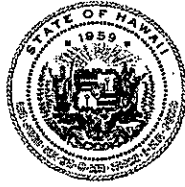


NEIL ABERCROMBIE
GOVERNOR



GLENN M. OKIMOTO
INTERIM DIRECTOR

Deputy Directors
JADE T BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

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

IN REPLY REFER TO:

March 29, 2012

S.B. 2874, S.D.1
RELATING TO AIRPORT REVENUE
HOUSE COMMITTEE ON FINANCE

The Department of Transportation supports this Administration bill as amended. It will help provide the airports with additional revenue generating potential to meet the statutory requirements to be economically self supporting.

The Department notes however, that there are other bills being considered that would amend Act 104 to change the date of the reenactment of Section 261-7, Hawaii Revised Statutes.

Thank you for the opportunity to provide testimony.





SB 2874, SD1
RELATING TO AIRPORT REVENUE
House Committee on Finance

March 29, 2012

12:00 p.m.

Room 308

The Office of Hawaiian Affairs (OHA) provides the following comments on SB2874, SD1, which would authorize the Department of Transportation to lease public land for non-aeronautical, revenue generation purposes by negotiation without public notice for a term of up to 35 years.

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

Section 5(f) of the Admission Act, Article XII of the Hawai'i Constitution, Chapter 10 of the Hawai'i Revised Statutes, Act 178 (2006), and Executive Order 06-06 impose trust obligations with respect to the public land trust on all state agencies. Act 178 sets OHA's interim share of public land trust revenues at \$15.1 million per year. Executive Order 06-06 requires state agencies to transfer 20 percent of the revenues generated from their use of public trust land in order to meet OHA's annual \$15.1 million public land trust payment.

To ensure these obligations are satisfied, we ask that the following provision be added to Section 3:

Nothing in this section shall diminish the revenues owed to the Office of Hawaiian Affairs pursuant to Act 178, session laws of Hawaii 2006, or any other law providing for the Office of Hawaiian Affairs' pro rata portion of the public land trust, pursuant to article XII, section 6, of Hawaii's constitution.

Mahalo for the opportunity to testify on this important measure.

AIRLINES COMMITTEE OF HAWAII



Honolulu International Airport
300 Rodgers Blvd., #62
Honolulu, Hawaii 96819-1832
Phone (808) 838-0011
Fax (808) 838-0231

March 29, 2012

Honorable Marcus Oshiro, Chair
Honorable Marilyn Lee, Vice Chair
House Committee on Finance
Hawaii State Capitol, Honolulu, HI 96813

**Re: SB 2874 SD1– Relating to Airport Revenue – Support Intent
Hawaii State Capitol, Room 308 – 12:00 p.m. (Agenda #3)**

Aloha Chair Oshiro, Vice Chair Lee, and Members of the Committee:

The Airlines Committee of Hawaii* (ACH), which is made up of 20 signatory air carriers that underwrite the State Airport System supports the intent of SB 2874 SD1 – Relating to Airport Revenue, which expresses the desire to increase the flexibility and marketability in the disposition of airport lands, with the ultimate objective of maximizing the amount of non-aeronautical rent to the Department of Transportation – Airports Division (DOT-A).

Currently, the DOT-A is limited from directly negotiating a long-term lease with non-aeronautical tenants, resulting in short term leases with minimal investments by the tenants, and materially lower rental income to the DOT-A. Due to the self-sustaining requirement of the airports system and the residual obligation of the signatory air carriers, the ACH commends and supports the DOT-A in their pursuit of maximizing the revenue streams from their land, buildings and other assets. This business-like mindset will help to ensure a financially stable airports system, which is critical for the air carriers as well as the state economy.

As always, we are grateful for the opportunity to provide input on this matter.

Sincerely,

Blaine Miyasato
ACH Co-chair

Matthew Shelby
ACH Co-chair

**ACH members are Air Canada, Air New Zealand, Air Pacific, Alaska Airlines, All Nippon Airways, American Airlines, China Airlines, Continental Airlines, Delta Air Lines, Federal Express, go! Mokulele, Hawaiian Airlines, Japan Airlines, Korean Air, Philippine Airlines, Qantas Airways, United Airlines, United Parcel Service, US Airways, and Westjet.*

SAFARI

AVIATION INC.

