

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION
AND AFFORDABLE HOUSING
ON
SENATE BILL NO. 2191

February 5, 2008

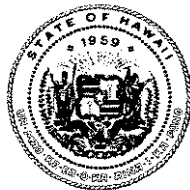
RELATING TO PUBLIC UTILITIES

Senate Bill No. 2191 requires the Public Utilities Commission to develop a plan for the systematic conversion of overhead utility lines to underground lines. The conversion plan should focus on areas in each county that are prone to severe weather conditions that have resulted in the disruption of traffic flow and the loss of utility service due to a history of felled or damaged utility poles. The Public Utilities Commission may require affected utilities to pay for the entire cost or share in the cost of undergrounding utility lines. The Public Utilities Commission is authorized to adopt administrative rules to develop and implement the conversion plan.

The bill also requires the Public Utilities Commission to establish a pilot conversion project that focuses on the utility lines within the Nanakuli to Makaha corridor of Oahu. For this pilot conversion project, the Public Utilities Commission is authorized to assess and collect an amount equal to one-half of the total cost of the project from utilities affected by the project.

The bill further appropriates an unspecified sum for FY 09 from the State highway fund to develop and implement a comprehensive plan and pilot program to underground overhead utility lines. This unspecified sum would not exceed one-half of the total cost of the aforementioned pilot conversion project.

We are opposed to this bill. The use of the State highway fund for the pilot conversion project to underground overhead utility lines is not an appropriate use of the fund. Further, the State highway fund, with its decreasing balance, is in a precarious financial situation, and any diversion of the fund for inappropriate uses would adversely affect the ability of the Department of Transportation to operate, maintain, and repair State roadways. In addition, any diversion would deplete resources necessary to match federal highway dollars and construct much needed roadways in the State.



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

February 5, 2008

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL No. 2191

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND AFFORDABLE
HOUSING

The Department of Transportation (DOT) appreciates the intent of the bill, but cannot support the measure because the appropriation needed to implement the proposed plan will adversely impact the state highway fund and prevent the department from properly maintaining our highway system due to lack of funds.

According to this bill, funds are appropriated out of the state highway fund to develop and implement the pilot conversion program. This comprehensive plan to underground overhead utility lines, would require the DOT to pay one-half of an estimated cost of \$204 million, as reported in the January 10, 2008 Honolulu Advertiser news article. It is not possible for the state highway fund to finance such an undertaking. In order to do so, the department would need to defer a majority of our maintenance program in order to pay for the undergrounding out of our highway fund. Bridge rehabilitation and replacement, highway safety improvements, intersection improvements, and other maintenance and improvement projects would need to be deferred and will lead to safety issues and increased liability.

In addition, the cost for the hardening or disaster-proofing of utility infrastructure is not eligible for federal-aid highway funding under Title 23, Code of Federal Regulations. The DOT feels that all costs for stand-alone utility hardening, disaster-proofing or undergrounding of utilities should be fully covered by the utility companies.

HRS 264-33.5 already requires undergrounding of utilities on Federal Aid Highways "during the design or redesign and construction or reconstruction phases of any new or existing federal-aid highway project when a determination is made that federal funds are available to pay for the federal share of the cost differential between underground and overhead utilities." This subsection further states that the Director of Transportation may make exceptions to this requirement due to:

- Environmental, safety, research, technology, corridor alignment, or management concerns
- State funding impacts, economic feasibility, and federal funding concerns
- Projects that do not lend themselves to undergrounding

The DOT strongly feels that this discretionary authority given to the Director of Transportation should not be removed, to allow the department to balance statewide transportation priorities with the undergrounding of utilities, given our limited available funding.

**Testimony before the Senate Committee on
Commerce, Consumer Protection, and Affordable Housing**

**By Ken T. Morikami
Manager, Engineering Department
Hawaiian Electric Company, Inc.**

February 5, 2008

**Senate Bill 2191
Relating to Public Utilities**

Chair Kokubun, Vice Chair Ige and Members of the Committee:

My name is Ken Morikami and I am testifying on behalf of the Hawaiian Electric Company.

