



**STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES**
P.O. BOX 119
HONOLULU, HAWAII 96810-0119

LATE TESTIMONY

TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
ECONOMIC REVITALIZATION, BUSINESS & MILITARY AFFAIRS
ON
March 9, 2010
S.B. 707, S.D. 1

RELATING TO CABLE TELEVISION SYSTEMS

Chair McKelvey and members of the Committee, thank you for the opportunity to testify on S.B. 707, S.D. 1.

The Department of Accounting and General Services (DAGS) defers to and supports the position of the Department of Commerce and Consumer Affairs (DCCA) on S.B. 707, S.D. 1, as they have the responsibility for contracting with the access organizations for PEG access channels.

In supporting the DCCA position on this bill, DAGS understands that DCCA has determined that procurement of the contracts with the access organizations for PEG access channels subject to the source selection methods in §103D, HRS is not practicable or advantageous to the State.

DAGS notes that this position is consistent with §103D-102(a) of the Hawai'i procurement code, which states that "This chapter shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings, any of which the State receives or is owed; in-kind benefits; or forbearance; provided that nothing in this chapter or rules adopted hereunder shall prevent any governmental body from complying with the terms and conditions of any other grant, gift, bequest, or cooperative agreement."

The code recognizes that there are exceptions, stating in §103D-102(b) that "Notwithstanding subsection (a), this chapter shall not apply to contracts by governmental bodies:" and proceeds to list contracts that are exempt. A contract "for goods or services which are available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State" is described in §103D-102(b) (4) (F):

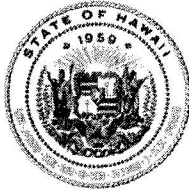
§103D-102(b) (4) (F) Utility services whose rates or prices are fixed by regulatory processes or agencies; A public utility is defined in §269-1, HRS:

"Includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the State, or between points within the State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage..."

The designation and oversight by the DCCA of the access organizations for PEG access channels that this bill proposes would seem to qualify the contracts that the DCCA would execute with the access organizations for PEG access channels for this exemption under §103D-102(b) (4) (F).

DAGS notes that this bill, if enacted into law, will require that the DCCA execute contracts with an access organization for PEG access channels for each of the franchise areas. No organization is automatically designated. The DCCA is also required to ensure that the terms and conditions of the contract, including fairness to the public, are met by each contracted access organization for PEG access channels.

Thank you for the opportunity to testify on this matter.



LATE TESTIMONY

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 HOUSE COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS & MILITARY AFFAIRS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

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

WRITTEN TESTIMONY ONLY

TESTIMONY ON S.B. NO. 707, S.D. 1 – RELATING TO CABLE TELEVISION SYSTEMS.

TO THE HONORABLE ANGUS MCKELVEY, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Lawrence M. Reifurth, Director of Commerce and Consumer Affairs (“Department”). The Department supports the exemption of public, educational, and governmental (“PEG”) access services contracts from the State Procurement Code (“Code”) in Hawaii Revised Statutes (“HRS”) chapter 103D.

This bill allows the Department to designate PEG access organizations to oversee the development, operation, supervision, management, production and broadcasting of programming of PEG access facilities channels; provided that, among other things, the designation shall be exempt from the Code.

The Department is committed to the provision of PEG access services in the State and the sound management and operation of PEG access facilities, and supports the cablecasting of community programs. While the Department’s actions (historically renewing the contracts directly and requesting an exemption from SPO) have recognized the unique nature of PEG access services, our primary interest at the current time is to comply with the law and ensure that access services provided meet the needs of the public in general. The State Procurement Office (“SPO”) is the agency

charged with interpreting the procurement law, and the Department will follow SPO's guidance on its application to the PEG access services contracts.

The Department suggests that the amendments concerning the cable advisory committee ("CAC") be revised and that the language of subsection (b) on pages 2 to 3, lines 20-21 and 1-2, respectively, and page 3, lines 14 to 17 be deleted. Instead, new language can be inserted to read that: "the director may seek the advice of the cable advisory committee when designating an access organization." As currently drafted, subsection (b) in S.D. 1 is overly broad, and may be subject to possible misinterpretation, such that almost any decision by the Department concerning PEG access organizations would have to go before the CAC. This would ultimately delay and impede upon the Department's ability to effectively oversee the PEG access organizations.

In addition, the Department suggests that section 2 of the bill, which authorizes the CAC to provide advice to PEG access organizations, be deleted. In order to avoid any potential misunderstanding that PEG access organizations are State agencies, the Department recommends that the proposed amendments in section 2 of the bill, relating to HRS section 440G-13, be deleted and HRS section 440G-13 remain as is.

If the Department's suggested amendments are amenable to the Committee, we will be happy to work with the Chairperson to provide appropriate language.

Thank you for the opportunity to provide testimony on this measure.

LATE TESTIMONY

TIA FERGUSON

2005 Main Street, Wailuku, HI, 96793

March 8, 2010

Hearing on SB707
Rep. Angus L.K. McKelvey, Chair
Committee on Economic Revitalization, Business, and Military Affairs
State Capitol, Room 312
Honolulu, HI

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

Aloha Chair McKelvey and members of the committee:

I am writing to share my support of Senate Bill 707 relating to cable television.

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.

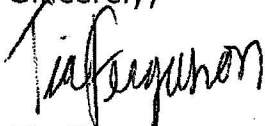
Unlike all other forms of television, these fully democratic sole source media have built years of social capital on each island to empower local communities to program these channels on a first-come, non-discriminatory basis. No other form of television has these public benefit characteristics. An RFP 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.

Sincerely,

A handwritten signature in black ink that reads "Tia Ferguson". The signature is written in a cursive, flowing style.

Tia Ferguson

From: EBMtestimony
Subject: FW: In support of SB707

LATE TESTIMONY

From: Cynthia Koziolas [mailto:cynonmaui@hawaii.rr.com]
Sent: Monday, March 08, 2010 5:27 PM
To: EBMtestimony
Cc: Jani; Ave Diaz
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 Cynthia Koziolas and I am a resident of Maui County.

EG 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.

From: EBMtestimony
Subject: FW: public television, freedom to the public

LATE TESTIMONY

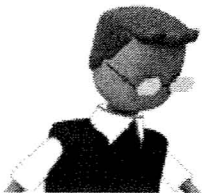
From: Sarada Macauley [mailto:mauishows@yahoo.com]
Sent: Monday, March 08, 2010 4:48 PM
To: EBMtestimony
Subject: public television, freedom to the public

Testimony **IN SUPPORT** of SB707 – Relating to Cable Television
My name is Sarada Macauley 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.



LATE TESTIMONY

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**

Aloha Chair McKelvey, Vice Chair Choy and members of the committee,

As a Maui county council Candidate, I personally received great benefit from Akaku community television. I have taken their classes on television production, produced my own programs and then aired them on Akaku. Other bills talk about campaign reform, of the need to make the ability to run for office open to new candidates who aren't wealthy. Akaku is already contributing to campaign finance reform. Their classes cost almost nothing. Use of their professional quality equipment, editing lab and air-time do cost nothing. Maui, especially because the County council members are elected by at large voting, and it isn't possible to meet all of the constituents personally, needs to have media available for new candidates, with new ideas to even have a chance.

Additionally, we all talk about creating a transparent legislature. Olelo aires many State hearings for public benefit, as does Akaku air County Council meetings. PEGs are essential for maintaining transparency. Very few people can take the time (and find parking) to give testimony in Honolulu. Only with stations such as Olelo and Akaku can Hawaii people truly have access to the legislative process.

Please support SB707 to protect PEG access.

Thank you for hearing my testimony.

Netra Halperin
Kihei, Maui, Hawaii

From: EBMtestimony
Subject: FW: Testimony for SB707 on 3/9/2010 8:00:00 AM

LATE TESTIMONY

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Monday, March 08, 2010 3:13 PM
To: EBMtestimony
Cc: tess@vacation-maui.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: Teresa Cartwright
Organization: Individual
Address: 235 South Church Street Wailuku Hawaii
Phone: 808-298-3031
E-mail: tess@vacation-maui.com
Submitted on: 3/8/2010

Comments:

I support Maui Community Television as a local asset independent that should not be subjected to a competitive bidding process. The people of Maui County should continue to have free access to the public airwaves.

Thank you for the opportunity to submit my opinions.

From: EBMtestimony
Subject: FW: Testimony IN SUPPORT of SB707 – Relating to Cable Television

LATE TESTIMONY

From: Nicole McMullen [mailto:nicolemcmullen1@hotmail.com]
Sent: Monday, March 08, 2010 3:16 PM
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 Nicole McMullen 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,
Nicole McMullen

Hotmail: Free, trusted and rich email service. [Get it now.](#)

From: EBMtestimony
Subject: FW: COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

LATE TESTIMONY

-----Original Message-----

From: James Mylenek Sr [mailto:james@aloha.com]
Sent: Monday, March 08, 2010 3:24 PM
To: EBMtestimony
Subject: 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 James Mylenek Sr. 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: EBMtestimony
Subject: FW: The Survival of our Community Resource, AKAKU, Maui

LATE TESTIMONY

From: Owen Howson [mailto:Owen@AlohaOnMaui.com]
Sent: Monday, March 08, 2010 2:35 PM
To: EBMtestimony
Subject: The Survival of our Community Resource, AKAKU, Maui

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 Owen Howson 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 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.

Owen Howson, P.O. Box 1493, Kihei, HI 96753.

808-283-4461

From: EBMtestimony
Subject: FW: In Support of SB707

LATE TESTIMONY

From: Tess Cartwright [mailto:tess@mewe-creations.com]
Sent: Monday, March 08, 2010 3:06 PM
To: EBMtestimony
Subject: In Support of SB707

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 Teresa Cartwright. As you may know, my husband Robert Cartwright have been residents of Maui County for over 25 years.

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

Teresa Cartwright
aka Tess Cartwright - Principal Broker
Whalers Realty Management Co. Inc.
Cell Phone: 808-298-3031
website: vacation-maui.com
and mewe-creations.com

From: EBMtestimony
Subject: FW: support SB707

LATE TESTIMONY

From: rob hilbun [mailto:robhilbun@gmail.com]
Sent: Monday, March 08, 2010 3:39 PM
To: EBMtestimony
Subject: support 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 Rob Hilbun 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 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: EBMtestimony
Subject: FW: IN SUPPORT of SB 707

LATE TESTIMONY

From: Marcia Godinez [mailto:marciagodinez@mac.com]
Sent: Monday, March 08, 2010 3:55 PM
To: EBMtestimony
Subject: IN SUPPORT of SB 707

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 Marcia Godinez and I am a resident of Maui County. I am also a former member of the Akaku: Maui Community Television Finance Committee.

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.

Sincerely,

Marcia Godinez
146 Kono Place
Kahului, HI 96732

From: EBMtestimony
Subject: FW: Testimony for SB707 on 3/9/2010 8:00:00 AM

LATE TESTIMONY

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Monday, March 08, 2010 5:01 PM
To: EBMtestimony
Cc: tinalia@tinalia.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: Tina Lia
Organization: Akaku: Maui Community Television
Address: P.O. Box 1364 Kihei, HI
Phone: 808-879-1651
E-mail: tinalia@tinalia.com
Submitted on: 3/8/2010

Comments:

Testimony IN SUPPORT of SB707 - Relating to Cable Television

My name is Tina Lia. I am a resident of Maui County and a Producer Representative on the Board of Directors for Akaku: Maui Community Television.

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: EBMtestimony
Subject: FW: Testimony needed for SB 707

LATE TESTIMONY

From: Donald Brown [mailto:corporatecrimeofthecentury@yahoo.com]
Sent: Monday, March 08, 2010 6:30 PM
To: EBMtestimony
Cc: dk dk; Pete Sullivan
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 **Donald M Brown** 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

Donald M Brown

ps. I am sick of governmental interference in freespeech zones from the very people charged with protecting freespeech. Please re-organize your priorities to allegiance to citizenry not corporations, whom regardless, are NOT people.

This message was sent from Akaku to corporatecrimeofthecentury@yahoo.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
iContact
try it free

From: EBMtestimony
Subject: FW: Testimony IN SUPPORT of SB707 – Relating to Cable Television

LATE TESTIMONY

From: Thibbledorf Pwent [mailto:tdpwent@yahoo.com]
Sent: Monday, March 08, 2010 6:56 PM
To: EBMtestimony
Subject: Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is David Lange 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.

David Lange
141 Leoleo st
Lahaina, HI 96761
808-205-1532
tdpwent@yahoo.com

From: EBMtestimony
Subject: FW: testimony

LATE TESTIMONY

From: saint marko [mailto:saintmarkooo@gmail.com]
Sent: Monday, March 08, 2010 7:15 PM
To: EBMtestimony
Subject: testimony

My name is Rev. Marko Barron 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 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: EBMtestimony
Subject: FW: Testimony for SB707 on 3/9/2010 8:00:00 AM

LATE TESTIMONY

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Monday, March 08, 2010 8:48 PM
To: EBMtestimony
Cc: yo77art@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: Yoellah Yuhudah
Organization: Individual
Address: 80 A. Maluhia Street Wailuku, Hawaii
Phone: 808 693-5472
E-mail: yo77art@yahoo.com
Submitted on: 3/8/2010

Comments:
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 Yoellah Yuhudah_____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 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: EBMtestimony
Subject: FW: Testimony for SB707 on 3/9/2010 8:00:00 AM

LATE TESTIMONY

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Monday, March 08, 2010 10:36 PM
To: EBMtestimony
Cc: mmb246@clearwire.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: Mitchell Berman
Organization: Individual
Address: 10825 Kula Hwy Kula, HI 96790
Phone: 808-878-3414
E-mail: mmb246@clearwire.net
Submitted on: 3/8/2010

Comments:

Mitchell Berman
10825 Kula Hwy
Kula, HI 96790
Phone: 808-878-3414

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Representative Angus L.K. McKelvey, Chair
Representative Issac W. Choy, Vice Chair
Tuesday, March 9, 2010, 8:00 a.m.

Testimony IN SUPPORT of SB707 - Relating to Cable Television

Thank you for the opportunity to testify. My name is Mitchell Berman 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 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

LATE TESTIMONY

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Julie Bunce, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

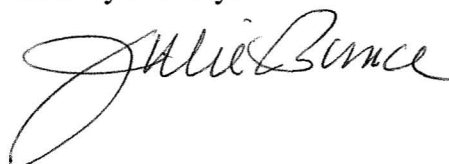
During this period, these valued community assets have generated an enormous amount of social capital, which has been sustained through many years of community-building, untold hours of volunteerism, and effective social networking developed through innovative and effective collaborative efforts with other non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.



COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Brenda Kuaiaea, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.

Brenda Kuaiaea

LATE TESTIMONY

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is THOMAS S. TALBOT, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.



900 HAIKU RD. HAIKU, HI

916708

LATE TESTIMONY

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Jolie Strickland, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.



LATE TESTIMONY

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Amanda Wilson, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.

LATE TESTIMONY

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Albert J. Sikivdy, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.



LATE TESTIMONY

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Susan Pridemore, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.



LATE TESTIMONY

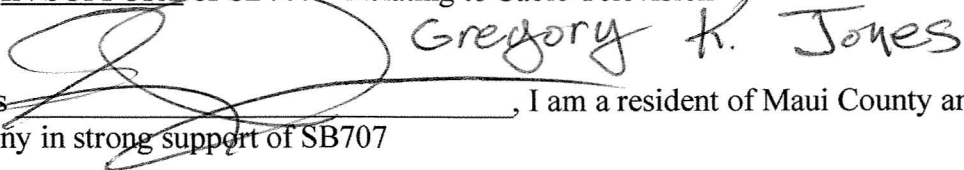
COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

Testimony IN SUPPORT of SB707 – Relating to Cable Television


My name is Gregory K. Jones, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.

LATE TESTIMONY

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Vani Koperwas, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.

V. Koperwas 1633 W. Koiaka Rd, Haiku, HI

LATE TESTIMONY

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is JUSTIN BOSWELL, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.



From: EBMtestimony
Subject: FW: Testimony IN SUPPORT of SB70

LATE TESTIMONY

From: Susan Werner [mailto:werners002@hawaii.rr.com]
Sent: Tuesday, March 09, 2010 6:46 AM
To: EBMtestimony
Subject: Testimony IN SUPPORT of SB70

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. My name is Susan Werner, and I am a consumer, parent, librarian, and an advocate for free speech. I support SB707 but won't be able to attend your hearing.

I support this bill because it ensures that the terms and conditions required of the operation of an access organization designated are fair to the public, taking into account the geographic, topographic, and economic characteristics of the service area and the economics of providing cable access in the service area. It also ensures that the access organizations would be exempt from the State procurement process.

This is important because we can't have our public access airwaves auctioned off to the highest bidder.

Free speech is not a business, it's a constitutionally protected right of every citizen. The means by which we are able to exercise our right via the airwaves must be a community driven enterprise available to all. It should be protected by the government but not run by it.

Therefore, I ask you to support SB707 and allow non-profit public access organizations to continue to provide these important services to their communities.

Thank you.

Susan Werner
2923 E Lelehuna Place
Haiku HI 96708

LATE TESTIMONY

From: EBMtestimony
Subject: FW: sb707

LATE TESTIMONY

From: levi garcia [mailto:srh501@hotmail.com]
Sent: Tuesday, March 09, 2010 7:08 AM
To: EBMtestimony
Subject: sb707

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, Ch
Issac W. Choy, Vice Chair

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

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

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: EBMtestimony
Subject: FW: Testimony for SB707 on 3/9/2010 8:00:00 AM

LATE TESTIMONY

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Tuesday, March 09, 2010 7:56 AM
To: EBMtestimony
Cc: swelck@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: susan welck
Organization: Individual
Address: 325 kaupea st. makawao
Phone: 808-572-8204
E-mail: swelck@yahoo.com
Submitted on: 3/9/2010

Comments:

LATE TESTIMONY

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Angus L.K. McKelvey, Chair

Isaac W. Choy, Vice Chair

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

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

Aloha Chair McKelvey, Vice Chair Choy and members.

My name is DeGray Vanderbilt. I am a 30-year resident of Molokai and recently stepped down as Chairman of the Molokai Planning Commission. I have served, and continue to serve, on several county and state commissions, which deal with rural planning and water issues. On January 15 of this year, I was elected to the Akaku Community TV Board of Directors for a second time, this time as the Government's designated representative. I was nominated for the Board position by Danny Mateo, Chair of the Molokai Planning Commission.

I was recently asked by a fellow Akaku Board member, why I would want to be on the Akaku Board for a second term. I said my years on Molokai had a lot to do with it. I have seen how rural people tend to share, help each other out in tough times and are reluctant to compromise their community and lifestyle values for short-term gain.

During this time, I have seen what an invaluable, trusted community asset Akaku's Molokai Media Center has become for our small, rural island community.....just as the Olelo Community Television's seven community media centers on Oahu have become treasured assets for the many, many residents living in the areas of Kahuku/Northshore, Mapunapuna, Pololo/Kamuki, Wahiwa, Waianae, Waipahu and Oahu's Windward area where the community media center operates out of King Intermediate School.

Akaku Molokai and the other community media centers throughout the state did not evolve like into valued community assets overnight. Each of these dedicated non-profit community-based operations has earned a special place in the hearts of their respective communities through genuine and open involvement with residents over a 20-year period.

Two years ago, Sharlette L. K. Poe Jr., a native Hawaiian and resident of Waianae, put this into perspective through testimony she presented before Senator Kokubun's Committee on Commerce and Consumer Affairs and Affordable Housing Committee during the 2008 legislative session.

She was referencing Olelo and the importance of Olelo's Waianae Community Media Center. She spoke about how Olelo's dedicated community-building efforts over the years has brought about changes and a sense of hope to kupuna, families and especially the youth who realize they have options and have come to see ***"how their voices make a difference especially when called out in harmony with others around them"***

Sharlette went on to say that these changes in attitude ***"do not come about because an organization or individual was mandated or ordered to do it"*** as through a competitive bid process.... ***"changes like these," she said, "come about because people see the need and are moved by love and compassion to make a difference in the lives of those around them."***

/

“This cannot be written into any RFP, or put out for bid...who can guarantee that the successes that the best bid would be the best for the people, who a PEG access provider is supposed to serve.”

Sharlette’s point of view mirrors the following point raised by DCCA in the application it filed with the State Procurement Office requesting an exemption for the community access stations statewide from the RFP or competitive bidding process: ***“Over time, each PEG access facility has developed its own set of procedures policies and practices. They have done so in light of unique circumstances that exist in each of the counties and communities within those counties. The procurement process is intended to ensure government neutrality, but leaves open the possibility that successful bidders may themselves have bias”.***

Simply put,” DCCA concluded, ***“there is a distinct possibility that a winning bidder would not be as neutral as the existing public access providers. For example, it could have a particular ideological point of view, or have institutional priorities that cause it to tilt in favor of certain types of speech.”***

For those reasons, among others, DCCA advised the State Procurement Office that the department, ***“has concluded that the costs and risks of issuing an RFP would be neither practicable nor advantageous to the state, and we respectfully request an exemption from the procurement code.”***

Under the law (HRS Chapter 103D) exemptions from the procurement code for services, such as those the public access organizations provide communities statewide, maybe granted if, ***“procurement by competitive means is either not practicable or not advantageous to the state.”***

So in essence, DCCA reached the same conclusion that Waianae’s Sharlette Poe did, that under the law an exemption from the procurement code is very much warranted.

DCCA petition for exemption came directly on the heels of a massive public hearings were held on Oahu, Hawaii, Kauai, Maui and Molokai.

The purpose of these hearings was two-fold: 1) DCCA wanted to determine how communities perceived the services they were receiving from their public access providers (Na Leo on the Big island, Hoike on Kauai, Olelo on Oahu and Akaku on Maui and Molokai), and 2) DCCA was seeking input on the possibility of using the competitive bid process under the state procurement code as a means of determining who would provide future access services to various communities statewide

Hundreds of people attended those public hearings and provided both oral and written testimonies. The testimonies were passionate and emotional. There were over 1,200 pages of written testimony, and well over 100 oral testimonies provided. The written testimonies are currently on the DCCA website and DCCA has DVD’s of all the meetings, which DCCA says can be made available upon request.

The bottom line is that over 95% of the testimonies were a) strongly supportive of the access services being provided by Na Leo, Hoike, Olelo and Akaku, and b) opposed to subjecting the access service contracts to competitive bidding under the procurement code.

In 2008, several of you heard testimonies concerning SB 1789. That bill contained the exact same wording as SB 707, which is before you today. Senate Bill 1789 almost passed in the 2008 legislative session. For whatever reason, the bill was held up from a final floor vote near the end of the session

2

despite being unanimously approved by the two Senate Committees and the House Finance Committee that heard the bill. The full status report for SB1789 is attached as pages 6 and 7.

In his Committee's report on Senate Bill 1789, Senator Kokubun wrote:

“Your Committee finds that while an open bid process promotes the public interest generally, in this instance of selecting a PEG organization, open competition would be detrimental to the public. Much of the quality of the PEG depends upon the perception and sensitivity of the provider to the needs and wants of the community. The unqualified intangibles of social impact would be negated in an open competition bid, resulting in rural districts being adversely affected.”

During that same 2008 same session, House Concurrent Resolution 358 passed. The intent of the resolution was to have DCCA establish a Task Force to solicit public input and examine methods other than the state procurement code to oversee the community-based public access stations (PEGs) statewide.

The Task Force put in a lot of effort statewide during 2008, and just prior to the 2009 legislative session sent a final Task Force Report to Senate President Hanabusa and House Speaker Say.

In their report, the Task Force members, which included representatives from education, the public, the four county governments, as well as, the PEGs, not only recommended that procurement is not appropriate for regulating PEG services, but also, came up with a set of rules for DCCA to adopt for the purposes of overseeing the PEG operations and holding the PEGs accountable to performance standards. Clyde Sonobe, Administrator for DCCA's Cable Television Division was a member of the Task Force.

So why are we here today seeking an exemption from the procurement code through legislation? One reason is because the legislature has the authority to legislate such an exemption. A second reason is that the state procurement board was unable to get enough votes together to even made a declaratory ruling on whether or not to grant such an exemption.

A few weeks ago on January 21, the State Procurement Policy Board met for to address a petition filed by Olelo. The petition asked the Board to make a declaratory ruling on exempting Olelo public service contracts from the procurement code.

After a three hour hearing, the Board could not muster the necessary four (4) votes needed to even agree to issue a formal declaratory ruling. Two members were against granting an exemption, two members supported an exemption being granted and one member abstained. The two members opposed to an exemption presented what appeared to be vague arguments in support of their positions.

The two members in favor of the exemptions were Russ Saito, Comptroller for the State of Hawaii and Darrly Bardusch, Vice Chair of the Procurement Board,, who is an attorney with 20 years experience in providing legal guidance to contracting officers purchasing supplies and service for the Army here in Hawaii. The arguments they presented in support of their positions, were more expansive and focused on the evidence presented at the hearing.

The State Procurement Board hearing was transcribed by a court reporter and the transcript has been recently posted on the State Procurement Office website.

The following are some the many comments Russ Saito and Darryl Bardusch made at the January 21 procurement board hearing in support of granting the petition”

DARRYL BARDUSCH ON PREVIOUS EXEMPTIONS APPROVED: “People have come in and put forth really flimsy excuses that convince the procurement board to issue exemptions saying that it was impracticable to compete dog food through the procurement process, that it was impracticable to compete the purchase of fresh meat and it was not practicable or advantageous to the state to compete the purchase of library books and we bought into those arguments and granted exemptions.

So I would argue that if the procurement board was willing to give exemptions for those rather unsupported arguments, and now we have Olelo coming through and presenting argument after argument as to why an exemption is warranted, I just don’t think its right for us not to grant Olelo the exemption.”

