

SB 98



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

335 MERCHANT STREET, ROOM 310

P.O. Box 541

HONOLULU, HAWAII 96809

Phone Number: 586-2850

Fax Number: 586-2856

www.hawaii.gov/dcca

KEALI'I S. LOPEZ
INTERIM DIRECTOR

EVERETT KANESHIGE
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON TRANSPORTATION AND
INTERNATIONAL AFFAIRS

THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

MONDAY, FEBRUARY 7, 2011
1:20 P.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR,
DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS, TO THE HONORABLE J. KALANI ENGLISH, CHAIR, AND
MEMBERS OF THE COMMITTEE

SENATE BILL NO. 98 – RELATING TO WATER CARRIERS.

DESCRIPTION:

This measure requires public hearings before Public Utility Commission ("PUC") approval of a water carrier's application for a certificate of public convenience and necessity ("CPCN"), clarifies the required findings for a finding of public convenience and necessity, and clarifies notice requirements for public hearings.

POSITION:

The Division of Consumer Advocacy ("Consumer Advocate") acknowledges the intent of the measure and offers its comments.

COMMENTS:

The measure seeks to amend Hawaii Revised Statutes, § 271G-10 to require public hearings for applications for certificates of public convenience and necessity and also require additional specific findings.

Senate Bill No. 98
Senate Committee on Transportation and International Affairs
Monday, February 7, 2011, 1:20 p.m.
Page 2

The Consumer Advocate supports the proposed requirement of public hearings for each such application and, while there are questions about the cost effectiveness of having more than one notice for each public hearing, also supports the intent of having more than one hearing notice.

In addition, while the Consumer Advocate supports the provisions in this legislation that require specific findings based on the evidence by the Commission as to applications for a CPCN by water carriers, the Consumer Advocate has concerns over certain provisions. One example is in the last paragraph of section 271G-10(e), which states as follows:

"The commission shall not make a finding of public convenience and necessity nor issue a certificate if the evidence in the record indicates that the issuance of the certificate will diminish an existing water carrier's ability to realize its allowed rate of return or if the certificate would allow an applicant to serve only high-margin or high-profit ports or lines of service that are currently served by an existing carrier."

This provision is overly broad, vague, and sets no standard by which to apply this provision. For example, it does not indicate to what extent the existing carrier's rate of return is to be diminished. Is any diminution in the rate of return sufficient to deny another water carrier's CPCN? The Consumer Advocate's concern is that this provision could be used to prevent a passenger/vehicle water carrier from entering the market, as well effectively precluding any possibility of any other carrier from entering even if the existing carrier were not able to meet future demands for service.

Thank you for this opportunity to testify.

**WRITTEN TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS
FEBRUARY 7, 2010**

MEASURE: S.B. No. 98
TITLE: Relating to Water Carriers

Chair English and Members of the Committee:

DESCRIPTION:

This bill:

- Requires public hearings before PUC approval of a water carrier's application for certificate of public convenience and necessity.
- Clarifies the required findings for a finding of public convenience and necessity;
- Clarifies notice requirements for public hearings; and
- Deters new water carriers from gaining entry into the market.

POSITION:

The Commission defers to the Legislature on much of the substantive matters of this bill, and offers the following comments.

COMMENTS:

On page 3, line 18, in the section on notice for public hearings, the bill reads "Notice under this section shall be effectuated by filing the notice with the commission, which shall make it available for public inspection." The intent of this sentence is unclear, as the bill requires the Commission to provide the notice. All notices of public hearings are available for public inspection.

The Commission defers to the Legislature as to whether the State's policy should be to prohibit the entry of additional water carriers into the market in Hawaii. This bill would make it extremely difficult, if not impossible, for companies to gain entry into the water carrier market in Hawaii. On page 6, line 5, the bill states, "the commission shall not make a finding of public convenience and necessity nor issue a certificate if the evidence in the record indicates that the issuance of the certificate will diminish an existing water carrier's ability to realize its allowed rate of return or if the certificate would allow an applicant to serve only high-margin or high profit ports or lines of service that are

currently served by an existing water carrier.” The Commission defers to the Legislature on what findings should be required to issue a CPCN, but this Committee should be aware that this paragraph, among others, would make it very difficult for any new water carrier to enter the market, which could give consumers other options for shipping goods intrastate.

Thank you for the opportunity to testify.