We appreciate the intent of SB2191 which establishes a conversion plan for the undergrounding of overhead utility lines in certain severe weather affected areas.

As you recall, the major wind and rain storm in December 2007 damaged several utility poles in various parts of Oahu. In a joint agreement on 12/28/07, elected leaders, the Governor's office and HECO outlined a process to gain community input, decide on a plan, seek funding, and apply to the State Public Utilities Commission for approval to move ahead with a long-term plan to underground lines along key corridors along the Leeward coast.

In the interim, HECO has added steel bracing that will reinforce several wood poles along Farrington Highway in Nanakuli and Ma'ili and is working to replace several wood poles with stronger steel poles later this year.

We do support establishing a long term underground conversion program which establishes a systematic approach by addressing priorities, costs and financing. However we do have some concerns with some of the proposals in SB 2191.

The bill requires the affected utilities to pay for the entire cost or share in the cost of undergrounding. Because of the extremely high costs for undergrounding, if utilities are required to pay for the entire costs, this will place a huge burden on utility

ratepayers. Similar to SB 3143, we support an underground conversion program that contains multiple funding mechanisms from a variety of sources.

Also, undergrounding utility lines is only one of the ways of strengthening an overhead utility system. As mentioned above, installation of steel trusses, or replacing wood poles with steel, concrete or fiberglass poles are other options to strengthen overhead utility poles and protect them from high winds. If that is the purpose and intent of this legislation, these options may be a lot cheaper and cost-effective than undergrounding. We believe there may be portions of our system where these options may be more appropriate and effective than undergrounding. Whatever the outcome, we believe the magnitude of the cost involved warrants a deliberate examination of various segments of our system to find the best solutions. Undergrounding may or may not fit all situations.

Please note that there are advantages and disadvantages to an underground utility system. As HECO meets with the Leeward Coast communities in the next few months, we plan to inform them of these advantages and disadvantages, inform them of other options available, discuss funding alternatives, and together we hope to decide on a plan that is suitable for all.

Thank you for the opportunity to testify on this matter.

**SB 2191
RELATING TO PUBLIC UTILITIES**

**KEN HIRAKI
DIRECTOR – GOVERNMENT AFFAIRS
HAWAIIAN TELCOM**

FEBRUARY 5, 2008

Chair Kokubun, Vice Chair Ige and Members of the Commerce, Consumer Protection, and Affordable Housing Committee:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom on SB 2191, "Relating to Public Utilities." Hawaiian Telcom opposes this measure.

SB 2191 requires the public utilities commission to develop a plan for the undergrounding of utility lines in all counties with over 500,000 residents, establishes a pilot program for the Nanakuli to Makaha corridor, and mandates that the utilities are responsible for one-half of the undergrounding cost of the conversion program. While recognizing the benefits of undergrounding overhead facilities, this policy objective must be balanced against the considerable cost and limited funding sources available for the purpose of undergrounding.

According to the "Oahu Utilities Under-Grounding and Visual Impact Studies" by the American Institute of Architects Hawaii (2003), the estimated cost of undergrounding all utility lines would be between \$8.2 and \$11.3 billion. As currently drafted, SB 2191 does not adequately protect utilities against unfair assessments to pay for the cost of undergrounding. For example, if Hawaiian Telcom is mandated to pay the entire cost of undergrounding as provided in SB 2191, our company will be required to spend untold hundreds of millions of dollars that are not in our budget and provide us no other alternative except to defer our network repair and maintenance, abandon offering of new products and services, and seek further employee layoffs.

In addition, passage of this measure will legislatively preempt and may even impede the work of the existing Farrington Highway undergrounding initiative established in December by Agreement between the Office of the Governor, Senate President Hanabusa, House Speaker Say, and Hawaiian Electric. Under the Agreement, community meetings are planned to discuss issues such as: cost of undergrounding, construction traffic disruptions, federal and state sources of funding, cost of service hookups and other alternatives for the Nanakuli to Makaha Farrington Highway corridor. An additional separate effort by the Public Utilities Commission (PUC) layered on top of the existing initiative is duplicative, confusing, and will delay efforts given the earliest the PUC begins work on this issue (should the bill become law) is early summer.

Finally, this bill as drafted may lead to unintended consequences. For example, Section 4 of the bill requires that the utilities pay one-half of the cost of the undergrounding. By mandating the utilities share at one-half of the total cost, this predetermined allocation may preclude the federal government from funding 100% of the total cost of construction since the apportionment of cost is set by the formula set forth in S.B. 2191 and not by the availability of all sources of funding.

Based on the aforementioned, we respectfully request that SB 2191 be held in your committee.

Thank you for the opportunity to testify on this measure.

February 4, 2008

Senator Russell S. Kokubun, Chair
Senator David Y. Ige, Vice Chair

RE: SB 2191 Relating to Public Utilities

Aloha Senator Kokubun and Senator Ige:

My name is Patty Kahanamoku Teruya the former Chair of the Wai'anae Neighborhood Board No. 24 and also residents of Nanakuli for over 38 years. I reside on Mohihi Street, Nanakuli, just a few feet of where the utility poles snapped and fell.

I will be in support of SB 2191 which will require the public utilities commission to develop and implement a plan for the under grounding of several overhead utility lines in Nanakuli to Makaha corridor.

Once again, as the result of the downed utility poles it affected my family from being able to travel on Farrington Highway, being, that one of the poles snapped which blocked the Auyong Homestead Road which is a major road to enter Farrington Highway from Mohihi Street. Farrington Highway is the only primary transportation route through the Maili to Nanakuli in the Leeward Coast, which it took several days to repair and complete. Meanwhile, the public and residents along the coast was without electricity and a way out of the Leeward Coast.

I must add that through this entire ordeal, I must commend the Hawaiian Electric Company for doing an extremely difficult job in getting our electricity and poles function within at least 3 days. You cannot predict Mother Nature, but HECO has always been great neighbors and supportive in our community.

By supporting this bill, I would also request that the public utilities commission develop the appropriation of the total cost of this pilot project and not see that the rates will affect the customers along the Wai'anae Coast. It will very difficult with another increase to our utilities and be notify that our property would be in jeopardy along the Farrington Highway in order to accommodate and implement under ground utilities.

Beside this measure we should also established a open public hearing, share cost to all customers, minimize traffic during construction period, take a look at the existing property owners along Farrington Highway properties may be affected or eminent domain. The Wai'anae Coast could be a unique place, with no wires and poles; it would probably look better and bring community pride and values to the community. Hopefully, we all should take better care of our community.

Thank you for your time and the submittal of my testimony on SB 2191. Should you require information, please contact me at pteruya@hawaiiantel.net or 520-4483.

February 5, 2008

The Honorable Senator Russell Kokubun, Chairman
And Members
Senate Committee on Consumer Protection and Affordable Housing
Hawai'i State Capitol
Honolulu, HI 96813

RE: Testimony in support of SB 2191 Relating to Utilities

Chair Kokubun, Vice Chair Ige and Members of the Committee:

Thank you for this opportunity to present testimony supporting SB 2191 on behalf of Na Leo Pohai, the public policy affiliate of The Outdoor Circle. .

Overhead utility lines impact Hawai'i in several significant ways:

- They create a virtually ubiquitous eyesore in nearly every community that significantly undermines the quality of life for residents and diminishes Hawaii's attraction to visitors.
- They are difficult to maintain in the normally salty/windy environment of the islands which results in frequent and predictable power outages throughout the state.
- They are particularly vulnerable to extreme forces of nature such as hurricanes, tsunamis, high winds, etc. As a result, they occasionally suffer catastrophic failure that results loss of electrical power and even blockage of transportation routes for long periods.

We strongly believe that it is incumbent on Hawai'i to make a commitment to end the scourge of overhead wires. Undergrounding utility lines will doubtlessly be expensive and a slow process. That's all the more reason to begin as soon as possible.

We strongly urge your support of SB 2191.

