

ACT 65

H.B. NO. 78

A Bill for an Act Relating to the Underground Construction of High-Voltage Electric Transmission Lines.

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

SECTION 1. Section 269-27.6, Hawaii Revised Statutes, is amended to read as follows:

“§269-27.6 Construction of high-voltage electric transmission lines; overhead or underground construction. (a) Notwithstanding any law to the contrary, whenever a public utility applies to the public utilities commission for approval to place, construct, erect, or otherwise build a new 46 kilovolt or greater high-voltage electric transmission system, either above or below the surface of the ground, the public utilities commission shall determine whether the electric transmission system shall be placed, constructed, erected, or built above or be-

low the surface of the ground; provided that in its determination, the public utilities commission shall consider:

- (1) Whether a benefit exists that outweighs the costs of placing the electric transmission system underground;
- (2) Whether there is a governmental public policy requiring the electric transmission system to be placed, constructed, erected, or built underground, and the governmental agency establishing the policy commits funds for the additional costs of undergrounding;
- (3) Whether any governmental agency or other parties are willing to pay for the additional costs of undergrounding;
- (4) The recommendation of the division of consumer advocacy of the department of commerce and consumer affairs, which shall be based on an evaluation of the factors set forth under this subsection; and
- (5) Any other relevant factors.

(b) In making the determination set forth in subsection (a), for new 138 kilovolt or greater high-voltage electric transmission systems, the public utilities commission shall evaluate and make specific findings on all of the following factors:

- (1) The amortized cost of construction over the respective usable life of an above-ground versus underground system;
- (2) The amortized cost of repair over the respective usable life of an above-ground versus underground system;
- (3) The risk of damage or destruction over the respective usable life of an above-ground versus an underground system;
- (4) The relative safety and liability risks of an above-ground versus underground system;
- (5) The electromagnetic field emission exposure from an above-ground versus underground system;
- (6) The proximity and visibility of an above-ground system to:
 - (A) High density population areas;
 - (B) Conservation and other valuable natural resource and public recreation areas;
 - (C) Areas of special importance to the tourism industry; and
 - (D) Other industries particularly dependent on Hawaii's natural beauty;
- (7) The length of the system;
- (8) The breadth and depth of public sentiment with respect to an above-ground versus underground system; and
- (9) Any other factors that the public utilities commission deems relevant.

(c) A public utility making an application to the public utilities commission under this section shall clearly and fully state and support its evaluation of each factor set forth in subsection (b).

(d) Notwithstanding the requirements under subsections (a) and (b), a public utility shall not be required to seek public utilities commission approval to place, construct, erect, or otherwise build a high-voltage electric transmission system if:

- (1) The electric transmission system is to be built underground;
- (2) The entire cost due to building underground, rather than above-ground, is paid by an entity other than the public utility as a contribution in aid of construction; and
- (3) Prior to commencing construction, the public utility provides a report to the public utilities commission, with a copy to the consumer

advocate, describing in detail the electric transmission system and providing sufficient documentation that affirms that the additional costs of building the electric transmission system underground will be paid by an entity other than the public utility.

(e) The public utilities commission shall have sixty days to take action on the report filed pursuant to subsection (d)(3), or it shall be assumed that the public utility may proceed with the project.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2021.

(Approved June 23, 2021.)