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AB-1286 Airports: alternative customer facility charges. (2017-2018)

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Assembly Bill No. 1286

CHAPTER 325

An act to amend Section 50474.3 of the Government Code, relating to local government.

[Approved by Governor September 27, 2017. Filed with Secretary of State September 27, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1286, Friedman. Airports: alternative customer facility charges.

Existing law authorizes airports to require rental car companies to collect a customer facility charge or an alternative customer facility charge under specified circumstances for purposes that include financing, designing, and constructing airport vehicle rental facilities and common-use transportation systems. Existing law requires an airport to initiate the process for obtaining the authority to require or increase an alternative customer facility charge no later than January 1, 2018.

This bill would extend that date to January 1, 2025.

This bill would incorporate additional changes to Section 50474.3 of the Government Code proposed by AB 218 to be operative only if this bill and AB 218 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 50474.3 of the Government Code is amended to read:

50474.3. (a) A customer facility charge may be collected by a rental company under the following circumstances:

- (1) Collection of the fee by the rental company is required by an airport operated by a city, a county, a city and county, a joint powers authority, a special district, or the San Diego County Regional Airport Authority formed pursuant to Division 17 (commencing with Section 170000) of the Public Utilities Code.
- (2) The fee is calculated on a per contract basis or as provided in subdivision (b).
- (3) The fee is a user fee, not a tax imposed upon real property or an incident of property ownership under Article XIII D of the California Constitution.
- (4) Except as otherwise provided in paragraph (5), the fee shall be ten dollars (\$10) per contract or the amount provided in subdivision (b).

(5) The fee for a consolidated rental vehicle facility shall be collected only from customers of on-airport rental vehicle companies. If the fee imposed by the airport is for both a consolidated rental vehicle facility and a common-use transportation system, the fee collected from customers of on-airport rental vehicle companies shall be ten dollars (\$10) or the amount provided in subdivision (b), but the fee imposed on customers of off-airport rental vehicle companies who are transported on the common-use transportation system is only that amount that is proportionate to the costs of the common-use transportation system. The fee is uniformly applied to each class of on-airport or off-airport customers, provided that the airport requires off-airport customers to use the common-use transportation system. For purposes of this paragraph, "on-airport rental vehicle company" means a rental company operating under an airport property lease or an airport concession or license agreement whose customers use or will use the consolidated rental vehicle facility and the fee as to those customers is a user fee described in paragraph (3).

(6) 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.

(7) The fee is separately identified on the rental agreement.

(8) This subdivision does not apply to fees which are governed by Section 50474.1 or Section 57.5 of the San Diego Unified Port District Act (Chapter 67 of the First Extraordinary Session of the Statutes of 1962).

(b) Any airport may require rental companies to collect an alternative customer facility charge, as defined in Section 50474.21, under the following conditions:

(1) The airport first conducts a publicly noticed hearing pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2) to review the costs of financing the design and construction of a consolidated rental vehicle facility and the design, construction, and operation of any common-use transportation system in which all of the following occur:

(A) The airport establishes the amount of revenue necessary to finance the reasonable costs of designing and constructing a consolidated rental vehicle facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system, based on evidence presented during the hearing.

(B) The airport finds, based on evidence presented during the hearing, that the fee authorized in subdivision (a) will not generate sufficient revenue to finance the reasonable costs of designing and constructing a consolidated rental vehicle facility and of designing, constructing, and operating any common-use transportation system, or acquire vehicles for use in that system.

(C) The airport finds that the reasonable cost of the project requires the additional amount of revenue that would be generated by the proposed daily rate, including any rate increase, authorized pursuant to this paragraph.

(D) The airport outlines each of the following:

(i) Steps it has taken to limit costs.

(ii) Other potential alternatives for meeting its revenue needs other than the collection of the fee.

(iii) The extent to which rental companies or other businesses or individuals using the facility or common-use transportation system will pay for the costs associated with these facilities and systems apart from the fee collected from rental customers.

(2) The airport may not require the fee authorized in this subdivision to be collected at any time that the fee authorized in subdivision (a) is being collected.

(3) Pursuant to the procedure set forth in this subdivision, the fee may be collected at a rate charged on a per-day basis subject to the following conditions:

(A) Commencing January 1, 2011, the amount of the fee may not exceed six dollars (\$6) per day.

