

SUMMARY OF PROPOSED COMMITTEE DRAFT:

**Bill 45 (2021)
RELATING TO INCENTIVES FOR BUSINESSES.**

The PROPOSED CD1 makes the following amendments:

- A. Clarifies that an "eligible business" must be located on property which is owned by the business in fee simple or is leased by the business for a minimum of 30 years.
- B. Requires that a "qualified business" under ROH Section 35-1.3(a) complete construction or development of business facilities within seven years after the effective date of this ordinance.
- C. Removes the proposed subsection (d) in ROH Section 35-1.3.
- D. Makes miscellaneous technical, non-substantive, and conforming amendments.



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RELATING TO INCENTIVES FOR BUSINESSES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to provide incentives to businesses located within certain areas to create new jobs and generate economic benefits for the city.

SECTION 2. The title of Chapter 35, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"INCENTIVES FOR CERTAIN BUSINESSES THAT ARE LOCATED WITHIN
NEIGHBORHOOD TRANSIT-ORIENTED DEVELOPMENT PLAN AREAS TO
CREATE NEW JOBS"**

SECTION 3. Section 35-1.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 35-1.1 Definitions.

(a) As used in this chapter[:], unless the context otherwise requires:

"City" means the City and County of Honolulu.

"Eligible business" means any corporation, partnership, limited liability company, or sole proprietorship authorized to do business in the ~~[state]~~ State, which is:

- (1) Subject to the ~~[state]~~ State corporate or individual income tax under HRS Chapter 235; ~~[and]~~
- (2) ~~[(A)] Engaged in [manufacturing, the wholesale sale of tangible personal property as defined in HRS Section 237-4, or a service business; or]~~ one or more of the growth industries specified in HRS Section 201-19(a)(1) and identified as a "base-growth activity" or "emerging activity" by the State Department of Business, Economic Development and Tourism in the annual report required by HRS Section 201-19(b);



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~~[(B) Engaged in producing agricultural products where the business is a producer as defined in HRS Section 237-5.]~~

(3) Located within a neighborhood transit-oriented development plan area that will result in the economic expansion of the growth industry engage in by the business; and

(4) Located on property which is owned by the business in fee simple or is leased by the business for a minimum of 30 years.

"Full-time employee" means an individual employed by a qualified business who works more than twenty hours a week during the business's payroll period~~[-]~~, including staffing configurations specific to particular targeted industries identified in HRS Section 201-19.

"Neighborhood transit-oriented development plan area" means the area specified in a neighborhood transit-oriented development plan adopted by the council in accordance with Section 21-9.100-2.

"Qualified business" means a business certified as such pursuant to Section 35-1.3.

"Service business" means the same as defined in HRS Section 209E-2.

"Wholesale" means the same as defined in HRS Section 237-4.

(b) As used in this article, unless the context otherwise requires, "director" means the director ~~[of the department]~~ of budget and fiscal services."

SECTION 4. Section 35-1.3, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 35-1.3 Qualification for incentives.

(a) Any business in the city may be certified as a qualified business by the director for purposes of this chapter if the business:

(1) Meets the definition of "eligible business" in Section 35-1.1;

(2) Begins operations after ~~[May 1, 1997]~~ January 1, 2022 at a particular site. The date on which a business begins operations at a particular site ~~[shall]~~



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will be deemed to be the date on which the business begins to provide, at the site, the service, or to manufacture, grow, or sell wholesale the product, which the business was established to provide, manufacture, grow, or sell; provided that acquiring or renovating the property and other preparations necessary in order to provide the service or to manufacture, grow, or sell wholesale the product to be used in the business [~~shall~~] will not constitute beginning operations for purposes of qualifying under this chapter; [~~and~~]

- (3) Creates and fills at the beginning of operations at the site, new jobs for [~~one hundred~~] 100 or more full-time employees[~~-A~~]; provided that a job [~~shall~~] will not be deemed a "new job" if, at the time the business begins operations at the site, it is an existing job with an existing business that is sold to another business, reincorporates under a new name, merely changes its name, or creates a subsidiary corporation. A job filled by an employee of a business who is relocated from another site of operations of the business within the city [~~shall~~] will be deemed not to be a new job[-];
 - (4) Is involved in the construction or development of new facilities for growth industries identified in HRS Section 201-19(a)(1) that involve a minimum investment of \$100,000,000 for improvement costs and has completed construction or development of the new facilities no later than seven years after the effective date of this ordinance; and
 - (5) Provides a net benefit to the city through enhanced real property taxes and related revenues from growth around the new facilities specified in subdivision (4).
- (b) A business in the city may also be certified a qualified business by the director for purposes of this chapter if the business:
- (1) Meets the definition of "eligible business" in Section 35-1.1;
 - (2) Is operating at a particular site; and
 - (3) Creates and fills in any tax year, other than the tax year in which it begins operations, 50 new jobs at the site for 50 or more new full-time employees in addition to the number of full-time jobs at the site one year prior to the date of the application[~~-A~~]; provided that a job [~~shall~~] will not be deemed a "new job" if, at the beginning of the tax year for which it is claimed 50 or more new jobs have been created, it is an existing job with an existing



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business that is sold to another business, reincorporates under a new name, merely changes its name, or creates a subsidiary corporation. A job filled by an employee of a business who is relocated from another site of operations of the business within the city ~~[shall]~~ will be deemed not to be a new job.

- (c) ~~[No]~~ A business [which has received] that is eligible for or has received incentives or been allowed regulatory flexibility pursuant to the enterprise zone ordinance, Chapter 31, ~~[shall]~~ may also be eligible to receive incentives or be allowed regulatory flexibility under this chapter."

SECTION 5. Section 35-1.4, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 35-1.4 Incentives for qualified businesses.

The city shall provide the following incentives to qualified businesses:

- (1) Real property tax rebate; ~~[and]~~
- (2) Waiver of ~~[permit]~~ city-imposed fees~~[-];~~ and
- (3) Expedited permits."

SECTION 6. Section 35-2.2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 35-2.2 Real property tax rebate established.

- (a) Real property tax rebates for qualified businesses:

- (1) Upon proper application, any owner of a qualified business who owned the improvements utilized by that business on the date of the business's first qualification pursuant to Section ~~[35-1.3]~~ 35-1.3(a) and continues to own the improvements during the tax year shall be eligible for ~~[a]~~ an annual rebate from the city, for a period of ~~[three]~~ no more than 30 consecutive years, ~~[of the lesser of:]~~
- (4) ~~All~~ of all real property taxes paid on improvements at the site qualifying under Section 35-1.3(a) ~~[or (b)]~~ by the business which are in excess of the real property taxes paid upon the



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improvements at the site immediately preceding the date of the business's first qualification~~[- or -]~~; provided that the business continues to meet the definition of "eligible business" under Section 35-1.1, throughout the 30-year period.

- (2) ~~[\$100,000.00.]~~ Upon proper application, any owner of a qualified business who owned improvements utilized by that business on the date of the business's first qualification pursuant to Section 35-1.3(b) and continues to own the improvements during the tax year shall be eligible for an annual rebate from the city, for a period of no more than three consecutive years, of all real property taxes paid on improvements at the site qualifying under Section 35-1.3(b) by the business which are in excess of the real property taxes paid upon the improvements at the site immediately preceding the date of the business's first qualification; provided that the business continues to meet the definition of "eligible business" under Section 35-1.1, throughout the three-year period.

- (b) The rebate shall apply only in those years in which the business continues to employ the number of full-time employees required by ~~[Section 35-1.3.]~~ Sections 35-1.3(a) or (b), as applicable. In the event the improvements are transferred after taxes have been paid, only the qualified business that paid the taxes shall be eligible for the rebate.

- ~~[(b)]~~ (c) A claim for a real property tax rebate may be filed for excess taxes paid during a tax year at any time during the succeeding tax year only~~[- provided that for a business first qualifying prior to August 20, 1998, a claim may be filed within one year of August 20, 1998. The first claim for a rebate shall be made during the tax year when the business first qualifies for a rebate or, for a business first qualifying prior to August 20, 1998, within one year of August 20, 1998].~~

- ~~[(e)]~~ (d) The rebate ~~[shall]~~ will apply to improvements ~~[which]~~ that are held and used by the qualified business ~~[and which are used by the qualified business].~~

SECTION 7. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **45 (2021), CD1**

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SECTION 8. This ordinance takes effect upon its approval; provided that qualified businesses that have been granted any incentives pursuant to Chapter 35, Revised Ordinances of Honolulu 1990, as it read prior to the effective date of this ordinance, shall continue to receive such incentives unless the incentives are canceled by the qualified business or canceled or denied by the Director of Budget and Fiscal Services in accordance with Chapter 35, Revised Ordinances of Honolulu 1990, as it read immediately prior to the effective date of this ordinance.

INTRODUCED BY:

Augie Tulba

Carol Fukunaga

DATE OF INTRODUCTION:

November 4, 2021

Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu