
A BILL FOR AN ACT

RELATING TO 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 tsunami. 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;

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

14 (3) Direct the public utilities commission to establish an
15 underground conversion program.

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

19 **"PART . UNDERGROUND CONVERSION**

20 **§269-A Underground conversion fund.** (a) There is
21 established in the state treasury an underground conversion
22 fund. The revenues to be deposited into the fund shall include:



- 1 (1) Five per cent of the state public utility fee;
- 2 (2) Federal and state appropriations and contributions by
- 3 other public bodies;
- 4 (3) Voluntary conversion funds; and
- 5 (4) Round-up program funds.

6 (b) The underground conversion fund shall be administered
7 by the public utilities commission for the purposes of this
8 part.

9 **§269-B Underground conversion program.** (a) The commission
10 shall establish an underground conversion program that allows
11 for the systematic conversion of overhead utility lines to
12 underground lines. In establishing the program, the commission
13 shall:

- 14 (1) Administer the underground conversion fund to plan,
15 design, and implement the conversion of overhead lines
16 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 implement the conversion of overhead
3 distribution lines to underground lines;
- 4 (5) Authorize the issuance of loans pursuant to section
5 269-C;
- 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 tsunami;
- 9 (14) Develop a comprehensive statewide plan for the long-
10 term incremental undergrounding of utility lines; and
- 11 (15) Enforce this part and its rules.
- 12 (b) Additionally, the commission shall:
- 13 (1) Review the policies and laws of other jurisdictions
14 that address the incremental undergrounding of
15 utilities, as studied by the legislative reference
16 bureau in 1999;
- 17 (2) Review community priorities and financing options
18 studied in "Oahu Utilities Under-grounding and Visual
19 Mitigation Studies" by the American Institute of
20 Architects Honolulu Chapter in 2003;
- 21 (3) Review the current work-share program of the Hawaiian
22 Electric Company, Inc., for undergrounding



- 1 distribution utilities based on cost sharing with
2 participating communities;
- 3 (4) Clarify the relationship between the public utilities
4 commission and above ground infrastructure wiring
5 regulated by other governmental bodies;
- 6 (5) Balance undergrounding conversion cost with the
7 environmental and aesthetic concerns of consumers;
- 8 (6) Envision a plan that is driven by the availability of
9 financing from the underground conversion fund rather
10 than a fixed firm date for converting all utilities;
- 11 (7) Determine priorities for specific incremental
12 undergrounding projects or grants;
- 13 (8) Make provisions to facilitate private funding of
14 underground utilities in locations that will have a
15 lower priority for conversion funds;
- 16 (9) Authorize each county to establish underground
17 conversion zones by ordinance; and
- 18 (10) Adopt criteria for allocating funds to each county for
19 its underground conversion zones.
- 20 (c) The commission shall adopt rules pursuant to chapter
21 91 for the implementation of and to establish standards for the
22 underground conversion program.



1 **§269-C Long-term loans.** The commission shall have the
2 authority to make long-term loans from the underground
3 conversion fund or any other authorized source to private
4 property owners in communities that are low on the priority list
5 for underground conversion grants.

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

17 SECTION 3. Section 226-14, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

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

21 (1) Accommodate the needs of Hawaii's people through
22 coordination of facility systems and capital



1 improvement priorities in consonance with state and
2 county plans[-];

3 (2) Encourage flexibility in the design and development of
4 facility systems to promote prudent use of resources
5 and accommodate changing public demands and
6 priorities[-];

7 (3) Ensure that required facility systems can be supported
8 within resource capacities and at reasonable cost to
9 the user[-];

10 (4) Pursue alternative methods of financing programs and
11 projects and cost-saving techniques in the planning,
12 construction, and maintenance of facility systems[-];
13 and

14 (5) Convert existing overhead distribution utility lines
15 in the public domain to underground utilities and
16 encourage counties to do the same."

17 SECTION 4. Section 235-102.5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§235-102.5 Income check-off authorized.** (a) Any
20 individual whose state income tax liability for any taxable year
21 is \$2 or more may designate \$2 of the liability to be paid over
22 to the Hawaii election campaign fund, any other law to the



1 contrary notwithstanding, when submitting a state income tax
2 return to the department. In the case of a joint return of a
3 husband and wife having a state income tax liability of \$4 or
4 more, each spouse may designate that \$2 be paid to the fund.
5 The director of taxation shall revise the individual state
6 income tax form to allow the designation of contributions to the
7 fund on the face of the tax return and immediately above the
8 signature lines. An explanation shall be included which clearly
9 states that the check-off does not constitute an additional tax
10 liability. If no designation was made on the original tax
11 return when filed, a designation may be made by the individual
12 on an amended return filed within twenty months and ten days
13 after the due date for the original return for such taxable
14 year. A designation once made whether by an original or amended
15 return may not be revoked.

