

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

February 23, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 2603, HD 2

COMMITTEE ON FINANCE

The Department of Transportation supports House Draft 2 of this bill, which is intended to address a long-standing challenge for the DOT to complete projects involving relocation or undergrounding of utilities.

Based on coordination with utility entities, including county water and sewer agencies, HECO, The Gas Co. and Hawaiian Telcom, we believe that language making a legal document that allows progress payments (for work completed), instead of payment upfront in full, as the primary means of certifying funds would be the best compromise for state and county agencies and utility entities. We believe the current subsection (c), should be replaced by the following:

In any contract involving not only state or county funds but supplemental funds from a utility company or entity (utility), this section shall be applicable only to that portion of the contract price as is payable out of state and county funds. As to the portion of the contract price to be payable out of funds from a utility, or payable out of state or county funds to a utility, the utility must enter into a legal agreement (utility agreement, memorandum of understanding, memorandum of agreement, etc.) with the affected state or county agency. The legal agreement will include, but not be limited to, a description of the agreed upon utility share and payment terms, will allow monthly or other agreed to progress payments, and shall be sufficient to certify utility funds as described in subsections (a) and (b). Any such agreement shall be executed prior to execution of the state or county contract and shall not jeopardize any federal, state, or county funds. In the event the utility is delinquent in paying the funds as due based on the legal agreement, the utility shall be responsible for any and all additional costs attributable to such late payment.

Council Chair
Danny A. Mateo

Vice-Chair
Michael J. Molina

Council Members
Gladys C. Baisa
Jo Anne Johnson
Sol P. Kaho'ohalahala
Bill Kauakea Medeiros
Wayne K. Nishiki
Joseph Pontanilla
Michael P. Victorino

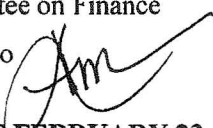


Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

February 22, 2010

TO: The Honorable Marcus R. Oshiro, Chair
House Committee on Finance

FROM: Danny A. Mateo
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 23, 2010; TESTIMONY IN OPPOSITION TO HB 2603, HD2, RELATING TO COST SHARING IN THE RELOCATION AND UNDERGROUNDING OF UTILITY FACILITIES**

Thank you for the opportunity to testify in opposition to this important measure. The purpose of this measure is to require utility entities to provide their share of funds in a timely manner in any contract involving not only state or county funds, but supplemental funds from utility entities to ensure sufficient funds are available to cover the amount required by the contract.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

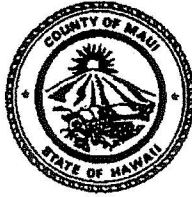
1. The proposed undergrounding is being specifically requested by the State Department of Transportation (DOT). While this proposed bill would result in a cost savings to the DOT, it would place a financial burden on the counties' utilities.
2. This proposed bill requires the counties to pay towards the cost of relocating and undergrounding of utilities when the DOT's requirements or needs dictate. Both the State and counties desire infrastructure improvements; however, this funding mandate placed on the counties (particularly during our fiscal crisis) creates an uncertain ability to comply.
3. In addition, the proposed bill would likely result in higher utility costs for our residents during a very difficult economic downturn and further frustrate the revitalization of the local economy.

For the foregoing reasons, I oppose this measure.

CHARMAINE TAVARES
Mayor

CHERYL K. OKUMA, Esq.
Director

GREGG KRESGE
Deputy Director



TRACY TAKAMINE, P.E.
Solid Waste Division

DAVID TAYLOR, P.E.
Wastewater Reclamation Division

**COUNTY OF MAUI
DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**
2200 MAIN STREET, SUITE 100
WAILUKU, MAUI, HAWAII 96793

February 22, 2010

The Honorable Marcus R. Oshiro, Chair
And Members of the Committee on Finance

HEARING DATE: Tuesday, February 23, 2010, 10:00 a.m.
Conference Room 308
State Capitol
415 S. Beretania Street

RE: HB 2603 HD 2-RELATING TO COST SHARING IN THE RELOCATION AND UNDERGROUNDING OF UTILITY FACILITIES.

Dear Chair Oshiro and Members:

I am Cheryl K. Okuma, Director of the Department of Environmental Management and am providing testimony of our concerns and opposition to the language set forth in HB 2603 HD 2. This proposed bill would require utility owners whose facility occupies State Highway right-of way to provide a share of betterment, relocation or underground costs up front to the affected state or county highway agency.

Under the current practice when State Department of Transportation (DOT) does roadwork and relocates an existing utility line for sewer, water and drainage, DOT pays for the cost of the relocation. This proposed bill requires the County of Maui to pay towards the cost of relocating its sewer line in the event there is DOT roadwork requiring line relocation. While this proposed bill would result in cost savings to DOT, it would place a financial burden on the County of Maui utilities when the need for relocation is determined by a State Agency such as DOT. It is our position that sewer lines requiring relocation as a result of DOT projects shall be relocated at DOT expense. While the proposed language sets forth that we may be exempt from the requirements of the section if a legal agreements for cost sharing is reached, the concern is in the event a legal agreement is not reached and the costs this proposed bill would have the County of Maui responsible for.

