

---

---

# 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, repeating 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 section 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           "**§271G-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 prescribed by the commission by [~~regulations shall prescribe;~~  
21 ~~and the~~] rules. The commission may reject any tariff filed with



1 it [~~which~~] that is not in consonance with this section and with  
2 the [~~regulations.~~] rules. Any tariff so rejected by the  
3 commission 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.



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

5 (d) Whenever there is filed with the commission any  
6 schedule stating a new rate, fare, or charge[~~τ~~] 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 water carrier may on its own initiative, or shall by order of  
11 the commission served [~~prior to~~] before the effective date of  
12 the 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 water carrier  
19 or water carriers, but upon reasonable notice, enter upon a  
20 hearing concerning the lawfulness of the rate, fare, or  
21 charge[~~τ~~] or the rule, regulation, or practice, and pending the



1 hearing and the decision [~~thereon~~] by the commission, by  
2 delivering to the affected water carrier or water carriers  
3 [~~affected thereby~~] a statement in writing of its reasons  
4 therefor, may suspend the operation of the schedule and defer  
5 the use of the rate, fare, or charge[~~7~~] or the rule, regulation,  
6 or practice. From the date of ordering a hearing to investigate  
7 the lawfulness of the rate, fare, or charge, the commission  
8 shall have up to six months to complete its investigation. If  
9 the commission fails to issue a final order within the six-month  
10 period then the changes proposed by the water carrier shall go  
11 into effect. At any hearing involving a change in a rate, fare,  
12 charge, or classification[~~7~~] or in a rule, regulation, or  
13 practice, the burden of proof shall be upon the water carrier to  
14 show that the proposed changed rate, fare, charge,  
15 classification, rule, regulation, or practice[~~7~~] is just and  
16 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 water carrier to keep accurate account in detail of all  
2 amounts received by reason of [~~such~~] the increase, specifying by  
3 whom 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 subsections (a) through (e), any  
12 request to establish an automatic adjustment mechanism made by a  
13 water carrier shall be submitted as a forty-five-day tariff  
14 transmittal filing or as part of a general rate case  
15 application.

16 (g) Notwithstanding any provision of this chapter or any  
17 law, decision, order, or rule to the contrary, the commission,  
18 upon the application of a water carrier, may waive or exempt a  
19 water carrier from any or all requirements of this chapter or  
20 any applicable decision, order, rule, or other law upon a  
21 determination or demonstration that any requirement or



1 requirements should not be applied to water carriers or are  
2 otherwise unjust, unreasonable, or not in the public interest."

3 SECTION 4. (a) No later than July 1, 2026, the public  
4 utilities commission shall appoint a special overseer to monitor  
5 the financial and operational performance of any water carrier  
6 of property that:

7 (1) Has received a general rate increase of twenty per  
8 cent or more within the preceding three fiscal years;  
9 or

10 (2) Is the sole provider of regulated water carrier  
11 services to any port in the State.

12 (b) The special overseer shall be an independent third  
13 party with expertise in maritime logistics, utility finance, or  
14 corporate restructuring, and shall be selected through a  
15 competitive procurement process. The term of the appointment  
16 shall be no less than twenty-four months, with the public  
17 utilities commission having the option to extend the term as  
18 necessary to ensure the water carrier's long-term financial  
19 stability.

20 (c) The special overseer shall have the following powers  
21 and duties:



- 1           (1) Examine all financial and business records, accounts,  
2                   and internal reports of the water carrier;
- 3           (2) Attend all meetings of the water carrier's board of  
4                   directors as a non-voting observer;
- 5           (3) Monitor the water carrier's compliance with any  
6                   business stabilization plans or performance standards  
7                   mandated by the public utilities commission;
- 8           (4) Verify the accuracy of all monthly and quarterly  
9                   performance reports submitted by the water carrier to  
10                  the public utilities commission; and
- 11          (5) Provide quarterly reports to the public utilities  
12                  commission and legislature regarding the water  
13                  carrier's financial health and operational efficiency.
- 14          (d) The costs and expenses associated with the special  
15 overseer shall be borne by the water carrier and shall be  
16 considered a non-recoverable expense. The public utilities  
17 commission shall prohibit the water carrier from recovering any  
18 portion of these costs through its rate base, general rate  
19 increases, or any specific surcharges imposed upon customers.
- 20          SECTION 5. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 3000.



**Report Title:**

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

**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 Commission to waive or exempt any water carrier from any requirement under the Hawaii Water Carrier Act. By 7/1/2026, requires the Public Utilities Commission to appoint a special overseer. Effective 7/1/3000. (HD2)

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

