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TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
HOUSE COMMITTEE
ON
ECONOMIC REVITALIZATION, BUSINESS, & MILITARY AFFAIRS

March 9, 2010

8:00 am

SB 707, SD1

RELATING TO CABLE TELEVISION SYSTEMS.

Chair McKelvey, Vice-Chair Choy, and committee members, thank you for the opportunity to testify on SB 707, SD 1. This testimony is limited to SECTION 1, page 1 lines 14-17 and page 2, lines 1-2.

This issue first came to our attention when the Director of the Department of Commerce and Consumer Affairs (DCCA) inquired whether DCCA's contracts with the PEG access organizations were subject to competition. DCCA consulted with the Attorney General's office (AG) whether these services were subject to the Hawaii Public Procurement Code, HRS chapter 103D (Code), and the AG's office concluded that the services were subject to the Code and the State Procurement Office (SPO) concurred.

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

SB 707, SD1
Senate Committees on Economic Revitalization,
Business, & Military Affairs
March 9, 2010
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The PEG access services contracts are agreements between the DCCA, a governmental body, and PEG access organizations that are private, non-profit corporations. Under these contracts, DCCA is acquiring services to manage and operate the PEG channels. Therefore, the PEG access contracts are "procurement contracts" under HRS section 103D-102. We understand that DCCA seeks to continue providing PEG 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 and 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 is necessary. An exemption will provide a non-competitive or "non-bid" process that is contrary to open and fair competition.

There is no compelling reason to exempt PEG access services from the Code, and SPO does not support SECTION 1, page 1 lines 14-17 and page 2, lines 1-2 and request that it be deleted from this bill.

Thank you.

Testimony on S.B. 707, SD1
Relating to Cable Television Systems
House Committee on Economic Revitalization, Business and Military Affairs
Keali'i López, President and CEO of 'Ōlelo Community Media
March 9, 2010

Chair McKelvey and members of the House Committee on Economic Revitalization, Business and Military Affairs. Aloha. I'm Keali'i Lopez, president and CEO of 'Ōlelo Community Media, and I am here to testify in support of Senate Bill 707 SD1.

The Bill authorizes the Department of Commerce and Consumer Affairs (DCCA) to designate public, educational and governmental access organizations (the so-called "PEGs") according to standards that will be established through Chapter 91 rulemaking procedures, and with advice from the Cable Advisory Committee. The Bill expressly exempts the PEG designation from Chapter 103D – the State Procurement Code. 'Ōlelo strongly supports this change, for reasons stated publicly and frequently for the past three years.

We acknowledge that open competition for the majority of 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 for some services can injure the public's interests. The administration of PEG access services is just such a service.

To summarize:

If you distill the essence of our services, you will find that PEG access services organizations exist to enable people to exercise their First Amendment rights. Some fundamental benefits from the exercise of such rights are that the members of the community become empowered, diversity is promoted, and communities are strengthened. PEG access services and their benefits are not something that can be and put out to bid, or something for which performance standards can be effectively written. For this reason, we have consistently maintained that the PEG access services contracts should not be subject to competition under the Procurement Code.

The DCCA itself recognizes the unique nature of the PEG access services and the fundamental difference between these and other services contracted by the State. This is demonstrated by the DCCA's request for an exemption for PEG access services contracts almost two years ago on the basis that a competed contract would be neither practical nor advantageous to the State. Public testimony on the issue was strongly in favor of an exemption. However, the State Procurement Office denied DCCA's exemption request.

'Ōlelo and others also submitted petitions to the State Procurement Policy Board for a determination that the PEG access organizations were properly exempted from the application of the State Procurement Code. 'Ōlelo's petition demonstrated that a competed contract for the administration of PEG services is clearly impracticable and certainly not advantageous to the state, in large part because PEG access services are so complex and include intangible community benefits that cannot be quantified. More than 100 members of the public testified in support of 'Ōlelo's petition, expressing their concerns that under a competed contract, the critical First Amendment freedoms and community-building benefits of PEG access services would be lost. The Procurement Policy Board, while it denied 'Ōlelo's petition, recognized that community-building is a critical component of our services and noted that a Request for Proposals should include community-building as a requirement under a competed contract. Unfortunately, however, this has not happened, and community-building seems to have been forgotten somewhere along the procurement process.

We respect the best efforts of the procurement professionals who have tried to fit the PEG access services into the narrow procurement mold. However, their efforts have failed. The State issued two separate drafts of a Request for Information for the PEG access services before issuing the final RFP. Both drafts contained many flaws and neither addressed community-building. Likewise, the State's final RFP, which was issued in July 2007, is faulty in many respects. 'Ōlelo's protest to the RFP, which is pending, identifies a number of critical legal deficiencies. I will mention only two of those deficiencies here: first, that the RFP contains no recognition of the critical community building aspect of the PEG access services, and second, that the RFP identifies no performance standards whatsoever. We believe that these deficiencies

demonstrate our point: that the PEG access services are not appropriate services for the application of the Procurement Code's competitive processes.

'Ōlelo does not support an exemption in order to get a "free ride". In fact, there is no guarantee that the DCCA will continue to designate 'Ōlelo – or any other organization – to provide PEG access services, even in the absence of a competed contract.

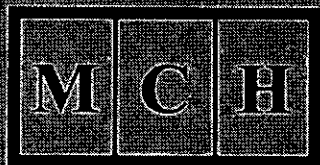
In addition, 'Ōlelo is already accountable to the DCCA under comprehensive oversight provisions in the current PEG access services contract. The DCCA accountability relates primarily to the general management of the PEG access services and monitoring of the administration of the PEG access funds by the providers. The DCCA does not, however, restrict or control the services that the PEG access organizations provide to our clients, including the public – as it should not. Instead, we have the flexibility to adapt or respond to changing communities' needs; to introduce new technologies that meet those needs; and to determine, based on our collaborative relationships with our diverse clientele, how to best provide the PEG services in each community. Although we welcome the necessary accountability to the State, we desire an exemption because we fear that this flexibility will be lost under a competed contract.

Senate Bill 707 SD1 provides significant additional accountability by requiring that the DCCA establish its standards for designating the PEG access organizations through Chapter 91 rulemaking. It also provides for further input into the designation process by expanding the role of the Cable Advisory Committee. These provisions will make sure that the designation process is transparent, objective and fair.

All of us – the Legislature, 'Ōlelo, the DCCA, and clients of PEG access services – have the same goal: to provide access to the members of all of Hawai'i's communities, regardless of the content of their messages, so that their voices can be heard.

We believe that Senate Bill 707 SD1 is the best way to meet this goal, and that a change to 440G to exempt PEG access services contracts from Chapter 103D is justified. We hope that you will support the bill.

That concludes my testimony. Thank you for your time and attention.



Media Council of Hawai'i *Since 1970*

President:

Chris Conybeare

Vice-Presidents:

Beth Ann Kozlovich

Treasurer:

Teresita Bernales

Secretary:

Marya Grambs

Board Members at Large:

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Jean King

Brian Matson

Richard Miller

Lucy Wittek

Honorary Member:

U Win Tin

**COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS
AND MILITARY AFFAIRS**

Representative Angus L.K. McKelvey, Chair
Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

Dear Chair McKelvey, Vice Chair Choy, and Members of the Committee:

This measure is needed to guarantee that PEG Access is recognized as a unique asset to its various communities, one that should not be subject to mechanical procurement rules.

Media Council Hawai'i joins with many other organizations in supporting an open collaborative process governing PEG Access regulation. Passage of SB707 is a key element in guaranteeing this approach.

MCH urges your favorable action on this measure and thanks you for the opportunity to so testify.

