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STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

February 24, 2012

HOUSE BILL NO. 2004, H.D. 1
RELATING TO TRANSPORTATION

HOUSE COMMITTEE ON FINANCE

The Department of Transportation supports this bill. Concessions at Hawaii airports are a major revenue generator. Additional concession locations in the airport will enhance the travelers' experience by providing a wider array of merchandise and food choices. Individual concessions are responsible for building out their spaces and providing the fixtures and merchandise to operate the concession. Extending the existing concession term provides the concessions with the opportunity to amortize the cost of the improvements and ensures that development of the new concession spaces will take place as expeditiously as possible.

Thank you for the opportunity to provide testimony.





HB2004, HD1
RELATING TO TRANSPORTATION
House Committee on Finance

February 24, 2012

10:00 a.m.

Room 308

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB2004, HD1, which would grant the Department of Transportation (DOT) authority to reopen and extend concession lease terms in exchange for revenue-enhancing improvements paid for by the concessionaire. It further exempts DOT from all laws that conflict with the bill, including laws regulating the issuance of concession leases at Hawai'i's airports, and is effective until July 1, 2014. Because the state has fiduciary duties to act prudently and reasonably in leasing public trust land, OHA opposes this bill.

Section 5(f) of the Admission Act established the public land trust, in which certain land and the proceeds or income from the disposition of that land are to be held in trust by the State of Hawai'i for five purposes, including the betterment of the conditions of Native Hawaiians. The majority of the state's airports are situated on public trust land.

Accordingly, the state, as a trustee, including the DOT, must uphold its fiduciary responsibilities in leasing our public trust lands. These duties include, among others, acting in the best interest of the beneficiaries, exercising reasonable care, acting as a prudent person would under similar circumstances, and performing due diligence prior to taking action on leases. Laws regulating land leases for concessions provide a framework to ensure that the state carries out its duties while allowing for the use of public lands. While circumventing existing laws may be the quickest means to lease land, the state has a fiduciary duty to conform to the aforementioned standards.

For this reason, OHA urges the committee to HOLD HB2004, HD1. Mahalo for the opportunity to testify on this important measure.



Honorable Marcus Oshiro, Chair
Committee on Finance
House of Representatives, Hawaii

Hearing: February 24, 2012; Room 308 at
10:00 a.m.

Re: HB 2004, H.D. 1 – Relating to Transportation

Chair Oshiro and Honorable Committee Representatives:

My name is Roberta B. Fithian and I am the President
with Tiare Enterprises, Inc.

My company supports this bill and the position of the Airports Concessionaires
Committee.

This bill seeks to recognize and provide flexibility and discretion to Hawaii's
Airports Division (DOT) to meet the hardship and problems that will be faced by
concession operators at our public airports due to fast-tracking of major construction
improvements.

While we understand and commend the major goal of fast-tracking up to
80,000 or more square feet of additional concession space at Honolulu International
Airport and likely other airports (significant goal) to meet the unmet needs and
demands of our travelers, we respectfully ask that you recognize and understand the
hardship and problems that will result to airport concession operators.

In addition to barricades, different passenger routes and temporary relocation
of space, concession operators will be asked to improve and/or quickly open new space
as and when it becomes available. This will be costly and pose many problems. As an
example, a concession typically has only a 5 year contract. If it has only a remaining
term of 2 years left on its contract, how can it be expected to fixture, a/c, light, provide
equipment and otherwise improve new and additional space? This is obviously not fair
and likely something concessions will have to refuse leaving new space vacant.

We urge you to pass this bill that gives the DOT the authority to solve such
problems by providing the DOT with the flexibility and discretion to amend concession
contracts including extending the term of a concession contract if the operator pays for
improvements relating to such new space. An extension in all fairness will allow a
concession more time to amortize (pay for) such improvement costs.

Thank you for allowing us to testify. Please support this bill.

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Greeters of Hawaii

Honorable Marcus Oshiro, Chair

Committee on Finance

House of Representatives, Hawaii

Hearing: February 24, 2012; Room 308 at
10:00 a.m.

