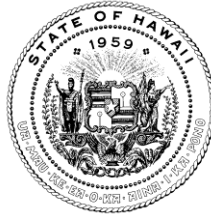


DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
LABOR & PUBLIC EMPLOYMENT**

**Tuesday, February 4, 2020
9:10 AM
State Capitol, Conference Room 309**

**In consideration of
HOUSE BILL 2604
RELATING TO CONCESSIONS**

House Bill 2604 proposes to provide state and county governments more flexibility and discretion to address substantial hardship situations that impact concession contracts. **The Department of Land and Natural Resources (Department) offers the following comments.**

While the intent is to allow for more flexibility in administering government contracts, this measure does not mandate the flexibility but offers these amendments as an additional tool in the cases where there are fiscal hardships in a pre-existing contract. Potentially, on a case by case basis, there may be merit for these amendments to Section 102-10, Hawaii Revised Statutes.

However, there may be substantial legal implications associated with after the fact amendments, particularly after a formal bid process where the terms have been vetted and legally approved.

Thank you for the opportunity to comment on this measure.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

HB-2604

Submitted on: 2/3/2020 10:17:32 AM

Testimony for LAB on 2/4/2020 9:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ruston Utu	Individual	Support	No

Comments:

I support this bill and I believe that county governments should have flexibility in concession contracts especially when problems or emergencies occur that could really affect the public.



OFFICE OF THE MAYOR
THE COUNTY OF KAUA'I

DEREK S. K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

LATE

Testimony of Derek S.K. Kawakami
Mayor, County of Kaua'i

Before the
House Committee on Labor and Public Safety
February 4, 2020; 9:30 am
Conference Room 309

In consideration of
House Bill 2604 Relating to Concessions

Honorable Chair Johanson, Vice Chair Eli, and Members of the Committee:

The County of Kaua'i **supports** HB2604 Relating to Concessions, which provides state and county governments more flexibility and discretion to address substantial hardship situations.

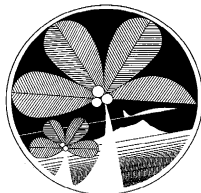
This bill will allow relief to concessionaires and government entities when unforeseen circumstances arise such as delays in construction by state and county governments, increased construction costs, where concession locations are in default, withdrawn, or where concession contracts have more generous relief terms to address financial or other hardships that a concession contract does not have.

Ultimately, HB2604 helps to ensure that state and county governments have more flexibility and discretion with their concession operators' contracts for the better good of serving the public in the most fiscally responsible means.

Thank you for the opportunity to testify on this matter.



AIRLINES COMMITTEE OF HAWAII



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



February 4, 2020

Representative Aaron Ling Johanson, Chair
Representative Stacelynn Eli, Vice Chair
Committee on Labor & Public Employment

Re: HB 2604 – Relating to Concessions – IN OPPOSITION
Conference Room 309; 9:10 a.m.

Aloha Chair Johanson, Vice Chair Eli and members of the Committee,

The Airlines Committee of Hawaii (ACH), which is comprised of the 19 signatory air carriers that underwrite the State Airport System, appreciates the opportunity to express its concerns with HB 2604, which provides state and county governments more flexibility and discretion to address substantial hardship situations that impact concession contracts.

We believe this legislation was proposed to help the current duty free operator. This is not the first time DFS is seeking rent relief at the expense of the DOT-A and the airlines. A material decline in this revenue source will impact support for capital investments. It should be noted that DFS and DOT-A negotiated specific criteria in the current contract that would enable DFS to seek rent relief. Therefore, it is inappropriate for DFS to seek legislative intervention to modify the criteria that they previously agreed to.

Thank you for the opportunity to share our concerns. We ask the committee to defer this measure.

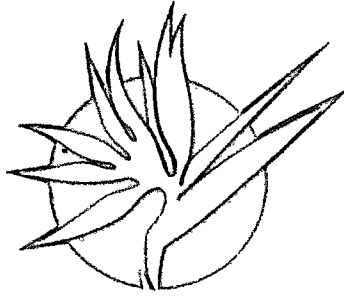
Sincerely,

Matthew Shelby
ACH Co-chair

Brendan Baker
ACH Co-chair

Mark Berg
ACH Co-chair

**ACH members are Air Canada, Air New Zealand, Alaska Airlines, All Nippon Airways/Air Japan, Aloha Air Cargo, American Airlines, China Airlines, Delta Air Lines, Federal Express, Fiji Airways, Hawaiian Airlines, Japan Airlines, Korean Air, Philippine Airlines, Qantas Airways, Southwest Airlines, United Airlines, United Parcel Service, and WestJet.*



SUBMITTED
AS LATE TESTIMONY

AIRPORT CONCESSIONAIRES COMMITTEE

Representative Aaron Ling Johanson, Chair
Committee on Labor and Public Employment
House of Representatives
Hawaii State Legislature

Hearing on February 4, 2020 ; 910am; Room 309

Re: HB 2604 -- Relating to Concessions

Dear Chair Johanson and Honorable Committee Members:

My name is Peter Fithian and I am the Chair of the Government Affairs section of the Airport Concessionaires Committee. Members of our Committee represent the majority of businesses conducting concessions operations at our public airports. Airport concessions have historically provided 50% of more of the operational revenues at our public airports.

Our Committee supports this bill with amendment. We propose that the bill be clarified and amended to: 1) limit the term of an extension if granted relief to not more than 50% of the maximum term of 65 years set forth in section 171-36 counting the existing term and any extension granted; and 2) that except to this limitation Chapter 171 be applicable only to the extent it does not conflict with the goals and purposes intended by this legislation which is to give "flexibility and discretion to grant relief". We will provide language for these amendments.

This bill does not mandate relief or require any amount of relief be provided. All of that is "discretionary". In response to a request for relief the answer by a State or county government or agency /division can be simply "no".

Our Committee supports the bill and strongly believe it is fair and appropriate for 3 reasons:

1) When "unexpected circumstances occur" it does not mandate but allows county and state governments "at their discretion" (thus can say "no") to grant relief to concessions having financial hardship due to various "unexpected problems" when county/state contracts are written "so tight" that relief cannot be granted.

2) When relief cannot be provided everyone suffers since services/improvements will not be made often for years resulting in less revenues paid to county/state governments.

Page 2 of 2

Re: HB 2604, February 4, 2020 hearing

3) If relief is provided, the bill provides that an explanation and "reasons for relief must be stated and available in writing" for all to see. This provision in the bill ensures justification being stated in writing for the relief being granted.

This bill by the Legislature simply gives county and state governments the "flexibility" to solve "unexpected problems" at "their discretion". Again this bill by the Legislature does not require or mandate anything. It provides an opportunity for problems to be solved.

Please support the passage of this bill with proposed amendments that: 1) recognizes unexpected circumstances; 2) grants county and state governments discretion to solve problems and avoid disruption in services and loss of revenues; and 3) makes available for public viewing written justification for granting such relief.

If there are any questions please contact me or Jim Stone at cell: 808-223-7810. Mahalo