

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 534 (McCarty)
Version: March 16, 2023
Hearing Date: June 20, 2023
Fiscal: No
Urgency: No
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SUBJECT

Local agencies: airports: customer facility charges

DIGEST

This bill eliminates the deadline by which airports must initiate the process for obtaining the authority to require or increase an alternative customer facility charge and removes provisions that end authority to charge a customer facility charge when the bonds, or other forms of indebtedness, used for financing are paid.

EXECUTIVE SUMMARY

A “customer facility charge” (CFC) is a fee required by an airport to be collected by a rental company from a renter for specified purposes, including to finance, design, and construct consolidated airport vehicle rental facilities; common-use transportation systems that move passengers between airport terminals and those consolidated vehicle rental facilities, and acquire vehicles for use in that system; and terminal modifications solely to accommodate and provide customer access to common-use transportation systems. There are two types of CFCs. The traditional CFC that can be charged is \$10 per rental contract. Subsequent to the initial authorizing legislation, an alternative CFC was authorized. It currently allows airports to require rental companies to charge up to \$9 per day per contract up to a maximum of \$45 per rental car contract.

As the authority for airports to charge CFCs has been consistently expanded over the years, the consistent concern of the Legislature has been assurances that consumers are being protected. CFCs generate a great stream of income for airports at the expense of consumers. The authorizing statutes have been fortified with various consumer protections as a result.

This bill amends several provisions of the CFC statutory scheme. Currently, the authority to charge an alternative-CFC expires when the bonds used for financing are paid off. After a brief pause on this period, the same will again apply to traditional

CFCs starting January 1, 2024. The bill removes these provisions, thereby eliminating a specific end period for CFCs. In addition, the law provides a deadline by which airports are to seek authority to charge the heftier alternative CFC, currently set as January 1, 2025. This bill eliminates this deadline.

This bill is sponsored by the California Airports Council. There is no known support or opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Defines “customer facility charge” (CFC) to mean any fee, including an alternative fee, required by an airport to be collected by a rental company from a renter for any of the following purposes:
 - a) to finance, design, and construct consolidated airport vehicle rental facilities;
 - b) to finance, design, construct, and operate common-use transportation systems that move passengers between airport terminals and those consolidated vehicle rental facilities, and acquire vehicles for use in that system;
 - c) to finance, design, and construct terminal modifications solely to accommodate and provide customer access to common-use transportation systems. The fees designated as a customer facility charge shall not otherwise be used to pay for terminal expansion, gate expansion, runway expansion, changes in hours of operation, or changes in the number of flights arriving or departing from the airport. (Gov. Code § 50474.21(a).)
- 2) Permits any airport to require rental companies to collect an alternative-CFC to finance projects, as specified above, under the following conditions:
 - a) the airport first conducts a publicly noticed hearing to review the costs of financing the projects in which the airport establishes the amount of revenue necessary to finance the reasonable costs of the project and that such revenue can only be generated by a daily rate through an alternative-CFC rather than a traditional CFC;
 - b) the alternative-CFC can be charged on a per-day basis for a maximum of five days per rental contract but must not exceed \$9 per day and cannot be required if a traditional-CFC is also required; and
 - c) the airport must initiate the process for obtaining the authority to require or increase the alternative fee no later than January 1, 2025. (Gov. Code § 50474.3(b).)
- 3) Permits a CFC to be collected by a rental company under specified circumstances, including:

- a) an authorized airport requires the rental company to collect the fee;
 - b) the fee is calculated on a per contract basis or as an alternative-CFC, as specified;
 - c) the fee shall be no more than \$10 per contract, with limited exception, including when charged as an alternative-CFC;
 - d) the fee for a consolidated rental vehicle facility shall be collected only from customers of on-airport rental vehicle companies;
 - e) revenues collected from the fee do not exceed the reasonable costs of financing, designing, and constructing the facility and financing, designing, constructing, and operating any common-use transportation system, or acquiring vehicles for use in that system, and are not used for any other purpose; and
 - f) the fee is separately identified on the rental agreement. (Gov. Code § 50474.3(a).)
- 4) Provides that the authorization for an airport to impose a CFC becomes inoperative when the bonds used for financing are paid, as provided. (Gov. Code §§ 50474.21; 50474.3.)

This bill:

- 1) Removes provisions that make authorization to impose CFCs inoperative once the bonds used for financing are paid off.
- 2) Removes the deadline by which airports are to initiate the process for obtaining the authority to require or increase an alternative CFC, currently set on January 1, 2025.

COMMENTS

1. Customer facility charges

Many airports have adopted the practice of locating rental car services in consolidated facilities that house all car rental companies in one location. Common-use transportation systems, including shuttle bus systems and automated trains, are often used to transport rental car customers to and from terminals and the consolidated rental car facility. These facilities and their associated transport systems are financed largely via customer facility charges (CFCs) collected from rental car patrons who choose to rent a vehicle from a company housed in the consolidated rental facility.

The authority to collect CFC charges began in California in the late 1990s when the Legislature passed and the Governor signed two bills, SB 1907 (Burton, Ch. 889, Stats. 1998) and SB 1228 (Vasconcellos, Ch. 760, Stats. 1999), which permitted San Diego, San Francisco, and San Jose airports to collect fees to finance consolidated rental facilities

and associated transportation systems. The latter bill specifically authorized a CFC of \$10.15 per rental contract to finance and construct a consolidated rental car facility.

In 2001, AB 491 (Frommer, Ch. 661, Stats. 2001) authorized other public airports in California to collect a \$10 fee per contract to finance, design, and construct consolidated rental car facilities. In 2007, SB 641 (Corbett, Ch. 44, Stats. 2007) repealed the special authorization for San Jose International Airport and instead applied the more general provisions enacted by AB 491 to San Jose International Airport, thus permitting it to collect a \$10 per contract CFC.

For approximately ten years, the allowable CFC fee was set at \$10 per rental contract, regardless of the duration of the car rental. In 2010, the Legislature revised the CFC fee structure in response to feedback from the airports that the existing \$10 per contract fee was inadequate to fund some proposed consolidated rental car facilities. SB 1192 (Oropeza, Ch. 642, Stats. 2010) permitted airports to impose a CFC calculated on an alternative basis. The alternative-CFC fee structure allowed an airport to charge a daily fee for up to five days for each individual rental car contract. The maximum daily fee started at \$6 per day and increased according to a statutory schedule. Currently, the maximum amount of the daily fee that can be charged is \$9 per day for a maximum of five days per rental contract for a maximum charge of \$45. AB 1286 (Friedman, Ch. 325, Stats. 2017) extended the date by which an airport must initiate the process for obtaining the authority to require or increase an alternative CFC for authorized purposes from January 1, 2018, to January 1, 2025.

SB 1192 also expanded the range of uses for which CFC revenue could be spent, including purchasing vehicles for a common-use transport system that would shuttle passengers between the consolidated rental facility and the airport terminals, and for terminal modifications undertaken to provide access to a common-use transport system.

In order to protect customers and ensure that the CFC charged by an airport was appropriately and necessarily spent on consolidated rental facilities and associated common-use transport systems, SB 1192 also imposed an audit requirement, directing airports to complete independent audits of CFC-funded projects prior to the initial charge of a CFC, prior to any increase in the CFC, and every three years after its initial collection or any increase. SB 1192 initially required the State Controller's Office to review these audits, but SB 1006 (Senate Budget and Fiscal Review Committee, Ch. 32, Stats. 2012) eliminated this requirement. SB 1006, a budget trailer bill, also struck language in existing law that set out guidelines regarding the scope of a CFC audit and the standards for determining whether an airport's chosen CFC rate was necessary and justified based on how the funds were being spent. The following year, AB 359 (Holden, Ch. 549, Stats. 2013) re-inserted guidelines regarding the scope of CFC audits, and required audits to be posted on an airport's website. AB 1818 (Assembly Committee on

Judiciary, Ch. 637, Stats. 2019) removed the requirement that the audits be sent to the Assembly and Senate Judiciary Committees.

AB 2280 (Ridley-Thomas, Ch. 414, Stats. 2016) and AB 2051 (O'Donnell, Ch. 183, Stats. 2016) further amended these laws. AB 2280 expanded, for the Los Angeles International Airport, the types of debts that may be repaid with CFC revenue and increased the range of allowable uses to which CFC revenue could be directed. These changes were requested in anticipation of Los Angeles' bid to host the Olympics. AB 2051 recast and reorganized the laws pertaining to contracts between rental car companies and their customers in connection with the rental of a passenger vehicle, and made technical and clarifying changes to those provisions.

2. Changing the structure of the CFC-scheme

Initially, CFC revenue was generally used to pay back bonds issued for the construction of combined rental facilities, certain terminal modifications, and the construction and operation of common-use transportation systems. Upon repayment of these bonds, the authority to collect a CFC, including an alternative-CFC, was eliminated. The only exception was created by AB 2142 (Swanson, Ch. 228, Stats. 2008). AB 2142 authorized the Oakland International Airport to assess and collect a CFC for a period of up to ten years from the imposition of the charge even if a bond or other form of indebtedness is not used for financing, or if some form of indebtedness has been paid.

The expiration of the authority to charge a CFC upon the payment of the bonds used to finance the relevant project was central to the CFC scheme. The specific provision was placed into the statute in 2001 by AB 491 (Frommer, Ch. 661, Stats. 2001). This provision made sense because the purpose of the CFCs was to finance specific projects. Once the projects were paid for, the authority would expire since the basis for the authority no longer existed. This provision also provided an end point for any specific CFC so that it could not last into perpetuity once initiated.

The same provision was placed into the authority to impose alternative-CFCs. These heftier fees were authorized for larger projects that could not be covered by the traditional CFC. These projects were more likely to require extensive financing given their size. The provision therefore made logical sense and again provided an end point for specific authorizations.

AB 218 (Bonta, Ch. 311, Stats. 2017) temporarily removed the provision that made the authorization to impose CFCs inoperative when the bonds used for financing are paid. However, it set the statutes to revert back on January 1, 2023. That time has since been

extended to January 1, 2024.¹ Proponents argued that the change eliminated unnecessary financing costs and provided airports needed flexibility.

The justification and proffered basis for requesting these changes supported removing the indebtedness requirement from the traditional CFC for the limited period provided. For smaller projects, an airport would not be required to take on debt and increase costs. Consumers would still have the protection that these charges would not exceed \$10 per rental, and the sunset date ensured the Legislature could reassess the scheme if necessary. Similar alternative-CFC provisions went unchanged and therefore did not affect the larger charges under that scheme.

This bill now permanently removes provisions that make authorization to impose CFCs inoperative once the bonds used for financing are paid off. Therefore, airports are authorized by the bill to charge CFCs in perpetuity.

As stated, when SB 1192 created the alternative-CFC option for airports, it placed a deadline for airports to initiate the process for obtaining the authority to require or increase the alternative-CFC, which has since been adjusted. Currently that deadline is set for January 1, 2025. This bill completely removes the deadline by which airports are to initiate the process for obtaining the authority to require or increase an alternative CFC, currently set on January 1, 2025.

According to the author:

The COVID-19 pandemic brought an unprecedented and historic drop in air service and passenger volumes to airports worldwide – at some California airports, pre-pandemic air travel patterns have yet to return. During the pandemic, several California airports delayed capital projects, which underscores how the current sunset date, originally established in 2010 and extended for one year in 2022, has no connection to current realities in airport capital project planning.

All airports have facility masterplans that are dynamic, living documents that are modified over time based on a variety of local factors, including levels of air service, passenger volumes and regional economic considerations. The alternative CFC is a common and useful financing tool for airports in California and should be available to California airports at the time each individual airport's planning cycle compels the need for a new or upgraded rental car facility.

¹ AB 218 also provided that a traditional CFC shall not exceed \$10 and that an airport shall not require a rental company to collect more than one CFC for a single rental.

Most importantly, the deletion of the sunset date will serve to eliminate uncertainty regarding the timing of public bond issuance. It will relieve airports of any possible requirement to issue bonds earlier than funds are actually needed. This will ensure California airports can make local decisions to pursue the most efficient expenditure of user fee revenue for the overall capital project costs. The Sacramento International Airport is facing this dilemma today as plans for a new consolidated rental car facility are underway.

Lastly, by removing the requirement that the facility have outstanding debt in order to implement the alternative CFC, airports will be able to maintain transportation system operations and pursue electrification infrastructure investments for the future conversion of rental car fleets to electric.

AB 534 will provide airports with the ability to make efficient, local decisions that are consistent with individual airport capital project planning and ensure funds are spent wisely.

The California Airports Council, the sponsor of this bill, writes:

AB 534 will address the inefficient provisions of current law by eliminating the alternative daily CFC sunset date, which functions as an artificial deadline and does not allow California airports to begin the process to implement the fee at a time that matches the growth and development planning of an airport, nor the aging and deterioration of existing rental car facilities that are in need of modernization or replacement.

SUPPORT

California Airports Council (sponsor)

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: AB 893 (Papan, 2023) clarifies the duties and obligations imposed upon personal vehicle sharing programs. AB 893 is currently in this Committee.

Prior Legislation:

AB 1818 (Assembly Committee on Judiciary, Ch. 637, Stats. 2019) *See Comment 1.*

AB 218 (Bonta, Ch. 311, Stats. 2017) *See Comment 2.*

AB 1286 (Friedman, Ch. 325, Stats. 2017) *See Comment 1.*

AB 2280 (Ridley-Thomas, Chapter 414, Statutes of 2016) *See Comment 1.*

AB 2051 (O'Donnell, Chapter 183, Statutes of 2016) *See Comment 1.*

AB 359 (Holden, Ch. 549, Stats. 2013) *See Comment 1.*

SB 1006 (Senate Budget and Fiscal Review Committee, Ch. 32, Stats. 2012) *See Comment 1.*

SB 1192 (Oropeza, Ch. 642, Stats. 2010) *See Comment 1.*

AB 2142 (Swanson, Ch. 228, Stats. 2008) *See Comment 2.*

SB 641 (Corbett, Ch. 44, Stats. 2007) *See Comment 1.*

AB 491 (Frommer, Ch. 661, Stats. 2001) *See Comment 2.*

SB 1228 (Vasconcellos, Ch. 760, Stats. 1999) *See Comment 1.*

SB 1907 (Burton, Ch. 889, Stats. 1998) *See Comment 1.*

PRIOR VOTES:

Assembly Floor (Ayes 60, Noes 0)

Assembly Privacy and Consumer Protection Committee (Ayes 11, Noes 0)
