



NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
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](http://www.hawaii.gov/dcca)

KEALI'I S. LOPEZ  
INTERIM DIRECTOR

EVERETT S. KANESHIGE  
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2011

Date: January 31, 2011

Time: 2:00 p.m.

**TESTIMONY ON H.B. No. 112 - RELATING TO CABLE TELEVISION SYSTEMS**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is Everett Kaneshige and I am the Deputy Director of the Department of Commerce and Consumer Affairs (the "**Department**") and am testifying in support of HB No. 112.

The Department recognizes the importance of PEG access to democracy and the exchange of ideas and the opportunity for the public to share their ideas, using a media that would be otherwise cost-prohibitive for most people.

Therefore, the Department supports an exemption from HRS chapter 103 for the designation of access organizations for public, educational, and governmental (PEG) access channels as described in lines 4-10 on page 1 of the bill. The Department's position is consistent with its previous requests to the State Procurement Office in 2005 and 2006 for a similar exemption and also the recommendations of the H.C.R. 358 Task Force Report to the 25th Legislature on December 16, 2008.<sup>1</sup>

The remainder of the bill addresses the procedure to be used by the Department in conjunction with designation of the PEG access organizations. The Department points out that these procedures are already contained in section 16-131-70 of the

---

<sup>1</sup> Recommendation #1 of the H.C.R. 358 Task Force Report to the 25th Legislature states, "The Legislature should exempt the designation of PEG access organizations from the provisions of the State Procurement Code."

Hawaii Administrative Rules and therefore it is not necessary to add similar provisions to HRS chapter 440G.

Furthermore, in the event this bill is enacted, HAR section 16-131-70 will need to be revised to delete the current language which requires the Department to comply with HRS chapter 103. Revisions to this section would require public hearings and will provide the Department with the opportunity to work with the PEG access organizations and our shared public, educational and governmental constituents, to develop rules which could address not only the designation of organizations but also specific terms and conditions of the agreements between the Department and the PEG access organizations.

Thank you for the opportunity to testify on H.B. No. 112. I will be happy to answer any questions that members of the Committee may have.



**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

P.O. Box 119  
Honolulu, Hawaii 96810-0119  
Tel: (808) 587-4700 Fax: (808) 587-4703  
<http://hawaii.gov/spo>

**TESTIMONY  
OF  
AARON S. FUJIOKA  
ADMINISTRATOR  
STATE PROCUREMENT OFFICE**

**TO THE  
HOUSE COMMITTEE  
ON  
CONSUMER PROTECTION & COMMERCE**

January 31, 2011

2:00 P.M.

HB 112

RELATING TO CABLE TELEVISION SYSTEMS.

Chair Herkes, Vice-Chair Yamane, and committee members, thank you for the opportunity to testify on HB 112.

The State Procurement Office (SPO) opposes the amendment in SECTION 1 which proposes to exempt from HRS chapter 103D the designation of access organization for public, educational, or governmental access channels.

A solicitation was issued on May 20, 2010 by SPO on behalf of the department of Commerce and Consumer Affairs (DCCA), Cable Television Division, and is currently proceeding through the request for proposal (RFP) process. RFP-10-007-SW is for the services to *Operate, Maintain, and Manage Public, Educational, and Governmental (PEG) Access Channels, Funds, Facilities, and Equipment*, and generally contains the items listed in the proposed bill for the director to consider such as the public need for the proposed services, qualifications and financial responsibility of the applicant, etc. The solicitation and amendments can be viewed at: <http://hawaii.gov/spo/hawaii-public-procurement-code-chapter-103d-hrs/solicitations/peg/public-educational-and-governmental-peg-access-channels-funds-facilities-and-equipment-rfp/>.

Public procurement's primary objective is to give everyone equal opportunity to compete for Government contracts; to prevent favoritism, collusion or fraud in awarding of contracts. The true nature of competition gives government agencies the benefits of knowing that the acquiring of goods and services were conducted in a fair and objective manner. Meeting this objective requires a single set of statutes and rules that define and mandate the use of selection processes that are competitive, efficient, fair, transparent, open and impartial.

Statutory exemptions for specific agencies are contrary to the Hawaii Public Procurement Code, section 103D-102, HRS, on the applicability of the chapter that states in part ". . . shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings, . . ." Any governmental agency with the authority to expend funds should be in compliance with chapter 103D, which promotes the policy of fair and equitable treatment of all persons who deal with the procurement system; fosters effective broad-based competition and increases public confidence in public procurement.

