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**TO THE SENATE COMMITTEES ON
COMMERCE AND CONSUMER PROTECTION AND
JUDICIARY AND GOVERNMENT OPERATIONS**

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Date: February 18, 2010
Time: 9:30 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON S.B. 707 – RELATING TO CABLE TELEVISION SYSTEMS

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND THE HONORABLE BRIAN
T. TANIGUCHI, CHAIR, AND MEMBERS OF THE COMMITTEES:**

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.

The bill allows the Department to designate 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 management, operation, and cablecasting of programs of PEG access facilities. 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 has two amendments that it requests be included in the bill. First, if access services contracts are exempted from the Procurement Code, the bill should make clear that any assets, facilities and equipment acquired with PEG access fees revert back to the State upon termination of the access services contracts. Since these assets were acquired with funding ultimately coming from cable subscribers, it is only fitting that these assets should be used for their intended purpose upon any subsequent termination of PEG access services contracts.

Second, the bill should clarify that the designation from the Procurement Code applies to PEG access services **contracts** and not to the specific current PEG access **organizations**. The access services contracts should be subject to the standard reporting and monitoring required by the Department. The existing access organizations should not be automatically grandfathered in or be deemed as designated access organizations in perpetuity.

Should the Committee be amenable to our recommended amendments, we will be happy to work with the Chair to provide appropriate language.

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

LATE

LINDA LINGLE
GOVERNOR



PROCUREMENT POLICY BOARD
DARRYL W. BARDUSCH
LESLIE S. CHINEN
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TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
SENATE COMMITTEES
ON
COMMERCE AND CONSUMER PROTECTION
AND
JUDICIARY AND GOVERNMENT OPERATIONS

February 18, 2010

9:30 am

SB 707

RELATING TO CABLE TELEVISION SYSTEMS.

Chair Baker, Chair Taniguchi, Vice Chair Ige, Vice Chair Takamine and committee members, thank you for the opportunity to testify on SB 707.

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

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

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Senate Committees on Commerce and Consumer Protection
and Judiciary and Government Operations
February 18, 2010
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The PEG access services contracts are agreements between the DCCA, a governmental body, and PEG access organizations that are private, non-profit corporations. Under these contracts, DCCA is acquiring services to manage and operate the PEG channels. Therefore, the PEG access contracts are "procurement contracts" under HRS section 103D-102. We understand that DCCA seeks to continue providing PEG access services through a contractual relationship.

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

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

There is no compelling reason to exempt PEG access services from the Code, and SPO does not support this bill.

Thank you.

LINDA LINGLE
GOVERNOR



LATE

RUSS K. SAITO
Comptroller
SANDRA YAHIRO
Deputy Comptroller

**STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
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TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEES
ON
COMMERCE AND CONSUMER PROTECTION
AND
JUDICIARY AND GOVERNMENT OPERATIONS
ON
February 18, 2010

S.B. 707

RELATING TO CABLE TELEVISION SYSTEMS

Chair Baker, Chair Taniguchi, and Committee members, thank you for the opportunity to testify on S.B. 707.

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 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.

**Testimony on S.B. 707
Relating to Cable Television Systems
Senate Committees on Commerce and Consumer Protection and
Judiciary and Government Operations
Keali`i Lopez, President and CEO of `Ōlelo Community Media
February 18, 2010**

Chairs Baker and Taniguchi, and members of the Senate Committees on Commerce and Consumer Protection and Judiciary and Government Operations. Aloha. I'm Keali`i Lopez, president and CEO of `Ōlelo Community Media, and I am here to testify in support of Senate Bill 707.

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

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

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

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

'Ōlelo and others also submitted petitions to the State Procurement Policy Board (PPB) in 2006 and again in 2009 for a determination that the PEG access services were properly exempted from the application of the State Procurement Code.

'Ōlelo's 2006 petition to the Procurement Policy Board (PPB), which was considered again in late 2009 by the (PPB), requested a declaratory ruling to exempt PEG access contracts on the basis that they are contracts for "utility services" within the meaning of HRS 103D-102(b)(4)(F). In our petition we make clear that although HRS 103D provides for an exemption on "utility services", HRS 103D does not provide a definition of "utility services". However, the statute governing the Public Utilities Commission (PUC) defines a "public utility" to include:

...every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles or incorporation or otherwise, any plant or equipment or any part thereof, directly or indirectly for public use, for...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..."

HRS 269-1(1); emphasis added.

Although PEG access contracts are not subject to PUC regulation, our petition went on to indicate that the services provided in the PEG contracts with the State generally conform to the description of "utilities" under the definition provided in HRS 269-1 because the PEGs "manage...equipment...for public use, for...transmission of telecommunications messages." The unique telecommunications role of PEG access

providers was created to preserve for the public benefit uses that were not likely to be served by regulated commercial utilities that operate cable franchises.

In its December 21, 2009 deliberations regarding 'Ōlelo's 2006 petition, we believe the Procurement Policy Board failed in its obligation to consider the evidence provided and laws that apply in reaching its final determination to deny 'Ōlelo's petition. The PPB must and should have identified the findings of fact and conclusion of law that supported its determination of 'Ōlelo's petition. Those PPB members who voted in favor of 'Ōlelo's petition pointed to the HRS269-1(1) definition of "utility service" in their consideration of PEG providers being "utility services" and therefore exempted from 103D. When asked by a PPB member, what definition of "utility service" those PPB members who voted against the petition were using in their determination, these PPB members were unable to point to such a definition or finding of fact.

