

JAN 21 2011

A BILL FOR AN ACT

RELATING TO INCOME TAX CREDITS.

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

1 SECTION 1. Traffic-related congestion on Hawaii's roadways
2 continues to increase every year. The morning and evening
3 commutes are marked by long delays and increased time spent on
4 the road as thousands of cars traverse Hawaii's highways and
5 streets. With longer commute times, the working people of
6 Hawaii are spending more time in their cars as opposed to using
7 that time productively, either at work or with their families.

8 Currently, Hawaii has one of the highest prices for gas and
9 one of the highest dependencies on foreign fossil fuel sources
10 in the nation. Thus, in comparison to their mainland peers, the
11 workers of Hawaii are using a larger percentage of their
12 disposable income to pay for transportation to work. Moreover,
13 increasingly massive commutes to work by car will solidify
14 Hawaii's reliance on foreign fossil fuel sources, thus ensuring
15 the generation of carbon emissions that deteriorate Hawaii's
16 fragile environment.

17 The legislature finds that the concept of telecommuting to
18 work has emerged as a viable workplace alternative. According



1 to a federal Office of Personnel Management survey in 2004, more
2 than twenty-three million workers in the United States
3 telecommuted to work. In 2002, a private research firm reported
4 that thirty-five per cent of all employees in the United States
5 used a home computer for work-related purposes. As of 2005,
6 roughly five per cent of the federal workforce telecommuted to
7 work and nine states have enacted state telecommuting policies.
8 In 2007, the State of Georgia was the first to enact an income
9 tax credit for employers who have their employees telecommute to
10 work. Today, the number of telecommuters has likely increased,
11 because of advancements in technology, escalating traffic
12 congestion, rising transportation costs, health concerns, or
13 environmental reasons.

14 Furthermore, the legislature finds that numerous studies
15 across the nation have demonstrated that telecommuting provides
16 an opportunity for employers to increase employee productivity,
17 decrease employee sick leave, increase the labor pool, and even
18 improve employee retention. The growth of telecommuting is
19 partly attributable to the greater availability of broadband
20 technology, employees placing a greater emphasis on work-life
21 balance, rising office rents, and improvements in internet
22 security.



1 The purpose of this Act is to implement a statewide
2 telecommuting income tax credit to help alleviate Hawaii's high
3 costs for transportation-related expenses to work, to reduce
4 Hawaii's dependence on fossil fuel, to reduce traffic congestion
5 on Hawaii's roadways, and to provide the workers of Hawaii with
6 an opportunity to spend more time either working from home or
7 with their families, rather than in traffic.

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

11 "§235- Telecommuting income tax credit. (a) The
12 income tax credit allowed under this section shall be available
13 for taxable years beginning after December 31, 2010, and shall
14 not be available for taxable years beginning after December 31,
15 2012. Any income tax credit allowed under this section shall be
16 claimed against the taxpayer's net income tax liability, if any,
17 for the taxable year. A properly claimed income tax credit
18 under this section shall allow an employer a state income tax
19 credit for a percentage of eligible telecommute expenses
20 incurred in the calendar years 2011 and 2012. The amount of the
21 credit shall be calculated as follows:



- 1 (1) For employers in nonattainment areas, the credit shall
2 be equal to one hundred per cent of the eligible
3 telecommute expenses incurred pursuant to a
4 telecommute agreement requiring the participating
5 employee to telecommute at least twelve days per month
6 if the employer's principal place of business is
7 located in an area designated by the United States
8 Environmental Protection Agency as a nonattainment
9 area under the federal Clean Air Act, title 42 United
10 States Code section 7401 et seq.;
- 11 (2) For employers in attainment areas, the credit shall be
12 equal to seventy-five per cent of the eligible
13 telecommute expenses incurred pursuant to a
14 telecommute agreement requiring the participating
15 employee to telecommute at least twelve days per
16 month; or
- 17 (3) For employers who have employees telecommute at least
18 five days, but less than twelve days, per month, the
19 credit shall be equal to twenty-five per cent of the
20 eligible telecommute expenses incurred pursuant to a
21 telecommute agreement requiring the participating
22 employee to telecommute at least five days per month.



1 (b) For purposes of the income tax credit under this
2 section, the determination of the employer's taxable year and
3 the employer's eligible telecommute assessment expenses requires
4 that:

5 (1) In addition to the tax credit provided by subsection
6 (a), an employer conducting a telecommute assessment
7 on or after July 1, 2010, shall be allowed a tax
8 credit for the taxable year that is equal to one
9 hundred per cent of the costs for preparing the
10 telecommute assessment, up to a maximum credit of
11 \$20,000 per employer, if the employer implements its
12 formal telecommute program in a taxable year
13 identified in subsection (a). The telecommute
14 assessment costs shall not be eligible for the tax
15 credit if those costs are the subject of another
16 credit claimed by the employer in any tax year. Costs
17 incurred on or after July 1, 2010, and before
18 January 1, 2011, shall be treated as being incurred on
19 January 1, 2011, for purposes of this section. The
20 tax credit provided by this subsection is intended to
21 include program planning expenses, including direct
22 program development and training costs, raw labor



1 costs, and professional consulting fees; the credit
2 shall not include expenses for which a credit is
3 claimed under any other provision of this chapter.

4 This credit shall be allowed only once per employer;
5 and

6 (2) All telecommute assessments shall meet any standards
7 for eligibility that are adopted by the director of
8 taxation.

9 (c) In no event shall the total amount of any tax credit
10 under this section for a taxable year exceed the employer's net
11 income tax liability. No unused tax credit shall be allowed to
12 be carried forward to apply to the employer's succeeding years'
13 tax liability. No unused tax credit shall be allowed by the
14 employer against prior years' tax liability.

