
A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1 SECTION 1. Airports throughout the United States have
2 renovated, reconfigured, and relocated car rental customer
3 facilities as an appropriate means of efficiently and
4 effectively dealing with increased demands for space. Many, if
5 not most, of these airports commonly use the collection of a car
6 rental customer facility charge to finance the renovation,
7 construction, operation, and maintenance of car rental customer
8 facilities, and pay for associated shuttle bus systems to
9 transport passengers to and from these car rental customer
10 facilities without adversely affecting general airport funds.

11 Further, the legislature finds that concessionaires,
12 including car rental companies, have historically contributed
13 about 50 per cent or more of Hawaii's airport revenues by way of
14 concession rental payments. Such revenues have typically been
15 used primarily to pay for improvements for airlines, as well as
16 some improvements for airport concessions. It is not the intent
17 of the legislature to preclude the use of such revenues for
18 facility improvements and other support for car rental



1 concessions at public airports by the passage of this Act.
2 Given the future expenditure plans and present shortage of
3 airport revenues for facility and other improvements, it is the
4 intent of the legislature to expedite the provision of needed
5 car rental facilities that can better serve Hawaii's visitors
6 and residents.

7 The purpose of this Act is to provide the department of
8 transportation with the authority to establish and collect a car
9 rental customer facility charge and use the revenues collected
10 for the renovation and development of car rental customer
11 facilities including, without limitation, acquisition of
12 property or property rights, acquisition of equipment for and
13 operation of a unified shuttle bus system to and from passenger
14 terminals and rental car facilities, and design, construction,
15 renovation, operation, and maintenance of the car rental
16 customer facilities.

17 SECTION 2. Chapter 261, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§261- Car rental customer facility charge special
21 fund. (a) There is established in the state treasury the car
22 rental customer facility charge special fund to be administered



1 by the director, into which shall be deposited all proceeds from
2 the car rental customer facility charge.

3 (b) Moneys in the car rental customer facility charge
4 special fund shall be used for enhancement, renovation,
5 operation, and maintenance of existing rental car customer
6 facilities, and the development of car rental customer
7 facilities at state airports, including:

8 (1) Acquisition and maintenance of property or property
9 rights;

10 (2) Acquisition of equipment for and operation of a
11 unified shuttle bus system to and from passenger
12 terminals and the rental car facilities;

13 (3) Consultant fees; and

14 (4) Design, construction, operation, and maintenance of,
15 or allocable to, the approved car rental customer
16 facilities.

17 In planning the future needs and expenditures of such moneys,
18 the director shall, at least once a year, consult with lessors,
19 as defined in section 437D-3, who are using or who in the future
20 may use such facilities and services.

21 (c) The car rental customer facility charge special fund
22 shall be exempt from sections 36-30 and 103-8.5."



1 SECTION 3. Section 36-30, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Each special fund, except the:

- 4 (1) Transportation use special fund established by section
5 261D-1;
- 6 (2) Special out-of-school time instructional program fund
7 under section 302A-1310;
- 8 (3) School cafeteria special funds of the department of
9 education;
- 10 (4) Special funds of the University of Hawaii;
- 11 (5) State educational facilities improvement special fund;
- 12 (6) Special funds established by section 206E-6;
- 13 (7) Aloha Tower fund created by section 206J-17;
- 14 (8) Funds of the employees' retirement system created by
15 section 88-109;
- 16 (9) Unemployment compensation fund established under
17 section 383-121;
- 18 (10) Hawaii hurricane relief fund established under chapter
19 431P;
- 20 (11) Convention center enterprise special fund established
21 under section 201B-8;



- 1 (12) Hawaii health systems corporation special funds and
2 the subaccounts of its regional system boards;
- 3 (13) Tourism special fund established under section
4 201B-11;
- 5 (14) Universal service fund established under chapter 269;
- 6 (15) Emergency and budget reserve fund under section
7 328L-3;
- 8 (16) Public schools special fees and charges fund under
9 section 302A-1130(f);
- 10 (17) Sport fish special fund under section 187A-9.5;
- 11 (18) Neurotrauma special fund under section 321H-4;
- 12 (19) Center for nursing special fund under section 304A-
13 2163;
- 14 (20) Passenger facility charge special fund established by
15 section 261-5.5;
- 16 (21) Court interpreting services revolving fund under
17 section 607-1.5;
- 18 (22) Trauma system special fund under section 321-22.5;
- 19 (23) Hawaii cancer research special fund;
- 20 (24) Community health centers special fund; [and]
- 21 (25) Emergency medical services special fund; and



1 (26) Car rental customer facility charge special fund
2 established under section 261-_____ ,
3 shall be responsible for its pro rata share of the
4 administrative expenses incurred by the department responsible
5 for the operations supported by the special fund concerned."

6 SECTION 4. Section 103-8.5, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) There is created a works of art special fund, into
9 which shall be transferred one per cent of all state fund
10 appropriations for capital improvements designated for the
11 construction cost element; provided that this transfer shall
12 apply only to capital improvement appropriations that are
13 designated for the construction or renovation of state
14 buildings. The one per cent transfer requirement shall not
15 apply to appropriations from the passenger facility charge
16 special fund established by section 261-5.5[-] and the car
17 rental customer facility charge special fund established by
18 section 261-_____ ."

19 SECTION 5. Section 261-5, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) Except for:



1 (1) That portion of the payments received by the
2 department under a contract entered into as authorized
3 by section 261-7 and deposited in the transportation
4 use special fund pursuant to section 261D-1 [~~7~~ and
5 ~~except for all~~];

6 (2) All proceeds from the passenger facility charge and
7 deposited in the passenger facility charge special
8 fund [~~7~~]; and

9 (3) All proceeds from the car rental customer facility
10 charge and deposited in the car rental customer
11 facility charge special fund,

12 all moneys received by the department from rents, fees, and
13 other charges collected pursuant to this chapter, as well as all
14 aviation fuel taxes paid pursuant to section 243-4(a)(2), shall
15 be paid into the airport revenue fund created by section 248-8.

16 All moneys paid into the airport revenue fund shall be
17 appropriated, applied, or expended by the department for any
18 purpose within the jurisdiction, powers, duties, and functions
19 of the department related to the statewide system of airports,
20 including, without limitation, the costs of operation,
21 maintenance, and repair of the statewide system of airports and
22 reserves therefor, and acquisitions (including real property and



1 interests therein), constructions, additions, expansions,
2 improvements, renewals, replacements, reconstruction,
3 engineering, investigation, and planning for the statewide
4 system of airports, all or any of which in the judgment of the
5 department are necessary to the performance of its duties or
6 functions. The department shall generate sufficient revenues
7 from its airport properties to meet all of the expenditures of
8 the statewide system of airports and to comply with section 39-
9 61; provided that as long as sufficient revenues are generated
10 to meet such expenditures, the director of transportation may,
11 in the director's discretion, grant a rebate of the aviation
12 fuel taxes paid into the airport revenue fund during a fiscal
13 year pursuant to sections 243-4(a)(2) and 248-8 to any person
14 who has paid airport use charges or landing fees during such
15 fiscal year. Such rebate may be granted during the next
16 succeeding fiscal year but shall not exceed one-half cent per
17 gallon per person, and shall be computed on the total number of
18 gallons for which the tax was paid by such person, for such
19 fiscal year."

20 SECTION 6. Section 261-7, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§261-7 **Operation and use privileges.** (a) In operating
2 an airport or air navigation facility owned or controlled by the
3 department of transportation, or in which it has a right or
4 interest, the department may enter into contracts, leases,
5 licenses, and other arrangements with any person:

6 (1) Granting the privilege of using or improving the
7 airport or air navigation facility or any portion or
8 facility thereof or space therein for commercial
9 purposes;

10 (2) Conferring the privilege of supplying goods,
11 commodities, things, services, or facilities at the
12 airport or air navigation facility;

13 (3) Making available services, facilities, goods,
14 commodities, or other things to be furnished by the
15 department or its agents at the airport or air
16 navigation facility; or

17 (4) Granting the use and occupancy on a temporary basis by
18 license or otherwise any portion of the land under its
19 jurisdiction which for the time being may not be
20 required by the department so that it may put the area
21 to economic use and thereby derive revenue therefrom.