RUSS SAITO’S CONCLUSIONS AFTER REVIEWING THE OLELO PETITION:

“I have read the Olelo petition which described all those things that in their minds made the procurement process impracticable and not advantageous to the state, and having read it through I am convinced that it is not practicable and not advantageous to the state to apply the procurement process to PEG services. There is not a single item that leads me to that conclusion, it’s the total of all the arguments presented in the petition.”

Both Darryl Bardusch and Russ Saito have equally impressive credentials and experience to be in positions to fairly determine whether an exemption from the procurement process is warranted or not.

Russ Saito is comptroller of our state. He serves as the Director of the state’s Department of Accounting and General Services, which is the umbrella organization overseeing the State Procurement Office.

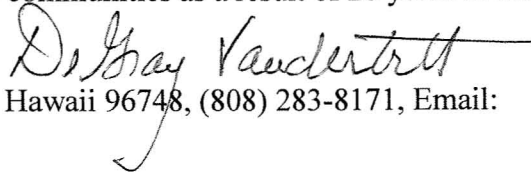
Last legislative session, there was a broadband bill being heard by the Senate, which included some language about the public access organizations. In his support testimony for the broadband bill, DCCA’s current Director Larry Reifurth put forth the following reference about the PEG access organizations:

“Although DCCA recognizes the importance of public access television, respects the role that the incumbent PEG entities have played in developing PEG programming and services, and has fostered an environment whereby Hawaii’s PEGs in many respects have become the standard to which other PEG’s aspire, we respectfully suggest that this broadband bill in not the vehicle by which to resolve the exemption issues pertaining to the PEG’s. DCCA has supported and continues to support exemption the PEG contracts from Chapter 103D procurement requirements; nonetheless, we believe that, if possible, this issue should be taken up by the Legislature separately.”

Well now the possibility of specific legislation addressing the exemption issue, which Director Reifurth referenced, has become a reality in the form of SB707 that is before you today for consideration.

Please listen to the people and listen to you hearts....approve SB 707 and sustain the valued assets the PEG access providers have become to their respective communities as a result of 20 years of dedicated service and community building. Thank you

DeGray Vanderbilt, Box 1348, Kaunakakai, Molokai, Hawaii 96748, (808) 283-8171, Email: pauhanamolokai@yahoo.com



Hawaii State Legislature Bill Status

SB1789 SD2  

[All versions of this measure](#)
[Committee Reports](#)
[All Testimony](#)

Generated on 3/7/2010 8:05:07 AM

Measure Title: RELATING TO CABLE TELEVISION SYSTEMS.

Report Title: Cable Television Systems; Access Organizations; Cable Advisory Committee

Description: 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. Eff. 7/1/2050. (SD2)

Package: None

Companion:

Introducer(s): TSUTSUI, ENGLISH, BAKER

Current Referral: FIN

DATE	STATUS	TEXT
1/24/2007	S	Introduced.
1/26/2007	S	Passed First Reading.
1/30/2007	S	Referred to CPH.
2/2/2007	S	Re-Referred to CPH, WAM.
8/27/2007		
3:04:29 PM	D	Carried over to 2008 Regular Session.
2/4/2008	S	The committee(s) on CPH has scheduled a public hearing on 02-08-08 at 9:00 am in conference room 229.
2/6/2008	S	Re-Referred to TSG, CPH.
2/7/2008	S	The committee(s) on TSG has scheduled a public hearing on 02-12-08 at 1:15 pm in conference room 229.
2/7/2008	S	The committee(s) on CPH deleted the measure from the public hearing scheduled on 02-08-08 at 9:00 am in conference room 229.
2/12/2008	S	The committee on TSG deferred the measure until 02-12-08 at 4:00 pm in conference room 229.



2/12/2008 S The committee(s) on TSG recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in TSG were as follows: 3 Aye(s): Senator(s) Nishihara, Tsutsui, Trimble; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) Kim.

2/15/2008 S Reported from TSG (Stand. Com. Rep. No. 2382) with recommendation of passage on Second Reading, as amended (SD 1) and referral to CPH.

2/15/2008 S Report adopted; Passed Second Reading, as amended (SD 1) and referred to CPH.

2/21/2008 S The committee(s) on CPH will hold a public decision making on 02-26-08 at 9:00 am in conference room 229.

2/26/2008 S The committee(s) on CPH recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in CPH were as follows: 6 Aye(s): Senator(s) Kokubun, Espero, Sakamoto, Trimble; Aye(s) with reservations: Senator(s) Ige, Ihara ; 0 No(es): none; and 1 Excused: Senator(s) Taniguchi.

2/29/2008 S Reported from CPH (Stand. Com. Rep. No. 2728) with recommendation of passage on Third Reading, as amended (SD 2).

2/29/2008 S 48 Hrs. Notice 03-04-08.

3/4/2008 S Report adopted; Passed Third Reading, as amended (SD 2). Ayes, 24; Aye(s) with reservations: Senator(s) Ige, Ihara, Slom . Noes, 0 (none). Excused, 1 (Senator(s) Bunda). Transmitted to House.

3/4/2008 H Received from Senate (Sen. Com. No. 62).

3/6/2008 H Pass First Reading

3/6/2008 H Referred to CPC, EDB, FIN, referral sheet 33

3/13/2008 H Re-referred to FIN, referral sheet 47

3/24/2008 H Bill scheduled to be heard by FIN on Wednesday, 03-26-08 at 12:30 pm in House conference room 308.

3/26/2008 H The committee(s) recommends that the measure be deferred until 03-28-08.

3/27/2008 H Bill scheduled for decision making on Friday, 03-28-08 at 4:40 pm in conference room 308.

3/28/2008 H The committees on FIN recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 15 Ayes: Representative(s) M. Oshiro, Lee, Awana, Belatti, Brower, Hanohano, Har, Karamatsu, Magaoay, Manahan, Mizuno, Rhoads, Tokioka, Ward; Ayes with reservations: Representative(s) Meyer; 0 Noes: none; and 4 Excused: Representative(s) Carroll, Nakasone, Sagum, Pine.

S = Senate

H = House

D = Data Systems

\$ = Appropriation measure

ConAm = Constitutional Amendment

Please read our [Disclaimer Statement](#).

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

2009 Breakdown of Cable Franchise Fees

Percentage

Time Warner Gross Revenue from subscribers \$450,000 ??? Note 1

Time Warner Gross Revenue from Cable Billing subject to the 5% Cable Franchise Fee \$295,405,620 Note 2
x5%

Total Potential Cable Franchise Fees \$14,770,281 \$14,770,281 5.00%

Distribution of Cable Franchise Fees

Community-Based PEG Access Organizations

Olele Community TV \$3,412,273
 Na Leo Community TV 1,012,503
 Akaku Community TV 834,145
 Hoike Community TV 496,677
 \$5,775,579 } → 2,343,325

1.95%

Government and Institutional Education * 3,106,666 Note3 1.05%

Hawaii PBS * 2,954,055 Note 4 1.00%

Department of Commerce and Consumer Affairs * 1,813,600 0.61%

Time Warner Cable 1,140,381 Note 5 0.39%

\$14,770,281 5.00%

Note 1- Time Warner takes in revenues from its cable subscribers far in excess of the amount the revenues that are subject to the Cable Franchise Fee set by DCCA

Note 2- Based on figure supplied by DCCA's Certified Public Accountant, Merina & Co.

Note 3- Includes \$1,691,097 in funds which DCCA controls the disbursement of for investment in the INET system, which is available for use by government agencies, institutional educational facilities, but not available for use by the PEG Access entities.

Note 4- Hawaii PBS portion of the Cable Franchise fees is over \$600,000 more each year than the \$2,343,325 total Cable Franchise Fees received by the neighbor island PEG Access entities. In 2008, HPBS saw its franchise fees increased by \$194,126 more than 5.5 times the \$34,729 increase Olele Community TV realized for the same period.

Note 5- The remainder of the 5% DCCA could collect from Time Warner, but has elected not to. not to because it would increase the monthly bill paid by subscribers by 25 cents, less than a penny a day, if Time Warner chose to pass this contribution on to subscribers.

* Although these three categories of entities receive \$2,118,742 more in cable franchise fees, none of them are subject to the procurement code.

COMMITTEE ON WAYS AND MEANS
Hawaii State Senate
April 6, 2009



Re: H.B. 984, H.D. 4, S.D. 1
(Suggested amendments)

Chairman Kim and Members of the Senate Committee on Ways and Means: My name is Leslie Wilcox, the President and CEO of PBS Hawai'i television station.

In addition to quality national programming, we have a proud legacy for quality local production, including "Na Mele: Traditions in Hawaiian Song," which documents and preserves Hawaiian music; "Long Story Short," featuring revealing conversations with respected individuals about values and life choices; "Leahey & Leahey," spirited discourse about sports and teamwork; and "Insights on PBS Hawaii," our community's only live hour-long call-in public affairs program. PBS Hawaii also extends guidance and opportunity to independent filmmakers from Hawaii and the Pacific/Asia region. We also provide essential real-world training in media production to about 20 local college students.

PBS Hawaii's exceptional programming reaches the entire State, including the underserved, as mandated by the Federal Communications Act (47 USC, Sec 309), which recognizes the vital role of public broadcasting stations, stating that:

" it furthers the general welfare to encourage public telecommunications services which will be responsive to the interests of people both in particular localities and throughout the United States, which will constitute an expression of diversity and excellence, and which will constitute a source of alternative telecommunications services for all the citizens of the Nation;

it is in the public interest to encourage the development of programming that involves creative risks and that addresses the needs of unserved and underserved audiences, particularly children and minorities;

it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make public telecommunications services available to all citizens of the United States;

public television and radio stations and public telecommunications services constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through community programs and outreach programs;

it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies... "

Historically, funding has been made available from the cable franchise fee to support a statewide public broadcasting service. We urge you to continue this support in the legislation before you. Suggested amendments are attached.

Thank you for your consideration.

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

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

State of Hawaii House of Representatives

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

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

My name is Jay April, President and CEO, Akaku: Maui Community Television
Member of the HCR358 Legislative Task Force

Imagine taking twenty years to build a successful business that people relied on, a business that taught people how to talk to each other in meaningful ways, a business that became a national model and an essential community resource by actually helping people succeed. Let's say you built such a business and the state came in, asked you to show them how you did it, counted up all your money and assets, and told you it was taking over and putting everything you built out to bid to the lowest bidder. What if they told you that you too could bid, on your own business, as long as you agreed to accept non-negotiable "conditions" required by the state, and that whoever wins the secret government bidding process for your business, gets everything you built - all your money, your house, your stuff...everything. You get nothing. Nothing to show for your years of hard work and commitment to your community. All the experience, relationships, cultural exchange and community good will you developed over those twenty years would be rendered irrelevant.

This scenario describes a possible fate of successful community access television operations across the state if the Department of Commerce and Consumer Affairs (DCCA) and the State Procurement Office (SPO) current plan to issue an RFP for PEG Access services were allowed to advance. The consequences of this action have the potential to remove local control of community communications, restrict diversity of voices, disrupt local media education and diminish "electronic green space" on every island. It would be like cutting down a healthy, living forest ecosystem and replacing it with Astro turf. The consequences of submitting PEG access organizations to another questionable RFP process is an economic issue as well. Not only will this action create more expense for the state and for the PEGs, it will certainly retard new media innovation in Hawaii and frustrate the state's laudable intention to foster resident access to necessary skills in the adoption and acceptance of broadband.

For years, state agencies have tried to put the free speech channels of Akaku

and those of its sister public, educational and government (PEG) access stations on the other islands out to bid to unknown bidders. A Request For Proposal (RFP) was issued, protests were filed and withdrawn. Court cases and policy boards cast doubt on the process. Hundreds appeared in person to testify against this RFP and nearly a thousand people sent testimony to several state agencies, the Department of Commerce and Consumer Affairs (DCCA) and the Legislature - nearly all testified in favor of an exemption for PEG access, asking the state to leave our community stations alone. Bills were drawn up to exempt PEG access from this unworkable RFP process and passed unanimously through every committee in the senate and the house. A legislative task force of experts met, drafted comprehensive administrative rules and recommended NO RFP for Community TV. Currently, the DCCA Director himself and the State Comptroller are on record and in agreement that putting something as unique as PEG access out to bid would not be practicable or advantageous to the state. Yet, any day now, the DCCA has announced it will issue a Request for Proposals, or RFP, to put these community TV stations out to bid.

There are a multitude of reasons why an RFP process cannot and will not work which is why this methodology to designate access organizations is used virtually nowhere else in the nation. I will enumerate some of these reasons below:

THE ESTABLISHMENT OF PEG ACCESS REQUIRED GOVERNMENT INTERVENTION IN THE MARKET TO BEGIN WITH. COMPETITIVE BIDDING WASTES SOCIAL CAPITAL AND CANNOT SUCCESSFULLY APPLY TO COMMUNITY MEDIA AND THE MARKETPLACE OF IDEAS

By creating PEG Access channel requirements for cable and setting aside a small percentage of subscriber fees as "rent" for use of public rights of way, the federal government (and the Hawaii Legislature) directly intervened in the market because it knew that the cable TV marketplace would not support media literacy and local democratic television on its own. For the DCCA to apply a competitive bidding market methodology (RFP) to a non-market entity (sole source PEG access) is contrary to why PEG access was established in the first place. PEG Access is not a commodity. PEG Access Providers in each county are independent not for profit 501(c) 3 corporations who have built up valuable social capital for many years to fulfill the unique and fully local communications needs of each county. This social capital, a centerpiece of healthy community media, would be lost in any competitive bidding scenario.

