
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.

18 It is not the intent of the legislature to preclude the use of



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

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

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

22 "§261- Rental motor vehicle customer facility charge



1 special fund. (a) There is established in the state treasury
2 the rental motor vehicle customer facility charge special fund
3 to be administered by the director, into which shall be
4 deposited all proceeds from the rental motor vehicle customer
5 facility charge.

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

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

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

16 (3) Consultant fees;

17 (4) Management, operation, and maintenance fees for rental
18 motor vehicle facilities and related services; and

19 (5) Design, construction, operation, and maintenance of,
20 or allocable to, the approved rental motor vehicle
21 customer facilities.



1 In planning the future needs and expenditures of these moneys,
2 the director, or deputy designated by the director, shall, at
3 least once a year, consult with lessors, as defined in section
4 437D-3, who are using or who in the future may use the
5 facilities and services. No moneys shall be expended for any
6 type of enhancement, construction, or improvement to any
7 existing rental motor vehicle facility at a state airport until
8 a concession bid for rental motor vehicle concessions located at
9 the airport as of July 1, 2008, is first advertised, bid upon,
10 and awarded by the department; provided that and notwithstanding
11 the foregoing, moneys may be expended to plan, design, improve,
12 enhance, or construct rental motor vehicle customer facilities
13 shared or to be shared by rental motor vehicle concessions at a
14 state airport as determined by the director.

15 (c) The rental motor vehicle customer facility charge
16 special fund shall be exempt from sections 36-30 and 103-8.5."

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

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

20 (1) Transportation use special fund established by section
21 261D-1;



- 1 (2) Special out-of-school time instructional program fund
2 under section 302A-1310;
- 3 (3) School cafeteria special funds of the department of
4 education;
- 5 (4) Special funds of the University of Hawaii;
- 6 (5) State educational facilities improvement special fund;
- 7 (6) Special funds established by section 206E-6;
- 8 (7) Aloha Tower fund created by section 206J-17;
- 9 (8) Funds of the employees' retirement system created by
10 section 88-109;
- 11 (9) Unemployment compensation fund established under
12 section 383-121;
- 13 (10) Hawaii hurricane relief fund established under chapter
14 431P;
- 15 (11) Convention center enterprise special fund established
16 under section 201B-8;
- 17 (12) Hawaii health systems corporation special funds and
18 the subaccounts of its regional system boards;
- 19 (13) Tourism special fund established under section
20 201B-11;
- 21 (14) Universal service fund established under chapter 269;



- 1 (15) Emergency and budget reserve fund under section
2 328L-3;
- 3 (16) Public schools special fees and charges fund under
4 section 302A-1130(f);
- 5 (17) Sport fish special fund under section 187A-9.5;
- 6 (18) Neurotrauma special fund under section 321H-4;
- 7 (19) Center for nursing special fund under section 304A-
8 2163;
- 9 (20) Passenger facility charge special fund established by
10 section 261-5.5;
- 11 (21) Court interpreting services revolving fund under
12 section 607-1.5;
- 13 (22) Trauma system special fund under section 321-22.5;
- 14 (23) Hawaii cancer research special fund;
- 15 (24) Community health centers special fund; ~~and~~
- 16 (25) Emergency medical services special fund; and
- 17 (26) Rental motor vehicle customer facility charge special
18 fund established under section 261- ;
- 19 shall be responsible for its pro rata share of the
20 administrative expenses incurred by the department responsible
21 for the operations supported by the special fund concerned."



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

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

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

16 "(a) Except for [~~that~~]:
17 (1) That portion of the payments received by the
18 department under a contract entered into as authorized
19 by section 261-7 and deposited in the transportation
20 use special fund pursuant to section 261D-1 [~~and~~
21 ~~except for all~~];



1 (2) All proceeds from the passenger facility charge and
2 deposited in the passenger facility charge special
3 fund[7]; and

4 (3) All proceeds from the rental motor vehicle customer
5 facility charge and deposited in the rental motor
6 vehicle customer facility charge special fund;

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

11 All moneys paid into the airport revenue fund shall be
12 appropriated, applied, or expended by the department for any
13 purpose within the jurisdiction, powers, duties, and functions
14 of the department related to the statewide system of airports,
15 including, without limitation, the costs of operation,
16 maintenance, and repair of the statewide system of airports and
17 reserves therefor, and acquisitions (including real property and
18 interests therein), constructions, additions, expansions,
19 improvements, renewals, replacements, reconstruction,
20 engineering, investigation, and planning for the statewide
21 system of airports, all or any of which in the judgment of the
22 department are necessary to the performance of its duties or