1 All the arrangements shall contain a clause that the land
2 may be repossessed by the department when needed for aeronautics
3 purposes upon giving the tenant temporarily occupying the same
4 not less than thirty days' notice in writing of intention to
5 repossess.

6 (b) Except as otherwise provided in this section, in each
7 case mentioned in subsection (a)(1), (2), (3), and (4), the
8 department may establish the terms and conditions of the
9 contract, lease, license, or other arrangement, and may fix the
10 charges, rentals, or fees for the privileges, services, or
11 things granted, conferred, or made available, for the purpose of
12 meeting the expenditures of the statewide system of airports set
13 forth in section 261-5(a), which includes expenditures for
14 capital improvement projects approved by the legislature. Such
15 charges shall be reasonable and uniform for the same class of
16 privilege, service, or thing.

17 (c) The department shall enter into a contract with no
18 more than one person ("contractor") for the sale and delivery of
19 in-bond merchandise at Honolulu International Airport, in the
20 manner provided by law. The contract shall confer the right to
21 operate and maintain commercial facilities within the airport
22 for the sale of in-bond merchandise and the right to deliver to



1 the airport in-bond merchandise for sale to departing foreign-
2 bound passengers.

3 The department shall grant the contract pursuant to the
4 laws of this State and may take into consideration:

5 (1) The payment to be made on in-bond merchandise sold at
6 Honolulu International Airport and on in-bond
7 merchandise displayed or sold elsewhere in the [State]
8 state and delivered to the airport;

9 (2) The ability of the applicant to comply with all
10 federal and state rules and regulations concerning the
11 sale and delivery of in-bond merchandise; and

12 (3) The reputation, experience, and financial capability
13 of the applicant.

14 The department shall actively supervise the operation of
15 the contractor to [~~insure~~] ensure its effectiveness. The
16 department shall develop and implement such guidelines as it may
17 find necessary and proper to actively supervise the operations
18 of the contractor, and shall include guidelines relating to the
19 department's review of the reasonableness of contractor's price
20 schedules, quality of merchandise, merchandise assortment,
21 operations, and service to customers.



1 Apart from the contract described in this subsection, the
2 department shall confer no right upon nor suffer nor allow any
3 person to offer to sell, sell, or deliver in-bond merchandise at
4 Honolulu International Airport; provided that this section shall
5 not prohibit the delivery of in-bond merchandise as cargo to the
6 Honolulu International Airport.

7 (d) The department, by contract, lease, or other
8 arrangement, upon a consideration fixed by it, may grant to any
9 qualified person the privilege of operating, as agent of the
10 State or otherwise, any airport owned or controlled by the
11 department; provided that no such person shall be granted any
12 authority to operate the airport other than as a public airport
13 or to enter into any contracts, leases, or other arrangements in
14 connection with the operation of the airport which the
15 department might not have undertaken under subsection (a).

16 (e) The department may fix and regulate, from time to
17 time, reasonable landing fees for aircraft, including the
18 imposition of landing surcharges or differential landing fees,
19 and other reasonable charges for the use and enjoyment of the
20 airports and the services and facilities furnished by the
21 department in connection therewith, including the establishment
22 of a statewide system of airports landing fees, a statewide



1 system of airports support charges, and joint use charges for
2 the use of space shared by users, which fees and charges may
3 vary among different classes of users such as foreign carriers,
4 domestic carriers, inter-island carriers, air taxi operators,
5 helicopters, and such other classes as may be determined by the
6 director, for the purpose of meeting the expenditures of the
7 statewide system of airports set forth in section 261-5(a),
8 which includes expenditures for capital improvement projects
9 approved by the legislature.