Your Neighbor Island Partner

Pier 40, P.O. Box 3288, Honolulu, HI 96801-3288
Ph: (808) 543-9311, Fax: (808) 543-9458
www.youngbrothershawaii.com

SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

**THE HONORABLE J. KALANI ENGLISH, CHAIR
THE HONORABLE WILL ESPERO, VICE CHAIR**

SENATE BILL NO. 98 scheduled for hearing on February 7, 2011

**Testimony of Roy Catalani,
Vice President of Strategic Planning and Government Affairs,
Young Brothers, Limited**

Chair English, Vice Chair Espero, and Members of the Senate Committee on Transportation and International Affairs:

Thank you for the opportunity to testify on Senate Bill No. 98 (*SB 98*).

Young Brothers, Limited (*Young Brothers*) strongly supports this bill.

SB 98 clarifies the legislative intent underlying the existing requirement for a finding of present or future public convenience and necessity in admitting new entrants into the regulated intra-state water transportation industry. This finding is required before the Hawaii State Public Utilities Commission (the *PUC*) issues a certificate of public convenience and necessity (*CPCN*) to a new water carrier.

As the Committee well knows, Young Brothers is a water carrier regulated by the PUC. We transport cargo mainly to serve the State's Neighbor Island communities. In hearings before the Senate Committee on Commerce and Consumer Protection this session, Young Brothers has articulated serious concerns arising from the PUC's decision to grant "interim" approval of Pasha Hawaii Transport Lines LLC's application for a certificate of public convenience and necessity (*CPCN*). As we pointed out, without a legislative mandate, the PUC's decision changes the regime by which water carriers are to be regulated in this State. These changes have diminished Young Brothers' ability to attract capital and thereby carry economic risks that impact most heavily those neighbor island communities served by Young Brothers.

Young Brothers respectfully submits that, in the context of water carriers, a key question of legislative policy is this: Does a *regulatory* or *competitive* system best serve those who depend upon it,

particularly neighbor island residents and businesses? Although we believe a *regulatory* system best serves the public interest, we also ask that, whatever policy choice the legislature makes, the same rules apply to all those who seek to provide service. We appreciate and support the answers provided in this bill.

SB 98 addresses these concerns directly and significantly. The legislation reiterates and clarifies the Legislature's policy with respect to regulation of water carriers. The bill clearly enumerates the factors that the PUC should consider, and should have considered, even under the law as it stands today, with respect to reviewing applications for water carrier CPCNs.

Young Brothers has some ministerial matters to point out in the following sections of the bill:

- **Section 2:** In the new section proposed for addition to Hawaii Revised Statutes (*HRS*) chapter 271G, subsection (b) provides in part: "Notice under this section shall be effectuated by filing the notice with the commission, which shall make it available for public inspection." It appears, however, that the notice is issued by the commission itself and is effectuated by the proposed subsection (c). Perhaps the quoted passage may be inapplicable.
- **Section 3:** The legislation proposes revisions and additions to HRS § 271G-10, which covers applications for CPCNs. The proposed revisions are similar to those proposed in Senate Bill No. 99 (*SB99*), which was heard by the Committee on Commerce and Consumer Protection on February 4, 2011. That bill, however, includes the following new subsection (g) that addresses the issuance of interim or temporary CPCNs, which is not in SB 98:

(g) The commission shall not issue any certificate that is designated as interim or temporary or that otherwise does not conform to the requirements of this chapter except in response to an emergency situation; provided that an emergency situation shall mean a state-declared emergency including disaster relief pursuant to chapter 127 or a civil defense emergency pursuant to chapter 128. Any certificate issued pursuant to this subsection shall expire upon the expiration of the state-declared emergency or an earlier date determined by the commission in response to prevailing conditions. An extension of a certificate granted pursuant to this subsection beyond the expiration of the state declared emergency or date determined by the commission shall be granted only subject to the notice, hearing, and findings requirements of this chapter.

An existing statutory provision, HRS § 271G-12, does provide for the PUC's granting of temporary authority:

[\$271G-12] Temporary authority. To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting the need, the public utilities commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a water carrier. The temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the commission shall specify, but for no

more than a period of one hundred twenty days for any one immediate and urgent need.

The proposed subsection (g) provides additional legislative guidance to the PUC. It spells out (1) the circumstances under which temporary (or interim) CPCNs are appropriate (state-declared or civil defense emergencies) and the steps required to extend the temporary (or interim) CPCN beyond expiration of the emergency. Young Brothers suggests that this new subsection (g) be added to SB 98, in consonance with SB 99.

We would be happy to work with Committee staff to address these matters.

Thank you for the opportunity to testify.

**Please submit this letter as testimony for:
Senate Transportation and International Affairs Committee
Hearing on Senate Bill No. 98. Relating to Water Carriers
February 7, 2011, 1:20 pm**

From: Jeffrey S. Egusa, President & General Manager
Friendly Market Center, Ltd.
PO Box 1919
Kaunakakai, Moloka`i, HI 96748

Re: SENATE BILL 98, Relating to Water Carriers

The Honorable Chairperson Rosalyn H. Baker
The Honorable Vice Chairperson Brian T. Taniguchi

Friendly Market Center appreciates and is in support of Senate Bill 98 relating to Water Carriers.

The Public Utility Commission's (PUC) decision to issue shipping company, PASHA, a Certificate of Public Convenience and Necessity (CPCN) both shocked and disappointed us here on Molokai. The CPNC now allows PASHA to compete with Young Brothers for inter-island shipping business but only "cherry pick" ports they want to service. Our letters of concern to the PUC were never acknowledged; I'm not sure if they were even read. There was no public hearing.

Young Brothers Ltd, as a PUC regulated entity, has been required to provide service to all islands as a critical need. For decades Young Brothers has been delivering staples such as fresh milk, produce, canned foods, feed, building materials, etc for both businesses and residents. We are thankful that HTYB, as a whole, is a profitable business knowing quite well that shipping to Molokai is not a profitable stop. Why should Pasha be allowed to pick only the most profitable ports to do business in and leave business at smaller, "break-even or below cost", ports for Young Brothers to carry alone. If PASHA wants into the shipping market then they should abide by the same terms imposed on Young Brothers by the PUC; that is shipping all commodities to ALL islands.

Friendly Market Center is seriously concerned that our inter-island barge service will destabilize resulting in higher shipping costs, reduction in service days, elimination of the "less than container load" option, or loss of barge service all together.

With the increased challenge of commerce and population growth within our fragile island-state environment, it's the responsibility of the PUC to be able to critically assess the long-term ramifications of any decision they render. Senate Bill 98 more clearly defines standards regulating the issuance of a Certificate of Public Convenience and Necessity (CPCN).

Thank you for your kind attention.

Respectfully,

Jeffrey S. Egusa

Testimony in Strong Support of SB 98

SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

**THE HONORABLE J. Kalani, English, CHAIR
THE HONORABLE Will Espero, VICE CHAIR**

SENATE BILL NO. 98 scheduled for hearing on February 7, 2011 at 1:20 p.m.

**Testimony of Dean Okimoto
President of Nalo Farms, Inc.**

I strongly support Senate Bill 98. I presented testimony at the Informational Briefing on December 2, 2010 (held by the Senate Committee on Commerce and Consumer Affairs) as President of Nalo Farms, Inc., a Hawaii corporation, doing business in Waimanalo on Oahu. In that testimony, I made points about (a) sustainability, food security and increasing our local agricultural products for the people of Hawaii, (b) the harm that unfair competition, as authorized by the PUC in the Pasha decision, will ultimately have on the Young Brothers system upon which farmers rely, and (c) failure to take care of this problem may well put the nail in the coffin to farming on the Neighbor Islands and, along with this, any hope of increasing agricultural food production, sustainability, and food security. I attach this testimony for your reference.

In short, both neighbor island voices and the important purposes and protections of Chapter 271G of the Hawaii Revised Statutes were ignored in the Pasha case. For that reason, I strongly support the provisions of both Senate Bill 98 and 99 which require public hearings for new applications and the amendments to Section 271G-10 of the Hawaii Revised Statutes to clarify the rules relating to *public* convenience and necessity. I very strongly believe that these issues relating to PUC reform are critical problems for the Legislature to immediately correct.

Thank you for this opportunity to testify.

Testimony in Strong Support of SB 98

Senate Committee on Commerce and Consumer Protection
The Honorable Rosalyn H. Baker, Chair
The Honorable Brian T. Taniguchi, Vice-Chair

December 2, 2010
9:30 AM
Senate Room 229

Chair Baker, Vice Chair Taniguchi, and committee members,

Thank you for this opportunity to discuss and address your committee, on the interim decision and order issued by the PUC on granting PASHA to service the interisland ports for cargo service.

I come before you today as President of Nalo Farms, Inc., and a farmer that does business with over 100 restaurants and markets in Honolulu and Maui. We also sell other farmers products to many of these establishments, some products of which are brought into Honolulu on Young Brothers. I have always appreciated Young Brothers concern for helping agriculture, as we would not be able to buy and distribute some of the Neighbor Island products without YB's help in shipping discounts for agricultural products.

