

---

---

# 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 work;
- 13 (D) [~~The~~] One half of the balance of the cost, in the  
14 case of a privately owned utility facility only,  
15 shall be paid [~~one-half~~] by the owner [~~thereof,~~]  
16 of the facility and the remaining one-half shall  
17 be [~~the amount~~] payable out of state or county  
18 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 for any betterment or relocation  
4 costs thirty days prior to construction.

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

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

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

21 **"[~~§~~264-33.5~~]~~ Underground installation of utility**  
22 **facilities along federal-aid highways; when required; when**

SB2756 SD1.DOC

\*SB2756 SD1.DOC\*

\*SB2756 SD1.DOC\*

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

10 (b) The director of transportation may make exceptions to  
11 subsection (a) if:

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

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

18 (B) [~~The following criteria collectively: state~~]  
19 State funding impacts, economic feasibility, and  
20 federal funding concerns; or

21 (2) The [~~projects do not lend themselves to~~]  
22 inappropriateness of undergrounding[~~,~~] for projects

1           such as[+] resurfacing, traffic signal installation,  
2           drainage installation, bikeway markings, guardrail  
3           installation, traffic markings, and enhancement  
4           improvements.

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

14           (d) Any federal non-highway funds attributable to the  
15 relocation, replacement, reconstruction, or undergrounding of  
16 any utility facility shall be attributable solely to the  
17 utility's cost share unless the state or county highway agency  
18 has sponsored the application for federal non-highway funds. If  
19 the state or county highway agency has sponsored the application  
20 for federal non-highway funds, then any federal non-highway  
21 funds shall be apportioned ratably among the cost shares of the  
22 state or county highway agency and the affected utilities."

1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

4

**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. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*