

JAN 25 2006

---

---

# A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1           SECTION 1. The legislature finds that many airport  
2 concessions are in need of improvements. A number of airport  
3 concessions have complained that given stringent accounting  
4 rules they cannot make necessary improvements to their  
5 concessions due to the very short, or no remaining, term on  
6 their concession leases that do not allow them to amortize  
7 further improvements. Over twenty airport concessions now  
8 experience this problem.

9           As a result, improvements that the airports and various  
10 concessionaires would like to see take place are simply not  
11 happening. All agree that Hawaii's airports would be better in  
12 overall appearance and potentially enhanced revenues to the  
13 department of transportation if improvements could be made.

14           While there were a number of concessions prior to  
15 September 11, 2001 that had only a few years or no remaining  
16 term on their leases, the events of September 11, 2001, the SARS  
17 epidemic of March 2003, and the general downturn and uncertainty



1 in the economy that followed did not make it feasible to put  
2 concessions out to bid.

3 The legislature further finds that while the economy has  
4 now improved it will take two to three years to put these twenty  
5 or more concessions out to bid. Rather than have some of these  
6 concessions forego necessary improvements for two to three more  
7 years, it would be beneficial to both concessionaires and the  
8 airports if some of the concession leases could be extended on a  
9 short-term basis to allow for some improvements.

10 To allow the airports to temporarily grant fixed short-term  
11 lease extensions, Hawaii's statutes requiring airport  
12 concessions to be put out to sealed bid would have to be  
13 temporarily suspended. During this period, the department of  
14 transportation in its sole discretion would be allowed to  
15 discuss and negotiate fixed short-term lease extensions as a  
16 condition for concession improvements.

17 Since this Act is intended as a one-time and temporary  
18 change in the law to allow for only some improvements while the  
19 back log of concessions waiting to be bid is reduced: (1) the  
20 term of the extension is limited to not more than forty per cent  
21 of the original concession term; (2) the cost of improvements  
22 must justify the extension; and (3) there must be no reduction



1 in lease rent during the extension period. Further, concession  
2 leases which received rent relief from the department of  
3 transportation after April 30, 2002 by way of negotiation or  
4 pursuant to Act 201, Session Laws of Hawaii 2004, are not  
5 eligible for any fixed short-term lease extension provided by  
6 this Act.

7 To expedite these discussions and these improvements, the  
8 legislature further finds that it is necessary to grant the  
9 department of transportation for a period of twelve months the  
10 sole discretion and authority to negotiate all terms and  
11 conditions for any short-term lease extension within these  
12 parameters. The department of transportation will have the  
13 opportunity and flexibility to sit down with various concession  
14 operators and discuss improvements in return for fixed  
15 short-term lease extensions. In addition to possible added  
16 revenues to the department of transportation, the improvements  
17 will immediately jump-start and enhance the ambience,  
18 appearance, and overall experience at Hawaii's public airports  
19 for visitors and local residents alike and avoid improvement  
20 delays for another few years.

21 The purpose of this Act is to provide the department of  
22 transportation with:



1 (1) The flexibility to allow airport concessions to make  
2 improvements; and

3 (2) The authority to:

4 (A) Grant short-term extensions to concession leases  
5 or concession permits within specified parameters  
6 in exchange for improvements; and

7 (B) Modify and alter older leases and permits by  
8 changing the relief terms to similar terms found  
9 in newer concession leases that allow a  
10 concession to receive economic emergency relief  
11 in case of disruptive economic events.

12 SECTION 2. Notwithstanding any law to the contrary and for  
13 concession leases after April 30, 2002 that did not receive rent  
14 relief by way of negotiation pursuant to Act 201, Session Laws  
15 of Hawaii 2004, the department of transportation in its sole  
16 discretion and authority, upon mutual agreement with a  
17 concession seeking to make improvements, may modify, alter, or  
18 amend the terms of concession leases, and permits, including and  
19 not limited to locations, requirements, and obligations;  
20 provided that:

21 (1) Any extension of a lease or permit shall be:

- 1 (A) For a period not longer than forty per cent of
- 2 the original term of the concession lease; and
- 3 (B) For a period of time that is sufficient to allow
- 4 the amortization of the cost of the improvements
- 5 by the concession;
- 6 (2) The rents during the extension period shall not be
- 7 lower than rents paid by the concession under its
- 8 existing lease or permit; and
- 9 (3) Rent relief terms for older leases or permits may be
- 10 modified and altered to include terms in newer
- 11 concession leases which provide economic emergency
- 12 relief for concessions in case of disruptive economic
- 13 events.

14 Within twelve months prior to the termination of any lease  
15 or permit receiving an extension pursuant to this Act, the  
16 department of transportation shall solicit bids for a new lease;  
17 provided the solicitation of bids may be delayed for good cause,  
18 including the occurrence of a disruptive event similar to the  
19 events of September 11, 2001, as determined by the director of  
20 the department of transportation in the director's sole  
21 discretion.



# S.B. NO. 2662

1 SECTION 3. This Act shall take effect upon its approval,  
2 and shall be repealed on July 1, 2007.

3

INTRODUCED BY:

*Francis R. George*  
*Rosalee de Pich*  
*Will Syro*  
*Therese Chun Oakland*



# SB. NO. 2662

**Report Title:**

Airport Concessions

**Description:**

Provides temporary reprieve from lease and permit requirements for airport vendors who want to make improvements.