We hear growing talks about sustainability and food security and increasing our local agricultural products for the people of Hawaii, and yet we are now looking at a situation where we will surely make less ag products available or at the least products available at higher costs to the consumer due to increased transportation costs.

If you allow PASHA to operate without the same stipulations put on Young Brothers of servicing marginally profitable ports such as Molokai and Lanai, and allow them to pick and choose the clients that they will transport cargo for, it will put an unfair burden on YB to be competitive and they will need to do away with the discounts on ag products that they transport.

PASHA can choose all the big shippers, like car manufacturers and construction materials, service them and even make it cheaper for these items to go between islands, but it will be at the expense of food products that require shipping in refrigerated containers and farm products. Taking away the cream from YB will kill agriculture on the Neighbor Islands, as then they really become uncompetitive with farmers on Oahu. I speak as a farmer from Oahu...it may even help my business, but as a native born Hawaii resident it is absolutely wrong! Things like Okinawan sweet potato from Molokai or the Big Island, Hamakua tomatoes from Hawaii, papayas from all islands, Maui gold pineapple, Kula strawberries, etc. ... all become to high priced for our restaurants to serve on their menus.

Oahu has 85% of the consuming population in the state, so farmers on the Neighbor Islands must have access to this market to survive. YB provides us with the cheapest mode of interisland transportaion, especially with their 30% agricultural discount. Our farmers have a hard enough time competing against Mainland produce and even the farmers on Oahu, I would think this would put the nail in the coffin to farming on the Neighbor Islands....and there goes any talks of increasing agricultural food production, sustainability, and food security.

Testimony in Strong Support of SB 98

I don't know if our islands can sustain two cargo shipping companies operating in Hawaii, and I understand how we might want competition, but as legislators you must look at making sure these companies can be viable for the future of Hawaii. Ask yourselves is there enough business? do we want another Aloha airlines situation?

I thank you for the opportunity to testify. You may contact me on my cell at 479-1797, if you have any additional questions for me.

sincerely,

Dean J. Okimoto
President, Nalo Farms, Inc.

[REDACTED]

From: barbara.haliniak@hawaiiantel.net
Sent: Wednesday, February 02, 2011 4:25 PM
To: TIATestimony
Subject: Testimony for Senate Bill 98

Testimony of

Barbara Haliniak

President, Molokai Chamber of Commerce Foundation

Before:

Senate Committee on Transportation and International Affairs

Senator J.Kalani English, Chair

Senator Will Espero, Vice Chair

Notice of Hearing

Date: Monday, February 7, 2011

Time: 1:20 p.m..

Place: Conference Room 224

State Capitol

415 South Beretania Street

Testimony for Senate Bill 98

Chair English, Vice Chair Espero and committee members:

Thank you for this opportunity to address your committee. This testimony is in support of SB98, which will cover the pukas in the existing regulatory rules on a water carrier's application for a Certificate of Public Convenience and Necessity (CPCN).

We know that SB98 was in direct response from the Senate Committee on Consumer Protection December 2,

2010 Informational Briefing regarding the Public Utilities Commission Docket No 2009-0059, Pasha Hawaii. Many testimonies were provided which cited huge pukas in the existing regulatory rules for water carriers and we thank the committee members who heard our pleas, thus crafted SB98.

I would like to direct your attention to page 3 of SB98, lines 7 through 13, which talks about

a notice "to the public on each island that will be affected by the proposed service...." I hope that this notice will include Molokai and Lanai since there may be potential ripple effects, such as Pasha Hawaii's CPNC. Molokai and Lanai will not be served by Pasha Hawaii, but yet it may affect a rate increase to us, or a discontinuance of a barge service or a change in route because of the economics to Young Brothers Ltd. as outlined on page 6, lines 5 through 22 and continuing on to page 7. I hope that the contents on page 7, lines 9 through 16, covers that ripple effects which Pasha Hawaii's CPCN will do to both Molokai and Lanai. Pasha Hawaii got "cherry picking" privileges and Molokai and Lanai will get slapped with a higher rate increase and future possibility of less frequent barge service.

This SB 98 is a very important component to both Molokai's and Lanai's scales of economics, we are hopeful that this bill will ensure both of our islands will be included in future decision making. Yes, it should always include Molokai and Lanai.