PEG ACCESS FUNDS ARE NOT STATE FUNDS. THEY ARE DERIVED FROM LOCAL CABLE SUBSCRIBER FEES AS RENT FOR PUBLIC RIGHTS OF WAY

Franchise fees from cable subscribers are not state funds. They are paid directly from the cable company to the PEG Access organizations 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.

PEG ACCESS ORGANIZATIONS ARE SOLE SOURCE ENTITIES IN EACH COUNTY. NO ONE ELSE IS SET UP TO FULFILL THIS MISSION

These stations were set up in local communities and in Hawaii for the sole purpose and no other purpose but to create public access to cable and provide free or low cost media skills for any and all comers. No other entities other than Hawaii's existing PEG Access organizations can hold claim to this specific mission. Simply put, there are no other qualified vendors with community access TV experience other than the PEGs themselves. PEG Access organizations are sole source entities in that they are the only form of television without an institutional programming agenda. Unlike all other forms of television, these fully democratic media have built years of social capital on each island to empower local communities to program these channels on a first-come-first-served basis. No other form of television has these public benefit characteristics. With procurement, the offerer with the most cameras wins. Established PEGs on the other hand were set up specifically to build local social capital and are wholly unique in character and structure. They are a true sole source. They have no analog. No one else does this. There are no other qualified "vendors" and should PEG access organizations in Hawaii be subject to open competitive bidding, a replacement entity with a different agenda would in all likelihood even with the best intentions and adequate funding not have the required expertise or built up social capital to follow the mission.

THE STATE'S EFFORTS TO USE PROCUREMENT TO DESIGNATE PEG ACCESS HAS ALREADY FAILED.

After issuing two hotly contested Requests for Information (RFI) the state issued an RFP in July 2007 and it failed. Akaku on Maui and Olelo on Oahu protested and the RFP was withdrawn. The RFP had provisions that were contrary to federal and state statutes and others that may have been illegal or discriminatory. It allowed the taking of property without compensation, ignored community building aspects of PEG access, did not require bidders to have public access management experience, contradicted the DCCA's own PEG self sustainability plan, diverted the majority of money, power and assets to state agencies at the expense of the public, forced PEG access stations to operate paycheck to paycheck on a month to month basis, mandated that funds be diverted to government without compensation, did not provide for community TV to collect its fair share of funding allowed by federal law, made no provision for community control and oversight and directed that decisions affecting the public access designee would be made in secret by unnamed state officials with no local input.

The RFP process initiated by DCCA/SPO appears, on its surface at least, to be a selective and arbitrary process unaccountable to the public or to the legislature. It lacks meaningful oversight, contains no clearly defined evaluation process and appears designed to weaken PEG Access providers in each county regardless of who the successful applicant or applicant(s) may be.

RFP PROCESS HAS PROVEN INCONSISTENT AND MAY NOT APPLY TO PEG ACCESS

The RFP example we have had to work with to date is inconsistent in that it singles out only the franchise fee contribution to the PEG Access providers as subject to procurement. It mandates a disproportionate amount of funding to state education and government at public expense, does not address other franchise fee allotments to vested interests or other tangible benefits to the state such as institutional networks, satellite dishes and the like, benefits that the DCCA Director has stated "provide enormous value to the state." ***Nor does the RFP address the central issue of why PEG access, since it is derivative of cable franchises themselves, should be subject to procurement at all.***

RFP DRAFTING PROCESS DOES NOT REFLECT "BEST PRACTICE"

The Hawaii RFP process is viewed by national experts as "not best practice" (see video report to HCR358 Task Force) and appears designed to weaken the PEG Access organizations possibly because of the failure of SPO/DCCA to acquire the necessary expertise to draft the RFP. Specific examples include: Splitting of Funds - Previous RFI/RFP drafts issued by SPO/DCCA indicated a prejudice in favor of a funding mechanism that splits funds into three P, E, and G categories contradicting "best practices" recommended in two previous state studies including recommendations from a report prepared by the Legislative Reference Bureau in 1995 and the 1997 DCCA study, "Disputes Over PEG Resources; Splitting the Baby is Not the Solution"

Restrictions on Business and Development- Previous RFI / RFP did not allow successful applicants to pay for legitimate costs of doing business for the duration of the contract. These expenses include advertising and public relations, client activities or programs, travel and transportation costs, food, lodging or mileage. Even fundraising was restricted without the approval of the Director of DCCA. In addition, previous RFI /RFP did not allow current PEG providers – which are independent, non-profit corporations – to use franchise fee funds for the preparation of the RFP and mandated a monthly, first in, first out (FIFO) franchise fee allotment. This requirement alone, coupled with a short 3 year renewal term before another RFP was issued, would severely restrict any successful applicant from conducting business in a prudent manner by limiting the PEG access organization's ability to attract significant grant funding, build up reserve financial capital, invest wisely or engage in meaningful long term

planning. These requirements also directly contradict the DCCA's own 2004 PEG Plan for the future development of PEG Access in Hawaii.

THE HCR358 TASK FORCE HAS RECOMMENDED THAT PEG ACCESS BE EXEMPT FROM CHAPTER 103D ADMINISTRATIVELY OR LEGISLATIVELY

In 2008, your HCR358 Legislative Task Force, including several county procurement officers, studied this issue at length and determined that the incumbent PEG access organizations should be exempt from procurement.

With public comment overwhelmingly in favor of an exemption for the incumbent PEG access providers and the Procurement Policy Board sharply divided on this issue, If an RFP moves ahead as planned and the legislature chooses to sit this one out, litigation on the part of unsuccessful applicants will be likely drag on leaving the resolution of some of these issues up to the judiciary causing the state and the PEG access organizations to expend additional funds and further supporting the argument that procurement is not practicable or advantageous to the state.

Despite a Court ruling and comments by the Attorney General's office that the Director can exercise discretion to use "any other reasonable method" other than procurement to designate access corporations, the Director has taken the position that although he is in favor of a permanent exemption, he is nevertheless bound by law to follow the lead of the State Procurement Office which has ordered the DCCA to issue an RFP.

