

Honolulu, Hawaii

March 23, 2007

RE: S.B. No. 990
S.D. 2
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 990, S.D. 2, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to strengthen the authority of the Public Utilities Commission in implementing and maintaining the petroleum industry monitoring, analysis, and reporting program.

Specifically, this measure:

- (1) Adds a new section to chapter 486B, Hawaii Revised Statutes, requiring the Public Utilities Commission to refer to the Attorney General any violations of the chapter that are discovered in the performance of its duties pursuant to chapters 486J and 486H, Hawaii Revised Statutes;
- (2) Adds a new section to chapter 486J, Hawaii Revised Statutes, requiring the Department of Business, Economic Development, and Tourism to use the information provided by the petroleum industry monitoring, analysis, and reporting program to effectuate the purposes of chapters



196 and 125C, Hawaii Revised Statutes, and other relevant laws;

- (3) Adds a new definition to section 486J-1, Hawaii Revised Statutes, for "major fuel user", distinguishing it from a "distributor", and amends four other definitions;
- (4) Amends sections 486J-3 and 486J-4, Hawaii Revised Statutes, to strengthen the Public Utilities Commission's authority to require, and not merely request, further information from persons in the petroleum industry;
- (5) Amends section 486J-11, Hawaii Revised Statutes, by:
 - (A) Allowing the Public Utilities Commission to examine and investigate any distributor of petroleum products with regard to its operating costs and expenses, the value of its property and assets, the amount and distribution of its income, all its financial transactions, and its relations to other persons and businesses;
 - (B) Granting the Public Utilities Commission the power to administer oaths, compel the attendance of and examine witnesses, and punish for contempt; and
 - (C) Allowing the Public Utilities Commission to use its discretion in determining the specific information that any person in the petroleum industry must submit under chapter 486J, Hawaii Revised Statutes; and
- (6) Makes an unspecified appropriation out of the general funds and into the petroleum industry monitoring, analysis, and reporting special fund and unspecified appropriations from the latter fund for:
 - (A) Staff positions in the Public Utilities Commission to carry out the purposes of the special fund; and
 - (B) Staff positions for the Department of Business, Economic Development, and Tourism to perform its duties pursuant to the new section 486J-A.



Your Committee has received testimony in support of this measure from the Public Utilities Commission. The Department of Business, Economic Development, and Tourism submitted testimony supporting the intent of this measure, and the Western States Petroleum Association also submitted comments.

Act 78, Session Laws of Hawaii 2006, established the petroleum industry monitoring, analysis, and reporting program. The program is intended to provide greater transparency in the operations of all participants in the petroleum industry in the State and provide useful information to governmental agencies overseeing the industry to ensure compliance with all relevant laws, all for the ultimate benefit of the State's petroleum consumers. However, Act 78 did not provide sufficient funding to the Public Utilities Commission to allow it to establish and implement the petroleum industry monitoring program.

Your Committee believes that this measure not only makes the necessary appropriations for the petroleum industry monitoring program, but further strengthens the authority of the Public Utilities Commission in its oversight responsibilities of the petroleum industry. This measure further requires the Department of Business, Economic Development, and Tourism to use the data produced by the petroleum industry monitoring program to effectuate the purposes of chapter 196 and chapter 125C, Hawaii Revised Statutes, relating to energy resources planning and preparedness in the event of any shortages in energy resources.

Your Committee has amended this measure by:

- (1) Amending section 486J-3, Hawaii Revised Statutes, to require not only distributors, but also major fuel users, to submit certified statements relating to their petroleum operations, including any revenues, expenses, profits and losses, and other financial information required by the Public Utilities Commission;
- (2) Amending section 486J-4.5, Hawaii Revised Statutes, by deleting the requirement that refiners report the total number of wholesale gallons of unleaded and premium gasoline sold at prices that exceeded the maximum pre-tax wholesale price set by section 486H-13, Hawaii Revised Statutes, since the maximum pre-tax gasoline limits have been suspended by Act 78, Session Laws of Hawaii 2006;



- (3) Amending section 486J-8, Hawaii Revised Statutes, to ensure that, while the Public Utilities Commission is required to publicly report relevant information within thirty days or as soon as practically and technologically feasible, the confidentiality requirements of section 486J-6, Hawaii Revised Statutes, are maintained; and
- (4) Making conforming amendments to sections 486J-6 and 486J-8, Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 990, S.D. 2, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as S.B. No. 990, S.D. 2, H.D. 2.

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



ROBERT N. HERKES, Chair



