

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO TAXATION.

**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 part I to be appropriately  
3 designated and to read as follows:

4           "§235-       Hiring an individual with a disability; income  
5 tax credit. (a) There shall be allowed to each taxpayer  
6 subject to the tax imposed by this chapter, a credit for the  
7 hiring of an individual with a disability that shall be  
8 deductible from the taxpayer's net income tax liability, if any,  
9 imposed by this chapter for the taxable year in which the credit  
10 is properly claimed.

11           (b) The amount of the credit shall be equal to fifty per  
12 cent of the qualified wages for the first six months after the  
13 individual with a disability is initially hired. A tax credit  
14 that exceeds the taxpayer's income tax liability may be used as  
15 a credit against the taxpayer's income tax liability in  
16 subsequent years until exhausted; provided that in no taxable



1 year shall the total amount of the tax credit claimed under this  
2 section exceed \$ \_\_\_\_\_ per taxpayer.

3 (c) Certification of an individual with a disability for  
4 the purpose of claiming a credit under this section shall be  
5 submitted to the department of taxation on forms prescribed by  
6 the department of taxation.

7 (d) An individual shall not be treated as an individual  
8 with a disability unless, on or before the day on which the  
9 individual begins work for the employer, the employer has  
10 received certification from a qualified physician. If an  
11 individual has been certified as an individual with a disability  
12 and the certification is incorrect because it was based on false  
13 information provided by the individual, the certification shall  
14 be revoked and wages paid by the employer after the date on  
15 which notice of revocation is received by the employer shall not  
16 be treated as qualified wages.

17 In any request for a certification of an individual as an  
18 individual with a disability, the employer shall certify that a  
19 good faith effort was made to determine that the individual is  
20 an individual with a disability.



1        (e) The following wages paid to an individual with a  
2 disability are ineligible to be claimed by the taxpayer for this  
3 credit:

4        (1) Wages paid to an individual with a disability:

5            (A) Who bears to the taxpayer any of the  
6            relationships described in section 152(d)(2)(A)  
7            through (H) of the Internal Revenue Code;

8            (B) If the taxpayer is a corporation and the  
9            individual with a disability owns, directly or  
10           indirectly, more than fifty per cent in value of  
11           the outstanding stock of the corporation  
12           (determined with the application of section  
13           267(c) of the Internal Revenue Code); or

14           (C) If the taxpayer is an estate or trust and the  
15           individual with disability is a grantor,  
16           beneficiary, or fiduciary of the estate or trust,  
17           or bears to a grantor, beneficiary or fiduciary  
18           of the estate or trust any of the relationships  
19           described in section 152(d)(2)(A) through (H) of  
20           the Internal Revenue Code; and



1       (2) Wages paid to any individual with a disability if,  
2           prior to the day the individual is hired by the  
3           taxpayer, the individual had been employed by the  
4           taxpayer at any time.

5       (f) In the case of a successor employer referred to in  
6       section 3306(b)(1) of the Internal Revenue Code, the  
7       determination of the amount of the tax credit allowable under  
8       this section with respect to wages paid by the successor  
9       employer shall be made in the same manner as if the wages were  
10       paid by the predecessor employer referred to in section  
11       3306(b)(1) of the Internal Revenue Code.

12       (g) Claims for the tax credit under this section,  
13       including any amended claims, shall be filed on or before the  
14       end of the twelfth month following the taxable year for which  
15       the credit may be claimed. Failure to comply with the foregoing  
16       provision shall constitute a waiver of the right to claim the  
17       tax credit.

18       (h) The director of taxation:

19       (1) Shall prepare any forms necessary to claim a credit  
20       under this section;



1       (2) May require a taxpayer to furnish reasonable  
2           information to ascertain the validity of a claim for  
3           credit; and

4       (3) May adopt rules pursuant to chapter 91 to effectuate  
5           the purposes of this section.

6       (i) For purposes of this section:

7           "Individual with a disability" means an individual having a  
8           physical or intellectual impairment that substantially limits  
9           one or more major life activities, having a record of that  
10          impairment, or being regarded as having that impairment;  
11          provided that the disabling impairment is certified by a  
12          qualified physician.

13       "Qualified physician" means:

14       (1) A physician or osteopathic physician licensed under  
15           chapter 453;

16       (2) A qualified out-of-state physician who is currently  
17           licensed to practice in the state in which the  
18           physician resides; or

19       (3) A commissioned medical officer in the United States  
20           Army, Navy, Marine Corps, or Public Health Service,  
21           engaged in the discharge of one's official duty.



# S.B. NO. 173

1 "Qualified wages" means wages attributable to work rendered  
2 by an individual with a disability for the six-month period  
3 after the individual is initially hired.

4 "Wages" means wages, commissions, fees, salaries, bonuses,  
5 and all other kinds of remuneration for, or compensation  
6 attributable to, services performed by an employee for the  
7 employee's employer, including the cash value of all  
8 remuneration paid in any medium other than cash and the cost-of-  
9 living allowances and other payments included in gross income by  
10 section 235-7(b), but excluding income excluded from gross  
11 income by section 235-7 or other provisions of this chapter."

12 SECTION 2. New statutory material is underscored.

13 SECTION 3. This Act, upon its approval, shall apply to  
14 taxable years beginning after December 31, 2018.

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INTRODUCED BY: \_\_\_\_\_  
By Request



# S.B. NO. 173

**Report Title:**

Kauai County Package; Disability; Employment; Income Tax Credit

**Description:**

Provides to a taxpayer who hires an individual with a disability a nonrefundable tax credit for the 6-month period after the individual is initially hired by the taxpayer.

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

