



GOV. MSG. NO. 696

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 7, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 2461 SD2 HD2 CD1

On July 6, 2010, Senate Bill No. 2461, entitled "A Bill for an Act Relating to Transportation" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to raise the rental motor vehicle customer facility surcharge from \$1.00 per day to \$4.50 per day, effective September 1, 2010; and appropriate funds from the Rental Motor Vehicle Customer Facility Charge Special Fund for the planning, design, and construction of consolidated rental car facilities at our state airports.

I support the State Airport Modernization Plan and other initiatives that improve motor vehicle facilities and services at Hawaii's airports. This not only attracts visitors and businesses to Hawaii, but also improves our state's reputation as a world class destination.

I previously expressed concern about the fiscal impact of Act 226, Session Laws of Hawaii 2008, which established the \$1.00 per day surcharge on car rentals at Hawaii airports. I continue to have reservations with this bill because the significant impact of \$4.50 per day surcharge may negatively affect the visitor industry by increasing the cost of vacationing in Hawaii. The fee would cost an additional \$45,000,000 per year and comes at a time when the State is trying to encourage and support visitor arrivals, not make it more costly to come and enjoy Hawaii.

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In addition, I also note that the surcharge special fund will lose an estimated \$1,700,000 in revenue during the months of July and August 2010, after the current \$1.00 surcharge is repealed on July 1, 2010 and before the new \$4.50 surcharge is imposed on September 1, 2010.

For the foregoing reasons, I allowed Senate Bill No. 2461 to become law as Act 204, effective July 6, 2010, without my signature.

Sincerely,



LINDA LINGLE

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 although motor
2 vehicle rental concessions at Hawaii's public airports
3 contribute over \$30,000,000 a year in concession revenues to
4 support Hawaii's public airports, the legislature in 2008
5 recognized that no facility improvements to those concessions
6 would be made considering other airport priorities as to the use
7 of the funds. Thus, in spite of years of discussions, the
8 facilities over time have deteriorated and have not kept pace
9 with motor vehicle rental facilities and services provided to
10 visitors and residents at other public airports across the
11 United States.

12 As a result, the legislature in 2008 passed Act 226,
13 Session Laws of Hawaii 2008 (Act 226), which established a
14 rental motor vehicle customer facility charge program similar to
15 programs at more than one hundred other airports across the
16 United States. Act 226 established a rental motor vehicle
17 customer facility charge of \$1 per day. Act 226 also
18 appropriated \$10,000,000 for planning, design, and some



1 improvements. Recognizing the importance of the program to
2 Hawaii's construction industry and economy, the legislature
3 required the department of transportation to provide annual
4 reports and timelines to ensure the "fast-tracking" of the
5 facility projects and services.

6 The department has sought to fast-track the program in
7 keeping with the legislative directive and, with the assistance
8 of planners, designers, and other consultants, has completed
9 initial designs and plans for the statewide program. The intent
10 of this Act is to continue the fast-tracking by taking the
11 program to the next level by increasing the rental motor vehicle
12 customer facility charge to \$4.50 daily as recommended by
13 consultants.

14 According to reports prepared by consultants, the increased
15 charge of \$1 daily to \$4.50 daily is expected to fund the
16 planned statewide program with no anticipated future increases.
17 This fee and one-time step up is comparable to similar charges
18 and programs at other airports. Delayed generation of revenues
19 by stepping up these charges as proposed by some could likely
20 result in the fee rising higher than \$5 daily, a scenario which
21 must be avoided.



1 The charge of \$4.50 daily and revenues generated will
2 strongly support the program as well as the bonds to finance the
3 related construction projects, which will total about
4 \$500,000,000, excluding finance charges. To avoid program
5 delays, it is very important that the program have strong
6 financing and a stream of revenues to attract the buyers of the
7 bonds during these turbulent economic times. The one-time-
8 increased charge, as opposed to stepped-up charges, will also
9 result in as much as \$300,000,000 saved in finance costs. By
10 fast-tracking the projects, it is anticipated that the program
11 will benefit from about thirty per cent to forty per cent in
12 construction cost savings.

13 As reported by consultants, the increased charge to \$4.50
14 daily is expected to have no adverse impact on rental motor
15 vehicles at public airports or on public airport revenues.
16 Other cities and airports have studied similar concerns and the
17 studies have repeatedly found no correlation or adverse impact
18 related to an increased charge. In fact, airports generally
19 have seen an increase in revenues since the facilities attract
20 motor vehicle rental companies to conduct their business at the
21 airport.