16 (b) Notwithstanding any law to the contrary, any
17 individual whose state income tax refund for any taxable year is
18 \$2 or more may designate \$2 of the refund to be deposited into
19 the school-level minor repairs and maintenance special fund
20 established by section 302A-1504.5, when submitting a state
21 income tax return to the department. In the case of a joint
22 return of a husband and wife having a state income tax refund of



1 \$4 or more, each spouse may designate that \$2 be deposited into
2 the special fund. The director of taxation shall revise the
3 individual state income tax return form to allow the designation
4 of contributions to the special fund on the face of the tax
5 return and immediately above the signature lines. If no
6 designation was made on the original tax return when filed, a
7 designation may be made by the individual on an amended return
8 filed within twenty months and ten days after the due date for
9 the original return for such taxable year. A designation once
10 made, whether by an original or amended return, may not be
11 revoked.

12 (c) Notwithstanding any law to the contrary, any
13 individual whose state income tax refund for any taxable year is
14 \$2 or more may designate \$2 of the refund to be paid over to the
15 libraries special fund established by section 312-3.6, when
16 submitting a state income tax return to the department. In the
17 case of a joint return of a husband and wife having a state
18 income tax refund of \$4 or more, each spouse may designate that
19 \$2 be deposited into the special fund. The director of taxation
20 shall revise the individual state income tax form to allow the
21 designation of contributions to the fund on the face of the tax
22 return and immediately above the signature lines. If no



1 designation was made on the original tax return when filed, a
2 designation may be made by the individual on an amended return
3 filed within twenty months and ten days after the due date for
4 the original return for such taxable year. A designation once
5 made, whether by an original or amended return, may not be
6 revoked.

7 (d) Notwithstanding any law to the contrary, any
8 individual whose state income tax refund for any taxable year is
9 \$5 or more may designate \$5 of the refund to be paid over as
10 follows:

11 (1) One-third to the Hawaii children's trust fund under
12 section 350B-2; and

13 (2) Two-thirds to be divided equally among:

14 (A) The domestic violence and sexual assault special
15 fund under the department of health in section
16 321-1.3;

17 (B) The spouse and child abuse special account under
18 the department of human services in section
19 346-7.5; and

20 (C) The spouse and child abuse special account under
21 the judiciary in section 601-3.6.



1 When designated by a taxpayer submitting a state income tax
2 return to the department, the department of budget and finance
3 shall allocate the moneys among the several funds as provided in
4 this subsection. In the case of a joint return of a husband and
5 wife having a state income tax refund of \$10 or more, each
6 spouse may designate that \$5 be paid over as provided in this
7 subsection. The director of taxation shall revise the
8 individual state income tax form to allow the designation of
9 contributions pursuant to this subsection on the face of the tax
10 return and immediately above the signature lines. If no
11 designation was made on the original tax return when filed, a
12 designation may be made by the individual on an amended return
13 filed within twenty months and ten days after the due date for
14 the original return for such taxable year. A designation once
15 made, whether by an original or amended return, may not be
16 revoked.

17 (e) Notwithstanding any law to the contrary, any
18 individual whose state income tax refund for any taxable year is
19 \$2 or more may designate \$2 of the refund to be deposited into
20 the underground conversion fund established by section 269-A,
21 when submitting a state income tax return to the department. In
22 the case of a joint return of a husband and wife having a state



1 income tax refund of \$4 or more, each spouse may designate that
2 \$2 be deposited into the special fund. The director of taxation
3 shall revise the individual state income tax return form to
4 allow the designation of contributions to the fund on the face
5 of the tax return and immediately above the signature lines. If
6 no designation was made on the original tax return when filed, a
7 designation may be made by the individual on an amended return
8 filed within twenty months and ten days after the due date for
9 the original return for such taxable year. A designation once
10 made, whether by an original or amended return, may not be
11 revoked."

12 SECTION 5. The public utilities commission shall submit an
13 interim report of 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 the governor no
17 later than twenty days prior to the convening of the regular
18 session of 2009. The public utilities commission shall submit a
19 final report on its findings and recommendations on the
20 development of a comprehensive statewide plan for the long-term
21 incremental undergrounding of utility lines, including proposed
22 legislation, if any, to the legislature and governor no later



1 than twenty days prior to the convening of the regular session
2 of 2010.

3 SECTION 6. In codifying the new sections added by section
4 3 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

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

9 SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY: Kirk Caldwell

JAN 21 2008



Report Title:

Utilities; Underground Conversion

Description:

Adopts a state policy of favoring underground utilities. Establishes an underground conversion fund for sustained incremental conversion of overhead utilities. Allows income tax refund as a voluntary contribution to the fund. Directs the public utilities commission to establish and administer an underground conversion program.

