

JAN 23 2008

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# 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.

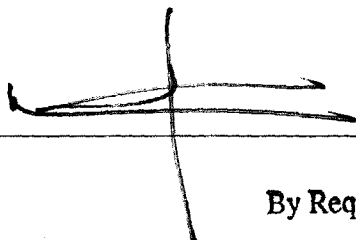
3 SECTION 6. In codifying the new sections added by section  
4 3 of this Act, the revisor of statutes shall substitute  
5 appropriate section numbers for the letters used in designating  
6 the new sections in this Act.

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:

  
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By Request



**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.

