
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 being made. All agree that Hawaii's airports would be better in
12 overall appearance and potentially enhanced revenues may accrue
13 to the department of transportation if improvements could be
14 made.

15 While there were a number of concessions prior to
16 September 11, 2001 that had only a few years or no remaining
17 term on their leases, the events of September 11, 2001, the
18 severe acute respiratory syndrome epidemic of March 2003, and



1 the general downturn and uncertainty in the economy that
2 followed did not make it feasible to put 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 backlog of concessions waiting to be bid is reduced:

20 (1) The term of the extension is limited to not more than
21 forty per cent of the original concession term;



- 1 (2) The cost of improvements must justify the extension;
2 and
3 (3) There must be no reduction in lease rent during the
4 extension period.

5 Further, concession lessees who received rent relief from the
6 department of transportation after April 30, 2002, by way of
7 negotiation or pursuant to Act 201, Session Laws of Hawaii 2004,
8 are not eligible for any fixed short-term lease extension
9 provided by this Act.

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



1 The purpose of this Act is to provide the department of
2 transportation with:

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

5 (2) The authority to:

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

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

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



- 1 (1) Any extension of a lease or permit shall be:
- 2 (A) For a period not longer than forty per cent of
- 3 the original term of the concession lease; and
- 4 (B) For a period of time that is sufficient to allow
- 5 the amortization of the cost of the improvements
- 6 by the concession;
- 7 (2) The rents during the extension period shall not be
- 8 lower than rents paid by the concession under its
- 9 existing lease or permit; and
- 10 (3) Rent relief terms for leases or permits signed prior
- 11 to April 30, 2002, may be modified and altered to
- 12 include terms in newer concession leases which provide
- 13 economic emergency relief for concessions in case of
- 14 disruptive economic events.

15 Within twelve months prior to the termination of any lease

16 or permit receiving an extension pursuant to this Act, the

17 department of transportation shall solicit bids for a new lease;

18 provided the solicitation of bids may be delayed for good cause,

19 including the occurrence of a disruptive event similar to the

20 events of September 11, 2001, as determined by the director of

21 transportation in the director's sole discretion.



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



SB2662.SD1

Report Title:

Airport Concessions

Description:

Provides temporary reprieve from lease and permit requirements for airport vendors who want to make improvements. (SD1)

