

Written Statement of
Steven Golden
Vice President – External Affairs

SENATE COMMITTEE ON COMMERCE & CONSUMER PROTECTION

February 11, 2022 10:00 AM
State Capitol, Room 229 & Videoconference

SUPPORT FOR:

S.B. NO. 3078 RELATING TO ADVANCE WARNING FOR EXCAVATION

To: Chair Baker, Vice-Chair Change, and Members of the Committees

Re: Testimony in support of SB 3078, with requested amendment

Aloha Honorable Chairs, Vice-Chairs, and Committee Members:

Thank you for this opportunity to submit testimony in support of Senate Bill 3078. This bill would improve the advance warning requirements to excavators operating on residential properties and clarify various excavation requirements and reporting procedures.

As a member of the Hawaii One Call Center (“HOCC”) Advisory Committee, Hawaiian Telcom stands committed to promoting organized planning and installation of underground facilities as well as protecting these substructures once placed. Current law¹ requires most excavators to call the One Call Center prior to a planned excavation. The HOCC provides uniform notification and alerts utilities to properly identify and mark underground facilities on the property so that contractors take caution to protect and avoid buried lines during an excavation. This bill extends that protocol to require excavators operating on residential property (single or duplex homes) to contact the HOCC prior to excavation to avoid the risk, cost, and inconvenience of damaging telecommunications infrastructure, water pipelines, and electric or gas lines.

In addition, Hawaiian Telcom stands in support of the amendment offered by Public Utilities Commission, which requests that the language on page 2, lines 14-16, be removed from the measure.

Thank you for the opportunity to submit testimony in support of Senate Bill 3078.

¹ Section 269E-4, Hawaii Revised Statutes



HAWAII PEST CONTROL ASSOCIATION

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February 11, 2022

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

Presented By: Tim Lyons, CAE
Executive Director

Subject: S.B. 3078 – RELATING TO ADVANCE WARNING FOR EXCAVATION.

Chair Baker and Members of the Committee:

I am Tim Lyons, Executive Director of the Hawaii Pest Control Association, an Association composed of those companies that perform structural pest control on residences and other buildings. We are in support of this bill with an amendment.

The Hawaii One Call Center is a great idea. It has helped utilities, consumers and contractors throughout the State. Unfortunately, when it first came into effect, someone made the determination that pest control operators who do liquid termiticide treatments around the perimeter of residential structures by trenching two (2) to four (4) inches around the house fell under the definition of an excavator. This was detrimental not only to the pest control

operators for coordination responsibilities but also to homeowners by way of increased costs and it was unnecessary.

So the Legislature in its wisdom passed Act 72 in 2009 that exempted pest control operators for three (3) years. Act 196 in 2012 exempted pest control operators for another three (3) years. In the interim, the Public Utilities Commission opened a docket in 2012 to determine if there should be relief to pest control operators which was filed on May 9, 2013. As noted in a report from PUC to the Legislature in 2014, "(The Commission found sufficient evidence in the established record on which to base its determination that the excavation activities of pest control operators, currently, do not pose the level of risk to underground facilities in the State that would require operators to fully comply with One Call Center requirements)". Based on that then, the PUC issued order number 31225 which provided for an exemption for pest control operators from general compliance with the One Call Center chapter.

As we understand it, this bill comes to you now in order to modernize the statute and clarify the exemption. Specifically the term "excavation" is revised in order to meet the activities of pest control operators.

The amendment we request appears on page two (2), lines fourteen (14) through sixteen (16) which we believe should be deleted entirely which adds wording, "if the excavation is performed by the person who owns or occupies the property on which the excavation is being performed."

Liquid termiticides are typically restricted use pesticides. That means that it requires certification from the Department of Agriculture based on EPA requirements. Homeowners do not have that certification so they could not perform these types of applications. We don't believe that the language was ever intended to be restricted solely to homeowners therefore we would request deletion of that language, otherwise we are all going back to "square one", pre-2009.

Based on the above, we respectfully request this Committee's deletion of that language and support the remainder of the bill.

Thank you.



**Hawaiian
Electric**

**WRITTEN TESTIMONY BEFORE THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

**S.B. 3078
Relating to Advance Warning for Excavation**

Friday, February 11, 2022
10:00 A.M., Agenda Item # 2
State Capitol, Conference Room 229

Rouen Liu
Permits Engineer, Transmission and Distribution Engineering
Hawaiian Electric Company

Chair Baker, Vice Chair Chang, and Members of the Committee,

My name is Rouen Liu and I am testifying on behalf of Hawaiian Electric Company, Inc. (Hawaiian Electric) **in support** of S.B. 3078, relating to advance warning for excavation.

Hawaiian Electric supports the intent of this bill which is to address additional safety concerns identified by recently provided excavation data.

Thank you for the opportunity to testify.



**Testimony to
The Committee on Commerce Consumer Protection**

Friday February 11, 2022

10:00 AM

VIA Video Conference

Conference Room 229, Hawaii State Capitol

SB 3078

Chair Baker, Vice Chair Chang, and members of the committee,

Hawaii Gas **supports and offers comments on SB 3078**, which applies the existing advance warning requirements to excavators operating on residential properties and clarifies various excavation requirements and reporting procedures.

Hawaii Gas is a national leader in the transmission and distribution use of hydrogen in our clean energy mix, and it is our vision to continue to lead the gas industry in its ability to safely, affordably, and reliably increase the amount of this zero-emissions fuel source in our utility pipeline.

The One Call policy has proven effective in preventing accidental occurrences that can pose a risk to life, health, property, or essential public services.

As the committee moves forward in its consideration of SB 3078, we ask the committee to be judicious in considering any amendments or exemptions that might result in unintended consequences.

For example, in the past five years Hawaii Gas has recorded seven line strikes by Pest Control Operators. Given the proximity that PCOs place termite baiting stations near homes, and the risk of serious bodily injury in the event of an accidental line strike, Hawaii Gas believes it is prudent to require PCOs to call One Call prior to excavating on a residential property regardless of the depth. Hawaii Gas therefore supports this measure with the proposed language on page 2, lines 14-16, INCLUDED in the measure.

We urge the committees to pass SB 3078 unamended.

Thank you for the opportunity to testify.

TESTIMONY OF
JAMES P. GRIFFIN, Ph.D.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

February 11, 2022
10:00 a.m.

Chair Baker and Members of the Committee:

MEASURE: S.B. No. 3078

TITLE: RELATING TO ADVANCE WARNING FOR EXCAVATION.

DESCRIPTION: Applies the existing advance warning requirements to excavators operating on residential properties and clarifies various excavation requirements and reporting procedures.

POSITION:

The Public Utilities Commission (“Commission”) supports this administration measure and offers the following comments for consideration.

COMMENTS:

The Public Utilities Commission (“Commission”) supports this administration measure, which would improve and clarify the advance warning requirements that apply to excavators operating on residential properties. As a member of the One Call Center Advisory Committee established pursuant to Section 269E-4, Hawaii Revised Statutes (HRS), the Commission believes that these statutory amendments would help to reduce risks to homeowners, residential communities, and those involved in performing excavation work.

Most excavators are currently required to call the One Call Center, as set forth in chapter 269E, HRS, prior to commencing excavation. This provides the One Call Center with the opportunity to check for pipelines or similar infrastructure where an individual or organization plans to dig, in order to avoid situations where infrastructure is struck during excavation.

However, the current statute does not require excavators operating on residential properties (one or two family homes) to contact the One Call Center prior to excavation. As a result, underground utility infrastructure is frequently impacted in residential areas. In 2020, approximately 68 percent of subsurface utility infrastructure “hits” occurred on residential properties.

This exemption creates significant risk for homeowners who are digging on their property, contractors who are hired to do such work, and community members who use shared infrastructure. For example, breaching a water pipeline can result in water outages, especially in concentrated residential areas. In the case of a gas leak, there may be risks of physical harm to homeowners, their neighbors, and those performing the excavation work.

In applying the existing advance warning requirements to residential properties and clarifying these requirements, this measure would reduce avoidable infrastructure damage, as well as risks of water outages, gas leaks, and electrocution. As such, the Commission developed this measure in consultation with members of the One Call Center Advisory Committee to mitigate these concerns.

The Commission notes that it has conferred with the Hawaii Pest Control Association and recommends that the proposed language on page 2, lines 14-16, be removed from the measure. This amendment would exempt contractors from the advance warning requirements when their activities on residential properties do not involve excavation of more than 12 inches below the surface of the ground. The Commission believes that this will reduce disruptions to activities such as pest control measures on residential properties, without increasing safety risks.

The Commission respectfully requests your consideration and passage of this measure.

Thank you for the opportunity to testify.