

JAN 20 2012

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# 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 modernization and  
2 improvements at Hawaii's airports concessions have not kept pace  
3 with passenger needs and demands. A recent study by the State  
4 indicates that various areas at our public airports are lacking  
5 in concession space by as much as forty per cent. In addition  
6 to areas covered by this study, the legislature requests that  
7 the department of transportation should also make a similar  
8 assessment of other areas at our public airports.

9           In addition to not meeting such needs and demands, the  
10 study indicates that Hawaii's public airports are not maximizing  
11 the revenues they could be receiving from airport concession  
12 operations if additional concession spaces were provided and  
13 locations were also improved. These improvements reportedly  
14 would not only pay for themselves but would also generate  
15 additional revenues for Hawaii's public airports.

16           As a result, the legislature finds that the department of  
17 transportation needs to fast-track construction and encourage  
18 improvements which will not only benefit Hawaii's public



1 airports but also provide critical jobs and help stimulate  
2 Hawaii's economy. The legislature will consider and support the  
3 department of transportation's requests to meet these goals.

4 While the legislature recognizes the importance of fast-  
5 tracking such improvements, it also recognizes that fast-paced  
6 construction and related matters will result in hardship to  
7 existing airport concessions with inconveniences such as  
8 temporary barricades, re-routing of passengers, and temporary  
9 relocation of concession operations, among other issues.

10 In addition, the legislature recognizes the financial  
11 hardships existing concessions will face when asked by the  
12 department of transportation to make and pay for improvements to  
13 these newly-added concession spaces or improved areas for items  
14 such as fixturing, lighting, flooring, partitioning, and  
15 equipment, among other expenditures.

16 Further, the legislature also recognizes that concessions  
17 may not be able to afford to make these improvements for various  
18 reasons. In a typical scenario, the concession would not be  
19 able to recoup the money it paid for improvements because the  
20 existing or remaining term of a concession lease or permit is  
21 too short.



1           Thus, the legislature finds that it is important that the  
2 department of transportation and concessions seek to work  
3 together in achieving the improvements contemplated by this Act  
4 in an expeditious but fair and equitable manner, including  
5 amendments extending the term of a concession lease or permit at  
6 the department of transportation's discretion. Since such  
7 amendments or changes cannot be simply granted by the department  
8 of transportation, legislative direction and authorization is  
9 necessary as provided for in this Act.

10           The purpose of this Act is to provide the department of  
11 transportation with the authority and discretion to reach an  
12 agreement with an airport concession to extend the term of the  
13 concession and to modify and amend terms of any concession lease  
14 or contract in exchange for revenue-enhancing improvements that  
15 are made or paid for by the concession.

16           SECTION 2. Notwithstanding any laws or provisions to the  
17 contrary, including but not limited to chapters 102 and 261,  
18 Hawaii Revised Statutes, the department of transportation, in  
19 its sole discretion and authority, upon mutual agreement with a  
20 concession and in exchange for revenue-enhancing improvements  
21 that are made or paid by the concession deemed acceptable by the



1 department of transportation, may extend, modify, alter, or  
2 amend the terms of concession leases and permits.

3 SECTION 3. The authority provided to the department of  
4 transportation by this Act shall remain valid as long as and to  
5 the extent that such authority does not violate any applicable  
6 federal laws and regulations and does not jeopardize the receipt  
7 of federal aid or impair the obligation of the department of  
8 transportation to the holders of any bond issued by the  
9 department of transportation.

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

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



1 SECTION 6. This Act shall take effect on July 1, 2012 and  
2 shall be repealed on July 1, 2014.  
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INTRODUCED BY:

9. Joe. Gish

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# S.B. NO. 2337

**Report Title:**

Department of Transportation; Airport; Concessions

**Description:**

Authorizes the Department of Transportation to extend the term of an airport concession, and to modify and amend the terms of any concession lease or contract in exchange for revenue-enhancing improvements that are made or paid for by the concession. Effective July 1, 2012.

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