Re: HB 2004, H.D. 1 – Relating to Transportation

Chair Oshiro and Honorable Committee Representatives:

My name is Peter S. Fithian and I am the President
with Greeters of Hawaii, Ltd.

My company supports this bill and the position of the Airports Concessionaires
Committee.

This bill seeks to recognize and provide flexibility and discretion to Hawaii's
Airports Division (DOT) to meet the hardship and problems that will be faced by concession
operators at our public airports due to fast-tracking of major construction improvements.

While we understand and commend the major goal of fast-tracking up to 80,000
or more square feet of additional concession space at Honolulu International Airport and likely
other airports (significant goal) to meet the unmet needs and demands of our travelers, we
respectfully ask that you recognize and understand the hardship and problems that will result to
airport concession operators.

In addition to barricades, different passenger routes and temporary relocation of
space, concession operators will be asked to improve and/or quickly open new space as and
when it becomes available. This will be costly and pose many problems. As an example, a
concession typically has only a 5 year contract. If it has only a remaining term of 2 years left on
its contract, how can it be expected to fixture, a/c, light, provide equipment and otherwise
improve new and additional space? This is obviously not fair and likely something concessions
will have to refuse leaving new space vacant.

We urge you to pass this bill that gives the DOT the authority to solve such
problems by providing the DOT with the flexibility and discretion to amend concession contracts
including extending the term of a concession contract if the operator pays for improvements
relating to such new space. An extension in all fairness will allow a concession more time to
amortize (pay for) such improvement costs.

Thank you for allowing us to testify. Please support this bill.



Making the Traveler's Day Better™

Honolulu International Airport

Honorable Marcus Oshiro, Chair
Committee on Finance

House of Representatives, Hawaii Hearing: February 24, 2012; Room 308 at 10:00 a.m.

Re: HB 2004, H.D. 1 – Relating to Transportation

Chair Oshiro and Honorable Committee Representatives:

My name is Alan Yamamoto and I am the Senior Director of Operations for the Hawaiian Islands with HMSHost.

My company supports this bill and the position of the Airports Concessionaires Committee.

This bill seeks to recognize and provide flexibility and discretion to Hawaii's Airports Division (DOT) to meet the hardship and problems that will be faced by concession operators at our public airports due to fast-tracking of major construction improvements.

While we understand and commend the major goal of fast-tracking up to 80,000 or more square feet of additional concession space at Honolulu International Airport and likely other airports (significant goal) to meet the unmet needs and demands of our travelers, we respectfully ask that you recognize and understand the hardship and problems that will result to airport concession operators.

In addition to barricades, different passenger routes and temporary relocation of space, concession operators will be asked to improve and/or quickly open new space as and when it becomes available. This will be costly and pose many problems. As an example, a concession typically has only a 5 year contract. If it has only a remaining term of 2 years left on its contract, how can it be expected to fixture, a/c, light, provide equipment and otherwise improve new and additional space? This is obviously not fair and likely something concessions will have to refuse leaving new space vacant.

We urge you to pass this bill that gives the DOT the authority to solve such problems by providing the DOT with the flexibility and discretion to amend concession contracts including extending the term of a concession contract if the operator pays for

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improvements relating to such new space. An extension in all fairness will allow a concession more time to amortize (pay for) such improvement costs.

Thank you for allowing us to testify. Please support this bill.

HMSHost Corporation
Hawaiian Islands

By



Alan Yamamoto
Senior Director of Operations
Hawaii



Island Shoppers, Inc.

Honolulu International Airport
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Honolulu, Hawaii 96819
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Honorable Marcus Oshiro, Chair
Committee on Finance
House of Representatives, Hawaii Hearing: February 24, 2012; Room 308 at 10:00
a.m.

Re: HB 2004, H.D. 1 – Relating to Transportation

Chair Oshiro and Honorable Committee Representatives:

My name is John Matias and I am the President of Island Shoppers, Inc.

