

S.B. NO. 2872

JAN 25 2012

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Section 103D-309, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) In any contract [~~pursuant to section 264-33~~] involving  
4 not only state or county funds but supplemental funds from a  
5 utility, this section shall be applicable to that portion of the  
6 contract price payable out of state or county funds as well as  
7 that portion of the contract price payable out of funds from a  
8 utility, or payable out of state or county funds paid to a  
9 utility. The State or county may certify that there are  
10 sufficient funds for the utility's portion of the contract price  
11 if the amounts that a utility is obligated to pay under a legal  
12 agreement between the utility and the State, or a county, are  
13 sufficient to pay that portion of the contract price and the  
14 legal agreement:

15 (1) Includes a specific description of the utility's share  
16 of the payment and terms of that payment;

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1 (2) Allows the State, county, or utility to provide  
2 progress payments or final payment based on the actual  
3 cost after a project is completed; and

4 (3) Provides that in the event the State, county, or  
5 utility is delinquent in payments under the legal  
6 agreement, the State, county, or utility shall be  
7 responsible for any and all additional costs  
8 attributable to such late payment.

9 Any such legal agreement shall be executed prior to the  
10 execution of the state or county contract and shall not  
11 jeopardize any federal, state, or county funds.

12 For the purposes of this subsection:

13 "Legal agreement" includes a utility agreement, memorandum  
14 of understanding, or memorandum of agreement.

15 "Utility" means a utility company or entity."

16 SECTION 2. Statutory material to be repealed is bracketed  
17 and stricken.

18 SECTION 3. This Act shall take effect on July 1, 2012.

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INTRODUCED BY: Q.B.T.L.

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BY REQUEST

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**Report Title:**

Highway; Cost Sharing; Utility Owners; Right-of-Way; Relocation

**Description:**

Allow any utility owners whose facility occupies State Highway right-of-way to provide their share of costs up front to the affected state agency for encumbrance of funds in related contracts by way of an agreement to pay.

*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 PROCUREMENT.

PURPOSE: To allow for cost sharing in a state or county project for the undergrounding or installation of new utility facilities.

MEANS: Amend section 103D-309(c), Hawaii Revised Statutes.

JUSTIFICATION: Act 140, Session Laws of Hawaii 2010, provided for cost sharing only for relocation of facilities under section 264-33, Hawaii Revised Statutes. In order to provide for cost sharing to also apply to utility work such as undergrounding and installation of new utility facilities, which does not fall under section 264-33, Hawaii Revised Statutes, section 103D-309(c) must be amended to delete the limitation to contracts made only pursuant to section 264-33, Hawaii Revised Statutes.

Impact on the public: Projects can be advertised and awarded without waiting for the deposit of utility moneys.

Impact on the department and other agencies: Utilities, which include public utilities, will be able to deposit funds for utility work in state or county projects at a later date.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: TRN 501, 511, 531, 541, 551, 561.

OTHER AFFECTED AGENCIES: Department of Accounting and General Services

EFFECTIVE DATE: July 1, 2012.