
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 rental motor vehicle
3 customer 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
6 rental motor vehicle customer facility charge to finance the
7 renovation, construction, operation, and maintenance of rental
8 motor vehicle customer facilities and pay for associated shuttle
9 bus systems to transport passengers to and from these rental
10 motor vehicle customer facilities without adversely affecting
11 general airport funds.

12 Further, the legislature finds that concessionaires,
13 including rental motor vehicle companies, have historically
14 contributed about fifty per cent or more of Hawaii's airport
15 revenues by way of concession rental payments. Such revenues
16 have typically been used primarily to pay for improvements for
17 airlines as well as some improvements for airport concessions.



1 It is not the intent of the legislature to preclude the use of
2 such revenues for facility improvements and other support for
3 rental motor vehicle concessions at public airports by the
4 passage of this Act. Given the future expenditure plans and
5 present shortage of airport revenues for facility and other
6 improvements, it is the intent of the legislature to expedite
7 the provision of needed rental motor vehicle customer facilities
8 that can better serve Hawaii's visitors and residents.

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



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

4 "§261- Rental motor vehicle customer facility charge
5 special fund. (a) There is established in the state treasury
6 the rental motor vehicle customer facility charge special fund
7 to be administered by the director, into which shall be
8 deposited all proceeds from the rental motor vehicle customer
9 facility charge.

10 (b) Moneys in the rental motor vehicle customer facility
11 charge special fund shall be used for enhancement, renovation,
12 operation, and maintenance of existing rental motor vehicle
13 customer facilities and the development of new rental motor
14 vehicle customer facilities at state airports, including:

15 (1) Acquisition and maintenance of property or property
16 rights for rental motor vehicle purposes;

17 (2) Acquisition of equipment for and operation of a
18 unified shuttle bus system to and from passenger
19 terminals and the rental motor vehicle facilities;

20 (3) Consultant fees;



- 1 (4) Management, operation, and maintenance fees for rental
- 2 motor vehicle facilities and related services; and
- 3 (5) Design, construction, operation, and maintenance of,
- 4 or allocable to, the approved rental motor vehicle
- 5 customer facilities.

6 In planning the future needs and expenditures of these moneys,
7 the director, or deputy designated by the director, shall, at
8 least once a year, consult with lessors, as defined in section
9 437D-3, who are using or who in the future may use the
10 facilities and services. No moneys shall be expended for any
11 type of enhancement, construction, or improvement to any
12 existing rental motor vehicle facility at a state airport until
13 a concession bid for rental motor vehicle concessions located at
14 the airport as of July 1, 2008, is first advertised, bid upon,
15 and awarded by the department; provided that and notwithstanding
16 the foregoing, moneys may be expended to plan, design, improve,
17 enhance, or construct rental motor vehicle customer facilities
18 shared or to be shared by rental motor vehicle concessions at a
19 state airport as determined by the director.

20 (c) The rental motor vehicle customer facility charge
21 special fund 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) Rental motor vehicle customer facility charge special
2 fund 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 rental
17 motor vehicle customer facility charge special fund established
18 under 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 [~~that~~]:



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 rental motor vehicle customer
10 facility charge and deposited in the rental motor
11 vehicle customer 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



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



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

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

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

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

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

19 (4) Granting the use and occupancy on a temporary basis by
20 license or otherwise any portion of the land under its
21 jurisdiction which for the time being may not be



1 required by the department so that it may put the area
2 to economic use and thereby derive revenue therefrom.

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

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

19 (c) The department shall enter into a contract with no
20 more than one person ("contractor") for the sale and delivery of
21 in-bond merchandise at Honolulu International Airport, in the



1 manner provided by law. The contract shall confer the right to
2 operate and maintain commercial facilities within the airport
3 for the sale of in-bond merchandise and the right to deliver to
4 the airport in-bond merchandise for sale to departing foreign-
5 bound passengers.

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

8 (1) The payment to be made on in-bond merchandise sold at
9 Honolulu International Airport and on in-bond
10 merchandise displayed or sold elsewhere in the State
11 and delivered to the airport;

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

15 (3) The reputation, experience, and financial capability
16 of the applicant.

17 The department shall actively supervise the operation of
18 the contractor to [~~insure~~] ensure its effectiveness. The
19 department shall develop and implement such guidelines as it may
20 find necessary and proper to actively supervise the operations
21 of the contractor, and shall include guidelines relating to the



1 department's review of the reasonableness of contractor's price
2 schedules, quality of merchandise, merchandise assortment,
3 operations, and service to customers.

