

S.B. NO. 1213

JAN 24 2013

A BILL FOR AN ACT

RELATING TO UTILITY FRANCHISES.

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

1 SECTION 1. Section 240-1, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§240-1 Electric light and power companies, tax on.** Every
4 person operating in the State an electric light or power
5 business as a public utility, whose franchise [~~does not provide~~]
6 provides for the payment to the county in which the public
7 utility operates of a tax [~~, or a tax of less than~~] of two and
8 one-half per cent [~~,]~~ or less, based upon the gross receipts of
9 such person from all electric light or power furnished to
10 consumers during each calendar year, shall file with the
11 director of finance of the county in which the public utility
12 operates, within one month after the expiration of each calendar
13 year, a detailed statement showing all gross receipts from all
14 electric light or power furnished to consumers during the
15 preceding calendar year. Such person shall, at the same time
16 pay one and one-fourth per cent of the gross receipts to the
17 director of finance, for and on behalf of such county, in

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1 addition to any and all other payments required to be made by
2 law, [~~two and one half~~] one and one-fourth per cent of the gross
3 receipts [~~; or, if such person's franchise provides for a tax of~~
4 ~~less than two and one half per cent of the gross proceeds, the~~
5 ~~difference between the tax required under such franchise and two~~
6 ~~and one half per cent of the gross receipts, of such person from~~
7 ~~all electric light or power furnished to consumers during the~~
8 ~~preceding calendar year.] to the department of transportation
9 highways division. Payments of the franchise tax made to the
10 department of transportation highways division shall be
11 deposited into the state highway fund and shall be used for
12 operation and maintenance of the department's highway
13 facilities."~~

14 SECTION 2. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

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BY REQUEST

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Report Title:

Department of Transportation; Franchise Utility

Description:

Allows the State Department of Transportation Highways Division to collect an equitable compensation from franchise utility companies for the use of the state right of way.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO UTILITY
FRANCHISES

PURPOSE: Franchise utilities using and occupying state and county highways pay an annual franchise fee in the amount of 2.5 percent of gross income for the right to occupy public highways and roads. Since 1961, the fee collection, as authorized by law, is only going to the counties for their roadway infrastructure maintenance despite the fact that franchise utilities also occupy state highways.

The purpose of this bill is to allow the State Department of Transportation Highways Division to be able to collect an equitable compensation from these franchise utility companies for the use of the state right of way.

MEANS: Amend section 240-1, Hawaii Revised Statutes (HRS).

JUSTIFICATION: In 1961 under Act 134, the percentage and taxes from the franchise companies affected by Congressional and territorial (state) law went to the 4 counties. Prior to 1961, the franchise companies were required to pay a percentage to the DOT for use and occupancy in the DOT Highways right of way. Currently, because of Act 134, DOT Highways cannot charge these franchise utility companies any fair market value assessment to be in the State DOT Highway right of way. Yet under section 264-33, HRS, DOT Highways is responsible to pay for the removal, relocation, replacement, or reconstruction that exceed \$10,000. One half of this excess expense shall be a charge against the state or county funds available for

construction or maintenance of state and county Highways.

Impact on the public: No direct impact on the public.

Impact on the department and other agencies: This bill will compensate the Department for those franchise companies' use and occupancy in the state highway right of way. It will take away 1.25 percent from the counties current receivables annually and provide more reasonableness to the State having to fund for relocation or reconstruction type costs as stated in section 264-33, HRS.

GENERAL FUND: None.

OTHER FUNDS: Special funds.

PPBS PROGRAM DESIGNATION: TRN 595.

OTHER AFFECTED AGENCIES: Counties.

EFFECTIVE DATE: Upon approval.