

TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

LATE

**STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION**
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

June 24, 2020
1:40 PM
State Capitol, Room 225

**H.B. 2475, H.D.1, S.D.1
RELATING TO CARGO CARRIERS**

Senate Committee on Transportation

The Department of Transportation (DOT) **supports** H.B.2475, H.D.1, S.D.1. The bill proposes to: (a) authorize the Public Utilities Commission to appoint a receiver if a regulated water carrier is failing or poses an immediate threat of failing to provide adequate and reasonable service; (b) authorize the Commission to grant waivers upon a determination that the exemption is in the public interest; (c) amend the requirements for the issuance of a certificate of public convenience and necessity to an applicant seeking authority to serve as a regulated water carrier; and (d) extend the duration of temporary authority granted to a water carrier where there is no carrier service capable of meeting the needs of the public.

The DOT understands that inter-island cargo transportation is vital to the sustainability and survivability of neighbor island communities and that having flexibility to adjust regulatory requirements are key to ensuring that inter-island cargo transportation are maintained without interruption.

The DOT concurs with providing the Public Utilities Commission with the authority to address situations where the conditions of the regulated water carrier may negatively impact essential services.

Thank you for the opportunity to provide testimony.



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310
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HONOLULU, HAWAII 96809
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Transportation
Wednesday, June 24, 2020
1:40 p.m.
State Capitol, Conference Room 225**

**On the following measure:
H.B. 2475, H.D. 1, PROPOSED S.D. 1, RELATING TO CARGO CARRIERS**

WRITTEN TESTIMONY ONLY

Chair Inouye and Members of the Committee:

My name is Dean Nishina, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Division of Consumer Advocacy. The Department supports the proposed S.D. 1 version of this bill.

The purpose of proposed S.D. 1 is to amend Hawaii Revised Statutes (HRS) chapter 271G to: (1) authorize the Public Utilities Commission (Commission) to appoint a receiver if a regulated water carrier is failing or poses an immediate threat of failing to provide adequate and reasonable service; (2) authorize the Commission to grant waivers upon a determination that the exemption is in the public interest; (3) amend the requirements for the issuance of a certificate of public convenience and necessity (CPCN) to an applicant seeking authority to serve as a regulated water carrier; and (4) extend the duration of temporary authority granted to a water carrier where there is no carrier service capable of meeting the needs of the public.

As the Legislature is aware, the ongoing COVID-19 pandemic has significantly impacted Hawaii's economy and has caused significant hardships for all residents, especially those who are now unemployed. The pandemic has also exacerbated issues that were affecting Young Brothers LLC (YB) and, combined with the decision by Saltchuk Resources (YB's parent company) to terminate its financial support of YB, the Department is very concerned about YB's financial condition and the potential damage to Hawaii's communities, especially neighbor island communities, that depend on YB's cargo service. YB's inability to provide services, such as transporting personal protective equipment needed to combat the pandemic, fresh produce, and other goods among the islands, would have serious consequences. The smaller islands, such as Molokai and Lanai, and certain cargo shippers do not have other readily available and/or affordable alternatives.

The Department is aware that YB has been seeking federal Coronavirus Aid, Relief, and Economic Security (CARES) Act monies, but it would be prudent to also develop a portfolio of different tools and measures to address this situation. Even if YB is able to receive its requested CARES Act monies, those monies would only be a stopgap, and the Commission would need to be able to pursue other measures to ensure the continued availability of cargo carrier services within Hawaii. Respectfully, legislative action is required to enable the Commission to pursue those other measures.

Therefore, the Department supports the proposed amendments to HRS §271G-10 in section 2 of proposed S.D. 1, which deletes provisions that currently make it unreasonably difficult for the Commission to approve new CPCNs by requiring the Commission to give undue consideration to the speculative economic impacts on incumbent common water carriers already holding a CPCN. In the long term, allowing the Commission to certificate a new carrier, without some of the current restrictions in HRS §271G-10, will allow timely action by the Commission to certificate a new water carrier, if necessary. Otherwise, if the current restrictive language is maintained, the Commission may not be able to timely approve an application for a new carrier, and the likelihood of a service interruption may be increased.

The Department also supports the proposed amendments to HRS §271G-12 in section 3 of proposed S.D. 1. Increasing the time under temporary authority for which a carrier may cover any regular sailings that Young Brothers is not able to complete would give the Commission and the State more flexibility and resilience in the near term. The capital-intensive nature of the water carrier business and the possible time that may be needed for a newly certificated water carrier to establish its services may exceed the current period that is allowed. Extending the allowed interval that the temporary authority may be granted and allowing the Commission additional flexibility regarding how long the temporary authority might last will provide necessary time to carefully select a new water carrier, if necessary.

Section 1 of proposed S.D. 1 adds two new sections for HRS chapter 271G: one for appointing a receiver for a failing water carrier, and another section for granting waivers of the application of any section of HRS chapter 271G. The Department notes that the proposed section to allow for the appointment of a receiver tracks the language in HRS §269-14.5 for appointing a receiver for a failing water or sewer utility. Currently, the authority to appoint a receiver is available to the Commission through HRS §269-14.5, but that authority is limited to appointing a receiver for only water and/or sewer utility companies. Given the apparent situation that Hawaii faces, it is reasonable to grant the Commission the authority to appoint a receiver for a failing water carrier to mitigate the possibility that the current or any future water carrier may seek to terminate all services, and upon such notice, there is no clear path for the Commission to ensure continuous regulated services. With this authority, the Commission could, if necessary, act quickly to appoint a receiver to ensure that services could continue.

In addition, whether debt proceeds are from a government entity or private institution loan, regulated entities are not allowed to use those debt proceeds to cover operating expenses (see HRS §§269-17 and 271G-17.5). The Department believes that this restriction is generally necessary to avoid situations where a regulated entity might create a dangerous cycle of relying upon debt proceeds to cover operating expenses, instead of pursuing other measures such as restructuring itself so that its

operating expenses are less than its revenues. In the current situation, however, it may be necessary for YB to obtain debt proceeds to cover its operating expenses in the short-term, until other measures can be implemented to make YB a going concern again. Thus, if the Commission is not granted the flexibility to temporarily grant an exemption on the use of debt proceeds, the inability to seek debt financing to address YB's current cash flow needs would effectively remove a tool from the Commission's hands. Furthermore, given the apparent urgency of the situation, other existing regulatory restrictions might prevent the Commission from taking timely actions to ensure the continuous service to Hawaii's businesses and residents that rely on regulated water carrier cargo transport services. Thus, allowing the Commission the regulatory flexibility to address issues that may arise in this very dynamic situation is in the public interest.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF
JAMES P. GRIFFIN, Ph.D.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
SENATE COMMITTEE ON
TRANSPORTATION

June 24, 2020
1:40 p.m.

Chair Inouye and Members of the Committee:

MEASURE: H.B. No. 2475 HD1 PROPOSED SD1

TITLE: RELATING TO CARGO CARRIERS.

DESCRIPTION: Authorizes the Public Utilities Commission to address any situation where the condition of a regulated water carrier of cargo may result in the disruption, reduction, or cessation of essential services. Amends the bases upon which the Commission may issue a certificate of public convenience and necessity to an applicant seeking authority to serve as a regulated water carrier.

POSITION:

The Public Utilities Commission supports the proposed Senate Draft 1 of this measure and offers the following comments for consideration.

COMMENTS:

The Commission believes that maintaining affordable and reliable intrastate cargo transportation service is paramount in protecting the public interest. The Commission is currently conducting an emergency investigation regarding the financial condition of Young Brothers, following Young Brothers' May 26, 2020 letter notifying the Commission of its liquidity crisis, dire financial situation, and potential suspension of operations. Given the company's stated condition, the Commission believes that it is prudent to provide additional flexibility and regulatory options to ensure affordable and reliable water carrier services are maintained throughout the State.

For the purpose of protecting the public interest, the Commission supports the proposed Senate Draft 1 (SD1). This measure would provide the Commission with the statutory

authority to address any situation where the condition of a regulated water carrier may result in the disruption, reduction, or cessation of essential services. The amendments in the SD1 would ensure that the Commission is prepared to quickly and effectively respond to any obstacles that might inhibit the provision of this essential service.

First, the proposed draft allows the Commission to appoint a receiver to take temporary action to ensure the continuation of service if a regulated water carrier is failing or at risk of failure. This safeguard would ensure that the Commission is able to effectively respond in the event that the continuation of intrastate shipping services is put at risk. The Commission currently has this authority for water and wastewater utilities. The proposed SD1 would explicitly extend this authority to water carriers.

Second, the proposed draft provides the Commission with necessary regulatory flexibility by allowing the Commission to waive certain regulatory provisions after notice and hearing, when in accordance with the public interest. This change would equip the Commission to act swiftly in protecting or restoring essential water carrier services. The Commission, in consultation with other state agencies, believes this flexibility may be necessary if Young Brothers seeks external debt financing to fund their operations.

Third, the proposed draft strikes provisions from Section 271G-10, Hawaii Revised Statutes, that restrict the Commission's ability to authorize new water carriers to enter service. Eliminating these barriers will allow the Commission to establish a new water carrier in a more timely manner, if necessary.

Finally, the proposed draft extends the duration for which the Commission may grant water carriers temporary authority to operate in emergency situations. Currently, the Commission is permitted to grant such authority to a water carrier that does not have a CPCN when there is an "immediate and urgent need" and existing services are unable to meet the need. This amendment would extend the maximum duration of this temporary authority from 120 days to 180 days and give the Commission the discretion to extend this period further when deemed necessary and appropriate. The water carrier would be required to apply for a CPCN to provide service beyond the specified period. This amendment would give the Commission the flexibility required to allow new water carriers to fill any needs that are unmet by existing water carriers.

The Commission understands the importance of maintaining continuous, affordable, and reliable intrastate water carrier services, especially given the vital nature of this service

for residents of the neighbor islands. The Commission is dedicated to protecting the public interest and believes that the regulatory flexibility provided in the proposed draft would allow the Commission to respond effectively, even in the most dire circumstances.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

LATE

TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE
BEFORE THE SENATE COMMITTEE ON TRANSPORTATION

June 24, 2020
1:40 P.M.
CONFERENCE ROOM 225

HOUSE BILL NO. 2475 SD1 (PROPOSED)
RELATING TO CARGO CARRIERS

Chairperson Inouye and Members of the Committee:

Thank you for the opportunity to testify on House Bill 2475 SD1 (PROPOSED). This bill amends the Hawaii Water Carrier Law (Chapter 271G) by authorizing the Public Utilities Commission (PUC) to address any situation where the condition of a regulated water carrier of cargo may result in the disruption, reduction, or cessation of essential services. The PUC may also issue a Certificate of Public Convenience and Necessity to an applicant seeking authority to serve as a regulated water carrier in Hawaii. The Department of Agriculture offers comments on this measure and otherwise defers to the PUC.

The Department of Agriculture finds that continuing cargo carrier service to all island ports is very important, and especially to agricultural producers on the island of Hawaii, Maui, and Molokai who depend on Young Brothers (YB) to ship their moderately to highly perishable agricultural products and livestock. Failure to consider the needs of agricultural customers will result in undue animal welfare issues and degrading of perishable fresh produce during this time of emergency where food supply is essential to public health and welfare.

The Department has written letters to the PUC expressing our concerns about YBs proposed general rate increase of 34 percent and tariff changes (letter dated January 7, 2020), YBs emergency changes to its barge schedule that adversely affects Hilo and Kaunakakai service (letter dated May 5, 2020), and the PUC's commencing an emergency investigative proceeding regarding YBs financial condition (letter dated June



18, 2020). The Department believes the recent and ongoing submittal of analyses, information, and data to the PUC by YB, the State Consumer Advocate, and testimonies of businesses, organizations, and individuals directly affected the actions and proposals by YB and the PUC may inform the Committee's deliberations on this measure.

Thank you for the opportunity to testify on this measure.



June 23, 2020

Senator Lorraine Inouye, Chair
Senate Committee on Transportation
Thirtieth Legislature
Regular Session, 2020

RE: House Bill 2475, HD 1, proposed SD1 – RELATING TO CARGO CARRIERS
Hearing date: June 24, 2020 at 1:40 p.m.

Aloha Chair Inouye and Members of the Senate Committee on Transportation,

Thank you for allowing me to submit testimony on behalf of Young Brothers ("YB") providing **COMMENTS** on the revised language of House Bill 2475, HD 1 – Relating to Cargo Carriers. House Bill 2475, HD 1 previously authorized the Department of Transportation to expend funds from the harbor special fund to provide subsidies to cargo carriers to offset costs incurred by the cargo carriers as a result of providing cargo carrier services to ports serving counties within the State having a population of less than 500,000 and comprising three or more populated islands.

The proposed SD1 now includes language that (i) authorizes the Public Utilities Commission ("PUC") to appoint a receiver if a regulated water carrier is failing or poses an immediate threat of failing to provide adequate and reasonable service, (ii) authorizes the PUC to grant waivers upon a determination that the exemption is in the public interest, (iii) amends the requirements for the issuance of a certificate of public convenience and necessity to an applicant seeking authority to serve as a regulated water carrier, and (iv) extends the duration of temporary authority granted to a water carriers where there is no carrier service capable to meeting the needs of the public.

1. **Appointment of a Receiver**

Currently, there is no provision for the appointment of a receiver under HRS Chapter 271G. YB opposes this provision for the following reasons.

The nature of YB's regulated and unregulated businesses would make the appointment of a receiver impractical when compared to a water utility or wastewater utility that provides regulated utility service only. In YB's situation, an appointment of a receiver would interfere with YB's unregulated service, over which the PUC has no jurisdiction. Furthermore, such an appointment could impose a substantial and financial burden on YB, worsening its financial situation.

A receiver is not a solution for YB's financial crisis. Normally, a receiver is appointed where there is clear and convincing evidence of wrongdoing, fraud, or willful misconduct; there

is no suggestion that this has occurred at YB. Nor has YB totally abandoned the provision of regulated services.

YB is seeking various governmental (e.g., CARES Act funding) and regulatory relief (e.g., emergency/temporary rate relief, general rate case, etc.) to address, among other things, various routes and/or services that are and have been non-compensatory for many years. Subsequent to obtaining such relief, YB believes that it would have the capacity (financially and otherwise) to meet all present and future intrastate cargo volume needs. Without such relief, YB cannot continue to provide service at a loss, and a receiver cannot solve that fundamental financial reality.

A seizure of YB's assets by a receiver not only would fail to solve the problem, but would also expose the State to a lawsuit for a taking of private property without just compensation. *See Tate v. Philadelphia Transportation Co.*, 190 A.2d 316, 322-23 (Penn. 1963) (citing Takings Clause in reversing appointment of receiver to control private company that operated Philadelphia's transit system).

2. Grant of Waivers

This proposed provision could provide the PUC with the flexibility it is seeking with regard to the current water carrier regulatory framework. YB supports this language to the extent that any such exemption is granted "without just discrimination, undue preference or advantage, or unfair or destructive competitive practices."

3. RS Section 271G-10(e)

In 2011, the legislature passed Act 213 which was codified as HRS Section 271G-10(e). This measure was passed, in part, to ensure that YB's existing competitors and/or potential competitors could not come in and simply "cherry pick" the most profitable routes and/or services for intrastate cargo. Under its own CPCN, YB is currently required to provide comprehensive and universal intrastate cargo service to all ports of the major islands, including the non-compensatory ports of Molokai, Lanai and Hilo, and also provides non-compensatory less than container load (aka, LCL)/mix services. Although it is critical for these communities to have intrastate cargo service, YB has suffered and continues to suffer significant losses from these non-compensatory routes and services. YB remains willing to provide universal or comprehensive intrastate water carrier service within the State of Hawaii to extent that rates for all routes/services, taken as a whole, are set to enable YB to cover its costs and earn a reasonable rate of return. To avoid the hardship to residents of Molokai, Lanai and Hilo, and to consumers who use LCL/mix services, that would result if the rates for routes/services were set at levels that would enable YB to recover its costs and earn a reasonable return, the PUC's policy has been to set rates for other routes/services above cost in order to subsidize the below-cost routes/services. If competitors were allowed to undercut YB on the above-cost services, the PUC would be left with no choice but to raise the rates for the subsidized routes/services.

YB has adequate facilities, and the necessary staffing, resources, and equipment (including tugs, barges, and shoreside equipment) to provide such intrastate water carrier

Senator Lorraine Inouye, Chair
Senate Committee on Transportation
June 23, 2020
Page Two

services. More importantly, YB employs an exceptional skilled workforce with the necessary knowledge, experience and expertise to ensure that YB is able to continue moving intrastate cargo safely and reliably throughout the State.

Notwithstanding the above, YB has openly stated that its current financial situation is dire and YB is currently seeking reasonable and adequate solutions that will put it on a path towards financial stability to ensure it is sustainable and remains a going concern now and in the future. As stated earlier, YB is seeking and plans to seek various governmental and regulatory relief to address, among other things, various routes and/or services that are and have been non-compensatory for many years. Subsequent to obtaining such relief, YB believes that it has the capacity (financially and otherwise) to meet all present and future intrastate cargo volume needs.

In the event that HRS Section 271B-10(e) is repealed, the PUC arguably could allow a competitor or potential competitor to come in and service only those routes, or provide only those services, that would be profitable, leaving YB holding the bag for the below-cost routes and services. YB is opposed to repealing HRS Section 271B-10(e) or Act 213, 2011 SLH in that it will allow competition with other water carriers without a level playing field.

YB opposes the outright repeal of Act 213, 2011 SLH. It is YB's understanding the Administration is proposing a repeal of the section in anticipation of the "worst case scenario" – that YB cannot provide intrastate cargo services/routes for certain non-compensatory services/routes, and the Administration will need to move quickly to issue a CPCN to another water carrier that is fit, willing and able to provide such non-compensatory services/routes. If this is truly the intent of the proposal, YB proposes that the basic protections of the section remain in effect, but with the following language as a proviso:

“In the event that an existing water carrier services are inadequate to presently service the public or meet demonstrated and quantifiable future demand for service, the commission may waive the requirements of this subsection, HRS Section 271G-10(e), to allow other water carriers to be certified pursuant to all other provisions of HRS Section 271G-10; provided such certification is consistent with HRS Section 271G-2.”

4. **Extension of Period of Temporary Authority.** YB has no issue with this proposed amendment.

Mahalo Chair, and members of the Senate Transportation Committee, for your consideration of YB's comments and proposed amendments.