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

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

19 (e) The department may fix and regulate, from time to
20 time, reasonable landing fees for aircraft, including the
21 imposition of landing surcharges or differential landing fees,



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

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

19 If the director has not entered into contracts, leases,
20 licenses, and other agreements with any or fewer than all of the
21 aeronautical users of the statewide system of airports prior to



1 the expiration of an existing contract, lease, license, or
2 agreement, the director shall set and impose rates, rentals,
3 fees, and charges pursuant to this subsection without regard to
4 the requirements of chapter 91; provided that a public
5 informational hearing shall be held on the rates, rentals, fees,
6 and charges.

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

17 The director may develop and formulate methodology in
18 setting the various rates, rentals, fees, and charges imposed
19 and may determine usage of space, estimate landed weights, and
20 apply such portion of nonaeronautical revenue deemed appropriate



1 in determining the rates, rentals, fees, and charges applicable
2 to aeronautical users of the statewide system of airports.

3 The rates, rentals, fees, and charges determined by the
4 director in the manner set forth in this subsection shall be
5 those charges payable by the aeronautical users for the periods
6 immediately following the date of expiration of the existing
7 contract, lease, license, or agreement. If fees are established
8 pursuant to this section, the department shall prepare a
9 detailed report on the circumstances and rates and charges that
10 have been established, and shall submit the report to the
11 legislature no later than twenty days prior to the convening of
12 the next regular session.

13 If a schedule of rates, rentals, fees, and charges
14 developed by the director in accordance with this section is
15 projected by the department to produce revenues which, together
16 with aviation fuel taxes, will be in excess of the amount
17 required to meet the expenditures of the statewide system of
18 airports set forth in section 261-5(a), including expenditures
19 for capital improvement projects approved by the legislature,
20 and to comply with covenants and agreements with holders of
21 airport revenue bonds, the department shall submit the schedule



1 of rates, rentals, fees, and charges to the legislature prior to
2 the convening of the next regular session of the legislature.
3 Within forty-five days after the convening of the regular
4 session, the legislature may disapprove any schedule of rates,
5 rentals, fees, and charges required to be submitted to it by
6 this section by concurrent resolution. If no action is taken by
7 the legislature within the forty-five-day period the schedule of
8 rates, rentals, fees, and charges shall be deemed approved. If
9 the legislature disapproves the schedule within the forty-five-
10 day period, the director shall develop a new schedule of rates,
11 rentals, fees, and charges in accordance with this section
12 within seventy-five days of the disapproval. Pending the
13 development of a new schedule of rates, rentals, fees, and
14 charges, the schedule submitted to the legislature shall remain
15 in force and effect.

16 Notwithstanding any other provision of law to the contrary,
17 the department may waive landing fees and other aircraft charges
18 established under this section at any airport owned or
19 controlled by the State whenever:

20 (1) The governor declares a state of emergency; and



1 (2) The department determines that the waiver of landing
2 fees and other charges for the aircraft is consistent
3 with assisting in the delivery of humanitarian relief
4 to disaster-stricken areas of the State.

5 (f) To enforce the payment of any charges for repairs or
6 improvements to, or storage or care of any personal property
7 made or furnished by the department or its agent in connection
8 with the operation of an airport or air navigation facility
9 owned or operated by the department, the department shall have
10 liens on the property, which shall be enforceable by it as
11 provided by sections 507-18 to 507-22.

12 (g) The department from time to time may establish
13 developmental rates for buildings and land areas used
14 exclusively for general aviation activities at rates not less
15 than fifty per cent of the fair market rentals of the buildings
16 and land areas and may restrict the extent of buildings and land
17 areas to be ~~utilized.~~ used.

18

(h) The department may establish, levy, assess, and

19 collect rental motor vehicle customer facility charges each
20 month. These charges shall be as reasonably necessary to pay
21 for, or finance on a long-term basis where appropriate, the uses



1 of the rental motor vehicle customer facility charges as set
2 forth by the rental motor vehicle customer facility charge
3 special fund in section 261- .

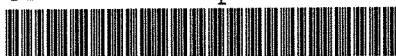
4 The rental motor vehicle customer facility charges may be
5 of different amounts and shall be reasonably levied, assessed,
6 and collected by the department from all rental motor vehicle
7 persons or entities providing services to customers at a state
8 airport and benefiting from the use of any facility or service
9 paid for by rental motor vehicle customer facility charges as
10 determined by the director.

11 Notwithstanding any law to the contrary, the department may
12 contract the management, maintenance, and operations of the
13 facility and related services with airport concessions that
14 share in the use of a rental motor vehicle customer facility at
15 a state airport, or their designee."