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

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

17 "**§261-7 Operation and use privileges.** (a) In operating
18 an airport or air navigation facility owned or controlled by the
19 department of transportation, or in which it has a right or
20 interest, the department may enter into contracts, leases,
21 licenses, and other arrangements with any person:



- 1 (1) Granting the privilege of using or improving the
2 airport or air navigation facility or any portion or
3 facility thereof or space therein for commercial
4 purposes;
 - 5 (2) Conferring the privilege of supplying goods,
6 commodities, things, services, or facilities at the
7 airport or air navigation facility;
 - 8 (3) Making available services, facilities, goods,
9 commodities, or other things to be furnished by the
10 department or its agents at the airport or air
11 navigation facility; or
 - 12 (4) Granting the use and occupancy on a temporary basis by
13 license or otherwise any portion of the land under its
14 jurisdiction which for the time being may not be
15 required by the department so that it may put the area
16 to economic use and thereby derive revenue therefrom.
- 17 All the arrangements shall contain a clause that the land
18 may be repossessed by the department when needed for aeronautics
19 purposes upon giving the tenant temporarily occupying the same
20 not less than thirty days' notice in writing of intention to
21 repossess.



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

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

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



1 (1) The payment to be made on in-bond merchandise sold at
2 Honolulu International Airport and on in-bond
3 merchandise displayed or sold elsewhere in the State
4 and delivered to the airport;

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

8 (3) The reputation, experience, and financial capability
9 of the applicant.

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

18 Apart from the contract described in this subsection, the
19 department shall confer no right upon nor suffer nor allow any
20 person to offer to sell, sell, or deliver in-bond merchandise at
21 Honolulu International Airport; provided that this section shall



1 not prohibit the delivery of in-bond merchandise as cargo to the
2 Honolulu International Airport.

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

12 (e) The department may fix and regulate, from time to
13 time, reasonable landing fees for aircraft, including the
14 imposition of landing surcharges or differential landing fees,
15 and other reasonable charges for the use and enjoyment of the
16 airports and the services and facilities furnished by the
17 department in connection therewith, including the establishment
18 of a statewide system of airports landing fees, a statewide
19 system of airports support charges, and joint use charges for
20 the use of space shared by users, which fees and charges may
21 vary among different classes of users such as foreign carriers,
22 domestic carriers, inter-island carriers, air taxi operators,



1 helicopters, and such other classes as may be determined by the
2 director, for the purpose of meeting the expenditures of the
3 statewide system of airports set forth in section 261-5(a),
4 which includes expenditures for capital improvement projects
5 approved by the legislature.

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

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

20 The director shall develop rates, rentals, fees, and
21 charges in accordance with a residual methodology so that the
22 statewide system of airports shall be, and always remain, self-



1 sustaining. The rates, rentals, fees, and charges shall be set
2 at such levels as to produce revenues which, together with
3 aviation fuel taxes, shall be at least sufficient to meet the
4 expenditures of the statewide system of airports set forth in
5 section 261-5(a), including expenditures for capital improvement
6 projects approved by the legislature, and to comply with
7 covenants and agreements with holders of airport revenue bonds.

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

14 The rates, rentals, fees, and charges determined by the
15 director in the manner set forth in this subsection shall be
16 those charges payable by the aeronautical users for the periods
17 immediately following the date of expiration of the existing
18 contract, lease, license, or agreement. If fees are established
19 pursuant to this section, the department shall prepare a
20 detailed report on the circumstances and rates and charges that
21 have been established, and shall submit the report to the



1 legislature no later than twenty days prior to the convening of
2 the next regular session.

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



1 within seventy-five days of the disapproval. Pending the
2 development of a new schedule of rates, rentals, fees, and
3 charges, the schedule submitted to the legislature shall remain
4 in force and effect.

5 Notwithstanding any other provision of law to the contrary,
6 the department may waive landing fees and other aircraft charges
7 established under this section at any airport owned or
8 controlled by the State whenever:

- 9 (1) The governor declares a state of emergency; and
- 10 (2) The department determines that the waiver of landing
11 fees and other charges for the aircraft is consistent
12 with assisting in the delivery of humanitarian relief
13 to disaster-stricken areas of the State.

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

21 (g) The department from time to time may establish
22 developmental rates for buildings and land areas used



1 exclusively for general aviation activities at rates not less
2 than fifty per cent of the fair market rentals of the buildings
3 and land areas and may restrict the extent of buildings and land
4 areas to be [~~utilized.~~] used.