Maui Hotel & Lodging
ASSOCIATION

Testimony of
Carol Reimann
Executive Director
Maui Hotel & Lodging Association
on
SB98
RELATING TO WATER CARRIERS

COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

Monday, 02-7-11 1:20pm

Conference room 224

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes approximately 120 property and allied business members – all of whom have an interest in the visitor industry. Collectively, the MHLA membership employs over 10,000 Maui County residents.

MHLA supports SB98, which will clarify the existing decision making process for water carrier by the PUC.

We are grateful for your responsiveness in drafting SB98 after the informational briefing last December regarding the Public Utilities Commission Docket No 2009-0059, Pasha Hawaii. Many testimonies were provided which exposed huge issues in the existing regulatory rules for water carriers and we appreciate that you are responding to our pleas.

The suggested amendments requiring PUC to better address neighbor island needs are essential to the viability of our economy. MHLA also supports the suggested amendment language introduced by the Hawaii Farm Bureau which will improve staff's ability to better evaluate compliance with the HWCA.

The visitor industry is the economic engine for Maui County – the majority of our businesses and residents rely on a healthy industry in order to survive. The visitor industry is just beginning to see signs of a steady recovery. Any increase to the cost of doing business could jeopardize our ability to provide first class goods & services, increase the cost of travel to our visitors, and ultimately put our viability at risk.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 02, 2011 10:37 AM
To: TIATestimony
Cc: Terry@mauioil.com
Subject: Testimony for SB98 on 2/7/2011 1:20:00 PM

Testimony for TIA 2/7/2011 1:20:00 PM SB98

Conference room: 224
Testifier position: support
Testifier will be present: No
Submitted by: Terry Mcbarnet
Organization: Lanai Oil Co.
Address: 16 hobron avenue kahului, Hi
Phone: 8082810168
E-mail: Terry@mauioil.com
Submitted on: 2/2/2011

Comments:

The interest of Lanai I think is best served by Young Brothers being the sole ocean freight provider to Lanai and between the other islands. I think the cost of living is best controlled this way. Terry McBarnet

From: CPN Testimony
Sent: Wednesday, February 02, 2011 11:43 AM
To: TIATestimony
Subject: FW: In support of SB98 Relating to Water Carriers
Attachments: image001.png

Importance: High

Just wanted to make sure you got this testimony

Kelli-Rose Hooser
CPN Clerk/ Office Aide
Senator Rosalyn H. Baker
State Capitol, Room 230
Honolulu, HI 96813
Ph: (808) 586-6070
Fax: (808) 586-6071



Reduce, reuse, recycle.

From: Richard Ha [<mailto:richard@hamakuasprings.com>]
Sent: Tuesday, February 01, 2011 9:33 PM
To: CPN Testimony
Subject: In support of SB98 Relating to Water Carriers
Importance: High

Senate Transportation and International Affairs Committee

In the matter of SB98- Relating to Water Carriers

Date; Feb 7th., 2011
Time; 1;20pm
Place: Conference Room 224

The Honorable Sen Kalani English Chair

I strongly support Senate Bill 98, to require public hearings before issuing a water carriers application for a certificate of public convenience and necessity. I presented testimony at this Committee's Informational Briefing on December 2, 2010 on behalf of Mauna Kea Banana Company. Inc., a Hawaii corporation, doing business as Hamakua Springs Country Farms (Hamakua Springs) at Pepeekeo on the Big Island. In that testimony, I made three main points with respect to how the PUC's recent decision will hurt our State:

1. From our farm point of view, we will adapt to whatever decision is made. Our decision to expand and to supply produce statewide had lots to do with Young Brothers discounted agricultural rates that was instituted many years ago. If the discount rates go away, we will make the financial decisions necessary to adapt, very quickly. We are discussing that eventuality right now. We will not wait and let our cash position deteriorate to the point it jeopardizes our future.

2. Introducing more capacity into our interisland trade at a time when economic activity is declining is foolish. Allowing this to happen in the form of "cherry-picking" is even more inexplicable, particularly when it threatens (and the new market entrant does not offer) the things upon which farmers rely such as Young Brothers' frequency of service, refrigerated service, service directly to Honolulu Harbor and the Oahu markets and island agricultural product discount.

3. To reiterate, allowing Pasha into the interisland trade could force Young Brothers to repeal or change the very things upon which farmers rely to stay in business, including the frequency and nature of the services Young Brothers offers and its agricultural subsidies as described above. Food security has to do with farmers farming and if the farmers make money, the farmers will farm. Allowing Pasha to compete with Young Brothers unfairly and at a time of economic downturn will hurt Hawaii's effort to become food secure.