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

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

20 (1) The general excise tax attributable to the
21 transaction;



- 1 (2) The vehicle license and registration fee and weight
2 taxes, prorated at 1/365th of the annual vehicle
3 license and registration fee and weight taxes actually
4 paid on the particular vehicle being rented for each
5 full or partial [~~twenty-four-hour~~] twenty-four-hour
6 rental day that the vehicle is rented; provided the
7 total of all vehicle license and registration fees
8 charged to all lessees shall not exceed the annual
9 vehicle license and registration fee actually paid for
10 the particular vehicle rented;
- 11 (3) The rental motor vehicle surcharge tax as provided in
12 section 251-2 attributable to the transaction;
- 13 (4) The county surcharge on state tax under section
14 46-16.8; provided that the lessor itemizes the tax for
15 the lessee; and
- 16 (5) The rents or fees paid to the department of
17 transportation under concession contracts[~~7~~]
18 negotiated pursuant to chapter 102, [~~or~~] service
19 permits[~~7~~] granted pursuant to title 19, Hawaii
20 Administrative Rules, or rental motor vehicle customer



1 facility charges established pursuant to section 261-
2 7; provided that:

3 (A) The rents or fees are limited to amounts that can
4 be attributed to the proceeds of the particular
5 transaction;

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

9 (C) The lessor submits to the department of
10 transportation and the department of commerce and
11 consumer affairs a statement, verified by a
12 certified public accountant as correct, that
13 reports the amounts of the rents or fees paid to
14 the department of transportation pursuant to the
15 applicable concession contract or service permit:

16 (i) For all airport locations; and

17 (ii) For each airport location;

18 (D) The lessor submits to the department of
19 transportation and the department of commerce and
20 consumer affairs a statement, verified by a



1 certified public accountant as correct, that
2 reports the amounts charged to lessees:
3 (i) For all airport locations;
4 (ii) For each airport location; and
5 (iii) For each lessee;
6 (E) The lessor includes in these reports the
7 methodology used to determine the amount of fees
8 charged to each lessee; and
9 (F) The lessor submits the above information to the
10 department of transportation and the department
11 of commerce and consumer affairs within three
12 months of the end of the preceding annual
13 accounting period or contract year as determined
14 by the applicable concession agreement or service
15 permit.

16 The respective departments, in their sole discretion,
17 may extend the time to submit the statement required
18 in this subsection. If the director determines that
19 an examination of the lessor's information is
20 inappropriate under this subsection and the lessor
21 fails to correct the matter within ninety days, the

1 director may conduct an examination and charge a
2 lessor an examination fee based upon the cost per hour
3 per examiner for evaluating, investigating, and
4 verifying compliance with this subsection, as well as
5 additional amounts for travel, per diem, mileage, and
6 other reasonable expenses incurred in connection with
7 the examination, which shall relate solely to the
8 requirements of this subsection, and which shall be
9 billed by the departments as soon as feasible after
10 the close of the examination. The cost per hour shall
11 be \$40 or as may be established by rules adopted by
12 the director. The lessor shall pay the amounts billed
13 within thirty days following the billing. All moneys
14 collected by the director shall be credited to the
15 compliance resolution fund."

16 SECTION 8. Notwithstanding the provisions of section 6 of
17 this Act, the department of transportation, as of September 1,
18 2008, shall levy, assess, and collect a rental motor vehicle
19 customer facility charge of \$ per day, or any portion of a day
20 that a rental motor vehicle is rented or leased, by a rental
21 motor vehicle concession where customers pick-up and return



1 rental vehicles to a facility at a state airport as determined
2 by the director. Moneys shall continue to be collected only
3 until such time that the sum of \$ is collected and deposited
4 into the rental motor vehicle customer facility charge special
5 fund. The provisions of this section shall not impair, limit,
6 or restrict the department of transportation from levying,
7 assessing, establishing, and collecting rental motor vehicle
8 customer facility charges as set forth in section 6 of this Act.

9 SECTION 9. There is appropriated out of the rental motor
10 vehicle customer facility charge special fund established by
11 section 261- , Hawaii Revised Statutes, the sum of \$ or so much
12 thereof as may be necessary for the:

13 (1) Planning and design of rental motor vehicle customer
14 facilities at state airports; and

15 (2) Improvement, pavement, construction, and fencing to an
16 existing ground-level storage area shared by rental
17 motor vehicle concessions at the state airport
18 located in Kahului, Maui.

19 The sum appropriated shall be expended by the department
20 of transportation for the purposes of this Act.



1 SECTION 10. Statutory material to be repealed is
2 bracketed and stricken. New statutory material is
3 underscored.

4 SECTION 11. This Act shall take effect on July 1, 2020.



S.B. NO. 2365
S.D. 1
Proposed
H.D. 1

Report Title:

Transportation; Rental Motor Vehicle Customer Facility Charges;
Appropriation

Description:

Authorizes the department of transportation to establish and collect rental motor vehicle customer facility charges; creates a rental motor vehicle customer facility charge special fund; establishes a \$ daily charge on rentals at state airports; appropriates funds. (Proposed HD1)