Sincerely,

Chris Conybeare
President

From: jeff garland [cmpa@hawaiiantel.net]
Sent: Monday, March 08, 2010 10:33 AM
To: EBMtestimony
Subject: SB707 SD1 - 3/09/10 8:00 AM Conference Room 312
Attachments: PEG_DCCA_Contracts_PPB_decision.pdf; hawaii.govspoprocurement-policy-board-minutes-of-meeting1-21-10_Minutes_PBA.pdf

Community Media Producers Association

CMPA

1658 Liholiho #506
Honolulu, Hawai'i 96822
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239-8842

Aloha Chair Angus L.K. McKelvey, Vice Chair Isaac W. Choy, and members of the COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS, & MILITARY AFFAIRS,

CMPA TESTIFIES IN **STRONG OPPOSITION** TO SB707 SD1

'Olelo is funded through legislative mandate

'Olelo & the other PEGs were created by the DCCA **WITH NO RULE IN PLACE ON HOW TO DESIGNATE A NONPROFIT AS THE PEG ENTITY**

DCCA controls the PEG funds

DCCA retains the authority to appoint the majority of PEG board directors (thus PEGs are state actors for 1st Amendment purposes [US Supreme Court])

PEGs are non-membership ("The Corporation shall have no members")

'Olelo approves annual 2 line item operating and capital budgets in closed executive sessions

the Attorney general opined PEG contracts should go out for competitive bid.

Procurement Policy Board (PPB) denied petitions for exemption for PEGs

Aaron Fujioka testimony has been in opposition to exemption, while his boss's written testimony (Russ Saito) has been in support

Saito and 'Olelo's attorney Terry Thomason, whose wife was Saito's deputy Comptroller, both supported Darryl Bardusch's appointment to PPB

(GM 103

http://www.capitol.hawaii.gov/splsession2007b/testimony/GM103/GM103_BARDUSCHD_TSG.pdf)

Saito & Bardusch voted the same at the last PPB meeting

One member seat on the PPB was vacant

attached is the 1st denial of 'Olelo & Akaku's petitions for exemption
minutes of the 1/21/10 meeting are also attached and available at:

http://hawaii.gov/spo/procurement-policy-board-minutes-of-meeting/1-21-10_Minutes_PBA.pdf

Will you all vote to make what was done all wrong, alright? Please vote no or defer and wait for the results of the audit of the PEGs by Marion Higa. see HB 2902. Please allow for innovation and excellence in our **Free Speech providers**. We can do much better. Please take the time to see what other access centers are doing so you will understand how far behind the curve Hawai'i is, as usual!! <http://www.communitymedia.se/cat/>

Jeff Garland
Secretary, Community Media Producers Association

BEFORE THE PROCUREMENT POLICY BOARD

STATE OF HAWAII

IN THE MATTER OF THE PETITIONS OF)
)
 AKAKU: MAUI COMMUNITY TELEVISION)
 FOR ADOPTION OF A RULE)
 FOR MODIFICATION OF A RULE)
 FOR DECLARATORY ORDER #1)
 FOR DECLARATORY ORDER #2)
)
 OLELO COMMUNITY TELEVISION)
 DECLARATORY RULING)
)

DECLARATORY ORDER RE: AKAKU'S PETITION FOR ADOPTION OF A RULE FILED FEBRUARY 24, 2006; AKAKU'S PETITION FOR MODIFICATION OF A RULE FILED FEBRUARY 24, 2006; OLELO'S PETITION FOR A DECLARATORY RULING FILED SEPTEMBER 12, 2006; AKAKU'S PETITION FOR A DECLARATORY RULING FILED FEBRUARY 23, 2006; AND AKAKU'S PETITION FOR A DECLARATORY RULING FILED JANUARY 25, 2007

This Declaratory Order disposes of five petitions submitted to the Policy Procurement Board ("PPB"). Akaku: Maui Community Television ("Akaku") filed four petitions: (1) Petition for a Declaratory Order on February 23, 2006; (2) Petition for Adoption of a Rule, and (3) Petition for Modification of a Rule, on February 24, 2006; and (4) a second Petition for a Declaratory Order on January 25, 2007. Olelo Community Television ("Olelo") filed its Petition for Declaratory Ruling on September 12, 2006.

For the reasons stated below, Akaku's Petition for Adoption of a Rule, Akaku's Petition for Modification of a Rule, and Olelo's Petition for Declaratory Ruling are addressed together in part I, then Akaku's Petition for a Declaratory Order filed February 23, 2006 is treated in part II, and finally, Akaku's Petition for a Declaratory Order filed January 25, 2007 in part III.

I. AKAKU'S PETITION FOR ADOPTION OF A RULE, AKAKU'S PETITION FOR MODIFICATION OF A RULE, AND OLELO'S PETITION FOR DECLARATORY RULING

On February 24, 2006, Akaku filed two petitions: "Petition for the Adoption of a Rule" ("Petition 1"); and "Petition for the Modification of a Rule" ("Petition 2"), pursuant to Hawaii Revised Statutes ("HRS") §91-6.

In Petition 1, Akaku requested the adoption of a new rule it identified as "§3-120-6."

§3-120-6 Code Not Applicable to PEG Access Provider Contracts. The State Procurement Code does not apply to Public Education Government Access Provider Contracts which direct the cable franchisees to cause payments from the cable franchise fees to the several Public Education Government Access Providers as provided by law.

In Petition 2, Akaku requested Hawaii Administrative Rules ("HAR") §3-120-4, exhibit A, "Procurements Exempt from chapter 103D, HRS," be modified to include a new exemption, identified as exemption 17, to be exempted from HRS chapter 103D:

17. Services of non-governmental non-profit corporations to provide public, educational and governmental cable access.

PROCEDURAL MATTERS

1. On February 24, 2006, Petitioner filed both Petition 1 and Petition 2.
2. Due to vacant positions on the Procurement Policy Board ("Board") and lack of quorum, the first Board meeting subsequent to the submission of the Petitions was on July 13, 2006.
3. Petitions 1 and 2 were placed on the agenda of the July 13, 2006 Board meeting, under the heading, "New Business, For Information."
4. On July 13, 2006, the Board considered Petitions 1 and 2 at its meeting. Board members Gregory King, Gordon Ing, Russ Saito, and Leslie Chinen were present.

Mr. King chaired the meeting. Lance D. Collins, Esq. appeared on behalf of Petitioner.

The following individuals appeared and provided oral testimony in support of the

Petitions:

Kealii Lopez - Olelo
Larry Geller - Kokua Council
DeGray Vanderbilt - Akaku (Molokai)
Gerry Silva - Olelo
Terry Thomason - attorney for Olelo
James "Sparky" Rodrigues

5. The Board received written testimony in support of the petitions from Cassy Husted, and written testimony opposed to the petitions from Carol Bain. Jeff Garland, on behalf of the League of Women Voters, also submitted written testimony in opposition to the petitions.

6. A motion was made and the Board approved to submit both the rule proposed in Petition 1 and the rule amendment proposed in Petition 2, to the Governor as the initial step of the rulemaking process.

7. The Board met on September 22, 2006. Present at the Board's meeting were Gregory King, Gordon Ing, Russ Saito, Leslie Chinen, Daryle Ann Ho, and Richard Totten. Mr. King chaired the meeting.

8. The Board was informed at its September 22, 2006 meeting that the Office of Information Practices ("OIP") had advised and recommended that the State Procurement Office ("SPO) reconsider Petition 1 and Petition 2. OIP was concerned that because the two petitions were listed on the Board's July 13, 2006 agenda under the heading "For Information," action should not have been taken on the informational items, there being the possibility of confusion among members of the public who would have testified had they known action would be taken on these informational items. OIP

recommended the Board to consider as void, the actions taken concerning Petitions 1 and 2 at the PPB's July 13, 2006 meeting.

9. The September 22, 2006 agenda included Petitions 1 and 2 for the PPB's consideration and action, and invited public testimony, in the event the Board agreed to accept OIP's advice. The Board agreed to accept OIP's recommendation and agreed the actions taken at its July 13, 2006 meeting with regard to the two petitions to be void.

10. On September 12, 2006, Olelo Community Television ("Olelo") filed a "Petition for Declaratory Ruling Pursuant to H.R.S. §91-8" ("Petition 3"). In its petition, Olelo requested a declaratory ruling stating:

Contracts with entities to manage and administer public, education and government ("PEG") access channels are contracts for "utility services" within the meaning of H.R.S. § 103D-102(b)(4)(F) and, for which the competitive award procedures of H.R.S. Chapter 103D are neither practicable nor advantageous to the State. On that basis, such contracts are exempt from the application of the State Procurement Code.

11. Petition 3 was listed on the PPB's September 22, 2006 agenda for consideration and action by the PPB. The Board conducted its proceeding under HRS chapter 92, part I. No objection to the procedure was made.

12. The Board agreed to hear public testimony on all three petitions at the same time because of the common subject matter of the three petitions - exemption of PEG access services contracts from the Procurement Code. Aaron Fujioka, Administrator of the SPO, and Clyde Sonobe, Administrator of the Department of Commerce and Consumer Affairs, Cable Television Division, responded to questions from the Board. The following individuals appeared and provided oral and written testimony in support of the Petitions.

Kealii Lopez - Olelo

Gerry Silva – Olelo
James Rodrigues - Olelo
Michele Van Hessen – Olelo
Shannon McMonagle – Kaiser High School
Vic Lambert – Kaiser High School
Alfred Ekau, Jr. – Queen Liliuokalani Children’s Center
Ao Rodenhurst – Head of Spiritual Nation of Ku Huiea Council
Wes Akamine
Mark Helmburger – Olelo
Sam Makua – Waimanalo Hawaiian Homestead
Gerri Watanabe – Olelo
Robert Stiver – Olelo
M.P. “Andy” Anderson – Hina Mauka

The following individuals appeared and provided oral testimony in support of the
Petitions.

Terry Thomason – Attorney for Olelo
Lance Collins – Attorney for Akaku
Kalani Akana
Lynette Cruz - HPU
Kenny Mersburgh - Olelo
Leslie Gil - Olelo
Ipo Rossiter
Lucie Rodenhurst
Pookela Rodenhurst
DeGray Vanderbilt
Jay Robertson – Ho Ike
Michael Shockley – Olelo
Desiree Husted – Olelo
David Husted – Olelo
Dena Jimenez – Olelo
Michael Bowen – Olelo
Ramona Heitzman - Olelo

The following individuals provided written testimony in support of the Petitions.

Colette Young-Pohlman - teacher
Gary Pak - UH
Sharran Langford – Olelo producer
Mark Lutwak
Nancy Hedlund
Clara Batongbacal
Gerry Kaman – Olelo
Maile Shimabukuro – State Representative 45th district

Joan Lander
John A. Hoag – Church of Jesus Christ of Later-Day Saints

13. The Board recessed the meeting for the day, and continued the meeting on October 5, 2006. Present at the Board's meeting were Gregory King, Gordon Ing, Russ Saito, and Richard Totten. Leslie Chinen and Daryle Ann Ho were excused from the meeting. Mr. King chaired the meeting.

14. The Board requested testimony be limited to the issue of whether it would or would not be advantageous or practicable to compete the PEG access services, and each testimony to be limited to five to seven minutes, because there were numerous members of the public present who wished to testify, and the previous testimony had been overwhelmingly about why Olelo's contract with DCCA should be extended. Despite its requests, the Board heard testimony that exceeded the time limit and focused on extending Olelo's contract with DCCA.

15. The following individuals appeared and provided oral and written testimony in support of the Petitions.

Larry Geller – President, Kokua Council
Ruby Maunakea, individually and for Connie Burchett, David Oclinaria, and
Hokulei Crew – Olelo
Reyanne Maunakea – Olelo
Piilani Kaopuiki
Bert Fishman for Jo Yasutake – City and County Recreation Director, Palolo
Meredith Nichols for Sharon Narimatsu – Olelo Board of Directors
Donna Wylan for Angela Meixell – Chancellor, Windward Community College
Bob Farrell – Olelo
Naturalee Puou - Olelo
Shirley P. Nabooji
Sherry Ann Hoohui – Olelo
Bronson Garcia – Olelo
Christian P. Nahoopii-Hose – Olelo
Kaleo Keliikipi-Poe – Olelo
Sharlette Poe - Olelo
Lynn M. Corneau – Olelo

Colby Corneau – Olelo
Jordan Kila – Olelo
Fuschia Keliikipi-Kamakani – Olelo
Kourtney Kaaihue – Olelo
Rodney Paguirigan – Olelo
Kauhi Maunakea-Forth – Olelo
Alan Ibanes – Olelo
Tuli Leota – Olelo
Jamie Deguzman – Olelo
Ambree Hauhio – Olelo
Thorne Fontanilla – Olelo
Gary Supnet
Steven Barsamin
Kenneth and Hannah Barsamin – Olelo
Ruth Hsu – UHM, Dept of English, Assoc. Professor
Neal Rivera for Josephine Feiteira-Kahue – NaKupuna O Hawaii, Olelo
Dennis Callan
Akemi Carter
Shirley Sybert

The following individuals appeared and provided oral testimony in support of the
Petitions.

Gerry Silva
Will Haynes
BJ Protho – Kupuna Coalition Network
Noyita Saravia – Olelo
Gail Nakamoto – Olelo
Leslie Gil – Olelo
Tom McCrea – The Open Door Academy
Sabine Deringer – HPU
Keith Akana – Olelo
Casina Waterman – Oahu Council
Soloaii Faalepo – Samoa Mo Samoa
Molesi Sagapolutele – Samoa Mo Samoa
Aloha Davis – Olelo
Aki Carter - Olelo
Bokdong Yoon
Aloa Kaneaukahi – Olelo
Michael Bailey – Greenpeace
Hans Peter Jensen – Olelo
Betty Ann Leslie – Olelo
Kawika Nahoopii - Olelo
Anela Casauran – Olelo
Tammy Toma

Meredith Nichols - Olelo
Kaimanaloa Samson
Bert Fishman - Cith & County of Honolulu
Alaine Ko
Pat Patterson
Ernie Pascual
Diego Cadiente, Jr.
Andrew Germinaro
Evera Williams
Erin Malone
James Nakapaahu
Angela Breene
Kuuleilani Reyes

The following individuals provided written testimony in support of the Petitions.

Frances Corcoran - Kahuku Public and School Library
Ben Shafer - Friends of Kahana Defend Oahu Coalition
Stuart McKinley - HGEA/AFSCME, Local 152
Oren Tsutsumi
Kalua Dung
Daniel Connelison
Shane Hoohui
Patrick Perry
Henry Roman
James Taylor
Leandra Wai
Angel Naivalu
Stacy Trinh - Amitabha Educational Center
Heidi Ramseyer
Kim Langley
Bruno Lemos
Duane Char
Lisa DeLong
Carol Phillips
Daniel Skaf
Bonnie Murakami
Warren Houghtailing
Margaret Brezel - Kauai Historical Society
Joshua Primacio
Fay Uyeda - Communities in School, YMCA
Dennis Young
Kay Yonemori - Parent Outreach Counselor, Waipahu High School
Doreen Redford
Rochelle Kalili
Kylie Manaku-Kalili

Kyson Manaku-Kalili
Makana Shook
Bev Van Kinkle
Suivaaia Soosenuu
Taclasse Soosenuu
Ramona Soosenuu
Tracey Soosenuu
Cornelia Kawamata – Waipahu Elementary School
Shelley Zamborelli
Kyle Kajihiro - American friends Service Committee
Romelia Shiroma
Robert Bailey
Matt Yamashita – Akaku
Joanne Flannery – Kailua Historical Society
Sean McLaughlin
Gwendolyn Kim
Jeanne L. Lee
Cory Harden

The following individuals provided written testimony in support of the Petitions.

Tanielle Hughes
Pastor Jay Amina
Leiolani De Lima
Gabriela Borges
Lilah Akin
Torey Nakamura
Christine Ho
J. Garcia

The following individuals appeared and provided oral and written testimony against the Petitions.

Carol Bain – Community Media Producers Association

The following individuals provided written testimony against the Petitions.

Jeff Garland
Wendy Arbeit

16. The Board asked follow up questions of Carol Bain, Clyde Sonobe, and Gerry Silva.

17. The three petitions, while each worded differently and pursuing alternate theories, all request that contracts for PEG access services not be subject to the requirements of the Hawaii Public Procurement Code, HRS chapter 103D.

18. Mr. King stated the presumption of the Procurement Code and the Board is that everything should be bid, unless it is shown that it is neither practicable nor advantageous to do so, and the testimony has not made a convincing presentation that it was neither practicable nor advantageous to exempt contracts with PEG access organizations from the Procurement Code.

19. Although there were objections and concerns raised by the public regarding the application of the Procurement Code, HRS chapter 103D, to contracts with PEG access service organizations, the Board was not persuaded that it would be practicable or advantageous to exempt contracts for PEG access services from the Procurement Code, and was not persuaded that the provision of PEG access services were comparable to the provision of utility services and thus exempt from the Procurement Code.

20. The Board voted unanimously to deny Akaku's Petition for the Adoption of a Rule (Petition 1), Akaku's Petition for The Modification of a Rule (Petition 2), and Olelo's Petition for Declaratory Ruling (Petition 3).

21. Because of concerns of the public, the Board questioned Clyde Sonobe and Aaron Fujioka about the Request for Proposal ("RFP") process that DCCA intended to use for contracts to obtain PEG access services. The Board voted unanimously to have Mr. Fujioka to provide the Board an update of the RFP process, and to inform the Board,

if, during the RFP process it became evident that it was neither practicable nor advantageous to continue the RFP process.

22. On October 27, 2006, the Board met. Board members Gregory King, Russ Saito, Richard Totten, Leslie Chinen, Daryle Ann Ho, Wendy Imamura, and Pamela Torres were present. Gregory King chaired the meeting.

23. Russ Saito informed those present that the SPO was notified on October 20, 2006, that two new Board members, Wendy Imamura and Pamela Torres, were appointed by the Governor on an interim basis effective September 29, 2006. Their appointments meant Gordon Ing, whose term had expired prior to September 29, 2006, was not a member on October 5, 2006, and thus there was no quorum at the Board's October 5, 2006 meeting which had been continued from the September 22, 2006 meeting.

24. The Board considered the actions taken at its October 5, 2006 meeting given the lack of quorum at that meeting. SPO had been informed of the two new appointments after the agenda for the October 27, 2006 meeting had been published. The Board agreed to reconsider the three petitions at its next meeting. Olelo did not object to the Board's proceeding under and reviewing its petition under HRS chapter 92, part I.

25. The Board met on December 21, 2006. Board members Gregory King, Russ Saito, Leslie Chinen, and Pamela Torres were present. Richard Totten and Daryle Ann Ho were excused. Mr. King chaired the meeting.

26. The three petitions acted upon by the Board at its October 5, 2006 meeting, were again treated together. The Board requested testimony be limited to five

minutes each, but allowed the time limit to be exceeded. The following individuals appeared and provided oral testimony in support of the Petitions.

Robert Stiver
Gerry Silva
Meredith Nichols
Terry Thomason
Jim Brewer

The Board requested that when the meeting is reconvened, to limit oral testimony only to those who were present at the October 5, 2006 meeting and did not have the opportunity to testify.

27. The Board recessed the meeting for the day, and continued the meeting on January 18, 2007. Present at the Board's meeting were Gregory King, Russ Saito, Leslie Chinen, Pamela Torres, and Daryle Ann Ho. Richard Totten was excused from the meeting. Mr. King chaired the meeting.

28. The Board continued to receive testimony. The Board did not strictly enforce the time limit, and allowed all those present who wished to testify, to testify. The following individuals appeared and provided oral testimony in support of the Petitions.

Jay April – Akaku
Christian Nahoopii-Hose – Olelo
Naturalee I. Puou – Olelo
Renee Ing – Olelo
Gerry Silva – Olelo
Lance D. Collins – attorney for Akaku
Barbara Krieg – attorney for Oelo
Kealii Lopez – Olelo
Ruth Hsu – UHM
Kawika Nahoopii – Olelo
Aloha Davis – Olelo

29. The Board conducted a question and answer session with representatives of Olelo, Akaku, DCCA, and those who use the Olelo facilities and services. Mr. Fujioka reported: the Request for Information ("RFI") and RFP processes initiated to select contractors for the new PEG access services contracts were proceeding; comments received from the public were being considered by DCCA and SPO for incorporation into a new RFP; and another RFI would be issued to further solicit public comment.

30. Again, although there were objections and concerns raised by the public regarding the application of the Procurement Code, HRS chapter 103D, to contracts with PEG access service organization, the Board was not persuaded that it would be practicable or advantageous to exempt contracts for PEG access services from the Procurement Code, and was not persuaded that the provision of PEG access services were comparable to the provision of utility services and thus exempt from the Procurement Code.

DECISION

After careful consideration of the written submittals, arguments of the parties and the live and written testimonies, and good cause appearing therefrom, the Board voted unanimously to deny Akaku's Petition for the Adoption of a Rule (Petition 1) and Akaku's Petition for The Modification of a Rule (Petition 2), and Olelo's Petition for Declaratory Ruling Pursuant to H.R.S. §91-8 (Petition 3) failed to win approval.

II. AKAKU'S PETITION FOR A DECLARATORY ORDER FILED ON FEBRUARY 23, 2006

On February 23, 2006, Akaku had filed a "Petition for a Declaratory Order" pursuant to HRS §91-8.

In its Petition, Akaku requested the following.

That funds collected and disbursed by the cable franchisees pursuant to order or rule of the Department of Commerce and Consumer Affairs are not 'public funds' within the meaning of Haw. Rev. Stat. 103D-102; and

That the State Procurement Code does not apply to services for providing public educational and governmental cable access.

PROCEDURAL MATTERS

1. Akaku filed its Petition on February 23, 2006.
2. Due to a misunderstanding by counsel for the SPO and the Board, Deputy Attorney General Patricia Ohara, this Petition was not considered until the December 21, 2006 Board meeting. She previously had understood Lance D. Collins, attorney for Akaku, to have agreed to set aside the Petition for Declaratory Order because of the other two petitions for rule adoption and modification he filed on Akaku's behalf on February 24, 2006 (Petitions 1 and 2 discussed above), and the lawsuit he filed on December 4, 2006, Akaku v. Aaron Fujioka, et al., Civil No. 06-1-0443(3).
3. The Board met and considered this Petition at its January 18, 2007 meeting, which was continued from the December 21, 2006 meeting. The Board conducted its proceeding under HRS chapter 92, part I. No objection to the procedure was made. Board members present were Gregory King, Russ Saito, Leslie Chinen, Pamela Torres, and Daryle Ann Ho. Richard Totten was excused from the meeting. Mr. King chaired the meeting.
4. The Board received testimony from Mr. Collins. A lengthy discussion followed about the funding of PEG access organizations, the relationship between PEG access services and cable franchises, and these fees being subject to procurement but not capital fees. The Board conducted an extensive question and answer session with

representatives of Olelo, Akaku, DCCA, and those who use Olelo's facilities and services.

5. The Board was not persuaded that the funds collected and disbursed by the cable franchisees pursuant to DCCA rules and orders were not public funds, and was not persuaded that the Procurement Code did not apply to services providing PEG cable access.

DECISION

After careful consideration of the written submittals, arguments of the parties and the live and written testimonies, and good cause appearing therefrom, the Board voted unanimously to deny the Petition.

III. AKAKU'S PETITION FOR A DECLARATORY ORDER FILED ON JANUARY 25, 2007

On January 25, 2007, Akaku: Maui Community Television ("Akaku") filed a "Petition for a Declaratory Order" pursuant to HRS §91-8.

In its Petition, Akaku requested the Board make a declaratory order regarding:

a. Whether the issuance of cable franchises granted pursuant to Chapter 440G, Haw. Rev. Stat. And those franchises are subject to Chapter 103D, Haw. Rev. Stat.;

b. Whether contracts entered into by the cable franchisee with businesses, required by the enfranchisement decision and order, that benefit the state in-kind or otherwise are subject to Chapter 103D, Haw. Rev. Stat.; and

c. Whether PEG access services as a derivative and fixed part of the cable franchise decision and orders are subject to Chapter 103D, Haw. Rev. Stat.

PROCEDURAL MATTERS

1. Akaku filed its Petition on January 25, 2007.

2. The Petition was included on the agenda for the Board's February 15, 2007, but the meeting subsequently was cancelled because of a lack of quorum.

3. The Board next met on April 5, 2007 and considered the Petition. The Board conducted its proceeding under HRS chapter 92, part I. No objection to the procedure was made. Board members present were Gregory King, Russ Saito, Leslie Chinen, and Daryle Ann Ho. Mr. King chaired the meeting.

4. The Board received testimony from Mr. Collins and Jay April stating that as cable franchises are governed by HRS chapter 440G and exempt from HRS chapter 103D, the franchisees' contracts should also be exempt, including contracts for the provision of PEG access services. Gerry Silva, Chief Operating Officer of Olelo, submitted written testimony supporting the view that PEG access is a derivative of the cable franchise, and PEG access providers should have the same contractual relationship with the State as a cable company. Clyde Sonobe of DCCA provided the Board with an explanation of HRS chapter 440G.

5. The Board engaged in a lengthy discussion, considering the responses to its questions from Mr. Sonobe, Mr. Collins, Mr. April, and Ms. Ohara.

6. The Board determined that the issuance of cable franchises are governed by HRS chapter 440G, that cable franchises are governed by chapter 440G and not HRS chapter 103D. The Board determined there is no reference to chapter 103D in chapter 440G, and thus the legislature did not intend cable franchises to be subject to chapter 103D.

7. The Board determined contracts entered into by cable franchises with businesses as required by the enfranchisement decision and order that benefit the state,

in-kind or otherwise, are not subject to HRS chapter 103D because the cable franchises, such as Time Warner, are not governmental bodies subject to chapter 103D.

8. The Board determined that PEG access services are subject to HRS chapter 103D because the contracts for PEG services were entered into by DCCA, a governmental body subject to chapter 103D, and the contracts were not otherwise exempted by chapter 103D, the Chief Procurement Officer, or the Board.

DECISION

After careful consideration of the written submittals, arguments of the parties and the live and written testimonies, and good cause appearing therefrom, the Board voted unanimously that: (1) the issuance of cable franchises granted pursuant to HRS chapter 440G are not subject to HRS chapter 103; (2) contracts entered into by the cable franchisee with businesses required by the enfranchisement decision and order that benefit the state in-kind or otherwise are not subject to HRS chapter 103D; and (3) Peg services are subject to HRS chapter 103D.

PROCUREMENT POLICY BOARD

By: Pamela Torres
PAMELA TORRES, CHAIR

Dated: Feb 24, 2009

Carole Hagihara

From: Linda Puppolo [linda@akaku.org]
Sent: Monday, March 08, 2010 8:53 AM
To: EBMtestimony
Subject: testimony SB707

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair
Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

Aloha Representatives,

My name is Linda Ruth Puppolo, Administrative Services Director of Akaku: Maui Community Television.

I support SB707 but do not plan to attend the hearing because the cost of travel at this time is prohibitive. Neighbor Island constituents have the heart to testify; not the funds or the time to be able to travel to Oahu. If this hearing were on Maui, you might have as many as five hundred to one thousand folks at your door. Akaku serves Maui and Maui supports Akaku.

Why is public, educational and government (PEG) access important?

On Oahu, there are many television stations that report relevant "Oahu-centric" information such as human interest, nonprofit issues and events, etc. to the residents of the entire state. The island of Oahu is well represented in the media. On the other hand, the content on these television stations about the neighbor islands centers around tragedy and crime. Even the local sports shows viewed are almost exclusively about the OIA and the ILH. Occasionally, a neighbor island team is highlighted at a state tournament but it is not the norm. The stations cite the cost of travel as the culprit and will be the first ones to admit that the coverage of neighbor island issues is minimal.

On the neighbor islands, local residents have the opportunity for a share in media coverage on PEG, the public, educational and government, access television stations. The issues and programming are localized in nature and created by the people that understand the content best with the PEG access centers training residents in video production, lending equipment, producing studio shows and a magazine news show, covering county council and boards and commissions meetings, providing an "electronic soap box" called "hot set" or "community commentary", helping nonprofits with PSAs and uncensored programming of pieces submitted by any Maui County resident.

AKAKU'S MISSION STATEMENT IS

"EMPOWERING THE COMMUNITY'S VOICE THROUGH ACCESS TO MEDIA".

Akaku: Maui Community Television, the "Voice of Maui County" is well-known and vitally utilized by the residents of Maui County and it is reflected in the following ways:

- 984 Maui County residents were served in the training of video production, producer gatherings and media salons and they submitted 550 hours of programming from Akaku newly trained producers and 18,820 hours of programming locally produced independent programming.

- There were over 800 hours of local residents “hot set” open mic segments on our Monday-Friday venue. There was 3,223 hours of local Bulletin Board information from the local nonprofit community informing the public about local events that nonprofits sponsor in the community.
- Akaku was honored with 1,883 volunteer hours for events from 61 volunteers, 540 student intern volunteer hours and 8 student interns from Horizon’s Academy, Kamehameha School, King Kekaulike High School, Maui Community College and Maui High School.
- The Akaku studio was used for series and live shows by 658 people in fy09 for a total of 2,585 original live viewing hours. This number does not include the series shows, hot sets, nonprofit PSAs or the Maui Daily magazine news show.
- 152,488 hours of camera/accessories time was provided to community producers on Maui and 4,368 hours of editing bay time for post-production were logged (not including the 54 classes that were conducted in the media lab and studio).
- Akaku covered 11 County Board & Commissions meetings and 194 County Council meetings for a total of 5,134 locally produced hours of new programming. All Akaku segments have the capability of being viewed at a time convenient to local residents through Akaku’s website “Video On Demand” feature. And this feature is utilized regularly and strategically by the public.
- Akaku also streams Channel 54 on the website and would stream all three channels regularly if broadband technology on Maui made this possible. Many residents in Maui County cannot even receive cable access and this would allow them to watch the channels and see information relevant to their community through the internet.
- Akaku has developed strong relationships with the nonprofit community and develop three minute PSAs regularly (2-3 a week) and also cover local events in rural areas such as Lanai High & Elementary Career Day, Moloka’i Sustainability Program and Makahiki Events, the East Maui Taro Festival in Hana, the Haiku Ho’olaulea Flower Festival, Whale Day and the County Fair. These events allow local residents a chance to “shout-out” their viewpoints about local issues and see themselves in their own communities. It also allows Akaku to mentor new video producers in the field.
- A highlight of the Akaku educational program was realized last December when Akaku Certified Producer, Destin Daniel Cretton, returned as the Media Salon presenter with a screening and discussion of his Sundance Award winning film, “Short Term 12” also nominated for an Oscar for film “shorts” to give back to the community by telling the story of his success in the film industry.
- The Maui Daily Magazine News Show airs a new show weekly and highlights Maui County issues and events. Shows are produced and hosted by both Akaku Board of Directors, Staff and Community Nonprofit Directors. This show allows the folks in the county that will never pick up a camera the right to use the station in the form of “electronic soapbox” time providing fair and equal access to media for everyone.

This bill is intended to, among other things, exempt Maui County’s Akaku Community Television, as well as, the community-based public access television providers serving Oahu (Olelo Community Television) and the other neighbor islands (Na Leo O Hawaii and Hoike Kauai Community Television) from the state procurement process. Akaku has been serving Maui County since 1992.

During this period, these valued community assets have generated an enormous amount of social capital, which has been sustained through many years of community-building, untold hours of volunteerism, and effective social networking developed through innovative and effective collaborative efforts with other nonprofits, as well as, institutional and non-institutional educational, government and social organizations as you can clearly see from the list above.

The social capital developed over the years cannot be arbitrarily valued for the sake of conducting a competitive bid process, as the state would do for a fleet of cars. The law provides for exemptions from the procurement process in which such a process would be either “not practicable” or “advantageous to the state”. The State Procurement Office has exempted dog food from the procurement code; why not the public access resources?

WE NEED YOUR HELP TO PROTECT THESE RIGHTS.

Please approve SB707, and provide Akaku and the other public access organizations with a sense of certainty they have earned from decades of dedicated community service. This procurement process has been dragging on since 2005 and has caused "certain harm" to the stability of the organizations. With stable funding, these organizations will thrive and serve the community. On the neighbor islands, there is no credible proof that there is another organization that could "step in" and provide this service to the community. Recently when the County of Maui solicited an RFP for video production of Boards and Commissions meetings, only two other bidders submitted a bid and neither had the experience or expertise that it would require to operate a public access television station.

In previous RFPs issued by the DCCA for the PEG agreements that were protested by both Olelo and Akaku, some of the suggested terms of agreement were to make a monthly allotment of payments, a one year term of agreement or a three year term of agreement. If the goal of public access is to become "more sustainable", then all of these terms would hinder the progress. The original PEG Plan had additional support for the PEGs.

In January of 2004, the DCCA created a plan mandating the PEGs to become more "sustainable". Not only did the DCCA not follow through on the parts of the plan that would really help the neighbor island PEGs but they seemed to disable several income streams with poorly thought out RFPs and directives. The following points have made it difficult for our organizations to create additional revenue streams.

- This plan also included more financial support for rural communities from additional franchise fee revenue for the PEGs. It is especially important for Maui County with the consideration that we have four very remote, rural communities on three islands. The DCCA ignored its own plan and no additional funding was ever generated. Reallocated funds in the amount of \$500,000.00 a year was to be given to the PEGs from monies appropriated to support the INET which was deployed already and unlikely to be needed in the future. What happened to this plan and this money? This is documented on the DCCA website.
- Akaku proceeded to buy a building to comply with this mandated plan as an investment in the future and to bank the former rent as earned equity in mortgage payments. The only acknowledgement of this by the DCCA was the threat that if Akaku was put up for procurement, from their point of view this building would revert back to the state.
- Akaku also invested franchise fees wisely all year and developed an income stream in interest/dividends. The DCCA then decided to issue only six month contracts with Time Warner putting these monies in a 1% interest bearing account from which they took yet another administrative fee and severely reduced this income stream.
- With only a six month agreement in place and the future of PEGs uncertain, significant grant funding is unlikely but Akaku managed to secure some grant funding anyway.
- In the fall of 2008, in a unanimous vote, the Maui County Council voted down a Honolulu based resolution for the "government" monies for public access to go to the county and not to Akaku. Our Maui Council Members support the work of Akaku and believe the organization should continue to receive these monies directly and feel more comfortable with this coverage being an "arms-length" from government. Even though studies say it is a bad idea to "Split the Baby", the threats continue to shut down the entities.

Here is a passage from the 2004 PEG Plan from the DCCA website.

PEG Plan (from the DCCA website for your review)

Due in any event, it is clear that there are a number of areas which are underserved by the current system. These include islands such as Molokai and Lanai, rural areas on the neighbor islands such as Hana, and portions of Oahu such as the windward side. It is also clear that some of the recent successes in PEG access have occurred when PEG access services are brought into communities where there is a strong need and support for them, such as Waianae and Palolo on Oahu.

In order to support additional funding for these services without increasing the amounts assessed to cable subscribers, DCCA will reallocate funds that are currently being collected to support its administration of cable regulation in Hawaii. In the past, up to \$500,000/yr. of those funds have been appropriated to support the INET. Since the INET is largely deployed, expenditures at that level are unlikely to be needed in the future. Accordingly, DCCA will seek to reallocate a portion of the amount currently collected to support cable administration, and make these additional funds available for PEG purposes as described in the process below. The result will be an increase in funds available for PEG purposes, without an increase in cable subscribers' overall bills.

DCCA's Funding Plan: Additional funding to support cable access in underserved areas

DCCA will implement a three (3) year pilot program that will provide additional funding to meet the cable access needs of currently underserved areas. Such funding could be used to support additional access centers or for other programs which will enhance services in those areas.

Criteria for the program will be developed by DCCA in consultation with the cable advisory committee. It is anticipated that the cable advisory committee will also assist in reviewing applications and making funding recommendations to the Director of DCCA. Additional funding will be available to only the four (4) PEG access organizations.

This funding would have helped tremendously to serve the four remote areas of a three island County but was never followed. Akaku has a satellite office on Moloka'i and continues to serve Hana, Lanai and the West Side despite the limited funding.

Since 2006 which is when I began at Akaku, we have successfully passed independent audits every year, workers compensation audits, inventory audits, IRS audits and DCCA oversight with a comprehensive report submitted yearly to the DCCA without question. I urge you folks to really take the time to review our history. It is and has been available.

Please pass SB707 and provide the people with the opportunity for these community-based organizations to continue, expand and build upon their only missions....to serve their communities by providing hyper-local media opportunities, which allow the venue or "soapbox" for people to exercise their first amendment rights and have their voices heard as the concept of democracy intended.

Thank you for the opportunity to submit testimony.

Mahalo Nui Loa,

Linda R. Puppolo

Administrative Services Director

Akaku: Maui Community Television

linda@akaku.org

808-873-3436

cell: 808-870-1503

From: Nathan Perreira [perreira@clearwire.net]
Sent: Monday, March 08, 2010 12:10 PM
To: EBMtestimony
Subject: IN SUPPORT of SB707

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is Nathan Perreira and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

Unlike all other forms of television, these fully democratic sole source media have built years of social capital on each island to empower local communities to program these channels on a first-come, non-discriminatory basis. No other form of television has these public benefit characteristics. An RFP process every three years will destroy this built social capital restrict business, damage community communication, contradict the DCCA's own plan for PEG access sustainability, stifle innovation, subvert long term planning and investment capability, and frustrate desperately needed new media education.

The already failed RFP process is unaccountable to the public or to the legislature, lacks meaningful oversight, contains no clearly defined evaluation process and singles out only the franchise fee contribution to the PEG Access as subject to procurement. No other benefit from the cable operator is required to go through competitive bidding.

In addition, DCCA reports, the Legislative Reference Bureau and the State Auditor have all recommended a very public, collaborative approach to access regulation - the opposite of procurement. In 2008, an identical bill to SB707 (SB1789) was voted unanimously through every legislative committee but never made it out of House Finance. A HCR358 legislative task force was set up to study the issue and in it's final report to the legislature created comprehensive draft rules for PEG Access designation as an alternative to procurement. A solution to the entire Access designation issue is available in the report. For these reasons and many others, SB707 deserves to be passed out by this committee and considered by the legislature.

Thank you for the opportunity to submit testimony before you today

-
Nathan Perreira
30 Ami St. Haiku, Hi. 96708
Ph: 808-572-1234

From: Judy Starbuck [judystarbuck@yahoo.com]
Sent: Monday, March 08, 2010 8:13 AM
To: EBMtestimony
Subject: SB707

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair
Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is Judy Starbuck and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor. -

Unlike all other forms of television, these fully democratic sole source media have built years of social capital on each island to empower local communities to program these channels on a first-come, non-discriminatory basis. No other form of television has these public benefit characteristics. An RFP process every three years will destroy this built social capital, restrict business, damage community communication, contradict the DCCA's own plan for PEG access sustainability, stifle innovation, subvert long term planning and investment capability, and frustrate desperately needed new media education.

Judy Starbuck

From: steve [steve@scubaluvmaui.com]
Sent: Monday, March 08, 2010 8:17 AM
To: EBMtestimony
Subject: SB 707

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is Steve Madaras and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

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The already failed RFP process is unaccountable to the public or to the legislature, lacks meaningful oversight, contains no clearly defined evaluation process and singles out only the franchise fee contribution to the PEG Access as subject to procurement. No other benefit from the cable operator is required to go through competitive bidding.

In addition, DCCA reports, the Legislative Reference Bureau and the State Auditor have all recommended a very public, collaborative approach to access regulation - the opposite of procurement. In 2008, an identical bill to SB707 (SB1789) was voted unanimously through every legislative committee but never made it out of House Finance. A HCR358 legislative task force was set up to study the issue and in its final report to the legislature created comprehensive draft rules for PEG Access designation as an alternative to procurement. A solution to the entire Access designation issue is available in the report. For these reasons and many others, SB707 deserves to be passed out by this committee and considered by the legislature.

Thank you for the opportunity to submit testimony before you today

From: Ron Zimardi [rjimardi@yahoo.com]
Sent: Monday, March 08, 2010 8:33 AM
To: EBMtestimony
Subject: IN SUPPORT of SB 707

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair
Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is Ron Zimardi and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

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Thank you for the opportunity to submit testimony before you today

From: wayne young [waynemyoung@yahoo.com]
Sent: Monday, March 08, 2010 8:35 AM
To: EBMtestimony
Subject: COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair
Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is Wayne Young and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

Unlike all other forms of television, these fully democratic sole source media have built years of social capital on each island to empower local communities to program these channels on a first-come, non-discriminatory basis. No other form of television has these public benefit characteristics. An RFP process every three years will destroy this built social capital, restrict business, damage community communication, contradict the DCCA's own plan for PEG access sustainability, stifle innovation, subvert long term planning and investment capability, and frustrate desperately needed new media education.

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Thank you for the opportunity to submit testimony before you today

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 08, 2010 8:56 AM
To: EBMtestimony
Cc: lou@maui.net
Subject: Testimony for SB707 on 3/9/2010 8:00:00 AM

Testimony for EBM 3/9/2010 8:00:00 AM SB707

Conference room: 312
Testifier position: support
Testifier will be present: No
Submitted by: Louis Di Liberto
Organization: Individual
Address: 574 Papau Hikina Place Kihei, Hawaii
Phone: 808-874-8340
E-mail: lou@maui.net
Submitted on: 3/8/2010

Comments:

DCCA reports, the Legislative Reference Bureau and the State Auditor have all recommended a very public, collaborative approach to access regulation - the opposite of procurement. Please support this bill.

From: Andrew Mioduchowski [andrewx80@gmail.com]
Sent: Monday, March 08, 2010 9:09 AM
To: EBMtestimony
Subject: Testimony IN SUPPORT of SB707 – Relating to Cable Television

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair

Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Andrew Mioduchowski and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

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Thank you for the opportunity to submit testimony before you today

--

Thanks

Andrew Mioduchowski

CDS group LLC
2750 Kalapu Dr Apt 1
(808) 385-3711
(800) 238-2362 toll free

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 08, 2010 9:12 AM
To: EBMtestimony
Cc: sullivan@hawaiiantel.net
Subject: Testimony for SB707 on 3/9/2010 8:00:00 AM

Testimony for EBM 3/9/2010 8:00:00 AM SB707

Conference room: 312
Testifier position: support
Testifier will be present: No
Submitted by: Peter Sullivan
Organization: Individual
Address: 112 Ho'opalu Dr Pukalani, HI
Phone: 808-572-9698
E-mail: sullivan@hawaiiantel.net
Submitted on: 3/8/2010

Comments:

Public Access Television services and the organizations that supply them should not be determined by an RFP. Nor, for that matter should the DCCA, a state agency with no accountability to the public, be tasked with the oversight of those organizations. That responsibility would be better handled by a state regulatory agency that would be open and transparent in it's dealings, i.e. a Public Service Commission.
Thank you for your consideration.

From: Dr. Jeff, Sharyn, Kai Stone [dreamers@maui.net]
Sent: Monday, March 08, 2010 9:35 AM
To: EBMtestimony
Subject: AKAKU TELEVISION & SB 707

"Aloha" Angus - I'm sure you'll be inundated with these, but I wanted to add a personal note to ask for your assistance in protecting AKAKU. I know YOU, more than any other rep I know, will stand up for this one.

"Mahalo"
Sharyn Stone

PO Box 790117
Paia, HI 96779

808 573 0914

From: Kristin Hettermann [kristin@gracedelivers.com]
Sent: Monday, March 08, 2010 9:44 AM
To: EBMtestimony
Subject: Testimony IN SUPPORT of SB707

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony IN SUPPORT of SB707 - Relating to Cable Television

My name is Kristin Hettermann and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county.

PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

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Thank you for the opportunity to submit testimony before you today.

Kristin Hettermann
Grace Delivers
808.205.4767
kristin@gracedelivers.com

From: Evelyn Zayas [evelynz@gmail.com]
Sent: Monday, March 08, 2010 9:52 AM
To: EBMtestimony
Subject: IN SUPPORT of SB 707

My name is Evelyn Zayas and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

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Thank you for the opportunity to submit testimony before you today.

Evelyn Zayas
Director of Education Programs
TEACH Maui, Inc.
1215 S Kihei Rd, Suite O-904
Kihei, HI 96753
808.879.4605
808.879.4601 (fax)
info@teachmaui.org
www.teachmaui.org

From: Bonnie Newman [bonnie@hawaiiantel.net]
Sent: Monday, March 08, 2010 9:59 AM
To: EBMtestimony
Subject: Testimony re SB707

Tuesday, March 9, 2010, 8:00 a.m.

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is Bonnie Newman and I am a 24 year resident of Maui County.

AKAKU is an extremely Important part of our community; it does GREAT service for all of us.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

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Thank you for the opportunity to submit testimony before you today. I am available for further comment should you need it.

With Aloha - Bonnie Newman, 3500 Kehala Drive, Kihei - 283-0645

From: June Forrester [juniemay.1@gmail.com]
Sent: Monday, March 08, 2010 10:07 AM
To: EBMtestimony
Subject: Support for SB 707

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair
Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is _ (Mrs.) June Forrester_ and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

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Thank you for the opportunity to submit testimony before you today

June Forrester

From: Melissa Nelson [moku_ola@yahoo.com]
Sent: Monday, March 08, 2010 10:08 AM
To: EBMtestimony
Subject: personal statement regarding SB707

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair

Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Re: Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

Aloha Representative McKelvey,

My name is Melissa Nelson and I am a resident of Maui County and a local school teacher.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

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Mahalo for the opportunity to submit testimony before you today.

Respectively,

Melissa Nelson

From: Cyndi Davis [cyndidavis77@yahoo.com]
Sent: Monday, March 08, 2010 10:21 AM
To: EBMtestimony
Subject: In support of SB707

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony IN SUPPORT of SB707 - Relating to Cable Television

My name is Cyndi Davis and I am a resident of Maui County.

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Thank you for the opportunity to submit testimony before you today Mahalo Nui, Cyndi Davis

From: emilyrenesullivan@gmail.com on behalf of Emily Sullivan [emily@akaku.org]
Sent: Monday, March 08, 2010 10:27 AM
To: EBMtestimony
Subject: IN Support of SB707

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair
Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is Emily Sullivan and I am a resident of Maui County.

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Thank you for the opportunity to submit testimony before you today

--

Emily Sullivan
Director of Productions
Akaku Maui Community Television
333 Dairy Road Suite 104
Kahului, HI 96732
808-871-5554 office
808-873-3432 production
808-283-7961 cell
808-871-5510 fax
Emily@akaku.org
mauidaily@akaku.org

From: Blaise J. Noto [blaisenoto@gmail.com]
Sent: Monday, March 08, 2010 10:52 AM
To: EBMtestimony
Subject: TESTIMONY IN SUPPORT OF SB707 -- RELATING TO CABLE TELEVISION

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair
Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is BLAISE JOHN NOTO and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

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Thank you for the opportunity to submit testimony before you today.

Respectfully,

Blaise John Noto

Kihei, Maui, Hawaii

From: Richard Mealey [rmealey@hawaii.rr.com]
Sent: Monday, March 08, 2010 11:24 AM
To: EBMtestimony
Subject: Fw: Testimony needed for SB 707

Aloha, please submit testimony IN SUPPORT of SB 707 before 8 AM Tuesday Morning, March 9, 2009. You can cut and paste the sample testimony below and e-mail to EBMTestimony@capitol.hawaii.gov or go to this link <http://www.capitol.hawaii.gov/emailtestimony/> and fill in the form for SB707. This bill may go through two more committees in the next two weeks so please stay vigilant. Thank you for your help.

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair
Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is Richard Mealey and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

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Thank you for the opportunity to submit testimony before you today

This message was sent from Akaku to rmealey@hawaii.rr.com. It was sent from: AKAKU: Maui Community Television, 333 Dairy Road, Suite 104, Kahului, HI 96732. You can modify/update your subscription via the link below.

