

STAND. COM. REP. NO.

237

Honolulu, Hawaii

FEB 16 2011

RE: S.B. No. 98

S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Transportation and International Affairs,
to which was referred S.B. No. 98 entitled:

"A BILL FOR AN ACT RELATING TO WATER CARRIERS,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify the procedures of the Public Utilities Commission in processing applications from water carriers for certificates of convenience and necessity to operate between islands and to require public hearings before approvals of these applications are granted.

Your Committee received testimony in support of this measure from Young Brothers, Limited, Friendly Market Center, Ltd., Nalo Farms, Inc., Molokai Chamber of Commerce Foundation, Maui Hotel & Lodging Association, Lanai Oil Company, Mauna Kea Banana Company, Inc., Hawaii Cattlemen's Council, Kona-Kohala Chamber of Commerce, Hawaii Farm Bureau Federation, Maui County Farm Bureau, Suisan Company, Ltd., and the Hawaii Food Industry Association. Comments were received from the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs and the Public Utilities Commission.

Your Committee finds that the State's water cargo transportation industry is critical to the economic health of its island communities. In recognition of the significance of a healthy, efficient, and accessible water transportation system, the Legislature passed the Hawaii Water Carrier Act, codified as chapter 271G, Hawaii Revised Statutes, to subject water carriers

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to the regulatory oversight of the public utilities commission. The regulatory framework created by chapter 271G includes a requirement that a water carrier apply for and receive a certificate of public convenience and necessity from the Public Utilities Commission before engaging in operations within the State. Issuance of a certificate of public convenience and necessity requires findings that the applicant is willing and able to properly perform the proposed service and conform to applicable laws and rules and that the proposed service is currently required for the convenience and necessity of the public or that it will be in the future.

This measure addresses recent concern over the granting of a temporary certificate of public convenience and necessity to a new water carrier to ship freight between specified interisland harbors. The concern is that certain issues, such as the efficiencies of scale, market economies and pricing, and limited competition in the marketplace for water carriers, need to be carefully considered. The intent of this measure is to open the Commission's deliberation process to the public on islands affected by an application for a certificate of convenience and necessity. Your Committee's intent is to avoid possible long-term detriment to interisland freight shipping.

Your Committee has amended this measure by:

- (1) Prohibiting the Public Utilities Commission from making specified findings or issuing an authorization to operate as a water carrier without certain supportive evidence;
- (2) Prohibiting the issuance of a certificate of convenience and necessity if the certificate permits an applicant to serve only high-margin or high-profit ports or lines of service that are currently served by an existing carrier;
- (3) Making exceptions for certain emergency situations; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

The amended measure is the product of consensus between the Public Utilities Commission and Young Brothers, Limited. Your Committee believes that the amended measure represents a fair and



equitable balance of the interests amongst the regulators, the general public, and shipping companies.

As affirmed by the record of votes of the members of your Committee on Transportation and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 98, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 98, S.D. 1, and be referred to the Committee on Commerce and Consumer Protection.

Respectfully submitted on
behalf of the members of the
Committee on Transportation and
International Affairs,

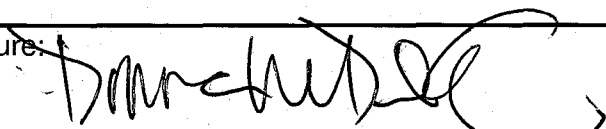


J. KALANI ENGLISH, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Transportation and International Affairs
TIA

Bill / Resolution No.:* SB 98	Committee Referral: TIA, CPN	Date: 2/9/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
ENGLISH, J. Kalani (C)	✓			
ESPERO, Will (VC)				✓
DELA CRUZ, Donovan M.	✓			
GABBARD, Mike				✓
KAHELE, Gilbert	✓			
KOUCHI, Ronald D.				✓
SLOM, Sam	✓			
TOTAL	4			3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes