February 5, 2019

To: Chair Donovan M. Dela Cruz
    Vice Chair Gilbert S.C. Keith-Agaran
    Senate Committee on Ways and Means

Subject: Measure: SB 1069
    Hearing Date: February 6, 2019
    Time: 10:00 a.m.
    Location: Conference Room 211, State Capitol

Bill Description: Establishes a tax credit for taxpayers who install a helicopter noise canceling technology system on a helicopter owned by the taxpayer and operated primarily within the State during the taxable year. Prohibits commercial flights of tour helicopters within one mile of a residential neighborhood between 6 p.m. and 8 a.m. Monday through Saturday, or between 6 p.m. and 9 a.m. on Sundays and holidays.

HELICOPTER ASSOCIATION INTERNATIONAL’S (HAI) POSITION: OPPOSED

Helicopter Association International (HAI) opposes SB 1069 as introduced. SB 1069 provides a tax credit for taxpayers that install helicopter noise canceling technology system as “any modification or equipment that is installed onto a helicopter with the effect of reducing the amount of noise emitted from the helicopter”. This definition is ambiguous as the generally accepted phraseology to address noise mitigation is “quiet technology” and the bill does not define the maximum dBA sound level. HAI supports implementation of available quiet technology that lessens the impact of noise. However, no technology currently exists to cancel noise. Additionally, the open-ended language does not provide information on what to expect in the way of incentive or the budget impact respectively for either operator or the state.

SB 1069 also prohibits commercial flights of tour helicopters within one mile of a residential neighborhood between 6 p.m. and 8 a.m. Monday through Saturday, or between 6 p.m. and 9 a.m. on Sundays and holidays. This proposed language is in violation of federal preemption.

49 U.S.C. §§ 40103(a)(1) states: “The United States government has exclusive sovereignty over the airspace of the United States.” Based on this, the Federal Aviation Administration (FAA) on July 20, 2018 released the following statement regarding federal preemption:

Congress has provided the FAA with exclusive authority to regulate aviation safety, the efficiency of the navigable airspace, and air traffic control, among other things. State and local governments are not permitted to regulate any type of aircraft operations, such as flight paths or altitudes, or the navigable airspace.
However, these powers are not the same as regulation of aircraft landing sites, which involves local control of land and zoning. Laws traditionally related to state and local police power – including land use, zoning, privacy, and law enforcement operations – generally are not subject to federal regulation.

Cities and municipalities are not permitted to have their own rules or regulations governing the operation of aircraft.

However, as indicated, they may generally determine the location of aircraft landing sites through their land use powers.

SB 1069 would allow state government to regulate aircraft operations, including flight paths and altitudes. Such authority is exclusively granted to the FAA. The language of this bill seeks to provide federal authority to the state which is not permitted. As such, HAI strongly opposed SB 1069.

HAI appreciates the opportunity to provide comment on SB 1069 and seeks to serve as a resource to the Hawaii legislature on issues pertaining to the helicopter industry.

HAI is the professional trade association for the civil helicopter industry. HAI’s 1,500 plus organizational members and 1,800 individual members operate more than 4,500 helicopters approximately 2.3 million flight hours each year in 73 nations. HAI is dedicated to the promotion of the helicopter as a safe, effective business tool and to the advancement of the international helicopter community.