

Honolulu, Hawaii

Feb 17, 2006

RE: H.B. No. 3115
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committees on Energy & Environmental Protection and
Consumer Protection & Commerce and Judiciary, to which was
referred H.B. No. 3115 entitled:

"A BILL FOR AN ACT RELATING TO THE PETROLEUM INDUSTRY,"

beg leave to report as follows:

The purpose of this measure is to further the development of
an integrated energy strategy for the State.

More specifically, this measure:

- (1) Establishes the petroleum industry monitoring, analysis,
and reporting special fund;
- (2) Requires the Public Utilities Commission to develop and
maintain the petroleum industry monitoring, analysis,
and reporting system;
- (3) Redelineates the types of information that the petroleum
industry must provide to the Public Utilities
Commission;
- (4) Makes appropriations out of the petroleum industry
monitoring, analysis, and reporting special fund to the
Public Utilities Commission to:



- (A) Establish the petroleum industry monitoring, analysis, and reporting program; and
 - (B) Implement and maintain the petroleum price control program established by chapter 486H, Hawaii Revised Statutes; and
- (5) Make any misrepresentations or unlawful profiteering within the petroleum industry an unfair trade practice.

In reviewing this measure, your Committees noted that the daily dynamics of the gasoline market do not allow for the Legislature to take timely action to make necessary course corrections in the implementation of chapter 486H. It was for this reason that Public Utilities Commission (Commission) was given substantial latitude in the implementation of chapter 486H, Hawaii Revised Statutes. The Commission had the discretion to determine which geographic gasoline markets and price information service to use to determine the baseline wholesale price. It also had the discretion to change the location adjustment factor, the marketing margin factor, and the mid-grade and premium adjustment factors. Furthermore, the Commission was given the authority to set the zone adjustments for the various geographic zones established within the State.

Unfortunately, and in some cases contrary to the advice and recommendations of its consultants, the Commission failed to utilize its discretion in the best interest of Hawaii's gasoline consumers and instead relied upon the numerical factors and adjustments contained in the statute. Your Committees find that these decisions by the Public Utilities Commission may have resulted in unnecessarily high margins in the pre-tax wholesale price of gasoline and higher costs to Hawaii's gasoline consumers. Therefore, your Committees find it necessary to change its tack in protecting the interests of Hawaii's consumers in advocating for fair gasoline prices.

Accordingly, your Committees have amended this measure by:

- (1) Repealing sections 486H-13, 486H-15, and 486H-16, Hawaii Revised Statutes, effective January 1, 2008;
- (2) Directing the Public Utilities Commission to suspend the enforcement of sections 486H-13 and 486H-16, Hawaii Revised Statutes, effective July 1, 2006;



- (3) Deleting the appropriation to the Public Utilities Commission to implement chapter 486H, Hawaii Revised Statutes;
- (4) Making changes to the bill's effective date; and
- (5) Making technical nonsubstantive changes for consistency and clarity.

Your Committees find it is not necessary to repeal chapter 486H, Hawaii Revised Statutes, at this time as we attempt to fully implement the petroleum monitoring, analysis, and reporting program. However, your Committees find that it may be a useful tool to provide a benchmark for gasoline prices during this transition period and, if necessary, retain the regulatory framework in place should the monitoring, analysis, and reporting program not achieve the desired results.

Your Committees considered authorizing the imposition of a fee for persons that are required to provide the Public Utilities Commission with petroleum industry information to make the program self-sustaining and respectfully request that your Committee on Finance consider the advisability of inclusion of a fee in this measure.

Your Committees further considered the inclusion of the contents of Senate Bill No. 2911 in this measure; however, that matter was not addressed during decision making. Accordingly, your Committees respectfully request that your Committee on Finance consider that further amendment to this measure.

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 3115, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3115, H.D. 1, and be referred to the Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committees on Energy &
Environmental Protection and
Consumer Protection & Commerce
and Judiciary,

 RW
ROBERT N. HERKES, Chair

 Hermina Morita
HERMINA MORITA, Chair

 Sylvia Luke
SYLVIA LUKE, Chair



