

SB 1789



HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

The Honorable Senator Clarence Nishihara
Chair, Committee on Tourism and Government Operations

The Honorable Senator Donna Mercado Kim
Vice Chair, Committee on Tourism and Government Operations

Re: SB 1789; Public Hearing on 02-12-08 at 1:15 pm in Conference Room 229
Testimony In Support

Aloha Chair Nishihara and Vice Chair Kim:

Please accept my testimony in support of this measure and in support of Waianae Olelo and its service provider Public, Education and Government (PEG) access television. Olelo provides public service announcements, cultural productions or panel discussion on local environmental, economic and social issues. PEG Access has a diverse mission that involves community building, nurturing local programming and protecting First Amendment rights nationally and/or on the neighbor islands.

For two years, Waianae Olelo Community access television has made a very strong case for exempting access services from the State Procurement Code. Olelo and PEG Access programs educate our communities by televising State and City and County issues as well as Legislative and City Council hearings that the community would otherwise, not be exposed to. On several occasions, many folks in my community have provided compelling testimony to the Department of Commerce and Consumer Affairs and the State Procurement Board and do not feel access television should not be bought, sold or put up for bid.

I humbly request that this measure be passed out of the Committee on Tourism and Government Operations so that access services and/or organizations may be exempt from the competitive bidding process. Thank you for the opportunity to submit this **Testimony in Support of SB 1789**.

Maile S. L. Shimabukuro
State Representative
District 45 – Waianae Makaha Makua

Representative Maile S.L. Shimabukuro, District 45
(Wai`anae~Mākaha~Mākua)

Chair, Committee on Human Services & Housing
Member, Committees on Education, Higher Education, Health & International Affairs
Hawaii State Capitol, Room 406, Honolulu, Hawaii 96813
Phone: (808) 586-8460/Fax: (808) 586-8464/E-mail: repshimabukuro@capitol.hawaii.gov

LINDA LINGLE
GOVERNOR



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TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
SENATE COMMITTEE
ON
TOURISM AND GOVERNMENT OPERATIONS

February 12, 2008

SB 1789

RELATING TO CABLE TELEVISION SYSTEMS.

Chair Nishihara, Vice Chair Mercado Kim and committee members, thank you for the opportunity to testify on SB 1789. The State Procurement Office (SPO) does not support the proposed language to chapter 440G, to exempt access organizations from chapter 103D, the Hawaii Public Procurement Code (Code).

Federal law authorizes the DCCA Cable Television Division, as the "Local Franchise Authority," at DCCA's discretion, may implement access services in the State. DCCA opted to do so, and entered into contracts with the access organizations. The current contracts between DCCA and the access organizations require the organizations to provide services such as assisting the public with training and equipment to create programs and then telecasting the programs, and managing and operating the access channels. SPO has consulted with the DCCA Cable Television Division and understand its' view is that these contracts with access organizations are management service type contracts where various individuals or organizations could satisfy the contract requirements, that is, manage and operate the access channels. These management services can and should be competed to allow any qualified organization the opportunity to provide similar or enhanced services to the public.

The Hawaii Legislature passed the Hawaii Public Procurement Code to provide an open and transparent process whereby the public can see for itself that there is no favoritism, no cronyism, and no back room deals in the expenditure of their funds, the public's funds, for the public's services. Arguably, it could be cheaper to just go out and negotiate contracts with anyone. But that could create suspicion on the part of the public as to how the contractors were selected; were the contractors related to or friends of those who awarded State contracts? In response to these concerns, the Code advocates open competition to obtain the best value for the State. One could look at the incumbent access organizations as having had a monopoly. Inquiries have been made with the SPO by other organizations that have expressed interest in their desire to compete for these contracts. And so let's open the process, allow others to submit proposals, and if the incumbents are selected, then at least the State knows that they are the best value. We wouldn't know without going through the process. Under such circumstances, how could we not go through the process?

The access services contracts are agreements between the DCCA, a governmental body, and access organizations that are private, non-profit corporations. Under these contracts, DCCA is acquiring services to manage and operate the access channels. Therefore, the access contracts are "procurement contracts" under HRS §103D-102. We understand that DCCA seeks to continue providing access services through a contractual relationship.

Open procurement procedures assure that the State obtains value, and potential vendors/contractors are treated fairly and that no preferential treatment is provided. It is vital to good government to have a fair and consistent process to award government contracts that hold agencies responsible and accountable for their actions. Open bidding promotes the fair and equitable treatment of all persons who deal with the procurement system, fosters effective broad-based competition; and by doing so, increases public confidence in public procurement and thus in local government.

Chapter 103D is the single source of public procurement policy to be applied equally and uniformly. It was the legislature's intent for the Code to be a single source of public procurement policy. Fairness, open competition, a level playing field, and government disclosure and transparency in the procurement and contracting process are vital to good government. For this to be accomplished, participation in the process with one set of statutes and rules is necessary. After all, we are dealing with public funds. An exemption will provide a non-competitive or "non-bid" process that is contrary to open and fair competition. Competition produces innovation and excellence.

In conclusion, for the reasons above there is no compelling reason to statutorily exempt access services from the Code. The SPO recommends that Page 2, lines 7 through 9 be deleted.

Thank you.



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON TOURISM
AND GOVERNMENT OPERATIONS

THE TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Tuesday, February 12, 2008
1:15 p.m.

TESTIMONY ON S.B. 1789 -- RELATING TO CABLE TELEVISION SYSTEMS

TO THE HONORABLE CLARENCE K. NISHIHARA, CHAIR AND MEMBERS OF THE
COMMITTEE:

My name is Clyde Sonobe, Cable Television Administrator, Department of
Commerce and Consumer Affairs (Department). The Department takes no position on
the majority of S.B. 1789, opposes one section, and provides the following comments
on this measure.

By way of background, for many years the Department has had existing
contracts with four (4) public, educational, and government (PEG) access organizations
to manage and operate (among other things) the PEG access channels, to provide
training for video production, and to cablecast programs created and submitted by
producers and members of the public. These contracts were renewed automatically
until recently. The current PEG access organizations are: Olelo on Oahu, Akaku on
Maui, Na Leo on the Big Island, and Hoike on Kauai. The PEG access organizations
are funded primarily from fees from local cable operators paid by cable subscribers

pursuant to the Department's franchise orders. Cable operators are allowed to pass these fees on to cable television subscribers under federal law.

In late 2005, the Department was advised that its contracts with the PEG access organizations were subject to the requirements of the State Procurement Code. The Department then sought an exemption from the State Procurement Office (SPO). SPO declined granting an exemption, determining that these contracts should be awarded in accordance with the Code. The Department worked cooperatively and expeditiously with the SPO and the Office of the Attorney General to develop a request for proposal (RFP) for PEG access services contracts which was issued on July 30, 2007. Due to protests submitted to the SPO and lawsuits filed on Maui by Akaku, work on the RFP has been on hold.

First and foremost, the Department is committed to the provision of PEG access services in the State and the management, operation and cablecasting of programs on the PEG channels. The Department is not attempting to eliminate the current access organizations, but rather is complying with the law as interpreted by the agency – SPO – that is charged with that task. While the public procurement process changes the method the Department has utilized when selecting and designating an access organization, public procurement will open up the PEG contracts to competition from other entities. This may result in improved and/or increased access services to cable subscribers in the State. For example, a contractor might continue to provide current service levels but at a lower cost which would result in reduced fees assessed to cable subscribers. Or, a contractor might provide increased service levels at the current cost. These results may be accomplished as a result of access providers' improved

efficiency, increased productivity and resourceful innovation, or there may be an entity that can provide PEG services better and be more innovative than at present.

Second, paragraph (b) of the bill on page 1 directs the Director of Commerce and Consumer Affairs to establish requirements for the designation of access organizations pursuant to administrative rules adopted under HRS chapter 91. The Department currently is promulgating administrative rules to designate and select access organizations. Upon the Governor's approval, public hearings will be scheduled on Oahu and neighbor islands for public comment and testimony.

Third, the Department opposes paragraph (d) on page 2, because the intent of this paragraph is unclear. At present, the CAC is solely an advisory body to the Director and cable operator; it is not a decision-making body. The CAC meets at the discretion of the Director. The Director is the policy maker on PEG matters, although he consults with and considers advice provided by CAC members. For example, at the January 2008 CAC meeting, the Director and CAC members discussed the language of the proposed administrative rules to select and designate access organizations.

Finally, paragraph (e) exempts the designation of an access organization and the determination of requirements for such a designation from the Procurement Code. If the intent in this paragraph is to exempt PEG access services contracts from the State Procurement Code, the Department is unsure that this paragraph will accomplish that. Nevertheless, the Department defers to the SPO on that issue.

Thank you for the opportunity to testify on this measure.

testimony

From: Max Diliberto [maxdiliberto@gmail.com]
Sent: Friday, February 08, 2008 5:26 PM
To: testimony
Subject: Testimony in Support of SB1789, Relating to Cable Access Television.

Senator Clarence K. Nishihara, Chair

Senator Donna Mercado Kim, Vice-Chair

Senate Committee on Tourism & Government Operations (TSG)

Max Louis Diliberto
February 5, 2008

Testimony in Support of SB1789, Relating to Cable Access Television.

My name is Max and I am a resident of Kahului. As a Maui County resident, I have witnessed Akaku's commitment to familiarizing members of the Maui community with the tools used in broadcast television to create programs for air on channels 52, 53 or 54. I have seen how easy they make it for nonprofits and others to get their message out, thanks to its innovative studio environment and policies. The production professionals they have on staff help teach Maui residents how to compile a comprehensive and enthralling product that is enjoyable for many. I have watched how many of the employees in the organization do multiple jobs, occasionally in unison, to ensure that the station lives up to its mission to ultimately "empower the community's voice through access to media."

This is their service to the community. This is the service that ensures every resident the opportunity to exercise their important First Amendment rights.

Nonetheless, it seems that corporate entities have a hard time understanding the value of this community service, which is why I'm counting on the Hawaii State Legislature to do what is right for local public access stations.

Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would effectively take the "public" out of public access. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want.

I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy on procurement and public access. I urge both the Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo.

**Senator Russell S. Kokubun, Chair
Senator David Y. Ige, Vice-Chair
Committee on Commerce, Consumer Protection and Affordable Housing (CPH)**

**From M. J. Duberstein, Kihei HI 96753
February 5, 2008**

Support of SB1789, Relating to Procurement Exemption, Cable TV and PEG Access.

My name is Michael J. Duberstein and I am a resident of Kihei. Two weeks ago I was the project director of a community-wide forum on the past, present and future of Makena which is now available as a program choice on Akaku. It was just another example of how Akaku serves as a teaching tool and provider of information not always available to the population of this growing community. I know how easy Akaku makes it for nonprofits and others to create public service announcements, thanks to its "hot" studio that accepts "walk-ins" on weekday afternoons. The audio/visual professionals they have on staff help teach us Maui residents how to prepare and edit video into a story that can be told on the air. And I have observed how they all wear multiple hats to ensure so that they live up to a mission to ultimately "empower the community's voice through access to media."

This is Akaku's service to the community. **This is the service that ensures every resident the opportunity to exercise their important First Amendment rights.**

Nonetheless, it seems that some commercial entities have a hard time understanding the value of this community service, which is why I'm counting on the Hawaii State Legislature to do what is right for local access to cable television.

Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public right to participate in deciding what kind of access organization and service it wants.

I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge the Hawaii State Senate to pass SB1789 as quickly as possible.
Malama pono

Michael J. Duberstein

testimony

From: Facility Engineer [akakuweb@bazooka.dreamhost.com]
Sent: Wednesday, February 06, 2008 1:10 PM
To: testimony
Cc: kaeo@akaku.org
Subject: Message from a concerned citizen c/o akaku.org

Name: John Bruce
Address: Haiku, Maui

Testimony in Support of SB1789, Relating to Procurement Exemption, Cable TV and PEG Access.

My name is John Bruce and I am a resident of Haiku, Maui. As a Maui County resident, I feel it is important that SB1789 be moved foreword for a full Senate vote. At this time Public Access entities are under dire attack by those who would control this small vestige of free speech in Hawaii. Disguising themselves as helpful bureaucrats, they are in reality groups whose interest is to control the public message and stifle expression and dissent. PEG Access providers should be autonomous to any and all government and other influence. These are small very fragile non-profit organizations. They have been under attack for several years robbing them of time and money that would be better of used for their mission, that of empowering citizens voice through media (as is the case with Akaku: Maui County Community Television.). If anyone thinks the Access organizations will lay down their toys and go home, they are mistaken. These organizations are by their nature Community Activist Groups who will strive to keep the message on the air and in the forefront. Admittedly, some elected representatives are not of the same opinion that Access groups should be autonomous or they mistakenly feel that the publics' interest is served by the commercial outlets available within our community. They are incorrect in this assumption and should listen to the publics urging and pleading to remove the specter of an illegal RFP bid process from Hawaii Cable PEG Access Organizations. This money is not the State Of Hawaii's, it is paid by the Cable Subscriber to the Cable Company, who sends a check directly to the PEG Organization, it is never in the States General Fund or any other account. Please assist in the preservation of our free speech electronic media outlets here in Hawaii by handling SB1789 in a positive manner. Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the publics right to participate in deciding what kind of access organization and service we want. I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge the Hawaii State Senate to pass SB1789 as quickly as possible. Mahalo.

testimony

From: Netra Halperin [netra@opulentdesign.com]
Sent: Wednesday, February 06, 2008 11:55 AM
To: testimony
Subject: Please support SB1789

Please support SB1789

I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge both the Hawaii State Senate to pass SB1789 as quickly as possible.

Sincerely,
Netra Halperin
Paia, HI 96779

testimony

From: omcreations@riseup.net
Sent: Wednesday, February 06, 2008 8:15 PM
To: testimony
Cc: olelo@olelo.org
Subject: S.B.1789: pls exempt PEG from competition

Aloha Legislators:

Summary:

- 1) PEG is not broken and should not be competitively bid.
- 2) The current `Olelo team is highly qualified and technically superior.
- 3) PEG and community TV are like should not be subject to competitive bid.
- 4) I've been a long time producer and highly satisfied with service
- 5) Competitive bid approach will reduce diversity of community expression and reduce accessibility.

Thanks for listening to this important testimony. I believe that `Olelo and PEG are essential and diversify our island voices. For 7 years I've been a producer volunteer at `Olelo gratefully exploring the freedom of speech capabilities that `Olelo offers through the PEG access system.

I want to tell you that the current team of dedicated professionals at `Olelo provides unmatched service and reliability. My abilities as a community producer would be damaged if the management team were to change during a competitive process. I believe that community television is a basic service that enriches our community. There are some community services that should not be competitive and PEG is one of those services that enrich our lives. There should not be a race to the bottom of the cost barrel for PEG.

A competitive process for PEG would require bidders of unknown abilities and without demonstrated commitment to quality, race for the bottom of the cost spectrum thereby damaging and over time destroying what our political progenitors created for us to enjoy. The PEG system is not broken, it works just fine. Please it is your kuleana to malama our PEG.

And in my experience, this team and their commitment to quality and access is unmatched anywhere across the US. When i speak to my friends on the continent, they are all surprised as i describe our capabilities, ease of access and opportunities that the `Olelo team provides. I challenge anyone to show me a more well run PEG access service.

Technically, the `Olelo team often upgrades equipment, teaches skills in a manner affordable and accessible to almost anyone in the community. For example, I've met homeless persons, preachers, sports and cultural producers at `Olelo. So diversity is enhanced when reliability and consistency of management is protected. Consistency, reliability, quality and ease of use is what this team provides in quantity.

I believe that some community services should not be subject to the competitive process. One is public radio and public TV. Community communication is essential and expression through the PEG format is extraordinarily well provided for under our current system.

You may choose to exempt PEG from competitive bidding process. Doing so will support community expression and show that you believe that PEG is still relevant and important to our islands.

Mahalo for your kokua on this matter,

Rob Kinslow
2351 Pauoa Rd.,
Honolulu, Hi

testimony

From: Kuulei Reyes [kuufantagi@hotmail.com]
Sent: Wednesday, February 06, 2008 8:34 PM
To: testimony
Subject: S.B. 1789 PEG Access Exempt

I firmly support this bill to exempt 'Olelo PEG from being placed in the bidding process, for fear of the new bidder may not provide the excellent services and rich community building opportunities that 'Olelo Community Television provides.

Mahalo for your support of this bill.

Sincerely,
Kuuleilani Reyes

Need to know the score, the latest news, or you need your Hotmail®-get your "fix". [Check it out.](#)

Senator Russell S. Kokubun, Chair

Senator David Y. Ige, Vice-Chair

Committee on Commerce, Consumer Protection and Affordable Housing (CPH)

LINDA DORSET

February 5, 2008

Testimony in Support of SBI 789, Relating to Procurement Exemption, Cable TV and PEG Access.

My name is Linda Dorset and I am a resident of Wailuku, Maui, and I have witnessed Akaku's commitment to training members of the Maui community in the use of the tools used in broadcast media to imaginative programs for air on channels 52, 53 and/or 54 to ensure that they live up to their mission statement to "empower the community's voice through access to media". I have seen how easy they make it for nonprofits and others to make their public service announcements, thanks to its "hot" studio that accepts "walk-ins" on weekday afternoons, and with the help of the audio/visual professionals they have on staff help teach Maui residents how to prepare and edit their video into a story that can be told on the air.

Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SBI 789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want. I urge both the Hawaii State Senate to pass SBI 789 as quickly as possible.

Mahalo.

testimony

From: Darren Corrao [corraodj@gmail.com]
Sent: Friday, February 08, 2008 3:03 PM
To: testimony
Subject: Testimony of Darren J. Corrao in Support of SB1789, Relating to Cable Access Television

Senator Clarence K. Nishihara, Chair

Senator Donna Mercado Kim, Vice-Chair

Senate Committee on Tourism & Government Operations (TSG)

Darren J. Corrao

February 8, 2008

Testimony in Support of SB1789, Relating to Cable Access Television.

My name is Darren J. Corrao, and I am a resident of Wailuku, Maui. I am a strong supporter of our superb local PEG access provider, Akaku: Maui Community Television. Because of Akaku and its commitment to free speech in our community, I am more acquainted than ever with all sides of the numerous important issues affecting me, my family, and my community; and, needless to say, in these times of great change there are more issues than ever that affect us. I regularly watch Akaku's programming and am often surprised, and pleased, to learn of community services previously unknown to me. My wife is a social worker here on Maui, and I know that she has used the services of Akaku to the benefit of her clients. I am proud to be a member of a community that has an asset like Akaku, with its outstanding staff members and educational services, which truly helps our island's residents use their voices. Without Akaku, I would be much more ignorant of the issues and positions of our Native Hawaiian community. Akaku truly lives up to its motto: "empowering the community's voice through access to media."

For the longest time now, I have been reading about our State bureaucracy's attempts to undermine Akaku's commitment to open access to media. I am saddened by the senseless attacks on our community's most important avenue for free speech. I can only hope that our representatives in the Hawaii State Legislature will step up and end this madness by passing Senate Bill 1789 as quickly as possible.

I urge you to support SB1789 with all the power at your disposal. Our PEG access stations, which are independent nonprofit organizations created by the State itself, should not be subject to the procurement process. As I understand it, the DCCA and State Procurement Office are attempting to award PEG access based on a sealed bid process. It would be to me, un-American to award PEG access, our protector of free speech, to any entity without a completely open review and the input of the public most

2/8/2008

affected by it. SB1789 would ensure that open and fair review under financially reasonable conditions for PEG access. It would also create specific guidelines that protect the public's right to participate in deciding what kind of access organization and service it wants. Moreover, SB1789 would not change the legislature's policy towards access organizations or access channels; it would simply clarify the legislature's policy.

Thank you.

FROM: Stan Michaels, Semi-retired private citizen

STATUS: Former Director of Community Partnerships for American Lung Association, Former Executive Director of the Epilepsy Foundation of Hawaii, Former Executive Director of the Diamond Head Theatre, Former General Manager of Consolidated Theatres-Waikiki and IMAX, Current public health educator, and 22 year veteran of the television and entertainment industry.

TO: The Committee on Judiciary and Labor
Honorable Senator Brian T. Taniguchi, Chair
Honorable Senator Clayton Hee, Vice-Chair

The Committee on Tourism and Government Operations
Honorable Senator Clarence K. Nishihara, Chair
Honorable Senator Donna Mercado Kim, Vice-Chair

FOR: Hearing, Tuesday, February 12, 2008
1:15 PM
Conference Room 229

RE: **In support of SB1789**

Aloha Chairs Taniguchi and Nishihara; Vice-Chairs Hee and Mercado Kim, and members of the committees,

I am honored to be here. I am a volunteer private citizen speaking on behalf of many of my crew and fellow technicians who may not make it here today. I am not employed by any of these entities or for Public Television however I have been a volunteer technician, actor, and producer.

I am very lucky that my current situation allows me to take the time off to testify. What is vital however is to remind you that as you work through this legislation you realize that Public Access television...or PEGs are not just facilities, and staffs and managers. I am also PEG. And there are hundreds like me.

You see, the beauty of PEG's is that anyone can take the classes, in camera use, editing, script writing, and television production. We can then volunteer as crew and build up important hours of experience working with others. I am blessed that I became a PEG producer. Even though I had years of professional experience...I needed to find out how it was done with community volunteers. So, in addition to my formal collegiate education in communication...I was trained by Olelo, nurtured by Olelo to create broadcast communication pieces that have made a difference in our community. Because of their skills and even more important...their patience, in the past decade I have been able to accomplish wonderful things for my community.

The Public Access staff has always gone out of their way to help organizations I was representing to craft a program, concept or need and then further assisted us in locating volunteers to get that programming produced and aired. As a result, countless constituents of American Lung, the Epilepsy Foundation, the theatre community and most recently the Micronesian communities received public health information in their own languages and in a manner they could best understand. These are just a few of the enormous benefits received by the state from the dedicated staffs that assist us general public in the community studios.

In the past decade at least 60 to 70 volunteers helped me help our community by serving as camera persons, sound, lights, scene construction, editors and crew. There is not enough time to list all of the things I was able to accomplish in the past decade because of Public Access.

Most recently this past flu season I helped mount a special tri-lingual, Marshallese, Pohnpeian, and English informational video about how to prevent the flu. It was designed cultural appropriate for its message. It was written by Pohnpeian and Marshallese, photographed by Chuukese and Pohnpeian, the sound captured by a retired African American and a Chuukese student, produced and acted by Micronesians and edited by a haole boy and an incredible Japanese American girl. It was done in conjunction with the DOH, federal Block Grant seed money and Olelo. It will save lives.

All of this was done at Public Access at the Palolo Community Media Center and the pivotal reason it ever got done was the incredible cooperation and dedication of their Public Access staff. Let me add...that many young men and women, who have been unsuccessful at school or at finding their voice, have found careers in our broadcast arena because of the training received at Public Access. That was certainly the case with my most recent crew.

So all I ask is that as you craft this legislation...you remember that Public Access is not just the PEG studios and their staffs...it is also people like me. Understand that in spite of budget limitations and the overworked and underpaid staff...the public access organizations help all of us learn about our world and cultures and they do so with incredible compassion and dedication.

Finally I would like to say a few words about the acrimony that has swirled around these organizations and the DCCA. One doesn't need to be a rocket scientist to see that some entrepreneur saw dollar signs and felt that he or she could make some quick bucks by bidding for the rights to operate public-access studios, hence the recent procurement madness. It is even possible that someone of authority thought it might be a good idea to help them in their quest. The bottom line is that Public Access needs to be free to be public access and not susceptible to the procurement process.

I can personally confirm that I was on the receiving end of some very distasteful attitude from the DCCA when I testified last year. The disdain for my presence was palpable. However, I do not believe it was DCCA's fault...anymore than I believe it was PEG's fault. I believe it was the lack of understanding as to what role and by what rules each is required to play...that caused confusion and placed DCCA in a position to judge something they do not understand.

S. Michaels.. testimony SB1789

I do not purport to fully understand everything that you wish to propose to clarify the relationship of the Public Access organizations and the Director of Commerce and Consumer Affairs. What I can hope is that this legislation enables the continued development of a positive process that will allow the access organizations to do what they do best, and exempts these quasi-state agencies from the procurement process. In that regard you will outline what you expect from them, and safeguard not only the open airways afforded by these wonderful organizations, but the dedication and hard work of their staffs.

Please pass this bill through with an understanding of the enormous contribution made to all our communities by the PEG's overworked, underpaid staffs. Please continually monitor the freedom of the dedicated professionals that try their best to keep an open avenue for individuals and organizations to broadcast their messages.

Thanks for the opportunity to testify. I welcome any questions.

Stan Michaels

testimony

From: jeffgere@lava.net
Sent: Wednesday, February 06, 2008 10:23 PM
To: testimony
Subject: SB 1789: Exemption of Olelo from Bid for Cable Access Oversight

Quoting testimony <testimony@capitol.hawaii.gov>:

> Dear Mr. Gere, I am so sorry, but your SB# is incorrect. Please resmit.
> Thank you! I made a mistake with your correction.

>
> -----Original Message-----
> From: jeffgere@lava.net [mailto:jeffgere@lava.net]
> Sent: Wednesday, February 06, 2008 9:45 PM
> To: testimony
> Subject: SB 1989: Exemption of Olelo from Bid for Cable Access
> Oversight

>
>
>> Subject: Exemption of Olelo from Bid for Cable Access Oversight Dear
>> Hawaii Legislators,

>>
>> I am concerned. Olelo Public Access TV has provided me with the means
>> to shoot my Talk Story Festival, Hawaii's largest storytelling
>> celebration, for 18 years. They have facilitated the shooting and
>> airing of these performances for these many years by giving me a
>> video editing van, 4 cameras, editing bay and media specialists to
>> assist my growing abilities, and the airing of these shows. Indeed,
>> as I look at it, Olelo has been one of the most consistent and
>> supportive parts of REAL 'government' in my life, upholding my
>> ability and value to speak my passion.
>> It aint broke- why raffle off this invaluable resource to another
>> bidder when they have so TOTALLY and SUCCESSFULLY parented my efforts
>> and dozens like me into our community expressions on the public
>> airwaves. Exempt this service from the bidding. I vote, I watch, I am
>> very concerned. Protect one of the greatest resources provided to the
>> common man- Olelo.

>>
>> I STRONGLY urge you to sustain and exempt Olelo from the proposed
>> 'bid' of SB 1789. Thank you. I will watch and respond to your ruling
>> Friday.

>>
>> Sincerely,
>> Jeff Gere
>> Story TV

>>
>
>

testimony

From: Jay April [jay@akaku.org]
Sent: Friday, February 08, 2008 3:33 PM
To: testimony
Subject: TESTIMONY IN SUPPORT OF SB1789 RELATING TO CABLE TELEVISION SYSTEMS

Senator Clarence K. Nishihara, Chair

Senator Donna Mercado Kim, Vice-Chair

TOURISM AND GOVERNMENT OPERATIONS COMMITTEE

Jay April

Tuesday February 12, 2008

Testimony in Support of SB1789, Relating to Cable Television Systems.

My name is Jay April and I am the President and CEO of Akaku, Maui Community Television, a beacon of free speech on the best islands in the world where anyone can talk story. In a media universe dominated by big government and corporate points of view, public, education and government access stations are an oasis where people turn for the straight dope on just about anything. Most of it local, all of it first come, first served, nondiscriminatory, uncensored and unfiltered. This is a true "electronic democracy", a marketplace of ideas in which State Procurement has no expertise, business or jurisdiction. As a matter of fact in my more than twenty five years experience in cable, broadcast and public access television I can think of no PEG selection process any less "public" or more harmful to the concept of using the television medium to engage each other for the common good than the secret, inept, punitive and breathtakingly destructive RFP process now being used by the DCCA and SPO to diminish and possibly destroy this valuable public resource.

PEG Access is not a commodity. PEG Access organizations in each county are independent not for profit 501(c)3 corporations which have built up many years of valuable social capital to fulfill the unique and fully local communications needs of each county. As the Hawaii Supreme Court recently affirmed, Franchise fees from cable subscribers are not state funds. They are paid directly from the cable company to the PEGs in each county without passing through the state's general fund. Local cable access boards provide proper oversight for the use of these funds and are the appropriate local guardians of this healthy public domain.

2/8/2008

The SPO is dead wrong in its failure to determine that PEG Access organizations are sole source entities in each county. Incredibly, what DCCA and SPO fail to realize is that PEG access entities are television anomalies. They do not exhibit top down programming structures but program from the bottom up. This is the community programming for the community, not a programming elite deciding what everyone should see. This is an important distinction requiring a unique level of expertise to properly manage. PEG Access stations are where people from vastly different backgrounds gather to express ideas and find low cost or free ways to find an outlet for their voice. These are often the only places native Hawaiian voices are seen and heard. There is simply no other form of television like it. No one else does it. It is a sole source. This is the only form of television without an institutional programming agenda. Unlike all other forms of television, these fully democratic media serve as an electronic public commons on each island to empower local communities to program these channels in a non-discriminatory, first come first served basis. No other form of television has these public benefit characteristics. This RFP process trivializes and completely ignores this central reality, the applicant with the most cameras wins.

The current RFP process initiated by DCCA/SPO is unaccountable to the public or to the legislature. It lacks meaningful oversight, contains no clearly defined evaluation process, is inconsistent with cable franchise designation, takes liberty with statutory authority, is likely to be found illegal in several aspects and will weaken PEG Access Providers in each county regardless of who the successful applicant or applicant(s) may be. The process violates First Amendment and other constitutional principles, does not allow for meaningful input from neighbor island communities or governments and is a magnet for unnecessary and protracted litigation.

The RFP is selective in that it singles out only the franchise fee contribution to the PEG Access Providers as subject to procurement. It does not address the 1% franchise fee allotment to KHET, Hawaii Public Broadcasting or other tangible benefits to the state such as capital contributions, satellite dishes or institutional networks that the DCCA Director has stated "provide enormous value to the state" Nor does the RFP address the major issue of whether or not cable franchises themselves should be subject to procurement.

Adding insult to injury is the abject failure of SPO/DCCA to acquire the necessary expertise to even draft the RFP much less do the due diligence to find a better, more transparent and workable model. How hard would it be to research and establish a progressive methodology to designate PEG access organizations according to well known "best practice" with maximum citizen involvement, participation and debate at no cost to the state?

For the benefit of our body politic and all our publics, all we are asking is the legislature's guidance in achieving a first step toward that goal by passing SB 1789.

Thank you for the opportunity to testify before you today.

Senator Clarence K. Nishihara, Chair
Senator Donna Mercado Kim, Vice-Chair
Committee on Tourism and Government Operations
Senate of the State of Hawai'i

Lance D. Collins, Esq.
Attorney for Akaku: Maui Community Television

Tuesday, February 12, 2008

Support of SB No. 1789, Relating to Cable Television Systems

I represent Akaku: Maui Community Television, the access organization serving the cable subscribers of Maui County. Akaku and the people of Maui strongly support Senate Bill No. 1789, Relating to Cable Television Systems, which would give the public and access organizations a clear and meaningful process by which the administration designates and regulates cable access.

Cable access regulation in Hawai'i has been marred by unstandardized regulation over the last twenty years. Both the Legislative Reference Bureau and the DCCA have produced reports describing the recurring problems with cable access regulation in Hawai'i. Both reports provide recommendations for effective regulation. These recommendations have, by and large, not been implemented by the administration.

The current policy, as outlined in Chapter 440G, provides the DCCA to "designate" access organizations and allows the DCCA to complement the designation by requiring a variety of commitments from the enfranchised cable operators. Recently, the Second Circuit Court has ruled that the "designation" of access organizations, pursuant to Haw. Rev. Stat. 440G-1, by the DCCA was a rule within the meaning of Chapter 91, Haw. Rev. Stat. It pointed out that the DCCA had never promulgated a rule and therefore all cable access regulation to that point was unlawful.

The DCCA has begun the process of promulgating a rule. However, to the dismay of many across the state, the DCCA has proposed to adopt the procurement code as the method of designating access organizations. The use of the procurement process was a controversial decision which Judge August ruled was not required by state law.

In addition to not being a recommendation of either study from the 1990s and not required by the law, no other state in the country uses the procurement code to designate or regulate access organizations. Additionally, where such vital public interests are at stake, the procurement code removes significant policy deliberations and considerations away from the public eye and the public process. Finally, there is significant question whether adopting the procurement code to designate access organizations will even be consistent with current law.

Senate Bill No. 1789 gives the Hawai'i State Legislature an opportunity to clarify state policy which respect to access organizations by reaffirming the State's commitment to cable access and public involvement in the process of cable access regulation. It indicates our state's desire to keep cable access regulation as part of the overall framework of cable television regulation and not to separate the most vital public interest part of cable television regulation and veiling it behind the procurement code or other secretive process.

We urge the committee to pass Senate Bill No. 1789 without revision. Thank you for the opportunity to provide testimony.

Concise Outline of History and Position Regarding Support for Senate Bill No. 1789

PEG access are cable television channels that are allowed to be required of cable operators under federal law. This state enacted Chapter 440G which requires the director of the DCCA to "designate" access organizations to operate access channels acquired in the franchising of a cable operator.

In Hawai'i, the DCCA participated in the formation of non-profit organizations which have increasingly become (and now wholly are) independent of the state. Last month, the Hawai'i Supreme Court ruled in Olelo v. OIP, 116 Haw. 337, that the Access Organizations are not state entities and do not serve a "government function" which would put it within the ambit of Chapter 92F (which has a very broad definition of government).

Because of its particular history, the DCCA never promulgated rules regarding its "designation." There have been historical problems with that. In the mid 1990s, the LRB and the DCCA, itself, commissioned studies regarding the best way to regulate Access Organizations. These suggestions were never implemented.

The Problem

Without rules in place, there was overwhelming confusion regarding the responsibilities and duties of access organizations. This led to significant media attention on access organizations in 2004 and 2005 including the lack of rules. The administration suddenly announced a secret opinion of the AG that indicated that the agreements the Access Organizations have with the DCCA must go through procurement.

Late last year, 2nd Circuit Court Judge, Hon. Joel E. August, ruled in Akaku v. Reifurth et al, Civ No. 07-1-0278(1), that the DCCA must promulgate a rule and that the DCCA did not have to use procurement to designate Access Organizations. The DCCA then has drafted proposed rules which have not yet gone to public notice or hearing which adopts the procurement code to designate access organizations.

Why Procurement Won't Work

No other state or municipality uses procurement in the designation of Access Organizations. Neither the LRB study nor the DCCA's own study recommended procurement.

One of the main benefits of Access Organizations are their community outreach, education and enrichment. These are not "primary" functions of the organizations but "secondary" functions. PEG stands for public, education and government. Government routinely issues RFPs for services to get its content onto access channels. Education has its own facilities and gets funding from both general funds and subscriber fees.

The public, however, has no other source of funding. The "secondary" function of access organizations provides this.

Procurement however would eliminate this "secondary" function because it requires a non-profit business model that can be executed over an extended period of time (similar to the cable operators franchise which is between 8 and 15 years). An example is the difference between a 15 and 30 year home mortgage. While a 15 year mortgage costs more, the benefit is that in 15 years, you own your home. A rational consumer can then weigh the costs and benefits. The problem with "front loading" in an access organization designation is that there is no house at the end of an RFP but another RFP. The instability here does not permit a non-profit organization, under the reasonable business standard, to create long term business models that allows the funding of the very important "secondary" functions.

How Procurement Is Inconsistent with Cable Television Statute

A competitive sealed bid also is inconsistent with the statutory framework of the Cable Television statute. That statute requires a modified contested case proceeding that permits public participation and input. Part of that process involves the extraction of no-cost benefits to the state and the public (including access channels). Competitive sealed bidding does not include meaningful or required public input into the creation of an RFP and what is important to the public nor are bids reviewed in the open. All of the RFP process is secretive and lacks and public oversight or participation.

Senate Bill No. 1789

Senate Bill No. 1789 clarifies the current legislation by fleshing out that the designation of access organizations must be done in a similar fashion to the rest of cable franchise -- open, in the public, and under a financial reasonable and prudent term of designation that allows flexible regulation by the agency while creating clear minimum guidelines to protect the public's right to participate and determine what kind of access organization and services it wants.

SB 1789 does not change the legislature's policy towards access organizations or access channels. The bill simply clarifies the legislature's policy for the agency and the public.

Policy Context of the Regulation Overall

Because Access Organizations take on the primary role of providing public access services, proper access regulation provides access organizations and the public clear guidelines of expectations and responsibilities of each allowing every resident the opportunity to exercise their important First Amendment rights. It also provides the government with clear policy guidelines to avoid even the appearance of impropriety, favoritism or bias.

Thank you.

Ruth Y. Hsu, PhD
Associate Professor of English
University of Hawai'i, Manoa
rhsu@hawaii.edu / 808 595 0186
Producer/Host of Tuff Talk;
Co-founder, Protect Free Speech Public Access TV

TESTIMONY STRONGLY IN FAVOR OF SB1789
EXEMPTING PUBLIC ACCESS TELEVISION PROVIDERS FROM RFP PROCESS
Big State Bureaucracy and Big Business Squashes Public's First Amendment Rights
Criticism of Request for Proposals Forced on PEG

It's not an overstatement to say that true public access TV/media in Hawai'i that has developed as the people of Hawai'i have developed over the past sixteen to twenty years is in danger of disappearing. Briefly, the Department of Commerce and Consumer Affairs (DCCA) has decided to place on the auction block the contract to manage PEG Access television/media in all the counties. DCCA made this decision with the assistance of the ill-informed State Procurement Policy Board (SPPB). These two agencies have simply declared that they have the legal right to put these contracts out to bid, when they do not, and despite overwhelming opposition from the users and viewers of PEG Access TV/media, people who know these organizations the best.

The average person of Hawai'i is about to lose his/her right to robust access to the means of free speech television. If this were to happen, all of us will suffer, whether or not we are a volunteer-producer for Olelo or a viewer.

Many aspects of this current problem are examples of people in places of power abusing their power. Both bureaucratic departments conducted themselves throughout this process in ways that were arrogant, condescending to the public and at best revealed an appalling level of ignorance as to the significance and history of PEG access in Hawai'i.

The most revealing example of administrative abuse of power can be found in the Request for Proposals. The RFP is extremely troubling in at least five primary areas:

1. The proposed contract enables a single individual – the cable regulator – to determine the day-to-day operations of PEG Access television/media throughout Hawai'i or for each of the Public Access providers in the counties of Maui, Molokai, Kauai, Honolulu, and Hawai'i (Hilo and Kona).
2. The proposed contract enables the "procurement" of substandard PEG services.
3. The proposed contract reveals the State government's desire to assume ownership of what it has no right to.
4. The proposed contract allows a single individual – the cable regulator – to determine if a PEG Access provider has met the Constitutional guarantee of First Amendment Rights. This is equivalent to putting the fox in charge of the chicken coop.
5. The proposed contract will further reduce the apportionment of PEG Access fees to the public (for equipment, for training, for upgrade of equipment and software, etc.).

It might be difficult to be certain about the intentions of authors, unless one can read minds. On the other hand, in this instance, it's possible to infer from this RFP as to who benefits from its provisions

(DCCA/State government and Time/Warner-Oceanic) and who “loses” (Hawai’i residents, First Amendment Rights, right of citizens to open flow of important public information).

Specifics:

1. The proposed contract enables a single individual – the cable regulator – to determine the day-to-day operations of PEG Access television/media throughout Hawai’i:

a. DCCA was given public testimony that overwhelmingly said, “Don’t fix something that’s not broken.” The Attorney General gave an opinion to the DCCA as to whether or not Public Access television/media in Hawai’i can come under State procurement policy. Although the DCCA has been urged to publish that opinion by PEG Access providers and open government advocates, it has not done so. The FCC recently cited DCCA for failing to respect public requests for information. In relation to the PEG Access issue, the SPPB has not adhered to State sunshine laws and has voted on measures without quorum. If the RFP is put out for bid, the public users of PEG Access television/media (volunteers, viewers, producers) -- the individuals who know these organizations the best -- are cut out of the selection process. Most alarming throughout this process is that DCCA/SPPB has not secured the expertise of any independent person(s) with actual first-hand experience in providing Public Access to communities to assist in the drafting of the contract or in the selection process.

Presumably, Mr. Sonobe, the cable regulator, designed this draft, will be the primary decision-maker in awarding the contracts, and will wield ultimate authority in implementing and overseeing the contracts (as laid out in the RFP).

Essentially this RFP allows the State bureaucracy, occasionally the recipient of public criticism on Public Access TV/media programs, the sole authority to determine the amount of funding and the termination of contract, that is, the fate of a PEG Access Provider. In other words, the Governor-appointed bureaucrats can, by means of this contract, censor programming through coercion.

Further comment:

Given that DCCA/SPPB and the cable regulator have been dismissive of public testimony, there is no reason to believe that, once the new contract is in place, these State agencies will respect public input that does not fit into their pre-established, hidden agenda.

The one who controls the flow of money controls the agenda/airwaves. Under this contract, DCCA and the cable regulator have assigned to themselves the sole authority to control the flow of money.

The current cable regulator, Mr. Clyde Sonobe, once opined to the former CEO of Akaku, Mr. Sean McLaughlin, that the volunteer-producers should stop being ‘welfare recipients’, which is Mr. Sonobe’s tag for PEG Access users, that is, the ordinary citizen (who check out equipment, use studio, editing software, receive training, etc.).

PEG Access is mandated under federal law. Cable subscribers’ fees in Hawai’i go directly from the cable operator (Time-Warner/Oceanic) to the Public Access Provider. None of that money is State revenue and should not go through State coffers. PEG Access monies are not welfare.

Public Access TV/media should be handled like it’s a common good, like it’s a citizen’s right to have first-class education, clean water, or clean air. The principle is the right of all individuals regardless of class, gender, race, religion, political affiliation, and so on, full access to free speech through digital and electronic media.

2. Substandard services:

Olelo, as measured by its peer organizations in the United States, is ranked second in the nation. Why does DCCA/SPPB want to fix what’s not broken?

This contract allows anyone with broadcast experience but not Public Access experience (for example, from CNN, Fox) to bid for a contract.

UH and DOE (the E of PEG in Hawai'i) do not provide Public Access to the public even though they take substantial amounts of cable subscribers' fees designated for PEG Access. PBS, or KHET, has been taking \$1 million annually. PBS/KHET is not Public Access.

Clearly, the author(s) of this draft do not understand or are/is not interested in understanding the substantial difference between Public Access and, say, PBS or a commercial television station. This draft contract dismisses the vast experiences already accumulated by the current PEG Access Providers (16 years on Oahu).

Broadcast experience alone is not sufficient to run a strong PEG Access organization. DCCA/SPPB seeks to replace proven, accumulated, successful PEG Access Providers with . . . ?

Who benefits from incompetence or inexperience in the area of Public Access? Who loses?

Currently, on Oahu, Olelo mindful that First Amendments Rights are equally to be enjoyed by under-served and under-represented groups

3. The proposed contract clearly reveals the State government's desire to take what it has no right to and what belongs to the people of Hawai'i. The cable regulator not only takes the sole authority to terminate contracts, to terminate or decrease funding (which gives them the means to interfere with programming). The DCCA also wants to take whatever Olelo and other PEG Access Providers hold in trust for the people of Hawai'i (monies, equipment, facilities, etc.). This contract changes what should be independent (non-profit, private organizations) Public Access Providers and 'nationalizes' them, changes them into state agencies supervised ultimately only by the Governor.

4. The proposed contract allows a single individual – the cable regulator – to determine if a PEG Access Provider has met the Constitutional guarantee of First Amendment Rights, which is also a human right. The cable regulator or someone on DCCA will become de facto the Czar of public access television.

5. a. Further reducing operating fees: The proposed contract will allow DCCA or the cable regulator to gradually strangle to death Public Access TV/media. Fees that should go to the public (for equipment, for training, for upgrade of equipment and software, etc.) will be further reduced under this contract.

PBS received an exemption from this bidding process. Public Access TV/Media did not. PBS receives \$1 million per year fees from cable subscribers, diverted from the PEG's. Yet, PBS is NOT a Public Access station.

Olelo has been operating at a deficit this past year. DCCA imposed a cap, again, without input from the public, and after simply declaring that it can do so. Items on page 25 of the contract will allow DCCA and/or the cable regulator to further strangle Public Access, especially in the other counties that have lower population numbers than Oahu.

This measure, then, is a time-bomb that potentially will lead the various PEG Access Providers to fight each other for a bigger piece of the already-reduced pie. If this infighting were to occur, the public loses, again.

While Time-Warner/Oceanic fees keep going up, federally-mandated fees for Public Access are gradually being reduced through the machinations of the State government.

b. Unnecessary additional expenditure imposed on PEG's: My experience of Olelo staff members has been very positive. Public testimony has been overwhelmingly positive. The new contract if enacted will require that all the PEG Access Providers conduct, annually, expensive and time-consuming 'customer satisfaction surveys', which will further cut into the amount of funding available for producing Public Access programming. Current Olelo procedures to address viewer and volunteer suggestions and complaints are sufficient.

Concluding remarks:

Essentially, what's been happening for the past six to eight years is that DCCA and the cable regulator have gradually cut funding to the public (but not to G or E) in the PEG Access structure.

Why has the public been put through this grinder? Who benefits from the destruction of the current public access providers and long-standing structure?

Answer: the State bureaucracy and Time-Warner-Oceanic. It hurts Hawai'i residents.

The State bureaucracy has not acted in good faith with the people of Hawai'i, and it is not acting in the best interests of First Amendment Rights, and the right of ALL residents of Hawai'i, regardless of their income bracket, race, gender, religion, ethnicity, to a strong PEG Access structure.

testimony

From: Andrea Speedie [andreaspeedie@hotmail.com]
Sent: Thursday, February 07, 2008 8:52 AM
To: testimony; Sen. Russell Kokubun; Sen. David Ige
Subject: testimony in support of SB1789

Senator Russell S. Kokubun, Chair
Senator David Y. Ige, Vice-Chair
Committee on Commerce, Consumer Protection and Affordable Housing (CPH)

<!--[if !supportEmptyParas]--> <!--[endif]-->

Andrea Speedie

February 7, 2008

<!--[if !supportEmptyParas]--> <!--[endif]-->

Testimony in Support of SBI789, Relating to Procurement Exemption, Cable TV and PEG Access.

My name is Andrea Speedie and I am a resident of Kihei. As a Maui County resident, I have witnessed Akaku's commitment to familiarizing members of the Maui community with the tools used in broadcast environments to create content for air on channels 52, 53 and/or 54. I have seen how easy we make it for nonprofits and others to make their public service announcements, thanks to its "hot" studio that accepts "walk-ins" on weekday afternoons. The audio/visual professionals they have on staff help teach Maui residents how to prepare and edit their video into a story that can be told on the air. And I have observed how we all wear multiple hats to ensure that we live up to our mission to ultimately "empower the community's voice through access to media."

<!--[if !supportEmptyParas]--> <!--[endif]-->

This is our service to the community. This is the service that ensures every resident the opportunity to exercise their important First Amendment rights.

<!--[if !supportEmptyParas]--> <!--[endif]-->

Nonetheless, it seems that commercial entities have a hard time understanding the value of this community service, which is why I'm counting on the Hawaii State Legislature to do what is right for local access to cable television.

<!--[if !supportEmptyParas]--> <!--[endif]-->

Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SBI789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want.

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I support SBI789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge both the Hawaii State Senate to pass SBI789 as quickly as possible.

<!--[if !supportEmptyParas]--> <!--[endif]-->

Mahalo.

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COMMUNITIES IN SCHOOLS-HI
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To: Committee on Commerce and Consumer Protection and Affordable Housing, Ways
And Means Committee

From: Fay Uyeda, Director Communities in Schools-Hi

Re: SB 1789 Olelo Community Access Television

February 5,2008

Aloha,

On behalf of Communities in Schools-Hi serving families of Waipahu's most at-risk population for over 17 years, we strongly support SB1789 Olelo Community Access Television.

Prior to the opening of the Waipahu Olelo Community Media Center, staff , specifically Sparky Rodrigues came to Waipahu to develop relationships with the Community.