(B) Commencing January 1, 2014, the amount of the fee may not exceed seven dollars and fifty cents (\$7.50) per day.

(C) Commencing January 1, 2017, and thereafter, the amount of the fee may not exceed nine dollars (\$9) per day.

(D) At no time shall the fee authorized in this paragraph be collected from any customer for more than five days for each individual rental vehicle contract.

(E) An airport subject to this paragraph shall initiate the process for obtaining the authority to require or increase the alternative fee no later than January 1, 2025. Any airport that obtains the authority to require or increase an alternative fee shall be authorized to continue collecting that fee until the fee authorization becomes inoperative pursuant to subdivision (c) of Section 50474.21.

(4) For any airport seeking to require rental companies to collect an alternative customer facility charge pursuant to this subdivision the following provisions apply:

(A) The airport shall provide reports on an annual basis to the Senate and Assembly Committees on Judiciary detailing all of the following:

(i) The total amount of the customer facility charge collected.

(ii) How the funds are being spent.

(iii) The amount of and reason for any changes in the airport's budget or financial needs for the facility or common-use transportation system.

(B) (i) The airport shall complete an independent audit as required by subdivision (b) of Section 50474.21 prior to the initial collection of the customer facility charge. Copies of the audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing and shall be posted on the airport's Internet Web site.

(ii) Prior to any increase pursuant to subdivision (b), the airport shall update the information provided in the initial collection audit completed pursuant to clause (i). Copies of the updated audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing, and shall be posted on the airport's Internet Web site.

(iii) An audit shall be completed every three years after initial collection if the customer facility charge is collected for the purpose of operating a common-use transportation system or to acquire vehicles for use in the system pursuant to paragraph (2) of subdivision (a) of Section 50474.21. A regularly conducted audit of airport finances that includes the customer facility charge information, that satisfies the requirements of subdivision (b) of Section 50474.21, and is produced in accordance with the generally accepted accounting principles of the Government Accounting Standards Board, shall satisfy the requirements of this clause. This obligation shall continue until the fee authorization becomes inoperative pursuant to subdivision (c) of Section 50474.21. The information reported pursuant to this clause shall be compiled into one document, shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing and shall be posted on the airport's Internet Web site accessible to the public. The information reported shall be contained within one easily accessible page contained within the airport's Internet Web site.

(iv) This section shall not be construed to require an airport to audit a common-use transportation system not financed by a customer facility charge and used for the purposes permitted pursuant to paragraph (2) of subdivision (a) of Section 50474.21.

(v) The airport shall post on the airport's Internet Web site copies of the completed audits required by this subparagraph for a period of six years following the audit's completion.

(C) Use of proceeds of any bonds backed by alternative customer facility charges shall be limited to construction and design of the consolidated rental vehicle facility, terminal modifications, and operating costs of the common-use transportation system, as specified in Section 50474.21.

(c) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees collected pursuant to this section, or another law whereby a local agency operating an airport requires a rental car company to collect a facility financing fee from its customers, are not subject to sales, use, or transaction taxes.

SEC. 1.5. Section 50474.3 of the Government Code is amended to read:

50474.3. (a) A customer facility charge may be collected by a rental company under the following circumstances:

(1) Collection of the fee by the rental company is required by an airport operated by a city, a county, a city and county, a joint powers authority, a special district, or the San Diego County Regional Airport Authority formed pursuant to Division 17 (commencing with Section 170000) of the Public Utilities Code.

(2) The fee is calculated on a per contract basis or as provided in subdivision (b).

(3) The fee is a user fee, not a tax imposed upon real property or an incident of property ownership under Article XIII D of the California Constitution.

(4) Except as otherwise provided in paragraph (5), the fee shall be in an amount not to exceed ten dollars (\$10) per contract or the amount provided in subdivision (b).

