



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

February 8, 2017  
1:20 p.m.  
State Capitol, Room 225

**S.B 1254**  
**RELATING TO CONCESSIONS**

Senate Committee on Transportation and Energy & Government Operations

The Department of Transportation (DOT) **supports** the intent of S.B. 1254 that monetary amounts should not be the sole or most compelling factor and basis for awarding an airport concession or arrangement at Hawaii's airports.

The DOT – Airports Division has experienced situations in which the highest dollar bid for an Airport Concession did not provide the quality services and products anticipated for our travelers. It is important this be avoided since our airports are the first and last impression for our travelers, both visitors and local residents. Also, tourism is an important economic sector for Hawaii.

Our airports continue undergoing change and necessary improvements to meet the growing demands of our travelers. The DOT is moving forward with the Airports Modernization Program. Passage of this bill will provide flexibility and discretion in negotiating concession agreements to meet the expected services and products from the travelling public and support our department's goals and objectives.

Thank you for the opportunity to provide testimony.



## AIRPORT CONCESSIONAIRES COMMITTEE

Honorable Donna Mercado Kim, Chair  
Committee on Government Operations  
Hawaii State Senate

Honorable Lorrain Inouye, Chair  
Committee on Transportation and Energy  
Hawaii State Senate

Hearing on February 8, 2017 at 120pm, Room 225

Re: S.B. 1254 – Relating To Concessions

Dear Chair Kim, Chair Inouye, and Honorable Committee Members,

My name is Peter Fithian and I am the Legislative Chair for the Airports Concessionaires Committee whose membership consists of the major concession operators at Hawaii's public airports. Airport concessions presently and historically have contributed more than half of the operating revenues for Hawaii's airport system which as you know is special funded.

Our Committee supports this bill with amendment. Please see attached.

We firmly believe its time that Hawaii's Airport System --- like most airport systems across the United States --- award an airport concession contract by negotiation and not by the present top-dollar-bid process which does not permit any discussions or negotiations with representatives for the State.

As explained in Section 1 of the bill, simply getting paid the most money, or least money/cheapest, does not mean the State is getting the best value from a concession that the State can be proud of, best value to the State. Money paid to the State while important, should not be the controlling or most important factor with no other discussions and negotiations allowed.

As an example, it makes no sense to award the operation of an airport restaurant to the person who simply paid top-dollar and met minimum qualifications. Prior to awarding an airport- concession contract representatives of the State should be allowed to talk to help ensure the State can also be proud of: 1) quality and types of food; 2) management experience; 3) hours of operation; and 4) other services that ensure the State is getting "best value" and can be proud of the restaurant operation.

Our public airports are typically the "first and last impression" our visitors have of Hawaii. It's thus critical and important to our tourist industry and economy that such concession operations offer and provide products and services that Hawaii can be proud of. This bill will allow discussions and negotiations by State representatives that ensure such operations will make Hawaii proud, provide best

value, and not result in poor operations due to decisions controlled by who paid the most money to the State.

As noted in Section 1 of the bill, Hawaii's legislature has tested the ability to the State to negotiate airport concession contracts with great results and benefits to the State. Most recently such flexibility to negotiate resulted in Hawaii for the first time in its history granting airport-concession rights that will not only generate additional revenues to the Hawaii's airport division but will also provide at Hawaii's major airports: 1) access to free wireless services at all of Hawaii's major airports; and 2) advertising/display services.

In addition to negotiations being supervised and agreements drafted by the Department of Attorney General, it is also important to note that any such negotiated agreements relating to such rights to use or access public property cannot be signed until first approved by the Department of Land and Natural Resources (DLNR) following public notice and at and following a public hearing. The DOT Airports Division will have to present and justify its requests to approve such agreement at such public hearing. Any one objecting to the negotiation process and/or results of such negotiations or having any concerns will have the right to complain and request at a public hearing that DLNR not approve any such negotiated agreement.

Thus, the current process has ample safeguards to ensure that everything is done legally and publicly disclosed and approved before any such negotiated agreement is signed.

As to the proposed amendments, the adding of the word "anY TYPE" is to clarify the term "arrangement" means all of those previously referred to in the sentence. The addition of the words "FOR THE INITIAL TERM, AND IF AMENDED, ANY " is for purposes of clarifying and ensuring the DOT has the flexibility in granting periods of times of up to but not more than 15 years. History has shown that such flexibility is often necessary given periodic and ongoing improvements/needs at Hawaii's airports which at times require concessions to improve, expand and/or relocate. Depending on the circumstances and without such flexibility the both the DOT and/or concession will be confined to their locations and not able to do anything to make things better until the very end of a contract term.

In closing, like most airports across the United States, I urge you to pass this bill that will allow for discussions and negotiations of airport-concession agreements by State representatives before any final selection and/or decision is made.

Thank you for allowing us to testify. I'll be happy to try and answer any questions you may have.

Feb 7, 2017 --- Proposed Amendment SB 1254/HB 997

NOTE: changes in CAPS and ~~strikethroughs~~ and for  
Section 2 (a)

...Therefore, the purpose of this Act is to provide the department of transportation permanent authority, flexibility, and discretion to pursue and enter into concession contracts and other arrangements by negotiation.

SECTION 2. Section 102-2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Except as otherwise specifically provided by law, no concession or concession space shall be leased, let, licensed, rented out, or otherwise disposed of either by contract, lease, license, permit or any other arrangement, including any amendment thereof not already provided for in any TYPE OF arrangement, except under contract let after public notice for sealed bids in the manner provided by law; provided that the duration of the grant of the concession or concession space shall be related to the investment required but in no event to exceed fifteen years[+] ~~of~~ FOR the INITIAL TERM, AND IF AMENDED, ANY then remaining term plus any agreed extension thereof; provided further that and subject to

approval by county council resolution, the fifteen-year limit shall not apply to nonprofit corporations organized pursuant to chapter 414D.