DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

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

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# Testimony of the Department of Commerce and Consumer Affairs

**Before the**
**Senate Committee on Commerce and Consumer Protection**
**And**
**Senate Committee on Ways and Means**
**Thursday, February 24, 2022**
**9:30 AM**
**Via Videoconference**

**On the following measure:**
**S.B. 2756, SD1, RELATING TO WATER CARRIERS**

Chair Baker and Dela Cruz and Members of the Committee:

My name is Dean Nishina, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Division of Consumer Advocacy. The Department offers its comments on this bill.

The purpose of this bill is to 1) establish a two-tier rate adjustment for water carriers, 2) establish broad-based interstate and interisland water carrier agriculture cargo shipping subsidies; and 3) appropriate funding to the Department of Transportation, Harbors Division, to fund and implement an interstate water carrier agriculture subsidies program.

S.B. 2756, SD1, includes the following amendments:

- Before January 1, 2024, the Public Utilities Commission ("Commission") shall establish a two-tier water carrier inflationary cost index;

- For tier one, the inflationary rate adjustment for each calendar year will be calculated by using the consumer price index and shall not exceed five percent per calendar year;

- For tier two, the Commission shall grant an expense justified rate increase based on proof of performance measures that there has been no material decline in the water carrier's operations, safety, or customer service levels;

- The water carrier agriculture shipping subsidies program shall be administered in accordance with the requirements for subsidies previously enacted for other administrative grant programs;

- Appropriating $200,000 to the Commission to establish the inflationary cost index; and

- Appropriating $750,000 to the Department of Transportation for the interstate water carrier agriculture subsidies program.

The bill proposes two new sections to § 271G. The first section proposal is based on the recommendations contained in the Water Carriers Working Group Report submitted to the Legislature on December 27, 2021 as required by 2020 Senate Resolution No. 125, S.D.1 ("SR125") to develop mid-term and long-term solutions to support the financial viability of the water carrier service throughout the state. The second section proposal will establish an agriculture cargo shipping subsidy that will be administered by the Department of Transportation – harbors division and will be general funded.

The Department is in strong support of this measure's proposals to establish the proposed interstate and interisland water carrier agriculture cargo shipping subsidies and the appropriation of funding to implement the subsidies program. Young Brothers, Ltd. (YB) currently implements an agricultural discount in its tariff where a YB customer can receive a discount of 30% to 35% when shipping island agriculture products between islands[1] and the proposed agriculture cargo shipping subsidy will accomplish

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1 YB's Island Agriculture Product Discount: http://htbyb.com/wp-content/uploads/Local-Tariff-No.-5-A-Effective-09.01.2020.pdf#page=70

two important objectives: 1) it will make shipping agricultural goods more affordable, which is needed especially after the recent significant rate increase that was required to address YB's financial issues; and 2) it is general funded and will not require other customers to subsidize the program and will mitigate further increases to other customers. The Department defers, however, to the Department of Agriculture and the Department of Transportation as to the implementation of the subsidies program and whether tasking the Department of Transportation to administer the program in Chapter 271G is appropriate.

As it relates to the proposed two-tier rate adjustment for water carriers, the Department strongly opposes the adoption of the relevant language. The Department appreciates the intent of this bill to support the water carrier industry as it plays a crucial role in sustaining each island's economy and community as well as the intent to support Hawaii's agricultural industry by making shipping more affordable for those customers and recognizes that any disruptions in intrastate water carrier services could present significant hardships to businesses, the agriculture and livestock communities, families, and the communities at large, especially for the neighbor island communities. While the Department appreciates the efforts of the Water Carrier Working Group to develop possible mid-term and long-term solutions to support the intrastate water carrier industry and in particular, Young Brothers, LLC ("Young Brothers"), establishing a two-tier rate adjustment for water carriers is not in the long-term interest of the public and should not be adopted as it may result in unintended consequences where unreasonable increases in rates may occur causing businesses and individuals to find that they can no longer afford the services of the water carrier.

