

STAND. COM. REP. NO.

2686

Honolulu, Hawaii

MAR - 3 2006

RE: S.B. No. 2911
S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Housing,
to which was referred S.B. No. 2911 entitled:

"A BILL FOR AN ACT RELATING TO GASOLINE,"

begs leave to report as follows:

The purpose of this measure is to provide relief to Hawaii's
consumers by bringing competitive market forces into play in
establishing wholesale gasoline prices.

Your Committee notes that the federal courts have found, and
the parties themselves acknowledge, that Hawaii's wholesale
gasoline industry is an oligopoly, dominated and controlled by a
few large companies. This has resulted in predatory pricing
practices and supra-competitive and undefensibly large profit
margins for these few companies, all to the detriment of Hawaii's
gasoline consumers who have historically paid the highest price
for gasoline in the country. In turn, because the entire economy
is dependent on gasoline for transportation of persons and all
goods consumed in the State, this situation negatively affects all
Hawaii businesses and consumers, as well as the State's economic
well-being.

The Legislature addressed this situation with Act 77,
Sessions Laws of Hawaii 2002, as amended by Act 242, Session Laws
of Hawaii 2004, which resulted in the implementation of Hawaii's
mandatory wholesale gasoline price regulation program on September
1, 2005. This program tied Hawaii's wholesale gasoline prices to
the competitive wholesale gasoline prices in three mainland

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markets. Only six months into the program's implementation, there is ample empirical data demonstrating that the wholesale gasoline price regulation program is working. Now, as in the past, when mainland prices go up, Hawaii's prices go up. However, unlike in the past, when mainland prices go down, Hawaii's prices go down as well. Heretofore, Hawaii has never experienced a substantial and sustained reduction in gasoline prices. In these six months, there have been several substantial and sustained reductions gasoline prices.

However, your Committee finds that, in spite of being given much latitude and discretion in implementing the wholesale gasoline price regulation program, the Public Utilities Commission has not fully utilized its authority under the law to act in a vigorous and proactive manner to implement this program for the ultimate benefit of Hawaii's consumers. Accordingly, the Legislature felt that additional changes were necessary for the wholesale gasoline price regulatory program to allow Hawaii's gasoline consumers to enjoy its full benefits.

Accordingly, the specific purposes of this measure are to:

- (1) Add the weekly average spot daily price of gasoline in Singapore into the determination of the baseline price of gasoline, with the average of the lowest three of the now four geographic markets establishing the baseline price of gasoline;
- (2) Provide that, in the event that there is a holiday in a prior week, the Public Utilities Commission shall use the average of the prior four-day work week;
- (3) Remove the zone price adjustment for zone 1, Oahu, the base zone for determining zone price adjustments for distribution of gasoline throughout the State;
- (4) Allocate different percentages of zone price adjustments to different wholesale distributors based upon their different functions; and
- (5) Provide for zone price adjustment on a zone by zone basis.

Your Committee has received testimony in support of this measure from: Advocates for Consumer Rights; Kokua Council; Frank



Young, representing Consumers Against Gasoline Price Gouging; former Deputy Attorney General Ted Gamble Clause; former Senior Vice President of Pacific Resources, Inc., Howard Lee; University of Hawaii Professor of Law Richard S. Miller, speaking in his individual capacity, University of Hawaii Emeritus Professor of Accounting James E. Wheeler, speaking in his individual capacity; and several other individuals.

Your Committee received testimony against this measure from: Aloha Petroleum, Ltd.; Western States Petroleum Association; and several individuals. The Department of Business, Economic Development, and Tourism; Department of Commerce and Consumer Affairs, Division of Consumer Advocacy; and the Public Utilities Commission offered comments.

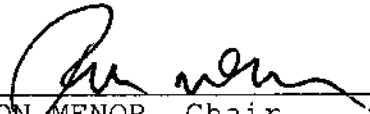
Your Committee has amended this measure by:

- (1) Providing that, in the event of a holiday or holidays in a prior week, the Public Utilities Commission shall average the prices of the days of the prior week that were not holidays;
- (2) Eliminating the location adjustment factor;
- (3) Reducing the marketing margin to from 18 cents to 14 cents;
- (4) Retaining the zone price adjustment for zone 1, Oahu;
- (5) Clarifying that the zone price adjustments were to include the transporting of gasoline between and among zones 2 through 8; and
- (5) Making technical nonsubstantive changes for purposes of consistency and clarity.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2911, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2911, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Housing,



RON MENOR, Chair



