

ACT 163

H. B. 970.

A Bill for an Act Relating to Highways and Amending Chapter 111, Revised Laws of Hawaii 1955.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Sections 111-12, 111-13, 111-14, 111-15, 111-16, and 111-17, Revised Laws of Hawaii 1955, are repealed.

SECTION 2. Part III of Chapter 111, Revised Laws of Hawaii 1955, is amended by adding the following:

“Section 111-41.1. State highway not to be disturbed, etc., without permit. No person or government agency, whether federal, state or county, shall, in any manner or for any purpose, break up, dig up, disturb, undermine or dig under or cause to be broken up, dug up, disturbed, undermined or dug under, the right of way of any state highway without a written permit from the director of transportation or his authorized representative.

“Section 111-41.2. Permits, fees, etc. Any person or government agency desiring the permit required by section 111-41.1 shall apply for a permit on a form prescribed by the director of transportation. Any permit issued shall be conditioned upon the adherence of the applicant to the requirements of sections 111-41.3 and 111-41.4.

The director of transportation, subject to chapter 6C, shall establish a fee schedule for the issuance of the permit. The fee schedule established shall be calculated to provide revenues sufficient to defray any expenses the department of transportation may incur in connection with the permit under sections 111-41.1 to 111-41.7. An applicant for a permit shall pay the applicable fee; provided, that the director of transportation may waive the fee payable by any government agency; and provided further, that no fee shall be required where the only work to be done is the setting of poles and guys to carry overhead wires.

“Section 111-41.3. Specifications. Specifications and procedures to be followed in the excavation and backfilling of trenches or other openings in state highways and the restoration or repair of the base course, pavement

surfaces, highway structures, and other improvements shall be prescribed by the director of transportation. At the request of an applicant for a permit, a copy of the specifications and procedures shall be furnished. In prescribing the specifications and procedures, the director of transportation need not comply with the provisions of law relating to the adoption of rules and regulations.

“Section 111-41.4. Backfilling, repaving, repairing, expense on permit holder. (a) All excess materials remaining at the site of the work done under any permit shall be removed at the expense of the permit holder. The excess material shall not be deposited or placed within any highway right of way except with the approval of the director of transportation or his authorized representative.

(b) The permit holder, at his own expense and upon completion of the work for which the permit was issued, shall backfill all trenches or other openings and make all necessary repairs to any concrete gutter, curb, sidewalk or any other structure in public use and restore or replace any plants, landscaping, signs, markers, or other facilities or improvements as were cut or damaged by the permit holder to a condition similar to that which existed prior to work being done under the permit.

“Section 111-41.5. Deposit of fees, etc.; inspectors. Fees collected pursuant to section 111-41.2 shall be deposited in the state highway fund.

The department of transportation shall employ one or more persons who shall inspect the work of the permit holder and require that it be done in accordance with sections 111-41.3 and 111-41.4.

“Section 111-41.6. Performance bond. The director of transportation may require that prior to the issuance of a permit the applicant give a cash bond, surety company bond or personal surety bond in favor of the State, and for an amount equal to the estimated cost of backfilling, restoring or repairing the base course pavement surface, structures, improvements and landscaped area, and any other additional costs that may be incurred as a result of the work done under the permit during the one-year period following the satisfactory completion of the work. The bond shall be conditioned upon the compliance of the permit holder with the requirements of sections 111-41.3 and 111-41.4.

“Section 111-41.7. Penalty for violations. Any person, including any public officer or employee who violates section 111-41.1, shall be fined not more than \$250 or imprisoned not more than three months, or both.”

SECTION 3. Part V, chapter 111, Revised Laws of Hawaii 1955, is amended by adding a new section to be appropriately numbered and to read as follows:

“Section 111-..... Maintenance of state highway system. The maintenance of the state highway system may be performed either by public employment or by contract, or the director of transportation may have the maintenance performed by the county in which the highways are situated, by public employment or by contract, upon authorization of the legislative body of the county concerned.”

SECTION 4. This Act shall take effect upon its approval.
(Approved May 29, 1967.)