Bob Loy
Director of Environmental Programs



LATE TESTIMONY

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

LATE

TO THE SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION,
AND AFFORDABLE HOUSING

THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

Tuesday, February 5, 2008
9:00 a.m.

TESTIMONY OF CATHERINE P. AWAKUNI, EXECUTIVE DIRECTOR,
DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS TO THE HONORABLE SENATOR KOKUBUN, CHAIR,
AND MEMBERS OF THE COMMITTEE

SENATE BILL NO. 2191 – RELATING TO PUBLIC UTILITIES.

DESCRIPTION:

This measure: (1) Requires the Hawaii Public Utilities Commission ("Commission") to develop and implement a plan for the undergrounding of all overhead utility lines in all counties with over 500,000 residents, beginning with a pilot program for the Nanakuli to Makaha corridor; and (2) Funds the pilot conversion plan by apportioning costs equally between affected utilities and the state highway fund.

POSITION:

The Division of Consumer Advocacy ("Consumer Advocate") understands the intent of the bill, which requires the Commission to focus the systematic conversion of overhead utility lines to underground in areas within each county that are prone to severe weather conditions causing disruption of normal motor vehicle traffic flow and loss of utility service due to a history of felled or damaged utility poles. The Consumer Advocate supports the appropriation for the purpose

S.B. No. 2191

Senate Committee on Commerce, Consumer Protection, and Affordable Housing
Tuesday, February 5, 2008, 9:00 a.m.

of developing and implementing a comprehensive plan and pilot program for undergrounding all overhead utility lines as long as it does not replace or adversely impact priorities as indicated in the Executive Supplemental Budget Request. Moreover, the Consumer Advocate defers to the Department of Transportation as to the reasonableness of using the state highway fund moneys for this purpose.

COMMENTS:

When compared with S.B. No. 3143, which was heard by this Committee on January 30, this measure appears to appropriately limit the scope of the required relocation of overhead facilities. Instead of requiring that all overhead utility facilities be relocated underground, the relocation envisioned by this measure is limited to those areas that are disposed to "severe weather conditions that have resulted in the disruption of normal motor vehicle traffic flow and loss of utility service due to a history of felled or damaged utility poles."

We are still concerned, however, by the magnitude of the dollars that will be required for the relocation of utilities' overhead facilities underground, and believe that all sources of funding must be considered to ensure that the customers of regulated utilities are not unduly burdened with the costs of relocation. After the December 2007 winter storm hit the Nanakuli and Maili areas, we were provided with preliminary estimates for relocating utility facilities located in that area underground of approximately \$12 million per mile by Hawaiian Electric Company, and of approximately \$4.3 million to \$5 million per mile by Hawaiian Telcom.

This measure provides that the sum appropriated out of the state highway fund shall not exceed one-half of the total cost of the pilot conversion project. Such limitation of the appropriation ensures that a significant portion of the cost will fall to the utilities, which will then be passed to their customers in the form of higher rates.

We further caution that while undergrounding of such utility facilities will likely protect against damage resulting from poles being downed in storms and severe weather conditions, other challenges will remain. Utilities laying facilities underground must ensure that cultural sites, artifacts, and human remains are appropriately tended. Costs of locating damaged lines may also increase as a result of placing the facilities underground, since the utilities' repair crews may not conduct easy visual inspections to locate such damage. Additionally, global climate change may have an impact on water and ocean levels, which may negatively impact our ability to successfully locate and maintain utility facilities underground.

Thank you for this opportunity to testify.

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION
AND AFFORDABLE HOUSING
FEBRUARY 5, 2008**

MEASURE: S.B. No. 2191
TITLE: Relating to Utilities.

Chair Kokubun and Members of the Committee:

DESCRIPTION:

This bill proposes to amend chapter 269, of the Hawaii Revised Statutes ("HRS"), by adding a new section requiring the Public Utilities Commission ("Commission") to develop and implement a statewide plan for converting ("Conversion Plan") overhead utility lines to underground lines within areas of each county that are prone to severe weather conditions, and that have resulted in disruption of normal vehicle traffic and loss of utility service due to felled or damaged utility poles.

