



GOV. MSG. NO. 1147

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

April 23, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

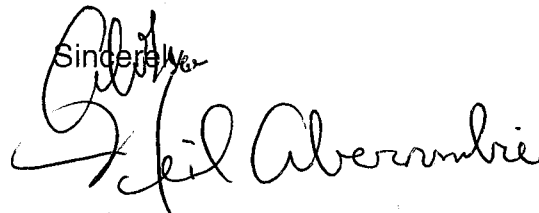
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on April 23, 2012, the following bill was signed into law:

SB2874 SD1

RELATING TO AIRPORT REVENUE.
Act 047 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO AIRPORT REVENUE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Under both state law and federal regulation, the
2 State's airport system is required to be economically self-
3 supporting. To meet this requirement, the department of
4 transportation relies on revenue from airline operations,
5 facility and space rental from aeronautical and airport-related
6 users, revenues from concessions, and, to a very small extent,
7 facility and space rentals from non-aeronautical or non airport
8 related users.

9 In the late 1980s and early 1990s, Hawaii was a prime
10 destination for Japanese travelers and Hawaii's airports
11 benefited from unprecedented concession revenues due primarily
12 to almost \$2,000,000,000 in revenue from the in-bond (duty free)
13 concession over a thirteen-year period. At the very height of
14 the in-bond boom in 1993, revenue from this single concession
15 was over \$300,000,000. From June 1, 1994, through May 31, 2001,
16 the annual fiscal year revenue from the in-bond concession never
17 dropped below \$100,000,000.



1 All of that changed with the contract that began in June
2 2001. Due to changes in the Japanese market, the minimum annual
3 guaranteed concession fee from the in-bond concession contract
4 dropped to \$60,000,000 per year. The events of September 11,
5 2001, caused a further reduction in concession revenue across
6 the board. Today, while the in-bond concession is still the
7 largest single revenue generating concession, the guaranteed
8 revenue from that concession is now \$35,300,000 annually.

9 Over time, revenues from other concessions have increased,
10 but not enough to offset the change in the in-bond concession.
11 In fiscal year 2009-2010, overall concession revenue was more
12 than \$127,000,000, but that still is more than \$100,000,000 less
13 than at the peak of the in-bond concession.

14 To help offset the decline in concession revenues, revenues
15 from landing fees, aeronautical and airport-related rentals, and
16 non-aeronautical rentals have increased. While aeronautical and
17 airport-related revenues have increased, the recent merger of
18 airlines, e.g., Delta and Northwest, and United and Continental,
19 and the loss of Aloha Airlines and ATA in 2008, reduced the
20 overall amount of real estate rented by the airlines.

21 The smallest of the revenue generators is by far non
22 aeronautical rentals. This revenue segment could be increased,



1 without changing the nature of airports, by allowing additional
2 flexibility in contracting with such users. For example, the
3 department of transportation acquired portions of Ualena street
4 in the 1990s for expansion of Honolulu International Airport.
5 The acquisition was made subject to the existing land leases
6 that terminate at the end of 2012.

7 Some of the lessees at the time of the acquisition were
8 relocated, with the vacated space being rented to others. Since
9 the acquisition, several entities inquired about renting space
10 but wanted to have the security of a five-year, or longer,
11 lease. Given the nature of the proposed non-aeronautical use of
12 the property, the department of transportation was prohibited
13 from directly negotiating such an agreement by section 171-59,
14 Hawaii Revised Statutes. Similar circumstances have arisen at
15 other airports as well.

16 Given the challenges in the economy and the continuing
17 efforts by the airlines to reduce costs throughout their
18 operations, increasing the opportunities for revenue generation
19 at airports from non-aeronautical users is essential to the
20 maintenance of a healthy and self-supporting airport system.

21 SECTION 2. Section 171-59, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:



1 "(b) Disposition of public lands for airline, aircraft,
2 airport-related, agricultural processing, cattle feed
3 production, aquaculture, marine, maritime, and maritime-related
4 operations may be negotiated without regard to the limitations
5 set forth in subsection (a) and section 171-16(c); provided
6 that:

7 (1) The disposition encourages competition within the
8 aeronautical, airport-related, agricultural,
9 aquaculture, maritime, and maritime-related
10 operations;

11 (2) The disposition shall not exceed a maximum term of
12 thirty-five years, except in the case of:

13 (A) Maritime and maritime-related operations, which
14 may provide for a maximum term of seventy years;
15 and

16 (B) Aquaculture operations, which may provide for a
17 maximum term of sixty-five years; provided that
18 aquaculture operations in good standing may seek
19 to renew a lease issued under this section and,
20 during the lease term, may engage in supportive
21 activities that are related to or integrated with
22 aquaculture; and



1 (3) The method of disposition of public lands for cattle
2 feed production as set forth in this subsection shall
3 not apply after December 31, 1988.

4 For the purposes of this subsection:

5 "Agricultural processing" means the processing of
6 agricultural products, including dairying, grown, raised, or
7 produced in Hawaii.

8 "Airport-related" means a purpose or activity that requires
9 air transportation to achieve that purpose or activity[-]; or an
10 activity that generates revenue for the airport system as
11 provided in section 261-7.

12 "Aquaculture" means the propagation, cultivation, or
13 farming of aquatic plants and animals in controlled or selected
14 environments for research, commercial, or stocking purposes,
15 including aquaponics or any growing of plants or animals with
16 aquaculture effluents.

17 "Maritime-related" means a purpose or activity that
18 requires and is directly related to the loading, off-loading,
19 storage, or distribution of goods and services of the maritime
20 industry."

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



1 "(a) In operating an airport or air navigation facility
2 owned or controlled by the department of transportation, or in
3 which it has a right or interest, the department may enter into
4 contracts, leases, licenses, and other arrangements with any
5 person:

6 (1) Granting the privilege of using or improving the
7 airport or air navigation facility or any portion or
8 facility thereof or space therein for commercial
9 purposes;

10 (2) Conferring the privilege of supplying goods,
11 commodities, things, services, or facilities at the
12 airport or air navigation facility;

13 (3) Making available services, facilities, goods,
14 commodities, or other things to be furnished by the
15 department or its agents at the airport or air
16 navigation facility; or

17 (4) Granting the use and occupancy [~~on a temporary basis~~
18 ~~by license or otherwise~~] of any portion of the land
19 under its jurisdiction [~~which for the time being~~] that
20 may not be required by the department for aeronautics
21 purposes so that it may instead put the area to
22 economic use and thereby derive revenue therefrom.



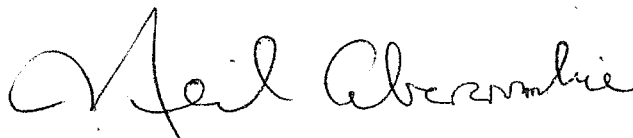
1 ~~[All the arrangements shall contain a clause that the land~~
2 ~~may be repossessed by the department when needed for aeronautics~~
3 ~~purposes upon giving the tenant temporarily occupying the same~~
4 ~~not less than thirty days' notice in writing of intention to~~
5 ~~repossess.]~~

6 The term "airport purpose" or "airport purposes" contained
7 in any governor's executive order transferring jurisdiction and
8 control of real property to the department of transportation
9 shall be considered to include entering into contracts, leases,
10 licenses, and other arrangements pursuant to this section."

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on June 29, 2012;
14 provided that the amendments made to section 261-7(a), Hawaii
15 Revised Statutes, by section 3 of this Act, shall not be
16 repealed when section 261-7, Hawaii Revised Statutes, is
17 reenacted on June 30, 2012, pursuant to Act 104, Session Laws of
18 Hawaii 2011.

APPROVED this 23 day of APR, 2012



GOVERNOR OF THE STATE OF HAWAII