
A BILL FOR AN ACT

RELATING TO CONCESSIONS.

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

1 SECTION 1. The legislature finds that the award of airport
2 concession contracts or other arrangements have not always been
3 for the best value of services or in the best interest of the
4 State. Unlike laws applicable to most of the other airports in
5 the United States that require airport concessions to be awarded
6 by best value, Hawaii law requires airport concessions to be
7 awarded based on the amount of money paid without any meaningful
8 discussions or negotiations. For example, under Hawaii law, a
9 fifteen-year airport concession restaurant contract can be
10 awarded to the person or entity that simply agrees to pay the
11 most money to the State, without any discussions or negotiations
12 regarding the quality or variety of food and service to be
13 provided. The legislature recognizes that the highest amount of
14 money offered for a contract does not necessarily result in the
15 State receiving the best value of services or serve the best
16 interests of State.



1 The legislature further finds that tourism is the State's
2 top industry and that public airports are generally a visitor's
3 first and last impressions of Hawaii. Thus, services and
4 offerings at the State's airports truly impact the State's
5 economy. To ensure quality services and offerings to travelers,
6 the department of transportation should not be limited to
7 awarding airport concessions based on who offers the most or the
8 least amount of money. While dollars paid should be one of the
9 factors considered by the department, monetary amounts should
10 not be the sole or most compelling factor and basis for awarding
11 an airport concession or arrangement at Hawaii's airports.

12 Act 46, Session Laws of Hawaii 2012, as amended by Act 126,
13 Session Laws of Hawaii 2014, temporarily permitted the
14 department of transportation to negotiate amendments to existing
15 concession contracts in exchange for revenue-enhancing
16 improvements paid for by the concession. This approach proved
17 to be successful as it resulted in better airport experiences
18 and offerings and increased revenues to the public airport
19 system. As a result of negotiations, about \$90,000,000 worth of
20 improvements were fast-tracked and paid for by airport tenants,



1 which in turn, will generate millions of dollars of additional
2 revenues for Hawaii's airport system.

3 Recognizing that existing laws impeded the award of airport
4 concession contracts that could provide free wireless
5 connectivity and advertising opportunities at state airports,
6 the legislature enacted Act 141, Session Laws of Hawaii 2014, to
7 permit the department of transportation to temporarily pursue
8 airport concession contract negotiations for electronic
9 communication services and advertising opportunities at the
10 State's airports. As a result of Act 141, the department of
11 transportation awarded wireless connectivity and advertising
12 contracts that will provide opportunities and services at
13 Hawaii's major airports and additional revenues to Hawaii's
14 airport system.

15 The legislature further finds that when an executive
16 department engages in contract negotiations rather than awarding
17 to the highest bidder, the attorney general can provide legal
18 oversight to ensure that the award granting process complies
19 with Hawaii law as well as other applicable laws.

20 The legislature believes that existing laws with the
21 emphasis on dollars paid without any negotiations allowed has



1 not served the public's best interest in meeting the needs of
2 travelers, providing additional revenues to the airport system,
3 or providing the department of transportation with the
4 flexibility and discretion necessary to meet the department's
5 important goals and objectives.

6 Therefore, the purpose of this Act is to provide the
7 department of transportation permanent authority, flexibility,
8 and discretion to pursue and enter into airport concession
9 contracts by negotiation.

10 SECTION 2. Section 102-2, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) The bidding requirements of subsection (a) shall not
13 apply to concessions or space on public property set aside for
14 the following purposes:

- 15 (1) For operation of ground transportation services and
16 parking lot operations at airports, except for motor
17 vehicle rental operations under chapter 437D;
- 18 (2) For lei vendors;
- 19 (3) For airline and aircraft operations;
- 20 (4) For automated teller machines and vending machines,
21 except vending machines located at public schools



- 1 operated by blind or visually handicapped persons in
2 accordance with section 302A-412;
- 3 (5) For operation of concessions set aside without any
4 charge;
- 5 (6) For operation of concessions by handicapped or blind
6 persons; except concessions operated in the public
7 schools by blind or visually handicapped persons in
8 accordance with section 302A-412;
- 9 (7) For operation of concessions on permits revocable on
10 notice of thirty days or less; provided that no such
11 permits shall be issued for more than a one year
12 period;
- 13 (8) For operation of concessions or concession spaces for
14 a beach service association dedicated to the
15 preservation of the Hawaii beach boy tradition,
16 incorporated as a nonprofit corporation in accordance
17 with state law, and whose members are appropriately
18 licensed or certified as required by law;
- 19 (9) For operation of concessions at county zoos, botanic
20 gardens, or other county parks which are
21 environmentally, culturally, historically, or



1 operationally unique and are supported, by nonprofit
 2 corporations incorporated in accordance with state law
 3 solely for purposes of supporting county aims and
 4 goals of the zoo, botanic garden, or other county
 5 park, and operating under agreement with the
 6 appropriate agency solely for such purposes, aims, and
 7 goals;

8 (10) For operation of concessions that furnish goods or
 9 services for which there is only one source, as
 10 determined by the head of the awarding government
 11 agency in writing that shall be included in the
 12 contract file;

13 (11) For any of the operations of the Hawaii health systems
 14 corporation and its regional system boards;

15 (12) For airport operation of concessions [~~providing~~
 16 ~~electronic communication services;~~

17 ~~(13) For airport operation of concessions consisting solely~~
 18 ~~of advertising];~~

19 [~~(14)~~] (13) For the stadium authority operation of
 20 concessions providing electronic communication
 21 services;



1 [~~(15)~~] (14) For the stadium authority operation of
2 concessions consisting solely of advertising; and
3 [~~(16)~~] (15) For the operations of the natural energy
4 laboratory of Hawaii authority."

5 SECTION 3. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 4. This Act shall take effect on July 1, 2030;
8 provided that the amendments made to section 102-2(b), Hawaii
9 Revised Statutes, under section 2 of this Act shall not be
10 repealed when section 102-2(b), Hawaii Revised Statutes, is
11 repealed and reenacted on June 30, 2021, pursuant to section 4,
12 Act 141, Session Laws of Hawaii 2014; provided further that this
13 Act shall apply to existing concessions and arrangements covered
14 by this Act.



Report Title:

Airport Concessions; Contracts; Lease Terms; Bidding

Description:

Removes the limitations on the types of airport concessions that are exempt from the public bidding requirements. (HB997 HD2)

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