We appreciate the opportunity to provide our comments in opposition to HB 2603 HD 2.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl K. Okuma".

CHERYL K. OKUMA
Director, Department of
Environmental Management

Testimony before the House Committee on Finance

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

February 23, 2010

House Bill 2603, HD2
Relating to Cost Sharing in the Relocation and Undergrounding of Utility
Facilities

Chair Oshiro, Vice Chair Lee and Members of the Committee:

My name is Ken Morikami and I am testifying on behalf of the Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company.

We **oppose** HB 2603, HD2 as it is currently written as it will financially burden our utility customers.

We oppose the amendment to HRS §103D-309 which would require utilities to make payments upfront to the State prior to the State awarding a contract for the project work. The proposed amendment is contrary to State PUC regulatory requirements which prohibit Hawaiian Electric from committing funds earlier than 60 days after filing of the PUC application for project approval. In addition, construction of State highway projects is often delayed and accordingly, any upfront payments create an unnecessary and unfair burden on utilities and its customers.

If the Committee wishes to pursue this issue, we suggest the language contained in the Senate companion, SB2756, SD1 is a more viable option.

Thank you for the opportunity to testify on this matter.

Testimony Before the House Committee on
Finance

By: Michael V. Yamane, P.E.
Engineering Manager
Kauai Island Utility Cooperative
4463 Pahee Street, Suite 1, Lihue, Hawaii, 96766-2000

Tuesday, February 23, 2010, 10:00am
Conference Room #308

**House Bill No. 2603, HD2 – Relating to Cost Sharing in the Relocation
and Undergrounding of Utility Facilities**

To the Honorable Marcus R. Oshiro, Chair; Marilyn B. Lee, Vice-Chair,
and members of the Committee:

KIUC supports House Bill No. 2603, HD2 as drafted and respectfully submits
comments:

KIUC believes this measure allows flexibility for each utility to be treated separately and independently. KIUC is the only electric cooperative in the State of Hawaii, and the only electric utility serving the people on the island of Kauai. Unlike the for-profit, investor-owned, and much larger utility companies in Hawaii, KIUC is member-owned, its shareholders and ratepayers being one in the same.

Also, KIUC's existing tariff approved by the Public Utilities Commission, may treat undergrounding of facilities differently from other utilities and the measure as proposed would allow discretion to the PUC.

Thank you for the opportunity to inform you of KIUC's position on this matter.

HB 2603 HD2

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

KEN HIRAKI

**VICE PRESIDENT
GOVERNMENT AND COMMUNITY AFFAIRS**

HAWAIIAN TELCOM

February 23, 2010

Chair Oshiro and members of the House Finance Committee:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom on HB 2603 HD2, Relating to Cost Sharing in the Relocation and Undergrounding of Utility Facilities. Hawaiian Telcom opposes this measure.

HB 2603 HD2 requires utilities whose facilities occupies state highway rights-of-way to provide their share of relocation costs up front rather than at the time of completion as is the present practice.

This proposed change places an unfair disadvantage upon Hawaiian Telcom and imposes a significant negative financial drain on our company that we cannot in our current financial situation absorb. Unlike the other utilities included under this measure, our company should not be included in this bill because we are not a monopoly and do not have the ability to pass on these added costs to our customers. Telecommunications is a highly competitive industry. Today consumers have the freedom to choose from a wide array of other telecommunication providers besides a landline including wireless and VoIP. In addition, this measure will allow some of these same companies to offer the same services but not be burdened by these additional costs.

If the Committee decides to advance this measure, we respectfully request an exemption be provided for a "telecommunication carrier utility owner".

Based on the aforementioned, unless the bill is amended to address our concerns, Hawaiian Telcom urges this committee to defer HB 2603 HD2.

Thank you for the opportunity to testify.

THE GAS COMPANY

P.O. Box 3000
Honolulu, Hawaii 96802-3000
www.hawaiigas.com

February 23, 2010

Testimony on HB2603, HD2
Relating to Cost Sharing in the Relocation and Undergrounding of Utility Facilities

Aloha Chair Oshiro, Vice Chair Lee and Members of the House Finance Committee:

My name is Stephanie Ackerman, Vice President Public Policy and Communications of The Gas Company.

Thank you for the opportunity to provide testimony on HB2603 HD2.

The Gas Company (TGC) is a public utility that was founded in 1904 and is Hawaii's only government franchised full-service gas energy company making gas products and services available in Hawaii. We note that the current version of this measure contains a defective implementation date and we ask that this date be maintained for now so that we can evaluate the impact of this measure on our rate payers. As you may be aware, this measure has gone through several changes and there is a similar measure being considered in the Senate.

We look forward to an opportunity to engage in further conversation on this measure before your final consideration of it.

Mahalo for the opportunity to testify on HB2603 HD2.