1 The program does not require visitors and residents to rent
2 a car at a public airport. Individuals will have the
3 opportunity to rent vehicles from off-airport locations and
4 thereby avoid having to pay the rental motor vehicle customer
5 facility charge. To minimize the impact to travel agents and
6 others marketing travel packages and quoting prices, this
7 measure delays implementation of the increased rental motor
8 vehicle customer facility charge until September 1, 2010.

9 While the goal of fast-tracking was to start the
10 construction of the Honolulu international airport facility as
11 early as the first quarter of 2010 and thereby provide critical
12 jobs and support for Hawaii's economy, the failure to date of
13 increasing the charge to \$4.50 daily has delayed the
14 implementation of this start date as well as any related sale of
15 bonds. Although this Act provides that the department has the
16 discretion to raise and adjust the rental motor vehicle customer
17 facility charge to meet the program's goals notwithstanding any
18 law to the contrary, the department recently commented that the
19 law needs to be clarified and that it cannot increase charges
20 without proceeding through the administrative rulemaking
21 process, which could take twelve months or longer. The
22 legislature finds that it is preferable that it mandate the



1 increase in charges so such minimum amount of customer facility
2 charge fees, as recommended by the consultants, are collected by
3 the department no later than September 1, 2010, to avoid and
4 ensure that there are no further delays to the program if the
5 department is not collecting the minimum customer facility
6 charge fees by that date.

7 The intent of this Act is to continue the fast-tracking of
8 this program and its projects, thereby providing critical jobs
9 to Hawaii's residents and stimulating Hawaii's suffering economy
10 by:

- 11 (1) Raising the initial rental motor vehicle customer
12 facility charge, as established by Act 226, Session
13 Laws of Hawaii 2008, from \$1 daily to \$4.50 daily as
14 recommended by consultants, so that the strength of
15 the program can be maintained and the program can
16 benefit from various anticipated costs savings;
- 17 (2) Clarifying that the department of transportation can
18 adjust the rental motor vehicle customer facility
19 charge for companies without a concession at a state
20 airport without having to utilize the administrative
21 rulemaking process, as recently reported by the
22 department; and



1 (3) Appropriating out of the rental motor vehicle customer
2 facility charge special fund for rental car
3 improvements statewide, the sum of \$71,800,000 for
4 fiscal year 2010-2011, for planning, land and utility
5 acquisition, design and program management, and
6 construction to provide consolidated car rental
7 facilities for the car rental agencies and other
8 related improvements for the department of
9 transportation's airport modernization program.

10 SECTION 2. Section 261-5.6, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"[+]§261-5.6[+] Rental motor vehicle customer facility**
13 **charge special fund.** (a) There is established in the state
14 treasury the rental motor vehicle customer facility charge
15 special fund to be administered by the director, into which
16 shall be deposited all proceeds from the rental motor vehicle
17 customer facility charge.

18 (b) Moneys in the rental motor vehicle customer facility
19 charge special fund shall be used for enhancement, renovation,
20 operation, and maintenance of existing rental motor vehicle
21 customer facilities and the development of new rental motor



1 vehicle customer facilities and related services at state

2 airports, including:

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

5 (2) Acquisition of equipment for and operation of a
6 unified shuttle bus system to and from passenger
7 terminals and the rental motor vehicle customer
8 facilities;

9 (3) Consultant fees;

10 (4) Management, operation, and maintenance fees for rental
11 motor vehicle customer facilities; and

12 (5) Conceptual plans, plans, design, construction,
13 operation, and maintenance of, or allocable to, the
14 approved rental motor vehicle customer facilities and
15 related services.

16 In planning the future needs and expenditures of these moneys,
17 the director, or deputy designated by the director, shall, at
18 least once a year, consult with lessors, as defined in section
19 437D-3, who are using or who in the future may use the
20 facilities and services. No moneys shall be expended to plan,
21 design, improve, enhance, acquire, or construct rental motor
22 vehicle customer facilities, equipment, or services shared or to



1 be shared by rental motor vehicle concessions at a state airport
2 except as determined by the director; provided that the director
3 shall not approve the expenditure of any moneys except for
4 planning and design purposes to improve or construct rental
5 [{}motor vehicle[{}] customer facilities and related services
6 located at an airport until a concession bid for rental motor
7 vehicle concessions located at the public airport as of July 1,
8 2008, is first advertised, bid upon, and awarded by the
9 department of transportation.

