

JAN 23 2025

A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. Section 46-1.5, Hawaii Revised Statutes, is
3 amended to read as follows:

4 **"§46-1.5 General powers and limitation of the counties.**

5 Subject to general law, each county shall have the following
6 powers and shall be subject to the following liabilities and
7 limitations:

8 (1) Each county shall have the power to frame and adopt a
9 charter for its own self-government that shall
10 establish the county executive, administrative, and
11 legislative structure and organization, including but
12 not limited to the method of appointment or election
13 of officials, their duties, responsibilities, and
14 compensation, and the terms of their office;

15 (2) Each county shall have the power to provide for and
16 regulate the marking and lighting of all buildings and
17 other structures that may be obstructions or hazards



1 to aerial navigation, so far as may be necessary or
2 proper for the protection and safeguarding of life,
3 health, and property;

4 (3) Each county shall have the power to enforce all claims
5 on behalf of the county and approve all lawful claims
6 against the county, but shall be prohibited from
7 entering into, granting, or making in any manner any
8 contract, authorization, allowance payment, or
9 liability contrary to the provisions of any county
10 charter or general law;

11 (4) Each county shall have the power to make contracts and
12 to do all things necessary and proper to carry into
13 execution all powers vested in the county or any
14 county officer;

15 (5) Each county shall have the power to:

16 (A) Maintain channels, whether natural or artificial,
17 including their exits to the ocean, in suitable
18 condition to carry off storm waters;

19 (B) Remove from the channels, and from the shores and
20 beaches, any debris that is likely to create an
21 unsanitary condition or become a public nuisance;



1 provided that, to the extent any of the foregoing
2 work is a private responsibility, the
3 responsibility may be enforced by the county in
4 lieu of the work being done at public expense;

5 (C) Construct, acquire by gift, purchase, or by the
6 exercise of eminent domain, reconstruct, improve,
7 better, extend, and maintain projects or
8 undertakings for the control of and protection
9 against floods and flood waters, including the
10 power to drain and rehabilitate lands already
11 flooded;

12 (D) Enact zoning ordinances providing that lands
13 deemed subject to seasonable, periodic, or
14 occasional flooding shall not be used for
15 residence or other purposes in a manner as to
16 endanger the health or safety of the occupants
17 thereof, as required by the Federal Flood
18 Insurance Act of 1956 (chapter 1025, Public Law
19 1016); and

20 (E) Establish and charge user fees to create and
21 maintain any stormwater management system or



1 infrastructure; provided that no county shall
2 charge against or collect user fees from the
3 department of transportation in excess of
4 \$1,500,000 in the aggregate per year; provided
5 further that no services shall be denied to the
6 department of transportation by reason of
7 nonpayment of the fees;

8 (6) Each county shall have the power to exercise the power
9 of condemnation by eminent domain when it is in the
10 public interest to do so;

11 (7) Each county shall have the power to exercise
12 regulatory powers over business activity as are
13 assigned to them by chapter 445 or other general law;

14 (8) Each county shall have the power to fix the fees and
15 charges for all official services not otherwise
16 provided for;

17 (9) Each county shall have the power to provide by
18 ordinance assessments for the improvement or
19 maintenance of districts within the county;

20 (10) Except as otherwise provided, no county shall have the
21 power to give or loan credit to, or in aid of, any



1 person or corporation, directly or indirectly, except
2 for a public purpose;

3 (11) Where not within the jurisdiction of the [~~public~~
4 ~~utilities commission,~~] department of transportation,
5 each county shall have the power to regulate by
6 ordinance the operation of motor vehicle common
7 carriers transporting passengers within the county and
8 adopt and amend rules the county deems necessary for
9 the public convenience and necessity;

10 (12) Each county shall have the power to enact and enforce
11 ordinances necessary to prevent or summarily remove
12 public nuisances and to compel the clearing or removal
13 of any public nuisance, refuse, and uncultivated
14 undergrowth from streets, sidewalks, public places,
15 and unoccupied lots. In connection with these powers,
16 each county may impose and enforce liens upon the
17 property for the cost to the county of removing and
18 completing the necessary work where the property
19 owners fail, after reasonable notice, to comply with
20 the ordinances. The authority provided by this
21 paragraph shall not be self-executing, but shall



1 become fully effective within a county only upon the
2 enactment or adoption by the county of appropriate and
3 particular laws, ordinances, or rules defining "public
4 nuisances" with respect to each county's respective
5 circumstances. The counties shall provide the
6 property owner with the opportunity to contest the
7 summary action and to recover the owner's property;

8 (13) Each county shall have the power to enact ordinances
9 deemed necessary to protect health, life, and
10 property, and to preserve the order and security of
11 the county and its inhabitants on any subject or
12 matter not inconsistent with, or tending to defeat,
13 the intent of any state statute where the statute does
14 not disclose an express or implied intent that the
15 statute shall be exclusive or uniform throughout the
16 State;

17 (14) Each county shall have the power to:

18 (A) Make and enforce within the limits of the county
19 all necessary ordinances covering all:

20 (i) Local police matters;

21 (ii) Matters of sanitation;



- 1 (iii) Matters of inspection of buildings;
- 2 (iv) Matters of condemnation of unsafe
- 3 structures, plumbing, sewers, dairies, milk,
- 4 fish, and morgues; and
- 5 (v) Matters of the collection and disposition of
- 6 rubbish and garbage;
- 7 (B) Provide exemptions for homeless facilities and
- 8 any other program for the homeless authorized by
- 9 part XVII of chapter 346, for all matters under
- 10 this paragraph;
- 11 (C) Appoint county physicians and sanitary and other
- 12 inspectors as necessary to carry into effect
- 13 ordinances made under this paragraph, who shall
- 14 have the same power as given by law to agents of
- 15 the department of health, subject only to
- 16 limitations placed on them by the terms and
- 17 conditions of their appointments; and
- 18 (D) Fix a penalty for the violation of any ordinance,
- 19 which penalty may be a misdemeanor, petty
- 20 misdemeanor, or violation as defined by general
- 21 law;



1 (15) Each county shall have the power to provide public
2 pounds; to regulate the impounding of stray animals
3 and fowl, and their disposition; and to provide for
4 the appointment, powers, duties, and fees of animal
5 control officers;

6 (16) Each county shall have the power to purchase and
7 otherwise acquire, lease, and hold real and personal
8 property within the defined boundaries of the county
9 and to dispose of the real and personal property as
10 the interests of the inhabitants of the county may
11 require, except that:

12 (A) Any property held for school purposes may not be
13 disposed of without the consent of the
14 superintendent of education;

15 (B) No property bordering the ocean shall be sold or
16 otherwise disposed of; and

17 (C) All proceeds from the sale of park lands shall be
18 expended only for the acquisition of property for
19 park or recreational purposes;

20 (17) Each county shall have the power to provide by charter
21 for the prosecution of all offenses and to prosecute



1 for offenses against the laws of the State under the
2 authority of the attorney general of the State;

3 (18) Each county shall have the power to make
4 appropriations in amounts deemed appropriate from any
5 moneys in the treasury, for the purpose of:

6 (A) Community promotion and public celebrations;
7 (B) The entertainment of distinguished persons as may
8 from time to time visit the county;

9 (C) The entertainment of other distinguished persons,
10 as well as, public officials when deemed to be in
11 the best interest of the community; and

12 (D) The rendering of civic tribute to individuals
13 who, by virtue of their accomplishments and
14 community service, merit civic commendations,
15 recognition, or remembrance;

16 (19) Each county shall have the power to:

17 (A) Construct, purchase, take on lease, lease,
18 sublease, or in any other manner acquire, manage,
19 maintain, or dispose of buildings for county
20 purposes, sewers, sewer systems, pumping
21 stations, waterworks, including reservoirs,



- 1 wells, pipelines, and other conduits for
2 distributing water to the public, lighting
3 plants, and apparatus and appliances for lighting
4 streets and public buildings, and manage,
5 regulate, and control the same;
- 6 (B) Regulate and control the location and quality of
7 all appliances necessary to the furnishing of
8 water, heat, light, power, telephone, and
9 telecommunications service to the county;
- 10 (C) Acquire, regulate, and control any and all
11 appliances for the sprinkling and cleaning of the
12 streets and the public ways, and for flushing the
13 sewers; and
- 14 (D) Open, close, construct, or maintain county
15 highways or charge toll on county highways;
16 provided that all revenues received from a toll
17 charge shall be used for the construction or
18 maintenance of county highways;
- 19 (20) Each county shall have the power to regulate the
20 renting, subletting, and rental conditions of property
21 for places of abode by ordinance;



- 1 (21) Unless otherwise provided by law, each county shall
2 have the power to establish by ordinance the order of
3 succession of county officials in the event of a
4 military or civil disaster;
- 5 (22) Each county shall have the power to sue and be sued in
6 its corporate name;
- 7 (23) Each county shall have the power to:
- 8 (A) Establish and maintain waterworks and sewer
9 works;
- 10 (B) Implement a sewer monitoring program that
11 includes the inspection of sewer laterals that
12 connect to county sewers, when those laterals are
13 located on public or private property, after
14 providing a property owner not less than ten
15 calendar days' written notice, to detect leaks
16 from laterals, infiltration, and inflow, any
17 other law to the contrary notwithstanding;
- 18 (C) Compel an owner of private property upon which is
19 located any sewer lateral that connects to a
20 county sewer to inspect that lateral for leaks,



- 1 infiltration, and inflow and to perform repairs
2 as necessary;
- 3 (D) Collect rates for water supplied to consumers and
4 for the use of sewers;
- 5 (E) Install water meters whenever deemed expedient;
6 provided that owners of premises having vested
7 water rights under existing laws appurtenant to
8 the premises shall not be charged for the
9 installation or use of the water meters on the
10 premises;
- 11 (F) Take over from the State existing waterworks
12 systems, including water rights, pipelines, and
13 other appurtenances belonging thereto, and sewer
14 systems, and to enlarge, develop, and improve the
15 same; and
- 16 (G) For purposes of subparagraphs (B) and (C):
- 17 (i) "Infiltration" means groundwater, rainwater,
18 and saltwater that enters the county sewer
19 system through cracked, broken, or defective
20 sewer laterals; and



1 (ii) "Inflow" means non-sewage entering the
2 county sewer system via inappropriate or
3 illegal connections;

4 (24) (A) Each county may impose civil fines, in addition
5 to criminal penalties, for any violation of
6 county ordinances or rules after reasonable
7 notice and requests to correct or cease the
8 violation have been made upon the violator. Any
9 administratively imposed civil fine shall not be
10 collected until after an opportunity for a
11 hearing under chapter 91. Any appeal shall be
12 filed within thirty days from the date of the
13 final written decision. These proceedings shall
14 not be a prerequisite for any civil fine or
15 injunctive relief ordered by the circuit court;

16 (B) Each county by ordinance may provide for the
17 addition of any unpaid civil fines, ordered by
18 any court of competent jurisdiction, to any
19 taxes, fees, or charges, with the exception of
20 fees or charges for water for residential use and
21 sewer charges, collected by the county. Each



1 county by ordinance may also provide for the
2 addition of any unpaid administratively imposed
3 civil fines, which remain due after all judicial
4 review rights under section 91-14 are exhausted,
5 to any taxes, fees, or charges, with the
6 exception of water for residential use and sewer
7 charges, collected by the county. The ordinance
8 shall specify the administrative procedures for
9 the addition of the unpaid civil fines to the
10 eligible taxes, fees, or charges and may require
11 hearings or other proceedings. After addition of
12 the unpaid civil fines to the taxes, fees, or
13 charges, the unpaid civil fines shall not become
14 a part of any taxes, fees, or charges. The
15 county by ordinance may condition the issuance or
16 renewal of a license, approval, or permit for
17 which a fee or charge is assessed, except for
18 water for residential use and sewer charges, on
19 payment of the unpaid civil fines. Upon
20 recordation of a notice of unpaid civil fines in
21 the bureau of conveyances, the amount of the



1 civil fines, including any increase in the amount
2 of the fine which the county may assess, shall
3 constitute a lien upon all real property or
4 rights to real property belonging to any person
5 liable for the unpaid civil fines. The lien in
6 favor of the county shall be subordinate to any
7 lien in favor of any person recorded or
8 registered prior to the recordation of the notice
9 of unpaid civil fines and senior to any lien
10 recorded or registered after the recordation of
11 the notice. The lien shall continue until the
12 unpaid civil fines are paid in full or until a
13 certificate of release or partial release of the
14 lien, prepared by the county at the owner's
15 expense, is recorded. The notice of unpaid civil
16 fines shall state the amount of the fine as of
17 the date of the notice and maximum permissible
18 daily increase of the fine. The county shall not
19 be required to include a social security number,
20 state general excise taxpayer identification
21 number, or federal employer identification number



1 on the notice. Recordation of the notice in the
2 bureau of conveyances shall be deemed, at [~~such~~]
3 the time, for all purposes and without any
4 further action, to procure a lien on land
5 registered in land court under chapter 501.
6 After the unpaid civil fines are added to the
7 taxes, fees, or charges as specified by county
8 ordinance, the unpaid civil fines shall be deemed
9 immediately due, owing, and delinquent and may be
10 collected in any lawful manner. The procedure
11 for collection of unpaid civil fines authorized
12 in this paragraph shall be in addition to any
13 other procedures for collection available to the
14 State and county by law or rules of the courts;

15 (C) Each county may impose civil fines upon any
16 person who places graffiti on any real or
17 personal property owned, managed, or maintained
18 by the county. The fine may be up to \$1,000 or
19 may be equal to the actual cost of having the
20 damaged property repaired or replaced. The
21 parent or guardian having custody of a minor who



1 places graffiti on any real or personal property
2 owned, managed, or maintained by the county shall
3 be jointly and severally liable with the minor
4 for any civil fines imposed hereunder. Any
5 [~~such~~] fine may be administratively imposed after
6 an opportunity for a hearing under chapter 91,
7 but such a proceeding shall not be a prerequisite
8 for any civil fine ordered by any court. As used
9 in this subparagraph, "graffiti" means any
10 unauthorized drawing, inscription, figure, or
11 mark of any type intentionally created by paint,
12 ink, chalk, dye, or similar substances;

13 (D) At the completion of an appeal in which the
14 county's enforcement action is affirmed and upon
15 correction of the violation if requested by the
16 violator, the case shall be reviewed by the
17 county agency that imposed the civil fines to
18 determine the appropriateness of the amount of
19 the civil fines that accrued while the appeal
20 proceedings were pending. In its review of the



1 amount of the accrued fines, the county agency
2 may consider:

- 3 (i) The nature and egregiousness of the
4 violation;
- 5 (ii) The duration of the violation;
- 6 (iii) The number of recurring and other similar
7 violations;
- 8 (iv) Any effort taken by the violator to correct
9 the violation;
- 10 (v) The degree of involvement in causing or
11 continuing the violation;
- 12 (vi) Reasons for any delay in the completion of
13 the appeal; and
- 14 (vii) Other extenuating circumstances.

15 The civil fine that is imposed by administrative
16 order after this review is completed and the
17 violation is corrected shall be subject to
18 judicial review, notwithstanding any provisions
19 for administrative review in county charters;

20 (E) After completion of a review of the amount of
21 accrued civil fine by the county agency that



1 imposed the fine, the amount of the civil fine
2 determined appropriate, including both the
3 initial civil fine and any accrued daily civil
4 fine, shall immediately become due and
5 collectible following reasonable notice to the
6 violation. If no review of the accrued civil fine
7 is requested, the amount of the civil fine, not
8 to exceed the total accrual of civil fine prior
9 to correcting the violation, shall immediately
10 become due and collectible following reasonable
11 notice to the violator, at the completion of all
12 appeal proceedings; and

13 (F) If no county agency exists to conduct appeal
14 proceedings for a particular civil fine action
15 taken by the county, then one shall be
16 established by ordinance before the county shall
17 impose the civil fine;

18 (25) Any law to the contrary notwithstanding, any county
19 mayor, by executive order, may exempt donors, provider
20 agencies, homeless facilities, and any other program
21 for the homeless under part XVII of chapter 346 from



1 real property taxes, water and sewer development fees,
2 rates collected for water supplied to consumers and
3 for use of sewers, and any other county taxes,
4 charges, or fees; provided that any county may enact
5 ordinances to regulate and grant the exemptions
6 granted by this paragraph;

7 (26) Any county may establish a captive insurance company
8 pursuant to article 19, chapter 431; and

9 (27) Each county shall have the power to enact and enforce
10 ordinances regulating towing operations."

11 SECTION 2. Section 239-2, Hawaii Revised Statutes, is
12 amended by amending the definition of "gross income" to read as
13 follows:

14 ""Gross income" means the gross income from public service
15 company business as follows:

16 (1) Gross income from the production, conveyance,
17 transmission, delivery, or furnishing of light, power,
18 heat, cold, water, gas, or oil;

19 (2) Gross income from the transportation of passengers or
20 freight, or the conveyance or transmission of
21 telephone or telegraph messages other than mobile



1 telecommunications services, or the furnishing of
2 facilities for the transmission of intelligence by
3 electricity, by land or water or air:

4 (A) Originating and terminating within [~~this~~] the
5 State;

6 (B) By means of vessels or aircraft having their home
7 port in the State and operating between ports or
8 airports in the State, with respect to the
9 transportation so effected; or

10 (C) By means of plant or equipment located in the
11 State, between points in the State;

12 (3) Gross income from the transportation of freight by
13 motor carriers (other than as stated in paragraph
14 (2)), or the conveyance or transmission of messages or
15 intelligence through wires or cables located or partly
16 located in the State (other than as stated in
17 paragraph (2) or (5));

18 (4) Gross income from the operation of a private sewer
19 company or private sewer facility; or

20 (5) With respect to a home service provider of mobile
21 telecommunications services, "gross income" includes



1 charges billed for mobile telecommunications services
2 provided by a home service provider to a customer with
3 a place of primary use in [~~this~~] the State when the
4 mobile telecommunications services originate and
5 terminate within the same state; provided that all
6 [~~such~~] the charges for mobile telecommunications
7 services that are billed by or for the home service
8 provider are deemed to be provided by the home service
9 provider at the customer's place of primary use,
10 regardless of where the mobile telecommunications
11 services originate, terminate, or pass through.

12 "Gross income" shall not include:

- 13 (A) Any charges for or receipts from mobile
14 telecommunications services provided to customers
15 of the home service provider whose place of
16 primary use is outside [~~this~~] the State;
- 17 (B) Any receipts of a home service provider acting as
18 a serving carrier providing mobile
19 telecommunications services to another home
20 service provider's customer; and



1 (C) Any receipts specifically from interstate or
2 foreign mobile telecommunications services
3 taxable under section 237-13(6)(D), as determined
4 by the home service provider's books and records
5 kept in the ordinary course of business.

6 For the purposes of this paragraph, "customer", "home
7 service provider", "mobile telecommunications
8 services", "place of primary use", and "serving
9 carrier" have the same meaning as in section 239-22.

10 The words "gross income" and "gross income from public
11 service company business" shall not be construed to include
12 dividends (as defined ~~by~~ in section 235-1) paid by one member
13 of an affiliated public service company group to another member
14 of the same group; or gross income from the sale or transfer of
15 materials or supplies, interest on loans, or the provision of
16 engineering, construction, maintenance, or managerial services
17 by one member of an affiliated public service company group to
18 another member of the same group. "Affiliated public service
19 company group" means an affiliated group of domestic
20 corporations within the meaning of chapter 235, all of the
21 members of which are public service companies. "Member of an



1 affiliated public service company group" means a corporation
2 (including the parent corporation) that is included within an
3 affiliated public service company group.

4 Where the transportation of passengers or property is
5 furnished through arrangements between motor carriers, and the
6 gross income is divided between the motor carriers, any tax
7 imposed by this chapter shall apply to each motor carrier with
8 respect to each motor carrier's respective portion of the
9 proceeds.

10 Where tourism related services are furnished through
11 arrangements made by a travel agency or tour packager and the
12 gross income is divided between the provider of the services on
13 the one hand and the travel agency or tour packager on the other
14 hand, any tax imposed by this chapter shall apply to each person
15 with respect to each person's respective portion of the
16 proceeds.

17 Accounts found to be worthless and actually charged off for
18 income tax purposes, at corresponding periods, may be deducted
19 from gross income as specified under this chapter so far as the
20 accounts reflect taxable sales, but shall be added to gross
21 income when and if subsequently collected.



1 As used in this paragraph, "tourism related services" means
2 motor carriers of passengers regulated by the [~~public utilities~~
3 ~~commission.~~] department of transportation."

4 SECTION 3. Section 269-33, Hawaii Revised Statutes, is
5 amended by amending subsections (a) and (b) to read as follows:

6 "(a) There is established in the state treasury a public
7 utilities commission special fund to be administered by the
8 public utilities commission. The proceeds of the fund shall be
9 used by the public utilities commission and the division of
10 consumer advocacy of the department of commerce and consumer
11 affairs for all expenses incurred in the administration of
12 chapters 269, [~~271, 271G,~~] 269E, and 486J, and for costs
13 incurred by the department of commerce and consumer affairs to
14 fulfill the department's limited oversight and administrative
15 support functions; provided that the expenditures of the public
16 utilities commission shall be in accordance with legislative
17 appropriations. On a quarterly basis, an amount not exceeding
18 thirty per cent of the proceeds remaining in the fund after the
19 deduction for central service expenses, pursuant to section
20 36-27, shall be allocated by the public utilities commission to
21 the division of consumer advocacy and deposited in the



1 compliance resolution fund established pursuant to section
2 26-9(o); provided that all moneys allocated by the public
3 utilities commission from the fund to the division of consumer
4 advocacy shall be in accordance with legislative appropriations.

5 (b) All moneys appropriated to, received, and collected by
6 the public utilities commission that are not otherwise pledged,
7 obligated, or required by law to be placed in any other special
8 fund or expended for any other purpose shall be deposited into
9 the public utilities commission special fund including, but not
10 limited to, all moneys received and collected by the public
11 utilities commission pursuant to sections 92-21, 243-3.5,
12 269-28, 269-30, [~~271-27, 271-36, 271G-19,~~] 269E-6, 269E-14, and
13 607-5."

14 SECTION 4. Section 271-4, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending the definition of "document" to read:
17 ""Document" includes any application, complaint, pleading,
18 brief, answer, motion, memorandum, declaration, exhibit,
19 certificate of service, and other papers filed by or with the
20 [~~commission.~~] department."

21 2. By amending the definition of "motor vehicle" to read:



1 ""Motor vehicle" means any vehicle, machine, tractor,
 2 trailer, or semitrailer propelled or drawn by mechanical power
 3 and used upon the highways in the transportation of passengers
 4 or property, or any combination thereof determined by the
 5 [~~commission,~~] department, but does not include any vehicle,
 6 locomotive, or car operated exclusively on a rail or rails or a
 7 trolley bus operated by electric power derived from a fixed
 8 overhead wire, furnishing local passenger transportation similar
 9 to street-railway service."

10 3. By repealing the definition of "commission".

11 [~~"Commission" means the public utilities commission.~~"]

12 SECTION 5. Section 271-5, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "**§271-5 Exemptions, generally.** Notwithstanding any other
 15 provisions of this chapter, its contents shall not apply to:

- 16 (1) Persons transporting their own property where the
- 17 transportation is in furtherance of a primary business
- 18 purpose or enterprise of that person, except where the
- 19 transportation is undertaken by a motor carrier to
- 20 evade the regulatory purposes of this chapter;



1 (2) Persons operating motor vehicles when engaged in the
2 transportation of school children and teachers to and
3 from school, and to and from school functions;
4 provided that these persons may engage in providing
5 transportation at special rates for groups of persons
6 belonging to an eleemosynary or benevolent
7 organization or association domiciled in this State
8 where the organization or association sponsors or is
9 conducting a nonregular excursion; provided that
10 whenever the persons engage in the transportation of
11 persons other than those exempted in this paragraph,
12 that portion of their operation shall not be exempt
13 from this chapter. Nothing in this paragraph shall be
14 construed to authorize any person to engage in the
15 transportation of persons, other than the
16 transportation of persons exempted by the terms of
17 this paragraph, without a permit or certificate issued
18 by the [~~commission~~] department authorizing [~~such~~] the
19 transportation;



1 (3) Persons operating taxicabs or other motor vehicles
2 utilized in performing a bona fide taxicab service.

3 "Taxicab" includes:

4 (A) Any motor vehicle used in the movement of
5 passengers on the public highways under the
6 following circumstances, namely the passenger
7 hires the vehicle on call or at a fixed stand,
8 with or without baggage for transportation, and
9 controls the vehicle to the passenger's
10 destination;

11 (B) Any motor vehicle for hire having seating
12 accommodations for eight or fewer passengers used
13 in the movement of passengers on the public
14 highways that may, as part of a continuous trip,
15 pick up or discharge passengers from various
16 unrelated locations; provided that they shall be
17 regulated by the counties in accordance with
18 section 46-16.5(c); [~~and~~] provided further that
19 this subparagraph shall not apply to any
20 exclusive rights granted by the department [~~of~~



- 1 ~~transportation~~] for taxicab services at
2 facilities under the department's control; and
3 (C) Any motor vehicle having seating accommodations
4 for eight or fewer passengers used in the
5 movement of passengers on the public highways
6 between a terminal, i.e., a fixed stand, in the
7 Honolulu district, as defined in section 4-1 and
8 a terminal in a geographical district outside the
9 limits of the Honolulu district, and vice versa,
10 without picking up passengers other than at the
11 terminals or fixed stands; provided that the
12 passengers may be picked up by telephone call
13 from their homes in the rural area or may be
14 unloaded at any point between the fixed stands or
15 may be delivered to their homes in the rural
16 area;
- 17 (4) Persons operating motor vehicles in the transportation
18 of persons pursuant to a franchise from the
19 legislature and whose operations are presently
20 regulated under chapter 269;



- 1 (5) Nonprofit agricultural cooperative associations to the
2 extent that they engage in the transportation of their
3 own property or the property of their members;
- 4 (6) Persons operating motor vehicles specially constructed
5 for the towing of disabled or wrecked vehicles but not
6 otherwise used in the transportation of property for
7 compensation or hire;
- 8 (7) Persons operating motor vehicles in the transportation
9 of mail, newspapers, periodicals, magazines, messages,
10 documents, letters, or blueprints;
- 11 (8) Persons operating funeral cars or ambulances;
- 12 (9) Persons operating motor vehicles in the transportation
13 of garbage or refuse;
- 14 (10) Persons operating the type of passenger carrying motor
15 vehicles known as "sampan buses" within the radius of
16 twenty miles from the city of Hilo, Hawaii;
- 17 (11) Persons transporting unprocessed pineapple to a
18 cannery, seed corn to a processing facility, or
19 returning any containers used in [~~such~~] the
20 transportation to the fields;



- 1 (12) Sugar plantations transporting sugarcane, raw sugar,
2 molasses, sugar by-products, and farming supplies for
3 neighboring farmers pursuant to contracts administered
4 by the United States Department of Agriculture;
- 5 (13) Persons engaged in the ranching or meat or feed
6 business who transport cattle to slaughterhouses for
7 hire where [~~such~~] the transportation is their sole
8 transportation for hire and where their earnings from
9 the transportation constitute less than fifty per cent
10 of their gross income from their business and the
11 transportation for hire;
- 12 (14) Persons transporting unprocessed raw milk to
13 processing plants and returning any containers used in
14 [~~such~~] the transportation to dairy farms for
15 reloading;
- 16 (15) Persons transporting animal feeds to animal husbandry
17 farmers and farming supplies directly to animal
18 husbandry farmers and returning any containers used in
19 [~~such~~] the transportation to these sources of such
20 feeds and supplies for reloading;



1 (16) Persons engaged in transporting not more than fifteen
2 passengers between their places of abode, or termini
3 near [~~such~~] the places, and their places of employment
4 in a single daily round trip where the driver is also
5 on the driver's way to or from the driver's place of
6 employment;

7 (17) Persons transporting passengers without charge in
8 motor vehicles owned or operated by [~~such~~] the person,
9 where such transportation is provided in conjunction
10 with and in furtherance of a related primary business
11 purpose or enterprise of that person, and [~~such~~] the
12 transportation is provided only directly to and from
13 the place of business of such person, except that this
14 exemption shall not apply to persons making any
15 contract, agreement, or arrangement to provide,
16 procure, furnish, or arrange for transportation as a
17 travel agent or broker or a person engaged in tour or
18 sightseeing activities, nor shall this exemption apply
19 where the transportation is undertaken by a person to
20 evade the regulatory purposes of this chapter; and



1 (18) Persons conducting the type of county-regulated
2 passenger carrying operation known as "jitney
3 services". For the purposes of this paragraph,
4 "jitney services" means public transportation services
5 utilizing motor vehicles that have seating
6 accommodations for six to twenty-five passengers,
7 operate along specific routes during defined service
8 hours, and levy a flat fare schedule."

9 SECTION 6. Section 271-9, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§271-9 General duties and powers of the [~~commission~~]**
12 **department.** (a) The general duties and powers of the [~~public~~
13 ~~utilities commission~~] department shall be:

14 (1) To regulate common carriers by motor vehicle, and to
15 that end the [~~commission~~] department shall establish
16 reasonable requirements with respect to continuous and
17 adequate service, leasing of motor vehicles, uniform
18 system of accounts, records, and reports, and
19 preservation of records[~~;~~];

20 (2) To regulate contract carriers by motor vehicle, and to
21 that end the [~~commission~~] department shall establish



1 reasonable requirements with respect to leasing of
2 motor vehicles, uniform system of accounts, records,
3 and reports, and preservation of records[-];

4 (3) To administer, execute, and enforce this chapter, to
5 make all necessary orders in connection therewith, and
6 to prescribe rules, regulations, and procedures for
7 the administration[-];

8 (4) For purposes of the administration of this chapter, to
9 inquire into the management of the business of motor
10 carriers, and into the management of the business of
11 persons controlling, controlled by, or under common
12 control with, motor carriers to the extent that the
13 business of these persons is related to the management
14 of the business of one or more motor carriers, and the
15 [~~commission~~] department shall keep itself informed as
16 to the manner and method in which the same are
17 conducted, and may obtain from the carriers and
18 persons such information as the [~~commission~~]
19 department deems necessary to carry out the provisions
20 of this chapter[-]; and



1 (5) To investigate any person acting in the capacity of or
2 engaging in the business of a motor carrier within the
3 State, without having a certificate of public
4 convenience and necessity or other authority
5 previously obtained under and in compliance with this
6 chapter or the rules promulgated thereunder.

7 (b) The [~~commission~~] department may from time to time
8 establish such just and reasonable classifications of groups of
9 carriers included in the term "common carrier by motor vehicle"
10 or "contract carrier by motor vehicle", as the special nature of
11 the services performed by the carriers shall require, and such
12 just and reasonable rules, regulations, and requirements,
13 consistent with this chapter, to be observed by the carriers so
14 classified or grouped, as the [~~commission~~] department deems
15 necessary or desirable in the public interest.

16 (c) Upon complaint in writing to the [~~commission~~]
17 department by any person or body politic, or upon its own
18 initiative without complaint, the [~~commission~~] department may
19 investigate whether any motor carrier has failed to comply with
20 any provision of this chapter, or with any regulation,
21 requirements, or order established or issued pursuant thereto.



1 If the [~~commission,~~] department, after notice and hearing as
2 prescribed in section 271-31, finds upon any investigation that
3 the motor carrier has failed to comply with any provision,
4 regulation, requirements, or order, the [~~commission~~] department
5 shall issue an appropriate order to compel the carrier to comply
6 therewith. Whenever the [~~commission~~] department is of the
7 opinion that any complaint does not state reasonable grounds for
8 investigation and action on its part, it may dismiss the
9 complaint."

10 SECTION 7. Section 271-18, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) Whenever a transaction is proposed under subsection
13 (b) or (c) of this section, the motor carrier or motor carriers,
14 or person or persons, seeking approval thereof shall present an
15 application to the [~~commission~~] department in [~~such~~] the form as
16 the [~~commission~~] department may require and the [~~commission~~]
17 department may thereupon act upon the application with or
18 without first holding a public hearing; provided that if
19 requested, it shall afford reasonable opportunity for interested
20 parties to be heard. If the [~~commission~~] department finds that
21 subject to such terms and conditions as it shall find to be just



1 and reasonable the proposed transaction will be consistent with
 2 the public interests, the [~~commission~~] department shall enter an
 3 order approving and authorizing the transaction, upon the terms
 4 and conditions, and with the modifications, so found to be just
 5 and reasonable. In passing upon any transaction under
 6 subsection (b) or (c), the [~~commission~~] department shall give
 7 weight, among other considerations, to the effect of the
 8 proposed transaction upon [~~(1) adequate transportation service~~
 9 ~~to the public, (2) other motor carriers, and (3) the employees~~
 10 ~~of any transferring motor carrier.]:~~

- 11 (1) Adequate transportation service to the public;
- 12 (2) Other motor carriers; and
- 13 (3) The employees of any transferring motor carrier."

14 SECTION 8. Section 271-27, Hawaii Revised Statutes, is
 15 amended as follows:

16 1. By amending subsection (c) to read:

17 "(c) Any special agent, accountant, or examiner who
 18 knowingly and wilfully divulges any fact or information which
 19 may come to the special agent's, accountant's, or examiner's
 20 knowledge during the course of any examination or inspection
 21 made under authority of sections 271-9(a)(4), 271-23, and



1 271-25, except as the special agent, accountant, or examiner may
2 be directed by the [~~commission~~] department or by a court or
3 judge thereof, shall be guilty of a misdemeanor."

4 2. By amending subsections (f) through (j) to read:

5 "(f) Any motor carrier or any officer, agent, employee, or
6 representative thereof, who wilfully fails or refuses to make a
7 report to the [~~commission~~] department as required by this
8 chapter, or to make specific and full, true, and correct answer
9 to any question within thirty days from the time it is lawfully
10 required by the [~~commission,~~] department, or to keep accounts,
11 records, and memoranda in the form and manner prescribed by the
12 [~~commission,~~] department, or knowingly and wilfully falsifies,
13 destroys, mutilates, or alters any report, account, record, or
14 memorandum or knowingly and wilfully files with the [~~commission~~]
15 department any false report, account, record, or memorandum, or
16 knowingly and wilfully neglects or fails to make full, true, and
17 correct entries in the accounts, records, or memoranda of all
18 facts and transactions appertaining to the business of the
19 carrier, or person required under this chapter to keep the same,
20 or knowingly and wilfully keeps accounts, records, or memoranda
21 contrary to the rules, regulations, or orders of the



1 ~~[commission]~~ department with respect thereto, shall be deemed
2 guilty of a misdemeanor. As used in this subsection, the words
3 "keep" and "kept" mean made, prepared, or compiled, as well as
4 retained.

5 (g) Except when required by state law to take immediately
6 before a district judge a person arrested for violation of this
7 chapter, including any rule adopted pursuant to this chapter,
8 any enforcement officer, other than a motor vehicle safety
9 officer employed and assigned, pursuant to section 271-38, by
10 the department ~~[of transportation]~~ to assess civil penalties,
11 upon arresting a person for violation of this chapter, including
12 any rule adopted pursuant to this chapter shall issue to the
13 alleged violator a summons or citation printed in the form
14 hereinafter described, warning the alleged violator to appear
15 and answer to the charge against the alleged violator at a
16 certain place within seven days after the arrest.

17 (1) The summons or citation shall be printed in a form
18 comparable to that of other summonses and citations
19 used for arresting offenders and shall include all
20 necessary information. The form and content shall be
21 adopted or prescribed by the district courts.



- 1 (2) The original of a summons or citation shall be given
2 to the alleged violator and any other copies
3 distributed in the manner prescribed by the district
4 courts; provided that the district courts may
5 prescribe alternative methods of distribution for the
6 original and any other copies.
- 7 (3) Summonses and citations shall be consecutively
8 numbered and any other copies of each shall bear the
9 same number.
- 10 (4) Any person who fails to appear at the place and within
11 the time specified in the summons or citation shall be
12 guilty of a misdemeanor.
- 13 (5) If any person fails to comply with a summons or
14 citation or fails or refuses to deposit bail as
15 required, the enforcement officer shall cause a
16 complaint to be entered against the person and secure
17 the issuance of a warrant for the person's arrest.
- 18 (6) When a complaint is made to any prosecuting officer of
19 a violation of this chapter or any rule, the
20 enforcement officer who issued the summons or citation
21 shall subscribe to it under oath administered by



1 another official whose name has been submitted to the
2 prosecuting officer and who has been designated by the
3 [~~commission~~] department to administer the same.

4 (h) Any motor carrier or lessor, or any officer, agent,
5 employee, or representative thereof, who fails or refuses to
6 comply with any provision of this chapter, or any rule,
7 requirement, or order thereunder, and any person located in this
8 State, or any officer, agent, employee, or representative of any
9 [~~such~~] the person, who engages the services of any motor carrier
10 or lessor, or any officer, agent, employee, or representative
11 thereof, who fails or refuses to comply with any provision of
12 this chapter, or any rule, requirement, or order, may be
13 assessed a civil penalty for an amount determined by the
14 [~~commission~~] department subject to this section payable to the
15 State in a sum:

- 16 (1) Up to \$1,000 for each offense;
- 17 (2) In the case of a continuing violation, not less than
18 \$50 and not more than \$500 for each additional day
19 during which the failure or refusal continues; and
- 20 (3) Up to \$5,000 for each fourth or subsequent violation
21 within one calendar year.



1 (i) Notwithstanding subsection (h), a motor carrier who
2 fails to file, within the prescribed time, a financial report
3 with the [~~commission~~] department pursuant to its rules may be
4 assessed a civil penalty payable to the State up to the sum of
5 one-sixteenth of one per cent of the gross revenues from the
6 motor carrier's business during the preceding calendar year, if
7 the failure is for not more than one month, with an additional
8 one-sixteenth of one per cent for each additional month or
9 fraction thereof during which the failure continues, but in no
10 event shall the total civil penalty be less than the sum of \$50.

11 (j) In addition to any other remedy available, the
12 [~~commission~~] department or its enforcement officer, including a
13 motor vehicle safety officer employed and assigned by the
14 department [~~of transportation~~] pursuant to section 271-38, may
15 issue citations to persons acting in the capacity of or engaging
16 in the business of a motor carrier within this State, without
17 having a certificate of public convenience and necessity or
18 other authority previously obtained under and in compliance with
19 this chapter and rules adopted, or to any shipper or consignee
20 located in this State, or any officer, employee, agent, or



1 representative thereof who engages the services of those
2 persons.

3 (1) The citation may contain an order of abatement and an
4 assessment of civil penalties as provided in
5 subsection (h). All penalties collected under this
6 subsection shall be deposited in the treasury of the
7 State. Service of a citation issued under this
8 subsection shall be made by personal service whenever
9 possible or by certified mail, restricted delivery,
10 sent to the last known business or residence address
11 of the person cited.

12 (2) Any person served with a citation under this
13 subsection may submit a written request to the
14 [~~commission~~] department for a hearing within twenty
15 days from the receipt of the citation, with respect to
16 the violations alleged, the scope of the order of
17 abatement, and the amount of civil penalties assessed.
18 If the person cited under this subsection notifies the
19 [~~commission~~] department of the request for a hearing
20 in time, the [~~commission~~] department shall afford the
21 person an opportunity for a hearing under chapter 91.



1 The hearing shall be conducted by the [~~commission,~~
2 department, or the [~~commission]~~ department may
3 designate a hearings officer to hold the hearing.

4 (3) If the person cited under this subsection does not
5 submit a written request to the [~~commission]~~
6 department for a hearing in time, the citation shall
7 be deemed a final order of the [~~commission,~~
8 department. The [~~commission]~~ department may apply to
9 the appropriate court for a judgment to enforce the
10 provisions of any final order issued by the
11 [~~commission]~~ department or designated hearings officer
12 pursuant to this subsection, including the provisions
13 for abatement and civil penalties imposed. In any
14 proceeding to enforce the final order, the
15 [~~commission]~~ department need only produce a certified
16 copy of the final order and show that the notice was
17 given and that a hearing was held or the time granted
18 for requesting the hearing has run without a request.

19 (4) If any party is aggrieved by the decision of the
20 [~~commission]~~ department or the designated hearings
21 officer, the party may appeal, subject to chapter 602,



1 in the manner provided for civil appeals from the
2 circuit courts; provided that the operation of an
3 abatement order shall not be stayed on appeal unless
4 specifically ordered by a court of competent
5 jurisdiction after applying the stay criteria
6 enumerated in section 91-14(c). The sanctions and
7 disposition authorized under this subsection shall be
8 separate and in addition to all other remedies either
9 civil or criminal provided by law. The [~~commission~~
10 department] may adopt any rules under chapter 91 that
11 may be necessary to fully effectuate this subsection."

12 SECTION 9. Section 271-36, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§271-36 Fees and charges.** (a) Every common carrier by
15 motor vehicle and every contract carrier by motor vehicle shall
16 pay to the [~~commission,~~] department, in April of each year, a
17 fee equal to one-fourth of one per cent of the gross revenues
18 from the carrier's business during the preceding calendar year,
19 or the sum of \$20, whichever is greater. Gross revenues include
20 all revenues received from services connected with or incidental



1 to the transportation of persons or the transportation of
2 property, as defined under section 271-4.

3 (b) Every common carrier by motor vehicle and every
4 contract carrier by motor vehicle paying a fee under subsection
5 (a) may impose a surcharge to recover the amount paid above
6 one-eighth of one per cent of gross income. The surcharge
7 imposed shall not be subject to the notice, hearing, and
8 approval requirements of this chapter; provided that the
9 surcharge may be imposed by the utility only after thirty days'
10 notice to the [~~public utilities commission.~~] department. Unless
11 ordered by the [~~public utilities commission,~~] department, the
12 surcharge shall be imposed only until the conclusion of the
13 carrier's next rate case; provided that the surcharge shall be
14 subject to refund with interest at the public utility's
15 authorized rate of return on rate base if the utility collects
16 more money from the surcharge than actually paid due to the
17 increase in the fee to one-fourth of one per cent.

18 (c) The [~~commission~~] department shall establish fair and
19 reasonable fees for the following applications:

20 (1) Applications for certificates and permits as provided
21 by sections 271-12 and 271-13;



- 1 (2) Applications for extensions of certificates as
2 provided by section 271-12(d);
- 3 (3) Applications for temporary certificates and permits as
4 provided by section 271-16; and
- 5 (4) Applications for authority to convey property
6 necessary or useful in the performance of duties to
7 the public or to transfer certificates or permits or
8 to purchase motor carrier stock, as provided in
9 section 271-18.

10 The fees charged pursuant to this subsection shall be paid to
11 the [~~commission~~] department at the time of submission of the
12 application.

13 (d) The [~~commission~~] department may charge an amount it
14 deems necessary and reasonable to defray the cost of supplying
15 to the carriers and the public the application forms and other
16 forms, schedules, tariffs, copies of rules, and other pamphlets
17 and materials it provides by individual copy or in bulk.

18 (e) All of the fees and charges collected under this
19 section shall be deposited with the director of finance to the
20 credit of the [~~public utilities commission special fund~~]



1 ~~established under section 269-33.] state highway fund~~
2 established under section 248-9."

3 PART II

4 SECTION 10. Chapter 271G, Hawaii Revised Statutes, is
5 amended by adding two new sections to be appropriately
6 designated and to read as follows:

7 "§271G- Certificates of public convenience and necessity

8 for water carriers. (a) No person which holds itself out to
9 the general public to engage in the transportation by water of
10 passengers or property or any class or classes thereof for
11 compensation, between points in the State, shall operate, unless
12 there is in force with respect to the carrier a certificate of
13 public convenience and necessity issued by the department
14 authorizing the transportation; provided that this section shall
15 not apply to any carrier by water to the extent that the carrier
16 is excluded from the definition of a public utility under
17 section 269-1(2)(E) and (F).

18 (b) Applications for certificates shall be made in writing
19 under oath to the department in the form as it requires.

20 (c) A certificate shall be issued to any qualified
21 applicant therefor, authorizing the whole or any part of the



1 operations covered by the application, if it is found that the
 2 applicant is fit, willing, and able properly to perform the
 3 service proposed and to conform to the provisions of this
 4 chapter and the requirements, rules, and regulations of the
 5 department thereunder, and that the proposed service, to the
 6 extent authorized by the certificate, is or will be required by
 7 the present or future public convenience and necessity;
 8 otherwise the application shall be denied. Any certificate
 9 issued shall specify the service to be rendered and the routes
 10 and ports that the water carrier is to serve and there shall be
 11 attached to the exercise of the privileges granted by the
 12 certificate, at the time of issuance and from time to time
 13 thereafter, the reasonable conditions and limitations as the
 14 public convenience and necessity may require.

15 (d) The department may at any time suspend, change, or
 16 revoke the certificate in the manner provided in section 271-19.

17 **§271G- Preferential water carrier service rates for**
 18 **agricultural activities.** The department may authorize
 19 preferential water carrier service rates by tariff for
 20 ratepayers that engage in agricultural activities. The



1 application process for obtaining preferential water carrier
2 service rates by tariff may be established by the department."

3 SECTION 11. Section 269-1, Hawaii Revised Statutes, is
4 amended by amending the definition of "public utility" to read:

5 ""Public utility":

- 6 (1) Includes every person who may own, control, operate,
7 or manage as owner, lessee, trustee, receiver, or
8 otherwise, whether under a franchise, charter,
9 license, articles of association, or otherwise, any
10 plant or equipment, or any part thereof, directly or
11 indirectly for public use for the transportation of
12 passengers or freight; for the conveyance or
13 transmission of telecommunications messages; for the
14 furnishing of facilities for the transmission of
15 intelligence by electricity within the State or
16 between points within the State by land, water, or
17 air; for the production, conveyance, transmission,
18 delivery, or furnishing of light, power, heat, cold,
19 water, gas, or oil; for the storage or warehousing of
20 goods; or for the disposal of sewage; provided that
21 the term shall include:



- 1 (A) An owner or operator of a private sewer company
- 2 or sewer facility; and
- 3 (B) A telecommunications carrier or
- 4 telecommunications common carrier; and .
- 5 (2) Shall not include:
- 6 (A) An owner or operator of an aerial transportation
- 7 enterprise;
- 8 (B) An owner or operator of a taxicab as defined in
- 9 this section;
- 10 (C) Common carriers that transport only freight on
- 11 the public highways, unless operating within
- 12 localities, along routes, or between points that
- 13 the public utilities commission finds to be
- 14 inadequately serviced without regulation under
- 15 this chapter;
- 16 (D) Persons engaged in the business of warehousing or
- 17 storage unless the commission finds that
- 18 regulation is necessary in the public interest;
- 19 (E) A carrier by water to the extent that the carrier
- 20 enters into private contracts for towage,
- 21 salvage, hauling, or carriage between points



1 within the State; provided that the towing,
2 salvage, hauling, or carriage is not pursuant to
3 either an established schedule or an undertaking
4 to perform carriage services on behalf of the
5 public generally;

6 (F) A carrier by water, substantially engaged in
7 interstate or foreign commerce, that transports
8 passengers on luxury cruises between points
9 within the State or on luxury round-trip cruises
10 returning to the point of departure;

11 (G) Any user, owner, or operator of the Hawaii
12 electric system as defined under section 269-141;

13 (H) A telecommunications provider only to the extent
14 determined by the public utilities commission
15 pursuant to section 269-16.9;

16 (I) Any person who controls, operates, or manages
17 plants or facilities developed pursuant to
18 chapter 167 for conveying, distributing, and
19 transmitting water for irrigation and other
20 purposes for public use and purpose;



- 1 (J) Any person who owns, controls, operates, or
- 2 manages plants or facilities for the reclamation
- 3 of wastewater; provided that:
- 4 (i) The services of the facility are provided
- 5 pursuant to a service contract between the
- 6 person and a state or county agency and at
- 7 least ten per cent of the wastewater
- 8 processed is used directly by the state or
- 9 county agency that entered into the service
- 10 contract;
- 11 (ii) The primary function of the facility is the
- 12 processing of secondary treated wastewater
- 13 that has been produced by a municipal
- 14 wastewater treatment facility owned by a
- 15 state or county agency;
- 16 (iii) The facility does not make sales of water to
- 17 residential customers;
- 18 (iv) The facility may distribute and sell
- 19 recycled or reclaimed water to entities not
- 20 covered by a state or county service
- 21 contract; provided that, in the absence of



1 regulatory oversight and direct competition,
2 the distribution and sale of recycled or
3 reclaimed water shall be voluntary and its
4 pricing fair and reasonable. For purposes
5 of this subparagraph, "recycled water" and
6 "reclaimed water" means treated wastewater
7 that by design is intended or used for a
8 beneficial purpose; and

9 (v) The facility is not engaged, either directly
10 or indirectly, in the processing of food
11 wastes;

12 (K) Any person who owns, controls, operates, or
13 manages any seawater air conditioning district
14 cooling project; provided that at least fifty per
15 cent of the energy required for the seawater air
16 conditioning district cooling system is provided
17 by a renewable energy resource, such as cold,
18 deep seawater;

19 (L) Any person who owns, controls, operates, or
20 manages plants or facilities primarily used to



1 charge or discharge a vehicle battery that
2 provides power for vehicle propulsion;
3 (M) Any person who:
4 (i) Owns, controls, operates, or manages a
5 renewable energy system that is located on a
6 customer's property; and
7 (ii) Provides, sells, or transmits the power
8 generated from that renewable energy system
9 to an electric utility or to the customer on
10 whose property the renewable energy system
11 is located; provided that, for purposes of
12 this subparagraph, a customer's property
13 shall include all contiguous property owned
14 or leased by the customer without regard to
15 interruptions in contiguity caused by
16 easements, public thoroughfares,
17 transportation rights-of-way, and utility
18 rights-of-way; and
19 (N) Any person who owns, controls, operates, or
20 manages a renewable energy system that is located
21 on ~~such~~ the person's property and provides,



1 sells, or transmits the power generated from that
2 renewable energy system to an electric utility or
3 to lessees or tenants on the person's property
4 where the renewable energy system is located;
5 provided that:

6 (i) An interconnection, as defined in section
7 269-141, is maintained with an electric
8 public utility to preserve the lessees' or
9 tenants' ability to be served by an electric
10 utility;

11 (ii) [~~Such~~] The person does not use an electric
12 public utility's transmission or
13 distribution lines to provide, sell, or
14 transmit electricity to lessees or tenants;

15 (iii) At the time that the lease agreement is
16 signed, the rate charged to the lessee or
17 tenant for the power generated by the
18 renewable energy system shall be no greater
19 than the effective rate charged per kilowatt
20 hour from the applicable electric utility



- 1 schedule filed with the public utilities
2 commission;
- 3 (iv) The rate schedule or formula shall be
4 established for the duration of the lease,
5 and the lease agreement entered into by the
6 lessee or tenant shall reflect [~~such~~] the
7 rate schedule or formula;
- 8 (v) The lease agreement shall not abrogate any
9 terms or conditions of applicable tariffs
10 for termination of services for nonpayment
11 of electric utility services or rules
12 regarding health, safety, and welfare;
- 13 (vi) The lease agreement shall disclose: (1) the
14 rate schedule or formula for the duration of
15 the lease agreement; (2) that, at the time
16 that the lease agreement is signed, the rate
17 charged to the lessee or tenant for the
18 power generated by the renewable energy
19 system shall be no greater than the
20 effective rate charged per kilowatt hour
21 from the applicable electric utility



1 schedule filed with the public utilities
2 commission; (3) that the lease agreement
3 shall not abrogate any terms or conditions
4 of applicable tariffs for termination of
5 services for nonpayment of electric utility
6 services or rules regarding health, safety,
7 and welfare; and (4) whether the lease is
8 contingent upon the purchase of electricity
9 from the renewable energy system; provided
10 further that any disputes concerning the
11 requirements of this provision shall be
12 resolved pursuant to the provisions of the
13 lease agreement or chapter 521, if
14 applicable; and

15 (vii) Nothing in this section shall be construed
16 to permit wheeling.

17 If the application of this chapter is ordered by the
18 commission in any case provided in paragraph (2) (C), (D), (H),
19 and (I), the business of any public utility that presents
20 evidence of bona fide operation on the date of the commencement
21 of the proceedings resulting in the order shall be presumed to



1 be necessary to the public convenience and necessity, but any
2 certificate issued under this proviso shall nevertheless be
3 subject to terms and conditions as the public utilities
4 commission may prescribe, as provided in [~~sections~~] section
5 269-16.9 [~~and 269-20~~]."

6 SECTION 12. Section 271G-5, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By adding a new definition to be appropriately inserted
9 and to read:

10 "Department" means the department of transportation."

11 2. By amending the definitions of "document" and
12 "enforcement officer" to read:

13 "Document" includes any application, complaint, pleading,
14 brief, answer, motion, memorandum, declaration, exhibit,
15 certificate of service, and other papers filed by or with the
16 [~~commission.~~] department.

17 "Enforcement officer" means any person employed and
18 authorized by the [~~commission~~] department to investigate any
19 matter on behalf of the [~~commission.~~] department."

20 3. By repealing the definition of "commission".

21 [~~"Commission" means the public utilities commission."~~]



1 SECTION 13. Section 271G-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§271G-7~~ **General duties and powers of the [commission.]**
4 **department.** The general duties and powers of the [~~public~~
5 ~~utilities commission~~] department shall be:

- 6 (1) To regulate water carriers, and to that end the
7 [~~commission~~] department shall have and utilize [~~the~~
8 ~~investigative powers set forth in section 269-7 as~~
9 ~~well as~~] all of the duties and powers specifically
10 enumerated in this chapter[, ~~and water carriers shall~~
11 ~~be subject to the duties set forth in sections 269-8~~
12 ~~and 269-9 as well as all of the duties specifically~~
13 ~~enumerated herein~~].
- 14 (2) To establish such just and reasonable classifications
15 of water carriers as the special nature of the
16 services performed by the carriers shall require, and
17 such just and reasonable rules, regulations, and
18 requirements, consistent with this chapter, to be
19 observed by the carriers so classified or grouped, as
20 the [~~commission~~] department deems necessary or
21 desirable in the public interest. [~~Such~~] The



1 classifications, rules, regulations, and requirements
2 shall be adopted and promulgated pursuant to the
3 provisions of chapter 91 and shall have the force and
4 effect of law.

5 (3) Upon complaint in writing to the [~~commission~~]
6 department by any person or body politic, or upon its
7 own initiative without complaint, the [~~commission~~]
8 department may investigate whether any water carrier
9 has failed to comply with any provision of this
10 chapter, or with any rule or order adopted or issued
11 hereunder.

12 (4) The [~~commission~~] department may investigate any person
13 acting in the capacity of or engaging in the business
14 of a water carrier within the State, without having a
15 certificate of public convenience and necessity or
16 other authority previously obtained under and in
17 compliance with this chapter or the rules promulgated
18 under this chapter."

19 SECTION 14. Section 286-271, Hawaii Revised Statutes, is
20 amended by amending subsection (e) to read as follows:

21 "(e) This section shall not apply to:

- 1 (1) Any motor vehicle rental company as defined in section
2 431:9A-141 that periodically ships in quantities of
3 ten vehicles or more;
- 4 (2) Licensed dealers who periodically ship in quantities
5 of ten vehicles or more, or whose primary business is
6 the auction of insurance salvage vehicles;
- 7 (3) Except for a lessee of a rental motor vehicle under
8 paragraph (4), drivers of vehicles transported by any
9 water carrier authorized by the [~~public utilities~~
10 ~~commission~~] department of transportation to transport
11 vehicles interisland; provided that the driver
12 presents identification, a current certificate of
13 registration for the vehicle, and proof of motor
14 vehicle insurance. The interisland water carrier
15 shall keep a record of transporting the vehicle by
16 recording the vehicle identification number and
17 retaining the information for three years after the
18 date of travel; or
- 19 (4) A lessee of a rental motor vehicle; provided that:
20 (A) The rental motor vehicle is transported by any
21 water carrier authorized by the [~~public utilities~~



1 ~~commission]~~ department to transport vehicles
2 interisland;

3 (B) The water carrier has a written agreement with
4 the owner of the rental motor vehicle; and

5 (C) The water carrier records and retains the
6 information required under subsections (d) and
7 (f).

8 For purposes of this subsection, "lessee" and "rental motor
9 vehicle" have the same meanings as those terms are defined in
10 section 437D-3."

11 SECTION 15. Section 269-20, Hawaii Revised Statutes, is
12 repealed.

13 [~~"§269-20 Certificates of public convenience and necessity~~
14 ~~for water carriers. (a) No person which holds itself out to~~
15 ~~the general public to engage in the transportation by water of~~
16 ~~passengers or property or any class or classes thereof for~~
17 ~~compensation, between points in the State of Hawaii, shall~~
18 ~~operate unless there is in force with respect to such carrier a~~
19 ~~certificate of public convenience and necessity issued by the~~
20 ~~commission authorizing such transportation; provided that this~~
21 ~~section shall not apply to any carrier by water to the extent~~



1 ~~that the carrier is excluded from the definition of a public~~
2 ~~utility under section 269-1(2) (E) and (F).~~

3 ~~(b) Applications for certificates shall be made in writing~~
4 ~~under oath to the commission in such form as it requires.~~

5 ~~(c) A certificate shall be issued to any qualified~~
6 ~~applicant therefor, authorizing the whole or any part of the~~
7 ~~operations covered by the application, if it is found that the~~
8 ~~applicant is fit, willing, and able properly to perform the~~
9 ~~service proposed and to conform to the provisions of this~~
10 ~~chapter and the requirements, rules and regulations of the~~
11 ~~commission thereunder, and that the proposed service, to the~~
12 ~~extent authorized by the certificate, is or will be required by~~
13 ~~the present or future public convenience and necessity;~~
14 ~~otherwise such application shall be denied. Any certificate~~
15 ~~issued shall specify the service to be rendered and the routes~~
16 ~~and ports which the water carrier is to serve and there shall be~~
17 ~~attached to the exercise of the privileges granted by the~~
18 ~~certificate, at the time of issuance and from time to time~~
19 ~~thereafter, such reasonable conditions and limitations as the~~
20 ~~public convenience and necessity may require.~~



1 substituting the term "department of transportation",
2 "department", or similar term, wherever the term "public
3 utilities commission", "commission", or similar term, appears,
4 as the context requires.

5 SECTION 18. All rights, powers, functions, and duties of
6 the public utilities commission are transferred to the
7 department of transportation as it relates to the motor carrier
8 law and water carrier act.

9 All officers and employees whose functions are transferred
10 by this Act shall be transferred with their functions and shall
11 continue to perform their regular duties upon their transfer,
12 subject to the state personnel laws and this Act.

13 No officer or employee of the State having tenure shall
14 suffer any loss of salary, seniority, prior service credit,
15 vacation, sick leave, or other employee benefit or privilege as
16 a consequence of this Act, and such officer or employee may be
17 transferred or appointed to a civil service position without the
18 necessity of examination; provided that the officer or employee
19 possesses the minimum qualifications for the position to which
20 transferred or appointed; and provided that subsequent changes



1 in status may be made pursuant to applicable civil service and
2 compensation laws.

3 An officer or employee of the State who does not have
4 tenure and who may be transferred or appointed to a civil
5 service position as a consequence of this Act shall become a
6 civil service employee without the loss of salary, seniority,
7 prior service credit, vacation, sick leave, or other employee
8 benefits or privileges and without the necessity of examination;
9 provided that such officer or employee possesses the minimum
10 qualifications for the position to which transferred or
11 appointed.

12 If an office or position held by an officer or employee
13 having tenure is abolished, the officer or employee shall not
14 thereby be separated from public employment, but shall remain in
15 the employment of the State with the same pay and classification
16 and shall be transferred to some other office or position for
17 which the officer or employee is eligible under the personnel
18 laws of the State as determined by the head of the department or
19 the governor.

20 SECTION 19. All appropriations, records, equipment,
21 machines, files, supplies, contracts, books, papers, documents,



1 maps, and other personal property heretofore made, used,
2 acquired, or held by the public utilities commission relating to
3 the functions transferred to the department of transportation
4 shall be transferred with the functions to which they relate.

5 SECTION 20. All rules, policies, procedures, guidelines,
6 and other material adopted or developed by the public utilities
7 commission to implement provisions of the Hawaii Revised
8 Statutes that are made reenacted or applicable to the department
9 of transportation by this Act shall remain in full force and
10 effect until amended or repealed by the department of
11 transportation pursuant to chapter 91, Hawaii Revised Statutes.
12 In the interim, every reference to the public utilities
13 commission in those rules, policies, procedures, guidelines, and
14 other material is amended to refer to the department of
15 transportation, as appropriate.

16 SECTION 21. All deeds, leases, contracts, loans,
17 agreements, permits, or other documents executed or entered into
18 by or on behalf of the public utilities commission, pursuant to
19 the provisions of the Hawaii Revised Statutes, that are
20 reenacted or made applicable to the office of real estate
21 operations by this Act shall remain in full force and effect.



1 Upon effective date of this Act, every reference to the public
2 utilities commission or the chairperson of the public utilities
3 commission therein shall be construed as a reference of the
4 department of transportation or the director of transportation,
5 as appropriate.

6 SECTION 22. The public utilities commission shall transfer
7 the total fund balance in the public utilities commission
8 special fund collected pursuant to section 271-36, Hawaii
9 Revised Statutes, as of September 15, 2025, and all encumbrances
10 against that fund open and outstanding as of that date, to the
11 state highway fund no later than one hundred eighty days after
12 the effective date of this Act.

13 SECTION 23. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$ or so
15 much thereof as may be necessary for fiscal year 2025-2026 and
16 the same sum or so much thereof as may be necessary for fiscal
17 year 2026-2027 for the transfer of functions related to the
18 motor carrier law and water carrier act to the department of
19 transportation.

20 The sums appropriated shall be expended by the department
21 of transportation for the purposes of this Act.

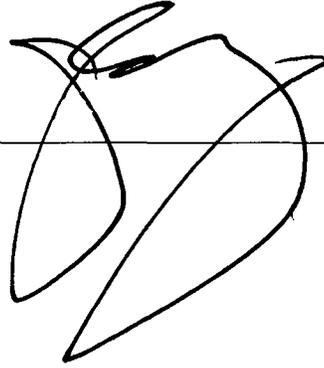


1 SECTION 24. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 25. This Act shall take effect on July 1, 2027;
4 provided that section 23 shall take effect on July 1, 2025.

5

INTRODUCED BY: _____

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke, positioned over the line following "INTRODUCED BY:".

S.B. NO. 1219

Report Title:

PUC; DOT; Motor Carrier Law; Water Carrier Act; Transfer;
Appropriations

Description:

Transfers the jurisdiction of the Motor Carrier Law from the Public Utilities Commission to the Department of Transportation. Transfers the jurisdiction of the Water Carrier Act from the Public Utilities Commission to the Department of Transportation. Makes conforming amendments. Appropriates funds. Effective 7/1/2027.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