Sincerely,

Jay Ana
President



LATE

June 23, 2020

The Senate

The Thirtieth Legislature
Regular Session of 2020

Committee on Transportation

Senator Lorraine R. Inouye, Chair

Date: Wednesday, June 24, 2020
Time: 1:40 p.m.
Place: Conference Room 225
State Capitol

Testimony in Support of HB 2475, HD1, Proposed SD1, Relating to Cargo Carriers

By Liz Ho
Administrator

HB2475, HD1 Proposed SD1 authorizes the Public Utility Commission to address any situation where the condition of a regulated water carrier of cargo may result in the disruption, reduction, or cessation of essential, services. The bill also amends the bases upon which the Commission may issue a certificate of public convenience and necessity to an applicant seeking authority to serve as a regulated water carrier.

This bill is critical to the continuation of water borne freight services to the neighbor islands. Young Brothers is the only ocean cargo carrier serving the neighbor islands carrying agricultural products and more. A disruption of the ocean cargo services will wreck havoc on the economies of the neighbor islands. It will become a public health and safety problem. The cargo services must continue.

The UPW strongly supports HB2475, HD1 Proposed SD1.



Hawaii Cattlemen's Council, Inc.
COMMITTEE ON TRANSPORTATION
Senator Lorraine R. Inouye, Chair

LATE

HB2475

Authorizes the Department of Transportation to expend funds from the harbor special fund to provide subsidies to cargo carriers to offset costs incurred by the cargo carriers as a result of providing cargo carrier services to ports serving counties within the State having a population of less than 500,000 and comprising three or more populated islands. Appropriates moneys.

Wednesday, June 24, 2020, 1:40 pm
Conference Room 225, State Capitol
415 South Beretania Street

Chair Inouye and Members of the Committee on Transportation,

Young Brothers is an integral part of agriculture in Hawaii. It is important for all islands to have access to shipping services at a reasonable rate. In particular, the goal to increase local food production is reliant on the ability to transport agricultural goods between islands. Transportation expenses are a significant expenditure for Hawaii's farmers and ranchers. The Hawaii Cattlemen's Council supports the intent of the measure. However, this issue is faced not only by islands addressed in HD1 but rather by all neighbor island farmers and ranchers, forced to pay freight for incoming input materials as well as products headed for export to market centers.

For this reason, we respectfully request that the measure read:

(2) Any subsidies provided to cargo carriers to offset costs incurred by the cargo carriers as a result of providing cargo carrier services to ports serving counties within the State having a population of less than five hundred thousand and comprising three or more populated islands."

We then respectfully request your support of the amended measure as suggested above. This will be in the interest of agriculture on the neighbor islands that has the majority of agricultural lands. Thank you for this opportunity to provide testimony on this important matter.





MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

**HEARING BEFORE THE SENATE COMMITTEE ON TRANSPORTATION
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 225
WEDNESDAY, JUNE 24, 2020 AT 1:40 P.M.**

To The Honorable Lorraine R. Inouye, Chair;
The Honorable Breene Harimoto, Vice Chair; and
Members of the Committee on Transportation;

TESTIMONY IN SUPPORT OF HB2475 HD1 RELATING TO CARGO CARRIERS

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce, with approximately 650 members. I am writing share our support of HB2475 HD1.

Maui County, particularly the islands of Lanai and Molokai, are very reliant upon Young Brothers services. We understand there are higher costs for them to do business in these regions and they have worked to not leave these areas without options. However, there are times when service is not as reliable as it needs to be, which is always challenging for businesses. We feel it is important for the state's transportation system to be equitable for all counties and as the only tri-island county, Maui County has had higher burdens. This subsidy would help to offset and equalize that.

If the state is providing subsidies to ensure a fair system, then we would hope that the subsidy would offset some of the rate hikes Young Brothers was looking to propose in Maui County, which is significant. These rate hikes will creates hardships to local businesses who provide goods and services to local people and thereby, would increase the cost of living for residents.

We appreciate the opportunity to testify on this matter and ask that this bill be passed.

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.



MOLOKAI CHAMBER OF COMMERCE

P.O. Box 515
Kaunakakai, HI 96748

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June 23, 2020

LATE

THE SENATE
THE THIRTIETH LEGISLATURE
REGULAR SESSION OF 2020

COMMITTEE ON TRANSPORTATION

Wednesday, June 24, 2020 @ 1:40 p.m.
Conference Room 225
State Capitol, 415 South Beretania Street

SUPPORT HB 2475, HD1, RELATING TO CARGO CARRIERS.

Aloha Honorable Chair Inouye, Vice Chair Harimoto and Committee Members:

We were saddened to learn of the passing of Senator Harimoto and offer our sincere condolences to his family and you, his colleagues in the Hawaii State Legislature.

