

ACT 24

An Act Amending Sections 15-10(b), 15-10(c), 15-10(d), 15-12(a) and 15-12(c), Revised Laws of Hawaii 1955, Providing for Expenditures of Airport Revenues.

WHEREAS, section 11 of Article III of the Constitution of the State of Hawaii provides for the consideration and enactment in a budget session of all urgency measures deemed necessary in the public interest; and

WHEREAS, said section further provides that no urgency measure shall be considered unless a statement of facts constituting such urgency shall be set forth in a section thereof and until such section shall have been first approved by each house; and

WHEREAS, it is the intention of the legislature to enact this as an urgency measure pursuant to said section 11 of Article III; now, therefore,
Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of the facts constituting such urgency:

Section 15-10(c), Revised Laws of Hawaii 1955, provides that all moneys received by the department of transportation from rents, fees, and other charges which it may collect pursuant to the provisions of chapter 15, Revised Laws of Hawaii 1955, as amended, shall be used to meet the expenses of operation and maintenance of airports and air navigation facilities, including reserves therefor. Section 15-12(c), Revised Laws of Hawaii 1955, provides that the department of transportation may fix and regulate reasonable landing fees for aircraft and other reasonable charges for the use and enjoyment of the airports for the purpose of meeting the expenses of operation and maintenance of the system of State airports and air navigation facilities. Section 129-11, Revised Laws of Hawaii 1955, as amended, provides that all aviation fuel taxes shall be deposited in the airport fund. Section 15-10(a), Revised Laws of Hawaii 1955, provides that such tax collections shall be expended by the department of transportation for the construction, operation and maintenance of airports and air navigation facilities, including acquisition of real property and interests therein.

One of the major airlines and several of the other airlines have indicated that, in lieu of domestic fuel, they intend to purchase and use jet fuel imported from foreign countries and bonded by the Federal Government for the propulsion of their aircrafts bound for foreign ports. A legal question has been raised as to whether or not the State of Hawaii may legally levy and collect aviation fuel taxes on sales of such fuel. There is now pending in the courts of Hawaii a suit relating to the validity of taxing bonded fuel used for international flights. If it is judicially determined that the State of Hawaii may not levy and collect such taxes from the sale of imported bonded fuel, the State will stand to lose approximately \$1,000,000 to \$1,250,000 annually in aviation fuel tax revenues. The loss of these revenues will undoubtedly affect the future expansion program of the department in constructing and developing improved and modern airports and air navigation facilities for the State of Hawaii directed to be applied by the department in part to the construction of capital improvements heretofore and to be hereafter authorized by the legislature. Since the financing of such capital improvements is limited under present laws to the proceeds of the aviation fuel taxes, it is necessary that urgent action be taken by the legislature to permit the department to apply other operating revenues of the department to the payment of the costs of capital improvements to the airports of the State to insure the safety of interstate and intrastate air travel in the State of Hawaii.

On the basis of the foregoing, it is urgent that this measure be approved and enacted at this time to allow the department of transportation to expend its non-tax revenues for capital improvement projects.

SECTION 2. Section 15-10, Revised Laws of Hawaii 1955, is hereby amended by consolidating subsections (b) and (c) into one subsection to read as follows:

“(b) All moneys received by the department of transportation from rents, fees, and other charges pursuant to this chapter shall be paid into the airport revenue fund. All such moneys paid into the airport revenue fund and all tax collections paid into the State airport fund, created by section 129-11, shall be expended by the department for the construction of airports and air navigation facilities approved by the legislature, including acquisition of real property and interests therein; and for operation and maintenance of airports

and air navigation facilities; and for the payment of indebtedness heretofore or hereafter incurred by the department, or its predecessor, the Hawaii Aeronautics Commission, for any of the purposes herein; and for the other purposes of this chapter.”

SECTION 3. Section 15-10, Revised Laws of Hawaii 1955, is hereby amended by redesignating subsection (d) to read subsection (c).

SECTION 4. Section 15-12(a), Revised Laws of Hawaii 1955, is hereby amended by amending the first sentence of the last paragraph to read as follows:

“Except as otherwise provided in this section, in each case mentioned in paragraphs (1), (2), (3) and (4), the department of transportation may establish the terms and conditions of the contract, lease, license, or other arrangement, and may fix the charges, rentals or fees for the privileges, services, or things granted, conferred, or made available, for the purpose of meeting the expenditures set forth in section 15-10(b) Revised Laws of Hawaii 1955, as amended, which includes expenditures for capital improvement projects approved by the legislature.”

SECTION 5. Section 15-12(c) Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“(c) Miscellaneous fees and charges. The department of transportation may fix and regulate, from time to time, reasonable landing fees for aircraft and other reasonable charges for the use and enjoyment of the airports and the services and facilities furnished by the department of transportation in connection therewith, for the purpose of meeting the expenditures set forth in section 15-10(b), Revised Laws of Hawaii 1955, as amended, which includes expenditures for capital improvement projects approved by the legislature.”

SECTION 6. This Act shall take effect upon its approval, and upon approval of S.B. No. 55*, as amended, of the First Legislature, State of Hawaii, Budget Session of 1962.

(Approved May 21, 1962.) S.B. 97.

* Approved as Act 23, above.