Unlike many "newcomers", agencies, Olelo did it the right way. They came first to learn of the community and how best they could serve with existing agencies, schools, etc.

We developed a relationship because we were impressed at how Olelo engaged our youth in learning to "tell their stories and that of the community" through Media. This is the only venue for their voices to be heard in the Media.

As a small , grassroots organization, Olelo provides us with a venue to also share our work, concerns. They do it in the best way possible which is teaching us and others how to do it for ourselves. They create healthy **interdependent, versus dependent relationships.**

They are driven by their mission and can truly say that they help to develop communities.

We are especially appreciative because they hired on of our young adults and have nurtured him in skills but more importantly, nurtured his responsibilities to the community as a young adult. He serves as an important role model especially to the many young people in Waipahu. He is encouraged to return to college and complete a degree , which I believe he will eventually.

Genuine community building and access to the **people's** opportunities to advocate for themselves what is important, valued, is limited to others outside of their community determining what they need. If we are to nurture "an enlightened public", we must provide them opportunities to be informed and inform others of their expertise of their own lives.

Learning does not happen in the context of 4 walls. Community Television has encouraged our youth to see the world , including themselves as their teacher. Popular media is owned and controlled by those who need the viewers to remain as consumers, rather than producers.

We are at a place in Hawai'i that we must question passionately every time the possibility of more access to sharing kuleana in the determination of our future is lessened and placed into a competitive marketplace.

We need to be reminded that we are born to a special place where our integrity rests in how we take care of our island home. We have come dangerously far from our own state motto, *Ua mau ke ea o ka 'aina I ka pono. The life of the land is perpetuated in righteousness.* What does that have to do with this issue of "access" of a critical resource to the common folks? Everything.

Are we nurturing generations to embrace their kuleana, responsibility to a better Hawai'i? Are we teaching our young to share in the responsibilities of issues that impact themselves and the larger community? Are we preparing them to be caretakers of our land, ocean, one another? Or do we lament that our "best and brightest" need to leave Hawai'i?

The young people, I see being nurtured by Olelo Community Television and others underrepresented in many arenas, are those that will stay and make Hawai'i better. They cannot be compromised by money or power. They have invested in their community!

What else in Hawai'i has the history Olelo has in nurturing communities and generations of youth to understand their kuleana to exercise their rights by being responsible to advocating, educating others about their strengths, concerns?

As our wise and beloved Kupuna has said, "You supposed to know you have the strength to do what is right. Get a grip! Leave a legacy."

What other Bill provides access to the citizenry as does Olelo? What did it take to have Olelo grow into what it has today? How many people of every age came to understand that they had a right and responsibility to express their mana'o, even if it may have been a minority viewpoint?

"If you don't know where you came from you won't know where you're going." This is a wise saying of an Elder. I believe that those in positions of decision-making needs to know where Olelo came from because it definitely knows and has demonstrated where it has been and needs to go. The passing or failure of this Bill will impact communities in ways unimaginable for the future of a Hawai'i that shares the responsibilities of a viable and vibrant future for all or blindly fall into the hands of those who believe that everything, including our integrity, is for sale.

I hope and pray that you will support SB 1789 because it is pono. I often think that we have so many laws, we don't need more when we aren't even educated about those that exist. This SB1789 is essential because it challenges the direction of Hawai'i.

Please feel free to contact me at 671-4900 at anytime if you have any questions.

Ho'o mau I ka pono. Let us perpetuate goodness. E naue pololei kakou. Let us continue to move in the right direction.

Aloha pumehana,

Fay Uyeda
Communities in Schools-Hi

testimony

From: Ahmedinhawaii@aol.com
Sent: Thursday, February 07, 2008 12:19 AM
To: testimony
Subject: SB1789

Honorable members of CPH and WAM Committees:

My name is Saleem Ahmed, Currently, I serve as president of the All Believers Network (Belnet) and of the Association for Promoting South Asian Culture (Milun).

I support SB1789 exempting PEG Access services from the competitive bidding process.

During 2007, I and three other colleagues received excellent training from 'Olelo on video recording. We used this training to help video record 5-6 community programs during the year. These were shown on 'Olelo channels during the year. That 'Olelo draws much "viewership" may be gleaned from the fact that, based on these programs, I've received several calls about the activities of the above-mentioned organizations.

Thus, I believe that all efforts to help 'Olelo maintain its programming and competitive edge should be supported. 'Olelo provides our community with the much-needed and healthy outlet for sharing our views on issues with which the community needs to grapple all the while.

I understand that, thanks to your support, 'Olelo ranks possibly as the most active community TV channel in the nation. Let us continue to help 'Olelo not only maintain but also enhance its already superior programs.

With much aloha and mahalo,
Saleem Ahmed
371-9360

Who's never won? [Biggest Grammy Award surprises of all time on AOL Music.](#)

testimony

From: Facility Engineer [akakuweb@bazooka.dreamhost.com]
Sent: Thursday, February 07, 2008 7:37 AM
To: testimony
Cc: kaeo@akaku.org
Subject: Message from a concerned citizen c/o akaku.org

Name: Dave Coennen
Address: Kihei

Testimony in Support of SB1789, Relating to Procurement Exemption, Cable TV and PEG Access.

My name is Dave Coennen and I am a resident of Kihei. As a Maui County resident, I have witnessed Akaku's commitment to familiarizing members of the Maui community with the tools used in broadcast environments to create content for air on channels 52, 53 and 54. I have seen how easy they make it for nonprofits and others to make their public service announcements, thanks to its "hot" studio that accepts walk-ins on weekday afternoons. The audio/visual professionals they have on staff help teach Maui residents how to prepare and edit their video into a story that can be told on the air. I have also observed how they all wear multiple hats to ensure that they live up to our mission to ultimately "empower the community's voice through access to media." This is Akaku's service to the community. This is the service that ensures every resident the opportunity to exercise their important First Amendment rights. Nonetheless, it seems that commercial entities have a hard time understanding the value of this community service, which is why I'm counting on the Hawaii State Legislature to do what is right for local access to cable television. Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want. I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge both the Hawaii State Senate to pass SB1789 as quickly as possible. Mahalo.

nishihara2 - Bert

From: Sen. Clarence Nishihara
Sent: Monday, February 11, 2008 11:54 AM
To: nishihara2 - Bert
Subject: FW: Support SB 1789!

From: dave coennen [mailto:coennen@gmail.com]
Sent: Monday, February 11, 2008 11:33 AM
To: Sen. Clarence Nishihara; Sen. Shan Tsutsui; Sen. Donna Mercado Kim; Sen. Gordon Trimble
Subject: Support SB 1789!

Aloha Senators,

As a frequent content provider and viewer of Akaku Maui Community Television, I am troubled by the State of Hawaii's attempt to place our last electronic venue for free speech in the medium of television being put out to the lowest bidder without any clear rules in place that would protect and guarantee local control of these important public access channels.

SB 1789 is important because PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service the people want.

I want you to support SB 1789, period. It is the right thing to do and my vote in November will reflect in how this bill is handled.

Sincerely,
Dave Coennen
Kihei, HI

2/5/08

Senator Russell S. Kokubun, Chair

Senator David Y. Ige, Vice-Chair

Committee on Commerce, Consumer Protection and Affordable Housing (CPH)

Testimony of Linda Ruth Puppolo

PO Box 218

Puunene, HI 96784

My name is Linda Puppolo, and I am a resident of Central Maui. I am the Administrative Services Director of Akaku: Maui Community Television. I support SB1789 and HB3417 and believe that the service Akaku provides to the Maui Community is invaluable.

As the Administrative Services Director of Akaku, I have witnessed the damage that has been created by the DCCA's RFP process. I have also witnessed Akaku's commitment to providing the Maui Community with the service and tools to be able to express their "voice" to all of Maui Nei. This service ensures every resident the opportunity to exercise their First Amendment rights. I support these bills because they do not change the legislature's policy towards P.E.G. access organizations but rather it clarifies the legislature's original intent in creating a policy that serves the residents of Hawaii.

Akaku has provided the following services to the residents of Maui Community including Maui, Molokai, Lanai and content about our sister island Kahoolawe:

- √ Educational programs that include training in Introduction to Television, Studio Production, Field Production and Post Production for both youth and adults in Maui County.
- √ Educational programs that offer advanced production skills to both youth and adults in Maui County.
- √ The Molokai Civic Engagement Initiative Project: (2nd phase) Using Media to Build Social Capital and Empower the Underserved Community will be offering beginning and advanced skills classes on the island of Molokai and in the near future to also the rural communities of Hana and Lanai.
- √ Educational programs with partners in the Maui County Community such as Maui County Correctional Center, Aloha House Substance Abuse Programs, Maui Drug Court, Big Brothers/Big Sisters, Maui Economic Opportunity's Best Reintegration Program and the Hui Malama Learning Center.
- √ Improved Facility Use for Akaku Certified Producers including a full-service Studio.
- √ Equipment Use for Akaku Certified Producers

- √ A Media Lab with upgraded editing bays for Akaku Certified Producers
- √ Video posting support to the internet for Akaku Certified Producers and viewers at large.
- √ Evening Producer gatherings offering workshops in a wide range of advanced skills training and lively discussions about film and video media.
- √ A Maui Daily Program that will offer opportunities for Akaku Production Staff and Community members to submit timely short pieces for daily broadcasts about events and ideas that concern the broad spectrum of the Maui Community with the ability to reach residents that deserve a voice but will not produce the videos themselves.
- √ Programming for Non-Commercial Private Production Submittal
- √ The ability for any Maui County resident to speak to any issue of their choice any weekday from 1-3:00pm to be aired on our Maui Daily segments.
- √ PSA and Media Support for Non-Profits monthly and at their events.
- √ Offering a venue for series productions including Live Call-In Shows.
- √ Production for viewing of County Council Meetings, Mayor's Office Conferences and Boards & Commissions Meetings
- √ Production of a Talk show with the Mayor of Maui County
- √ Airing of meetings at the State Legislature.
- √ Increased coverage of marine ecosystem.
- √ The utilization of new internet two way video compatibility to improve outreach communication to rural areas.
- √ Increased focus on library and asset management.
- √ Increased focus on grant writing and fund raising to offset the 25-33% budget reduction due to the education agreement with University of Hawaii and Maui District Department of Education.
- √ **Offering the Candidates running for elected offices a venue to speak. All for free.**
- √ New programming initiatives to service our host culture such as "Hawaiian Fridays".

We perform all of these tasks and more on a very small budget. Akaku was originally created by the DCCA and the Maui Community to setup a safe, nonbiased and effective venue for the community's voice. This directed dream has been realized. Akaku is all about service. A procurement process is created to procure purchased objects; not ideas. A competitive sealed bid process like the kind of RFP the DCCA is proposing would take transparent review and public input completely out of the picture. P.E.G. access stations are independent non-profit organizations; not state agencies. At no time do the Franchise Fees funding **EVER** pass through the state coffers. The original design works and the truth is that the only reason it is an issue now is because some developers on Maui used pressure when someone said something negative about them on our air. What that gentleman didn't understand is that it is their right to say it and his right to come back and defend his position. A venue for "free speech" should never be controlled. We do not pull programs because they have unpopular content only when the video or audio are not good enough quality. P.E.G. access is completely unbiased.

The damage that has been done to Akaku by this cumbersome process has been significant. P.E.G. access organizations were “mandated” by the DCCA to create a plan to become more self reliant and less dependent on the Franchise Fees citing that someday this benefit would go away and the organizations then may not be viable. Akaku and Olelo did that by purchasing their buildings and trying to build up a plan to comply with this “mandate”. In return, the DCCA has threatened to take it away citing that it will revert back to the state if Akaku or Olelo loses the RFP bid. It is very disheartening to know that all the hard work an organization has accomplished could just be discounted and swept away by a poorly written, blind sighted and ineffective RFP process.

Even if we were to win the bid, the following threats also have been made in this process:

- ✓ A monthly allocation of funds in place of a yearly allocation which would take away any dividend/interest monies that would come from the solid investments that would come from the “mandated” original idea of P.E.G. financial planning. I wonder just who would get all that interest?
- ✓ No ability to file a lawsuit against the state (even if the state is wrong) which again makes one wonder if that is how one would treat a “state agency” except we are not a state agency.
- ✓ More and more audits for us but none for our Educational partners, (Maui Community College and Maui District Department of Education). (We have performed an audit every year for fifteen years that was reviewed and accepted by the DCCA so why this is to be an object of discussion at the state legislature is a mystery)

The truth is that the DCCA helped create a “brand” for public access centers throughout the state and they have flourished. Every organization has problems from time to time but there has never been anything that could not be corrected. The amount of time, money and energy that has been spent on the RFP process will be lost forever. It is now that we need your help.

I am asking for you to support HB3417 and SB1789 as we have supported you in providing a nonbiased venue for you to have a “voice” to be elected or re-elected.

It’s time to protect the rights of the residents of Hawaii and let us to continue “empowering their voice through access to media”.

I am available to answer your questions.

Mahalo,

Linda Ruth Puppolo
Administrative Services Director
Akaku: Maui Community Television
Direct line: 808-873-3436
Cell: 808-870-1503
Email: linda@akaku.org

testimony

From: sara tekula [spectekula@gmail.com]
Sent: Tuesday, February 05, 2008 2:35 PM
To: testimony; Sen. David Ige; Sen. Russell Kokubun
Subject: Testimony in Support of SB1789

Senator Russell S. Kokubun, Chair
Senator David Y. Ige, Vice-Chair
Committee on Commerce, Consumer Protection and Affordable Housing (CPH)

SARA TEKULA
 February 5, 2008

Testimony in Support of SBI789, Relating to Procurement Exemption, Cable TV and PEG Access.

My name is Sara Tekula_ and I am a resident of Olinda . As resident of Maui County for over 4 years, I have witnessed first-hand Akaku's commitment to empowering the Maui community through access to the tools of the media and other important information we would not have access to otherwise.

Prior to living on Maui, I worked for over 8 years as a cable television producer in Los Angeles. I have witnessed first-hand the amount of funding and legal power that is utilized by corporate television entities to keep their programming on air. I also have seen the advertisers make the content decisions (not the viewers, or even the creative media professionals). These programs do not allow for diversity, serve the "lowest common denominator" and often disenfranchise many members of our colorful American population.

I understand that the function of PEG access programming in the U.S. is to uphold our founding fathers' wishes – to pursue our constitutional freedoms in a peaceful, engaging manner that allows us all as community members to use the PEG channels to work out our differences, tell important local stories, and share new ideas and information with each other. We as citizens of the United States have a right to do this, and **none** of the corporate TV stations allow us to exercise these rights. **PEG access is our only hope.**

In a rural area like Maui, with many underserved and under-represented voices on the island, PEG access is not simply a "perk" of our lifestyle, it is a **CRUCIAL** lifeline for us. We have no other true outlet for our voices, no other place to go to learn how to make our own videos or become citizen journalists. This is Akaku's service to the community, and many of the staff at Akaku have dedicated their lives to protecting my voice. This is the service that ensures all of us the opportunity to exercise our important First Amendment rights.

Nonetheless, it seems that commercial entities have a hard time understanding the value of this community service, which is why I'm counting on the Hawaii State Legislature to do what is right for local access to cable television.

Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process

2/5/2008

would take transparent review and public input out of the picture. SBI 789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want as community members. **After all, PEG was created FOR us, and it should be shaped BY us, too.**

I support SBI 789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge both the Hawaii State Senate to pass SBI 789 as quickly as possible.

Mahalo.

Sara Tekula

testimony

From: Tia Christensen [tia.sustainable.girl.tv@gmail.com]

Sent: Monday, February 11, 2008 11:22 AM

To: testimony

Subject: Fwd: Akaku

Senator Clarence Nishihara, Chair
Senator Donna Mercado Kim, Vice-Chair
Committee on Tourism and Government Operations (TSG)

Tia Christensen
February 10, 2008

Testimony in Support of SB1789, Relating to Cable access television

Aloha,

I'm Tia Christensen and a resident of Huelo. As a Maui resident, I have experienced 1st hand the amazing efforts that Akaku puts forth to continue bringing Maui channels 52, 53 or 54.

Akaku goes above and beyond to ensure freedom of speech, which is now at risk and has been for longer than I care to remember. With so many citizens who seem to watch as our freedoms are daily attacked, its nice to know that there is still a place to access the community with your voice ."

This is their service to the community. This is the service that ensures every resident the opportunity to exercise their important First Amendment rights.

It seems that corporate entities have a hard time understanding the value of this community service. I'm counting on the Hawaii State Legislature to do what is right for local public access stations.

Senate Bill 1789 is important PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would effectively take the "public" out of public access. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the publics right to participate in deciding what kind of access organization and service we want.

I support SB1789 because it doesn't change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy on procurement and public access. I urge both the

2/11/2008

Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo,

Tia Christensen

testimony

From: chilibears [chilibears@yahoo.com]
Sent: Tuesday, February 05, 2008 3:31 PM
To: testimony
Cc: Sen. Russell Kokubun; Sen. David Ige
Subject: Testimony in Support of SB1789

Committee on Commerce, Consumer Protection and Affordable Housing Senator Russell S. Kokubun, Chair Senator David Y. Ige, Vice-Chair

Testimony in Support of SB1789 - Relating to Procurement Exemption, Cable TV and PEG Access.

I am writing today in support of SB1789.

I won't take up your valuable time with another rendition of the many reasons why Public Access Television as provided by Akaku is so valuable to the Maui community.

Please pass SB 1789 because: "It's the right thing to do!"

Sincerely,

Peter A. Sullivan
112 Ho'opalua Drive
Pukalani, Maui, HI 96768
808-572-9698

(testimony above in attached word doc)

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testimony

From: aandrea99@aol.com
Sent: Wednesday, February 06, 2008 10:39 AM
To: testimony
Subject: Please support SB1789

Public Access TV was created to allow a local, public voice on cable TV. It is paid for on your cable TV bill (the 3% "cable franchise fee"). Cable TV was created using PUBLIC LANDS, therefore the public wanted a piece of it.

Sincerely,
Andrea Baer

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Na Koa Ikaika o Ka Lahui Hawaii
Mililani Trask, Convener
400 Hualani Street, #194
Hilo, HI 96720

To: Senate Committee on Commerce and Consumer Protection
Russ Kokubun, Chair

Senate Ways and Means
Roselyn Baker, chair

Hearing: S.B. 1789 P.E.G. Access
9:00 a.m., Friday, Feb. 8, 2008
Conference Room 229
State Capitol

Re: Testimony in Support of S.B. 1789

Aloha Senators:

I am strongly in support of this measure. The First Friday show is Hawaii's longest running community talk show. We have been in business over 15 years. In this time we have become very familiar with the community needs relating to programming, training and the broader obligations we all have to ensure that 1st Amendment rights are protected.

P.E.G. is not a commodity that should be bought or sold. P.E.G. Access has a broad mission that involves community building, support for local programming and involvement of all of Hawaii's diverse ethnic and cultural communities. This is why these services should be exempt from competitive bidding – it is not how cheaply the service can be obtained or rendered, but rather who will best fulfill the need of our local community. Please support this measure.

Aloha,



Mililani B. Trask, Host
First Friday Show

testimony

From: Noyita Saravia [noyitas@yahoo.com]
Sent: Thursday, February 07, 2008 1:57 PM
To: testimony
Subject: S.B. 1789

Dear People,

S.B. 1789 relating to cable television systems has a provision that would exempt PEC access services from the competitive bidding process. I support this wholeheartedly.

PEG access services should not go to the lowest bidder. Community television is not a commodity to be bought, sold, bantered for.

Community television is all about Community. Olelo has done a wonderful , incredible job of allowing all members of the community to have their voices heard. They have done wonderful training and then supported folks in the community every step of the way in helping get their voices, concerns, community issues, cultural diversity heard and seen. They have developed links to community groups and individuals.

I am sorry I cannot be there in person to testify. In the past I have testified in person or waited to testify in person on this issue along with overwhelming support from individuals and groups in the community stating Olelo should not have to go through this process. As one person said:" If it ain't broke don't fix it!" The testimony I had heard was heartwarming.

At one meeting a representative from the Federal government said he saw that the community overwhelmingly supported Olelo not having to go through the competitive bidding process.

Thank you for your time and trouble and consideration. Aloha, Noyita Saravia

Never miss a thing. [Make Yahoo your homepage.](#)

David DeLeon

335 Waiama Way
Haiku, Hi. 96708
808-281-3269

February 7, 2008

Honorable Clarence Nishihara, Chair
Committee on Tourism and Government Operations
State Capitol
Honolulu, Hi. 96813

TESTIMONY: In Support of Senate Bill 1789

Chair and Members: Thank you for this opportunity to testify in support of Senate Bill 1789, that would allow the contracting of PEG Access Television services without the necessity of following the state Procurement Code. While I am writing as an individual citizen, I am also currently the Maui County representative on the State Cable Advisory Committee.

As a member of the CAC I am opposed to the imposition of the Procurement Code in the contracting for PEG Access Television services. The procurement code is fine when it comes to providing contracts for painters or roofers, but borders on the absurd when applied to what is fundamentally a First Amendment issue: the free and unfettered voice of the public to be heard via a free media. Giving government a strong say in who can and who can't provide this media and under what terms, gives government too strong of a say in how these community-based agencies can operate. The four operations now serving our counties were created by the communities they serve – not the state. They were developed with much care and aloha by the communities over the years into what they are today. The AKAKU Community Television system on Maui has grown and taken an important position in our community's media mix. Our community has learned to count on it. There were a couple of years, not long ago, in which the AKAKU board split over policy and control, but the board has since self-corrected itself and continues to produce responsible community television programming.

The balance here, as always, is between control and freedom. When it comes to PEG Access, the judgment should come down on the side of freedom. While DCCA should be in a position to make sure the cable access fees are not squandered, its oversight of these operations should be as light as possible. The recent efforts by DCCA to impose its control over these PEG Access agencies have been just the opposite: unnecessarily heavy-handed, resulting in law suits from two of the agencies. While DCCA may believe it is in the state's interest to impose strong controls over the PEG stations, it is definitely not in the interest of unfettered, free speech, the ultimate public interest in a democracy. By eliminating the Procurement process, SB1789 would be a good first step in protecting that interest.

testimony

From: Cynthia Thomet [cynthiathomet@gmail.com]
Sent: Tuesday, February 05, 2008 4:04 PM
To: testimony
Cc: Sen. Russell Kokubun; Sen. David Ige
Subject: Testimony in Support of SB1789

Senator Russell S. Kokubun, Chair
Senator David Y. Ige, Vice-Chair
Senate Committee on Commerce, Consumer Protection and Affordable Housing (CPH)

Cynthia Thomet
February 5, 2008

Support of SBI789, Relating to Cable Television Systems.

My name is Cynthia Thomet, and I am a resident of Kihei, on the island of Maui who supports SBI789, relating to Cable Television Systems. The variety of programs that air on Akaku is a testament to its commitment to reflecting the voice of the many Maui county residents who have a non-commercial message to impart. This is why seeing passage of legislation that protects PEG access in Hawaii is important to me.

As a Maui County resident, I have witnessed Akaku's commitment to familiarizing members of the Maui community with the tools used in broadcast environments to create content for air on channels 52, 53 and 54. And I have also seen creative programming that could only be developed by Mauians with a Maui audience in mind. This is Akaku's service to the community. And it is the service that PEG access organizations throughout the Hawaiian islands provide to ensure all residents the opportunity to exercise their important First Amendment rights.

Nonetheless, it seems that commercial entities have a hard time understanding the value of this community service, which is why I'm counting on the Hawaii State Legislature to do what is right for local access to cable television.

Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SBI789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access organizations. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want.

I support SBI789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge the Hawaii State Senate to pass SBI789 as quickly as possible. Mahalo.

testimony

From: Kaeo Kepani [kaeo.kepani@gmail.com]

Sent: Wednesday, February 06, 2008 1:45 AM

To: testimony

Subject: Testimony in Support of SB1789, Relating to Procurement Exemption, Cable TV and PEG Access

Senator Russell S. Kokubun, Chair

Senator David Y. Ige, Vice-Chair

Committee on Commerce, Consumer Protection and Affordable Housing (CPH)

Ka`eo Kepani

February 6, 2008

Testimony in Support of SB1789, Relating to Procurement Exemption, Cable TV and PEG Access.

My name is Ka`eo Kepani and I am a native resident of Pukalani on Maui, but am currently living on Oahu for schooling. I have seen first-hand Akaku: Maui Community Television's commitment to educating the Maui County Community about their right to free speech, and how it has the power to shape the community itself. Now that I am living on Oahu, I want to continue to exercise that right to electronic democracy but I fear that if PEG Access Stations are subject to procurement, I may lose a big part of my right to exercise the First Amendment.

Akaku has done a beyond-excellent job at making sure I have a chance to make my voice heard in my community, about the issues that concern me the most. Their empowerment of the community's voice is unrivaled across the nation, I feel, due to their staff's undying commitment to digital media education in my community and the vast power it holds.

Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want.

I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge both the Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo.

2/6/2008

testimony

From: edgar dulig [seanedgarboyle@yahoo.com]
Sent: Thursday, February 07, 2008 8:51 PM
To: testimony
Subject: SB1789 Relating to the Cable Systems

To Senator Clarence K. Nishihara, Chair
and Members of the Commerce, Consumer Protection, And Affordable Housing Committee

Concerning SB1789 Relating to the Cable Systems.

I don't feel that community based Television Facilities should be under the jurisdiction of an organization that bided for the opportunity to manage the facility. This is too much like and too close to privately own television station.

So therefore, I support SB1789 Relating to the Exemption of Cable TV Systems that belong to the people of Hawaii.

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testimony

From: john [whitej008@hawaii.rr.com]
Sent: Thursday, February 07, 2008 5:42 PM
To: testimony
Cc: Sen. Donna Mercado Kim; Sen. Clarence Nishihara; Sen. Brian Taniguchi
Subject: Olelo

I think and feel it would be a grave mistake of the state to make any changes to the way Olelo runs these stations for the state of Hawaii. I feel it is a vital part of our community and it works. It not only works but it works well and it works well for everyone involved with Olelo.

To break this service up into smaller pieces where other may want to take all the profit out of it and use substandard equipment would be a huge mistake. Olelo does a great job at taking care of its customers and the equipment that it lends out. It is always keep in great condition and the staff is so helpful weather you're doing your 500 show with them or your first. They all enjoy what they do and everyone is always willing to give a hand.

Unless you have a way to improve the service I say please leave it alone. This is a community service that works and is fair and everyone can us it. I have been for 5 years now and I have seen many things change at Olelo and it has all been to improve what is already a great service for Hawaii.

Please leave it the way it is.

John White
2542 Date St
Honolulu Hi
808-943-6664

testimony

From: Puanani Rogers [rogersn001@hawaii.rr.com]
Sent: Thursday, February 07, 2008 8:39 PM
To: testimony
Subject: Re: Testimony in support of SB 1789

THE SENATE
THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

COMMITTEE ON JUDICIARY AND LABOR
Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice Chair

COMMITTEE ON TOURISM AND GOVERNMENT OPERATIONS
Senator Clarence K. Nishihara, Chair
Senator Donna Mercado Kim, Vice Chair

DATE:
Tuesday, February 12, 2008
TIME:
1:15 P.M.
PLACE:
Conference Room 229
State Capitol
415 South Beretania Street

Aloha Senators of the Committee on Judiciary and Labor and the Committee on Tourism and Government Operations,

My name is Puanani Rogers and I live in the ahupua`a of Kealia on the island of Kauai. I am testify in strong support of SB 1789. I as that you exempt public accerss television services from the competitive bidding process.

This is a much needed Free Speech service that can provide us, the people of the communities of our islands educational subjects regarding our environment, our Kanaka Maoli culture, as well as social and political issues.

Please support SB 1789 and mahalo for advocating for our right to free speech.

Mahalo for the opportunity to testify on this important subject.

Puanani Rogers
P. O. Box 88
Kapaa, HI 96746
Kingdom of Hawaii
e-mail: rogersn001@hawaii.rr.com

testimony

From: daoangj@hawaii.edu
Sent: Friday, February 08, 2008 2:55 PM
To: testimony
Subject: SB1789 Testimony from a concerned Public Access citizen

Senator Clarence K. Nishihara, Chair

Senator Donna Mercado Kim, Vice-Chair

Senate Committee on Tourism & Government Operations (TSG)

Joseph Daoang
February 8, 2008, 4:54 pm

Testimony in Support of SB1789, Relating to Cable Access Television.

My name is Joseph Daoang and I am a resident of Kihei, Hawaii. As a Maui County resident, I have witnessed Akaku's commitment to familiarizing members of the Maui community with the tools used in broadcast environments to create content for air on channels 52, 53 and 54. I have seen how easy they make it for nonprofits and others to make their public service announcements, thanks to its "hot" studio that accepts walk-ins on weekday afternoons. The audio/visual professionals they have on staff help teach Maui residents how to prepare and edit their video into a story that can be told on the air. And I have observed how they all wear multiple hats to ensure that they live up to our mission to ultimately "empower the community's voice through access to media."

This is Akaku's service to the community. This is the service that ensures all residents the opportunity to exercise their important First Amendment rights.

Nonetheless, it seems that commercial entities have a hard time understanding the value of this community service, which is why I'm counting on the Hawaii State Legislature to do what is right for local access to cable television.

Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want.

I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge the Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo.

testimony

From: oldchief@mac.com
Sent: Friday, February 08, 2008 5:08 PM
To: testimony
Subject: SB1789 Testimony from a concerned Public Access citizen

Senator Clarence K. Nishihara, Chair

Senator Donna Mercado Kim, Vice-Chair

Senate Committee on Tourism & Government Operations (TSG)

James C. Taylor
February 8, 2008, 7:07 pm

Testimony in Support of SB1789, Relating to Cable Access Television.

My name is James C. Taylor and I am a resident of Wailuku, HI. As a Maui County resident, I have witnessed Akaku's commitment to familiarizing members of the Maui community with the tools used in broadcast environments to create content for air on channels 52, 53 and 54. I have seen how easy they make it for nonprofits and others to make their public service announcements, thanks to its "hot" studio that accepts walk-ins on weekday afternoons. The audio/visual professionals they have on staff help teach Maui residents how to prepare and edit their video into a story that can be told on the air. And I have observed how they all wear multiple hats to ensure that they live up to our mission to ultimately "empower the community's voice through access to media."

This is Akaku's service to the community. This is the service that ensures all residents the opportunity to exercise their important First Amendment rights.

Nonetheless, it seems that commercial entities have a hard time understanding the value of this community service, which is why I'm counting on the Hawaii State Legislature to do what is right for local access to cable television.

Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want.

I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge the Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo.

2/8/2008

testimony

From: Robert Stiver [stiver-aloah@hawaii.rr.com]
Sent: Saturday, February 09, 2008 3:02 PM
To: testimony
Cc: Sen. Clarence Nishihara; Sen. Donna Mercado Kim; Sen. Shan Tsutsui; Sen. Russell Kokubun; Sen. David Ige; Sen. Les Ihara, Jr.; Sen. Norman Sakamoto; Sen. Will Espero; Sen. Brian Taniguchi; Sen. Gordon Trimble
Subject: Hearing on SB 1789, February 12, 2008

Memorandum for: Senator Clarence K. Nishihara, Chair, and all legislators sitting on the Tourism and Government Operations Committee; and Senator Russell S. Kokubun, Chair, and all legislators sitting on the Commerce, Consumer Protection, and Affordable Housing Committee

From: Ramsis G. Lutfy, Ph.D., and Robert H. Stiver; users of the facilities of Olelo Community Television (Mapunapuna main studio)

Distinguished legislators:

A binding commitment precludes us from attending the hearing on Senate Bill 1789 next Tuesday afternoon. Nonetheless, we are vitally involved in and interested in the status, direction, and fate of what we term community-/public-access TV (PATV) on Oahu, and so we hereby provide our testimony.

We are retired community persons -- Dr. Lutfy from the University of Jordan with a subsequent lecturing stint at the University of Hawaii, Mr. Stiver from the Federal civil service. In 2005, we became aware of Olelo Community Television (Olelo)'s capabilities and took advantage of the training offered to become camerapersons, editors and producers of programs regularly aired by us on Olelo cable Channels 49 or 54. Thus, we are entering our fourth year of utilizing the freedom-of-expression mandate given to PATV by the U.S. Congress and the Federal Communications Commission and carried out "on the ground" by Olelo. Our experience has been overwhelmingly one of satisfaction: with the physical plant, the various departments with which we interact, the studio and editing/producing facilities, the administrative and technical staffs, and -- most gratifyingly -- the executive management, which is "hands on" to an extent unprecedented to us in this or any other endeavor. We are, and intend to remain, active and productive in our community, and Olelo has been a blessing to us in that regard.

Olelo has been building its expertise and services to its customers for, we believe, 17 years. Those years, among which we are relative newcomers, have been ones of growth, flexible adjustment to meet evolving needs, maturation, and service. Our community on Oahu is the beneficiary: whether they be behind the camera or before the TV set, the people of Oahu enjoy what surely is among the top five PATV systems in the country (we can write so because our activities have led us to become part of a nation-wide network of kindred users of PATV).

We have testified on multiple occasions over the past two years or so on a matter of great significance to us and the community: the future of PATV on Oahu. We have spoken before bureaucrats of the DCCA and the State Procurement Office -- good people all, but we got the sense that they were merely going through the motions of carrying out what was their own interpretation of implementing directives, in a "one size fits all" mindset. We detected hardly any passion for the interests of the people of Oahu. Old folks like us, wonderful young people from Waianae, and a host of PATV users in between were effusive in their support of the philosophy and traditions behind freedom of expression and in admiration of Olelo's expert management of its mission. Just imagine!--those kids in Waianae are off the streets and in the studio; learning a hobby with enthusiasm and camaraderie; and quite possibly laying the groundwork for honorable careers in the crucial field of communication.

Now, we understand that you, via SB 1789, have the opportunity to "exempt" PATV from the constraint of opening the PATV process to "competitive bidding." Competition obviously has its place; but you, distinguished legislators, speak for and on behalf of the community you serve. There is no need or reason to "compete" PATV at this time and for the foreseeable future, as long as Olelo maintains its expert management and execution of the

function! We, and the many other users of PATV, monitor Olelo's performance daily; if Olelo needs to be "tweaked," we have every confidence that Olelo management will listen to its users and be as responsive as it has been for years. If Olelo management were to show signs of becoming less responsive, it would be the first to know...and, if any consensus change(s) are not implemented by Olelo management, you distinguished legislators will come to know, from us, your constituents, of the facts and circumstances in short order.

Bottom line: PATV is working and is effective on Oahu. What isn't broken need not be fixed. Please give PATV the exemption from bidding which will allow Olelo to continue to provide efficiently, and expand, the painstakingly acquired excellence of its service for 17 years. Distinguished legislators: Listen to "we, the people" as we advocate continuance of Olelo as PATV provider on Oahu!

Thank you for giving us this opportunity to express our views before your legislative body.

Sincerely, with aloha,

Dr. Ramsis G. Lutfy
Robert H. Stiver

testimony

From: Lewis [nahenahe@hawaiiintel.net]
Sent: Saturday, February 09, 2008 2:54 PM
To: testimony
Cc: Kumu Kai; Kapua Medeiros; naehenahe@hawaiiintel.net
Subject: S.B.1789

Aloha,

My name is Rafaela and my daughter is Kala. Kala attended Hawaiian Immersion from kindergarten through six grade at Nanakuli Elementary. She transferred to Anuenue in Palolo at seventh grade. She has been in the Hawaiian Immersion School for 11 years. She is the first and only child in our family that is attending the Hawaiian Immersion School. In all of her year's of attending her Kupuna's would always attend the once a year event at the Waikiki Shell-Ho'omau. This event is has been held every year in February. As the year's went on and the Kupuna's were not able to travel or stay out as they have in past. The Olelo channel has been a way of bringing our Ohana together. Her Kupuna are able to still be a part of her school and cultural learning's.

Remember when your grandparent's seen you on the television and they were so proud of you. This is the joy that having Olelo bring's to our Kupuna and Ohana. This year we will celebrate our 20th year anniversary for the Hawaiian Immersion program's. Think of the smile that will bring to our Kupuna's and Ohana that are not able to attend the Ho'omau this year, not because they do not want to but because of the physical limitation's that they have. Mahalo for your support in allowing the Olelo channel to continue to operate. The Olelo channel is a way of communicating and teaching our Ohana.

Rafaela Lewis
Parent/Concern Citizen
Kula Kaiapuni 'o Anuenue

FREE Animations for your email - by IncrediMail! [Click Here!](#)



testimony

From: Don Hutton [donhutton@hotmail.com]
Sent: Saturday, February 09, 2008 8:51 PM
To: testimony; Rep. Maile Shimabukuro; Sen. Colleen Hanabusa
Cc: OLELO Kawika
Subject: S.B.1789 Testimony

Aloha,

I would like to request that the present Olelo status be maintained as it provides great benefit for the Oahu communities. The government should be proud of the dedication and services provided by the expert Olelo staff and therefore continue with the status quo without any changes.

I have been an Olelo Producer for 5 years, presently have 3 weekly series, and also submit periodic specials on Olelo channels.

I was an Access TV producer in Phoenix, Arizona until moving to Oahu in 2002 and the training, equipment, and general help provided by the Olelo staff is superior to what was available there. In addition, I see the excellent Olelo staff providing popular enrichment programs to better serve the community.

Mahalo,

**Donald W. Hutton, PE
218-1172**

testimony

From: artmusicvideomaui@mac.com
Sent: Saturday, February 09, 2008 2:56 PM
To: testimony
Subject: SB1789 Testimony from a concerned Public Access citizen

Senator Clarence K. Nishihara, Chair

Senator Donna Mercado Kim, Vice-Chair

Senate Committee on Tourism & Government Operations (TSG)

Kenny Hultquist
February 9, 2008, 4:55 pm

Testimony in Support of SB1789, Relating to Cable Access Television.

My name is Kenny Hultquist and I am a resident of Lahaina Maui Hawaii. As a Maui County resident, I have witnessed Akaku's commitment to familiarizing members of the Maui community with the tools used in broadcast environments to create content for air on channels 52, 53 and 54. I have seen how easy they make it for nonprofits and others to make their public service announcements, thanks to its "hot" studio that accepts walk-ins on weekday afternoons. The audio/visual professionals they have on staff help teach Maui residents how to prepare and edit their video into a story that can be told on the air. And I have observed how they all wear multiple hats to ensure that they live up to our mission to ultimately "empower the community's voice through access to media."

This is Akaku's service to the community. This is the service that ensures all residents the opportunity to exercise their important First Amendment rights.

Nonetheless, it seems that commercial entities have a hard time understanding the value of this community service, which is why I'm counting on the Hawaii State Legislature to do what is right for local access to cable television.

Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want.

I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge the Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo.

testimony

From: kcsmall@yahoo.com
Sent: Saturday, February 09, 2008 10:39 AM
To: testimony
Subject: SB1789 Testimony from a concerned Public Access citizen

Senator Clarence K. Nishihara, Chair

Senator Donna Mercado Kim, Vice-Chair

Senate Committee on Tourism & Government Operations (TSG)

Karen Stange
February 9, 2008, 12:37 pm

Testimony in Support of SB1789, Relating to Cable Access Television.

My name is Karen Stange and I am a resident of Lahaina, HI. As a Maui County resident, I have witnessed Akaku's commitment to familiarizing members of the Maui community with the tools used in broadcast environments to create content for air on channels 52, 53 and 54. I have seen how easy they make it for nonprofits and others to make their public service announcements, thanks to its "hot" studio that accepts walk-ins on weekday afternoons. The audio/visual professionals they have on staff help teach Maui residents how to prepare and edit their video into a story that can be told on the air. And I have observed how they all wear multiple hats to ensure that they live up to our mission to ultimately "empower the community's voice through access to media."

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I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge the Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo.

Karen Stange

2/10/2008

testimony

From: kapaku@aol.com
Sent: Saturday, February 09, 2008 9:21 PM
To: testimony
Subject: SB1789 Testimony from a concerned Public Access citizen

Senator Clarence K. Nishihara, Chair

Senator Donna Mercado Kim, Vice-Chair

Senate Committee on Tourism & Government Operations (TSG)

Kahu David Kapaku
February 9, 2008, 11:21 pm

Testimony in Support of SB1789, Relating to Cable Access Television.

My name is Kahu David Kapaku and I am a resident of Lahaina, HI. As a Maui County resident, I have witnessed Akaku's commitment to familiarizing members of the Maui community with the tools used in broadcast environments to create content for air on channels 52, 53 and 54. I have seen how easy they make it for nonprofits and others to make their public service announcements, thanks to its "hot" studio that accepts walk-ins on weekday afternoons. The audio/visual professionals they have on staff help teach Maui residents how to prepare and edit their video into a story that can be told on the air. And I have observed how they all wear multiple hats to ensure that they live up to our mission to ultimately "empower the community's voice through access to media."

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I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge the Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo.

2/10/2008

Fax 586-6659

TO:

Tourism and Government Operations Committee

Senator Clarence Nishihara, Chair

Commerce, Consumer Protection and Affordable Housing Committee

Senator Russell Kokubun, Chair

FOR HEARING ON:

Tuesday, February 12, 2008 • 1:15 pm • Room 229

RE:

SUPPORT for SB 1789 relating to cable television systems

Aloha Chairs Nishihara and Kokubun and Committee Members,

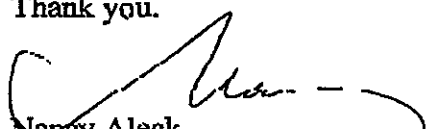
Governmental bodies do not always follow this truism, but I sincerely hope you will:

*If it isn't broken, don't fix it.*My name is Nancy Aleck and I offer a simple but strong appeal for your **support for SB 1789**.

In my profession as Executive Director of a public foundation, with support from Ford Foundation funding, I have done research and local outreach in the field of media justice over the last year. What I've discovered is that *Hawai'i has the most advanced, forward thinking and accessible community television programming and services in the United States*. Others look to us as a model.

Please exempt PEG Access from a competitive bidding process. Please pass SB 1789 and support this measure through all votes.

Thank you.



Nancy Aleck
PO Box 61212-Honolulu-96839
Ph 988-3673



testimony

From: Steven Wichilfil [wichilfi@hawaii.edu]
Sent: Monday, February 11, 2008 12:04 AM
To: testimony
Subject: In Support of SB 1789

Honorable Senator Russell Kokubun, Senate Commerce and Consumer Protection and Affordable Housing & Senate Sgt. At Arms

Aloha! My name is Steven Wichilfil and I support Senate Bill 1789 in regards to the exemption related to chapter 103D. I am currently working at Waianae Olelo Community Media Center. Olelo has given me the opportunity to work with students with disabilities on the Waianae coast, specifically with Waianae High School. Olelo programs give students with disabilities the opportunity to work with media, something they have not had access to before. Media and the opportunity given to students with disabilities enables them to express themselves and build self-confidence. While working with these students, I have seen them develop confidence and self-empowerment. Some of these students and their community members never imagined the students were capable of completing high-level multimedia projects. But this opportunity shared with the students through Olelo has shown them that they are capable, competent and eager students. By exempting these organizations from chapter 103D, the senate is enabling organizations such as Olelo to continue working with the community and students with disabilities. This will empower students with disabilities and self-confidence and will gain the confidence of community members.

Steven Wichilfil
Assistive Technology Media Resource Coordinator, Waianae Olelo Community Media Center

2312 Lime St.
Honolulu, HI 96826
Phone: 808-428-4872

testimony

From: Trisha Kehaulani Watson [kehaulani.watson@gmail.com]
Sent: Monday, February 11, 2008 6:26 AM
To: testimony
Subject: Testimony Re: STRONG SUPPORT for SB 1789: Relating to Public Television Systems (hearing TGS 02-12-08 Room 229 at 1:15p)

COMMITTEE ON TOURISM AND GOVERNMENT OPERATIONS

Re: STRONG SUPPORT for SB 1789: Relating to Public Television Systems

Dear Chair Nishihara, Vice Chair Kim and Members of the Committee:

Thank for you for this opportunity to testify.

I am Trisha Kehaulani Watson. I work in the Office of the Vice Chancellor for Research and Graduate Education at the University of Hawai`i Manoa and am Executive Director of Kako`o `Oiwī. I am testifying in neither capacity on this bill nor should my testimony be considered the official position of their entity.

I am testifying in strong support of SB 1789.

PEG Access is not a commodity that should be bought, sold or put up for bid. PEG Access has a diverse mission that involves community building, nurturing local programming and protecting each individual's First Amendment rights.

In a time when community voices are often drowned out by corporate interest, the State has a heightened duty to protect the voice of its community. Exempting PEG access services from the competitive bidding process helps to fulfill this duty. By ensuring that community television is run by the community, we are allowing for a critical range of voices to inform the greater public. It is this diversity and intellectual engagement that allows dialogue about the most critical issues facing our society to continue.

This is not simply about protecting public television systems; this is about protecting people's right to use public media to engage with their community. And there is nothing more important in a free society than the right of people to have a forum in which they can speak their minds.

Thank you for this opportunity to testify.

Trisha Kehaulani Watson

PO Box 61395
Honolulu, HI 96839

2/11/2008

testimony

From: Bonnie Murakami [Bonn808@hotmail.com]
Sent: Sunday, February 10, 2008 11:12 PM
To: testimony
Subject: SB 1789

State of Hawai'i Legislature
Senate Committee on Commerce, Consumer Protection, and Affordable Housing
Senate Ways and Means Committee

Dear Chairman Russell Kokubun, Rosalyn Baker, J. Kalani English, and Committee Members:

I am supporting SB 1789 because it will provide an exemption to an access organization from the competitive bid process, such as Olelo, Community Television.

Olelo has been providing services for over ten years and has grown from one main center at Mapunapuna to several satellite community centers throughout the island of Oahu. It has opened doors where clients may remain in their own community to create their own programs, voicing their viewpoints and getting the word out that may affect everyone. The grass roots effort has been very successful where Olelo has provided facilities.

Olelo's training program provides avenues for those who have not touched video and/or audio equipment before to become successful technicians, producers, directors, editors, etc. The hours and days offered are able to meet people's needs from the retired to the career people to the student who works during the day or night. Olelo's equipment is properly maintained and the software is kept current. This allows clients to keep up with the current revisions trained by knowledgeable staff.

Their Youth Xchange has continually been a highly successful event involving competition from elementary to college students with the opportunity to share what they've learned and showcase their talent with their peers. The outreach programs, such as Giving Aloha, Capitol Commentary, VOTE 2006, are facilitated productions for those who want their voices heard in reaching a greater population via the six cable stations.

There are a variety of channels aired on Olelo that are able to reach: elementary children, the elderly, the youth, the college age, middle age groups by airing various culture shows, such as Hawaiians, Samoans, Koreans to sports to cooking shows to talk shows to neighborhood boards to City and State meetings dealing with relevant issues.

The organization has a vision to reach out to provide services to as many people as possible and has opened its doors to anyone who walks in the door. I do not know of any non-profit organization that provides such a unique service.

Please pass SB 1789 to exempt a cable access organization such as Olelo from the competitive bidding process.

Sincerely,
Bonnie Murakami
Client of Olelo

February 12, 2008

To: Senator Clarence K. Nishihara, Chair
Committee on Tourism and Government Operations

From: June Shimokawa
Private Citizen

Re: SB 1789 Relating to Cable Television Systems

Chair Nishihara and members of the Committee:

My name is June Shimokawa and I speak today as a private citizen who has been an avid supporter of community television for close to a decade. I am testifying today in support of SB 1789 with the understanding that the proposed Section 440G, giving authority to the Director of DCCA to designate an access organization, will provide for the current access organization on O`ahu, the `Olelo corporation, not to be subject to the state's Procurement policies.