Many of us who live and work on the neighbor island businesses made these exact points repeatedly before the PUC's decision in the Pasha case. Whatever the motivation for ignoring the public, all of us got a short term decision that may be suited to Pasha's convenience and necessity, but is not suited to the long term public convenience and necessity. As noted, allowing a new company to cherry-pick an existing utility is beyond foolish and will not only hurt the farming community, but the State as a whole. Holding public hearings might have prevented the short sighted decision that was just instituted.

i

Mahalo for the opportunity to testify

Aloha

Richard Ha
President
Mauna Kea Banana Co.

[REDACTED]

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 01, 2011 12:16 PM
To: TIATestimony
Cc: gottlieb@hawaii.rr.com
Subject: Testimony for SB98 on 2/7/2011 1:20:00 PM

Testimony for TIA 2/7/2011 1:20:00 PM SB98

Conference room: 224
Testifier position: support
Testifier will be present: No
Submitted by: Alan Gottlieb
Organization: Hawaii Cattlemen's Council
Address:
Phone:
E-mail: gottlieb@hawaii.rr.com
Submitted on: 2/1/2011

Comments:



75-5737 Kuakini Hwy, Suite 208
Kailua-Kona, HI 96740

Phone: 329-1758 Fax: 329-8564

www.Kona-Kohala.com info@kona-kohala.com

**Testimony to the Senate Committee on Transportation and International Affairs
Monday, February 7, 2011; 1:20 p.m.
Conference Room 224**

RE: In Support of SB 98

Aloha Chair English, Vice Chair Espero and Members of this Committee,

My name is Vivian Landrum and I am the President/CEO of the Kona-Kohala Chamber of Commerce (KKCC). KKCC represents over 550 business members and is the leading business advocacy organization on the west side of Hawai'i Island. KKCC also actively works to enhance the environment, unique lifestyle and quality of life in West Hawai'i for both residents and visitors alike.

KKCC applauds the efforts in SB 98 to make necessary changes to the public utilities commission. As reflected in the recent Pasha decision, it is strongly felt that the neighbor islands were not truly recognized nor represented during that process. Seeking greater transparency in the approval process and requiring neighbor island public hearings is a change we strongly support. The neighbor island perspective is imperative when making decisions that impact the entire State. As noted in this Bill, "the State's water cargo industry is critical to the economic health of its island communities." All impacted "island communities" must be informed, consulted and heard before any decisions can be finalized.

KKCC supports competition in a business market, however feels this works well only when the rules are clearly defined and followed. The proposed changes for application for certificates of public convenience and necessity elucidate the requirements and provide a clear level of measurement to assist in the decision making process.

We strongly urge this Committee to support this legislature. The neighbor islands often face different economic challenges than Oahu and need that recognition from this body. This Bill will help to correct that disparity with the public utilities commission.

Mahalo for the opportunity to submit our testimony.

Sincerely,

A handwritten signature in cursive script that reads "Vivian Landrum".

Vivian Landrum
President/CEO



Hawaii Farm Bureau
F E D E R A T I O N

2343 Rose Street, Honolulu, HI 96819
Phone: (808) 848-2074; Neighbor Islands: 1-800-482-1272
Fax: (808) 848-1921; e-mail: info@hfbf.org

January 31, 2011

TESTIMONY

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

RE: SB 98: RELATING TO WATER CARRIERS

Chair English and Members of the Committee:

Hawaii Farm Bureau Federation on behalf of our commercial farm and ranch families and organizations across the State **strongly supports with suggested amendments**, SB98, clarifying the decisionmaking process for water carriers by the PUC.

Since 2009, HFBBF has commented on the certificate of convenience application by Pasha Hawaii to the PUC. All of our comments were in vain and there was no indication that they were considered. Interisland transportation is one of the critical aspects of agricultural viability. The service must be affordable, reliable and able to deliver our goods with good product integrity.

Concurrently, food safety regulations are evolving. There have been many bills introduced in the past and this year, with much of the focus placed on the farms and ranches. However, food safety is farm to table, meaning the transportation is a critical part of the process. Temperature controls during product transport are important...do items sit in the sun between the farmer delivering his product to when the transportation company places it in the refrigerator? RFID tags to monitor temperature throughout the process is coming. The tags will log temperatures throughout the delivery process, identifying breaches in control. This means transportation companies will need to invest in their operations. Everyone in Hawaii speaks of how they want agriculture. Agricultural viability is dependent upon affordable inputs. This means the transportation system I have described above must be affordable. In the past PUC has allowed for subsidization of Island Fresh agricultural product transport by other lines of service to accommodate Hawaii's Constitutional Mandate to increase local self sufficiency. Recent decisions have urged movement toward compensatory pricing - this will put some neighbor island farms out of business. During the last price hike by YB, several of our neighbor island farms on the Big Island and Maui closed down. This happened as YB applied for the rate hike. The farmers found themselves in a position where the risk of another cost could not be borne and left the business before they faced bankruptcy. .