Email Marketing by
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 Manage your subscription  **FORWARD TO A FRIEND**

From: Steve Freid [stevefreid@yahoo.com]
Sent: Monday, March 08, 2010 12:45 PM
To: EBMtestimony
Subject: Community Access TV

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair
Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is Steven Freid and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

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Thank you for the opportunity to submit testimony before you today

With Aloha,

Steve Freid

From: Stephen Luksic [Tree@akaku.org]
Sent: Monday, March 08, 2010 12:47 PM
To: EBMtestimony
Subject: Fwd: Testimony IN Support of SB 707

Begin forwarded message:

From: Laki Kaahumanu <lkaahumanu@msn.com>
Date: March 8, 2010 9:47:05 AM HST
To: <info@akaku.org>
Subject: RE: Testimony needed for SB 707

Date: Mon, 8 Mar 2010 13:05:53 -0500
To: lkaahumanu@msn.com
From: info@akaku.org
Subject: Testimony IN Support SB 707

Aloha, please submit testimony IN SUPPORT of SB 707 before 8 AM Tuesday Morning, March 9, 2009. You can cut and paste the sample testimony below and e-mail to EBMTestimony@capitol.hawaii.gov or go to this link <http://www.capitol.hawaii.gov/emailtestimony/> and fill in the form for SB707. This bill may go through two more committees in the next two weeks so please stay vigilant. Thank you for your help.

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair

Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is Rev. Laki Pomaikai Kaahumanu, and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

Unlike all other forms of television, these fully democratic sole source media have built years of social capital on each island to empower local communities to program these channels on a first-come, non-discriminatory basis. No other form of television has these public-benefit characteristics. An RFP process every three years will destroy this built social capital, restrict business, damage community communication, contradict the DCCA's own plan for PEG access sustainability, stifle innovation, subvert long term planning and investment capability, and frustrate desperately needed new media education. The already failed RFP process is unaccountable to the public or to the legislature, lacks meaningful oversight, contains no clearly defined evaluation process and singles out only the franchise fee contribution to the PEG Access as subject to procurement No other benefit from the cable operator is required to go through competitive bidding.

In addition, DCCA reports, the Legislative Reference Bureau and the State Auditor have all recommended a very public, collaborative approach to access regulation - the opposite of procurement. In 2008, an identical bill to SB707 (SB1789) was voted unanimously through every legislative committee but never made it out of House Finance. A HCR358 legislative task force was set up to study the issue and in it's final report to the legislature created comprehensive draft rules for PEG Access designation as an alternative to procurement. A solution to the entire Access designation issue is available in the report For these reasons and many others, SB707 deserves to be passed out by this committee and considered by the legislature.

Thank you for the opportunity to submit testimony before you today

From: John Bartlome [sleepyjohnb@yahoo.com]
Sent: Monday, March 08, 2010 1:49 PM
To: EBMtestimony

Ladies and Gentlemen:

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television

My name is John Bartlome, a producer at Akaku and I am a resident of Maui County.

PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 08, 2010 1:04 PM
To: EBMtestimony
Cc: lightninglon101@yahoo.com
Subject: Testimony for SB707 on 3/9/2010 8:00:00 AM

Testimony for EBM 3/9/2010 8:00:00 AM SB707

Conference room: 312
Testifier position: support
Testifier will be present: No
Submitted by: Lon Briggs
Organization: A Vessel of Mercy
Address: 840 Lui Street Lahaina, HI
Phone: 808-667-7593
E-mail: lightninglon101@yahoo.com
Submitted on: 3/8/2010

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 08, 2010 1:39 PM
To: EBMtestimony
Cc: esnyder@hawaii.rr.com
Subject: Testimony for SB707 on 3/9/2010 8:00:00 AM

Testimony for EBM 3/9/2010 8:00:00 AM SB707

Conference room: 312
Testifier position: support
Testifier will be present: No
Submitted by: Earl F. Snyder
Organization: Individual
Address: 479 KOLOHALA Drive Kula, Hawaii
Phone: 808 214-6506
E-mail: esnyder@hawaii.rr.com
Submitted on: 3/8/2010

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 08, 2010 1:08 PM
To: EBMtestimony
Cc: thebassdragon@yahoo.com
Subject: Testimony for SB707 on 3/9/2010 8:00:00 AM

Testimony for EBM 3/9/2010 8:00:00 AM SB707

Conference room: 312
Testifier position: support
Testifier will be present: No
Submitted by: Shawn Loughran
Organization: Individual
Address:
Phone:
E-mail: thebassdragon@yahoo.com
Submitted on: 3/8/2010

Comments:

I am in support of SB707. Please end the threat to Public Access Television on Maui by eliminating the procurement process. Akaku has been an excellent resource for the community of Maui. I have heard that Akaku is out-doing all the other public television stations in the state with its fairness and equal access. They also function on a fraction of what the other centers get. It would be a shame to put it out to "bid" because the other access centers in the state of Hawaii may have issues.

Akaku on Maui most definitely needs to be exempt from Procurement and left alone to function as it does.

From: nancy sundberg [njsxpress@yahoo.com]
Sent: Monday, March 08, 2010 12:17 PM
To: EBMtestimony
Subject: testimony

My name is Nancy Jill Sundberg and I am a resident of Maui County. PEG Access is not a commodity and not a state asset. It is a local community asset paid for in full by cable subscribers in each county. PEG Access Providers in each county are independent not for profit 501(c)3 corporations funded by cable company "rent" for use of our public rights of way to fulfill the unique and fully local communications needs of each county. PEG Access was never intended by the Federal Government to be subjected to a competitive bidding process and nowhere else in the nation does this occur. Government intervened in the marketplace to create PEG access precisely because it provides a unique form of democratic access to the public airwaves that has no competitor. Unlike all other forms of television, these fully democratic sole source media have built years of social capital on each island to empower local communities to program these channels on a first-come, non-discriminatory basis. No other form of television has these public benefit characteristics. An RFP process every three years will destroy this built social capital, restrict business, damage community communication, contradict the DCCA's own plan for PEG access sustainability, stifle innovation, subvert long term planning and investment capability, and frustrate desperately needed new media education. The already failed RFP process is unaccountable to the public or to the legislature, lacks meaningful oversight, contains no clearly defined evaluation process and singles out only the franchise fee contribution to the PEG Access as subject to procurement. No other benefit from the cable operator is required to go through competitive bidding. In addition, DCCA reports, the Legislative Reference Bureau and the State Auditor have all recommended a very public, collaborative approach to access regulation - the opposite of procurement. In 2008, an identical bill to SB707 (SB1789) was voted unanimously through every legislative committee but never made it out of House Finance. A HCR358 legislative task force was set up to study the issue and in it's final report to the legislature created comprehensive draft rules for PEG Access designation as an alternative to procurement. A solution to the entire Access designation issue is available in the report. For these reasons and many others, SB707 deserves to be passed out by this committee and considered by the legislature.

Thank you for the opportunity to submit testimony before you today

From: Lee Altenberg [altenber@hawaii.edu]
Sent: Monday, March 08, 2010 1:42 PM
To: EBMtestimony
Cc: Lee Altenberg
Subject: In support of SB 707

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair Issac W. Choy, Vice Chair

Tuesday, March 9, 2010, 8:00 a.m.

Testimony IN SUPPORT of SB707 - Relating to Cable Television

My name is Dr. Lee Altenberg, resident of Maui County since 1994. I strongly support SB 707 relating to cable television.

The idea of subjecting PEG Access providers to competitive bidding is simply the wrong model for governance of local public access cable TV. It is like putting the functions of the legislature out for competitive bidding among different law-writing companies --- "First Hawaiian Senate, Inc.", "Senate of Hawaii, Inc.", "American Senate Group, Inc.". Obviously, we don't do that, because competitive bidding for services for pay is the wrong model for decision-making on the law. Competitive bidding on a community controlled cable channel is similarly wrong. SB 707 understands this and gives the proper model for how community access TV should be controlled.

Sincerely,

Lee Altenberg
2605 Liholo Place
Kihei, HI 96753

Lee Altenberg, Ph.D.

Phone: (808) 875-0745, Cell: (808) 344-1113, E-mail: altenber@hawaii.edu

Web: <http://dynamics.org/Altenberg/>