

JAN 21 2011

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 department of
2 transportation needs flexibility and authority to correct
3 unfairness in the process and awarding of long-term leases for
4 helicopter operations at the Lihue airport.

5 In 2007, the department of transportation had too few
6 helicopter sites and too many interested parties at its Lihue
7 airport. Thus, the department of transportation offered sites
8 by bid to the more senior helicopter operators, allowing them to
9 select first among the available sites. Any company not among
10 the more senior operators that were selected and all operators
11 were to enter into a long-term lease with the department of
12 transportation with the understanding that other interested
13 operators would do likewise.

14 Subsequently, it was determined that many senior operators
15 did not select sites and most sites were left without any
16 long-term lease. Such leases require the operator to, among
17 other things, construct facilities at the site at the operator's
18 own cost. The result is that operators with long-term leases



1 are burdened by having to construct facilities while other
2 competing operators on month-to-month permits with the
3 department of transportation do not have to incur similar costs
4 for construction and other long-term lease operational
5 requirements.

6 The legislature further finds that in view of the
7 department of transportation falling significantly short of
8 expectations of leasing all of its sites on a long-term basis,
9 and given the resulting inequities to any operator now burdened
10 with a long-term lease, the department of transportation and
11 governor need the authority to correct the situation by allowing
12 any operator with a long-term lease to terminate its lease or
13 adjust various requirements of the lease, including requirements
14 relating to the start of construction and the switching of
15 location to a different available site not having a long-term
16 lease.

17 The legislature further finds that the department of
18 transportation benefits financially from helicopter operators
19 willing to enter into long-term leases and build facilities at
20 their own expense on one or more leased sites.

21 The purpose of this Act is to:



- 1 (1) Give the governor and the department of transportation
2 the discretion and authority to provide relief to
3 helicopter operators whose long-term leases or
4 contracts with department were in effect prior to the
5 effective date of this Act under certain conditions;
6 and;
- 7 (2) Requiring the department of transportation to set a
8 fair and equitable rent for those operators.

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 helicopter operator whose long-term lease or
16 contract with department of transportation was in
17 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 or any extension agreed to between the governor or
21 governor's designee and the operator following the



1 mailing by the operator of a written request for
2 relief to the governor; and
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
6 long-term lease or contract, enter into a long-term
7 lease for an adjoining helicopter site, switch
8 helicopter sites as long as the other site is not on
9 any long term lease, grant or modify existing relief
10 provisions, adjust the rent, and otherwise add to,
11 modify, and amend any of the terms of the long-term
12 lease or contract;
13 provided that in granting relief pursuant to this Act, other
14 than termination of any existing long-term lease or contract,
15 the department of transportation shall set a rent that is fair
16 and equitable at the department's discretion in comparison with
17 rent to other operators who are or may be operating on a
18 month-to-month permit basis without any requirement to build at
19 its expense any capital or other improvements at one or more of
20 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 not



1 violate any applicable federal laws and regulations and does not
2 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, section 171-13, Hawaii
9 Revised Statutes, and chapters 102 and 261, Hawaii Revised
10 Statutes, as well as any other statutory provisions or any rules
11 that may be in conflict with this Act, shall be deemed waived
12 and not 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.

19 SECTION 6. This Act shall take effect on July 1, 2011;

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1 provided that this Act shall be repealed on July 1, 2013.

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Report Title:

Transportation; Lihue Airport; Helicopter Site Leases

Description:

Authorizes the department of transportation and the governor to terminate or modify long-term helicopter site leases at Lihue airport. Repeal 7/1/13.

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