The Commission may require affected utilities to pay for the entire cost, or share in the cost of undergrounding.

This measure also directs the Commission to establish a pilot project focusing on undergrounding utility lines within Oahu's Nanakuli to Makaha corridor.

The Commission shall collect one half of the total cost of the pilot project's costs from the utilities affected, each in proportions determined by the Commission.

This measure also makes an appropriation for fiscal year 2008-2009 from the state highway fund to the Department of Transportation for the purpose of developing and implementing a comprehensive plan and pilot program for the undergrounding of all overhead utility lines in an amount not to exceed one-half of the total cost of the pilot conversion project.

POSITION:

The Commission appreciates the importance of this policy issue and proposal to give a high priority to undergrounding utility lines in areas identified as prone to severe weather conditions and downed utility poles.

The Commission has, however, several concerns and comments regarding the proposed implementation of this policy as drafted in this bill.

COMMENTS:

- **The Commission defers to the Legislature's policy determination regarding conversion of overhead to underground utility lines in certain areas prone to severe weather damage and areas having a history of felled utility poles, but would like to offer the following comments and suggestions:**
 - The Legislature's policy determination (as stated in the preamble of the bill as the purpose of the proposed Act) should be clearly stated and included in the new part to be added to Chapter 269, HRS.
 - The policy statement appearing in Section 1 of the bill as the stated purpose of the measure calls for a plan for undergrounding "**all**" overhead utility lines in areas prone to severe weather damage and having a history of felled utility poles.
 - On the other hand, in Section 3 of the bill, the title of the new section of chapter 269, HRS, suggests that the plan for conversion from overhead to underground utility lines is limited to "**certain**" severe weather affected areas (as opposed to "**all**" severe weather affected areas).
 - Section 5 of the bill appropriates an amount to be determined to the Department of Transportation for the purpose of developing and implementing a comprehensive plan for the undergrounding of "**all**" utility lines.
 - The apparent contradictions or inconsistencies in Sections 1, 3, and 5 of the bill may cause interpretation problems and should be appropriately clarified.
- **The Commission, under the proposed new section of chapter 269, may require utilities affected by the conversion plan to pay for the entire cost, or share in the cost of undergrounding utility lines.**
 - The Commission has concerns about this portion of the proposed new section of chapter 269, in that it may leave the Commission with no alternative but to leave the ratepayers paying for the total, statewide conversion, if no other funds are appropriated or made available, regardless of the impact on rates.

- Although it appears that the cost to utilities and ratepayers of the pilot project area covering the Nanakuli to Makaha corridor is limited to one-half of the total cost of that conversion project, without understanding the total conversion cost, one-half of the costs may still result in significant impacts to the ratepayer.
- Thus, the availability of alternative and additional funding for the conversion program, such as federal funds, county funds, private funding, or other sources, in addition to utility funding and State Highway Fund appropriations, should be explored and determined.
- **This bill, as written, leaves to the Commission the costs of planning, designing, and implementing the statewide conversion plan.**
 - The Commission may need additional funding for staff and consultants to assist it in planning and designing this complex program. An appropriation for funding should be included with this bill to allow the Commission to take immediate action if it is required by this bill.
- **It may not be technically or logistically feasible to require the coordinated efforts needed of all affected utilities, stakeholders, and others involved, to allow the pilot conversion project and conversion plan to be completed by December 31, 2008, along with the rules required to be adopted under Section 2 of the bill, with actual undergrounding of lines in the Nanakuli to Makaha corridor beginning no later than January, 2, 2009.**
- **In short, if the Legislature makes the proposed policy determination to place a high priority on undergrounding utility lines in areas that are prone to severe weather conditions and significant traffic disruptions as proposed in this bill, several issues need to be clarified and addressed as we described in our testimony. In addition, the Commission would need additional time to consider the full ramifications of this measure's proposed underground conversion program and other issues that may be identified.**

Thank you for the opportunity to testify.