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P.O. Box 1941
Lihue, Kauai
Hawaii 96766

March 28, 2012

State of Hawaii, House of Representatives, Committee on Finance

Ref: SB 2874, SDI (HSCR1015-12) Relating to Airport Revenue

Date: Thursday, March 29, 2012

Time: 12:00 PM

Place: Conference Room 308

Dear Chair Oshiro, Vice Chair Lee and members of the committee:

This company is submitting this testimony in opposition to SB2874. We are a tenant at the Lihue Airport/Lihue Heliport and Hilo International Airport. This legislation appears to place DOT-A and the State of Hawaii in a conflict with Federal Assurances.

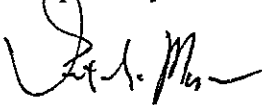
Our current permits are on a 30-day revocable basis. With the removed proposed language in the Bill, it would appear that the State of Hawaii is applying Federal Assurances on a discriminatory basis in favor of non-aviation concerns.

There is already a pending issue with Grant Assurances as it relates to issues concerning operators at the Lihue Heliport. DOT-A has attempted to charge helicopter tour operators more rent as compared to other aviation entities including airplane (tour or charter) and non-tour helicopter operators, entities that are not aviation related including car rental companies within the same airport.

In addition, there are concerns about the legality of the Airline Committee that sets the agenda for usage at airports though out the State of Hawaii by dictating airport land policies including rates for other aeronautical uses as Signatory Carriers that have not legally existed since 1992! These Signatory Carriers had dictated airport rates at the detriment of all other aeronautical users without legal authority.

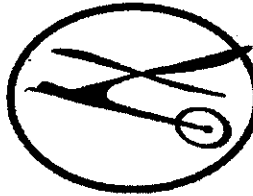
Again, this company opposes SB 2874 as set forth above.

Respectfully Submitted,



Preston S. Myers
President/Director of Operations

Jack Harter Helicopters



STATE OF HAWAII, SENATE COMMITTEE ON FINANCE
Senator Marcus Oshiro, Chair; Senator Marilyn Lee, Vice Chair

DATE: Thursday, March 29, 2012

TIME: 12:00 PM

PLACE: Conference Room 308

RE: SB 2874, SD1 RELATING TO AIRPORT REVENUE.

Aloha Chair Oshiro, Vice Chair Lee, and members of the committee:

We are submitting this testimony in opposition to SB2874 as an airport tenant. We understand that the Department of Transportation, Airports Division (DOT-A) needs to operate the Hawaii airport system as a self-sustaining set of entities and that this measure is intended to assist the Department to that end. We are urging the legislature to be cautious in this proposed action. However, we have concerns that this measure may place the DOT-A in a position where they are not in compliance with the FAA Airports Grant Assurances. Compliance with the FAA Grant Assurances is required for the DOT-A to receive the federal monies used to assist in the funding of the airport system.

Our concerns with this measure center on the removal of the wording from the existing statute,

“All arrangements shall contain a clause that the land may be repossessed by the department when needed for aeronautical purposes upon giving the tenant temporarily occupying the same not less than thirty days’ notice in writing of intention to repossess.”

Every DOT-A lease or permit we have signed or reviewed in the conduct of our aviation business has included either a 30 or 60-day withdrawal clause. By removing this language from the statute, it could be argued that the State of Hawaii is discriminating against aviation entities in favor of non-aviation entities.

The DOT-A is currently involved in an FAA Grant Assurance non-compliance matter with some Lihue Heliport operators. The non-compliance issue here is that the DOT-A wants to charge aviation entities (Helicopter Tour Operators) more than other aviation entities (fixed-wing operators and non-tour helicopter operators) and non-aviation entities (rental car companies, etc) at the same airport. The FAA Grant Assurances dictate that the DOT-A treat all aviation entities in a non-discriminatory manner.

Regards,

Casey Riemer
General Manager/VP

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March 28, 2012

TO: The Honorable Maarcus Oshiro, Chair
House Committee on Finance

FROM: Devon Nekoba
on behalf of Royal Hawaiian Movers

SUBJECT: S.B. 2874SD1- RELATING TO AIRPORT REVENUE
Thursday, March 29, 2012; 12:00 p.m.
Conference Room 308, Hawaii State Capitol

TESTIMONY IN SUPPORT

Good morning Chair Oshiro and members of the House Finance Committee:

My name is Devon Nekoba and I am here today representing Royal Hawaiian Movers in strong support of SB2874. RHM holds some of the airport division's largest leases along the Ualena Street corridor. Over the years the landscape has changed from a very active and vibrant business center to one that is spotted with run down structures and vacant parcels. This bill will support the revitalization of this essential commercial zone and further allow us to sustain and grow our business.

