

STAND. COM. REP. NO.

2688

Honolulu, Hawaii

MAR 02 2012

RE: S.B. No. 2111
S.D. 2

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 2111, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO FILM AND DIGITAL MEDIA
INDUSTRY DEVELOPMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to capitalize on the convergence of Hawaii's film, television, entertainment, digital media, and music industries by pursuing long-term growth through a comprehensive strategy to grow high-quality local jobs in these industries.

More specifically, this measure:

- (1) Establishes the Hawaii film and digital media special fund;
- (2) Repeals part IX of chapter 201, Hawaii Revised Statutes, relating to Hawaii television and film development;
- (3) Amends the motion picture, digital media, and film production income tax credit percentages and the total tax credit cap;
- (4) Strengthens incentives for hiring greater numbers of residents and supports training and employment opportunities for those residents;



- (5) Establishes a motion picture, digital media, and film production infrastructure tax credit; and
- (6) Shortens the time period to which the benefits of the motion picture, digital media, and film production tax credit, as enhanced pursuant to Act 88, Session Laws of Hawaii 2006, may be applied.

Written comments in support of this measure were submitted by the Office of the Mayor of the County of Maui, Hyperspective Studios, Tetris Online, Inc., and three individuals. Written comments on this measure were submitted by the Department of Business, Economic Development, and Tourism and the Tax Foundation of Hawaii.

Your Committee finds that Act 88, Session Laws of Hawaii 2006, established tax credits to provide incentives for film and television production. Your Committee also finds that these incentives have been successful in increasing production activity in the State. Notable productions that have occurred in the past few years include the highly-rated television program "Hawaii Five-0" and the Academy Award-winning film "The Descendants". Your Committee believes that additional production work could be generated by establishing incentives to invest in film, television, and digital media infrastructure in the State.

Your Committee also finds that it is in the interest of the State to encourage the hiring of local residents for Hawaii's film and digital media industry. Currently, forty states and Puerto Rico offer motion picture incentives, including tax credits, rebates, and exemptions. Twenty-one of these jurisdictions either have a local hire requirement in order to receive the incentive or have an increased award for hiring local residents. Five states - Colorado, Florida, Indiana, Minnesota, and Texas - require that a certain percentage of the workforce consist of local residents in order to receive the incentive. In addition, fifteen states and Puerto Rico offer a supplementary award for hiring local residents.

Your Committee believes that this measure will encourage the use of Hawaii as a destination for filming and digital production, as well as develop and sustain the workforce and infrastructure for Hawaii's film, television, entertainment, digital media, and music industries.



Your Committee has amended this measure by:

- (1) Clarifying that the quarterly payments into the Hawaii film and digital media special fund, based upon wages and salaries paid to legal residents, shall be calculated and deposited by the Department of Taxation;
- (2) Clarifying the language relating to the programs that are to be funded by the Hawaii film and digital media special fund;
- (3) Reinstating the tax credit percentages of the motion picture, digital media, and film production income tax credit;
- (4) Amending the motion picture, digital media, and film production income tax credit to provide an additional credit amount for qualified production costs attributable to payment to legal residents of the State and to Hawaii vendors and Hawaii suppliers;
- (5) Deleting references to students in the local hiring requirements of the motion picture, digital media, and film production income tax credit and making the hiring of students a separate option to qualifying for the tax credit;
- (6) Clarifying the acceptable methods of demonstrating residency in the State for the purposes of the motion picture, digital media, and film production income tax credit and the motion picture, digital media, and film production infrastructure tax credit;
- (7) Clarifying that, for digital media projects and independent and emerging media projects, a minimum of fifty per cent of production cast and crew positions must be filled by legal residents of the State;
- (8) Providing that, for productions beginning January 1, 2016, the minimum percentage of production cast and crew positions that must be filled by legal residents of the State shall be set by the State and based upon the aggregate wages and salaries paid for positions created by productions and projects that received the motion



picture, digital media, and film production income tax credit during the previous three years;

- (9) Authorizing the Department of Business, Economic Development, and Tourism to establish a fee for processing taxpayer letters for the purposes of the motion picture, digital media, and film production income tax credit and the motion picture, digital media, and film production infrastructure tax credit;
- (10) Deleting the requirement that the Director of Taxation notify the Department of Business, Economic Development, and Tourism of any revoked or modified orders affecting previously granted tax credits;
- (11) Deleting the additional penalty for fraudulently claiming a motion picture, digital media, and film production income tax credit;
- (12) Expanding the definition of the term "commercial" to include advertising messages disseminated by the Internet or by wireless transmission;
- (13) Expanding the definition of the term "digital media" to include production methods and platforms developed after the effective date of the measure;
- (14) Deleting all references to "production expenditures" and "qualified expenditures", and providing that the amount of the motion picture, digital media, and film production income tax credit is based upon qualified production costs;
- (15) Reinstating, clarifying, and expanding the definition of "qualified production costs";
- (16) Clarifying the distinction between the repayment of the motion picture, digital media, and film production infrastructure tax credit, which is a normal aspect of the tax credit, and a recapture of the tax credit, which only occurs if the infrastructure project ceases to be a qualified infrastructure project;
- (17) Amending the effective date provisions of Act 88, Session Laws of Hawaii 2006, by repealing the sunset



date of the enhanced motion picture, digital media, and film production tax credit benefits;

- (18) Appropriating funds to the Department of Business, Economic Development, and Tourism and the Department of Accounting and General Services for additional resource and staffing support to assist state agencies in collecting and reporting annually on estimates of the full-time equivalent positions for legal Hawaii residents by each production receiving tax credits; and
- (19) Making technical nonsubstantive amendments for the purposes of consistency, clarity, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2111, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2111, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



DAVID Y. IGE, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2111, SD1	EDT, WAM	2-27 ^{mak} -12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
KIDANI, Michelle N. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.	✓			mak mak
ENGLISH, J. Kalani	✓			
ESPERO, Will	✓			
FUKUNAGA, Carol	✓			
KIM, Donna Mercado	✓			
KAHELE, Gilbert	✓			
KOUCHI, Ronald D.	✓			
RYAN, Pohai	✓			
TOKUDA, Jill N.	✓			
WAKAI, Glenn	✓			
SLOM, Sam			✓	
TOTAL	13	0	1	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>Michelle N. Kidani</i>				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes