
A BILL FOR AN ACT

RELATING TO COST SHARING IN THE RELOCATION AND UNDERGROUNDING OF
UTILITY FACILITIES.

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

1 SECTION 1. Section 264-33, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§264-33 Relocation of utility facilities.** (a) Whenever,
4 as the result of the work of construction, reconstruction, or
5 maintenance of any state highway or state or county federal-aid
6 highway, it is necessary to provide for or require the removal,
7 relocation, replacement, or reconstruction of any utility
8 facility, and the expense of removal, relocation, replacement,
9 or reconstruction exceeds \$10,000, one-half of this excess
10 expense shall be a proper charge against the state or county
11 funds available for the construction or maintenance of state or
12 county highways [~~provided that all of the expense of removal,~~
13 ~~relocation, replacement, or reconstruction of publicly owned~~
14 ~~utility facilities shall be a charge against the state or county~~
15 ~~funds.] and the balance of costs shall be borne by the utility
16 owner.~~



1 (b) The work of the removal, relocation, replacement, or
2 reconstruction may be performed in the following manner, subject
3 to the following conditions:

4 (1) The work shall be performed in accordance with
5 standards of construction currently used by the
6 utility; and

7 (2) Such work may be performed by contract as provided in
8 chapter 103D; or after first calling for bids under
9 that chapter, the director of transportation or other
10 officer having power to award such contract, may
11 contract with the public utility owning the utility
12 facility to have the work performed by it, with the
13 use of its own employees and equipment at not to
14 exceed actual cost or in the amount of the lowest
15 responsible bid (if such bids have been submitted),
16 whichever is the lowest amount, with the adjustments
17 hereinafter provided for.

18 (c) The amount to be paid out of state or county funds
19 shall be computed as follows:

20 (1) The total cost shall first be determined.

21 (2) From the total cost there shall be deducted the
22 following items:



- 1 (A) Depreciation, except that this shall not be
2 applicable to publicly owned utility facilities,
3 and the salvage value of any materials or parts
4 salvageable and retained by the utility;
- 5 (B) The amount of any betterment to the utility
6 facility resulting from the removal, relocation,
7 replacement, or reconstruction;
- 8 (C) In the case of a privately owned utility facility
9 only, the first \$10,000 of the expense of such
10 work;
- 11 (D) The balance of the cost, in the case of a
12 privately owned utility facility only, shall be
13 paid one-half by the owner thereof, and the
14 remaining one-half shall be the amount payable
15 out of state or county funds.
- 16 (d) Notwithstanding any other law to the contrary, and
17 with the exception of a telecommunications carrier, the utility
18 owner shall pay its full share for any betterment or relocation
19 costs to the state or county highway agency within thirty-days
20 after the date that the utility owner's share of the costs is
21 determined. The utility owner's cost share shall be determined



1 after the state or county highway agency determines the winning
2 bidder and finalized cost sharing amounts are calculated."

3 SECTION 2. Section 264-33.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+] §264-33.5 [+] Underground installation of utility
6 facilities along federal-aid highways; when required; when
7 waived. (a) The director of transportation shall arrange for
8 the installation of all utility cables and facilities below the
9 ground, within a [~~berm~~] corridor or away from the alignment of a
10 highway, during the design or redesign and construction or
11 reconstruction phases of any new or existing federal-aid highway
12 project, when a determination is made that federal highway funds
13 are available to pay for the federal share of the cost
14 differential between underground and overhead facilities.

15 (b) The director of transportation may make exceptions to
16 subsection (a) if:

17 (1) The director determines that exceptions are
18 appropriate due to either:

19 (A) Any of the following criteria: environmental,
20 safety, research, technology, corridor alignment,
21 or management concern; or



1 (B) The following criteria collectively: state
2 funding impacts, economic feasibility, and
3 federal funding concerns; or

4 (2) The projects do not lend themselves to undergrounding,
5 such as: resurfacing, traffic signal installation,
6 drainage installation, bikeway markings, guardrail
7 installation, traffic markings, and enhancement
8 improvements.

9 (c) In determining the cost sharing allocation, with the
10 exception of a telecommunications carrier, the following shall
11 apply:

12 (1) The basic costs attributable to relocation of an
13 overhead installation to an overhead installation
14 shall be shared in the manner set forth in section
15 264.33; and

16 (2) The costs differential between underground and
17 overhead installations shall be allocated one-half to
18 the utility owner and one-half to the state or county
19 highway agency.

20 (d) Notwithstanding any other law to the contrary, and
21 with the exception of a telecommunications carrier, the utility
22 owner shall pay its full share for any betterment or relocation



1 or undergrounding costs to the state or county highway agency
2 within thirty days after the date that the utility owner's share
3 of the costs is determined. The utility owner's cost share
4 shall be determined after the state or county highway agency
5 determines the winning bidder and finalized cost sharing amounts
6 are calculated.

7 (e) This section shall apply to any existing and new
8 utility facilities."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on July 1, 2010.



Report Title:

Highway; Cost Sharing; Utility Owners; Right-of-Way; Relocation

Description:

Requires any utility owner whose facility occupies State Highway right-of-way to provide their share of relocation costs up front to the affected state agency for encumbrance of funds in related contracts. Exempts telecommunications carriers. (HB2603 HD1)

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