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## HOUSE COMMITTEE ON TRANSPORTATION

### TESTIMONY OF THE DEPARTMENT OF TAXATION REGARDING HB 1373 RELATING TO FUEL TAXATION

**\*\*\*WRITTEN TESTIMONY ONLY\*\*\***

**TESTIFIER:** FREDERICK D. PABLO, INTERIM DIRECTOR OF  
TAXATION (OR DESIGNEE)

**COMMITTEE:** TRN

**DATE:** FEBRUARY 14, 2011

**TIME:** 9AM

**POSITION:** COMMENTS; RECOMMENDED AMENDMENT

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This legislation amends the fuel tax to be assessed on a percentage of the weighted wholesale price per gallon of fuel rather than a flat fee per gallon.

The Department of Taxation (Department) takes no position on this bill, provided it does not result in revenue loss. The Department suggests amending the bill so that the tax assessed is equal to the greater of either the flat fee or the percentage, to prevent revenue loss in the event of a significant decrease in wholesale price per gallon.

# TAXBILLSERVICE

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SUBJECT: FUEL, Weighted wholesale price

BILL NUMBER: HB 1373

INTRODUCED BY: Say

**BRIEF SUMMARY:** Amends HRS section 243-4 to provide that the state tax on gasoline and diesel oil, other than that gasoline used in airplanes and naphtha used in a power generating facility, shall be based on a \_\_\_\_% of the weighted wholesale price per gallon of gasoline or diesel oil.

The weighted wholesale price per gallon of gasoline or diesel oil shall be calculated by the public utilities commission on a monthly basis and shall be equal to the sum of the amounts derived in the following paragraphs (1), (2), and (3) divided by the total number of gallons of all three grades of gasoline sold: (1) the average wholesale price per gallon of regular unleaded gasoline sold statewide during the month multiplied by the number of gallons of regular unleaded gasoline sold; (2) the average wholesale price per gallon of mid-grade gasoline sold statewide during the month multiplied by the number of gallons of mid-grade gasoline sold; and (3) the average wholesale price per gallon of premium gasoline sold statewide during the month multiplied by the number of gallons of premium gasoline sold.

The amendments made by this act to HRS section 243-4 shall not be repealed when that section is repealed and reenacted on December 31, 2012, by section 5 of Act 103, SLH 2007, as amended by section 3 of Act 198, SLH 2009.

**EFFECTIVE DATE:** This measure proposes to change the methodology of assessing the state fuel tax on gasoline and diesel oil, except gasoline used in airplanes and naphtha used in a power generating facility, from 17 cents per gallon to an unspecified percentage of the weighted wholesale price per gallon of gasoline or diesel oil. Since the tax is based on a percentage, as the wholesale price of gasoline or diesel oil rises and falls, so will the amount of the tax. Since the determination of the tax on gasoline and diesel oil would be done monthly, as proposed in this measure, it will necessitate a monthly change of the amount posted on the gas pump as the state fuel tax amount would not be static if this measure is adopted.

It is interesting to note that the amount of tax would be a percentage of the "weighted" wholesale price per gallon. One has to ask why the "weighted" price when it would be simpler to impose the tax on the wholesale price at whatever that may be the day the fuel is sold from the wholesaler to the retail dealer. Apparently the sponsor is still tied to the idea that the amount of the tax has to be expressed as so many cents per gallon. If the intent is to notify the highway user of how much in state fuel taxes is being paid that day, the retailer would merely post the wholesale price for that day's sale and the highway user can then figure out what "X" percent translates in cents per gallon.

HB 1373 - Continued

The idea of imposing an ad valorem fuel tax is not new, the idea was floated by the state department of transportation and the then Senate transportation committee chair in the 1981 legislative session. Although a half dozen states at the time had adopted a variable or ad valorem fuel tax, many had encountered administrative problems in not only collecting the tax but also for retailers in complying with the law. Some state converted the variable rate back into a cents per gallon rate or provided retailers and wholesalers with voluminous tables to assist in compliance with the tax. One state allowed the conversion of the percentage tax back to a cents per gallon and allowed the rate to be rounded to the nearest half cent. Another calculated and converted the rate and then set it for six month periods of imposition. Thus, while an ad valorem fuel tax may be an appropriate response to the fiscal crisis faced by the stat highway fund, all of the ramifications of imposing such a tax should be carefully evaluated before adopting such a tax.

Digested 2/11/11