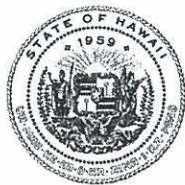


SB 2874

RELATING TO AIRPORT REVENUE.

Amends Sections 261-7 and 171-59 Hawaii Revised Statutes to provide more flexibility in renting land and facilities at airports for revenue generation purposes.

NEIL ABERCROMBIE
GOVERNOR



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DEPARTMENT OF TRANSPORTATION
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IN REPLY REFER TO:

February 8, 2012

**SB 2874
RELATING TO AIRPORT REVENUE**

SENATE COMMITTEE ON TRANSPORTATION & INTERNATIONAL AFFAIRS

The Department of Transportation supports this Administration bill with an amendment to Section 3 of the bill to delete the following language from Section 261-7 (a), Hawaii Revised Statutes, "All the arrangements shall contain a clause that the land may be repossessed by the department when needed for aeronautics purposes upon giving the tenant temporarily occupying the same not less than thirty days' notice in writing of intention to repossess."

This particular language has caused some airport tenants, including those engaged in aeronautical activities, difficulty in getting financing to make improvements to the property as some financial institutions cited this language as indicating the actual guaranteed occupancy is limited to 30 days.

Thank you for the opportunity to provide testimony.





**SB 2874
RELATING TO AIRPORT REVENUE**

Senate Committee on Transportation and International Affairs

February 8, 2012

1:15 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) provides the following **comments** on SB2874, 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
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LATE

February 8, 2012

Honorable J. Kalani English, Chair
Senate Committee on Transportation and International Affairs

**Re: SB 2874 – Relating to Airport Revenue – Support Intent
Hawaii State Capitol, Room 224 – 1:15 p.m.**

Aloha Chair English, Vice Chair Espero, 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** – 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). We also wanted to alert the committee to potential unintended consequences that may arise with the current draft of this bill.

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.

Additionally, to provide an incentive for non-aeronautical tenants to enter into long-term leases, the committee may want to consider amending Page 7 lines 9 through 13, which states that: "All the arrangements shall contain a clause that the land may be repossessed by the department when needed for aeronautics purposes upon giving the tenant temporarily occupying the same not less than thirty days' notice in writing of intention to repossess." This could be accomplished in a variety of ways, and the ACH would be happy to assist in discussions by which to accomplish same.

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.*