5 (h) The department may establish, levy, assess, and
6 collect rental motor vehicle customer facility charges each
7 month. These charges shall be as reasonably necessary to pay
8 for, or finance on a long-term basis where appropriate, the uses
9 of the rental motor vehicle customer facility charges as set
10 forth by the rental motor vehicle customer facility charge
11 special fund in section 261- .

12 The rental motor vehicle customer facility charges may be
13 of different amounts and shall be reasonably levied, assessed,
14 and collected by the department from all rental motor vehicle
15 persons or entities providing services to customers at a state
16 airport and benefiting from the use of any facility or service
17 paid for by rental motor vehicle customer facility charges as
18 determined by the director.

19 Notwithstanding any law to the contrary, the department may
20 contract the management, maintenance, and operations of the
21 facility and related services with airport concessions that



1 share in the use of a rental motor vehicle customer facility at
2 a state airport, or their designee."

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

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

7 (1) The general excise tax attributable to the
8 transaction;

9 (2) The vehicle license and registration fee and weight
10 taxes, prorated at 1/365th of the annual vehicle
11 license and registration fee and weight taxes actually
12 paid on the particular vehicle being rented for each
13 full or partial [~~twenty-four-hour~~] twenty-four-hour
14 rental day that the vehicle is rented; provided the
15 total of all vehicle license and registration fees
16 charged to all lessees shall not exceed the annual
17 vehicle license and registration fee actually paid for
18 the particular vehicle rented;

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



- 1 (4) The county surcharge on state tax under section
- 2 46-16.8; provided that the lessor itemizes the tax for
- 3 the lessee; and
- 4 (5) The rents or fees paid to the department of
- 5 transportation under concession contracts [7]
- 6 negotiated pursuant to chapter 102, [ex] service
- 7 permits [7] granted pursuant to title 19, Hawaii
- 8 Administrative Rules, or rental motor vehicle customer
- 9 facility charges established pursuant to section 261-
- 10 7; provided that:
- 11 (A) The rents or fees are limited to amounts that can
- 12 be attributed to the proceeds of the particular
- 13 transaction;
- 14 (B) The rents or fees shall not exceed the lessor's
- 15 net payments to the department of transportation
- 16 made under concession contract or service permit;
- 17 (C) The lessor submits to the department of
- 18 transportation and the department of commerce and
- 19 consumer affairs a statement, verified by a
- 20 certified public accountant as correct, that
- 21 reports the amounts of the rents or fees paid to



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



1 The respective departments, in their sole discretion,
2 may extend the time to submit the statement required
3 in this subsection. If the director determines that
4 an examination of the lessor's information is
5 inappropriate under this subsection and the lessor
6 fails to correct the matter within ninety days, the
7 director may conduct an examination and charge a
8 lessor an examination fee based upon the cost per hour
9 per examiner for evaluating, investigating, and
10 verifying compliance with this subsection, as well as
11 additional amounts for travel, per diem, mileage, and
12 other reasonable expenses incurred in connection with
13 the examination, which shall relate solely to the
14 requirements of this subsection, and which shall be
15 billed by the departments as soon as feasible after
16 the close of the examination. The cost per hour shall
17 be \$40 or as may be established by rules adopted by
18 the director. The lessor shall pay the amounts billed
19 within thirty days following the billing. All moneys
20 collected by the director shall be credited to the
21 compliance resolution fund."



1 SECTION 8. Notwithstanding the provisions of section 6 of
2 this Act, the department of transportation, as of September 1,
3 2008, shall levy, assess, and collect a rental motor vehicle
4 customer facility charge of \$1 per day, or any portion of a day
5 that a rental motor vehicle is rented or leased, by a rental
6 motor vehicle concession where customers pick-up and return
7 rental vehicles to a facility at a state airport as determined
8 by the director. Moneys shall continue to be collected only
9 until such time that the sum of \$25,000,000 is collected and
10 deposited into the rental motor vehicle customer facility charge
11 special fund. The provisions of this section shall not impair,
12 limit, or restrict the department of transportation from
13 levying, assessing, establishing, and collecting rental motor
14 vehicle customer facility charges as set forth in section 6 of
15 this Act.

16 SECTION 9. There is appropriated out of the rental motor
17 vehicle customer facility charge special fund established by
18 section 261- , Hawaii Revised Statutes, the sum of \$7,000,000
19 or so much thereof as may be necessary for the:

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



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

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

7 SECTION 10. Statutory material to be repealed is
8 bracketed and stricken. New statutory material is
9 underscored.

10 SECTION 11. This Act shall take effect on July 1, 2008.



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 \$1 daily charge on rentals at state airports; appropriates funds. (SD1)