15 (d) The certification of telecommute expenses by the
16 employer, application for tentative approval by the director of
17 taxation, and the annual limits to the income tax credit under
18 this section shall be imposed as follows:

19 (1) An employer seeking to claim a tax credit provided for
20 under subsections (a) and (b) shall submit an
21 application to the director of taxation for tentative
22 approval of the tax credit provided for in subsections



1 (a) and (b) between September 1 and October 31 of the
2 year preceding the taxable year for which the tax
3 credit is to be claimed. The director of taxation
4 shall adopt the rules and forms on which the
5 application is to be submitted. Amounts specified on
6 the application shall not be amended by the employer
7 after the application is approved by the director of
8 taxation. The application shall certify that the
9 employer would not have incurred the eligible
10 telecommute expenses stated therein but for the
11 availability of the tax credit. The director of
12 taxation shall review the application and shall
13 tentatively approve the application upon determining
14 that it meets the requirements of this section;

15 (2) The director of taxation shall provide tentative
16 approval of the applications by the date provided in
17 paragraph (3). In no event shall the aggregate amount
18 of tax credits approved by the director of taxation
19 for all qualified employers under this section in a
20 calendar year exceed:

21 (A) \$2,000,000 for credits earned in calendar year
22 2011; and



1 (B) \$2,000,000 for credits earned in calendar year
2 2012; and

3 (3) The department of taxation shall notify each employer
4 of the tax credits tentatively approved and allocated
5 to the employer by December 31st of the year in which
6 the application was submitted. If the tax credit
7 amounts on the tax credit applications filed with the
8 director of taxation exceed the maximum aggregate
9 limit of tax credits under this subsection, then the
10 tax credits shall be allocated among the employers who
11 filed a timely application on a pro rata basis based
12 upon the amounts otherwise allowed by this section.
13 Once the tax credit application has been approved and
14 the amount approved has been communicated to the
15 applicant, the employer may make purchases approved
16 for the tax credit at any time during the calendar
17 year following the approval of the application. The
18 employer may then apply the amount of the approved tax
19 credit to its tax liability for the tax year or years
20 for which the approved application applies. If the
21 employer has a tax year other than a calendar year and
22 the calendar year expenses are incurred in more than



1 one taxable year, the credit shall be applied to each
2 taxable year based upon when the expenses were
3 incurred.

4 (e) An employer may claim up to a limit of \$1,200 for each
5 participating employee in a given calendar year to enable a
6 participating employee to begin to telecommute, which expenses
7 are not otherwise the subject of a credit claimed by the
8 employer in any tax year. Eligible telecommute expenses shall
9 include but not be limited to expenses paid or incurred to
10 purchase computers, computer-related hardware and software,
11 modems, data processing equipment, telecommunications equipment,
12 high-speed internet connectivity equipment, computer security
13 software and devices, and all related delivery, installation,
14 and maintenance fees. Eligible telecommute expenses shall not
15 include replacement costs for computers, computer-related
16 hardware and software, modems, data processing equipment,
17 telecommunications equipment, or computer security software and
18 devices at the principal place of business when that equipment
19 is relocated to the telecommute site. These expenses shall not
20 include expenses for which a credit is claimed under any other
21 provision of this chapter. Telecommute expenses may be incurred
22 only once per employee. These expenses may be incurred directly



1 by the employer on behalf of the participating employee or
2 directly by the participating employee and subsequently
3 reimbursed by the employer.

4 (f) The director of taxation shall adopt rules in
5 accordance with chapter 91 that are necessary to implement and
6 administer this section.

7 (g) For purposes of this section, the following terms
8 shall have the following meanings:

9 "Employer" means any employer upon whom an income tax is
10 imposed by this chapter.

11 "Participating employee" means an employee who has entered
12 into a telecommute agreement with the employee's employer on or
13 after July 1, 2010. This term shall not include an individual
14 who is self-employed or an individual who ordinarily spends a
15 majority of the workday at a location other than the employer's
16 principal place of business.

17 "Telecommute" means an alternative work arrangement whereby
18 employees perform the normal duties and responsibilities of
19 their positions through the use of telecommunication devices,
20 either at home or another place apart from the employees' usual
21 place of work.



1 "Telecommute agreement" means an agreement signed by the
2 employer and the participating employee, on or after July 1,
3 2010, that defines the terms of a telecommute arrangement,
4 including the number of days per year the participating employee
5 will telecommute, as provided in subsection (a), in order to
6 qualify for the credit, and any restrictions on the place from
7 which the participating employee will telecommute.

8 "Telecommute assessment" means an optional assessment
9 leading to the development of policies and procedures necessary
10 to implement a formal telecommute program that would qualify the
11 employer for the credit provided in subsection (a), including
12 but not limited to a workforce profile, a telecommute program
13 business case and plan, a detailed accounting of the purpose,
14 goals, and operating procedures of the telecommute program,
15 methodologies for measuring telecommute program activities and
16 success, and a deployment schedule for increasing telecommute
17 activity."

18 SECTION 3. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval;
20 provided that:

21 (1) The telecommuting income tax credit established in
22 section 2 of this Act, section 235- (a), Hawaii



1 Revised Statutes, shall apply to taxable years
2 beginning after December 31, 2010; and
3 (2) The tax credit allowed for employers conducting a
4 telecommute assessment in section 2 of this Act,
5 section 235- (b), Hawaii Revised Statutes, shall
6 take effect on July 1, 2010.
7

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Report Title:

Telecommute; Telework; Income Tax Credit

Description:

Provides an income tax credit for employers when their employees telecommute for work.

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