10 In setting airports rates and charges, including landing
11 fees, the director may enter into contracts, leases, licenses,
12 and other agreements with aeronautical users of the statewide
13 system of airports containing such terms, conditions, and
14 provisions as the director deems advisable.

15 If the director has not entered into contracts, leases,
16 licenses, and other agreements with any or fewer than all of the
17 aeronautical users of the statewide system of airports prior to
18 the expiration of an existing contract, lease, license, or
19 agreement, the director shall set and impose rates, rentals,
20 fees, and charges pursuant to this subsection without regard to
21 the requirements of chapter 91; provided that a public



1 informational hearing shall be held on the rates, rentals, fees,
2 and charges.

3 The director shall develop rates, rentals, fees, and
4 charges in accordance with a residual methodology so that the
5 statewide system of airports shall be, and always remain, self-
6 sustaining. The rates, rentals, fees, and charges shall be set
7 at such levels as to produce revenues which, together with
8 aviation fuel taxes, shall be at least sufficient to meet the
9 expenditures of the statewide system of airports set forth in
10 section 261-5(a), including expenditures for capital improvement
11 projects approved by the legislature, and to comply with
12 covenants and agreements with holders of airport revenue bonds.

13 The director may develop and formulate methodology in
14 setting the various rates, rentals, fees, and charges imposed
15 and may determine usage of space, estimate landed weights, and
16 apply such portion of nonaeronautical revenue deemed appropriate
17 in determining the rates, rentals, fees, and charges applicable
18 to aeronautical users of the statewide system of airports.

19 The rates, rentals, fees, and charges determined by the
20 director in the manner set forth in this subsection shall be
21 those charges payable by the aeronautical users for the periods
22 immediately following the date of expiration of the existing



1 contract, lease, license, or agreement. If fees are established
2 pursuant to this section, the department shall prepare a
3 detailed report on the circumstances and rates and charges that
4 have been established, and shall submit the report to the
5 legislature no later than twenty days prior to the convening of
6 the next regular session.

7 If a schedule of rates, rentals, fees, and charges
8 developed by the director in accordance with this section is
9 projected by the department to produce revenues which, together
10 with aviation fuel taxes, will be in excess of the amount
11 required to meet the expenditures of the statewide system of
12 airports set forth in section 261-5(a), including expenditures
13 for capital improvement projects approved by the legislature,
14 and to comply with covenants and agreements with holders of
15 airport revenue bonds, the department shall submit the schedule
16 of rates, rentals, fees, and charges to the legislature prior to
17 the convening of the next regular session of the legislature.
18 Within forty-five days after the convening of the regular
19 session, the legislature may disapprove any schedule of rates,
20 rentals, fees, and charges required to be submitted to it by
21 this section by concurrent resolution. If no action is taken by
22 the legislature within the forty-five-day period the schedule of



1 rates, rentals, fees, and charges shall be deemed approved. If
2 the legislature disapproves the schedule within the forty-five-
3 day period, the director shall develop a new schedule of rates,
4 rentals, fees, and charges in accordance with this section
5 within seventy-five days of the disapproval. Pending the
6 development of a new schedule of rates, rentals, fees, and
7 charges, the schedule submitted to the legislature shall remain
8 in force and effect.

9 Notwithstanding any other provision of law to the contrary,
10 the department may waive landing fees and other aircraft charges
11 established under this section at any airport owned or
12 controlled by the State whenever:

13 (1) The governor declares a state of emergency; and
14 (2) The department determines that the waiver of landing
15 fees and other charges for the aircraft is consistent
16 with assisting in the delivery of humanitarian relief
17 to disaster-stricken areas of the [~~State-~~] state.

18 (f) To enforce the payment of any charges for repairs or
19 improvements to, or storage or care of any personal property
20 made or furnished by the department or its agent in connection
21 with the operation of an airport or air navigation facility
22 owned or operated by the department, the department shall have



1 liens on the property, which shall be enforceable by it as
2 provided by sections 507-18 to 507-22.

