
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 the State department
2 of transportation needs to be provided with the flexibility and
3 power to correct apparent inequities in the process of awarding
4 long-term leases for helicopter operations at its Lihue airport.

5 In the past, the department found itself with too few
6 helicopter sites and too many parties interested in using these
7 sites, particularly those at its Lihue airport. Thus, the
8 department offered such sites by bid through a process that
9 allowed the more senior helicopter operators to select first
10 among the available sites. Any company not among the more
11 senior operators was allowed to select from among the remaining
12 available sites.

13 Per discussions with the department, all operators were to
14 enter into a long-term lease with the department with the
15 understanding other interested operators would do likewise.
16 Among other things, these leases required the operator to
17 construct facilities at the site at their own cost.

18 Subsequently, it was learned that many senior operators did not



1 select sites, which left many sites without any long-term lease.
2 This resulted in an imbalance among helicopter operators because
3 those that entered into long-term leases were burdened by costs
4 associated with having to construct facilities at the helicopter
5 sites, as well as other operational costs while other competing
6 operators were allowed to operate on month to month permits
7 without having to incur such costs.

8 The legislature finds that in view of the department
9 falling significantly short of its expectations of leasing all
10 of its sites on a long-term basis and given the resulting
11 inequities to any operator now burdened with a long-term lease,
12 the department and governor should have the power, authority,
13 and discretion to correct such inequity by, among other things,
14 allowing any operator with a long-term lease to:

- 15 (1) Terminate its lease;
- 16 (2) Adjust various leasing requirements including
17 construction requirements; or
- 18 (3) Rebid on sites still available for lease.

19 Further, the legislature finds and recognizes that the
20 department realizes financial and other benefits from helicopter
21 operators willing to enter into such long-term leases and build
22 facilities at their own expense on the leased sites.



1 Accordingly, the major purpose of this Act is to:

2 (1) Give the governor and the department the discretion
3 and authority to provide relief to helicopter
4 operators holding long-term leases or contracts with
5 the department; and

6 (2) Provides the types of relief that may be granted to
7 helicopter operators and conditions under which this
8 relief may be granted.

9 SECTION 2. Notwithstanding any laws or provisions to the
10 contrary, including chapters 102 and 261, Hawaii Revised
11 Statutes, the governor, or director of transportation, if so
12 directed by the governor, with respect to helicopter operators
13 at the Lihue airport:

14 (1) Shall have the discretion and authority to provide
15 relief to a helicopter operator whose long-term lease
16 or contract with the department of transportation was
17 in effect prior to the effective date of this Act;
18 provided that negotiations for relief for an operator
19 covered by this Act shall commence within ninety days
20 of the effective date of this Act or upon the
21 postmarked date following the mailing by the operator



1 of a written request for relief to the governor,
2 whichever is sooner;

3 (2) Shall have the discretion and authority, without
4 limitation, to reach relief by mutual agreement with
5 an operator to terminate the lease, extend the long-
6 term lease or contract, enter into a long-term lease
7 or contract for an adjoining helicopter site, switch
8 helicopter sites; provided that the site is not
9 currently on a long-term lease, grant or modify any
10 existing relief provisions, adjust rent, and otherwise
11 add to, modify, and amend any of the terms of the
12 long-term lease or contract; provided that in granting
13 relief pursuant to this Act other than termination of
14 any existing long-term lease or contract, the
15 department in providing relief shall set a rent that
16 is fair and equitable when compared to rent being paid
17 by similar operations that may be operating on a
18 month-to-month permit basis without any requirement to
19 build at its expense any capital or other improvements
20 at one or more of the operator's sites.

21 SECTION 3. The relief provided for by this Act shall be
22 provided as long as, and to the extent that, such relief does



1 not violate any applicable federal laws and regulations and does
2 not jeopardize the receipt of any federal aid or impair the
3 obligation of Hawaii's department of transportation to the
4 holders of any bond issued by Hawaii's department of
5 transportation.

6 SECTION 4. To the extent necessary to take action,
7 effectuate, and fulfill the purpose and intentions of this Act
8 including the relief to be provided, the effects of section
9 171-13, and chapters 102 and 261, Hawaii Revised Statutes, as
10 well as any other statutory provisions or any rules that may be
11 in conflict with this Act, shall be deemed waived and not
12 applicable.

13 SECTION 5. If any provision of this Act, or the
14 application thereof to any person or circumstance is held
15 invalid, the invalidity shall not affect other provisions or
16 applications of the Act, which can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this Act are severable.



1 SECTION 6. This Act shall take effect on July 1, 2011, and
2 shall be repealed on July 1, 2013.

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INTRODUCED BY:

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Report Title:

Transportation; Airports; Helicopter Contracts

Description:

Provides limited relief to helicopter operators that entered into long-term leases with the Department of Transportation. Effective July 1, 2011.

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