

A Bill for an Act Relating to Public Utilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 269, Hawaii Revised Statutes, is amended to read as follows:

(a) Section 269-10 is amended as follows:

“Sec. 269-10 Commission may compel attendance of witnesses, etc. In all investigations made by the public utilities commission, and in all proceedings before it, the commission and each commissioner shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence, examining witnesses, and punishing for contempt, as are possessed by circuit courts. In case of disobedience by any person to any order of the commission or of any commissioner, or any subpoena issued by it or him, or of the refusal of any witness to testify to any matter regarding which he may be questioned lawfully, any circuit court, on application by the commission or a commissioner, shall compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. No person shall be excused from testifying or from producing any book, waybill, document, paper, or account in any investigation or inquiry by a hearing before the commission or any commissioner, when ordered to do so, upon the ground that the testimony or evidence, book, waybill, document, paper, or account required of him may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished, or subjected to any penalty or forfeiture for or on account of any act, transaction, matter, or thing concerning which he shall under oath have testified or produced documentary evidence. Nothing herein shall be construed as in any manner giving to any public utility immunity of any kind. The fees and traveling expenses of witnesses shall be the same as allowed witnesses in the circuit courts and shall be paid by the State out of any appropriation available for the expenses of the commission. All meetings

and hearings of the commission shall be public.”

(b) Section 269-13 is amended as follows:

“**Sec. 269-13 Right to be represented by counsel.** Any investigation or proceeding before the public utilities commission, the public utility concerned and any complainant or permitted intervenor shall have the right to be present and represented by counsel, to present any evidence desired, and to cross-examine any witness who may be called.”

(c) Section 269-16 is amended as follows:

“**Sec. 269-16 Regulate rates, etc., hearings, notice of hearings, appeals.**

(a) All rates, fare, charges, classifications, schedules, rules, and practices made, charged, or observed by any public utility, or by two or more public utilities jointly, shall be just and reasonable and shall be filed with the public utilities commission and no rate, fare, charge, classification, schedule, rule, or practice shall be established, abandoned, modified, or departed from except after thirty days’ notice to the commission; provided, however, no rates, fare, or charges shall be increased without the prior approval of the commission. The notice herein provided for shall plainly state the rate, fare, charge, classification, schedule, rule, or practice proposed to be established, abandoned, modified, or departed from and the proposed effective date thereof and shall be given by filing the notice with the commission and keeping it open for public inspection. The commission may, in its discretion and for good cause shown, allow any rate, fare, charge, classification, schedule, rule, or practice to be established, abandoned, modified, or departed from upon notice less than that provided for herein. The commission shall not approve any increase in rates without conducting an advertised public hearing or hearings thereon on the island which the utility is situated. No rates shall be increased nor shall any hearings be held unless notice of hearing, with the purpose thereof and the date, time, and place at which it will open has been advertised not less than once in each of three weeks in a newspaper published in and of general circulation in the State, the first publication being not less than twenty-one days before the hearing and the last publication being not more than two days before the scheduled hearing. The applicant or applicants will notify their consumers or patrons of the proposed change in rates and of the time and place of the hearing not less than one week before the date set, the manner and the fact of notification to be reported to the commission before the date of hearing. The commission is authorized to use such additional media as radio or television to advise the public if it finds it necessary to do so. The commission, upon notice to the public utility, may suspend the operation of any proposed rate, fare, charge, classification, schedule, rule, or practice or any proposed abandonment or modification thereof or departure therefrom and after a hearing by order regulate, fix, and change all such rates, fares, charges, classifications, schedules, rules, and practices, so that the same shall be just and reasonable, and prohibit rebates and unreasonable discrimination between localities, or between users or consumers, under substantially similar conditions, regulate the manner in which the property of every public utility is operated with reference to the safety and accommodation of the public, prescribe its form and method of keeping accounts, books, and records, and its accounting system, regulate

the return upon its public utility property, the incurring of indebtedness relating to its public utility business, and its financial transactions, and do all things in addition which are necessary and in the exercise of such power and jurisdiction, all of which as so ordered, regulated, fixed, and changed shall be just and reasonable, and such as shall provide a fair return on the property of the utility actually used or useful for public utility purposes.

(b) In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the State of Hawaii, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the commission may distribute, apportion, or allocate gross income, deductions, credits or allowances between or among the organizations, trades, or businesses, if it determines that the distribution, apportionment, or allocation is necessary in order to adequately reflect the income of any such organizations, trades, or businesses to carry out the regulatory duties imposed by this section.

(c) From every order made by the commission under the provisions of this chapter which is final, or if preliminary is of the nature defined by section 91-14(a), an appeal shall lie to the supreme court in the manner and within the time provided by the rules of court for an appeal from a judgment of a circuit court. The appeal shall not of itself stay the operation of the order appealed from, but the supreme court may stay the order after a hearing upon a motion therefor, and may impose such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise in order to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained, reversed, or modified in whole or in part."

(d) Section 269-30 is amended as follows:

"Sec. 269-30 Finances; public utility fee. Section 607-5 to 607-9 shall apply to the public utilities commission and each commissioner, as well as to the supreme and circuit courts, and all costs and fees paid or collected hereunder shall be deposited with the director of finance of the State to the credit of the general fund.

There shall also be paid to the commission in each of the months of July and December in each year by each public utility which is subject to investigation by the commission, a fee which shall be equal to one-eighth of one per cent of the gross income from the public utility business carried on by the public utility during the preceding year, or the sum of \$15, whichever is greater, provided that in the case of a public utility to which the Civil Aeronautics Act of 1938, as amended, applies, the fee shall be equal to one-twentieth of one per cent of the gross income from the public utility business carried on by the public utility during the preceding year, plus one-fiftieth of one per cent of the par value of the stock issued by the public utility and outstanding on December 31 of the preceding year. This fee shall likewise be deposited with the director of finance of the State to the credit of the general fund."

SECTION 2. Chapter 271, Hawaii Revised Statutes, is amended to read as follows:

(a) Subsection 271-24(a) is amended as follows:

“(a) All actions by common carriers by motor vehicle for the recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after.”

(b) Subsection 271-24(b) is amended as follows:

“(b) For recovery of overcharges, actions shall be begun within three years from the time the cause of action accrues, and not after, subject to subsection (c) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the three-year period of limitation the period shall be extended to include six months from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof specified in the notice.”

(c) Subsection 271-31(f) is amended as follows:

“(f) A complete record of all proceedings and testimony before the commission on any formal hearing shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. In case of an action to review an order or decision of the commission, a transcript of the testimony, together with all exhibits or copies thereof introduced, and of the pleadings, records, and proceedings in the cause, shall constitute the record of the commission, but the party or parties to the proceeding and the commission may stipulate that designated parts of the record need not be transmitted to the supreme court, as provided by the rules of court.”

(d) Section 271-33 is amended as follows:

“**Sec. 271-33 Appeals.** From the order made on an application for reconsideration or rehearing by the public utilities commission under this chapter, an appeal shall lie to the supreme court in the manner and within the time provided by the rules of court for an appeal from a judgment of a circuit court, provided the order is final, or if preliminary is of the nature defined by section 91-14(a). The appeal shall not of itself stay the operation of the order appealed from, but the supreme court may stay the same after a hearing upon a motion therefor, and may impose such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained, reversed, or modified in whole or in part.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 22, 1973.)

*Edited accordingly.