'Ōlelo is awaiting the Procurement Policy Board's written declaratory order; however we are not hopeful that there will be sufficient finding of facts or conclusion of law to support the PPB's decision to deny 'Ōlelo's petition. This along with other points raised by 'Ōlelo and others, we believe this warrants intervention and support from the Legislature to exempt PEG Access contracts from HRS 103D by adopting the proposed revisions to 440-G.

'Ōlelo's petitions further demonstrated that a competed contract for the administration of PEG services is clearly impracticable and certainly not advantageous to the State, in large part because PEG access services are so complex and include intangible community benefits that cannot be quantified. Over the last three years 100s of members of the public have testified in support of an exemption for PEG access, expressing their concerns that under a competed contract, the critical First Amendment freedoms and community-building benefits of PEG access services would be lost. However, since the State Procurement Office has issued two Requests for Information and a Request for Proposal for PEG Access Services the community's concerns and fears have increased regarding the State's ability to effectively procure these public benefit and

community-building efforts, and these efforts seem to have been forgotten somewhere along the procurement process.

‘Ōlelo respects the best efforts of the procurement professionals who have tried to fit the PEG access services into the narrow procurement mold. However, their efforts to-date have failed. The draft RFIs contained many flaws and neither addressed community-building. Likewise, the State’s final RFP, which was issued in July 2007, was faulty in many respects. ‘Ōlelo’s protest to the RFP identified a number of critical legal deficiencies. I will mention only two of those deficiencies here: first that the RFP contained no recognition of the critical community building and social capital aspect of the PEG access services, and second, that the RFP identified no performance standards whatsoever. We believe that these deficiencies demonstrated our point: that the PEG access services are not appropriate services for the application of the Procurement Code’s competitive processes. It is important to note that the SPO later cancelled the RFP.

In addition to these points, we would also like to bring to your attention that in December of 2008 the HCR 358 Task Force submitted its report to the 25th Legislature which recommended that the Legislature exempt the designation of PEG access organizations from the provisions of the State Procurement Code. This Task Force, pursuant to HCR 358, HD1 among other issues was established to solicit public input and examine methods other than the Public Procurement Code to oversee PEG expenditures and ensure proper checks and balances. The Task Force also considered regulations that would apply to PEG access services that increased the level of accountability of the PEG providers. These draft regulations, should they be adopted through rule making by the DCCA, would greatly improve upon the current limited and somewhat standard less oversight of PEG access providers.

Senate Bill 707 provides significant additional accountability by requiring that the DCCA establish its standards for designating the PEG access organizations through Chapter 91 rulemaking. It also provides for further input into the designation process by

expanding the role of the Cable Advisory Committee. These provisions will make sure that the designation process is transparent, objective and fair.

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

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

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

H.C.R. 358 Task Force
Report to the 25th Legislature

Submitted to: Representative Calvin K. Y. Say, Speaker of the House
Senator Colleen Hanabusa, President of the Senate

December 16, 2008

forth for consideration as Attachment "C".

Additionally, the Task Force has reviewed the pertinent sections of the bylaws governing the selection of board members for each of the PEG Access organizations. The Task Force notes that these organizations are required to comply with laws governing non-profit organizations and believes that the DCCA should not have any authority to require a PEG Access organization to change its board selection process as a condition to designation. Therefore, the Task Force recommends that:

(4) The process for designation of PEG Access organizations should require each PEG Access organization to provide its processes for selection of board members and any changes proposed. This will be made available for public comment and reviewed as part of the renewal process, but the DCCA should not have any authority to require that an organization's board selection process be changed.

Similarly, the Task Force has engaged in discussion regarding the first amendment rights of PEG and the expectation that non-discriminatory access be provided. The Task Force recommends that:

(5) PEG Access organizations should provide information regarding their past performance and proposed practices for ensuring that PEG Access supports the diversity of viewpoints and non-discriminatory first amendment rights of the people of the local communities they serve. This will be made available for public comment and reviewed as part of the renewal process.

H.C.R. 358 Task Force Members

Mr. Eric Knutzen, HCR 358 Task Force Chair, County of Kaua'i

Mr. Roy K. Amemiya, Jr., Central Pacific Bank, 'Olelo

Mr. Jay April, President and CEO, Akaku – Maui Community Television

Mr. Gilbert Benevides, County of Hawaii

Ms. MaBel Fujiuchi, Ho'ike

Mr. Gregg Hirata, Office of the Mayor, City and County of Honolulu

Ms. Geri Ann Hong, State Department of Education

Mr. David Lassner, University of Hawaii

Ms. Shelley Pellegrino, Office of the Mayor, County of Maui

Mr. Keith Rollman, CAC Representative

LATE

Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair
Committee on Commerce and Consumer Protection

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair
Committee on Judiciary and Government Affairs

Senate of the State of Hawai'i

Lance D. Collins, Esq.

Thursday, February 18, 2010
Support SB No. 707, Relating to Cable Television Systems

My name is Lance D. Collins. I am an attorney in private practice on the island of Maui and testify on my own behalf. I support this bill.

