

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON FINANCE**

MARCH 1, 2011

MEASURE: H.B. No. 972 HD1
TITLE: Relating to Gasoline Dealers.

LATE TESTIMONY

Chair Oshiro and Members of the Committees:

DESCRIPTION:

This bill requires the Public Utilities Commission ("Commission") to assess a civil penalty for those who violate Section 486H-10.4, HRS.

POSITION:

The Commission opposes this bill as the bill provides no investigative or enforcement resources for the Commission to investigate and enforce the requirements of Section 486H-10.4, HRS.

COMMENTS:

Section 486H-10.4, HRS, (a) prohibits manufacturers or jobbers from converting an existing dealer retail station to a company retail station, with some exceptions, after August 1, 1997; (b) prohibits a new company retail station from being located within one-eighth of a mile from a dealer retail station in an urban area, and within one-quarter of a mile in other areas; and (c) establishes lease rent controls for leases that are part of a franchise as defined in Section 486H-1, HRS.

Currently the attorney general has the authority to enforce Section 486H-10.4, HRS, through a civil action. The bill would require the Commission to enforce Section 486H-10.4 and assess penalties for violating the section, and then require the attorney general to institute a civil action if the penalty is not paid.

The Commission is funded by a Special Fund under HRS Chapter 269, which is funded primarily by the public utilities and companies it regulates and their customers for regulatory purposes, but the Commission does not receive any funding from the gasoline dealers industry for regulatory purposes. The Commission does not have any investigative or enforcement personnel allocated towards the enforcement of Section 486H-10.4 HRS. Additional funding and personnel would be required for the Commission to undertake these additional investigative and enforcement activities.

The Commission does not have experience in investigating and enforcing the restriction on retail station conversions, prohibitions on retail station locations, and lease rent controls established in Section 486H-10.4, HRS, and would therefore require the Commission to expend significant additional resources and training to be able to properly investigate and enforce Section 486H-10.4. Undertaking these additional duties would also detract from the higher priority energy policy matters currently before the Commission.

Accordingly, the Commission respectfully opposes this bill.

Thank you for the opportunity to testify.