

SB 774

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS
FEBRUARY 7, 2011**

MEASURE: S.B. No. 774
TITLE: Relating to Transportation.

Chair English and Members of the Committee:

DESCRIPTION:

This bill amends Chapter 271, Hawaii Revised Statutes, requiring the Public Utilities Commission ("Commission") to 1) review applications for certificates of public convenience and necessity ("CPCN") under additional guidance; 2) allow existing common carriers that would be impacted by a motor carrier's application, to intervene in the docket or filing upon a filing by at least ten per cent of the existing common carriers; and 3) require public hearings if requested by affected parties.

POSITION:

The Commission opposes this bill.

COMMENTS:

The Commission currently reviews applications for motor carrier CPCNs and has the authority and discretion to allow intervenors and hold public hearings.

Should the Legislature approve this bill, requiring the Commission to allow existing motor carriers to intervene in these proceedings as a matter of right and require public hearings for the matters described in the bill, it will extend the process further and take longer to issue a final decision. The additional time and effort required of the Commission to attend to these matters will substantially distract the Commission from addressing high priority energy policy issues.

The Legislature has the authority to decide how much of a priority to place on motor carrier regulation and whether the purpose of motor carrier regulation is to protect the public or to protect existing motor carriers to the detriment of motor carriers who may seek entry into the market. This proposed bill clearly seeks to favor existing motor carriers over those who may seek to enter into the market by making it significantly much more difficult to apply for and receive a CPCN.

Thank you for the opportunity to testify.



February 7, 2011

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION
ON SB 774 RELATING TO TRANSPORTATION**

Thank you Chair English and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

Hawaii Transportation Association supports this bill.

The PUC is tasked with determining whether an entity is fit to become a for hire motor carrier and obtain a certificate of public convenience and necessity (CPCN). This protects the public that the aspiring motor carrier will serve. Instead, almost no one is turned down regardless of financial position, or prospects of customers.

We believe motor carriers should have the right to oppose the application of an entity into their area of service (i.e. Tour Bus, 1-7 Passenger, General Freight, Household Goods, Dump Truck, etc.). However, the PUC has disallowed intervention saying the motor carriers had no basis to intervene, in spite of the fact that any application has an obvious economic impact on all servicing carriers.

The PUC should have full information from the affected transportation segment in order to prudently determine Necessity. The PUC should have full information on whether the currently servicing carriers truly meet the current and future needs adequately, and whether there is enough of a market for the applicant to sustain a business.

Finally, we support the 10% threshold to trigger the intervention process to prevent inundating the PUC with frivolous intervention filings.

Thank you.

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COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

Senator J. Kalani English, Chair

Senator Will Espero, Vice Chair

DATE:

Monday, February 7, 2011

TIME:

1:20 p.m.

PLACE:

Conference Room 224

State Capitol

415 South Beretania Street

My name is Lawson Teshima, Secretary-Treasurer of PHT, Inc., CPCN 309-C.
I am in support of SB 774.

The motor carrier industry has gone many years without the ability to defend its assets via intervention from new applicants for CPCN authority.

In the past, categories from 1-8, 8-25, and over 25 were difficult to come by and valuable since it usually cost a lot of money if intervention was granted because of the discovered allowed via questions and answers and burden of proof that "need and necessity" existed. Today, carriers that are directly impacted by the entry of another competitor are not allowed to intervene.

The PUC controls how much carriers could charge for services so the public is presumed generally protected but now the carriers are not being protected as provided for in HRS 271. In today's market, a new motor coach cost \$550,000 with Federal regulations driving up the cost due, for example emission controls, fuel economy, safety (seat belts, automatic adjusters for brakes and speed. The transportation industry is heavily taxed with the county and state taxes, for example registration and weight taxes, fuel taxes, airport fees, park usage fees and even the rail GET (we are paying a tax that will eventually take away our customers...is that fair?). State representatives and City councilpersons have steadily increased the amount of taxes that we pay with the expectation that we will pass it on to our customers; the increases help balance the shortfall in their budgets and yet the roads are allowed to deteriorate. However, as part of effort to help our customers keep their package prices low to attract visitors to Hawaii, we have not increased our prices for the past three (3) years and had to absorb tax and fee increases; for example, the Honolulu City and County vehicle license for a bus went from

\$500 bus license increased to \$2,000 per year. We are not a monopoly or near monopoly as in the case of Matson or Young Brothers and have kept our prices in check even in the face of rising fuel cost. Yet the competition is allowed to enter the market unabated and disrupt the market by offering lower than tariff rates to existing carriers' customers after discovering how expensive it is to run a transportation company other than the cost of a vehicle. The new entrants are usually not aware of all the costs, for example (a) to maintain the safety regulations that OSHA mandates or (b) the training expenses for the drivers and mechanics or (c) paperwork and reports that need to be filed.

Furthermore, there is no measurable standard to determine "need and necessity" that the PUC can use to determine whether or not to grant a CPCN. The PUC has allowed just about any applicant to receive a CPCN in any category by showing letter(s) from travel agencies that their service will be used if granted, the ability to secure insurance and purchase or lease a vehicle.

How does the PUC accomplish the following excerpt from the HRS without allowing intervention by carriers directly impacted by new entrants and who know the marketplace best?

§271-10 Reports and decisions of commission. (a) Whenever the public utilities commission inquires into the operations, operating rights, rates, or directs inquiry and investigation into motor carrier activities regulated under this chapter, and holds public hearing thereon, it shall make a report in writing in respect thereto, which shall state its findings of fact and conclusions of law, together with its decision, order, or requirement in the premises.

(b) All reports issued under subsection (a) shall be entered of record, and a copy thereof shall be furnished to parties of record in any such proceeding.

(c) The commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and these authorized publications shall be competent evidence of the reports and decisions of the commission therein contained in all courts of this State without any further proof or authentication thereof.

In summary, please pass SB 774.