(5) The fee for a consolidated rental vehicle facility shall be collected only from customers of on-airport rental vehicle companies. If the fee imposed by the airport is for both a consolidated rental vehicle facility and a common-use transportation system, the fee collected from customers of on-airport rental vehicle companies shall be in an amount not to exceed ten dollars (\$10) or the amount provided in subdivision (b), but the fee imposed on customers of off-airport rental vehicle companies who are transported on the common-use transportation system is only that amount that is proportionate to the costs of the common-use transportation system. The fee is uniformly applied to each class of on-airport or off-airport customers, provided that the airport requires off-airport customers to use the common-use transportation system. For purposes of this paragraph, "on-airport rental vehicle company" means a rental company operating under an airport property lease or an airport concession or license agreement whose customers use or will use the consolidated rental vehicle facility and the fee as to those customers is a user fee described in paragraph (3).

(6) 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.

(7) The fee is separately identified on the rental agreement.

(8) An airport shall not require a rental company to collect a customer facility charge from a consumer pursuant to this article if that requirement would result in the rental company collecting more than one customer facility charge from that consumer in connection with a single rental.

(9) This subdivision does not apply to fees which are governed by Section 50474.1 or Section 57.5 of the San Diego Unified Port District Act (Chapter 67 of the First Extraordinary Session of the Statutes of 1962).

(b) Any airport may require rental companies to collect an alternative customer facility charge, as defined in Section 50474.21, under the following conditions:

(1) The airport first conducts a publicly noticed hearing pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2) to review the costs of financing the design and construction of a consolidated rental vehicle facility and the design, construction, and operation of any common-use transportation system in which all of the following occur:

(A) The airport establishes the amount of revenue necessary to finance the reasonable costs of designing and constructing a consolidated rental vehicle facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system, based on evidence presented during the hearing.

(B) The airport finds, based on evidence presented during the hearing, that the fee authorized in subdivision (a) will not generate sufficient revenue to finance the reasonable costs of designing and constructing a consolidated rental vehicle facility and of designing, constructing, and operating any common-use transportation system, or acquire vehicles for use in that system.

(C) The airport finds that the reasonable cost of the project requires the additional amount of revenue that would be generated by the proposed daily rate, including any rate increase, authorized pursuant to this paragraph.

(D) The airport outlines each of the following:

(i) Steps it has taken to limit costs.

(ii) Other potential alternatives for meeting its revenue needs other than the collection of the fee.

(iii) The extent to which rental companies or other businesses or individuals using the facility or common-use transportation system will pay for the costs associated with these facilities and systems apart from the fee collected from rental customers.

(2) The airport may not require the fee authorized in this subdivision to be collected at any time that the fee authorized in subdivision (a) is being collected.

(3) Pursuant to the procedure set forth in this subdivision, the fee may be collected at a rate charged on a per-day basis subject to the following conditions:

(A) Commencing January 1, 2011, the amount of the fee may not exceed six dollars (\$6) per day.

(B) Commencing January 1, 2014, the amount of the fee may not exceed seven dollars and fifty cents (\$7.50) per day.

(C) Commencing January 1, 2017, and thereafter, the amount of the fee may not exceed nine dollars (\$9) per day.

(D) At no time shall the fee authorized in this paragraph be collected from any customer for more than five days for each individual rental vehicle contract.

(E) An airport subject to this paragraph shall initiate the process for obtaining the authority to require or increase the alternative fee no later than January 1, 2025. Any airport that obtains the authority to require or increase an alternative fee shall be authorized to continue collecting that fee until the fee authorization becomes inoperative when the bonds used for financing are paid.

(4) For any airport seeking to require rental companies to collect an alternative customer facility charge pursuant to this subdivision the following provisions apply:

(A) The airport shall provide reports on an annual basis to the Senate and Assembly Committees on Judiciary detailing all of the following:

(i) The total amount of the customer facility charge collected.

(ii) How the funds are being spent.

(iii) The amount of and reason for any changes in the airport's budget or financial needs for the facility or common-use transportation system.

(B) (i) The airport shall complete an independent audit as required by subdivision (b) of Section 50474.21 prior to the initial collection of the customer facility charge. Copies of the audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing and shall be posted on the airport's Internet Web site.

(ii) Prior to any increase pursuant to subdivision (b), the airport shall update the information provided in the initial collection audit completed pursuant to clause (i). Copies of the updated audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing, and shall be posted on the airport's Internet Web site.

(iii) An audit shall be completed every three years after initial collection if the customer facility charge is collected for the purpose of operating a common-use transportation system or to acquire vehicles for use in the system pursuant to paragraph (2) of subdivision (a) of Section 50474.21. A regularly conducted audit of airport finances that includes the customer facility charge information, that satisfies the requirements of subdivision (b) of Section 50474.21, and is produced in accordance with the generally accepted accounting principles of the Government Accounting Standards Board, shall satisfy the requirements of this clause. The information reported pursuant to this clause shall be compiled into one document, shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing and shall be posted on the airport's Internet Web site accessible to the public. The information reported shall be contained within one easily accessible page contained within the airport's Internet Web site.

(iv) This section shall not be construed to require an airport to audit a common-use transportation system not financed by a customer facility charge and used for the purposes permitted pursuant to paragraph (2) of subdivision (a) of Section 50474.21.

(v) The airport shall post on the airport's Internet Web site copies of the completed audits required by this subparagraph for a period of six years following the audit's completion.

(C) Use of proceeds of any bonds backed by alternative customer facility charges shall be limited to construction and design of the consolidated rental vehicle facility, terminal modifications, and operating costs of the common-use transportation system, as specified in Section 50474.21.

(c) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees collected pursuant to this section, or another law whereby a local agency operating an airport requires a rental car company to collect a facility financing fee from its customers, are not subject to sales, use, or transaction taxes.

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 1.7. Section 50474.3 is added to the Government Code, to read:

50474.3. (a) A customer facility charge may be collected by a rental company under the following circumstances:

(1) Collection of the fee by the rental company is required by an airport operated by a city, a county, a city and county, a joint powers authority, a special district, or the San Diego County Regional Airport Authority formed pursuant to Division 17 (commencing with Section 170000) of the Public Utilities Code.

(2) The fee is calculated on a per contract basis or as provided in subdivision (b).

(3) The fee is a user fee, not a tax imposed upon real property or an incident of property ownership under Article XIII D of the California Constitution.

(4) Except as otherwise provided in paragraph (5), the fee shall be in an amount not to exceed ten dollars (\$10) per contract or the amount provided in subdivision (b).

(5) The fee for a consolidated rental vehicle facility shall be collected only from customers of on-airport rental vehicle companies. If the fee imposed by the airport is for both a consolidated rental vehicle facility and a common-use transportation system, the fee collected from customers of on-airport rental vehicle companies shall be in an amount not to exceed ten dollars (\$10) or the amount provided in subdivision (b), but the fee imposed on customers of off-airport rental vehicle companies who are transported on the common-use transportation system is only that amount that is proportionate to the costs of the common-use transportation system. The fee is uniformly applied to each class of on-airport or off-airport customers, provided that the airport requires off-airport customers to use the common-use transportation system. For purposes of this paragraph, "on-airport rental vehicle company" means a rental company operating under an airport property lease or an airport concession or license agreement whose customers use or will use the consolidated rental vehicle facility and the fee as to those customers is a user fee described in paragraph (3).

(6) 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.

(7) The fee is separately identified on the rental agreement.

(8) An airport shall not require a rental company to collect a customer facility charge from a consumer pursuant to this article if that requirement would result in the rental company collecting more than one customer facility charge from that consumer in connection with a single rental.

(9) This subdivision does not apply to fees which are governed by Section 50474.1 or Section 57.5 of the San Diego Unified Port District Act (Chapter 67 of the First Extraordinary Session of the Statutes of 1962).

(b) Any airport may require rental companies to collect an alternative customer facility charge, as defined in Section 50474.21, under the following conditions:

(1) The airport first conducts a publicly noticed hearing pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2) to review the costs of financing the design and construction of a consolidated rental vehicle facility and the design, construction, and operation of any common-use transportation system in which all of the following occur:

(A) The airport establishes the amount of revenue necessary to finance the reasonable costs of designing and constructing a consolidated rental vehicle facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system, based on evidence presented during the hearing.

(B) The airport finds, based on evidence presented during the hearing, that the fee authorized in subdivision (a) will not generate sufficient revenue to finance the reasonable costs of designing and constructing a consolidated rental vehicle facility and of designing, constructing, and operating any common-use transportation system, or acquire vehicles for use in that system.