It is important to note the circumstances leading up to the adoption of SR125 in July 2020. In its request for an emergency rate increase, Young Brothers explained that it had experienced increasing operating costs and declining cargo volumes which resulted in net operating losses of $11,380,000 in 2018 and $10,186,000 in 2019.[2] Then, with the onset of the COVID-19 pandemic and the shutdown of Hawaii's visitor industry, Young Brothers experienced a decline in its regulated cargo volume of over

[2] May 29, 2020 letter from Young Brothers to the Commission filed in Docket No. 2020-0084.

30% as well as a decline in its unregulated cargo volume by over 10% which significantly added to Young Brothers' net operating losses. At the same time, Young Brothers' parent company stopped providing financial support to Young Brothers as of June 2020. In an effort to sustain its operations with the limited cash resources, Young Brothers reduced its sailing schedule and even cancelled certain routes. To address its mounting operating losses and avoid bankruptcy, Young Brothers then requested that the Public Utilities Commission ("Commission") grant an emergency rate increase of 46% across all commodities.

After its review of the emergency rate increase was complete, including an evidentiary hearing, the Commission determined that "Young Brothers' financial issues, including rising operating expenses and declining cargo volumes and revenues, began well before the current economic downturn" [3] caused by COVID-19. However, to avoid the possibility of Young Brothers discontinuing regulated water carrier service throughout Hawaii, the Commission approved the 46% increase under several conditions, one of which was that Young Brothers would be subject to a financial and management audit by an independent party to review Young Brothers' financial and management practices given the persistent operating losses that predated COVID-19.

Pursuant to the Commission's Order, the independent auditor filed its financial and management audit report ("Audit Report") on September 9, 2021, which can be viewed using the following link. The independent auditor made the following observations that highlight the concern that this bill's proposed two-tier adjustment may be unwarranted and may lead to unreasonably high rates for Young Brothers' customers.

- Young Brothers is now very profitable as a result of the 46% emergency rate increase and questioned whether the 46% emergency rate increase is still necessary.[4] It should be noted that when the 46% emergency rate increase was requested, Young Brothers stated that the requested increase was

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[3] Commission Order No. 37280 at 2 filed in Docket No. 2019-0117 on August 17, 2020.

[4] Audit Report at 13.

needed to financially break even[5] and Young Brothers is now earning significantly in excess of its allowed rate of return.[6]

- In 2015, Young Brothers agreed to a collective bargaining agreement that increased union labor costs by 10% **annually** from 2016 to 2020. Since Young Brothers had not been profitable since 2016, the labor increases coupled with the sudden decrease in cargo volumes due to COVID-19 resulted in a cashflow crisis for Young Brothers. Further adding to the cashflow crisis was the termination of all financial support from Young Brothers' parent company as of June 2020.[7]
- The steady cadence of rate increases from 2005 to 2012 probably led Young Brothers' leadership to focus more on revenues than managing costs based on its belief that costs would automatically be passed through to customers in the next rate case.[8]
- Instead of taking lasting actions to contain costs, Young Brothers has taken actions to reverse several cost containment activities that were implemented during the height of Young Brothers financial crisis.[9] Thus, even though the increase was supposed to provide sufficient funds for Young Brothers to only break even, Young Brothers is earning above the authorized rate of return even with cost containment measures no longer being pursued (in other words, if cost containment efforts were still in place, the profit would be even higher).