In principle, I support the state's Procurement policies but believe that they should not apply to community television which has some unique characteristics. Perhaps the best way to describe these unique characteristics is to know how the products shown on `Olelo channels have been produced and by whom. On any given day, O`ahu's public can see that programs are locally produced by local residents, young and old, many learning to use the technology from ground up, to air subject matter of special interest to island residents which have little or no chance of being aired on all the other television stations, including PBS. Through the way in which `Olelo corporation has operated since its inception, it has demonstrated one of the most effective ways in which to empower members of Hawai`i's diverse communities to learn to use and access a medium by which to acknowledge their presence, participation, concerns and contributions to our island community. It is hard to identify another social institution which truly meets its stated Vision of "building community."

Community television helps us see that there is a difference between "public" and "community". Government agencies are authorized to carry out services on behalf of the "public." Procurement policies are needed to reduce patronage and politically influenced decision making. Provision for transparency and standards of performance are essential.

In the instance of community television, the services and programs are produced by the community's people. The state, which has oversight responsibilities, manages a process for maximum community access and participation, which means giving community people access to the air waves to exercise their constitutional right of Free Speech for the common good. "Community" access is essential, and the viewing public helps monitor the performance of the access organization. The practice of democracy is paramount for community television to serve the public good. The participation of access organizations on the Cable advisory committee is an important link by which to contribute toward the building of a healthy community.

Thank you for this opportunity to express my support of SB 1789 and the current O`ahu access organization, the `Olelo corporation.

testimony

From: daveg@akaku.org
Sent: Sunday, February 10, 2008 8:16 PM
To: testimony
Subject: SB1789 cable access television

Senator Clarence K. Nishihara, Chair

Senator Donna Mercado Kim, Vice-Chair

Senate Committee on Tourism & Government Operations (TSG)

Dave Garrison

02-10-08

Testimony in Support of SB1789, Relating to Cable Access Television.

My name is Dave Garrison and I am a resident of Haiku, Maui. As a Maui County resident, I have witnessed Akaku's commitment to familiarizing members of the Maui community with the tools used in broadcast environments to create content for air on channels 52, 53 and 54. I have seen how easy they make it for nonprofits and others to make their public service announcements, thanks to its "hot" studio that accepts walk-ins on weekday afternoons. The audio/visual professionals they have on staff help teach Maui residents how to prepare and edit their video into a story that can be told on the air. And I have observed how they all wear multiple hats to ensure that they live up to our mission to ultimately "empower the community's voice through access to media."

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Senate Bill 1789 is important to me because I believe that PEG Access stations-as independent nonprofit organizations-should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want.

I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge the Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo.

Senator Clarence K. Nishihara, Chair, Committee on Tourism and
Government Operations

Tuesday, February 12, 2008
1:17 p.m., Conference Room 229

In strong support of SB 1789 relating to Cable Television Operators

Chair, Nishihara and members of the committee:

Aloha! My name is William J. Aila Jr. and I urge you to pass SB 1789.

Public access to cable television has empowered many communities to become involved with issues of local concern as well as issues that have state wide impact.

It is a medium in which detailed discussion can occur at minimum cost to the community. Where young students can develop their sense of community and take ownership of their futures. It provides opportunities for them to get involved.

By allowing the Director of the Dept. of Commerce and Consumer Affairs to designate an access organization to oversee the development and operations for public access cable programs and creating and requiring the Cable Advisory Committee to provide advise to access organizations, it insures that communities continue to build capacity. It also provides community members to increase their skills with technology and governance.

Please pass SB 1789. Mahalo for the opportunity to provide testimony in support.

testimony

From: jonthebru@gmail.com
Sent: Sunday, February 10, 2008 8:13 PM
To: testimony
Subject: SB1789 Testimony from a concerned Public Access citizen

Senator Clarence K. Nishihara, Chair Senator Donna Mercado Kim, Vice-Chair Senate Committee on Tourism & Government Operations (TSG) John G. Bruce February 10, 2008, 7:27 pm Testimony in Support of SB1789, Relating to Cable Access Television. My name is John G. Bruce and I am a resident of Haiku, Hawaii. It is important that SB1789 be moved foreword for a full Senate vote. At this time Public Access entities are under dire attack by those who would control this small vestige of free speech in Hawaii. Those attacking Community access groups disguise themselves as helpful bureaucrats, when they are in reality influenced by special interest groups whose interest is to control the public message and stifle expression and dissent. PEG Access Providers should be autonomous to any and all government and other influence. These are small, very fragile, non-profit organizations. They have been under attack for several years robbing them of time and money that would be better of used for their mission, that of empowering the community's voice through access to media (The mission statement of Akaku: Maui County Community Television.). The period of the "contract" will prevent the growth of any meaningful community media center. The current on going contract is the correct method to achieve and grow the "social capital" needed to be of service to the community. Grant programs, ongoing educational cooperative arrangements all take time to implement. It is obvious the proposed RFP is an effort to dumb down and limit community access and free speech in the Hawaiian Islands. If anyone thinks the Access organizations will lay down their toys and go home, they are mistaken. These organizations are by their nature Community Activist Groups who will strive to keep the message on the air and in the forefront. Admittedly, some elected representatives are not of the same opinion that Access groups should be autonomous or they mistakenly feel that the public's interest is served by the commercial outlets available within our community. They are incorrect in these assumptions and should listen to the publics urging and pleading to remove the specter of an illegal RFP bid process from Hawaii Cable PEG Access Organizations. Please assist in the preservation of our free speech electronic media outlets here in Hawaii by handling SB1789 in a positive manner. As a Maui County resident, I have witnessed Akaku's commitment to familiarizing members of the Maui community with the tools used in broadcast environments to create content for air on channels 52, 53 and 54. I have seen how easy they make it for nonprofits and others to make their public service announcements, thanks to its "hot" studio that accepts walk-ins on weekday afternoons. The audio/visual professionals they have on staff help teach Maui residents how to prepare and edit their video into a story that can be told on the air. And I have observed how they all wear multiple hats to ensure that they live up to our mission to ultimately "empower the community's voice through access to media." This is Akaku's service to the community. This is the service that ensures all residents the opportunity to exercise their important First Amendment rights. Nonetheless, it seems that commercial entities have a hard time understanding the value of this community service, which is why I'm counting on the Hawaii State Legislature to do what is right for local access to cable television. Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want. I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge the Hawaii State Senate to pass SB1789 as quickly as possible. Mahalo, John G. Bruce

nishihara2 - Bert

From: Rochelle Kalili [rkalili2003@yahoo.com]
Sent: Monday, February 11, 2008 11:56 AM
To: nishihara2 - Bert
Subject: 'Olelo Community Access Television YES to SB 1789

Aloha Senator Nishara,

I am responding to SB 1789. I would like to Support the expemption. YES to SB 1789.

Thank you for supporting the community of Waipahu and having Olelo here has helped many of our students and there families.

Have a great day,
Rochelle Kalili

Looking for last minute shopping deals? [Find them fast with Yahoo! Search.](#)

testimony

From: Rachel DeBoer [quenchtthewench@gmail.com]
Sent: Monday, February 11, 2008 12:11 PM
To: testimony
Subject: letter of support for public access

Rachel Deboer

February 10, 2008

Testimony in Support of SB1789, Relating to Cable access television

Aloha,

I'm Rachel Deboer and a resident of Lahaina. As a Maui resident, I have experienced 1st hand the amazing efforts that Akaku puts forth to continue bringing Maui channels 52, 53 or 54.

Akaku goes above and beyond to ensure freedom of speech, which is now at risk and has been for longer than I care to remember. With so many citizens who seem to watch as our freedoms are daily attacked, its nice to know that there is still a place to access the community with your voice ."

This is their service to the community. This is the service that ensures every resident the opportunity to exercise their important First Amendment rights.

It seems that corporate entities have a hard time understanding the value of this community service. I'm counting on the Hawaii State Legislature to do what is right for local public access stations.

Senate Bill 1789 is important PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would effectively take the "public" out of public access. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the publics right to participate in deciding what kind of access organization and service we want.

I support SB1789 because it doesn't change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy on procurement and public access. I urge both the Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo,

Rachel Deboer

--

"You are a living work of art!"

2/11/2008

Priscilla Kubota

From: jeff garland [digitaleye@hi808.net]
Sent: Monday, February 11, 2008 1:30 PM
To: Sen. Clarence Nishihara; Sen. Donna Mercado Kim; Sen. Shan Tsutsui; Sen. Gordon Trimble
Subject: Re: information needed to make informed vote re SB 1789 hearing tomorrow

P.S. I am looking for Senators to sign on to the attached reso as an introducer. Let me know if you are willing.

jg

jeff garland wrote:

http://www.capitol.hawaii.gov/session2008/bills/SB1789_.htm

Aloha Honorable Chair, Vice Chair, and members of Committee on Tourism and Government Operations committee, (TSG)

Before deciding if PEG contracts should be exempt from 103d, please read the following yet to be proposed Reso for an audit of CATV that has had oversight of PEG for 20 years but has failed miserably: The cart has always been before the horse. Please keep in mind that competition fosters innovation and excellence. To provide funds without competition will only serve to preserve the status quo, which in Hawaii PEGs' case, is a decade behind the mainland. The fees are collected by statute and D&O, they go to PEGs, and then to Government agencies for what taxes should be paying for with minimal if any real accountability. Also keep in mind that the Maui Court assumes the funds are for first amendment purposes. Please do not abridge freedom of speech.

Under the section re HRS 440g in the bill, delete section (e) in its entirety, and add the word "membership" in front of the word "nonprofit" in the definition of "Access Organization" in HRS 440g-3 Definitions. Seeing as the Public has to pay these funds to the nonprofits for 1st amendment provision, should they not be allowed to exercise free speech or have a place at the table when it comes to rules, policies, and the future of their free speech provider? Currently all Hawai'i PEGs' bylaws state under "Membership", "The corporation shall have no members". The same is true of franchise recipient PBS Hawaii, even though they have "membership" drives.

I still await a few more public records from state agencies to shed more light on this dark situation. I will share them with you as well, hopefully sooner than the end of the 10 business days they usually take full advantage of under UIPA. :(

Sincerely,

Jeff Garland

<http://hpam.hi808.net/dcca/CATVauditRESO/>

While you read this, if you would like some fine background music, click [here](#) for a free MP3 of "In These Times" compliments of and by Noel "Paul" Stookey of Peter, Paul and Mary.

THE HOUSE and THE SENATE
 TWENTY-FOURTH LEGISLATURE,

S.C.R. & XXX

2008

STATE OF HAWAII

H.C.R. NO.

SENATE & HOUSE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT A COMPREHENSIVE MANAGEMENT AUDIT OF THE CABLE TELEVISION DIVISION (CATV, aka CCA 102) of the Department of Commerce and Consumer Affairs (DCCA).

WHEREAS, a management audit of the Division will ensure that Hawaii cable television customers are protected, public benefit and especially civil rights obligations are met; and all legal requirements are established, now, therefore, BE IT RESOLVED by the Senate/House of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2008, the House of Representatives/Senate concurring, that the Auditor, with the assistance of the Legislative Reference Bureau to develop specific legislative proposals, is requested to conduct a comprehensive management audit of the Cable Television Division of the Department of Commerce and Consumer Affairs which shall be paid for with the CATV (CCA 102) unencumbered balance(s); and

WHEREAS, the Cable Television Division Division (CATV) of the Department of Commerce and Consumer Affairs is the regulatory authority with state jurisdiction over cable television operators in Hawaii; and

WHEREAS, the Division has never been subject to an independent review or management audit since its creation; and

WHEREAS, neither CATV's in-house attorney, 'Olelo's attorney(s) who were referred by the DCCA Director, the State Procurement Office, nor DCCA's assigned deputy state attorney(s) general recognized that HRS 103d should apply to PEG contracts when the law went into effect in 1994; and

WHEREAS, in 2006 the State Attorney General opined DCCA shall

comply with HRS 103d regarding PEG contracts and DCCA will not make the AG opinion public citing client-attorney privilege; and

WHEREAS, the State Procurement Office recently approved and then within weeks disapproved the Department of Commerce and Consumer Affairs' request for an exemption to directly negotiate contracts with non-profit access organizations designated by the Department of Commerce and Consumer Affairs to manage cable access resources for first amendment and other purposes for each county, without complying with the State Procurement Code; and

WHEREAS, it has been established that DCCA apparently attempted to hide their exemption request from the public by only placing the notice on a bulletin board outside a restroom in their building, completing the process in less time than mandated, and was then required to do it over; and

WHEREAS, instead of granting the Department of Commerce and Consumer Affairs' request for an exemption as noted above, the State Procurement Office considers the period of the Department's violation of the State Procurement Code to be from the date of the 1997-1999 contract with 'Olelo, Na Leo, Ho'ike, and Akaku to June 30, 2006; and

WHEREAS, DCCA CATV adds provisions to Decision and Orders after public hearings that have adversely affected the public with no opportunity for public comment; and

WHEREAS, DCCA since 1990 has designated nonprofits to oversee PEG access facilities, but authority to designate are not expressly outlined in Chapter 440G and the DCCA has not promulgated any rules related to their designation; and

WHEREAS, DCCA mandates 25% of PEG fees on O'ahu go to an Educational Consortium, but authority to give those fees are not expressly outlined in Chapter 440G and the DCCA has not promulgated any rules related to cable subscriber fees being designated to the consortium; and

Whereas the DCCA gives Hawai'i Public Television Foundation (HPTF) 1% of the cable subscriber fees statewide, but authority to give those fees are not expressly outlined in Chapter 440G and the DCCA has not promulgated any rules related to the 1% of cable subscriber fees; and

WHEREAS, DCCA did not require HPBA (now HPTF) to honor its agreement with UH to turn over franchise fees, and instead mandated that PEG nonprofits provide franchise fees to UH in D&O 261; and

WHEREAS, DCCA has yet to amend reporting requirements in their agreement with HPTF even though it was agreed they would in their now 10 year old contract, section E (6); and

WHEREAS, legislation allowing collection of franchise fees for HPBA has been repealed; and

WHEREAS, The State Ombudsman is presently determining why DCCA CATV has never required the cable operator(s) or its designee ('Olelo) to specially designate at least one PUBLIC ACCESS CHANNEL or GOVERNMENT ACCESS CHANNEL on O'ahu as required in HAR 16-131-32 & HAR 16-131-34 respectively, and why they have only mandated the cable operator provide 2 EDUCATION ACCESS CHANNEL(s) in D&O 261 in 1998; and

WHEREAS, DCCA allows PEGs to create and editorialize program content in violation of federal content-neutral intent; and

WHEREAS, DCCA allowed PEGs to approve their 2007 & 2008 budgets and operational plans in board executive sessions of which minutes are refused to be made public; and

WHEREAS, DCCA allows PEGs to commingle funds after 2 years, put large sums of public funds in investments, and has allowed PEGs for the last 4 years to spend down those funds in deficit spending, 2 page budgets; and

WHEREAS, the CATV administrator's spouse works for Time Warner Telecommunications, a sister corporation to Hawaii's monopoly cable operator which he regulates; and

WHEREAS, DCCA allows PEGs to use public funds to sue the State of Hawai'i for anti sunshine purposes; and

WHEREAS 'Olelo paid Alston Hunt Floyd and Ing \$813,888.00 in attorneys fees for the years 1997 - 2005 (Guidestar) yet they failed to recognize DCCA's remission(s); and

WHEREAS, DCCA allows PEGs to violate the intent of HRS Chapters 92 and 92f while stating in their PEG Plan that "DCCA believes openness and accountability are crucial"; and

WHEREAS, DCCA created the O'ahu PEG access corporation ('Olelo) and appointed all its board directors without statutory authority to do so; and

WHEREAS, all DCCA appointed directors created the original bylaws, one of which gave majority appointment power to the DCCA; and

WHEREAS, the DCCA Director has historically appointed the majority of PEG organization board directors without the statutory authority to do so; and

WHEREAS, without statutory authority DCCA mandated PEG boards amend their bylaws to remove DCCA's appointment power, but allege they maintain the authority to mandate PEGs to change the appointment power back as was at any time, and

WHEREAS cable subscribers who are mandated to pay PEG and HPTF fees had no opportunity to comment on the designation of the receivers of the fees; and

WHEREAS, DCCA has failed to make provisions in Law or PEG agreements for the protection of 1st & 14th amendment (constitutional) rights, or required PEGs to provide documentation of their compliance; and

WHEREAS, in 1998 DCCA signed D&O 261 into effect without allowing the public to comment on their proposed redefining of "gross revenues" which resulted in millions of dollars of reduced public benefits; and

WHEREAS, DCCA appointed PEG corporation directors; ex DCCA Director Alm and ex Cable Television division administrator Doyle, who failed to share their knowledge of DCCA's proposal to reduce public benefits with their selected CEO or any other Hawaii PEG CEO or PEG producers; and

WHEREAS, the Maui Court found that aforementioned rules had not been promulgated and that The Court would assume DCCA was providing for PEGs for 1st amendment purposes; and

WHEREAS, the Hawai'i Supreme Court recently upheld circuit court judge Victoria Marks' ruling without recognizing the conflict of her husband being the deputy attorney general assisting the DCCA in the creation of Hawaii PEG corporations; and

WHEREAS, DCCA has been unable to negotiate contracts with any of the PEGs since 2003, likely due to their realization in 2001 that rules were not in place for PEG designation(s); and

WHEREAS, in 2004 DCCA released its PEG Plan, but has only implemented the issue regarding the Cable Advisory Committee; and

WHEREAS, DCCA CATV has had large unencumbered balances of franchise fees collected from cable subscribers in the Compliance Resolution fund of up to a million dollars annually in violation of HRS 440q-15(b) until it was amended in 1999; and

WHEREAS, unencumbered CATV balances in the compliance resolution fund wind up in the general fund; and

WHEREAS, DCCA and Governors Cayetano and Lingle violated HRS 440q-13 from the early 1990s until 2004 by not appointing Cable Advisory Committee members; and

WHEREAS, the aforementioned questionable actions and inaction appear to be ineptness, incompetence, &/or corruption; and

WHEREAS, federal regulation of cable television and related broadband media are undergoing important and dramatic changes; and

WHEREAS, all of Hawaii's citizens and Hawaii consumers of cable television and high-speed internet services will benefit from a review of state regulations and their compliance; and

WHEREAS, a review of state regulation of cable television operators, currently one monopoly provider, will ensure that best practices are in place; and

WHEREAS, DCCA & their appointed board directors have spent hundreds of thousands of dollars of public funds on numerous studies and reviews, but have yet to implement the findings; and

WHEREAS, there are currently 2 cable franchises under negotiation (Hawaiian Telcom, TWE); and

BE IT FURTHER RESOLVED that the Auditor, with the assistance of the Legislative Reference Bureau, is requested to report findings and recommendations to the Legislature no later than thirty days prior to the convening of the Regular Session of 2007; and

BE IT FURTHER RESOLVED that the Director of Commerce and Consumer Affairs ask for his Cable Television Division Administrator's resignation; and

BE IT FURTHER RESOLVED that certified copies of the Concurrent Resolution be transmitted to the Governor, the Auditor, the Attorney General, the Director of Commerce and Consumer Affairs, and the Administrator of the Cable Television Division.

OFFERED BY: _____

Report Title:

Requesting Audit of Cable Television Division of the DCCA

testimony

From: jhh03@hampshire.edu
Sent: Monday, February 11, 2008 11:22 AM
To: testimony
Subject: SB1789 Testimony from a concerned Public Access citizen

Senator Clarence K. Nishihara, Chair

Senator Donna Mercado Kim, Vice-Chair

Senate Committee on Tourism & Government Operations (TSG)

James Herrington
February 11, 2008, 11:20 am

Testimony in Support of SB1789, Relating to Cable Access Television.

My name is James Herrington and I am a resident of Wailuku, HI. As a Maui County resident, I have witnessed Akaku's commitment to familiarizing members of the Maui community with the tools used in broadcast environments to create content for air on channels 52, 53 and 54. I have seen how easy they make it for nonprofits and others to make their public service announcements, thanks to its "hot" studio that accepts walk-ins on weekday afternoons. The audio/visual professionals they have on staff help teach Maui residents how to prepare and edit their video into a story that can be told on the air. And I have observed how they all wear multiple hats to ensure that they live up to our mission to ultimately "empower the community's voice through access to media."

This is Akaku's service to the community. This is the service that ensures all residents the opportunity to exercise their important First Amendment rights.

Nonetheless, it seems that commercial entities have a hard time understanding the value of this community service, which is why I'm counting on the Hawaii State Legislature to do what is right for local access to cable television.

Senate Bill 1789 is important to me because I believe that PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would take transparent review and public input out of the picture. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want.

I support SB1789 because it does not change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy for the agency and the public. I urge the Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo.

James H. Herrington

2/11/2008

nishihara2 - Bert

From: Sparky Rodrigues [srodrigues@earthlink.net]
Sent: Monday, February 11, 2008 1:03 PM
To: nishihara2 - Bert
Cc: Sparky Rodrigues
Subject: Support SB 1789 relating to COmmunity Access Television

SB 1789 relating to Community Access Television.

Committee for Tourism & Government Operations Chair Clarence Nishihara

Please support SB 1789.

I started participating with PEG Access in the Wai'anae COmmunity doing programs about issues that aired on 'Olelo Community Television. The networks never allowed the rest of the story from our community perspective. Except in the case of conflict, argument, anger or confrontation did the networks show us as out of control, unreasonable and uncivilized. We were never given a voice to share our point of view. NOT without editing, voiceover or outright censorship. WE could not afford the money it cost to tell our story on network television. WE were underserved and un-represented in media. Even the government officials at that time would not allow these voices to be heard because they did not share that diverse viewpoint.

That was just ten years ago. Eight years ago there was a cost to get trained and certified as a community producer. The pre-requisit with Olelo to use of equipment, facilities and doing programs that go on to be broadcast on the PEG channels. The cost was not a large amount but finacially, our family was strapped for cash. I had to choose between buying food, gas or tape to do my production. A round trip drive to and from Mapuanpuna to use equipment or facilities. The cost in time and gas was very high. Finally, our community was allowed to be represented and we had a voice. I believe that these humble beginnings allowed the Waianae community to adopt media into the fabric of the Waianae coast. My children, wife and friends use or are certified in the use of Access resources. Learning the value of Community Access and being able to participate in the democratic process via the media. We have a Community Media Center located on campus of Waianae HS and have partnered with non-profits, schools and everyday citizens. Promoting volunteerism and reinvesting time and resources into our own communities. 'Olelo has helped to lower the entry level cost to zero, allowing access to the poorest of citizens. You don't need to know how to read, write or speak English to use 'Olelo Community Access resources, training or certificaition. This is a huge equalizer that helps build esteem and community.

I've helped my family, community and 'Olelo become a part of our community. As a community member and now as staff, 'Olelo has allowed me to participate in the democtatic process like no other organization has in the past.

I have worked for 'Olelo these last 8 years to help bridge the gap between the underserved and unrepresented community voices. Not to support any view point but to allow all view to be voiced. Trying to build community relations that bring all stakeholders together for the greater good. The greater Waipahu area I currently work now has the same opportunity enjoyed in Waianae and other communities that 'Olelo serves.

I believe that we have and will continue to make a difference in building a strong, positive and democratic community.

By supporting SB1789 we take a positive step to continue allowing a greater participation of all ages and backgrounds in the democratic process by giving all communities a voice.

Please allow us to continue having an alternative that will not be treated by the unknowns of a bid process.

Underserved communities need to know that they have a voice not edited or censored by corporate networks or special interest.

Freedom of Speech is not free, it takes participation, hard work and a willingness to face many challenges. What we have today, comes the closest in delivering that freedom. Protect and sustain our ability to have a voice and grow strong communities.

Please support SB 1789.

Mahalo,

James "Sparky" Rodrigues
86-222 Puhawai Road
Waianae, Hawaii 96792
home # 696-2823
work# 671-3950

**Testimony on S.B.1789
Relating to Cable Television Systems
Senate Committee on Tourism and Government Operations
Keali'i Lopez, President and CEO of 'Ōlelo Community Television
February 12, 2008**

Senator Nishihara, Senator Mercado Kim, Members of the Senate Committee on Tourism and Government Operations. Aloha. I'm Keali'i Lopez, president and CEO of 'Ōlelo Community Television. Thank you for the opportunity to testify in support of S.B.1789.

The bill adds language that clarifies Chapter 440G, HRS, with respect to access organizations, and we appreciate that. The bill also makes advice from the Cable Advisory Committee (CAC) available to access organizations and requires review by the CAC of decisions that affect access organizations. We believe that is a step in the right direction, although we believe that the extent of the CAC's authority and involvement needs to be clarified before any statutory language is finalized.

However, the most substantial proposed change is to exempt from chapter 103d (the Procurement Code), the designation of and requirements for an access organization. The designation of the PEG access organizations would instead be made by the DCCA Director based on standards that are adopted pursuant to the public rulemaking process. We support this change.

We acknowledge that open competition for many government contracts promotes the public's interest by ensuring fair prices and preventing preferential treatment of contractors. However, we believe—and the Legislature has acknowledged—that the application of the Procurement Code in some cases can injure the public's interests. The administration of PEG services is just such a case.

In testimony before the State Procurement Policy Board and in protests filed with the State Procurement Office, we have shown that awarding a contract for the administration of PEG services is clearly impracticable and certainly not advantageous to the state.

If you distill the essence of our services, you will find that we exist to enable people to exercise their First Amendment rights. This is not something that can be put out to bid, or something for which performance standards can be written. Indeed, the fees paid to the PEG access providers, including 'Ōlelo, is not set by the PEG organizations. Instead, the fees are determined by the amount of revenues actually collected by the cable company from the cable subscribers. The amount of PEG access fees is not guaranteed; nor can it even be predicted in advance. Therefore, the most typical procurement situation – where the State intends to award the contract to the lowest price bidder – does not, and cannot, apply to the contract for PEG access services.

Additionally, 'Ōlelo's almost 20 years of providing PEG access services has resulted in an enormous amount of social capital that can not be financially quantified. This has been readily apparent in the community support of PEG access across the state. There is nothing to gain and much to lose if the standard procurement contract award process is imposed on PEG Access administration contracts.

For almost two years we have sought to resolve this matter with the DCCA, the State Procurement Policy Board and the State Procurement Office. Although there is much that remains unresolved, we will continue to protect PEG resources for our community by opposing attempts to undermine its unique character and effectiveness. A competed contract for the administration of PEG Access services is impracticable and the change

to 440G to exempt these services from 103d is justified, necessary and even to the State's advantage. That concludes my testimony.

testimony

From: Jennifer Jensen [Junglovn@maui.net]
Sent: Monday, February 11, 2008 1:58 PM
To: testimony
Subject: 1st Amendment

Senator Clarence Nishihara, Chair
Senator Donna Mercado Kim, Vice-Chair
Committee on Tourism and Government Operations (TSG)
testimony@capitol.hawaii.gov

Jennifer Jensen

February 10, 2008

Testimony in Support of SB1789, Relating to Cable access television

Aloha,

I'm Jennifer Jensen and a resident of Haiku. As a Maui resident, I have experienced 1st hand the amazing efforts that Akaku puts forth to continue bringing Maui channels 52, 53 or 54.

Akaku goes above and beyond to ensure freedom of speech, which is now at risk and has been for longer than I care to remember. With so many citizens who seem to watch as our freedoms are daily attacked, its nice to know that there is still a place to access the community with your voice ."

This is their service to the community. This is the service that ensures every resident the opportunity to exercise their important First Amendment rights.

It seems that corporate entities have a hard time understanding the value of this community service. I'm counting on the Hawaii State Legislature to do what is right for local public access stations.

Senate Bill 1789 is important PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would effectively take the "public" out of public access. SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the publics right to participate in deciding what kind of access

organization and service we want.

I support SB1789 because it doesn't change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy on procurement and public access. I urge both the Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo,

Jennifer Jensen

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testimony

From: Nija Rosamond [nija@maui.net]
Sent: Monday, February 11, 2008 2:26 PM
To: testimony
Subject: Please stop we need Akaku free I support SBI1789

February 10, 2008

*Senator Clarence Nishihara, Chair
Senator Donna Mercado Kim, Vice-Chair
Committee on Tourism and Government Operations (TSG)*

Aloha,

I'm Nija Rosamond and a resident of Kula for the last 20 years.

As a Maui resident, I have experienced 1st hand the amazing efforts that Akaku puts forth to continue bringing Maui channels 52, 53 or 54. I support of SB1789, Relating to Cable access television

Mahalo,

Nija Rosamond

size=2 width="100%" align=center>

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2/11/2008

THE SENATE -- COMMITTEE ON JUDICIARY AND LABOR
Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice Chair

COMMITTEE ON TOURISM AND GOVERNMENT OPERATIONS
Senator Clarence K. Nishihara, Chair
Senator Donna Mercado Kim, Vice Chair

HEARING DATE:

Tuesday, February 12, 2008

TIME: 1:15 P.M.

PLACE: Conference Room 229, State Capitol. 415 South Beretania Street, Honolulu

RE: SB 1789 RELATING TO CABLE TELEVISION SYSTEMS.

Authorizes the director of commerce and consumer affairs to designate an access organization to oversee the development, operation, supervision, management, production, or broadcasting of programs for cable television channels; requires the director to also establish requirements for the designation of access organizations; and requires the cable advisory committee to advise access organizations on matters under chapter 440G, Hawaii Revised Statutes.

Dear Senators,

I am writing to oppose SB 1789.

In the interest of healthy competition, the DCCA should not designate the organization to provide services by using sole-source, non-competitive contracts.

Though the director "may" designate an access organization, there is no compelling reason. The organizations that have provided these services in the past have not fully complied with state open records and open meetings laws. One designated organization recently used their funding not to provide services but instead to take the state Office of Information Practices to court to fight compliance with open records laws. The combined contracts for state-mandated funds are significant; over \$5 million annually. A state financial audit has never been conducted on these organizations, who have received an excess of \$50 million since the early 1990's.

The Cable Advisory Committee did not meet for most of the years the current organizations received sole source contracts. Even when they do meet during a year, the diversity of the problems and the information provided to them by staff or worse, the sole-source designee, allow little real oversight for good decision making.

Access organizations, non-profits or other corporations, should all comply with State Procurement laws. The SPO has already drafted an RFP that is due to be received by July 2008. To bypass State Procurement laws and allow DCCA favored organizations to continue to receive sole-source designation would undermine fair competition.

Regards,

Carol Bain, PO Box 662320, Lihue, Kauai, HI 96766.

FAX/PH: 808-246-2111

Emailed testimony@capitol.hawaii.gov

FAXED: Senate Sergeant-At-Arms Office at 586-6659 or 1-800-586-6659

testimony

From: Elaine Gima [elaine.gima@gmail.com]
Sent: Monday, February 11, 2008 3:07 PM
To: testimony
Subject: re: testimony on SB 1789

Senator Clarence Nishihara, Chair
Senator Donna Mercado Kim, Vice-Chair
Committee on Tourism and Government Operations (TSG)
testimony@capitol.hawaii.gov

February 11, 2008

Testimony in Support of SB1789, Relating to Cable access television

Aloha,

I'm Elaine Gima and a resident of Kahului. As a Maui resident, I have experienced 1st hand the amazing efforts that Akaku puts forth to continue bringing Maui channels 52, 53 or 54.

Akaku goes above and beyond to ensure freedom of speech, which is now at risk and has been for longer than I care to remember. With so many citizens who seem to watch as our freedoms are daily attacked, its nice to know that there is still a place to access the community with your voice .

This is their service to the community. This is the service that ensures every resident the opportunity to exercise their important First Amendment rights.

I have enjoy AKAKU's services for many years. I'm counting on the Hawaii State Legislature to do what is right for local public access stations.

Senate Bill 1789 is important PEG Access stations—as independent nonprofit organizations—should not be subject to procurement. A competitive sealed bid process would effectively take the "public" out of public access.

2/11/2008

SB1789 would ensure that changes for PEG access would be decided in the open, before the public, and under financially reasonable conditions for PEG access. It would also create clear and minimal guidelines that protect the public's right to participate in deciding what kind of access organization and service we want.

I support SB1789 because it doesn't change the legislature's policy towards access organizations or access channels, and because it clarifies the legislature's policy on procurement and public access. I urge both the Hawaii State Senate to pass SB1789 as quickly as possible.

Mahalo,

Elaine Gima
200 Hina Av H6
Kahului, HI 96732

808 283 0174