

## ACT 73

H. B. 365.

A Bill for an Act Relating to Improvement by Assessment.

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

**SECTION 1.** This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of facts constituting such urgency:

At the present time, and pursuant to its police powers, the city and county of Honolulu requires that public utility lines in new subdivisions be installed underground and that the utility lines on certain streets be installed underground when said streets are improved pursuant to the improvement by assessment ordinance. The purpose of this requirement is to protect the public welfare, health, safety and good order of the people, for underground wires are not subject to wind and storm, help traffic, and do not constitute a hindrance to firemen in case of fires. Moreover, such underground wires enhance the natural beauty, sightliness and physical good order of the State as provided in section 5, Article VIII of the Constitution of the State of Hawaii.

In view of the rising costs of labor and materials, however, it is difficult for the utility companies to bear the entire cost of locating the utility wires underground. Because of the acuteness of the highway and traffic problems, the increase in the number of fires, and the need to preserve the natural beauty, sightliness and good order of the State, it is deemed urgent to enact legislation which would authorize the several counties to require overhead wires to be located underground when public improvements are constructed or improved pursuant to the improvement by assessment laws, and to further provide for a determination by the counties how the costs of underground wiring should be apportioned among the utility companies, the counties and the properties that are subject to assessment under the improvement by assessment laws.

**SECTION 2. Purpose.** The purpose of this Act is to protect the public welfare, health, safety and good order of the people by authorizing the several counties to require overhead utility lines to be located underground when public improvements are constructed or improved pursuant to the improvement by assessment laws, and to further provide for a determination by the counties how the costs of underground wiring should be apportioned among the utility companies, the counties and the properties specially benefited that

are subject to assessment under the improvement by assessment laws. Underground wires are not subject to wind and storm, help traffic, and do not constitute a hindrance to firemen in case of fires. Moreover, such underground wires enhance the natural beauty, sightliness and physical good order of the State as provided in section 5, Article VIII of the Constitution of the State of Hawaii.

SECTION 3. Chapter 138 of the Revised Laws of Hawaii 1955 is hereby amended by adding a new section to be appropriately designated and to read as follows:

“Section 138-. . . . Notwithstanding any provision of law to the contrary, whenever any public improvement is established, constructed, improved or altered pursuant to the improvement by assessment statutes or ordinances, and in conjunction therewith it is necessary to provide for the installation or require the removal, relocation, replacement or reconstruction of public utility facilities that are privately owned, the respective legislative bodies of the counties shall determine whether the whole or a portion of such utility facilities shall be located overhead or underground. Where it is decided that the whole or a portion of the utility facilities shall be located underground, which installation underground shall constitute a public improvement, the respective legislative bodies of the counties shall determine what portion of the costs of the installation or the removal, relocation, replacement or reconstruction of the utility facilities required to go underground shall be borne by the utility companies, the counties and the properties specially benefited within the improvement district; provided that such costs borne by the counties and the utility companies shall be paid in a lump sum, and the costs that are allocated against the properties specially benefited in the improvement district shall be assessed and paid for in accordance with the provisions of the improvement by assessment statutes or ordinances; provided, further, that the counties may issue bonds under any applicable laws to pay their share of such costs and the costs allocated against the properties specially benefited may be financed under any applicable laws as are other special assessments against specially benefited property.

The foregoing provisions shall not be applicable to the subdivision of lands which require the installation of utility facilities in new streets established by the subdivision and which subdivision is initiated, created or made by a private developer.”

SECTION 4. This Act shall take effect upon its approval.  
(Approved May 15, 1968.)