

TESTIMONY OF HERMINA MORITA  
CHAIR, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON TRANSPORTATION  
JANUARY 25, 2012

**MEASURE:** H.B. No. 1742

**TITLE:** Relating to the Public Utilities Commission

Chair Souki and Members of the Committee:

**DESCRIPTION:**

This measure proposes to create a Motor Carrier Investigative Unit ("MCIU") within the Commission that would 1) investigate parties engaged in motor carrier activities in the State that lack either a valid certificate of public convenience and necessity or other valid authority, and 2) investigate all complaints against motor carriers operating on Hawaii's public highways. The MCIU may review and take "appropriate action" on motor carrier complaints. The MCIU may employ or contract for required staff to carry out the MCIU's purposes. Requirements are established for attorneys serving the MCIU's purposes. Finally, an appropriation from the public utilities commission special fund (Special Fund) is made to cover the MCIU's operations, and an amendment is made to HRS § 269-33 for continuing MCIU operations. Conforming amendments are made to HRS § 271-9.

**POSITION:**

The Commission believes this bill is unnecessary if the Commission's reorganization plan, which was approved by the Legislature in Act 177, SLH 2007, is followed through and offers the following comments for consideration.

**COMMENTS:**

*The Commission has been appropriated funding to hire the additional investigative staff contemplated by this measure, and it is now working to acquire the space required to accommodate the increased staffing.*

- Under Act 164, SLH 2011, the Legislature appropriated for FY 2011-2012 and FY 2012-2013 amounts sufficient to increase the total Commission staff to 62 full-time employees ("FTE") from the current level of 38 FTEs. Included in the planned and budgeted staff increase are 10 FTE positions dedicated to performing the Commission's compliance and enforcement functions, including a Chief of Consumer Affairs and Compliance position and multiple investigator positions. H.B. 1742 would be an unnecessary appropriation of state funds to create positions, contracted or otherwise, for which this Legislature has already approved funding. The Commission is currently working to acquire additional space to house the over twenty new funded positions mentioned above, including the positions with motor carrier investigation responsibilities. Overcoming this space issue is the main obstacle keeping the Commission from using appropriated funds to achieve full staffing levels as recommended in its approved reorganizational plan.
- In addition to the Legislature's staff appropriations reflected in Act 164, SLH 2011, the Commission currently has dedicated compliance and enforcement staff whose duties include motor carrier complaint response and investigations. These staff members deal daily with motor carrier complaints and investigations, and travel regularly to the neighbor islands to investigate motor carrier issues and other compliance matters.
- Finally, the Commission is concerned that this measure is unclear on precisely how the appropriated funds should be used by the proposed MCIU. Specifically, the measure states that moneys used to fund the MCIU shall be used to conduct "statewide investigations," which can be interpreted to mean that the MCIU would lack funding to conduct investigations that only affect matters on a single island. Given that the majority of the current complaints and violations before the PUC affect small motor carrier companies operating within a small geographic segment of the State, the MCIU may be inadvertently limited in its role if the infraction is not of "statewide" significance. The Commission would request this language be clarified if this measure is moved forward.

Thank you for this opportunity to testify on this measure.