
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.



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

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

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



- 1 (2) From the total cost there shall be deducted the
2 following items:
- 3 (A) Depreciation, except that this shall not be
4 applicable to publicly owned utility facilities,
5 and the salvage value of any materials or parts
6 salvageable and retained by the utility;
- 7 (B) The amount of any betterment to the utility
8 facility resulting from the removal, relocation,
9 replacement, or reconstruction;
- 10 (C) In the case of a privately owned utility facility
11 only, the first \$10,000 of the expense of [~~such~~
12 the work];
- 13 (D) [~~The~~] One-half of the balance of the cost, in the
14 case of a [~~privately owned~~] privately-owned
15 utility facility only, shall be paid [~~one-half~~]
16 by the owner [~~thereof,~~] of the facility, and the
17 remaining one-half shall be [~~the amount~~] payable
18 out of state or county funds.

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



1 days prior to removal, relocation, replacement, or
2 reconstruction of utility facilities. A state or county highway
3 agency shall pay its full share to the utility for any
4 betterment or relocation costs thirty days prior to
5 construction.

6 (e) This section shall not apply to a telecommunications
7 carrier utility owner, if the cost for removal, relocation,
8 replacement, or reconstruction of utility facilities exceeds an
9 amount mutually agreed upon by all parties, in which case
10 monthly progress payments shall be made by both a utility and a
11 state or county highway agency instead of upfront payments
12 pursuant to subsection (d).

13 (f) Cost-sharing under this section for a state or county
14 highway agency and for a utility shall be determined after the
15 state or county highway agency determines the winning bidder for
16 the project and calculates estimated cost-sharing amounts. The
17 final cost share under this section shall be based on the actual
18 cost incurred by the project and shall be subject to review and
19 mutual agreement by all parties to the project."

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



1 " ~~[+]~~ §264-33.5 ~~[+]~~ Underground installation of utility
2 facilities along federal-aid highways; when required; when
3 waived. (a) The director of transportation shall arrange for
4 the installation of all utility cables and facilities below the
5 ground, within a ~~[berm]~~ corridor or away from the alignment of a
6 highway, during the design or redesign and construction or
7 reconstruction phases of any new or existing federal-aid highway
8 project, when a determination is made that federal highway funds
9 are available to pay for the federal share of the cost
10 differential between underground and ~~[overhead]~~ aboveground
11 facilities.

12 (b) The director of transportation may make exceptions to
13 subsection (a) if:

14 (1) The director of transportation determines that
15 exceptions are appropriate due to ~~[either]~~:

16 (A) ~~[Any of the following criteria: environmental,]~~
17 Environmental, safety, research, technology,
18 corridor alignment, or management ~~[concern,]~~
19 concerns; or

20 (B) ~~[The following criteria collectively: state]~~
21 State funding impacts, economic feasibility, and



1 federal funding concerns;

2 or

3 (2) The [~~projects do not lend themselves to~~
4 inappropriateness of undergrounding[-] for projects
5 such as[+] resurfacing, traffic signal installation,
6 drainage installation, bikeway markings, guardrail
7 installation, traffic markings, and enhancement
8 improvements.

9 (c) When federal highway funds are available to pay for
10 the federal share of the cost pursuant to subsection (a), the
11 federal highway funds shall be appropriated toward eighty per
12 cent of the total cost to underground existing utility
13 facilities. Ten per cent of the total cost to underground the
14 utility facilities shall constitute the state or county highway
15 agency's share. The remaining ten per cent of the total cost
16 shall constitute the utility's share. This subsection shall not
17 apply to a telecommunications carrier utility owner.

18 (d) Any federal non-highway funds attributable to the
19 relocation, replacement, reconstruction, or undergrounding of
20 any utility facility shall be attributable solely to the
21 utility's cost share unless the state or county highway agency
22 has sponsored the application for federal non-highway funds. If



1 the state or county highway agency has sponsored the application
2 for federal non-highway funds, any federal non-highway funds
3 shall be apportioned ratably among the cost shares of the state
4 or county highway agency and the affected utilities."

5 SECTION 3. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

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

Description:

Allocates cost share among highway agencies and utilities for projects involving the removal, relocation, replacement, or reconstruction of utility facilities that border state or county highways. Clarifies federal funding share for cost of undergrounding utility facilities. Effective July 1, 2050.
(SB2756 HD1)

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