I don't think our story is unique to farming. We believe many small businesses across the State may be in the same situation. Therefore, we especially support the amendments defining the conditions for approval of the certificate. We believe it may help the process if there is a requirement to include this in the application of the certificate of need. To meet this end, we respectfully suggest the following amendment to HRS §271G-10(e)(3)

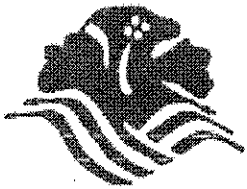
(3) The proposed service will provide demonstrated and quantifiable benefits to the general public, business community, and the economy of all islands that are entitled to notice under section 271G- , **including demonstrated and quantifiable benefits with respect to reliability, affordability and security of the service line;**

We appreciate the statements in the preface that the process needs to "serve the public interest and protect communities from the risk of harm". We believe this can only be accomplished if there is representation on the Commission from the neighbor islands. We believe it will facilitate good decisionmaking if the current appointees include neighbor island representation. This will probably require increasing the number of commissioners but the expanded responsibilities of the body in other areas of public utilities should justify the increase. The increase will also allow the range of expertise needed in the commission. To this end, we suggest amending §269-2

"§269-2 Public utilities commission; number, appointment of commissioners, qualifications; compensation; establishment and composition of panels; persons having interest in public utilities. (a) There shall be a public utilities commission composed of [~~three~~] five members, to be called commissioners, [~~and~~] who shall be appointed in the manner prescribed in section 26-34, except as otherwise provided in this section. All members shall be appointed for terms of six years each, except that the terms of the members first appointed shall be for two, four, and six years, respectively, as designated by the governor at the time of appointment. [~~The governor shall designate a member to be chairperson of the commission.~~] The commission shall elect its chairperson from one of its members. Each member shall hold office until the member's successor is appointed and qualified. Section 26-34 shall not apply insofar as it relates to the number of terms and consecutive number of years a member can serve on the commission; provided that no member shall serve more than twelve consecutive years.

In appointing commissioners, the governor shall select persons who have had experience in accounting, business, engineering, government, finance, law, or other similar fields[-]; provided that the composition of the commission shall reflect a diversity of professional knowledge and range of expertise. One commissioner shall be appointed from each of the counties and one commissioner shall be appointed at large.

We respectfully request your support in passing this measure with the suggested amendments. HFBBF is willing to work with you to improve our transportation system for the people of Hawaii. If there are any questions please contact Warren Watanabe at 2819718. Thank you.



Maui County Farm Bureau

P.O. Box 148 • Kula, Hawaii 96790 • Phone/Fax: (808) 878-2688 • www.mauicountyfarmbureau.org

February 2, 2011

TESTIMONY

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

RE: SB 98: RELATING TO WATER CARRIERS

Chair English and Members of the Committee:

Maui County Farm Bureau on behalf of our commercial farm and ranch families and organizations on the island **strongly supports** SB98, clarifying the decisionmaking process for water carriers by the PUC.

MCFB has found ourselves in PUC hearings many times over the past few years. We have advocated for affordable and reliable transportation for our farmers and ranchers. In 2009, we heard about PASHA Hawaii's application for a certificate for need. Our initial excitement about an alternative was quickly dampened when told agricultural products would not be transported. Hawaii is a small State. We saw the impacts of too much competition with the airlines.

The D&O issued for Pasha Hawaii does not seem to be consistent with the Hawaii Water Carrier Act. We therefore agree with this measure and also support HFBF's amendments to include neighbor island representation and require the applicant to state how the proposed service will positively contribute to Hawaii's transportation system.

We respectfully request that this measure be moved forward with the proposed amendment. If there are any questions, please contact Warren Watanabe at 2819718. Thank you.

