
A BILL FOR AN ACT

RELATING TO PASSENGER FACILITY CHARGES.

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

1 SECTION 1. Section 261-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§261-7 Operation and use privileges.** (a) In operating
4 an airport or air navigation facility owned or controlled by the
5 department of transportation, or in which it has a right or
6 interest, the department may enter into contracts, leases,
7 licenses, and other arrangements with any person:

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

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

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



1 (4) Granting the use and occupancy on a temporary basis by
2 license or otherwise any portion of the land under its
3 jurisdiction which for the time being may not be
4 required by the department so that it may put the area
5 to economic use and thereby derive revenue therefrom.

6 All the arrangements shall contain a clause that the land
7 may be repossessed by the department when needed for aeronautics
8 purposes upon giving the tenant temporarily occupying the same
9 not less than thirty days' notice in writing of intention to
10 repossess.

11 (b) Except as otherwise provided in this section, in each
12 case mentioned in subsection (a)(1), (2), (3), and (4), the
13 department may establish the terms and conditions of the
14 contract, lease, license, or other arrangement, and may fix the
15 charges, rentals, or fees for the privileges, services, or
16 things granted, conferred, or made available, for the purpose of
17 meeting the expenditures of the statewide system of airports set
18 forth in section 261-5(a), which includes expenditures for
19 capital improvement projects approved by the legislature. Such
20 charges shall be reasonable and uniform for the same class of
21 privilege, service, or thing.



1 (c) The department shall enter into a contract with no
2 more than one person ("contractor") for the sale and delivery of
3 in-bond merchandise at Honolulu International Airport, in the
4 manner provided by law. The contract shall confer the right to
5 operate and maintain commercial facilities within the airport
6 for the sale of in-bond merchandise and the right to deliver to
7 the airport in-bond merchandise for sale to departing foreign-
8 bound passengers.

9 The department shall grant the contract pursuant to the
10 laws of this State and may take into consideration:

11 (1) The payment to be made on in-bond merchandise sold at
12 Honolulu International Airport and on in-bond
13 merchandise displayed or sold elsewhere in the State
14 and delivered to the airport;

15 (2) The ability of the applicant to comply with all
16 federal and state rules and regulations concerning the
17 sale and delivery of in-bond merchandise; and

18 (3) The reputation, experience, and financial capability
19 of the applicant.

20 The department shall actively supervise the operation of
21 the contractor to insure its effectiveness. The department
22 shall develop and implement such guidelines as it may find



1 necessary and proper to actively supervise the operations of the
2 contractor, and shall include guidelines relating to the
3 department's review of the reasonableness of contractor's price
4 schedules, quality of merchandise, merchandise assortment,
5 operations, and service to customers.

6 Apart from the contract described in this subsection, the
7 department shall confer no right upon nor suffer nor allow any
8 person to offer to sell, sell, or deliver in-bond merchandise at
9 Honolulu International Airport; provided that this section shall
10 not prohibit the delivery of in-bond merchandise as cargo to the
11 Honolulu International Airport.

12 (d) The department, by contract, lease, or other
13 arrangement, upon a consideration fixed by it, may grant to any
14 qualified person the privilege of operating, as agent of the
15 State or otherwise, any airport owned or controlled by the
16 department; provided that no such person shall be granted any
17 authority to operate the airport other than as a public airport
18 or to enter into any contracts, leases, or other arrangements in
19 connection with the operation of the airport which the
20 department might not have undertaken under subsection (a).

21 (e) The department may fix and regulate, from time to
22 time, reasonable landing fees for aircraft, including the



1 imposition of landing surcharges or differential landing fees,
2 and other reasonable charges for the use and enjoyment of the
3 airports and the services and facilities furnished by the
4 department in connection therewith, including the establishment
5 of a statewide system of airports landing fees, a statewide
6 system of airports support charges, and joint use charges for
7 the use of space shared by users, which fees and charges may
8 vary among different classes of users such as foreign carriers,
9 domestic carriers, inter-island carriers, air taxi operators,
10 helicopters, and such other classes as may be determined by the
11 director, for the purpose of meeting the expenditures of the
12 statewide system of airports set forth in section 261-5(a),
13 which includes expenditures for capital improvement projects
14 approved by the legislature.

15 In setting airports rates and charges, including landing
16 fees, the director may enter into contracts, leases, licenses,
17 and other agreements with aeronautical users of the statewide
18 system of airports containing such terms, conditions, and
19 provisions as the director deems advisable.

20 If the director has not entered into contracts, leases,
21 licenses, and other agreements with any or fewer than all of the
22 aeronautical users of the statewide system of airports prior to



1 the expiration of an existing contract, lease, license, or
2 agreement, the director shall set and impose rates, rentals,
3 fees, and charges pursuant to this subsection without regard to
4 the requirements of chapter 91; provided that a public
5 informational hearing shall be held on the rates, rentals, fees,
6 and charges.

7 The director shall develop rates, rentals, fees, and
8 charges in accordance with a residual methodology so that the
9 statewide system of airports shall be, and always remain, self-
10 sustaining. The rates, rentals, fees, and charges shall be set
11 at such levels as to produce revenues which, together with
12 aviation fuel taxes, shall be at least sufficient to meet the
13 expenditures of the statewide system of airports set forth in
14 section 261-5(a), including expenditures for capital improvement
15 projects approved by the legislature, and to comply with
16 covenants and agreements with holders of airport revenue bonds.

