
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- Automatic adjustment mechanisms; water carrier
5 inflationary cost index automatic adjustment mechanism. (a)
6 The commission may establish automatic adjustment mechanisms for
7 water carriers subject to this chapter to address inflation,
8 regulatory lag, and other economic factors. These mechanisms
9 may be initiated and established by the commission or upon
10 application by a water carrier. As provided in section 271G-
11 17(f), these mechanisms shall be submitted as a forty-five-day
12 tariff transmittal filing or as part of a general rate case
13 application.

14 (b) By July 1, 2026, the commission shall establish a
15 water carrier inflationary cost index automatic adjustment
16 mechanism for each water carrier of property. The mechanism
17 shall:



1 (1) Reflect the applicable annual percentage change in the
2 increase of wharfage rates set by the department of
3 transportation, harbors division, pursuant to
4 applicable administrative rules;
5 (2) Be applied on an annual basis in accordance with
6 subsection (c); and
7 (3) Be no more than five per cent per year.
8 (c) Beginning on July 1, 2026, the mechanism shall be
9 applied at an ongoing, repealing three-year cycle, as follows:
10 (1) In the first and second years of the three-year cycle,
11 the water carrier inflationary cost index automatic
12 adjustment mechanism shall be applied annually; and
13 (2) For the third year of the three-year cycle, regardless
14 of whether the water carrier is seeking any rate
15 changes for the transportation of property, the water
16 carrier shall submit an application with the rates,
17 fares, or charges for the transportation of property
18 that the water carrier proposes to be effective in the
19 third year of the three-year cycle. The application
20 shall be subject to the review and process



1 requirements for a standard rate increase application
2 under subsections 271G-17(d) and (e)."

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

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

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

11 **"S271G-17 Tariffs of water carriers.** (a) Every water
12 carrier shall file with the ~~public utilities~~ commission, and
13 print, and keep open to public inspection, tariffs showing all
14 the rates, fares, and charges for transportation, and all
15 services in connection therewith, of passengers or property.

16 The rates, fares, and charges shall be stated in terms of lawful
17 money of the United States. The tariffs required by this
18 section shall be published, filed, and posted in ~~such~~ the form
19 and manner, and shall contain ~~such~~ information as the
20 commission by ~~regulations~~ rules shall prescribe~~; and the~~.
21 The commission may reject any tariff filed with it ~~which~~ that



1 is not in consonance with this section and with the
2 ~~regulations.~~ rules. Any tariff so rejected by the commission
3 shall be void and its use shall be unlawful.

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



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

16 The commission may upon complaint of any interested person
17 or upon its own initiative at once and, if it so orders, without
18 answer or other formal pleading by the interested carrier or
19 carriers, but upon reasonable notice, enter upon a hearing
20 concerning the lawfulness of the rate, fare, or charge, or the
21 rule, regulation, or practice, and pending the hearing and the



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

15 (e) When a rate increase application is filed, the
16 commission may in its discretion and after public notice, and
17 upon showing by a water carrier of probable entitlement and
18 financial need, authorize temporary increases in rates, fares,
19 and charges; provided that the commission shall by order require
20 the carrier to keep accurate account in detail of all amounts
21 received by reason of [such] the increase, specifying by whom



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

9 (f) Notwithstanding subsections (a) through (e), any
10 request to establish an automatic adjustment mechanism made by a
11 water carrier shall be submitted as a forty-five-day tariff
12 transmittal filing or as part of a rate case application.

13 (g) Notwithstanding any provision of this chapter or any
14 law, decision, order, or rule to the contrary, the commission,
15 upon the application of a water carrier, may waive or exempt a
16 water carrier from any or all requirements of this chapter or
17 any applicable decision, order, rule, or other law upon a
18 determination or demonstration that any requirement or
19 requirements should not be applied to water carriers or are
20 otherwise unjust, unreasonable, or not in the public interest."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 5. This Act shall take effect upon its approval.
4

INTRODUCED BY: Donnie R. Payne



S.B. NO. 2694

Report Title:

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

Description:

Authorizes the Public Utilities Commission to establish automatic adjustment mechanisms to address economic factors sua sponte or on application by a water carrier. Requires the Public Utilities Commission to establish a water carrier inflationary cost index automatic adjustment mechanism. Authorizes the Public Utilities Commissions to waive or exempt any water carrier from any requirement under the Hawaii Water Carrier Act.

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