From: Lauren Suzanne Zirbel [laurenzirbel@gmail.com]
Sent: Sunday, February 06, 2011 3:56 PM
To: TIATestimony
Subject: HFIA Testimony
Attachments: SB 98 Relating to WATER CARRIERS

DATE: February 7, 2011 TIME: 1:20 P.M. PLACE: CR 224

TO: SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

THE HONORABLE J. Kalani, English, CHAIR

THE HONORABLE Will Espero, VICE CHAIR

FROM: Hawaii Food Industry Association - Lauren Zirbel, Government Relations

RE: SB 98 RELATING TO WATER CARRIERS

Chairs & Committee Members:

The Hawaii Food Industry Association supports this bill.

The Hawaii Food Industry Association is an organization made up of retailers, wholesalers, manufacturers, and brokers.

HFIA represents many neighbor island businesses that are greatly affected by the PUC's decision to alter the rules regulating inter-island carriers by changing from a CPCN (Certificate of Public Convenience and Necessity) requirement to carrier convenience.

HFIA is concerned with ensuring that all neighbor island ports receive an adequate supply of food within the necessary time frame for food to remain safe and fresh.

It has come to our attention that Pasha does not offer any refrigerated services and that their vessels are only designed for roll on roll off equipment such as trucks and autos. It has also come to our attention that although Young Brothers is required to offer all lines of service, some of which are subsidized by others, Pasha will not be required to provide all lines of service. HFIA is concerned that the PUC's decision may hinder Young Brothers' ability to subsidize less profitable lines of

service to remote neighbor island communities and that this will negatively affect just in time delivery and even food security for these areas.

It is our position that the neighbor island communities affected by the PUC's decision should have been allowed more input prior to the PUC's decision.

This bill is an important step forward and it will help to rectify some of the problems that allowed decisions that did not incorporate neighbor island perspectives.

Thank you for the opportunity to testify.

THE TWENTY-SIXTH LEGISLATURE

REGULAR SESSION OF 2011

COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

Senator J. Kalani English, Chair

Senator Will Espero, Vice Chair

NOTICE OF HEARING

DATE: Monday, February 7, 2011

TIME: 1:20 p.m.

PLACE: Conference Room 224

State Capitol

415 South Beretania Street

A G E N D A

SB 98

RELATING TO WATER CARRIERS.

TIA, CPN

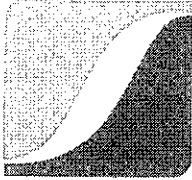
Testimony

Requires public hearings before PUC approval of a water carrier's application for certificate of public convenience and necessity. Clarifies the required findings for a finding of public convenience and necessity. Clarifies notice requirements for public hearings.

Status

--

Lauren Zirbel
LSZ Consulting
Government and Community Relations
Direct Line: 808-294-9968



SUISAN Company, Ltd.

1965 KAMEHAMEHA AVE. P.O. BOX 366 HILO, HAWAII 96720

PHONE: 808-935-8511

VIA ELECTRONIC MAIL

The Honorable J. Kalani English, Chair
The Honorable Will Espero, Vice Chair
Senate Committee on Transportation and International Affairs
State Capitol, Conference Room 224
415 South Beretania Street
Honolulu, Hawaii 96813

February 4, 2011

Dear Senator English and Senator Espero:

Re: Senate Bill No. 98 Scheduled for Hearing on February, 7, 2011 at 1:20 p.m.

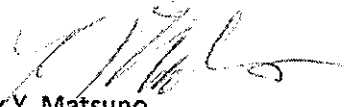
Suisan Company, Limited ("Suisan") is the premier distributor of frozen and chilled food products, fresh produce, dry grocery, disposables, cleaners, and paper products on the Big Island of Hawaii. Substantially all of the merchandise Suisan distributes arrives by way of water transportation. Given the great importance of water transportation to "neighbor island" businesses, we were indeed surprised last year when the Public Utilities Commission ("PUC") granted Pasha Hawaii Transport Lines an interim certificate of public convenience and necessity without holding any public hearings on the matter.

We earlier submitted testimony to the Senate Committee on Commerce and Consumer Protection in favor of Senate Bill 99, Short Title: Public Utilities Commission; Commissioners; Staff; Appropriation. We now wish to express our support for the intent and purpose of Senate Bill No. 98, which we see as an important companion bill to Senate Bill 99. We strongly favor the mandating of public hearings before the PUC grants a water carrier a certificate of public convenience and necessity, as such a crucial decision should properly be made only after considering the input from those that will be affected by it. We also like the fact that the Bill makes clear what will be required before a finding of public convenience and necessity could be made by the PUC.

We are grateful for the opportunity to provide our thoughts on this matter.

Very truly yours,

SUISAN COMPANY, LIMITED



Rex Y. Matsuno
President

RYM/wkw

FAX: 808-935-2737