (3) Exemptions from local ordinances; and
13 (4) Other public incentives proposed in the locality's
14 application, which shall be binding upon the locality
15 upon designation of the medical enterprise zone.

16 § -10 **Termination of medical enterprise zone.** Upon
17 designation of the area as a medical enterprise zone, the
18 proposals for regulatory flexibility, tax incentives, and other
19 public incentives specified in this chapter shall be binding
20 upon the governing body of the county for a period of seven
21 years. If the governing body of the county is unable or
22 unwilling to provide any of the incentives set forth in section

1 -9 or other incentives acceptable to the department, and the
2 department has not adopted rules pursuant to section -5 that
3 supersede inconsistent ordinances and rules relating to the use,
4 zoning, planning, and development of land and construction in a
5 medical enterprise zone, then the medical enterprise zone shall
6 terminate. Qualified businesses located in the medical
7 enterprise zone shall be eligible to receive the state tax
8 incentives provided by this chapter even though the zone
9 designation has terminated. No medical or research facility may
10 become a qualified business after the date of zone termination."

11 SECTION 3. The governing body of the county of Maui,
12 pursuant to this Act, shall transmit to the director of
13 business, economic development, and tourism, no later than
14 November 30, 2009, a description of a proposed location in west
15 Maui as a pilot medical enterprise zone. The director of
16 business, economic development, and tourism, pursuant to this
17 Act, shall designate the proposed area as a medical enterprise
18 zone for a period of seven years.

19 SECTION 4. The department of business, economic
20 development, and tourism, in consultation with the department of
21 taxation, shall submit a written report to the legislature by
22 December 31 of each year, beginning in 2010, regarding the

1 implementation of the pilot medical enterprise zone in west
2 Maui, including an evaluation of the success or failure of the
3 pilot medical enterprise zone to fulfill its intended purpose.

4 SECTION 5. It is the intent of this Act not to jeopardize
5 the receipt of any federal aid nor to impair the obligation of
6 the State or any agency thereof to the holders of any bond
7 issued by the State or by any agency, and to the extent, and
8 only to the extent, necessary to effectuate this intent, the
9 governor may modify the strict provisions of this Act, but shall
10 promptly report any modification with reasons therefore to the
11 legislature at its next regular session thereafter for review by
12 the legislature.

13 SECTION 6. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun, before its effective date.

16 SECTION 7. If any provision of this Act, or the
17 application thereof to any person or circumstance is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act, which can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.

1 SECTION 8. This Act shall take effect on December 31,
2 2050; provided that this Act shall apply to taxable years
3 beginning after December 31, 2050, and shall be repealed on
4 January 1, 2017.

Report Title:

Medical Enterprise Zones; Pilot Project in West Maui

Description:

Establishes medical enterprise zones in the State to encourage the development of medical and research services. Creates a 7-year pilot medical enterprise zone in West Maui. Effective 12/31/2050. (SD1)