

STAND. COM. REP. NO. 835

Honolulu, Hawaii

March 6, 2009

RE: H.B. No. 1059

H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Finance, to which was referred H.B. No. 1059, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE ONE CALL CENTER,"

begs leave to report as follows:

The purpose of this bill is to protect underground infrastructure by making the Public Utilities Commission's (PUC) One Call Center pilot program permanent, but to exempt from the Program any pest control activity regulated under Chapter 460J, Hawaii Revised Statutes.

The PUC, Building Industry Association of Hawaii, Hawaiian Telcom, and Hawaii Pest Control Association testified in support of this bill. The One Call Center Advisory Committee offered comments.

Your Committee has amended this measure by:

- (1) Changing the effective date to June 29, 2009; and
- (2) Making technical, nonsubstantive amendments for style, clarity, and consistency.

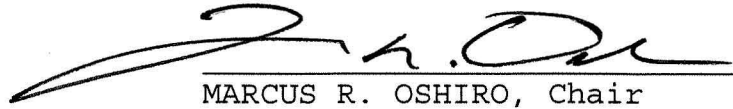
As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No.

HB1059 HD2 HSCR FIN HMS 2009-2663



1059, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1059, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Finance,


MARCUS R. OSHIRO, Chair



HSCR 835

Record of Votes of the Committee on Finance

Bill/Resolution No.: <i>HB 1059, HD1</i>	Committee Referral: <i>CPC, FIN</i>	Date: <i>March 2, 2009</i>
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The committee is reconsidering its previous decision on the measure.

The recommendation is to: Pass, unamended (as is) Pass, with amendments (HD) Hold
 Pass short form bill with HD to recommit for future public hearing (recommit)

FIN Members	Ayes	Ayes (WR)	Nays	Excused
1. OSHIRO, Marcus R. (C)	✓			
2. LEE, Marilyn B. (VC)	✓			
3. AQUINO, Henry J.C.	✓			
4. AWANA, Karen Leinani	✓			
5. BROWER, Tom	✓			
6. CHOY, Isaac W.	✓			
7. COFFMAN, Denny	✓			
8. HAR, Sharon E.	✓			
9. KEITH-AGARAN, Gilbert S.C.	✓			
10. LEE, Chris	✓			
11. NISHIMOTO, Scott Y.	✓			
12. SAGUM, Roland D., III	✓			
13. TOKIOKA, James Kunane	✓			
14. WOOLEY, Jessica	✓			
15. YAMASHITA, Kyle T.	✓			
16. PINE, Kimberly Marcos	✓			
17. WARD, Gene				✓
TOTAL (17)	<i>16</i>	<i>0</i>	<i>0</i>	<i>1</i>

The recommendation is: Adopted Not Adopted
 If joint referral, _____ did not support recommendation.
 committee acronym(s)

Vice Chair's or designee's signature: _____
Marilyn B. Lee

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A BILL FOR AN ACT

RELATING TO THE ONE CALL CENTER.

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

1 SECTION 1. The legislature finds that the deployment and
2 complexity of underground infrastructure in this state has
3 steadily increased over the past several decades. The
4 legislature further recognizes, and is concerned with, the
5 increasing dependence by the public, and all levels of
6 government, on the safe and reliable provision of services that
7 are delivered by subsurface facilities, including electricity,
8 water, drainage, sewer, telecommunications, cable television,
9 oil, petroleum products, gas, optical signals, traffic control,
10 and hazardous liquids. A consequence of increased dependence on
11 these utilities and services is an increase in the need for
12 protecting them from disruption, and avoiding the attendant
13 direct and indirect costs, damages, and injuries caused by their
14 disruption.

15 To address the above concerns, the legislature, pursuant to
16 Act 141, Session Laws of Hawaii 2004, mandated that the public
17 utilities commission establish and begin operations, by or



1 before January 1, 2006, of a one call center to provide advance
2 warning to excavators in this state of the location of
3 subsurface installations in areas of proposed excavation to
4 protect those installations from damage. Act 141, codified as
5 chapter 269E, Hawaii Revised Statutes, included a repeal date of
6 June 30, 2009.

7 Although after two years of operations the one call center
8 is still in a growth stage with respect to the maximum
9 coordination of its efforts, the legislature believes that the
10 one call center has been successful in its role as provider of
11 advance warning to excavators of the location of subsurface
12 installations, and concomitant protection of underground
13 facilities, and continues to benefit the general public and
14 governmental entities.

15 The legislature also finds that certain excavation
16 activities, such as pest control operations, should be exempted
17 from the one call center program, because they do not present
18 the risks to underground facilities that the one call center was
19 designed to address.

20 The purpose of this Act is to:



- 1 (1) Make the one call center program permanent by
2 repealing the June 30, 2009, sunset provision in Act
3 141; and
- 4 (2) Exempt the activities of pest control operators
5 licensed under chapter 460J, Hawaii Revised Statutes,
6 from the one call center program.

7 SECTION 2. Section 269E-2, Hawaii Revised Statutes, is
8 amended by amending the definition of "excavation" to read as
9 follows:

10 ""Excavation" means any operation in which earth, rock, or
11 other material in the ground is moved, removed, or otherwise
12 displaced by means of tools, equipment, or explosives, including
13 but not limited to the following: grading, trenching, digging,
14 ditching, boring, drilling, auguring, tunneling, scraping cable
15 or pipe plowing and driving, demolition, and dredging.

16 "Excavation" shall not include any operation in which earth,
17 rock, or other material in the ground is moved, removed, or
18 otherwise displaced by means of tools, equipment, or explosives
19 as part of [~~improving~~]:

- 20 (1) Improving an existing principal place of residence for
21 one or two families, or improving or constructing an
22 appurtenance thereto, on a parcel of land two acres or



1 less in size, zoned for residential use, which is used
2 or occupied or is developed, devoted, intended, or
3 permitted to be used or occupied as a principal place
4 of residence for one or two families[-]; or

5 (2) Any pest control activity regulated under chapter
6 460J."

7 SECTION 3. Act 141, Session Laws of Hawaii 2004, as
8 amended by section 51 of Act 22, Session Laws of Hawaii 2005, is
9 amended by amending section 7 to read as follows:

10 "SECTION 7. This Act shall take effect on July 1, 2004[-
11 ~~and shall be repealed on June 30, 2009; provided that sections~~
12 ~~269-30 and 269-33, Hawaii Revised Statutes, shall be reenacted~~
13 ~~in the form in which they read on the day before the effective~~
14 ~~date of this Act]."~~

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on June 29, 2009.



Report Title:

The One Call Center

Description:

Makes permanent the One Call Center pilot program, which facilitates advance warnings to excavators of the location of underground facilities. Exempts pest control operations from the program. (HB1059 HD2)



**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
MARCH 18, 2009**

MEASURE: H.B. No. 1059 H.D.2
TITLE: Relating to the One Call Center.

Chair Baker and Members of the Committee:

DESCRIPTION:

This bill proposes to amend Act 141, Session Laws of Hawaii 2004 (codified as chapter 269E, Hawaii Revised Statutes ("HRS")), by repealing the current sunset date of June 30, 2009. Chapter 269E, HRS, established the Hawaii One Call Center ("HOCC") which provides advanced warning to excavators of the location of underground facilities prior to commencement of an excavation. In addition, this bill provides an exemption from Chapter 269E, HRS, for any pest control activity regulated under Chapter 460J, HRS.

POSITION:

The Commission strongly supports this Administration bill, however, suggests that the exemption from Chapter 269E, HRS, for pest control activity regulated under Chapter 460J, HRS, should not be included at this time as we can address that in rulemaking.

COMMENTS:

- Act 141, Session Laws of Hawaii 2004, required the Commission to establish a state one call center for Hawaii similar to other centers operating throughout the nation, and the first of its kind in this State requiring mandatory participation by both excavators (e.g., contractors) and subsurface facility operators (e.g., public utilities). The One Call Center system provides advanced warning to excavators of the location of underground lines before they begin a dig. This mandatory "Call Before You Dig" program provides excavators with a single phone number to call for locating and marking underground lines, including, but not limited to, lines for electric, gas, telecommunications, cable, water, and sewer facilities.

- In addition to regulating excavation activity, this law is intended to minimize the disruption of service to operator customers, and enhance the safety of excavators.
- On November 15, 2005, the Commission, in agreement with the recommendation of the One Call Center Advisory Committee ("Advisory Committee"), awarded the contract to create and administer the state one call center to One Call Concepts, Inc. (OCC). The center began operations statewide on January 1, 2006.
- By repealing the sunset date at this time, it will allow continued organization of the program to fulfill its mission to serve and protect the people of Hawaii.
- The Commission recommends approaching with caution the creation of an exemption from the law at this time, when the program is still in its early stages of development. Providing an exemption for any group that routinely performs excavations in its operations may relieve pest control operators from the relatively minor burden of complying with the HOCC requirements of waiting five (5) days after notifying the HOCC of its intention of excavating. However, incidents have occurred across the nation when what seemingly was a routine, shallow-depth dig severs or damages expensive fiber optic cable, or gas lines, or other subsurface infrastructure and causing economic and/or personal injury.
- The Advisory Committee has been working very hard over the last year to draft administrative rules governing activities and operations of the HOCC, and has informed the Commission that it is currently in discussions regarding the issue of shallow-depth digs, which was deliberately left out of the current law by the industry groups that developed it, due to concerns that shallow digs can result in significant damage to persons or property.

Thank you for the opportunity to testify.

WRITTEN TESTIMONY

**HOUSE BILL 1059 HD 2
RELATING TO THE ONE CALL CENTER**

**BY
STEVEN P. GOLDEN
CHAIR, PUC ONE CALL ADVISORY COMMITTEE**

MARCH 18, 2009

Chair Baker and Members of the Committee:

Thank you for the opportunity to provide written testimony on behalf of the One Call Center Advisory Committee on House Bill 1059 HD 2, which would repeal the current sunset date of June 30, 2009 for the Hawaii One Call Center ("HOCC"), which provides advanced warning to excavators of the location of underground facilities prior to excavating.

The Advisory Committee, which consists of representatives of the utilities, General Contractors Association, Building Industry Association and government agencies including the four counties, approved a proposal at its meeting in January to support the repeal of the current sunset date for the Hawaii One call Center Center. We believe that the Center has increased public awareness of the importance of calling before digging and has resulted in less damage to underground facilities and the inconvenience caused to the affected customers and the traveling public which is impacted by road closures required to complete costly, unnecessary repairs.

This mandatory "Call Before You Dig" program provides excavators with a single phone number to call for locating and marking underground lines, including, but not limited to, lines for electric, gas, telecommunications, cable, water, and sewer facilities.

The Advisory Committee supports the original version of HB 1059 and is currently discussing the proposed exemption for pest control operators which is included in the HD 2. There are concerns by some of our members about granting a broad legislative exemption for pest control operators, which may be more appropriately handled during the development of the administrative rules.

Thank you for the opportunity to provide written testimony on this important measure.

Written Only

HB 1059 HD2

RELATING TO THE ONE CALL CENTER

HAWAIIAN TELCOM

March 18, 2009

Chair Baker and members of the Senate Committee on Commerce and Consumer Protection:

Hawaiian Telcom is providing written testimony in support of HB 1059 HD2, Relating to the One Call Center. Hawaiian Telcom supports this bill.

The purpose of this measure is to make permanent the Hawaii One Call Center system by repealing the current sunset date of June 30, 2009. Hawaiian Telcom believes that this advance warning system has proven effective over the last several years in preventing accidental damage to underground facilities. Operational benefits include: minimal disruption of service to residents, enhanced safety for excavators, and less repair costs caused by inadvertent cable cuts.

The House Consumer Protection Committee included an amendment to exempt the pest control operators from inclusion in the One Call Center. Hawaiian Telcom defers to the Public Utilities Commission's One Call Center Advisory Committee with specific regards to this newly-added exemption.

Based on the aforementioned, Hawaiian Telcom respectfully requests this measure be approved. Thank you for the opportunity to testify.



P.O. Box 3000
Honolulu, HI 96802-3000

March 18, 2009

HB 1059, HD2 – Relating to the One Call Center

Aloha Chair Baker, Vice Chair Ige and Members of the Committee on
Commerce & Consumer Protection:

My name is Stephanie Ackerman, and I am the Vice President of The Gas
Company. Thank you for allowing me to testify on HB 1059 HD2.

The Gas Company supports HB 1059 HD2. It continues the One Call Center
beyond the pilot program period making it permanent. Since 2004, the One
Call Center served an essential function in that it applied to all entities
involved in excavation and thereby avoided any disruption of the safe and
reliable delivery of subsurface utility service. In addition, as a central
database, the One Call Center provided advanced warning to utility
operators, contractors and excavators attempting to locate underground gas,
electric, telecommunications, cable, water, and/or sewer lines.

The One Call Center benefits the general public and government, and
passage of HB 1059 HD2 would assure the continuance of this important
service. We respectfully request that the exemption currently included in
HB1059, HD2 be removed so that all aspects of the pilot project are made
permanent.

Thank you for the opportunity to testify.

BIA-HAWAII
BUILDING INDUSTRY ASSOCIATION

March 18, 2009

Honorable Rosalyn Baker, Chair
Committee on Commerce and
Consumer Protection
State Capitol, Room 229
Honolulu, HI 96813

RE: HB1059, HD2 “Relating to the One Call Center”

Chair Oshiro and Members of the Committee on Finance:

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii strongly supports the passage of HB1059, HD2, “Relating to the One Call Center”. This bill will allow for the continued operation of the State’s One Call Center beyond the current statutory sunset date of June 30, 2009 by making the law permanent. The One Call Center’s continued operation will provide advanced warning to excavators of the location of underground lines before they dig. Making the operation of the One Call Center permanent will aid in assuring that utility services provided to the public via underground facilities will not be interrupted by unintentional breaks in underground lines resulting from excavators lacking knowledge of the location of those facilities in the area of excavation.

BIA-Hawaii concurs with the amendment that would exempt pest control activity from the provisions of this law.

Thank you for the opportunity to share our views with you.



Chief Executive Officer
BIA-Hawaii



HAWAII PEST CONTROL ASSOCIATION

820 Mililani Street, Suite 810 • Honolulu, Hawaii 96813
Telephone (808) 533-6404 • Fax (808) 533-2739

March 18, 2009

Testimony To: Senate Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair

Presented By: Tim Lyons, CAE
Executive Director

Subject: H.B. 1059, HD 2 - RELATING TO THE ONE CALL CENTER

Chair Baker and Members of the Committee:

I am Tim Lyons, Executive Director of the Hawaii Pest Control Association which represents 95% of all the structural pest control companies throughout the State of Hawaii.

The most important part of this bill as far as we are concerned is that section which exempts pest control operations from the program. When the law was first passed it merely defined an excavator as one who moves dirt and our members certainly do that however, we do not think that we should be included in this program and, more importantly, and especially, the monetary penalties.

It is typical that a pest control operator will dig a four (4) inch trench around a house in order to make a termiticide application or they will drill four (4) inch holes in concrete slabs. There are over 7000 of these applications made on a yearly basis and as far as we know there have been an incredibly few number of exceptions where a pest control

operator has hit a underground facility. We think it is not worth the time and effort or coordination to require pest control operators to do this.

Additionally, there are at least three (3) other states that have provided for an exemption and our information is that not one of those states have experienced any problems with the exemption.

Based on the above, we urge you to retain the exemption that is contained in this bill and pass it as is.

Thank you.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcawhawaii.org
Website: www.gcawhawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

March 13, 2009

TO: THE HONORABLE SENATOR ROSALYN H. BAKER, CHAIR AND
MEMBERS OF COMMITTEE ON COMMERCE AND CONSUMER
PROTECTION

SUBJECT: H.B. 1059, HD2, RELATING TO THE ONE CALL CENTER

AMENDED NOTICE OF HEARING

DATE: Wednesday, March 18, 2009
TIME: ~~8:30~~ **9:00** a.m.
PLACE: Conference Room 229

Dear Chair Baker and Committee Members:

The General Contractors Association of Hawaii (GCA), an organization comprised of over five hundred and sixty (560) general contractors, subcontractors, and construction related firms, **strongly supports** the passage of H. B. 1059, HD2, Relating To One Call Center.

Since the enactment of Act, 141, SLH , 2004, the call center has proven to be a exceptionally effective system in aiding contractors and utilities in avoiding potential damage to underground electric, water, sewer, gas lines and other . The system has saved not only disruption of services and inconvenience to the public but has saved the contractors and utilities the high cost of repairs.

The GCA believes the One Call Center has proven its worth and deserves to be made a permanent part of our construction procedure when proposed excavation is contemplated.

The GCA **strongly supports** the passage of H. B. 1059, HD2, Relating To One Call Center, and recommends that the bill be passed.

Thank you for the opportunity to provide our views on this issue.