My company supports this bill and the position of the Airports
Concessionaires Committee.

This bill seeks to recognize and provide flexibility to Hawaii's
Airports Division (DOT) to meet the hardship and problems that will be faced by
concession operators at our public airports due to fast-tracking of major construction
improvements.

While we understand and commend the major goal of fast-tracking up to
80,000 or more square feet of additional concession space at Honolulu International
Airport and likely other airports (significant goal) to meet the needs and demands of our
travelers, we respectfully ask that you recognize and understand the hardship and
problems that will result to airport concession operators.

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problems. As an example, a concession typically has only a 5 year contract. If it has
only a remaining term of 2 years left on its contract, how can it be expected to fixture,
a/c, light, provide equipment and otherwise improve new and additional space? This is
obviously not feasible and likely result in vacant space.

We urge you to pass this bill that gives the DOT the authority to solve
such problems by providing the DOT with the flexibility and discretion to amend
concession contracts including extending the term of a concession contract if the operator

pays for improvements relating to such new space. An extension in all fairness will allow a concession more time to amortize (pay for) such improvement costs.

Thank you for allowing us to testify. Please support this bill.



AIRPORT CONCESSIONAIRES COMMITTEE

Honorable Marcus Oshiro, Chair
Committee on Finance
House of Representatives
State of Hawaii

Hearing: February 24, 2012; Room 308 at 10:00 a.m.

RE: HB 2004, HD1 — Relating to Transportation

Chair Oshiro and Honorable Representatives:

My name is Peter Fithian and I am the Legislative Chair for the Airports Concessionaires' Committee. The Committee represents that major concessions at Hawaii's public airports. Airport concessions historically have contributed over 50% of the operating revenues to support public airports in Hawaii.

The Committee supports the bill.

This bill does not mandate or require the DOT to do anything. It requires no additional expenditures by the DOT. It simply gives the DOT the sole discretion and flexibility to be fair to concessions who pay for unplanned for improvements requested by the DOT.

While the Committee commends the historic and bold vision of the DOT-Airports Division to fast-track and add 80,000 or more square feet of concession space at Hawaii's public airports, particularly at HIA, the Committee is fearful as to the costly impact such fast-tracking will have on airport concessions.

Such fast-tracking will result in barricades, noise, dust, changes in passenger routes past the front of concessions and likely temporary relocation of concessions. In addition, concessions will be asked to make various improvements as part of or related to such construction including putting in fixtures, lighting, a/c, flooring, equipment and other improvements to newly added space.

Such requested improvements will be very costly to concessions who had not planned or anticipated paying for such expenses. Concessions will likely be forced to refuse to cooperate with such improvements since they will not be able to amortize (pay off) the costs of such improvements. Most airport concessions only have an agreement of 5 years or less. What is a concession to do if it only has 2 years remaining on its contract and thus can't afford to make such tenant and other improvements?

Thus, bill seeks to help solve the problem by give the DOT the sole discretion and flexibility to amend concession agreements to provide relief to concessions in exchange for improvements paid for by concessions. Among other things, the bill gives the DOT the discretion to extend the term of a concession lease so the concession in all fairness would have additional years to amortize (pay off) the costs of unplanned improvements requested by the DOT or necessitated by such projects.

Please understand the Committee is not opposed to such improvements and fast-tracking. The Committee recognizes and understands the DOT is responding to a recent study that calls for and justifies the need for such improvements and the fact that the additional revenues to DOT Airports from such added space will pay for such DOT projects.

In closing, while the Committee understands the need for such improvements and the fact that the current and future needs of travelers are not being met due to the lack of concession activities and offerings, we respectfully ask that you support this bill so the DOT will have discretion and flexibility to work with concessions who are adversely impacted by paying unanticipated costs.

Thank you for allowing us to testify. Please support this bill. Airport concessions seek to work cooperatively with the DOT in its historic and bold plans to quickly add substantial concession space so they open as completed and help meet the demands of Hawaii's travelers.