

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Karl Rhoads, Chair
and Members of the House Committee on Judiciary

Date: Thursday, February 5, 2015
Time: 2:00 P.M.
Place: Conference Room 325, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 789, Relating to Income Tax Credits for Voting in Elections

The Department of Taxation (Department) appreciates the intent of H.B. 789 and provides the following comments for your consideration.

H.B. 789 creates a refundable income tax credit of \$5 for each election in which an individual voted in the prior taxable year. The bill applies to taxable years beginning after December 31, 2014.

Since this measure is a new tax credit, the Department would need to create new tax forms and instructions, and modify its computer system. Therefore, the Department requests that, if H.B. 789 is adopted, the effective date is extended to taxable years beginning after December 31, 2015.

Finally, the Department notes that this credit is refundable. As a general matter, the Department prefers nonrefundable credits because refundable credits create the potential for wrongful claims and abuse.

Thank you for the opportunity to provide comments.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

H.B. NO. 789, RELATING TO INCOME TAX CREDITS FOR VOTING IN ELECTIONS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, February 5, 2015 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Russell A. Suzuki, Attorney General, or
Valri Lei Kunimoto, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General has serious concerns regarding this bill's provisions which offer tax credits to taxpayers to promote voting in elections. The bill provides that any taxpayer who files an individual income tax return may claim a \$5 tax credit for each election in which the taxpayer voted in the prior tax year. The bill appears to conflict with federal and state laws prohibiting providing rewards for proof of voting.

Federal law prohibits anything of value being given in exchange for proof of voting. 18 U.S.C. §597 provides that whoever makes or offers to make an expenditure to any person to vote and whoever accepts or receives such expenditure in consideration of his vote shall be fined or imprisoned for not more than one year. If the violation was wilful, the person shall be fined or imprisoned not more than two years, or both.

Section 19-3, Hawaii Revised Statutes, provides that persons shall be deemed guilty of an election fraud where the person gives any money or valuable consideration to any elector to induce any elector to vote or on account of any person having voted. In addition, every elector who receives money or valuable consideration for voting shall be deemed guilty of an election fraud.

Thus, the Department respectfully suggests that the bill be held or amended accordingly.

Thank you for the opportunity to provide our testimony.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Credit to promote voting in elections

BILL NUMBER: HB 789

INTRODUCED BY: Oshiro

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a taxpayer to claim a tax credit of \$5 for each election in which the taxpayer voted in the prior taxable year. Requires a taxpayer to submit a ballot receipt for each election for which a credit is claimed.

Credits in excess of a taxpayer's income tax liability may be refunded to the taxpayer provided such amount is over \$1. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year. The director of taxation may adopt rules pursuant to HRS chapter 91 and prepare the necessary forms to claim the credit and may require proof of the claim for the credit.

EFFECTIVE DATE: Tax years beginning after December 31, 2014

STAFF COMMENTS: This measure is proposed to encourage taxpayers to vote by providing them with a financial reward to vote. It should be remembered that using the tax system to achieve social goals, as this measure proposes, is an inefficient means of accomplishing such goals. For example, the sheer cost of reprogramming the Department of Taxation's computer processing system to accept this credit may dwarf the actual credit dollars given out – and that's even before we consider losses due to people incorrectly reporting (because of mistake or dishonesty). What happened to the concept that voting is a right and a privilege in our society?

Digested 2/4/15



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwvhawaii.com

COMMITTEE ON JUDICIARY

Thursday, February 5, 2015, 2:00 p.m., Room 325
HB 789, RELATING TO INCOME TAX CREDITS FOR VOTING IN ELECTIONS
Janet Mason, Co-Chair, Legislative Committee, League of Women Voters of Hawaii

Chair Rhoads, Vice-Chair San Buenaventure and Committee Members:

The League of Women Voters of Hawaii opposes HB 789, which would establish an income tax credit of \$5 for casting a ballot in a previous election.

Without any introduction to the bill we are not sure what the intent of the measure is. It is true that our system of voting still features a single Election Day, physical polling places and sometimes problems such as long lines. Would a modest \$5 amount really compensate a voter for these inconveniences? We don't think so. More importantly, Hawaii voters already have many options which permit them to avoid possible problems altogether, including permanent absentee voting and early voting. Soon our voting may be conducted by mail statewide.

In the past four years, the League has been a frequent advocate for smoother election operations and many related issues. We don't think this \$5 fix would make things better. It would actually add to the cost of running an election, since "ballot receipts" would be required for tax documentation.

We surmise that at least one person thinks subsidizing voting using money might increase voter turnout. We are very uncomfortable with the prospect of people voting because they receive a subsidy instead of voting because they believe their vote counts toward a better democracy, capable elected representatives and better decisions by these elected officials.

The bill is probably illegal, as under Federal law, 42 U.S. Code § 1973i, you may provide NOTHING of monetary value for registering or voting in federal elections. All regularly scheduled elections in Hawaii are federal elections as we elect our congressional representatives every two years.

We urge you to hold this bill.