17 The director may develop and formulate methodology in
18 setting the various rates, rentals, fees, and charges imposed
19 and may determine usage of space, estimate landed weights, and
20 apply such portion of nonaeronautical revenue deemed appropriate
21 in determining the rates, rentals, fees, and charges applicable
22 to aeronautical users of the statewide system of airports.



1 The rates, rentals, fees, and charges determined by the
2 director in the manner set forth in this subsection shall be
3 those charges payable by the aeronautical users for the periods
4 immediately following the date of expiration of the existing
5 contract, lease, license, or agreement. If fees are established
6 pursuant to this section, the department shall prepare a
7 detailed report on the circumstances and rates and charges that
8 have been established, and shall submit the report to the
9 legislature no later than twenty days prior to the convening of
10 the next regular session.

11 If a schedule of rates, rentals, fees, and charges
12 developed by the director in accordance with this section is
13 projected by the department to produce revenues which, together
14 with aviation fuel taxes, will be in excess of the amount
15 required to meet the expenditures of the statewide system of
16 airports set forth in section 261-5(a), including expenditures
17 for capital improvement projects approved by the legislature,
18 and to comply with covenants and agreements with holders of
19 airport revenue bonds, the department shall submit the schedule
20 of rates, rentals, fees, and charges to the legislature prior to
21 the convening of the next regular session of the legislature.
22 Within forty-five days after the convening of the regular



1 session, the legislature may disapprove any schedule of rates,
2 rentals, fees, and charges required to be submitted to it by
3 this section by concurrent resolution. If no action is taken by
4 the legislature within the forty-five-day period the schedule of
5 rates, rentals, fees, and charges shall be deemed approved. If
6 the legislature disapproves the schedule within the forty-five-
7 day period, the director shall develop a new schedule of rates,
8 rentals, fees, and charges in accordance with this section
9 within seventy-five days of the disapproval. Pending the
10 development of a new schedule of rates, rentals, fees, and
11 charges, the schedule submitted to the legislature shall remain
12 in force and effect.

13 Notwithstanding any other provision of law to the contrary,
14 the department may waive landing fees and other aircraft charges
15 established under this section at any airport owned or
16 controlled by the State whenever:

- 17 (1) The governor declares a state of emergency; and
18 (2) The department determines that the waiver of landing
19 fees and other charges for the aircraft is consistent
20 with assisting in the delivery of humanitarian relief
21 to disaster-stricken areas of the State.



1 (f) To enforce the payment of any charges for repairs or
2 improvements to, or storage or care of any personal property
3 made or furnished by the department or its agent in connection
4 with the operation of an airport or air navigation facility
5 owned or operated by the department, the department shall have
6 liens on the property, which shall be enforceable by it as
7 provided by sections 507-18 to 507-22.

8 (g) The department from time to time may establish
9 developmental rates for buildings and land areas used
10 exclusively for general aviation activities at rates not less
11 than fifty per cent of the fair market rentals of the buildings
12 and land areas and may restrict the extent of buildings and land
13 areas to be used.

14 (h) Notwithstanding any laws to the contrary, the
15 department may establish, levy, assess, and collect rental motor
16 vehicle customer facility charges without regard to chapter 91,
17 which shall be paid to the department periodically as determined
18 by the department and shall be used to pay for, or finance on a
19 long-term basis or other-term basis where appropriate, the
20 design, planning, construction, and other uses of the rental
21 motor vehicle customer facility charges as set forth by the



1 rental motor vehicle customer facility charge special fund in
2 section 261-5.6.

3 The rental motor vehicle customer facility charges shall be
4 levied, assessed, and collected from all rental motor vehicle
5 customers who benefit from the use of any type of rental motor
6 vehicle facility or service provided by the department at a
7 state airport.

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

14 All rental motor vehicle customer facility charges shall be
15 collected by lessors as defined in section 437D-3 and who
16 operate a rental motor vehicle concession awarded by the
17 department at a state airport; provided that customers of
18 lessors, as defined in section 437D-3, who do not operate a
19 rental motor vehicle concession at a state airport but whose
20 customers benefit from the use of a rental motor vehicle
21 facility or service at a state airport paid for by rental motor
22 vehicle customer facility charges, shall collect from rental



1 motor vehicle customers, rental motor vehicle customer facility
2 charges in an amount determined by the department in its sole
3 discretion that represents a fair share of the cost and ongoing
4 expenses relating to customer use of the facility or service
5 notwithstanding any law to the contrary and without regard to
6 the requirements of chapter 91. All rental motor vehicle
7 customer facility charges collected by the lessor shall be paid
8 to the department.

9 Notwithstanding any law to the contrary, the department may
10 negotiate and contract the management, maintenance, and
11 operations of the facility and related services with one or more
12 airport concessions or their designee that share in the use of a
13 rental motor vehicle customer facility at a state airport.

14 (i) Notwithstanding any laws to the contrary and without
15 regard to the requirements of chapter 91, the department may
16 assess passenger facility charges as authorized under 49 United
17 States Code Section 40117 and as provided under 14 Code of
18 Federal Regulations Part 158 for each overseas or international
19 passenger who uses a state airport. The department shall
20 establish the charges in accordance with applicable federal laws
21 and regulations. No passenger facility charge shall be assessed



1 on flight segments between two or more airports within the
2 State."

3 SECTION 2. New statutory material is underscored.

4 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Transportation; Passenger Facility Charges; Revenues; Special Fund

Description:

Authorizes the Department of Transportation to collect increases in passenger facility charges without amending the administrative rule. (HB1100 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

