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**HOUSE COMMITTEE ON FINANCE  
TESTIMONY REGARDING HB 142  
RELATING TO INTRA-STATE AVIATION**

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: MARCH 3, 2009**

**TIME: 6PM**

**ROOM: 308**

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This bill proposes to exempt aviation fuel purchased from a foreign trade zone from the state general excise and use taxes for fuel used in inter-island travel.

The House Committee on Transportation passed this measure unamended, noting the Department's concerns with the revenue loss.

The Department of Taxation (Department) has the following comments.

**ELIMINATE SECTION 1, PURPOSE CLAUSE**—The Department opposes Section 1 because it is legally and factually inaccurate. The Department strongly disagrees with the statement suggesting that the taxes assessed on aviation fuel—which is a self-assessed tax—is anyway inaccurate or illegal under the Federal Aviation Act. The Department is concerned that if this legislation does not pass, or does pass with this language, that an unwarranted advantage in favor of taxpayers could negatively impact the Department's rights.

**REVENUE LOSS**—This legislation is estimated to result in a revenue loss of \$5 million per year.

# TAXBILLSERVICE

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**SUBJECT:** GENERAL EXCISE, USE, Exempt Foreign Trade Zone aviation fuel

**BILL NUMBER:** HB 142

**INTRODUCED BY:** Souki, McKelvey, Yamashita, and 1 Democrat

**BRIEF SUMMARY:** Adds a new section to HRS chapter 237 and a new paragraph to the definition of “use” under HRS section 238-1 to provide that the sales of aviation fuel categorized as privileged foreign merchandise, non-privileged foreign merchandise, domestic merchandise, or zone-restricted merchandise that is admitted into a foreign trade zone and purchased in a foreign trade zone and is made directly to or used by any common carrier for consumption or use in air transportation between two points in the state, shall be exempt from the state’s general excise and use tax laws.

This act shall not be construed to imply that any law prior to the effective date of this act is inconsistent with this act.

**EFFECTIVE DATE:** July 1, 2009

**STAFF COMMENTS:** Currently aviation fuel is imported and stored in Hawaii Fueling Facilities Corporation (HFFC) storage tanks. HFFC was established in 1969 to provide fuel storage and distribution to its member airlines. On September 1, 1997, the HFFC began operating under the Foreign Trade Zone (FTZ) at the Honolulu International Airport. Fuel purchased from HFFC for use in aircraft of HFFC members is exempt from the imposition of the general excise, use, and fuel taxes since they are operating in the FTZ. When the fuel is then pumped through the HFFC’s bonded fuel lines and provided to the aircraft, the fuel remains in interstate commerce and technically is outside the jurisdiction of the state and the imposition of state taxes. The current exemption from taxes for product within the FTZ but sold for consumption outside the state applies only when the consumption of such product occurs out of state where sales are made to any common carrier in interstate or foreign commerce. Exempting the fuel used for intrastate air transportation would help level the playing field and create a fairer market for all airlines.

While it is the federal law that confers exempt status on products in the FTZ, recognizing that the products have not entered the country, it is understood that the states can further define that recognition with respect to use of products that have FTZ exempt status. This is what this measure proposes with respect to tax laws imposed by the state.

Digested 2/5/09



**Testimony to the House Committee on Finance  
Hawaii State Capitol  
Conference Room 308  
March 3, 2009 at 6:00 p.m.  
Agenda #9**

**SUBJECT: HOUSE BILL 142 – RELATING TO INTRA-STATE AVIATION**

Chair Oshiro, Vice Chair Lee and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I appreciate the opportunity to state The Chamber's strong support of House Bill No. 142, relating to Intra-State Aviation.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. The organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

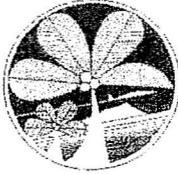
The measure, as received by your Committee, exempts from general excise and use taxes the fuel sold from a foreign-trade zone to common carriers for use in interisland air transportation..

The Chamber encourages a broad base of understanding, support and appreciation for the Tourism and Travel Industries within the business community, Legislature and the general public. The committee also supports visitor industry growth and improvement while working to enhance the visitor experience.

The Chamber understands the value and significance of the airline industry, especially our local carriers, who in addition to serving the travel needs for the people of Hawaii and beyond, have contributed significantly to the community. Additional decline in the travel industry harms all businesses and the local economy. As a result, the Chamber wants to embrace and strengthen the commercial aviation sector.

This bill proposes to give fuel tax relief for interisland air transportation by common carriers. The Chamber believes this is a relevant step in the right direction of giving aid to the industry. Airlines are facing serious challenges today, and exempting them from the general excise and use tax on aviation fuel will help to alleviate some financial burdens. Additionally, this measure provides a fair and balanced relief to the local carriers as well as is consistent with the federal law relating to interstate commerce. Overall, this measure will help our local airline industry, as well as benefit the state as a whole.

In light of this, the Chamber of Commerce of Hawaii urges your support of House Bill 142. Thank you for the opportunity to express our views on this matter.

**AIRLINES COMMITTEE OF HAWAII**

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March 3, 2009

The Honorable Marcus R. Oshiro, Chair  
The Honorable Marilyn B. Lee, Vice Chair  
House Committee on Finance

Re: **HB142, Relating to Intra-State Aviation – SUPPORT**  
**Finance Agenda # 9 - Room 308, Tuesday, March 03, 2009, 6 PM**

The Airlines Committee of Hawaii\*, which is made up of 20 signatory air carriers that underwrite the Hawaii State Airport System, supports HB 142, Relating to Intra-State Aviation.

This bill exempts the general excise and use taxes on fuel sold from a foreign-trade zone to common carriers for use in inter-island air transportation.

Under current statute, aviation fuel purchased in Hawaii's Foreign Trade Zone for use on flights originating in Hawaii and terminating outside of Hawaii is exempt from state excise tax. This exemption should be evenly applied to include all intrastate flights since all common use carriers, including Hawaii-based carriers, are regulated by the same federal laws that govern interstate commerce.

In closing, we respectfully urge your support for HB 142. As always, we are grateful for the opportunity to share our views with you.

*\*ACH members are Air Canada, Air New Zealand, Air Pacific, Alaska Airlines, All Nippon Airways, American Airlines, China Airlines, Continental Airlines, Delta Air Lines, Federal Express, go!, Hawaiian Airlines, Japan Airlines, Korean Air, Northwest Airlines, Philippine Airlines, Qantas Airways, United Airlines, United Parcel Service, US Airways, and Westjet.*

THE HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

COMMITTEE ON FINANCE

Sen. Marcus R. Oshiro, Chair  
Sen. Marilyn B. Lee, Vice Chair

Date: Tuesday, March 3, 2009  
Time: 12:00 p.m.  
Place: Conference Room 308, State Capitol

TESTIMONY OF ILWU LOCAL 142

RE: HB 442, RELATING TO LABOR AND INDUSTRIAL  
RELATIONS APPEALS BOARD

Thank you for the opportunity to present testimony regarding HB 442. We support this bill.

HB 442 proposes that the Labor and Industrial Relations Appeals Board ("LIRAB") be allowed to utilize a hearing officer to expedite the resolution appeals before the Board. In time-sensitive appeals concerning vocational rehabilitation, medical care, and termination of temporary total disability benefits, a hearing by a hearing officer can be of dramatic benefit to all parties. Time is of the essence in addressing matters of this nature, but at present, because of the vast number of cases the board must handle, trials are set approximately a year after appeals are taken. Delay of this magnitude in providing medical treatment or surgery, or in restoring temporary total disability that has been improperly terminated, is obviously unacceptable. Less obviously, legitimate vocational training or education, or the provision of any vocational rehabilitation assistance at all, can be frustrated and is effectively denied by the length of time necessary to adjudicate these issues.

If HB 442 is enacted, it will therefore hopefully address the maxim that "[J]ustice delayed is justice denied." Efficient adjudication will also reduce unnecessary costs that accrue solely because of delays in making determinations on disputed issues. Thus, adoption of HB 442 should actually serve to reduce expenses and contribute overall toward employer premium reduction, while giving injured workers more timely adjudication of their claims. We therefore support this proposal as a means to enhance the efficiency of the LIRAB and its important work.

Island Air would like to submit testimony in support of HB 142.

Over the last 2 years the airlines industry has been challenged by rising fuel prices, increased facility charges and landing fees, costly regulatory requirements and most recently a down turn in travel due to the global economic crisis. Island Air has weathered the storm but not without employee concessions and cutbacks.

Island Air's exclusive business is providing inter-island transportation within the Hawaiian Islands. Currently, inter-island carriers are paying taxes on fuel while transpacific carriers are exempt. We are in full agreement with 142 whereby interisland carriers should be exempt as well, from the general excise and use taxes for sales of fuel from a foreign-trade zone for interisland flights. The passage of HB 142 would have a significant benefit to a company such as Island Air.

Please consider the following information as to why we would like you to support bill 142:

- Interisland ticket prices provide much lower yields than mainland tickets and the interisland revenue base is also smaller than mainland carriers.
- Incentive to mainland carriers to fly to Hawaii with this fuel tax exemption while not affording this to Interisland carriers is unjust with no rational.
- Providing interisland carriers with this fuel tax exemption will have minimal impact on the States Tax revenues but would provide needed financial assistance
- Interisland carriers such as Island Air play an integral part in Hawaii's economy as it provides needed air transportations between the rural communities in this Island State.
- The passage of HB 142 would be beneficial and just.

Thank you for your time, effort and consideration of HB 142