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## A BILL FOR AN ACT

RELATING TO UNDERGROUNDING OF OVERHEAD UTILITIES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the undergrounding  
2 of overhead utilities can help to protect our electricity and  
3 communications infrastructure by developing systems that have  
4 endurance and hardening resistance to overcome vulnerabilities  
5 to potential acts of terrorism and natural disasters, such as  
6 hurricanes and tsunamis. Further, the legislature also finds  
7 that there is a general public preference for underground  
8 utilities since undergrounding improves the visual quality of  
9 Hawaii's natural environment, improves road safety, increases  
10 property values, and enhances the visitor experience for  
11 tourism, Hawaii's major industry.

12           The legislature also finds that the high cost of converting  
13 to underground utilities has prevented many communities from  
14 receiving these benefits. Therefore, overhead utilities have  
15 been continually maintained and even reconstructed while  
16 adjacent public improvements are built. Underground conversion  
17 will take significant financial resources, the participation of  
18 many entities, and many years of coordinated effort to achieve.



1 However, it is a necessary goal to enhance the public's safety  
2 and welfare.

3 Accordingly, the purpose of this Act is to:

4 (1) Establish and affirm a clearly stated policy that the  
5 conversion of overhead electric and communication  
6 facilities to underground facilities and the initial  
7 underground installation of these facilities is  
8 substantially beneficial to the public safety and  
9 welfare, is in the public interest, and is a public  
10 purpose; and

11 (2) Establish an underground conversion fund for a  
12 sustained, coordinated conversion of overhead  
13 utilities.

14 SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17 **"§235- Voluntary contributions to the underground**  
18 **conversion fund.** The director shall establish procedures to  
19 allow a taxpayer to designate and pay a voluntary contribution  
20 to the underground conversion fund on the taxpayer's annual  
21 state income tax return. The amount of the voluntary  
22 contribution shall be added to the final income tax due from the



1 taxpayer or subtracted from any refund due to the taxpayer and  
2 deposited in the underground conversion fund. The director may  
3 use the check-the-box concept on the state tax form for the  
4 voluntary contributions."

5 SECTION 3. Chapter 269, Hawaii Revised Statutes, is  
6 amended by adding a new part to be appropriately designated and  
7 to read as follows:

8 **"PART . UNDERGROUND CONVERSION**

9 **§269-A Underground conversion fund.** There is established  
10 in the state treasury an underground conversion fund to be  
11 administered by the underground conversion board. The revenues  
12 to be deposited into the fund shall include:

- 13 (1) Five per cent of the state public utility fee or the  
14 excess remaining after funding of public utilities  
15 commission operations, whichever is the greater;
- 16 (2) Federal and state appropriations and contributions by  
17 other public bodies;
- 18 (3) Voluntary conversion funds; and
- 19 (4) Round-up program funds.

20 **§269-B Underground conversion board.** There is established  
21 within the department of commerce and consumer affairs for  
22 administrative purposes an underground conversion board for the



1 purpose of implementing this part. The board shall consist of  
2 nine voting members; provided that:

3 (1) Three members shall be appointed by the governor,  
4 including:

5 (A) One representative from the electric utility  
6 industry;

7 (B) One representative from the telecommunications  
8 utility industry; and

9 (C) One representative from the cable service  
10 industry;

11 (2) One member shall be the state director of  
12 transportation or the director's representative;

13 (3) One member shall be the consumer advocate or the  
14 consumer advocate's representative;

15 (4) Two members shall be representative of the general  
16 public appointed by the speaker of the house of  
17 representatives; and

18 (5) Two members shall be representative of the general  
19 public appointed by the president of the senate.

20 The members shall serve without compensation but each shall be  
21 reimbursed for necessary travel expenses incurred in the  
22 performance of their duties.



1           **§269-C Powers and duties of underground conversion board.**

2   (a) In addition to any other powers and duties authorized by  
3 law, the underground conversion board may:

4       (1) Establish and administer the underground conversion  
5 fund to plan, design, and construct the conversion of  
6 overhead lines to underground lines;

7       (2) Accept revenues, compensations, proceeds, charges,  
8 penalties, grants, or any other payments in any form,  
9 from any public agency or from any other source for  
10 deposit into the underground conversion fund;

11       (3) Adopt guidelines and criteria for the expenditure of  
12 funds from the underground conversion fund;

13       (4) Expend funds from the underground conversion fund to  
14 plan, design, and construct the conversion of overhead  
15 distribution lines to underground lines;

16       (5) Authorize the issuance of loans pursuant to section  
17 269-D;

18       (6) Establish a systematic prioritization of improvement  
19 areas for the conversion of overhead distribution  
20 lines to underground lines;

21       (7) Publish and distribute information and conduct  
22 educational programs in furtherance of this part;



- 1           (8) Issue binding interpretations or declaratory rulings  
2           and conduct contested case proceedings pursuant to  
3           chapter 91;
- 4           (9) Subpoena witnesses and documents, administer oaths,  
5           and receive affidavits and oral testimony, including  
6           telephonic and electronic communications;
- 7           (10) Recommend to the legislature additional statutory  
8           amendments to effectuate the purposes of this part;
- 9           (11) Adopt, amend, or repeal rules pursuant to chapter 91  
10          as it may deem necessary to effectuate this part;
- 11          (12) Establish a policy to maximize the use of federal  
12          highways funds for undergrounding of utility  
13          facilities during the construction or reconstruction  
14          of any new or existing federal aid highway project;
- 15          (13) Maximize coordination and the establishment of funding  
16          sources with other federal, state, and county agencies  
17          to ensure the development of a hardened infrastructure  
18          designed with the endurance to withstand potential  
19          acts of terrorism and natural disasters, such as  
20          hurricanes and tsunamis;



- 1           (14) Establish a task force to assist with the development  
2                   of a comprehensive statewide plan for the long-term  
3                   incremental undergrounding of utility lines; and
- 4           (15) Enforce this part and its rules.
- 5           (b) Additionally, the board shall:
- 6           (1) Review the policies and laws of other jurisdictions  
7                   that address the incremental undergrounding of  
8                   utilities, as studied by the legislative reference  
9                   bureau in 1999;
- 10          (2) Review community priorities and financing options  
11                   studied in "Oahu Utilities Under-grounding and Visual  
12                   Mitigation Studies" by the American Institute of  
13                   Architects Honolulu Chapter in 2003;
- 14          (3) Review the current work-share program of the Hawaiian  
15                   Electric Company, Incorporated for undergrounding  
16                   distribution utilities based on cost sharing with  
17                   participating communities;
- 18          (4) Clarify the relationship between the public utilities  
19                   commission and above ground infrastructure wiring  
20                   regulated by other governmental bodies;
- 21          (5) Balance undergrounding conversion cost with the  
22                   environmental and aesthetic concerns of consumers;



1           (6) Envision a plan that is driven by the availability of  
2           financing from the underground conversion fund rather  
3           than a fixed firm date for converting all utilities;

4           (7) Present a process to the public utilities commission  
5           for final approval to determine priorities for  
6           specific incremental undergrounding projects or  
7           grants; and

8           (8) Make provisions to facilitate private funding of  
9           underground utilities in locations that will have a  
10          lower priority for conversion funds.

11          **§269-D Long-term loans.** The board shall have the  
12          authority to make long-term loans to private property owners in  
13          communities that are low on the priority list for underground  
14          conversion grants.

15          **§269-E Round-up program.** The commission shall allow the  
16          utilities to administer a round-up program, under which the  
17          utilities may collect voluntary contributions for the  
18          underground conversion fund from ratepayers who choose to  
19          contribute the difference between their actual utility bill and  
20          their bill payment, which is rounded up to the nearest dollar.  
21          The utilities shall deposit into the utilities underground  
22          conversion fund, on a monthly basis, the difference between the



1 actual bill and the rounded amount. Any moneys collected by a  
2 utility from the round-up program shall be excluded in  
3 determining the utility's annual gross revenue."

4 SECTION 4. Section 226-14, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6 "(b) To achieve the general facility systems objective, it  
7 shall be the policy of this State to:

- 8 (1) Accommodate the needs of Hawaii's people through  
9 coordination of facility systems and capital  
10 improvement priorities in consonance with state and  
11 county plans~~[-]~~;
- 12 (2) Encourage flexibility in the design and development of  
13 facility systems to promote prudent use of resources  
14 and accommodate changing public demands and  
15 priorities~~[-]~~;
- 16 (3) Ensure that required facility systems can be supported  
17 within resource capacities and at reasonable cost to  
18 the user~~[-]~~;
- 19 (4) Pursue alternative methods of financing programs and  
20 projects and cost-saving techniques in the planning,  
21 construction, and maintenance of facility systems~~[-]~~;  
22 and



1        (5) Convert existing overhead distribution utilities in  
2        the public domain to underground utilities and  
3        encourage counties to do the same."

4        SECTION 5. The underground conversion board shall submit  
5        an interim report of its findings and recommendations on the  
6        development of a comprehensive statewide plan for the long-term  
7        incremental undergrounding of utility lines, including proposed  
8        legislation, if any, to the legislature and the governor no  
9        later than twenty days before the convening of the regular  
10       session of 2008. The underground conversion board shall submit  
11       a final report on its findings and recommendations on the  
12       development of a comprehensive statewide plan for the long-term  
13       incremental undergrounding of utility lines, including proposed  
14       legislation, if any, to the legislature and governor no later  
15       than twenty days before the convening of the regular session of  
16       2009.

17       SECTION 6. In codifying the new sections added by section  
18       2 of this Act, the revisor of statutes shall substitute  
19       appropriate section numbers for the letters used in designating  
20       the new sections in this Act.

21       SECTION 7. Statutory material to be repealed is bracketed  
22       and stricken. New statutory material is underscored.



1 SECTION 8. This Act shall take effect upon its approval.

2

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**Report Title:**

Utilities; Undergrounding Conversion Fund

**Description:**

Adopts a state policy of favoring underground utilities. Establishes an underground conversion fund for sustained incremental conversion of overhead utilities. Allows income tax refund as a voluntary contribution to the fund.