The SPO opposes statutorily exempting specific agencies from the Code, as it is not in the best interest of government, the business community, and the general public. The Code establishes a time-tested, fair, and reliable process for award of contracts. The competitive procurement processes of the Code are to insure that all potential providers are afforded the opportunity to compete for the required services. To the extent agencies may need specific purchases to be exempted from Code requirements, the Code provides an exemption process on a case by case basis as opposed to a total blanket statutory exemption.

The Code should not be viewed as an obstacle to a purchasing agency's mission, but rather as 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. If individual agencies are exempted and allowed to develop their own individual processes, it becomes problematic and confusing to vendors, contractors and service providers that must comply with a variety of different processes and standards. 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, we must participate in the process with one set of statutes and rules. To legislate that any one entity should be exempt from compliance with the procurement code conveys a sense of disproportionate equality in the law's application.

If the Legislature intends to exempt specific programs or funds from the Code, the exemption should include assurances that the agency's exempt process includes fair and open competition, disclosure, transparency, due process for aggrieved parties, a defined selection and awards process, and the various elements contained in the Code to ensure public confidence that the exempt procurement process is as fair as the Code.

There is no compelling reason to exempt the procurement of contracts to manage and operate PEG access channels, funds, facilities and equipment from fair and open competition. We request that SECTION 1 be deleted. Thank you.

January 27, 2011

The Honorable Robert N. Herkes  
Chair  
Committee on Consumer Protection and Commerce (CPC)  
Hawaii State House of Representatives  
415 S. Beretania Street, Room 320  
Honolulu, HI 96813

COMMUNITY MEDIA

Board of Directors  
Marsha Bolson  
Vice Chair

Jim Boersema  
Lynette Cruz  
Lubuw Falanruw  
Robert Filius  
Pat Garvey  
Rochelle Gregson  
Ormond Hammond  
Nelson Lau  
Bennette Misalucha  
Melissa Pavlicek  
Diane Peters-Nguyen  
Steve Sombrero  
Gerald Sumida

Roy K. Amemiya, Jr.  
Interim President/CEO

Dear Chair Herkes and Members of the CPC Committee;

**Subject: Letter in Strong Support of HB 112 Relating to Cable  
Television Systems**

My name is Roy Amemiya, Chief Operating Officer and Interim President/CEO of 'Ōlelo Community Television, the PEG Access Provider for Oahu. I am writing to strongly support HB 112 Relating to Cable Television Systems. This bill would change the State's procurement process of PEG Access service providers by designating a new process within HRS 440G that is modeled after the process used to procure cable franchises.

The genesis of this measure actually began in 2008 with the unanimous House and Senate enactment of HCR 358, HD1 which established a task force to "solicit public input and examine methods other than public procurement code process to oversee PEG organization expenditures and ensure proper checks and balances". The resolution text is also clear that this body felt that procuring PEG access using HRS 103D has many shortcomings and that another method should be explored by the task force.

Members of the 12 person task force consisted of representatives from the DOE, the UH, the cable advisory committee, all four county governments, all four PEGs, and the state cable administrator. I served on the task force and was an 'Ōlelo board member at the time.

The task force met a total of 7 times and debated multiple procurement options. These meetings were open to the public and testimony was received from members of the community at each meeting. In the end, all task force members agreed on the option that is recommended in the HCR 358 Task Force Report to the 25<sup>th</sup> Legislature and is proposed in this bill. Briefly described, the concept is to take the existing process for both new and renewing cable franchise applicants and apply a similar process to PEG access providers. That process, among other things, requires that a public hearing be conducted on the application. In that way, it is much more transparent than the current RFP process. It also allows the DCCA to get an understanding of the needs of the community. This, I believe would be very beneficial in crafting concrete contract

terms and conditions, as well as performance measures – something that is very elusive in the current RFP process.

Adoption of this bill will eliminate the challenges that the House and Senate identified when it passed the aforementioned concurrent resolution and replace it with an existing and proven process that was unanimously agreed to by a diverse group of stakeholders. Accordingly, I ask that you support this measure by moving it out of committee.

Thank you for the opportunity to testify. I am pleased to answer any questions that you may have.

Aloha,

A handwritten signature in black ink, appearing to read "Roy K. Amemiya, Jr.", written in a cursive style.

Roy K. Amemiya, Jr.  
Interim President and CEO

## **CPCtestimony**

---

**From:** Gene Zarro [gene.zarro@gmail.com]  
**Sent:** Friday, January 28, 2011 8:30 PM  
**To:** CPCtestimony  
**Subject:** HB112 01-31-11 Conference Room 325 at 2:00PM

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

### **Testimony IN SUPPORT of HB112 – Relating to Cable Television Systems**

#### **COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**

Representative Robert N. Herkes, