
A BILL FOR AN ACT

RELATING TO WATER CARRIERS.

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

1 SECTION 1. Chapter 271G, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§271G- Water carrier inflationary cost index automatic
5 adjustment mechanism. (a) On or before January 1, 2026, for
6 each water carrier subject to this chapter, the commission may
7 establish automatic adjustment mechanisms to address, among
8 other things, inflation and regulatory lag and, at a minimum, a
9 water carrier inflationary cost index automatic adjustment
10 mechanism. The water carrier inflationary cost index automatic
11 adjustment mechanism shall create an automatic rate adjustment
12 that is tied to the annual per cent change in the Gross Domestic
13 Product Price Index as reported by the Bureau of Economic
14 Analysis of the United States Department of Commerce.

15 (b) The water carrier inflationary cost index automatic
16 adjustment mechanism shall:



1 (1) Be applied on an annual basis, regardless of whether
2 the factor is a positive or negative per cent change;
3 and

4 (2) Be capped at plus or minus five per cent per year."

5 SECTION 2. Section 271G-5, Hawaii Revised Statutes, is
6 amended by adding a new definition to be appropriately inserted
7 and to read as follows:

8 "Automatic adjustment mechanism" means any rate adjustment
9 mechanism that allows a water carrier to change rates between
10 rate cases."

11 SECTION 3. Section 271G-17, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§271G-17 Tariffs of water carriers.** (a) Every water
14 carrier shall file with the [~~public utilities~~] commission, and
15 print, and keep open to public inspection, tariffs showing all
16 the rates, fares, and charges for transportation, and all
17 services in connection therewith, of passengers or property.
18 The rates, fares, and charges shall be stated in terms of lawful
19 money of the United States. The tariffs required by this
20 section shall be published, filed, and posted in [~~such~~] the form
21 and manner, and shall contain [~~such~~] information as the



1 commission by regulations shall prescribe; and the commission
2 may reject any tariff filed with it [~~which~~] that is not in
3 consonance with this section and with the regulations. Any
4 tariff so rejected by the commission shall be void and its use
5 shall be unlawful.

6 (b) No change shall be made in any rate, fare, charge, or
7 classification, or any rule, regulation, or practice affecting
8 the rate, fare, charge, or classification, or the value of the
9 service thereunder, specified in any effective tariff of a water
10 carrier, except after forty-five days' notice of the proposed
11 change filed and posted in accordance with subsection (a);
12 provided that changes to [~~a fuel~~] an automatic adjustment
13 mechanism surcharge approved by the commission may be made after
14 thirty days' notice of the proposed change filed and posted in
15 accordance with subsection (a). The notice shall plainly state
16 the change proposed to be made and the time when it will take
17 effect. The commission may in its discretion and for good cause
18 shown allow the change upon notice less than that herein
19 specified or modify the requirements of this section with
20 respect to posting and filing of tariffs either in particular



1 instances or by general order applicable to special or peculiar
2 circumstances or conditions.

3 (c) No water carrier shall engage in the transportation of
4 passengers or property unless the rates, fares, and charges upon
5 which the same are transported by the carrier have been filed
6 and published in accordance with this chapter.

7 (d) Whenever there is filed with the commission any
8 schedule stating a new rate, fare, or charge, for the
9 transportation of passengers or property by a water carrier or
10 any rule, regulation, or practice affecting [~~such~~] the rate,
11 fare, or charge, or the value of the service thereunder, the
12 carrier may on its own initiative, or shall by order of the
13 commission served [~~prior to~~] before the effective date of the
14 schedule, concurrently file a pro forma statement of account
15 [~~which~~] that shall be prepared under the same form and in the
16 same manner as prescribed by the commission's uniform system of
17 accounts.

18 The commission may upon complaint of any interested person
19 or upon its own initiative at once and, if it so orders, without
20 answer or other formal pleading by the interested carrier or
21 carriers, but upon reasonable notice, enter upon a hearing



1 concerning the lawfulness of the rate, fare, or charge, or the
2 rule, regulation, or practice, and pending the hearing and the
3 decision thereon the commission, by delivering to the carrier or
4 carriers affected thereby a statement in writing of its reasons
5 therefor, may suspend the operation of the schedule and defer
6 the use of the rate, fare, or charge, or the rule, regulation,
7 or practice. From the date of ordering a hearing to investigate
8 the lawfulness of the rate, fare, or charge, the commission
9 shall have up to six months to complete its investigation. If
10 the commission fails to issue a final order within the six-month
11 period then the changes proposed by the carrier shall go into
12 effect. At any hearing involving a change in a rate, fare,
13 charge, or classification, or in a rule, regulation, or
14 practice, the burden of proof shall be upon the carrier to show
15 that the proposed changed rate, fare, charge, classification,
16 rule, regulation, or practice, is just and reasonable.

17 (e) When a rate increase application is filed, the
18 commission may in its discretion and after public notice, and
19 upon showing by a water carrier of probable entitlement and
20 financial need, authorize temporary increases in rates, fares,
21 and charges; provided that the commission shall by order require



1 the carrier to keep accurate account in detail of all amounts
 2 received by reason of [such] the increase, specifying by whom
 3 and in whose behalf [such] the amounts are paid, and upon
 4 completion of the hearing and decision by further order require
 5 the interested carrier to refund, with interest, to the persons
 6 in whose behalf [such] the amounts were paid, [such] the portion
 7 of [such] the increased rates or charges by its decision shall
 8 be found not justified. The interest to be paid shall be the
 9 rate of return authorized in the last general rate case
 10 proceedings.

11 (f) Notwithstanding the preceding provisions of this
 12 section, any request to establish an automatic adjustment
 13 mechanism made by a water carrier shall be submitted as a
 14 forty-five-day tariff transmittal filing, and the filing shall
 15 not constitute a rate increase application or request for a
 16 general rate increase. The commission shall have broad
 17 discretion in its application of any aspect of this section or
 18 its applicable rules as it may relate to any request to
 19 establish or modify any automatic adjustment mechanism made by a
 20 water carrier.



1 (g) Notwithstanding any provision of this chapter or any
2 law, decision, order, or rule to the contrary, the commission,
3 sua sponte or upon the application of a water carrier, may waive
4 or exempt a water carrier from any or all requirements of this
5 chapter or any applicable decision, order, rule, or other law
6 upon a determination or demonstration that any requirement or
7 requirements should not be applied to water carriers or are
8 otherwise unjust, unreasonable, or not in the public interest."

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

PUC; Water Carriers; Tariffs; Water Carrier Inflationary Cost Index; Automatic Adjustment; Mechanism; Rate Adjustments

Description:

Authorizes the Public Utilities Commission to establish a Water Carrier Inflationary Cost Index Automatic Adjustment Mechanism to address, among other things, inflation and regulatory lag. Authorizes the Public Utilities Commission to grant exemptions to any water carrier from any requirement under the Hawaii Water Carrier Act. Defines "automatic adjustment mechanism". Effective 7/1/2050. (SD2)

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