

STAND. COM. REP. NO. 290

Honolulu, Hawaii

Feb 18, 2009

RE: H.B. No. 1388  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred H.B. No. 1388 entitled:

"A BILL FOR AN ACT RELATING TO AIRPORT CONCESSIONS,"

begs leave to report as follows:

The purpose of this bill is to provide measured economic relief to airport concessionaires by:

- (1) Providing for annual adjustments in the guaranteed rents of all airport concessionaires that are to be paid to the State, other than to some concessions;
- (2) Clarifying the economic emergency relief provisions for airport concessions that are designed to aid concessions during dire economic times;
- (3) Further clarifying that in granting economic emergency relief, the Director of Transportation shall take into account the concession's economic circumstances and whether the concession received relief by way of annual adjustment in guaranteed rents or other governmental relief for purposes of avoiding duplicate economic relief benefits to a concessionaire; and
- (4) Stipulating that, in seeking relief pursuant to this Act, qualified concessionaires may only seek relief for losses of gross receipts or loss of business which

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occurred during periods of time starting November 1, 2006, or later.

The Airport Concessionaires Committee, International Currency Exchange, HMSHost Corporation, and Smart Carte Inc. testified in support of this bill. The Department of Transportation (DOT) testified in opposition to this measure.

Hawaii is currently facing some of the worst economic conditions seen in the history of the state, and these conditions are only expected to worsen over the near term. Although businesses throughout the islands are experiencing financial difficulties, these hardships are compounded for concessions at Hawaii's airports because of security measures put into place after the attacks of September 11, 2001. These security changes restrict access to many of the airport concessions to ticketed passengers only and therefore severely restrict a concession's market share. While the Legislature provided economic relief to many concessionaires after the events of September 11<sup>th</sup>, some concessions continue to suffer and are therefore seeking relief through this Act.

Your Committee finds that DOT has provided economic relief to some concessionaires that met the statutory requirements for economic relief previously established by the Legislature. However, some businesses do not have similar relief provisions included in their lease agreements. If these businesses continue to suffer financial hardships, it may force them to default on their concession contracts and thus forfeit their performance bond. This would be especially hard for these businesses as forfeiture of their performance bond will result in the concessionaire being barred from doing business with the state for five years. This would not only affect the concessionaire but would have a negative impact on the airport and tourism industry as well.

However, your Committee understands the concerns raised by DOT, including the concern that a previously bid-and-awarded concession lease may need to be put out to bid again because of the substantial modifications that may be required under this Act. Nevertheless, the importance of this matter warrants further discussion.

Accordingly, your Committee has amended this bill by changing its effective date to July 1, 2050, to encourage further discussion.



Technical, nonsubstantive amendments were also made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1388, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1388, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Transportation,

  
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JOSEPH M. SOUKI, Chair