Importantly, the independent auditor recommended that the Commission and the legislature not allow any automatic increase for inflation until Young Brothers has demonstrated a clear commitment and is actively making changes to contain costs. By allowing the two-tier rate adjustment, Young Brothers will not have addressed the operational improvements and cost containment measures that are necessary for them

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5 Young Brothers' response to CA-IR-1 at 2, filed in Docket No. 2020-0084.
6 Young Brothers' allowed intrastate rate of return is 9.56%. Young Brothers' November 2021 filed with the Commission shows that it had earned 12.13%, far in excess of the 9.56% allowed rate of return.
7 Audit Report at 16.
8 Audit Report at 36.
9 Audit Report at 53.

to become a self-sustaining operation. An automatic inflation increase could result in the company "double dipping" on benefits at the expense of the regulated customers.[10]

Furthermore, the Department has also heard from many businesses and individuals, especially from the neighbor island farmers and ranchers who have submitted public comments to the Department and/or the Commission's document management system stating that the high cost of intrastate shipping has become unbearable and unsustainable to the point where some businesses are struggling to survive.[11] It should be further noted that, if the measure passes without modifications, the intent of assisting agricultural customers through the subsidy program will be **eliminated** by the proposed annual automatic increases in Young Brothers' rates.

While well-intended, the proposed two-tiered automatic rate increase process attempts to solve a problem by requiring customers to provide a bandage at significant costs to consumers. The Department urges the legislature to seriously consider the findings and recommendations of the independent auditor as these are consistent with the Department's observations and recommendations filed in its testimony in several of Young Brothers' rate case proceedings. The Department acknowledges that, if adopted, the automatic rate increase process would almost guarantee profitability and would likely result in excess profitability at customers' expense. The Department offers that such a result would not be in the public interest.

Lastly, while the Department's opposes the two-tier adjustment mechanism, if the two-tier system is adopted, the Department recommends that the tier-one inflationary rate adjustment be based on the Gross Domestic Product Price Index ("GDPPI") and not the Consumer Price Index ("CPI") as the CPI is heavily weighted with food, housing and other personal consumption expenditures that are not representative of the actual resources used in utility operations. Also, the Commission has adopted GDPPI as an appropriate index in proceedings to reflect inflation.[12] Furthermore, using GDPPI as the inflationary index is consistent with the language in the Water Carrier Working Group's Report.

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10 Audit Report at 191.
11 See public comments filed in Docket No. 2019-0117 and 2020-0084.
12 See Docket Nos. 2013-0141 and 2018-0088.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
GOVERNOR

CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAI'I EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAIʻI**
**DEPARTMENT OF BUDGET AND FINANCE**
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**

TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON COMMERCE AND CONSUMER PROTECTION
AND WAYS AND MEANS
ON
SENATE BILL NO. 2756, S.D. 1

**February 24, 2022**
**9:30 a.m.**
**Room 211 and Videoconference**

RELATING TO WATER CARRIERS

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2756, S.D. 1: 1) requires the Public Utilities Commission (PUC) to establish, before January 1, 2024, a Water Carrier (WC) Inflationary Cost Index (WCICI) that shall be annually adjusted according to two tiers; 2) defines Tier One as an automatic annual rate adjustment to the WC rate based on the consumer price index; 3) defines Tier Two as a justified requested rate increase, to be approved by the PUC, based on the WC's submission of evidence of no decline in operations, safety, or customer service levels; 4) requires the WCICI to exclude fuel surcharges and the WC's new capital investment; 5) caps the WCICI rate adjustment at 5% per calendar year; 6) establishes a WC Agriculture Cargo Shipping Subsidy to be increased annually by an unspecified percentage each year; 7) requires the Department of Transportation (DOT), Harbors Division, to administer and adopt rules for the subsidy program; 8) appropriates $200,000 in general funds for FY 23 for the PUC to establish the WCICI; and

9) appropriates $750,000 in general funds for FY 23 to the DOT for an Interstate WC Agriculture Subsidies Program.

B&F notes that, with respect to the general fund appropriations in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai‘i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

**WRITTEN TESTIMONY OF**
**THE DEPARTMENT OF THE ATTORNEY GENERAL**
**THIRTY-FIRST LEGISLATURE, 2022**

**ON THE FOLLOWING MEASURE:**
S.B. NO. 2756, S.D. 1, RELATING TO WATER CARRIERS.

**BEFORE THE:**
SENATE COMMITTEES ON COMMERCE AND CONSUMER PROTECTION AND ON WAYS AND MEANS

**DATE:** Thursday, February 24, 2022 **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 211, Via Videoconference

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY.**
(For more information, contact Marjorie A. Lau, Deputy Attorney General, at 808-587-2992)

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Chairs Baker and Dela Cruz and Members of the Committees:

The Department of the Attorney General provides the following comments.