(C) The airport finds that the reasonable cost of the project requires the additional amount of revenue that would be generated by the proposed daily rate, including any rate increase, authorized pursuant to this paragraph.

(D) The airport outlines each of the following:

(i) Steps it has taken to limit costs.

(ii) Other potential alternatives for meeting its revenue needs other than the collection of the fee.

(iii) The extent to which rental companies or other businesses or individuals using the facility or common-use transportation system will pay for the costs associated with these facilities and systems apart from the fee collected from rental customers.

(2) The airport may not require the fee authorized in this subdivision to be collected at any time that the fee authorized in subdivision (a) is being collected.

(3) Pursuant to the procedure set forth in this subdivision, the fee may be collected at a rate charged on a per-day basis subject to the following conditions:

(A) Commencing January 1, 2011, the amount of the fee may not exceed six dollars (\$6) per day.

(B) Commencing January 1, 2014, the amount of the fee may not exceed seven dollars and fifty cents (\$7.50) per day.

(C) Commencing January 1, 2017, and thereafter, the amount of the fee may not exceed nine dollars (\$9) per day.

(D) At no time shall the fee authorized in this paragraph be collected from any customer for more than five days for each individual rental vehicle contract.

(E) An airport subject to this paragraph shall initiate the process for obtaining the authority to require or increase the alternative fee no later than January 1, 2025. Any airport that obtains the authority to require or increase an alternative fee shall be authorized to continue collecting that fee until the fee authorization becomes inoperative pursuant to subdivision (c) of Section 50474.21.

(4) For any airport seeking to require rental companies to collect an alternative customer facility charge pursuant to this subdivision the following provisions apply:

(A) The airport shall provide reports on an annual basis to the Senate and Assembly Committees on Judiciary detailing all of the following:

(i) The total amount of the customer facility charge collected.

(ii) How the funds are being spent.

(iii) The amount of and reason for any changes in the airport's budget or financial needs for the facility or common-use transportation system.

(B) (i) The airport shall complete an independent audit as required by subdivision (b) of Section 50474.21 prior to the initial collection of the customer facility charge. Copies of the audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing and shall be posted on the airport's Internet Web site.

(ii) Prior to any increase pursuant to this subdivision, the airport shall update the information provided in the initial collection audit completed pursuant to clause (i). Copies of the updated audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing, and shall be posted on the airport's Internet Web site.

(iii) An audit shall be completed every three years after initial collection if the customer facility charge is collected for the purpose of operating a common-use transportation system or to acquire vehicles for use in the system pursuant to paragraph (2) of subdivision (a) of Section 50474.21. A regularly conducted audit of airport finances that includes the customer facility charge information, that satisfies the requirements of subdivision (b) of Section 50474.21, and is produced in accordance with the generally accepted accounting principles of the Government Accounting Standards Board, shall satisfy the requirements of this clause. This obligation shall continue until the fee authorization becomes inoperative pursuant to subdivision (c) of Section 50474.21. The information reported pursuant to this clause shall be compiled into one document, shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing and shall be posted on the airport's Internet Web site accessible to the public. The information reported shall be contained within one easily accessible page contained within the airport's Internet Web site.

(iv) This section shall not be construed to require an airport to audit a common-use transportation system not financed by a customer facility charge and used for the purposes permitted pursuant to paragraph (2) of subdivision (a) of Section 50474.21.

(v) The airport shall post on the airport's Internet Web site copies of the completed audits required by this subparagraph for a period of six years following the audit's completion.

(C) Use of proceeds of any bonds backed by alternative customer facility charges shall be limited to construction and design of the consolidated rental vehicle facility, terminal modifications, and operating costs of the common-use transportation system, as specified in Section 50474.21.

(c) Notwithstanding any other law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees collected pursuant to this section, or another law whereby a local agency operating an airport requires a rental car company to collect a facility financing fee from its customers, are not subject to sales, use, or transaction taxes.

(d) This section shall become operative on January 1, 2023.

SEC. 2. Sections 1.5 and 1.7 of this bill incorporate amendments to Section 50474.3 of the Government Code proposed by both this bill and Assembly Bill 218. These sections shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 50474.3 of the Government Code, and (3) this bill is enacted after Assembly Bill 218, in which case Section 1 of this bill shall not become operative.