As a representative organization of the neighbor-island of Molokai with dozens of members who employ hundreds of our neighbors, friends and families, we are respectfully submitting testimony to **SUPPORT** HB 2475, HD1.

The island of Molokai is reliant on Young Brothers as our transportation lifeline for virtually all of the groceries, goods and materials our residents and businesses require to survive. We understand that there are higher costs for YB to service Molokai, as they are mandated by the PUC to serve our community even if it is unprofitable.

This measure would provide a vehicle to help offset the higher cost of operations for YB to serve Molokai without the need to pass those costs on to the Molokai community via a rate increase. Any rate increase would have a significant adverse effect to our already financially struggling businesses and residents, and create hardships to our local businesses who provide goods and services to our community, increasing the cost of living for all of our neighbors, friends and families.

If the State of Hawaii mandates YB serve our community then the State of Hawaii can also help share in the financial cost to do so.

Please help us continue to support the financial health and well being of our island business community and residents by supporting this measure.

For these reasons, among others we humbly ask you to approve this bill and pass it through your committee.

Sincerely,

Robert Stephenson, President & CEO

LATE

HB-2475-HD-1

Submitted on: 6/24/2020 11:06:59 AM

Testimony for TRS on 6/24/2020 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cade Watanabe	Testifying for UNITE HERE Local 5	Comments	No

Comments:

On behalf of UNITE HERE Local 5 - a local union representing 12,000 hotel, health care and food service workers throughout Hawaii - we want to support the workers of Young Brothers. In lieu of the pandemic and under the circumstances we are living under now we do not think any corporation should be using this situation as an opportunity to threaten workers and their job security. Before the Legislature moves to bail out Young Brothers - we should require that Young Brothers and their parent company make transparent their full financial reports. Rather than bailing out Young Brothers - that money should be used to further assist those that are currently unemployed. Now is not the time for Young Brothers to be asking for a bail out without first being held accountable.

HB-2475-HD-1

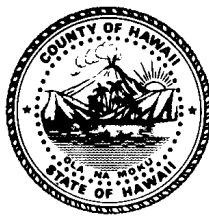
Submitted on: 6/23/2020 1:22:24 PM

Testimony for TRS on 6/24/2020 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Faith Tuipulotu	Testifying for Tuipulotu Organics LLC	Support	No

Comments:

REBECCA VILLEGAS
Council Member
District 7, Central Kona



PHONE: (808) 323-4267
FAX: (808) 323-4786
EMAIL: Rebecca.villegas@hawaiicounty.gov

HAWAI'I COUNTY COUNCIL

*West Hawai'i Civic Center, Bldg. A
74-5044 Ane Keohokalole Hwy.
Kailua-Kona, Hawai'i 96740*

June 23, 2020

TESTIMONY OF REBECCA VILLEGAS COUNCIL MEMBER, HAWAI'I COUNTY COUNCIL ON HB 2475 HD 1 RELATING TO CARGO CARRIERS

Committee on Transportation

1:40 p.m.

Conference Room 225

Aloha Chair Inouye, and Members of the Committee,

I thank you for the opportunity to testify in opposition of HB 2475 HD 1, relating to cargo carriers. My testimony is submitted in my individual capacity as a member of the Hawai'i County Council.

The purpose of this measure is to authorize the Department of Transportation to expend funds from the special harbor fund to provide cargo carriers subsidies to offset costs incurred by the cargo carriers as a result of providing cargo services to ports serving counties within the State having a population of less than 500,000 **AND** comprising three or more populated islands. This would exclude Hawai'i County as though our population is less than 500,000 we are only one island. The language within this bill is specific to Maui County as they are the only county having three populated islands. There has also been discussion within PUC meetings that have suggested an 34% increase of shipping fees. It seems unfair that Maui County will be receiving assistance with shipments but Hawai'i County is potentially looking at an increase. This increase, should it be approved by the PUC, will have a negative impact on Hawai'i County. Young Brothers is the only cargo carrier that serves the entire Hawaiian Island chain, and is the main source of food delivery, agricultural products, livestock, vehicles, and other necessary goods. Per the bill; the legislature finds and declares that the appropriation is in the public interest and for public health, safety, and general welfare of the State. But again, the bill is specific to Maui County and excludes Hawai'i County which brings the question on how is this fair and in the best interest of the public if the bill will only be applied to Maui County?

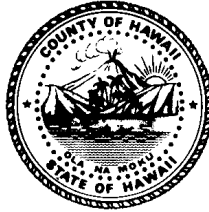
For the reasons stated above I urge the Committee on Transportation to oppose this measure as well. Should you have any questions, please feel free to contact me at (808) 323-4267.

Mahalo for your consideration.

A handwritten signature in black ink, appearing to read 'Rebecca Villegas', with a stylized, cursive script.

