

ACT 95

H.B. NO. 2239

A Bill for an Act Relating to Utility Lines.

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

SECTION 1. The legislature finds that because of Hawaii's increasing population, the continued evolution in electric utility services delivery technology, and other factors, public utilities in the State rely on the continued construction and operation of high voltage transmission lines. However, the proposed placement or placement of these transmission lines is often through densely populated areas or through conservation and other lands that are valued for their natural beauty and recreational attributes. Unless directed otherwise, utilities generally seek the construction of transmission lines overhead—on pylons sometimes in excess of one hundred feet high—because such construction is less expensive than underground construction.

The legislature further finds that there are significant, direct, adverse effects associated with the construction, maintenance, and utilization of overhead transmission lines, including:

- (1) The detrimental effects of these lines on Hawaii's natural beauty and the environment;
- (2) The exposure of transmission lines to the natural elements, such as high winds and hurricanes; and
- (3) Safety hazards to low-flying aircraft and to persons on the ground.

There are also significant, indirect effects associated with the construction, maintenance, and utilization of overhead transmission lines as well. These effects may include:

- (1) The negative effects on vital industries that are dependent on the maintenance of Hawaii's natural beauty, particularly, tourism; and
- (2) The erosion in the quality of life of residents resulting from the impacts of overhead transmission lines.

Notwithstanding these direct and indirect adverse effects from overhead transmission lines, as compared to underground transmission lines, public utilities believe that unless otherwise directed by law or ordered by government regulatory agencies, primarily the state public utilities commission (PUC), these utilities must advocate the least cost alternative, which generally is an overhead configuration.

In evaluating whether to place transmission lines overhead versus underground, utilities generally do not consider factors such as the potential impacts of overhead lines on the environment, public health and safety, quality of life, and the general public sentiment favoring underground transmission lines.

In considering and deciding on utility applications for approval of transmission lines designed to carry forty-six kilovolt or greater voltages, the PUC is required to apply section 269-27.6, Hawaii Revised Statutes (HRS), which relates to the overhead or underground construction of high-voltage electric transmission lines, in determining whether to place these lines above or below ground. However, the legislature finds that currently, in the PUC's application of section 269-27.6, HRS, and in otherwise applying the law relative to utility transmission line applications, the PUC is not sufficiently directed to:

- (1) Weigh public sentiment favoring undergrounding wherever possible; and
- (2) Account adequately for factors other than short-term direct construction costs.

The public policy of the State is to evaluate the placement of transmission lines underground or overhead, taking into full consideration direct and indirect financial, economic, and social factors. To effectuate this public policy fully, the statutory criteria that the PUC is required to apply in evaluating and ruling on whether to place high-voltage electric transmission lines underground or overhead must be amended.

The purpose of this Act is to address the legislature’s findings and effectuate public policy with regard to the placement and construction of transmission lines.

SECTION 2. 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 forty-six 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 below the surface of the ground; provided that in its determination, the public utilities commission [may in its determination] shall consider the following factors:

- (1) Whether there is a benefit that outweighs the costs to place 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; and
- (4) Any other relevant factors.

(b) In making the determination set forth in subsection (a), for new 138 kilovolt or greater high-voltage 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).''

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved April 29, 1997.)