

MAR 14 2007

SENATE CONCURRENT RESOLUTION

REQUESTING CONGRESS TO ENACT ENABLING LEGISLATION TO PERMIT
STATE REGULATION OF INTERISLAND AIR CARRIERS BY AN AIR
CARRIER COMMISSION ESTABLISHED PURSUANT TO ACT 332, SESSION
LAWS OF HAWAII 1993.

1 WHEREAS, interisland air transportation is of paramount
2 importance to the State and its economy; and

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4 WHEREAS, being an island state, Hawaii is unique among her
5 sister states in having no major highway system connecting
6 various points throughout the state; and

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8 WHEREAS, residents and visitors must depend almost
9 exclusively upon interisland air transportation to meet their
10 transport mobility needs; and

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12 WHEREAS, consequently, a safe, efficient, and economical
13 interisland air transportation system is essential for the
14 public safety and welfare; and

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16 WHEREAS, of perhaps even more significance to the state's
17 economy is the availability of frequent, reliable, and
18 economical interisland air cargo transportation; and

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20 WHEREAS, an increase in air shipping rates or a reduction
21 in the number of flights to carry cargo interisland will
22 undoubtedly have a detrimental effect on Neighbor Island farmers
23 and result in higher prices for all commodities shipped by air,
24 including food, medicine, machinery parts, and clothing; and

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26 WHEREAS, accordingly, it is critical that Hawaii's
27 interisland air transportation system continue to operate in a
28 competitive environment to protect consumers from price gouging
29 and unacceptable service levels; and



1 WHEREAS, the Legislature has long been concerned over
2 maintaining a competitive environment for Hawaii's interisland
3 air transportation system; and

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5 WHEREAS, for example, such concern prompted the
6 Legislature, through Act 332, Session Laws of Hawaii 1993, to
7 establish a comprehensive process to regulate interisland air
8 transportation; and

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10 WHEREAS, Act 332 established an Air Carrier Commission
11 (Commission) having general supervision over all Hawaii air
12 carriers and any related company that provides air
13 transportation; and

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15 WHEREAS, Act 332 further provided that no person may engage
16 in intrastate air transportation without having first been
17 granted a certificate of public convenience and necessity by the
18 Commission; and

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20 WHEREAS, the general powers of the Commission include
21 regulating air carriers through its investigative powers,
22 establishing reasonable classifications of air carriers, and
23 adopting rules to regulate those classes; and

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25 WHEREAS, Act 332 recognized, however, that the federal
26 Airline Deregulation Act of 1978, expressly preempts the states
27 from enacting or enforcing any law, rule, or regulation
28 "relating to rates, routes, or services of any air carrier
29 having federal operating authority"; and

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31 WHEREAS, furthermore, federal statutes and case law make
32 clear that air travel between the Hawaiian islands is considered
33 interstate or overseas air transportation; and

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35 WHEREAS, Act 332 therefore made the establishment of an air
36 carrier commission contingent upon enactment of federal
37 legislation permitting such a regulatory scheme; and

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39 WHEREAS, the Legislature finds that in the past, proposed
40 mergers of interisland air carriers would have resulted in one
41 air carrier dominating intrastate air traffic, thus having a
42 tremendous impact on the health, safety, welfare, and general
43 transportation needs of the people of Hawaii; and



1 WHEREAS, the Legislature is concerned that a loss of air
2 carrier competition could have a severely negative impact on
3 residents of and visitors to Hawaii due to:

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5 (1) An increase in air passenger ticket and cargo fares;
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7 (2) A reduction in the frequency or availability of
8 certain routes; and
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10 (3) An increase in unemployment and its attendant costs to
11 society, as work forces are consolidated;

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13 and

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15 WHEREAS, in particular, the Legislature is concerned that
16 loss of interisland air carrier competition could negatively
17 affect the struggling economies of the Neighbor Islands, by
18 reducing visitor travel to the Neighbor Islands, as a result of
19 increased ticket fares and reduced flights, and negatively
20 affect commerce by increasing the cost of goods air shipped by
21 Neighbor Island producers, as well as those shipped to Neighbor
22 Island consumers; and

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24 WHEREAS, the Legislature finds that our sister state of
25 Alaska has similar challenges to meeting the needs of its people
26 with regard to air transportation and has recently been granted
27 authority by Congress to regulate air travel in their state to
28 protect the public interest; and

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30 WHEREAS, given the potential negative impacts of the loss
31 of interisland air carrier competition on consumers, the State
32 of Hawaii should have the authority to regulate air travel to
33 protect the public's interests; now, therefore,

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35 BE IT RESOLVED by the Senate of the Twenty-fourth
36 Legislature of the State of Hawaii, Regular Session of 2007, the
37 House of Representatives concurring, that the United States
38 Congress is requested to enact enabling legislation that would
39 permit state regulation of interisland air carriers by an Air
40 Carrier Commission pursuant to Act 332, Session Laws of Hawaii
41 1993; and



1 BE IT FURTHER RESOLVED that certified copies of this
2 Concurrent Resolution be transmitted to the President of the
3 United States Senate, the Speaker of the United States House of
4 Representatives, and the members of Hawaii's congressional
5 delegation.
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OFFERED BY: Ronald H. Bab
J. Kiani Eglish

