



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

S.B. NO. 784, S.D. 1, RELATING TO AIRLINES.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, February 28, 2023 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Marjorie Lau,
Deputy Attorney General, at 808-587-2992)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The purpose of the bill is to require the Department of Transportation to establish a one-year pilot program to provide subsidies to airlines operating out of Molokai Airport. Section 1 of the bill provides that a subsidy can help the airlines offset the cost of passenger tickets while encouraging other airlines to also provide service at Molokai Airport.

We have two concerns with the bill in relation to article VII, section 4, of the Hawai'i Constitution, which provides:

No tax shall be levied or appropriation of public money or property made, nor shall the public credit be used, directly or indirectly, except for a public purpose. No grant shall be made in violation of Section 4 of Article I of this constitution. *No grant of public money or property shall be made except pursuant to standards provided by law.* (Emphasis added.)

Regarding the constitutional requirement of a public purpose, "determining what constitutes a public purpose is generally a question for the legislature to decide." *State v. Anderson*, 56 Haw. 566, 574, 545 P.2d 1175, 1180-1181 (1976). However, we recommend that the bill include a more definitive finding that the subsidies are for a public purpose. For example, the Committee may wish to consider an explicit finding

such as: "The legislature finds that alleviating costs of air travel, primarily for small communities reliant on air travel for essential services and other needs, is a public purpose; and encouraging additional airlines to provide reliable airline services to and from Molokai to assist the residents who need to travel for essential reasons is a public purpose."

Regarding the constitutional requirement of "standards provided by law," we recommend that the bill be amended to statutorily include the standards and qualifications for making the subsidies, as has been enacted for other administrative grant programs. Examples of such statutory standards and qualifications can be found in part II of chapter 9 and sections 10-17, 210D-11, and 383-128, Hawaii Revised Statutes. We have attached draft standards to this testimony as a sample.

The Department also notes that section 2 of the bill, on page 1, lines 14-17, provides that the airline subsidy pilot program will be for one year. However, the appropriation in section 3 of the bill suggests that the program is for two years. To address this, we recommend either making the pilot program for two years at page 1, line 15, or revising the appropriation in section 3, at page 2, lines 6-12, to reflect a one year appropriation, as follows:

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2023-2024 [~~and the same sum or so much thereof as may be necessary for fiscal year 2024-2025~~] for the purposes of this Act, including the costs of administering the airline subsidy pilot program.

The [~~sums~~] sum appropriated shall be expended by the department of transportation for the purposes of this Act.

Thank you for the opportunity to testify.

POSSIBLE STANDARDS FOR THE GRANTS IN THIS BILL

- (1) Any grant shall be used exclusively for the purposes of this program.
- (2) The applicant shall indicate capability to properly use the grant for the purpose of the grant program.
- (3) The applicant shall comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, disability, or any other characteristic protected under applicable federal or state law.
- (4) The grant shall not be used for purposes of entertainment or perquisites.
- (5) The applicant shall comply with other requirements as the department of transportation may prescribe.
- (6) All activities undertaken with funds received shall comply with all applicable federal, state, and county statutes and ordinances.
- (7) The applicant shall indemnify and save harmless the State of Hawai'i and its officers, agents, and employees from and against any and all claims arising out of or resulting from activities carried out or projects undertaken with funds provided hereunder, and procure sufficient insurance to provide this indemnification if requested to do so by the department.
- (8) The applicant shall agree to make available to the department all records the applicant may have relating to the grant, to allow state agencies to monitor the applicant's compliance with this section.

LATE



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

**HEARING BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 211
TUESDAY, FEBRUARY 28, 2023 AT 10:00 A.M.**

To The Honorable Senator Donovan M. Dela Cruz, Chair
The Honorable Senator Gilbert S.C. Keith-Agaran, Vice Chair
Members of the committee on Ways and Means

SUPPORT FOR SB784 SD1 RELATING TO AIRLINES

The Maui Chamber of Commerce **strongly supports SB784 SD1** which requires the Department of Transportation to establish and implement a one-year Airline Subsidy Pilot Program at Molokai Airport to assist airlines in offsetting the costs of operation.

The Chamber notes that since January 2021, only one passenger airline has provided service to the general public out of Molokai Airport. While the airline has done its best to accommodate the needs of passengers, including additional routes, flight times, and ordering larger planes, the cost of plane tickets remains prohibitive to many Molokai residents who need to travel for essential reasons, including work, medical appointments, and family. To alleviate cost burdens for passengers reliant on air travel to and from Molokai, implementing a one-year Airline Subsidy Pilot Program may provide incentives for airlines to service Molokai.

We would also note that there is no mention of the Lana'i airport in this measure. While we appreciate the effort and attention on the Moloka'i airport, we feel that the same consideration should be made for Lana'i airport since the residents of Lana'i face very similar issues getting off the island for essential services.

For these reasons we **strongly support SB784 SD1** and would appreciate consideration for adding Lana'i airport in the program.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

Testimony on SB784 from Robin Kaye

SB784 is an important piece of proposed legislation. It recognizes the difficulties of neighbor island travel, the high costs of which make it challenging for those who need medical care available only on O’ahu.

Note that February 7th testimony from the State Department of Transportation stated its clear support for this bill. But SB784 has one significant oversight that is easily corrected with but three additional words: “and Lana’i Airport.” As the DOT said in its testimony: *“The Department of Transportation (DOT) supports this bill which establishes a one year pilot program to provide subsidies to airlines operating out of Molokai Airport **and Lanai Airport** [emphasis added] The services to the communities of Molokai and Lanai could be enhanced by competition between multiple carriers servicing the market. This one-year pilot program will encourage increased air carrier operations out of Molokai and Lanai.”*

The challenges the Molokai community faces are the same for Lana’i’s residents: *“...only one passenger airline has provided service to the general public out of Molokai [and Lana’i] airport. While the airline has done their best to accommodate the needs of passengers, including additional routes, flight times, and ordering larger planes, the cost of plane tickets remains a hinderance to many Molokai [and Lana’i] residents who need to travel for essential reasons, including work, medical appointments, and family. A subsidy can help the airlines offset the cost of passenger tickets while encouraging other airlines to also provide service at Molokai [and Lana’i] airport.”*

The fact that Lana’i residents have access to an alternative mode of transportation — Expeditions Ferry — does not mitigate the absence of a subsidy to improve the services for Lana’i residents. (Privately owned and operated Lana’i Air serves only

Four Seasons guests; it is not available to Lana'i residents.) The Ferry only goes to Lahaina, thus requiring passengers to pay an additional taxi/Uber/bus fee to get to Kahului for meetings and/or medical attention, and is of no use for those who need to go to O'ahu.

SB784 does not require a large amount of taxpayer funds but it addresses a critical community need. Without those three additional words — “and Lana'i Airport” — it misses the opportunity to serve the Lana'i community's needs as well. We, too, suffer the high costs and intermittent services of Mokulele. This bill needs to include Lana'i.

SB-784-SD-1

Submitted on: 2/26/2023 7:40:49 PM

Testimony for WAM on 2/28/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
James Simpson	Individual	Comments	Written Testimony Only

Comments:

I'm a Lānaʻi city resident. Currently our local population suffers as a result of Mokulele's frequent delays and cancellations. I'm a senior citizen and have experienced Mokulele's inability to deliver scheduled services. While Lana'i is also served by a ferry service to Lahaina which is also subject to infrequent cancellations depending on weather conditions. A cursory examination would reveal this serious problem of isolation which uniquely and directly affects the health and well being of the citizens of Lānaʻi. I urge you to amend this bill to include three additional words: "and Lanai Airport."

thank you,

james Simpson

SB-784-SD-1

Submitted on: 2/27/2023 7:37:17 AM

Testimony for WAM on 2/28/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
georgette woolsey	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

Please extend SB784 bill , to Lanai as well yes we have ferry access but that cost us even more to rent a car on Maui is \$200 to take a taxi one way is \$100 and if we still need to get to Oahu we then pay for airfares. Lanai already pays the highest electric not to mention YB fees.

We live on island visited by billionares or rich people, we are workers for these people we dont have a chance to get a second job income like Maui or Oahu, there is no way for us to get ahead and paying expenses airfares dont help either.

Please include Lanai with Molokai with the subsistence Like Hawaiian once had while servicing rule areas like ours.

Mahalo,

Georgette Susu Woolsey

SB-784-SD-1

Submitted on: 2/27/2023 8:30:18 AM

Testimony for WAM on 2/28/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Noemi Barbadillo	Individual	Oppose	Written Testimony Only

Comments:

While I do not oppose the bill, I think that the bill should include "Lanai Airport" in addition to Molokai Airport. People may think that we on Lanai have alternative means of transportation to medical care to Maui via the ferry, but that comes with additional monetary and time restrictions. For example, while the ferry ride is rather inexpensive, we would still either need to hire a taxi for a day so we are not having to wait for one (\$100 - \$200) or rent a car (\$25 cab ride to car rental, \$75 car rental, \$25 cab ride back to harbor), or UBER to Kahului (\$55 - \$70 one way). And then there is the time restraint. If we caught the first boat to Maui, we would get into Kahului/Wailuku around 10:45 am and then have to leave by 1:00 pm to make sure we can return our car and get back to the ferry in time for the 4 pm boat - as we never know what traffic conditions can be like.

I think its only fair to the constituents of Maui county living on Molokai AND Lanai to be included in this bill. If it includes Lanai, then i am 100% in support of the bill.

Thank you.

SB734

I support this bill if it includes the Lānaʻi Airport.

I understand that Lānaʻi is not included on the bill because we pay lower fares than Molokai residents and that we have the option of using the ferry to Maui. Please consider my perspective regarding those reasons.

My family and I have medical appointments on Oʻahu and catching the ferry to Maui adds another cost. The ferry arrives at Lahaina so we would need to pay for ground transportation to Kahului. The added cost of the ferry and ground transportation totals at least \$100 or possibly more. Please also consider the amount of travel time required. The cost of an overnight stay may be needed as the increased time spent on travel to Maui takes up time which could be used for the medical appointment.

The reasoning that Molokai airfares are more expensive than Lānaʻi do not make sense. Please consider that the lowest fare Mokulele offers between Lānaʻi and Honolulu is limited on only a few seats. Other than that our rates are similar to the fares between Molokai and Oʻahu.

I humbly ask to please consider the needs of the Lānaʻi community.

SB-784-SD-1

Submitted on: 2/27/2023 10:37:58 AM

Testimony for WAM on 2/28/2023 10:00:00 AM



Submitted By	Organization	Testifier Position	Testify
Elisabeth Grove	Individual	Oppose	Written Testimony Only

Comments:

Aloha Esteemed Legislators,

As a 15-year resident of Lānaʻi, I am asking you to please amend this legislation to include our island's airport before you move it out of committee.

While true, saying that we have a ferry and Molokaʻi does not miss the most important point. Like Molokaʻi, we have to travel for needed health care -- something much more readily available on Oʻahu than Maui.

As the recent statewide Access to Care survey I helped conduct and analyze makes clear [<https://communityfirsthawaii.org/access-to-care/>], residents of both islands are forced to seek health care off-island roughly 70% of the time (68% on Molokai; 70% on Lanai). Speaking from experience, I have had to travel to Oahu for a mammogram and a dermatology appointment in the last month alone. Add to this the greater mental health needs on Lānaʻi than elsewhere, something that is hard to attain here and on Maui.

And it is obvious that our only carrier is struggling right now. Long delays, lack of even basic amenities like functioning bathrooms, subpar service, and smaller planes to our island add mightily to the stress of living here -- a feeling of fear and dread that those not living here or on Molokaʻi have little ability to understand.

My ask is urgent and simple: this bill should be amended to include these three additional words: "and Lānaʻi Airport."

Mahalo plenty for giving me the opportunity to be heard.

Elisabeth (Lisa) Grove, Lānaʻi City, Hawaii, 808-563-0852

LATE

SB-784-SD-1

Submitted on: 2/27/2023 11:00:02 AM

Testimony for WAM on 2/28/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Leimomi Khan	Individual	Support	Written Testimony Only

Comments:

Support the intent of this bill if such airline subsidy would translate to lower airfare for Moloka'i and Lana'i residents for work, medical, and family reasons. I would not support such subsidy if it would mean lower airfare costs for tourists. Intent is to help our local people to access needed services and to uplift their welfare.

LATE

SB-784-SD-1

Submitted on: 2/27/2023 2:49:24 PM

Testimony for WAM on 2/28/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Carolyn Treiber	Individual	Comments	Written Testimony Only

Comments:

Would like Lana'i added to this bill