Royal Hawaiian Movers, Inc. has been an industry leader since we opened our doors in 1982. Our personalized service is reflected through our knowledgeable staff. Many of whom have been with us for over 15 years. This high level of experience and dedication is displayed in the moving services we provide to our military and commercial customers. We are the only mover in the state to offer global moving and storage services on Oahu, Kauai, Maui and the Big Island via air and ocean vessels.

Your committee's support to approve this bill unamended will go a long way in increasing revenues for the airport. But more importantly through revitalization, will hopefully produce more jobs and business growth for the people of our state.

Thank you for your time and support.

To: Hon. Marcus R. Oshiro, Chairman

House Committee on Finance

Re: SB 2874, SD1

Aloha.

My name is David Bettencourt, and I am testifying as an individual airport tenant at HNL and generally on behalf of the tour helicopter operators at Lihue. I have practiced aviation law for more than forty years, in addition to operating my own aircraft and being an airport tenant. I oppose the passage of SB 2874 in any form until the DOT-A adopts a transparent and non-discriminatory rental rate structure that eliminates its proposed rate structure for the Lihue Heliport that essentially seeks to make the State of Hawaii the involuntary partner of all tour operators so as to generate more income. The proposed definition of "Airport-related" is so expansive that no revenue-producing activity is excluded; a shooting range, a dog grooming facility or a strip club would all be "Airport-related."

The majority of airport concessions at airports are charged less than tour operators at LIH. The DOT-A has consistently discriminated against helicopter operators at LIH in response to local politics, and now seeks to put an economic pinch on those operators; rates at the Lihue Heliport for undeveloped areas are higher than all other developed areas at all other airports. I am familiar with the historical manner in which the Airline Committee of Hawaii ("A.C.H.") has essentially dictated airport land policy and even specific rates and charges for all *other* aeronautical operators at Hawaii's airports, particularly after the expiration of the 1962-1992 airlines leases for signatory carriers. Federally protected aeronautical operators, specifically Lihue Heliport tour operators, are being subjected to exorbitant and discriminatory lease rates while non-aeronautical concessions are already provided with preferential rates.

The DOT-A seeks to set rates for the Lihue Heliport based upon a 2007 appraisal of industrial property in Lihue at the peak of the market, while rates for the rest of the airport are set by a much older appraisal utilizing a more favorable methodology. Mr. Gordon Wong, of the FAA Honolulu Airports District Office, has informed the tour operators:

In general, one might expect that non-aeronautical rates are typically higher than aeronautical rates since non-aeronautical rates are

supposed to be based upon fair market value (FMR). Airport sponsor (sic) have more flexibility with aeronautical rates because they are supposed to be reasonable.

Email Wong to Casey Riemer-15 July 2011.

Many aeronautical operators are highly concerned about the A.C.H.'s role in setting airport policy, particularly after the DOT-A conceded that it entered into new airline leases for what are euphemistically named "signatory carriers" that dictated exactly what rates and charges would apply to other operators. The SOH-DOT-A conceded at a public information meeting last year that its meetings with the A.C.H. and its constituent airline members are conducted secretly in secured areas at HNL without notice to the public or even to other aeronautical users who are affected by these policy setting meetings. The DOT-A even conceded that, for the convenience of the airlines, DOT-A officials met with them on the continent. Las Vegas, perhaps?

The State of Hawaii has recently suffered an adverse federal DOT ruling and was forced to stipulate to permanent injunction in a federal lawsuit challenging its revenue enhancements attempted under the Hawaii Plant Quarantine Law (Chapter 150A, H.R.S.) as also being contrary to federal statutory and regulator commands. ***Air Transport Association of America v. Abercrombie***, Civ. No. 10-00444 DAE/BMK (U.S.D.C. Haw.). Until the DOT-A adopts non-discriminatory rates and charges for tour helicopter facilities consistent with its federal grant assurances, the legislature should not provide it with further discretionary authority to exercise in favor of non-aeronautical entities.

Me ka ha'a ha'a,

[s] David Glenn Bettencourt

David Glenn Bettencourt

FINTestimony

From: Louis Diliberto [lou@maui.net]
sent: Tuesday, March 13, 2012 9:34 AM
To: testimony@akaku.org
Subject: Vote NO on HB2874

This is my testimony in STRONG OPPOSITION to HB2874. Although I support the state effort to encourage fast, ubiquitous and affordable broadband for all Hawaii residents by 2018, freezing the funds for already underfunded PEG Access stations is not the way to do it. Since PEG Access centers are truly the sole Community Anchor Institutions already set up to train residents in broadband adoption and community broadband access, it would be a huge mistake to divert funding away from these resources. Please vote no on this measure or add an amendment that will increase, not freeze PEG funding for purposes of broadband education.