THERE IS A LEGISLATIVE SOLUTION

SB 707 is it. There has been a solution on the table for years. In 2008, an identical bill to SB707 (SB1789) sailed unanimously through every legislative committee but never made it out of the House Finance Committee. A HCR358 legislative task force was set up to study the issue and in it's final report to the legislature made specific recommendations and draft rules for PEG Access designation as an alternative to procurement. A solution to the entire Access designation issue is available in the report and detailed, comprehensive administrative rules have been developed that will silence even the harshest critic. SB707 contains language that will exempt PEG Access corporations from this flawed State Procurement process and deserves to be heard by committee and considered by the legislature.

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

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

LATE TESTIMONY

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is D. Mark Tedder, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional: educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.

D. Mark Tedder

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

LATE TESTIMONY

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Joseph F. Bayliss, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.

Joseph F. Bayliss

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

LATE TESTIMONY

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Michael Macko, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.

Michael Macko

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

LATE TESTIMONY

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is D. Mark Tedder, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.

D. Mark Tedder

COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

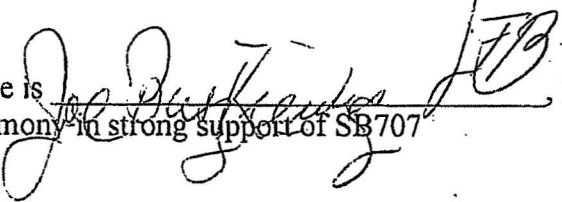
Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

LATE TESTIMONY

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is  I am a resident of Maui County and I offer my testimony in strong support of SB707.

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

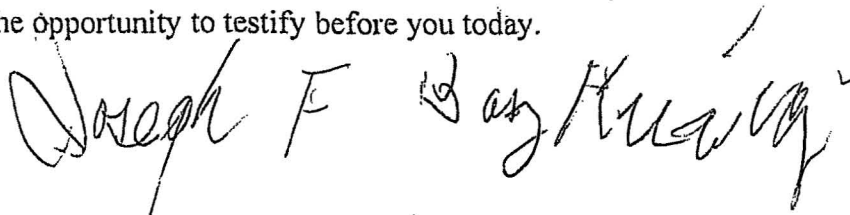
During this period, these valued community assets have generated an enormous amount of social capital, which has been sustained through many years of community-building, untold hours of volunteerism, and effective social networking developed through innovative and effective collaborative efforts with other non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.



COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS AND MILITARY AFFAIRS

Tuesday, March 9, 2010, 8:30 a.m.

Angus L.K McKelvey, Chair

Issac W. Choy, Vice Chair

LATE TESTIMONY

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Michael Maehala, I am a resident of Maui County and I offer my testimony in strong support of SB707

The 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.

These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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 non-profits, as well as, institutional and non-institutional educational, government and social organizations. An RFP process every three years would disrupt the ability of these valuable community media organizations to plan, to innovate, to invest and operate like a business, to attain sustainability or continue to shine as national models or raise much needed funds.

This 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".

In lieu of procurement, your own HCR358 legislative task force HCR358 has provided a comprehensive administrative solution to the proper designation of PEG access organizations by drafting rules which may be considered by the legislature and by the DCCA.

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 will allow these community-based organizations to continue, expand and build upon their only missions....to serve their respective communities by providing extended media opportunities, which allow the venue or "soapbox" for people exercise their first amendment rights and have their voices heard.

Thank you for the opportunity to testify before you today.

Michael Maehala

“§440G- Designation of access organizations for PEG access channels.

(a) The director may designate one or more access organizations to oversee the development, operation, supervision, management, production, and broadcasting of programs of public, educational, or governmental access facilities obtained under this chapter, rules of the department, or order of the director; provided that:

- (1) The requirements to designate an access organization shall be prescribed in rules adopted in accordance with chapter 91;
- (2) Notwithstanding any other provision to the contrary in chapter 103D, a contract that designates an access organization shall be exempt from the competitive selection requirements of chapter 103D; ~~provided that any such exemption shall only apply to the letting of the contract and not to any specific access organization;~~
- (3) The director shall enter into a contract or contracts with each designated access organization and shall ensure that the terms and conditions required of the operation of an access organization designated under subsection (a) are fair to the public, taking into account the geographic, topographic, and economic characteristics of the service area and the economics of providing cable access in the service area;
- (4) The director shall insert clauses in all such contracts to identify government-owned property, government-furnished property and/or contractor-acquired property in which the State retains title, and to establish the parties' obligations with respect to all such property. ~~All property, facilities, and equipment purchased from funds provided by~~

~~order of the director to an access organization shall automatically revert to the State or its designee upon termination of the contract;~~

- (5) The director shall insert clauses in all such contracts to require the return to the State or its designee, upon termination or expiration of the contract, of unobligated funds received under the contract, pursuant to the cost principles of Haw. Rev. Stat. section 103D-601 and rules promulgated thereunder.~~All unspent funds provided by order of the director to an access organization shall automatically revert to the State or its designee upon termination of the contract; and~~
- (6) The contract shall not be perpetual.

From: EBMtestimony
Subject: FW: Testimony for SB707 on 3/9/2010 8:00:00 AM

LATE TESTIMONY

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Tuesday, March 09, 2010 7:56 AM
To: EBMtestimony
Cc: swelck@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: susan welck
Organization: Individual
Address: 325 kaupea st. makawao
Phone: 808-572-8204
E-mail: swelck@yahoo.com
Submitted on: 3/9/2010

Comments:

From: EBMtestimony
Subject: FW: Testimony IN SUPPORT of SB70

LATE TESTIMONY

From: Susan Werner [mailto:werners002@hawaii.rr.com]
Sent: Tuesday, March 09, 2010 6:46 AM
To: EBMtestimony
Subject: Testimony IN SUPPORT of SB70

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. My name is Susan Werner, and I am a consumer, parent, librarian, and an advocate for free speech. I support SB707 but won't be able to attend your hearing.

I support this bill because it ensures that the terms and conditions required of the operation of an access organization designated are fair to the public, taking into account the geographic, topographic, and economic characteristics of the service area and the economics of providing cable access in the service area. It also ensures that the access organizations would be exempt from the State procurement process.

This is important because we can't have our public access airwaves auctioned off to the highest bidder.

Free speech is not a business, it's a constitutionally protected right of every citizen. The means by which we are able to exercise our right via the airwaves must be a community driven enterprise available to all. It should be protected by the government but not run by it.

Therefore, I ask you to support SB707 and allow non-profit public access organizations to continue to provide these important services to their communities.

Thank you.

Susan Werner
2923 E Lelehuna Place
Haiku HI 96708

From: EBMtestimony
Subject: FW: sb707

LATE TESTIMONY

From: levi garcia [mailto:srh501@hotmail.com]
Sent: Tuesday, March 09, 2010 7:08 AM
To: EBMtestimony
Subject: sb707

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, Ch
Issac W. Choy, Vice Chair

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

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

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