The purposes of the bill are two-fold. First, the bill creates a two-tier rate adjustment for water carriers consisting of automatic annual increases based upon the consumer price index and a justified increase based on actual costs and performances measures as determined by the Public Utilities Commission. The second purpose of the bill is to establish a water carrier agricultural cargo shipping subsidy program with an annual rate increase in the amount to be administered by the State of Hawaii Department of Transportation.

Regarding the proposed subsidy program, article VII, section 4, of the Hawaii Constitution provides that "[n]o grant of public money . . . shall be made except pursuant to standards provided by law." To comply with this constitutional requirement, we recommend that this bill be amended to statutorily include the standards and qualifications for making the subsidies, as has been enacted for other administrative grant programs. While this draft of the bill now refers to "standards and qualifications for making subsidies as previously enacted for other administrative grant programs in the State" (page 5, lines 9-10), the statute needs to set forth the specific standards and qualifications that need to be met in order to be eligible for a subsidy. Examples of such statutory standards and qualifications can be found in part II of chapter 9 and sections 10-17, 210D-11, and 383-128, Hawaii Revised Statutes.

Thank you for the opportunity to testify.

**DAVID Y. IGE**
Governor

**JOSH GREEN**
Lt. Governor

**PHYLLIS SHIMABUKURO-GEISER**
Chairperson, Board of Agriculture

**MORRIS M. ATTA**
Deputy to the Chairperson

State of Hawaii
**DEPARTMENT OF AGRICULTURE**
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TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION AND THE SENATE COMMITTEE ON WAYS AND MEANS

THURSDAY, FEBRUARY 24, 2022
9:30 A.M.
VIA VIDEOCONFERENCE

SENATE BILL NO. 2756 SD1
RELATING TO WATER CARRIERS

Chairpersons Baker and Dela Cruz, and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill 2756 SD1, which has two primary purposes. The first is to create an annual two-tier price index rate adjustment for regulated water carriers based on automatic annual increases or a justified increase based on actual costs and performance. The second is to establish a water carrier agricultural cargo shipping subsidy with an annual rate increase.

The Department supports the proposed agricultural subsidy and offers comments and strong concerns over an automatic rate increase. Clearly, we recognize that regulated water carriers play a critical role in supporting each island's economy and its local agriculture industry by making shipping affordable and facilitating intrastate commerce.

Local agriculture is critical to Hawaii and in particular to rural communities on the neighbor islands. In a recent commercial agriculture survey, the USDA-NASS reports that 39 per cent of participating farmers, ranchers, and allied operators attribute the cost of shipping and transportation as the third leading barrier to their business expansion. When broken down by county origin, the corresponding concerns are as follows: Hawaii (41 per cent), Honolulu (29 per cent), Kauai (42 per cent) and Maui (44 per cent). Shipping and transportation costs are less impactful to agricultural producers in the City & County of Honolulu since most of their consumers and retail markets are located on island.

Low profit margin as experienced by local farmers and ranchers is another barrier to commercial agricultural expansion statewide. This challenging factor results in less money being available to cover higher shipping costs to transport products to market.

Evidence confirming that disparity in impact is shown in the USDA-NASS Survey, which found that the negative-to-low average profit margin, defined as a margin which is negative to 4.99 per cent over the past 3 years (2018-2020) for the agricultural operation, is also less of a concern to producers in City & County of Honolulu (-5 per cent) as reflected in its score relative to the statewide average. In contrast, the corresponding rates were higher in neighboring counties, Hawaii (+13 per cent), Kauai (+8 per cent) and Maui (+9 per cent).

The inference here is that the cost of shipping and transportation as cited in the NASS Survey as a leading challenge and barrier to business expansion is more pronounced in the outlying counties (Maui, Kauai, and Hawaii). Likewise, commercial farms and ranches located in neighboring counties are more likely than not to experience a negative-to-low average profit margin.

As such, the Department appreciates the establishment of the water carrier agricultural cargo shipping subsidy with an annual rate increase to support our hardworking local farmers and ranchers. However, automatic increases without measurable operational efficiencies may erode and eventually nullify the beneficial impact of the agricultural subsidy that rural communities, agricultural producers, and ranchers need to sustain their businesses and the food security for Molokai, Lanai, Maui, Kauai, and Hawaii islands.

Finally, the Department offers a suggestion to a minor clarification on Page 3, line 15, with the inclusion of “intra-and” to read “… implement an intra-and-interstate water carrier agriculture subsidies program.”

Thank you for the opportunity to testify on this measure.

TESTIMONY OF
JAMES P. GRIFFIN, Ph.D.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
SENATE COMMITTEES ON
COMMERCE AND CONSUMER PROTECTION
AND
WAYS AND MEANS

February 24, 2022
9:30 a.m.

Chair Baker, Chair Dela Cruz, and Members of the Committees:

**MEASURE:** S.B. No. 2756, SD1
**TITLE:** RELATING TO WATER CARRIERS.

**DESCRIPTION:** Requires the Public Utilities Commission to establish an annual two-tier inflationary cost index rate adjustment for water carriers based on automatic annual increases or a justified increase based on actual costs and performance. Establishes a water carrier agricultural cargo shipping subsidy with an annual rate increase. Appropriates funds. Effective 1/1/2050. (SD1)

**POSITION:**

The Public Utilities Commission ("Commission") offers the following comments for consideration.

**COMMENTS:**

The Commissions appreciates the intent of this measure to enact recommendations of the Water Carriers Working Group ("WCWG") and improve the state's water carrier services.

Pursuant to Senate Resolution No. 125, S.D. 1 (2020), the Commission convened the WCWG to recommend mid-term and long-term solutions to balance the need for continuous interisland water carrier service throughout the state with the need for water carriers to maintain financial sustainability.

The 18-member WCWG, consisting of government agencies, water carriers, legislators, and other stakeholders, developed recommendations focused on annual rate adjustments, improving customer service, and establishing broad subsidies for trans-Pacific and interisland cargo, among other issues. The Commission submitted the WCWG's report to the Legislature on December 27, 2021, detailing the WCWG's findings and recommendations.[1]

The Commission notes that this measure proposes to implement a two-tier rate adjustment mechanism for water carriers. In its report, the WCWG found that this type of mechanism would "reduce the administrative burden to the water carrier and provide a more contemporaneous means of pairing regulated cargo rates with inflation adjusted expenses."

However, immediate implementation of such a mechanism would conflict with the findings of the financial and management audit of Young Brothers ("YB"), initiated by the Commission and submitted on September 9, 2021.[2,3] The auditor recommends that "YB will not request an inflation adjustment for any year prior to 2023, and any such proposals will be subject to the Company having demonstrated measurable improvements in cost containment."[4] The audit also emphasizes that YB's 5-year strategic plan should be "supported by a financial model that demonstrates financial sustainability without further major price increases above inflation."[5]

Additionally, the Department of Commerce and Consumer Affairs' Division of Consumer Advocacy ("Consumer Advocate") has expressed concerns with "the efforts [in the WCWG] to create an automatic annual inflation adjuster between rate cases for YB[,]"

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[1] *Report to the Hawaii State Legislature in Response to Senate Resolution No. 125, S.D. 1 (2020),* transmitted on December 27, 2021, https://puc.hawaii.gov/water-carriers/hwcwg/.

[2] Order No. 37280, filed in Docket No. 2019-0117 on August 17, 2020, at 74.