Rebecca Villegas,
Council Member, Hawai'i County Council

County of Hawai'i
Council District 9 -
North and South Kohala



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Management

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HERBERT M. "TIM" RICHARDS, III
HAWAII COUNTY COUNCIL
District 9

25 Aupuni Street, Ste. 1402, Hilo, Hawai'i 96720

LATE

June 24, 2020

Committee on Transportation
Honorable Senator Lorraine Inouye, Chair
Honorable Senator Breene Harimoto, Vice Chair
Submission via online testimony

RE: **Opposition to HB2475 SD1**
Hearing Date/Time: June 24, 2020 at 1:40 p.m.

Aloha Senator Inouye and Members of the Senate Committee on Transportation,

Thank you for this opportunity to offer testimony and comment on HB 2475 SD 1.

Currently as written, **I oppose HB2475 SD1.**

Inter-Island/intrastate transportation is the lifeline of our communities and part of the fabric of our economy. Moving the needed societal inputs from supplier to consumers is one of the foundations of any economy, highlighting the importance of sound and reliable transportation. Currently Hawai'i imports the vast majority of its needs for energy, durable goods, and consumables including approximately 90% of its food. Distribution in this supply chain is paramount.

For the last 100+ years this has been accomplished by inter-island shipping and barge entities, some predecessor to our current Young Brothers. Justifiably regulated under the Public Utilities Commission (PUC), Young Brothers has filled a key component in the economy of Hawai'i.

We are in unprecedented financial times. Insolvency in many businesses of many sectors is commonplace. The financial problems for Young Brothers have been made exponentially worse by the COVID-19 economic crisis before us.

As written, one facet of HB2475 SD1 authorizes the PUC to appoint a receiver. This sets the stage for management of the company in receivership or essentially bankruptcy. Though I believe this would be a backup plan if Young Brothers were to fail, supporting this as the immediate/primary concern seems anticipatory of financial collapse. I could support this language if it were tied to funding for the near future needs thus mandating accountability while giving the state options going forward. This funding should be viewed as a bridge to keep our crucial inter-island transportation functioning as we pivot to a new structure.

I have long been a proponent of agriculture. A key component of agriculture is the market which implies transportation to the marketplace. Under USDA there are programs for disadvantage farmers and ranchers to get their products to market. Additionally, a model that should be evaluated is the Alaskan Marine Highway that helps the Alaska community and constituents solve their problems of transportation.

Transportation is key for most societies. For our island state, the transportation component is crucial. It is well known that any mass transportation program is heavily subsidized. The State of Hawai'i does not enjoy the benefits of our national highway system and is disadvantaging our people for their transportation needs. Working on a program that supports our current transportation supplier in the short term is far more cost effective and in the long term may yield the solutions that we all look for.

Thank you for this opportunity to submit testimony

Aloha,

A handwritten signature in black ink, appearing to read "Herb M. Richards", with a large, sweeping flourish at the end.

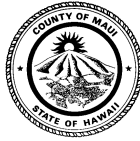
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June 23, 2020

TO: The Honorable Lorrain R. Inouye, Chair
Senate Committee on Transportation

FROM: Riki Hokama
Councilmember

SUBJECT: **HEARING OF JUNE 24, 2020; TESTIMONY IN SUPPORT OF HB 2475,
RELATING TO CARGO CARRIERS**

Thank you for the opportunity to testify in **support** of HB 2475, relating to cargo carriers. Young Brothers serves as a critical lifeline to our rural communities in Maui County such as Lānaʻi and Molokaʻi. The company's cargo delivery service to Kaunapali and Kaunakakai provide our islands with food delivery, fresh produce, vehicles, and many other essential goods. We need cargo service to be viable for the health and well-being of our rural communities.

For the foregoing reasons, I **support** the passage of HB 2475.

Mahalo,

Riki Hokama
Councilmember

HB-2475-HD-1

Submitted on: 6/23/2020 3:20:53 PM

Testimony for TRS on 6/24/2020 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rayne Kauhi	Individual	Oppose	No

Comments:

HB-2475-HD-1

Submitted on: 6/23/2020 1:23:36 PM

Testimony for TRS on 6/24/2020 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lani Rae Suiso Garcia	Individual	Oppose	No

Comments:

To the Honorable Senator Lorraine Inouye and committee members:

Young Brothers is an independant subsidiary of Foss Maritime Company. Foss is wholly owned by Saltchuk Resources, which is privately owned by the Saltchuck family. Saltchuck has over \$2 billion in assets. Presumably, HB 2475 was drafted to insure continued shipping of goods to residents of Maui and Lanai. There is absolutely no question that shipping keeps all inhabited islands stocked with necessary goods. What I object to is that Young Brothers has for decades been a monopoly providing interisland shipping to all inhabited islands. Young Brothers most recently requested that the PUC grant a 30% increase to its shipping rates. Not once during my residence in Hawai'i has Young Brothers reduced its shipping rates. I am 69 years old. This is not my first rodeo. The residents of Hawaii are held hostage by monopolies like Young Brothers and are further prejudiced by the fact that we are subject to the Jones Act, federal legislation requiring that all goods between the U.S, mainland and Hawaii use American vessels manned by American crews. We are not able to use cheaper forms of shipping, such as that provided by Asian and internationally owned carriers, That this body should even consider funding a privately held family corporation to bail it out during one year of non-profitability is outrageous. Anyone who has been in business, myself included, understands that overhead is part and parcel of being self employed. I ran a law partnership with my late husband, and am extremely familiar with the high cost of doing business in Hawai'i. Why does an entity with over \$2 billion in assets deserve to be funded by the citizens of the state of Hawaii, the most expensive state in the entire nation? Why should a \$2 billion entity be shielded from the risks any business takes when entering the marketplace? Does this body fund every business which is failing due to forseen or unforeseen market pressures? Granted Covid19 is a pandemic that has changed this economy, and the economies of all states and indeed, the economies of all nations. There are no guarantees whatsoever in the marketplace. Perhaps this body should consider another form of transportaiton between islands, such as the Super Ferry, which was driven out of business due to environmental concerns. A Super Ferry would enable shippment of both cargo, automobiles, and passengers between islands. It would allow local residents and others to travel interisland via ship as opposed to air transportation which, prior to the fairly recent entry of Southwest Airlines into the marketplace, was monopolized by Hawaiian Airlines. In my humble opinion, you as legislators are servants to your constituents, the individual taxpayers of the state of Hawaii. The funds controlled by the legislature are for the people. The funds controlled

by the legislature are not intended to be used as bank for wealthy \$2 billion corporate entities! A'ole! Vote No.

LATE

HB-2475-HD-1

Submitted on: 6/24/2020 6:32:07 AM

Testimony for TRS on 6/24/2020 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gene Ross K. Davis	Individual	Support	No

Comments:

I strongly support bill HB275.

Please pass this bill

Aloha Gene Ross

LATE

HB-2475-HD-1

Submitted on: 6/24/2020 6:28:59 AM

Testimony for TRS on 6/24/2020 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rosie F Davis	Individual	Support	No

Comments:

Aloha,

I strongly support this bill HB 2475

Mahalo Rosie

LATE

HB-2475-HD-1

Submitted on: 6/24/2020 8:22:44 AM

Testimony for TRS on 6/24/2020 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Josh Mason	Individual	Comments	No

Comments:

Aloha,

The general idea this bill aims to make a reality is sound. There is the general concern for the community that the transitional period between a private service provider (such as YB) and a temporary government take-over, could render service lapses that would be of significant detriment to the residents of our Islands and the small businesses that serve them. As such, due consideration should be made in how such a transition takes place. Alternatively, as such conditions requiring such action should be foreseeable, putting more immediacy behind finding a new, private service provider or revised model for service would seem more prudent.

Respectfully,

Josh Mason

LATE

HB-2475-HD-1

Submitted on: 6/24/2020 1:18:19 PM

Testimony for TRS on 6/24/2020 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael MacDonald	Individual	Oppose	No

Comments:

I am opposed to this Bill as written. Under no circumstances should the State of Hawaii government be allowed to take over a company and its assets based on the broadly written language in **§271G**. Allowing this section to remain in place can have broad reaching negative consequences now and in the future.

LATE

HB-2475-HD-1

Submitted on: 6/24/2020 12:09:33 PM

Testimony for TRS on 6/24/2020 1:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Anonymous Hawaii	Individual	Oppose	No

Comments:

This testimony is in response to "HB2475 SD1 PROPOSED"

The real issue is the outdated and costly process to adjust rates through the PUC. I continue to hear the PUC Chair say that the company "settled" on rate increases. The only reason they "settled" is because by the time they were given the rate increases by the PUC close to a YEAR after filing, they were already preparing the next rate case. It's difficult for a company to operate that way. The suggestion that they should've appealed would make the almost year long process even longer and create additional cost without any guarantee of rate relief! THIS is the UNDERLYING issue that a new carrier would face as well. THE REVOLVING DOOR and changing faces at the PUC puts YB in a position to continually have to educate the commission on the business and that drags out the process. YB rates were increased less than 5% since 2014 when compared to other unregulated water carrier services who increased rates more than 20%. The PUC must take some of the burden that they didn't give YB the necessary rates to remain viable. Bring in competition but level the playing field and allow for reasonable, effecting rate adjustment. FIX THE PROBLEM! THE RATES!