I helped draft the language in this bill which was originally offered in Senate Bill 1789 during the Twenty Fourth Legislature of the State of Hawai'i.

This bill helps resolve some of the consequences of the unusual policy decisions made in the last five years by the Department of Commerce and Consumer Affairs regarding cable access and access organizations.

The bill does not address the dearth of appropriate regulatory oversight of cable access and leaves too much of the important public policy decision-making regarding cable access to state educational departments, incumbent access organizations and the county governments.

For example, the important policy considerations related to the diversion of franchise fees to the University of Hawai'i and the Department of Education should not be left to the outcome of the unequal bargaining between those state departments and the incumbent access organizations.

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

Mahalo.

Eric Arquero

From: Community Media Producers Association (CMPA) [cmpa@hawaiiintel.net]
Sent: Wednesday, February 17, 2010 5:47 PM
To: CPN Testimony
Subject: Testimony SB 707 CPN/JGO February 18, 2010, 9:30 a.m, Conference Room 229

Community Media Producers Association

CMPA

LATE

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Aloha Chairs Baker and Taniguch, Vice Chair Ige & Takamine, and members of the Commerce and Consumer Protection and Judiciary and Government Operations Committees,

My name is Jeff Garland, a community media producer since 1987. I appreciate this opportunity to express the Community Media Producers Association's (CMPA) strong opposition to this measure, which would in essence remove choice from the citizens of Hawai'i in perpetuity as to what their free speech providers should be providing for them.

No compelling reason has yet to be given on why it is impracticable or not advantageous to the state to put PEG organization contracts out for competitive bid. The Attorney General, the State's Chief Procurement Officer/State Procurement Office administrator, and the State Procurement Policy Board have all opined on this issue stating that they believe that competition fosters innovation and excellence. There has finally been a 20 year delinquent rule promulgated for the designation of these organizations that were created by state government, HAR 16-132-70, so supporting an exemption in perpetuity for them will effectively stifle innovation. Organizations that prohibit membership or any semblance of a democratic process on how their state-mandated funding is utilized, and which approve budgets behind closed doors, should not be allowed to continue in perpetuity.

There is currently a bill to have 'Olelo audited for financial performance by DCCA with the assistance of the Legislative Auditor. CMPA believes the best way forward would be to have PEG organizations audited for both financial AND management performance by the Legislative Auditor alone before considering the merits of exempting PEGs from competitive bid. The results should be examined within the context of the intent of the law that mandates competitive bidding so as not to create a situation where poor financial or management behavior would be sanctioned and perpetuated with the blessing of the state.

Sincerely,

Jeff Garland

Secretary, Community Media Producers Association (CMPA)

LATE

Eric Arquero

From: Frank Odasz [frank@lone-eagles.com]
Sent: Wednesday, February 17, 2010 5:52 PM
To: CPN Testimony
Subject: SUPPORT SENATE BILL 707
Attachments: fullabstract.doc

Follow Up Flag: Follow up
Flag Status: Completed

To: Whom it may concern

From: Frank Odasz, Lone Eagle Consulting

RE: SUPPORT SB707

I am writing as an outsider to Hawaii, but as an observer and one who has provided grassroots community technology workshops for the Kellogg Foundation on the big Island, and was a featured presenter at a Hawaiian state 1995 HERN (Health Education Research Network) conference presenting on community networking.

For 25 years I have been at the forefront of the issues of top-down politics of control, and bottom-up innovations related to civic involvement, capacity building and free speech. The trends of the current administration, and the world in general, are very clear, citizen media's day has come. Akaku has championed an authentic Hawaiian voice for many years and the issues of SB707 are literally that the state cannot replicate the authenticity of citizen's voices that Akaku has achieved.

My expertise and resources justify SB707 and I will volunteer my time and extensive resources to anyone who wishes to understand the profound depth of these issues.

Gordon Fuller, the new executive director of the Hawaii Centers for Independent Living and I will present in Hawaii on these issues directly for an International audience, April, 2010. (I have presented twice for APEC.)

Our two hour workshop on free speech and social media will feature Akaku in the Innovations track of the International Pacific Rim Disabilities Conference. As an example of what Akaku provides to Hawaiians, Akaku videoed and aired a half hour TV program on the History of the Disabilities Movement featuring the new executive director of HCIL, Gordon Fuller. Gordon has a 30 year history with the I.T. industry holding patents on the first cable TV systems and much more. Gordon can speak at length on the evolution of community television and much more.

Despite reports that 99% of Hawaiians have access to fast Internet, Hawaii has vast populations still unserved, particularly those who need it most. Hawaii's top-down leaders have to partner with the grassroots citizens in meaningful ways. I will be brief but will share one example. Steve Snow created a very successful online community network in the early 1990's called Charlotte's Web. It quickly became a well known national model due to the wide spread participation and creativity of a diverse citizenry. Then, the county decided it should take over control of the network and politically leveraged a take over. The civic inclusion and citizens' voice quickly ended. Akaku is a model for the future and SB707 is Hawaii's opportunity to make a stand for free speech and the voice of Hawaiians.

Lone Eagle Consulting 2009 update: <http://lone-eagles.com/miba2009.htm>

Attached is our International Pacific Rim Presentation Abstract.

Armed with the facts behind the real issues represented in SB707, do what's right. The new transparency of new media will echo your decisions worldwide.

Aloha,

Frank

Frank Odasz
Lone Eagle Consulting
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"In times of change, learners inherit the earth" - Eric Fromm

The Hawaii Centers for Independent Living's
New Vision for Broadband Best Practices For All

Proposed by Frank Odasz
Lone Eagle Consulting
Email: frank@lone-eagles.com
PH: 406 683 6270

RE: Presentation proposal for the Innovation Track of the International Pacific Rim Conference on Disabilities showcasing HCIL's vision and Web 2.0 E-learning and Collaboration Methodologies:
Conference Web Site: <http://www.pacrim.hawaii.edu/submissions/>

Presentation Title and Short Abstract:

Aloha-Reabling – Broadband Training Best Practices for All

The promise of Broadband is for everyone to connect to something life-changing, empowering, motivating, and meaningful; collaborating as global citizens. The potential is “Everyone Both Learner and Teacher, both Consumer and Producer.” The Hawaiian Centers for Independent Living will present a plan for a Hawaiian-Spirited Innovative People-Centered Initiative.

Most Americans are “Digital Learning Disabled.” Most Americans do not really know what broadband is, or how it can best be used to sustain individual and family health, incomes, and lifestyles. The Obama administration has heralded a new day whereby all Americans will engage in learning new 21st Century skills for civic engagement, learning-to-earn, and for helping others, anywhere, anytime. It is now necessary for all Americans to become both learner and teacher, both consumer and producer.

As federal agencies and local and state governments are now themselves learning to provide E-government services more efficiently using new tools such as social media and online videos, it is every bit as important that citizens also learn to self-publish and to help others learn these essential new skills. The current rural broadband funding emphasis is on those vulnerable populations who have traditionally not utilized, or have underutilized, the benefits of broadband (fast Internet access). Those who can benefit the most, have priority for funding for the current rural broadband funding initiatives, with the launch of the National Broadband Strategy due out Feb. 17th, 2010.

HCIL is proposing a National 21st Century “Re-Abling program” to provide online peer mentors to help all those Americans currently unable to engage in Internet Self-directed learning due to fear of technology, literacy limitations, lack of PC's and broadband access, and the lack of accessibility tools. One of the greatest needs to address is the lack of human bandwidth – access to someone who understands and is willing to help citizens gain self-confidence with the necessary skills to become self-directed life-long Internet learners.

There is a role for all Americans to participate in a Civilian Cyber Corps, to revitalize the human learning landscape. The National Call to Action is for “Everyone to be Both Learner and Teacher, both Consumer and Producer, All the Time.

Creating a social mutual support community, with a peer mentoring emphasis will be at the core of HCIL’s new online community service initiative. Unique metrics are needed to authenticate positive outcomes in new motivation, self-esteem, skills, and the enhanced ability to assist others. Those who volunteer to help others, will be eligible to receive fast-track Broadband Entrepreneurship training and support services. HCIL will create an online clearinghouse of “Broadband Training Best Practices for Sustainable Families.”

The current rural broadband stimulus funding is targeted to rural and remote vulnerable populations who have traditionally not had the opportunities of broadband (Fast Internet) access and appropriate empowerment training. The recent boom of E-learning and social media innovations, such as Wikipedia, Facebook and Youtube allow citizens to collaboratively self-publish in ways that empower everyone. “If we all share what we know, we’ll all have access to all our knowledge. “No one knows as much as all of us.”

Digital Literacy and Digital Inclusion Best Practices

Growing an Entrepreneurial Culture in Hawaii in 3-5 years

Share this at <http://lone-eagles.com/hawaiian-inclusion.htm>

Hawaii’s educational “digital best practices” strategies to prepare students to be globally competitive in the 21st century ideally will include such topics as global awareness, civic literacy, health and wellness awareness, and financial, economic, business, and entrepreneurial literacy. The emerging opportunity is a digital literacy and digital inclusion program showcasing E-learning-for-all “best practices” and essential online resources to help Hawaiians deal effectively with 21st Century challenges. The first step would be the proposed new online course “**21st Century Workforce Basics for Hawaiians,**” described below, followed by establishing a uniquely Hawaiian virtual center of excellence.

Growing an entrepreneurial culture among Hawaiian youth with emphasis on stemming youth outmigration and creating more stable and sustainable local rural economies is becoming more feasible due to Hawaii’s growing rural broadband connectivity. A youth E-entrepreneurship program is proposed to rapidly stimulate growth of sustainable local entrepreneurship, ecommerce and telework businesses and jobs.

The Hawaii Center for Sustainable Rural Families

1. **JOBS:** 21st Century Workforce Jobs Facilitation
2. **ENERGY:** Green Clean Sustainable Lifestyles Education on Solutions
3. **HEALTH:** Community Wellness Broadband Applications
4. **E-LEARNING FOR ALL:** Hawaiian Mentors: A Virtual Support Network
5. **GLOBAL CITIZENSHIP:** Thinking Globally, Acting Locally
6. **CULTURAL SUSTAINABILITY:** Digital Storytelling and Culture Expression

(An expanded outline is at <http://lone-eagles.com/maui-center.htm>)

The Hawaii Center for Sustainable Rural Families offers an elegant grassroots peer-mentoring platform that maintains an efficient clearinghouse of the best skills transfer instructional videos, screencasts, and friendly mentors, which allow Hawaiians to quickly gain the skills to deal effectively with their urgent dire needs and to engage meaningfully in the global information society and economy.

It is proposed that the above Hawaiian partnership will begin by inviting all Hawaiians, and particularly students, to identify best practices and resources for the six categories above to be peer evaluated and to begin populating this web site with their perceived best practices and best resources, By Hawaiians, For Hawaiians, using new social media efficiencies and building a collaborative community of communities. A literature review with additional examples of the booming use of social media by governments at all levels is at <http://lone-eagles.com/social-media-trends.htm>

HCIL's new Executive Director, Gordon Fuller, brings an exciting new vision and decades of unique expertise to HCIL. Consulting on new HCIL E-learning and training workshops is Frank Odasz, president of Lone Eagle Consulting, who has a 25 year history with online learning innovations. All Lone Eagle E-learning resources are online with the latest innovations posted in the most recent Lone Eagle Update at <http://lone-eagles.com/miba2009.htm>

LATE

Eric Arquero

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 17, 2010 4:47 PM
To: CPN Testimony
Cc: segoolk001@hawaii.rr.com
Subject: Testimony for SB707 on 2/18/2010 9:30:00 AM

Testimony for CPN/JGO 2/18/2010 9:30:00 AM SB707

Conference room: 229
Testifier position: support
Testifier will be present: No
Submitted by: Kapua Segool
Organization: Individual
Address:
Phone:
E-mail: segoolk001@hawaii.rr.com
Submitted on: 2/17/2010

Comments:

Please support SB707. Putting PEG access out to bid is not advantageous to the people of Hawaii and puts to risk losing what has thus far been established.

PEG access needs more funding, not less access to the people.

The franchise fees that fund PEG access are not state funds; these funds are provided by the cable franchise in exchange for the use of public rights of way. The amount collected is quite miniscule in comparison to the profit margin.

I urge you to support SB707.

Thank you.

To:

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator Davig Ige, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Tanaguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

Thursday, February 18, 2010, 9:30 a.m.

LATE

MOLOKAI TESTIMONY

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Diane Dunnam

Affiliation Molokai Community Service Council

I support 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.

This social capitol 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".

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.

Sincerely, Diane Dunnam

Eric Arquero

From: Mahea Davis [mahead@molokai.org]
Sent: Wednesday, February 17, 2010 4:38 PM
To: CPN Testimony
Subject: Support SB 707

LATE

aloha to:

Committee on Commerce and Consumer Protection Senator Rosalyn H. Baker, Chair Sen. David Ige, V.Chair Committee on Judiciary and Government Operations Sen. Brian Taniguchi, Chair Sen. Dwight Takamine, V.Chair

RE: Support for approval of SB 707 - Relating to Cable Television

Aloha Honorable Senators,

I am in support of passage of SB 707 which would among other things exempt certain services from the requirements of the State of Hawaii procurement code. The bill is intended to exempt public access television, including our Maui County's Akaku Community Television, from the state procurement process.

This would allow community-based non-profit public access organizations to serve our community, as they have for over 20-years, helping to increase social capital and sustain a free and independent voice in our neighbor island communities. We have used Akaku Community Television to stay informed through viewing County Council meetings, public hearings, Community Commission and various county Committee meetings, and other public gathering. Having good information is vital to a healthy democratic process and meaningful citizen participation.

Mahalo for your support of this important legislation.

Kathryn M. Davis
P.O. Box 350
Kaunakakai HI 96748

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator Davig Ige, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Tanaguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

Thursday, February 18, 2010, 9:30 a.m.

LATE

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

My name is Carey Owen. I was one of the original staff members of Akaku Community Television. I worked there for 5 years and was a part of so many great programs and the creator of many of the services still offered to this day. I saw individuals and the community benefit from the variety of media opportunities available.

I support SB707 and am unable to attend the hearing. 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. The procurement process only hurts the access centers. Money and resources must be expended to compete with other bidders that may not even be experienced and/or located in the communities they wish to serve. Requiring them to bid for something that they have provided for so long would be a detriment to the users and viewers of the channels. These organizations work because they are local, and community driven and supported.

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". This exemption is warranted and necessary to allow Akaku to continue to grow and serve Maui County.

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.

Sincerely,

Carey Owen
319 Wainohia St
Kihei, HI 96753
careyo@gmail.com

Eric Arquero

From: Kenny Hultquist [artmusicvideomai@mac.com]
Sent: Thursday, February 18, 2010 6:59 AM
To: CPN Testimony; Sen. David Ige; Sen. Roz Baker; Sen. Dwight Takamine; Sen. Brian Taniguchi; A Kenny Hultquist
Subject: Community Access television

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator David Ige, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Taniguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

LATE

Thursday, February 18, 2010, 9:30 a.m.

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

My name is Kenny Hultquist

I have been a Certified Field Producer for Akaku for around eight years. During that time I have submitted around 150 programs for airing to Akaku's programming department, and currently have about 100 programs that air on a rotational basis on Channels 52 & 53 and can also be scheduled by any members of the public to play on Channel 54. My programs of note are most of the Maui Planning Commission meetings for the past two and a half years and many of the Cave Honolua Bay Coalition meetings held in West Maui. The airing of these meetings has served to keep the public informed of important issues concerning their residence on this island.

Please do everything you can to keep Akaku up and running so they can continue this valuable service to our community.

Bill SB707 is intended to exempt Maui'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.

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".

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.

Sincerely,
Kenny Hultquist
POB 1121
Lahaina, Maui
96767

Eric Arquero

From: DrLeisure1@aol.com
Sent: Wednesday, February 17, 2010 11:07 PM
To: CPN Testimony
Cc: emily@akaku.org
Subject: Testimony in support of SB 707

LATE

Testimony in support of SB707

I support SB707 it is crucial to preserving public television as we have known it. If the procurement methods are changed it will be another voice controlled by money and not necessarily reflective of the many different views of the community.

George R. Harker
Dr. Leisure
PO Box 1137
Kihei, HI 96753

808-298-5399
DrLeisure1@aol.com
DrLeisure.com

Eric Arquero

From: DrLeisure1@aol.com
Sent: Wednesday, February 17, 2010 11:07 PM
To: CPN Testimony
Cc: emily@akaku.org
Subject: Testimony in support of SB 707

LATE

Testimony in support of SB707

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George R. Harker
Dr. Leisure
PO Box 1137
Kihei, HI 96753

808-298-5399
DrLeisure1@aol.com
DrLeisure.com

Eric Arquero

From: Angela Videotron [angelavideotron@gmail.com]
Sent: Wednesday, February 17, 2010 9:29 PM
To: CPN Testimony
Subject: In support of SB 707

LATE

Dear Committee Members,

I strongly support SB 707 and urge you to vote aye.

SB 707 will allow the Director of the DCCA to designate an PEG Access Media organization to oversee public, educational, and governmental channels on cable television. This will also rectify the mishandling of state procurement code as it pertains to PEG Access organizations, namely that utility-like PEG Access should not be put out for bid using the state procurement code process.

The Director of the DCCA and the cable advisory committee are able to make the appropriate educated decision on how to designate Hawaii's PEG Access providers. The State Procurement Code as it stands is incapable of accounting for and quantifying what PEG Organizations do. It's not just the video cameras and computers and software and TV studios. PEG Access is a venue for unencumbered free speech, for community empowerment, civic participation and lifelong learning.

My experience as a Volunteer Producer and as a staff member of 'Olelo Community Media have taught me that PEG Access is a unique and precious resource to the people of Hawai'i. Exemptions to state procurement code are made all the time. A public resource as priceless as PEG Access Media should not be put out to the lowest bidder. Please support SB 707.

Sincerely,

Angela Breene

59-272 Pupukea Road
Haleiwa, HI 96712

Eric Arquero

From: Diana Bonsignore [dbonsignore@hawaii.rr.com]
Sent: Wednesday, February 17, 2010 9:33 PM
To: CPN Testimony; Sen. Robert Bunda
Cc: 'Olelo Community Media; Rep. Michael Magaoay; J Fomin; Angela Breene
Subject: Support for SB707

LATE

To: Commerce and Consumer Protection and Judiciary and Government Operations Committees, and my State Senator Robert Bunda

From: Diana Bonsignore, 67-380 Haona St., Waialua, HI 96791

Regarding: Support for SB707

I strongly support SB707. In this digital age, it is crucial to not only maintain, but expand Public, Educational, and Government (PEG) access to the free speech forum of digital media.

PEG access was created to provide the power of the media to the common man, open to all on a first-come, first-served basis without discrimination or favoritism based on content. PEG access provides any combination of television production equipment, training and airtime on a local cable system to enable members of the public, educational institutions, and government to produce their own shows and televise them to a mass audience.

As a school administrator I have seen the value of PEG access television in our educational community, including the of airing Hawaii State DOE teacher training workshops, as well as the the training of students and adults to use technology and broadcast their messages. As a citizen I have watched my Neighborhood Board and other community forums on Public Access T.V.

However, I have also seen cable companies attempt to shirk their responsibilities to PEG access, and I have seen government agencies burden PEG access providers like Olelo with poorly thought-out rules and regulations.

Please do not let this happen in Hawaii. Secure the future of community access television in Hawaii by supporting SB707.

Eric Arquero

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 17, 2010 10:42 PM
To: CPN Testimony
Cc: nancylee01@gmail.com
Subject: Testimony for SB707 on 2/18/2010 9:30:00 AM

LATE

Testimony for CPN/JGO 2/18/2010 9:30:00 AM SB707

Conference room: 229
Testifier position: support
Testifier will be present: No
Submitted by: nancy lee
Organization: Individual
Address: HC1 Box 947 Kula, HI
Phone: 269-8855
E-mail: nancylee01@gmail.com
Submitted on: 2/17/2010

Comments:

Eric Arquero

From: Mari Shinri Nakamura [marisnak@hawaii.edu]
Sent: Wednesday, February 17, 2010 10:52 PM
To: CPN Testimony
Cc: atamaribuchi@olelo.org
Subject: In Support of 'Olelo and SB707

LATE

I support this bill because it could provide the opportunity for PEG operators like 'Olelo to be exempt from the Request For Proposal (RFP) process

'Olelo has provided me with access to community resources to help persons with hidden disabilities, especially Traumatic Brain Injury (TBI), by raising awareness of this hidden condition. Without 'Olelo I would not have been able to communicate that TBI is much more commonplace than people know. Even medical service providers often do not diagnose or even misdiagnose incidences of TBI. With increases in sports concussions for secondary students, understanding of this hidden disability looms even more significantly. TBI affects all ages from babies (shaken baby syndrome) to seniors who suffer head injuries from falls.

Please allow 'Olelo to continue, even to expand, their services to persons like me who would have no way to communicate my message to the community without their help. Thank you.

Mari Nakamura
Coordinator, Ho'oikaika Peer Mentoring Project
JABSOM/PBRRTC
1268 Young Street, Suite 204
Honolulu, HI 96814
808-592-5907
marisnak@hawaii.edu

Eric Arquero

From: pacificislesfireprotection@hawaiiantel.net
Sent: Wednesday, February 17, 2010 8:15 PM
To: CPN Testimony
Cc: pifp@hawaiiantel.net
Subject: SB707 testimony

LATE

Aloha,

My name is Dominic Naki. I am writing you in regards to this bill because it makes sense. Public access needs to be exactly what it says Public Access. My organization has benefitted greatly from programming at Olelo.

I am a part of a non-profit organization that helps to benefit the poor and needy in our communities. Word needs to get out to these people and Olelo has provided that means. I know that it wasn't your intentions to impede these necessary services, but I implore you to allow this bill to pass in order for us to do the right thing and that is to help those in need. To deny food, clothing, and necessities for everyday living to those that need it most would go against the spirit of Aloha that we all represent.

I don't normally respond to any causes, but this one hits home because I need to be a voice for those that don't have one.

So please, let's pass this bill so we can all get back to our jobs of helping those in need.

Mahalo

Dominic Naki

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator David Ige, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Tanaguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

LATE

Thursday, February 18, 2010, 9:30 a.m.

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Kristine Omura.

I support SB707 and plan to attend/not attend this Thursday, February 18, 2010.

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.

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”.

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.

PLEASE NOTE: _____

Sincerely,

Kristine Omura

Date: 2/17/10

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator David Ige, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Tanaguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

LATE

Thursday, February 18, 2010, 9:30 a.m.

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Deane Omura.

I support SB707 and plan to attend/not attend this Thursday, February 18, 2010.

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.

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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.

PLEASE NOTE: _____

Sincerely,

Deane Omura Date: 2/17/10

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator David Ige, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Tanaguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

LATE

Thursday, February 18, 2010, 9:30 a.m.

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is JASON SCHWARTZ

I support SB707 and plan to attend/not attend this Thursday, February 18, 2010.

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.

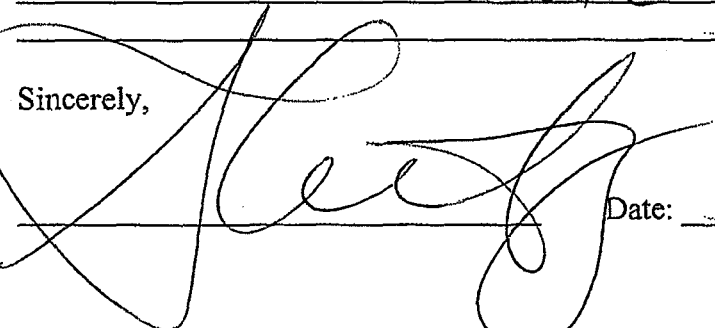
These dedicated, community-based non-profit public access organizations have been serving communities throughout the state for over 20-years.

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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.

PLEASE NOTE: THIS IS A PUBLIC SERVICE
WHERE EVERY BIT OF SUPPORT IS
WORTHWHILE — EVERY PENNY

Sincerely,  Date: 2/17/10

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator David Ige, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Tanaguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

LATE

Thursday, February 18, 2010, 9:30 a.m.

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is DARLYNN SWAJKA.

I support SB707 and plan to attend/not attend this Thursday, February 18, 2010.

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.

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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.

PLEASE NOTE: _____

Sincerely,

Darlynn Swajka

Date: 2/17/10

LATE

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator David Ige, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Tanaguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

Thursday, February 18, 2010, 9:30 a.m.

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Armando Nunez.

I support SB707 and plan to attend/not attend this Thursday, February 18, 2010.

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.

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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.

PLEASE NOTE: _____

Sincerely,

Armando Nunez

Date: 2/17/10

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator David Ige, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Tanaguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

LATE

Thursday, February 18, 2010, 9:30 a.m.

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Suzanne Alvarez.

I support SB707 and plan to attend/not attend this Thursday, February 18, 2010.

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.

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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.

PLEASE NOTE: _____

Sincerely,

Suzanne Alvarez

Date: 2/17/10

LATE

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator David Ige, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Tanaguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

Thursday, February 18, 2010, 9:30 a.m.

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Esther Arvizu

I support SB707 and plan to attend/not attend this Thursday, February 18, 2010.

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.

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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.

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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.

PLEASE NOTE: _____

Sincerely,

Esther Arvizu

Date: 2/17/10

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator David Ige, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Tanaguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

LATE

Thursday, February 18, 2010, 9:30 a.m.

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Victor Claro.

I support SB707 and plan to attend/not attend this Thursday, February 18, 2010.

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.

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Date: 2/17/10

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LATE

Thursday, February 18, 2010, 9:30 a.m.

Testimony IN SUPPORT of SB707 – Relating to Cable Television

My name is Ruth Ramirez.

I support SB707 and plan to attend/not attend this Thursday, February 18, 2010.

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Ruth Ramirez

Date: 2/17/10

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LATE

Thursday, February 18, 2010, 9:30 a.m.

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

My name is Shawn Malkovich

I support SB707 and plan to attend/not attend this Thursday, February 18, 2010.

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Shawn Malkovich

Date: 2/17/2010

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Senator Dwight Y. Takamine, Vice Chair

Thursday, February 18, 2010, 9:30 a.m.

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

Aloha Chair Baker, Chair Taniguchi 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 and am currently serving 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 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 the Akaku's Molokai Media Center (the "center") has become for our small, rural island community.....just as the seven community median centers, established by Olelo on Oahu have become for the many, many residents living in Kahuku/Northshore, Mapunapuna, Pololo/Kamuki, Wahiwa, Waianae, Waipahu and the media center serving Oahu's Windward area which operates out of King Intermediate School.

Akaku Molokai and the other community media centers statewide did not evolve like this 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.

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, two years ago in 2008.

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, and I quote, "*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 mirrors a point that former DCCA Director Mark Recktenwald made when he filed an application with the State Procurement Office in 2006 requesting an exemption for the community access stations statewide from the RFP or competitive bidding process.

Director Rechtenwald wrote, *“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.” Director Rechtenwald said, *“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 that reason, among others, Director Recktenwald advised the State Procurement Office that his department, and I quote from DCCA’s application, “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 exemptions from the procurement code for services, such as those provided by the public access organizations provide communities statewide, maybe granted if, and I quote from Chapter 103D of the Hawaii Revised Statutes, “procurement by competitive means is either not practicable or not advantageous to the state.”

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

And former DCCA Director Recktenwald you would assume has a reasonably good grasp of what is intended under the law and how to apply the law fairly. He is now a judge on the Hawaii Supreme Court.

Judge Recktenwald’s petition for an exemption in 2006 came directly on the heels of a massive statewide campaign sponsored by DCCA, in which public hearings were held on Oahu, Hawaii, Kauai, Maui and Molokai.

The purpose of these hearing was two-fold. One 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).

Secondly, 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 access services to various communities statewide.

Hundreds of people attended the 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 provide. The written testimonies are currently on the DCCA website and DCCA has DVD's of all the meetings, which are available.

The bottom line is that over 90% of the testimony was a) strongly supportive of the access services being provided by Na Leo, Hoike, Olelo and Akaku, and b) strongly opposed to subjecting the access service contracts to competitive bidding under the procurement code.

In 2008, many of you Senators 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, it was held up from a final floor vote near the end of the session despite being unanimously being approved by the two Senate Committees and one House Committee that heard the bill.

In his Committee 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, all the 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.

So why are we here today seeking an exemption from the procurement code through legislation? One because the legislature has the authority to legislate such an exemption, and two, 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 service contracts from the procurement code.

After a three hour hearing, the Board could not muster the necessary four (4) votes needed to even make a 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 very weak argument supporting their positions.

The two members in favor of the exemptions were Russ Saito, Comptroller for the State of Hawaii and Darryl Bardusch, an attorney with 20 years experience in providing legal guidance to contracting officers purchasing supplies and service for the Army here in Hawaii.

The State Procurement Board hearing was transcribed by a court reporter who said the transcript would be available during the first week of February. It has not been completed to date, but Olelo did make a DVD of the meeting. I reviewed that DVD.

The following are some comments from Russ Saito and Darryl Bardusch at the January 21 procurement board hearing:

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 through that 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.”

Just former DCCA Director Judge Recktenwald had the legal background and credentials to determine if an exemption was warranted under the law, both Darryl Bardusch and Russ Saito have equally impressive credentials and experience to be in positions to judge whether an exemption from the procurement process is warranted or not.

Russ Saito is comptroller of our state, and the Director of the states 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 before what I believe was this committee, DCCA's current Director Larry Reifurth put forth this 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, is a reality in the form of Senate Bill 707 that is before you today for consideration.

Please listen to the people, listen to the experts and listen to your hearts.

Pleas....approve SB 707. Thank you

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

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COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

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Senator Dwight Y. Takamine, Vice Chair

Thursday, February 18, 2010, 9:30 a.m.

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

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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"***

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“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 a viewpoint expressed by former DCCA Director Mark Recktenwald in an application he filed with the State Procurement Office in 2006 requesting an exemption for the community access stations statewide from the RFP or competitive bidding process. The application can be found on the DCCA website.

Director Rechtenwald wrote, ***“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”.***

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The two members in favor of the exemptions were Russ Saito, Comptroller for the State of Hawaii and Darryl Bardusch, 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 who said the transcript would be available during the first week of February. It has not been completed to date. Olelo did make a DVD of the meeting, which I reviewed that DVD.

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”

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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 is 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."

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Please listen to the people, listen to the experts and listen to your hearts.

Please....approve SB 707. Thank you

Respectfully submitted

A handwritten signature in cursive script that reads "DeGray Vanderbilt". The signature is written in black ink and is positioned above the typed name and contact information.

DeGray Vanderbilt

Box 1348

Kaunakakai, Molokai, Hawaii 96748

(808) 283-8171

Email: pauhanamolokai@yahoo.com