3 (g) The department from time to time may establish
4 developmental rates for buildings and land areas used
5 exclusively for general aviation activities at rates not less
6 than fifty per cent of the fair market rentals of the buildings
7 and land areas and may restrict the extent of buildings and land
8 areas to be [~~utilized.~~] used.

9 (h) The department may establish car rental customer
10 facility charges by rule."

11 SECTION 7. Section 437D-8.4, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Notwithstanding any law to the contrary, a lessor may
14 visibly pass on to a lessee:

15 (1) The general excise tax attributable to the
16 transaction;

17 (2) The vehicle license and registration fee and weight
18 taxes, prorated at 1/365th of the annual vehicle
19 license and registration fee and weight taxes actually
20 paid on the particular vehicle being rented for each
21 full or partial [~~twenty-four hour~~] twenty-four-hour
22 rental day that the vehicle is rented; provided the



1 total of all vehicle license and registration fees
2 charged to all lessees shall not exceed the annual
3 vehicle license and registration fee actually paid for
4 the particular vehicle rented;

5 (3) The rental motor vehicle surcharge tax as provided in
6 section 251-2 attributable to the transaction;

7 (4) The county surcharge on state tax under section
8 46-16.8; provided that the lessor itemizes the tax for
9 the lessee; and

10 (5) The rents or fees paid to the department of
11 transportation under concession contracts[~~7~~]
12 negotiated pursuant to chapter 102, [~~or~~] service
13 permits[~~7~~] granted pursuant to title 19, Hawaii
14 administrative rules, or car rental customer facility
15 charges established pursuant to 261-7; provided that:

16 (A) The rents or fees are limited to amounts that can
17 be attributed to the proceeds of the particular
18 transaction;

19 (B) The rents or fees shall not exceed the lessor's
20 net payments to the department of transportation
21 made under concession contract or service permit;



1 (C) The lessor submits to the department of
2 transportation and the department of commerce and
3 consumer affairs a statement, verified by a
4 certified public accountant as correct, that
5 reports the amounts of the rents or fees paid to
6 the department of transportation pursuant to the
7 applicable concession contract or service permit:

- 8 (i) For all airport locations; and
- 9 (ii) For each airport location;

10 (D) The lessor submits to the department of
11 transportation and the department of commerce and
12 consumer affairs a statement, verified by a
13 certified public accountant as correct, that
14 reports the amounts charged to lessees:

- 15 (i) For all airport locations;
- 16 (ii) For each airport location; and
- 17 (iii) For each lessee;

18 (E) The lessor includes in these reports the
19 methodology used to determine the amount of fees
20 charged to each lessee; and

21 (F) The lessor submits the above information to the
22 department of transportation and the department



1 of commerce and consumer affairs within three
2 months of the end of the preceding annual
3 accounting period or contract year as determined
4 by the applicable concession agreement or service
5 permit.

6 The respective departments, in their sole
7 discretion, may extend the time to submit the
8 statement required in this subsection. If the
9 director determines that an examination of the
10 lessor's information is inappropriate under this
11 subsection and the lessor fails to correct the
12 matter within ninety days, the director may
13 conduct an examination and charge a lessor an
14 examination fee based upon the cost per hour per
15 examiner for evaluating, investigating, and
16 verifying compliance with this subsection, as
17 well as additional amounts for travel, per diem,
18 mileage, and other reasonable expenses incurred
19 in connection with the examination, which shall
20 relate solely to the requirements of this
21 subsection, and which shall be billed by the
22 departments as soon as feasible after the close



1 of the examination. The cost per hour shall be
2 \$40 or as may be established by rules adopted by
3 the director. The lessor shall pay the amounts
4 billed within thirty days following the billing.
5 All moneys collected by the director shall be
6 credited to the compliance resolution fund."

7 SECTION 8. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act shall take effect on July 1, 2034.



65Report Title:

Transportation; Airports

Description:

Authorizes the Department of Transportation to establish and collect car rental customer facility charges. Creates a car rental customer facility charge special fund. (HB2952 HD1)

