

JAN 25 2023

A BILL FOR AN ACT

RELATING TO AERONAUTICS.

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

1 SECTION 1. Chapter 261, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:
4 "§261- Fines levied by federal, state, or county
5 agencies; reimbursement. Notwithstanding any other law to the
6 contrary, any commercial airport tenant or user, including
7 airport contractor, who violates federal, state, or county law
8 or rule relating to environmental protection or the United
9 States Department of Homeland Security, to include but not
10 limited to the United States Coast Guard, the United States
11 Customs and Border Protection, and Transportation Security
12 Administration, and thereby causes a fine to be levied by an
13 agency, shall reimburse the department for the entire amount of
14 the fine. The department may demand, collect, and deposit any
15 amount reimbursable under this section into the airport revenue
16 fund created by section 248-8 and may also demand, collect, and

S.B. NO. 1404

1 deposit reimbursement for costs or expenses incurred by the
2 department to enforce this section.

3 §261- Private financing of airport improvements. (a)

4 Notwithstanding any law to the contrary, the department may
5 enter into a capital advancement contract with a private party
6 for any public improvement to or construction of airports
7 belonging to or controlled by the State, if the director
8 determines that a capital advancement contract promotes the best
9 interest of the State by finding that:

10 (1) Private development is likely to be less costly than
11 any type of contract;

12 (2) Private development provides needed public
13 improvements or constructions on a significantly more
14 timely basis; or

15 (3) Public financing for the public improvements or
16 constructions is not available on a timely basis.

17 (b) A capital advancement contract under subsection (a)
18 may be financed by legislative appropriation to reimburse the
19 private party or by credit against the private party's future
20 rental or tariff payments to the State; provided that the terms
21 of the contract shall ensure that the State benefits financially
22 from the arrangement and that public use of the facility is

S.B. NO. 1404

1 maintained; provided further that capital advancement contracts
2 under this section shall not be general obligations of the State
3 for which the full faith and credit of the department is pledged
4 and the legislature shall have no obligation to appropriate
5 funds to reimburse a private party to a capital advancement
6 contract.

7 (c) A capital advancement contract under subsection (a)
8 shall be subject to the requirements of chapters 103 and 103D
9 and be subject to the approval of the department, provided that
10 all related transactions shall be subject to state audit.

11 (d) The department may execute capital advancement
12 contracts pursuant to subsection (a) with a total contract value
13 of \$5,000,000 or less without legislative approval. If the
14 total contract value of a capital advancement contract pursuant
15 to subsection (a) is greater than \$5,000,000, the department
16 shall obtain legislative approval in the form of the adoption of
17 a concurrent resolution affirming the purpose, project, and
18 contract issuance prior to executing the capital advancement
19 contract. The total aggregate value of all capital advancement
20 contracts entered into by the department pursuant to this
21 section shall not exceed \$50,000,000 in any calendar year.

22 (e) For the purposes of this section:

S.B. NO. 1404

1 "Capital advancement contract" means an agreement between
2 the department and a private party whereby the private party
3 agrees to furnish capital, labor, or materials for a public
4 improvement to or construction of airports belonging to or
5 controlled by the State and in return for which the private
6 party may be reimbursed in a manner to be determined by the
7 department.

8 "Total contract value" includes any contract extension,
9 project redesign, add-ons, or any other occurrence, act, or
10 material cost that may increase the cost of the contracted
11 project."

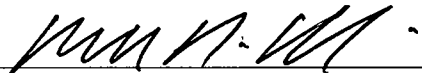
12 SECTION 2. New statutory material is underscored.

13 SECTION 3. This Act shall take effect upon its approval.

14

15

INTRODUCED BY:



16

BY REQUEST

S.B. NO. 1404

Report Title:

Department of Transportation; Airports; Reimbursement for Fines Levied; Private Financing of Airport Improvements or Constructions

Description:

Allows the Department of Transportation Airports Division (DOTA) to be reimbursed from any airport contractor, tenant, or user for the entire amount of fines and penalties levied for the violation of federal, state, or county laws related to environmental protection or the United States Department of Homeland Security. Allows the DOTA to enter into a capital advancement contract with a private party for certain public improvement or construction projects at Hawaii's airports.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

SB. NO. 1404

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO AERONAUTICS.

PURPOSE: To allow the Department of Transportation, Airports Division (DOTA) to be reimbursed from an airport contractor, tenant, or user for the entire amount of fines and penalties levied for violating any federal, state, or county law relating to environmental protection or the United States (U.S.) Department of Homeland Security, including the U.S. Coast Guard, U.S. Customs and Border Protection, and Transportation Security Administration (TSA).

To allow the DOTA to enter into a capital advancement contract with a private party for certain public improvement or construction projects at Hawaii's airports.

MEANS: Adds two new sections to chapter 261, Hawaii Revised Statutes.

JUSTIFICATION: The DOTA is issued environmental permits such as the Clean Water Act and TSA-approved security plans that require compliance. As a result, environmental and security fines are issued to the DOTA as the permit and security plan holder and airport sponsor. This bill authorizes the DOTA to seek and receive reimbursement for the fines levied by a federal, state, or county agency from violators.

Private development is more expedient in providing needed public improvements and is often less costly than any other type of contract, including public financing. This bill is modeled upon sections 266-19.5 and 266-28, Hawaii Revised Statutes.

SB. NO. 1404

Page 2

Impact on the public: No direct impact. However, should fines and penalties be paid by the DOTA, airline rates and charges may increase and could be passed on to the travelling consumer.

The timely completion of needed airport improvement projects will benefit the travelling public's experience tremendously.

Impact on the department and other agencies: The bill would provide financial and security protection to the DOTA.

Private development will enhance efficiencies at a lower cost in upgrading facilities at Hawaii's airports.

GENERAL FUND: N/A.

OTHER FUNDS: Airport Revenue Fund.

PPBS PROGRAM
DESIGNATION: TRN 195.

OTHER AFFECTED
AGENCIES: U.S. Department of Health, U.S. Customs and Border Protection, U.S. Environmental Protection Agency, U.S. Department of Homeland Security, TSA, U.S. Coast Guard, and other agencies that may impose airport fines.

EFFECTIVE DATE: Upon Approval.