

**ACT 84**

S.B. NO. 2999

A Bill for an Act Relating to Highways.

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

SECTION 1. The legislature finds that the use of overhead utility facilities requires utility poles that obstruct the public view, are unsightly, and present unsafe

highway conditions. Underground utility facilities, on the other hand, are more aesthetically pleasing and help to increase property values.

Decisions regarding the use of overhead or underground utility facilities for federal-aid highways are made by the director of transportation. The legislature finds that the public has had little input into those decisions, resulting in some public clamor on decisions by the director of transportation to allow overhead, instead of requiring underground, utility facilities. The legislature also finds that objections to underground utility facilities, such as flooding, termites, or exposure to electromagnetic fields, can be overcome in design.

Although underground facilities are typically more costly than overhead facilities, a large portion of the added costs of relocating underground federal-aid highway facilities, and in some cases providing utility facilities on new federal-aid highways, may be reimbursable by the federal government under the Federal Highways Act and the newly enacted Intermodal Surface Transportation Efficiency Act.

The legislature believes that the use of underground utility facilities will be more aesthetically-pleasing and could improve public safety. Over the past three years, there has been a yearly average of eight hundred fifty-five traffic accidents and twenty traffic fatalities involving utility poles.

The purpose of this Act is to require the director of transportation to provide for undergrounding utility facilities in the construction of all new federal-aid highways and improvements to existing federal-aid highways, upon determination that federal aid is available to do so.

SECTION 2. Chapter 264, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§264- Underground installation of utility facilities along federal-aid highways; when required; when waived.** (a) The director of transportation shall arrange for the installation of all utility cables and facilities below the ground, within a berm or away from the alignment of a highway, during the design or redesign and construction or reconstruction phases of any new or existing federal-aid highway project, when a determination is made that federal highway funds are available to pay for the federal share of the cost differential between underground and overhead facilities.

- (b) The director of transportation may make exceptions to subsection (a) if:
  - (1) The director determines that exceptions are appropriate due to either:
    - (A) Any of the following criteria: environmental, safety, research, technology, corridor alignment, or management concern; or
    - (B) The following criteria collectively: state funding impacts, economic feasibility, and federal funding concerns;
  - or
  - (2) The projects do not lend themselves to undergrounding, such as: resurfacing, traffic signal installation, drainage installation, bikeway markings, guardrail installation, traffic markings, and enhancement improvements.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 1996.)

**Note**

1. Edited pursuant to HRS §23G-16.5.