[3] *Financial and Management Audit of Young Brothers, LLC as per Order No. 37280*, filed in Docket No. 2019-0117 on September 9, 2021.

[4] Audit at 12.

[5] Audit at 35.

stating that those efforts should not proceed "until after there are commitments and actual implementation measure to address costs."[6]

In Order No. 38085, in which the Commission addressed the audit's recommendations, the Commission stated the following:

> The Commission recognizes that this matter has been discussed in detail by the WCWG, and that, as a result, there may be bills introduced at the Legislature during the upcoming session that address the possibility of an inflation adjustment mechanism for YB. At this time, the Commission, consistent with the Audit Report's Recommendation, directs YB not to request an inflation adjustment for any year prior to 2023. However, if legislation is passed in the upcoming session that creates such an inflation adjustment mechanism and prescribes its timing and applicability, the Commission will review the impacts of that Legislation on this directive.[7]

As such, the Commission shares the concerns of the auditor and the Consumer Advocate and believes it may be premature to implement such a mechanism before YB has demonstrated measurable improvements in cost containment and attained financial sustainability without the need for major cost increases.

The Commission appreciates the amendments made by the Committee on Transportation that aim to address these concerns, including adjusting the deadline to establish a two-tier water carrier inflationary cost index and clarifying the role of performance measures in weighing whether an expense justified rate increase should be approved.

The Commission respectfully recommends that establishment of a two-tier rate adjustment mechanism be left to the discretion of the Commission, rather than mandated by statute. The Commission notes that mandating a specific ratemaking mechanism by statute could compromise the Commission's ability to hold utilities accountable to measurable improvements through ratemaking incentives.

[6] Division of Consumer Advocacy's Comments on Management Audit, filed in Docket No. 2019-0117 on October 15, 2021, at 18-19.

[7] Order No. 38085, filed in Docket No. 2019-0117 on November 24, 2021, at 38.

This measure would also establish a water carrier agriculture cargo shipping subsidy program. The Commission takes no position on this part of the measure, but notes that similar subsidy options were discussed in the WCWG report.

Thank you for the opportunity to testify on this measure.

February 24, 2022

The Honorable Senator Rosalyn H. Baker, Chair
The Honorable Senator Stanley Chang, Vice Chair
Senate Committee on Commerce and Consumer Protection

The Honorable Senator Donavan M. Dela Cruz, Chair
The Honorable Senator Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Ways and Means

**RE: Senate Bill 2756 S.D. 1 – RELATING TO WATER CARRIERS**
**Hearing date: February 24, 2022, 9:30 a.m.**

Aloha Chair Baker, Chair Dela Cruz, Vice Chair Chang, Vice Chair Keith-Agaran, Members of the Senate Committee on Commerce and Consumer Protection, and Members of the Senate Committee on Ways and Means:

Thank you for allowing me to submit testimony on behalf of Young Brothers, LLC ("YB") in **SUPPORT** of Senate Bill 2756 S.D. 1 – Relating to Water Carriers.

This measure would require the establishment an annual rate adjustment mechanism for regulated water carriers that 1) will automatically adjust each year to reflect nationwide inflation or deflation levels; and 2) allows regulated water carriers to request, on an annual basis, an expense justified rate increase for approval by the Public Utilities Commission ("Commission" or "HPUC"). This measure would also establish a water carrier agriculture cargo shipping subsidy that would be administered by the department of transportation harbors division.

As noted in the preamble of this measure, the recommendation to establish the "water carrier inflationary cost index" ("WICI") proposed in Section 2 of this measure was developed by the Water Carrier Working Group ("WCWG") that was formed in response to S.R. 125, S.D. 1 (2020). YB is sincerely appreciative of the time and effort spent by the members of the WCWG to collaboratively develop recommendations to address issues impacting YB in its role as Hawaii's only regulated intrastate water carrier. As stated on page 16 of the Report to the Hawaii State Legislature in Response to Senate Resolution No. 125, S.D.1 (2020), transmitted on December 1, 2021 ("WCWG Report"):

> "General rate cases tend to be time consuming to both the water carrier and the HPUC. As a result, regulated cargo rates do not typically get adjusted annually and are sometimes subject to relatively large rate increases when the cases are completed. Having the WICI interim rate adjustment combined with a regular cadence for general case submissions will reduce the administrative burden to the water carrier and provide a more contemporaneous means of pairing regulated cargo rates with inflation adjusted expenses."

YB generally agrees with this statement and adds that implementing an annual inflation adjustment, as proposed in Section 2 of this measure, is consistent with YB's strategy to establish its own financial integrity and independence from its parent company. This mechanism is designed to offset the impact of external inflationary pressures that are not within YB's control, but can, over time, undermine YB's financial position. Nevertheless, YB notes that Section 2 of this measure may be unnecessary at this time, as the Commission already has the authority to establish a mechanism of this nature. Furthermore, YB's near-term focus is on implementing internal cost-containment initiatives that are within YB's control and YB has previously indicated to the Commission that it has no plan to seek an inflation adjustment for any year prior to 2023.

With respect to the proposed water carrier agriculture cargo shipping subsidy described on page 5, lines 1 to 13 of this measure - YB is generally supportive of external subsidies that can reduce the cost of shipping goods for its customers in ways that are consistent with State policy decisions. YB believes that such policy driven subsidies should be funded from external sources (e.g., federal funds or the State General Fund) rather than through cross-subsidization between YB's customers, which can lead to distorted non-cost-based rates for all customers.

Thank you for your service to the State of Hawaii, and for the opportunity to testify in support of this measure.

Sincerely,

Kris Nakagawa
Vice President, External and Legal Affairs

HAWAIʻI FARM BUREAU

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February 24, 2022

HEARING BEFORE THE
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
SENATE COMMITTEE ON WAYS AND MEANS

**TESTIMONY ON HB SB 2756, SD1**
RELATING TO WATER CARRIERS

Room 211 & Videoconference
9:30 AM

Aloha Chairs Baker and Dela Cruz, Vice-Chairs Chang and Keith-Agaran, and Members of the Committees:

I am Brian Miyamoto, Executive Director of the Hawaiʻi Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaiʻi's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

**The Hawaiʻi Farm Bureau provides the following comments relating to SB 2756, SD1**, relating to rates charged for interisland cargo transportation. There are many unanswered questions, making it difficult to take a position on this important matter.

We appreciate the consideration of agriculture by the introducers of SB 2756, SD1. Our understanding is that the proposed agricultural subsidy represents the current Island Fresh Discount provided by Young Brothers. The details associated with this subsidy have raised concern by the industry.

- YB currently provides differing tariff rates for the shipment of various supplies and materials used by agricultural producers. How will this new proposal affect these tariff rates?
- YB currently provides specific conditions relating to the management of live animals. How will the cost be managed? Harbor improvements are needed. Will these improvements be done in a timely manner to assist in containing the total cost of shipping?
- Shipping schedules change and regular service directly between islands have been drastically reduced. Many schedules follow a spoke and hub system causing

difficulty for direct shipment of perishable commodities. Will economics further erode the timeliness of service?

- How will products qualifying for subsidy be determined?
- How will the subsidy be implemented? Will it be provided directly at the time of shipment, making the payment between the carrier and the State or will individual producers be required to apply for reimbursements?
- Is there any assurance that the agricultural subsidy rulemaking process is completed by the time the rate increases are implemented?

These are some of the concerns of the agricultural industry and we look forward to working with you to address these concerns. We understand that change is inevitable but we need to ensure that neighbor island agricultural viability is protected.

Thank you for this opportunity to provide our opinion on this matter.

**SB-2756-SD-1**
Submitted on: 2/22/2022 3:11:19 PM
Testimony for CPN on 2/24/2022 9:30:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---|---|---|---|
| Gerard Silva | Individual | Oppose | No |

Comments:

Water cost to much now . NO MORE !!