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# A BILL FOR AN ACT

RELATING TO UNDERGROUNDING OF OVERHEAD UTILITIES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the undergrounding  
2 of overhead utilities can help to protect our electricity and  
3 communications infrastructure by developing systems that have  
4 endurance and hardening resistance to overcome vulnerabilities  
5 to potential acts of terrorism and natural disasters, such as  
6 hurricanes and tsunamis. Further, the legislature also finds  
7 that there is a general public preference for underground  
8 utilities since undergrounding improves the visual quality of  
9 Hawaii's natural environment, improves road safety, increases  
10 property values, and enhances the visitor experience for  
11 tourism, Hawaii's major industry.

12           The legislature also finds that the high cost of converting  
13 to underground utilities has prevented many communities from  
14 receiving these benefits. Therefore, overhead utilities have  
15 been continually maintained and even reconstructed while  
16 adjacent public improvements are built. Underground conversion  
17 will take significant financial resources, the participation of  
18 many entities, and many years of coordinated effort to achieve.



1 However, it is a necessary goal to enhance the public's safety  
2 and welfare.

3 Accordingly, the purpose of this Act is to:

4 (1) Establish and affirm a clearly stated policy that the  
5 conversion of overhead electric and communication  
6 facilities to underground facilities and the initial  
7 underground installation of these facilities is  
8 substantially beneficial to the public safety and  
9 welfare, is in the public interest, and is a public  
10 purpose; and

11 (2) Establish an underground conversion fund for a  
12 sustained, coordinated conversion of overhead  
13 utilities.

14 SECTION 2. Chapter 269, Hawaii Revised Statutes, is  
15 amended by adding a new part to be appropriately designated and  
16 to read as follows:

17 **"PART . UNDERGROUND CONVERSION**

18 **§269-A Underground conversion fund.** There is established  
19 in the state treasury an underground conversion fund to be  
20 administered by the underground conversion board. The revenues  
21 to be deposited into the fund shall include:

- 1 (1) Five per cent of the state public utility fee or the  
2 excess remaining after funding of public utilities  
3 commission operations, whichever is the greater;
- 4 (2) Federal and state appropriations and contributions by  
5 other public bodies;
- 6 (3) Voluntary conversion funds; and
- 7 (4) Round-up program funds.

8 **§269-B Underground conversion board.** There is established  
9 within the department of commerce and consumer affairs for  
10 administrative purposes an underground conversion board for the  
11 purpose of implementing this part. The board shall consist of  
12 nine voting members; provided that:

- 13 (1) Three members shall be appointed by the governor,  
14 including:
- 15 (A) One representative from the electric utility  
16 industry;
- 17 (B) One representative from the telecommunications  
18 utility industry; and
- 19 (C) One representative from the cable service  
20 industry;
- 21 (2) One member shall be the state director of  
22 transportation or the director's representative;



- 1 (3) One member shall be the consumer advocate or the  
2 consumer advocate's representative;
- 3 (4) Two members shall be representative of the general  
4 public appointed by the speaker of the house of  
5 representatives; and
- 6 (5) Two members shall be representative of the general  
7 public appointed by the president of the senate.
- 8 The members shall serve without compensation but each shall be  
9 reimbursed for necessary travel expenses incurred in the  
10 performance of their duties.

11 **§269-C Powers and duties of underground conversion board.**

- 12 (a) In addition to any other powers and duties authorized by  
13 law, the underground conversion board may:
- 14 (1) Establish and administer the underground conversion  
15 fund to plan, design, and construct the conversion of  
16 overhead lines to underground lines;
- 17 (2) Accept revenues, compensations, proceeds, charges,  
18 penalties, grants, or any other payments in any form,  
19 from any public agency or from any other source for  
20 deposit into the underground conversion fund;
- 21 (3) Adopt guidelines and criteria for the expenditure of  
22 funds from the underground conversion fund;



- 1 (4) Expend funds from the underground conversion fund to  
2 plan, design, and construct the conversion of overhead  
3 distribution lines to underground lines;
- 4 (5) Authorize the issuance of loans pursuant to section  
5 269-D;
- 6 (6) Establish a systematic prioritization of improvement  
7 areas for the conversion of overhead distribution  
8 lines to underground lines;
- 9 (7) Publish and distribute information and conduct  
10 educational programs in furtherance of this part;
- 11 (8) Issue binding interpretations or declaratory rulings  
12 and conduct contested case proceedings pursuant to  
13 chapter 91;
- 14 (9) Subpoena witnesses and documents, administer oaths,  
15 and receive affidavits and oral testimony, including  
16 telephonic and electronic communications;
- 17 (10) Recommend to the legislature additional statutory  
18 amendments to effectuate the purposes of this part;
- 19 (11) Adopt, amend, or repeal rules pursuant to chapter 91  
20 as it may deem necessary to effectuate this part;
- 21 (12) Establish a policy to maximize the use of federal  
22 highways funds for undergrounding of utility



- 1 facilities during the construction or reconstruction  
2 of any new or existing federal aid highway project;
- 3 (13) Maximize coordination and the establishment of funding  
4 sources with other federal, state, and county agencies  
5 to ensure the development of a hardened infrastructure  
6 designed with the endurance to withstand potential  
7 acts of terrorism and natural disasters, such as  
8 hurricanes and tsunamis;
- 9 (14) Establish a task force to assist with the development  
10 of a comprehensive statewide plan for the long-term  
11 incremental undergrounding of utility lines; and
- 12 (15) Enforce this part and its rules.
- 13 (b) Additionally, the board shall:
- 14 (1) Review the policies and laws of other jurisdictions  
15 that address the incremental undergrounding of  
16 utilities, as studied by the legislative reference  
17 bureau in 1999;
- 18 (2) Review community priorities and financing options  
19 studied in "Oahu Utilities Under-grounding and Visual  
20 Mitigation Studies" by the American Institute of  
21 Architects Honolulu Chapter in 2003;



- 1 (3) Review the current work-share program of the Hawaiian  
2 Electric Company, Incorporated for undergrounding  
3 distribution utilities based on cost sharing with  
4 participating communities;
- 5 (4) Clarify the relationship between the public utilities  
6 commission and above ground infrastructure wiring  
7 regulated by other governmental bodies;
- 8 (5) Balance undergrounding conversion cost with the  
9 environmental and aesthetic concerns of consumers;
- 10 (6) Envision a plan that is driven by the availability of  
11 financing from the underground conversion fund rather  
12 than a fixed firm date for converting all utilities;
- 13 (7) Present a process to the public utilities commission  
14 for final approval to determine priorities for  
15 specific incremental undergrounding projects or  
16 grants; and
- 17 (8) Make provisions to facilitate private funding of  
18 underground utilities in locations that will have a  
19 lower priority for conversion funds.

20 **§269-D Long-term loans.** The board shall have the  
21 authority to make long-term loans to private property owners in



1 communities that are low on the priority list for underground  
2 conversion grants.

3       **§269-E Round-up program.** The commission shall allow the  
4 utilities to administer a round-up program, under which the  
5 utilities may collect voluntary contributions for the  
6 underground conversion fund from ratepayers who choose to  
7 contribute the difference between their actual utility bill and  
8 their bill payment, which is rounded up to the nearest dollar.  
9 The utilities shall deposit into the utilities underground  
10 conversion fund, on a monthly basis, the difference between the  
11 actual bill and the rounded amount. Any moneys collected by a  
12 utility from the round-up program shall be excluded in  
13 determining the utility's annual gross revenue."

14       SECTION 3. Chapter 235, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17       "§235-    **Voluntary contributions to the underground**  
18 **conversion fund.** The director shall establish procedures to  
19 allow a taxpayer to designate and pay a voluntary contribution  
20 to the underground conversion fund on the taxpayer's annual  
21 state income tax return. The amount of the voluntary  
22 contribution shall be added to the final income tax due from the





1 taxpayer or subtracted from any refund due to the taxpayer and  
2 deposited in the underground conversion fund. The director may  
3 use the check-the-box concept on the state tax form for the  
4 voluntary contributions."

5 SECTION 4. Section 226-14, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) To achieve the general facility systems objective, it  
8 shall be the policy of this State to:

- 9 (1) Accommodate the needs of Hawaii's people through  
10 coordination of facility systems and capital  
11 improvement priorities in consonance with state and  
12 county plans[-];
- 13 (2) Encourage flexibility in the design and development of  
14 facility systems to promote prudent use of resources  
15 and accommodate changing public demands and  
16 priorities[-];
- 17 (3) Ensure that required facility systems can be supported  
18 within resource capacities and at reasonable cost to  
19 the user[-];
- 20 (4) Pursue alternative methods of financing programs and  
21 projects and cost-saving techniques in the planning,



1 construction, and maintenance of facility systems[-];  
 2 and  
 3 (5) Convert existing overhead distribution utilities in  
 4 the public domain to underground utilities and  
 5 encourage counties to do the same."

6 SECTION 5. The underground conversion board shall submit  
 7 an interim report of its findings and recommendations on the  
 8 development of a comprehensive statewide plan for the long-term  
 9 incremental undergrounding of utility lines, including proposed  
 10 legislation, if any, to the legislature and the governor no  
 11 later than twenty days before the convening of the regular  
 12 session of 2007. The underground conversion board shall submit  
 13 a final report on its findings and recommendations on the  
 14 development of a comprehensive statewide plan for the long-term  
 15 incremental undergrounding of utility lines, including proposed  
 16 legislation, if any, to the legislature and governor no later  
 17 than twenty days before the convening of the regular session of  
 18 2008.

19 SECTION 6. In codifying the new sections added by section  
 20 2 of this Act, the revisor of statutes shall substitute  
 21 appropriate section numbers for the letters used in designating  
 22 the new sections in this Act.

1 SECTION 7. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect on July 1, 2006.



HB 1647

HD 1

**Report Title:**

Utilities; Undergrounding Conversion Fund

**Description:**

Adopts a state policy of favoring underground utilities.  
Establishes an underground conversion fund for sustained  
incremental conversion of overhead utilities. (HD1)