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

12 (d) Any resolution or certificate authorizing any issue of
13 bonds relating to the use of the rental motor vehicle customer
14 facility charge for an airport capital improvement program
15 project approved by the legislature may establish other accounts
16 within the rental motor vehicle customer facility charge special
17 fund and require the transfer of the rental motor vehicle
18 customer facility charge into the other accounts to pay debt
19 service on the related bonds."

20 SECTION 3. Section 261-7, Hawaii Revised Statutes, is
21 amended by amending subsection (h) to read as follows:



1 "(h) Notwithstanding any laws to the contrary, the
2 department may establish, levy, assess, and collect rental motor
3 vehicle customer facility charges [~~, which~~] without regard to
4 chapter 91, which shall be paid to the department periodically
5 as determined by the department [~~. These charges~~] and shall be
6 used to pay for, or finance on a long-term basis or other-term
7 basis where appropriate, the design, planning, construction, and
8 other uses of the rental motor vehicle customer facility charges
9 as set forth by the rental motor vehicle customer facility
10 charge special fund in section 261-5.6.

11 The rental motor vehicle customer facility charges shall be
12 levied, assessed, and collected from all rental motor vehicle
13 customers who benefit from the use of any type of rental motor
14 vehicle facility or service provided by the department at a
15 state airport.

16 Beginning September 1, 2010, the department shall levy,
17 assess, and collect a rental motor vehicle customer facility
18 charge of \$4.50 per day, or any portion of a day that a rental
19 motor vehicle is rented or leased, by a rental motor vehicle
20 concession where customers pick up and return rental vehicles to
21 a facility at a state airport as determined by the director.



1 All rental motor vehicle customer facility charges shall be
2 collected by lessors as defined in section 437D-3 and who
3 operate a [~~ear~~] rental motor vehicle concession awarded by the
4 department at a state airport; provided that customers of
5 lessors, as defined in section 437D-3, who do not operate a
6 [~~ear~~] rental motor vehicle concession at a state airport but
7 whose customers benefit from the use of a [~~ear~~] rental motor
8 vehicle facility or service at a state airport paid for by
9 rental motor vehicle customer facility charges, shall collect
10 from [~~such ear~~] rental motor vehicle customers, rental motor
11 vehicle customer facility charges in an amount determined by the
12 department in its sole discretion that represents a fair share
13 of the cost and ongoing expenses relating to customer use of
14 [~~such a~~] the facility or service[-] notwithstanding any law to
15 the contrary and without regard to the requirements of chapter
16 91. All rental motor vehicle customer facility charges
17 collected by [~~such~~] the lessor shall be paid to the department.

18 Notwithstanding any law to the contrary, the department may
19 negotiate and contract the management, maintenance, and
20 operations of the facility and related services with one or more
21 airport concessions or their designee that share in the use of a
22 rental motor vehicle customer facility at a state airport."



1 SECTION 4. Act 226, Session Laws of Hawaii 2008, is
2 amended by repealing section 9.

3 [~~"SECTION 9. Notwithstanding section 7 of this Act, the~~
4 ~~department of transportation, as of September 1, 2008, shall~~
5 ~~levy, assess, and collect a rental motor vehicle customer~~
6 ~~facility charge of \$1 per day, or any portion of a day that a~~
7 ~~rental motor vehicle is rented or leased, by a rental motor~~
8 ~~vehicle concession where customers pick up and return rental~~
9 ~~vehicles to a facility at a state airport as determined by the~~
10 ~~director. Moneys shall continue to be collected only until such~~
11 ~~time that the sum of \$25,000,000 is collected and deposited into~~
12 ~~the rental motor vehicle customer facility charge special fund.~~

13 ~~The provisions of this section shall not impair, limit, or~~
14 ~~restrict the department of transportation from levying,~~
15 ~~assessing, establishing, and collecting rental motor vehicle~~
16 ~~customer facility charges as set forth in section 7 of this~~
17 ~~Act."]~~

18 SECTION 5. There is appropriated out of the rental motor
19 vehicle customer facility charge special fund established by
20 section 261-5.6, Hawaii Revised Statutes, for rental car
21 improvements statewide, the sum of \$71,800,000 or so much
22 thereof as may be necessary for fiscal year 2010-2011, for



1 planning, land and utility acquisition, design and program
2 management, and construction to provide consolidated car rental
3 facilities for the car rental agencies and other related
4 improvements for the department of transportation's airport
5 modernization program; provided that the sum appropriated shall
6 be reduced by any moneys appropriated by the legislature in the
7 supplemental budget act of 2010 for such purposes.

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

10 SECTION 6. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 7. This Act shall take effect on July 1, 2010.

13

APPROVED this day of , 2010

GOVERNOR OF THE STATE OF HAWAII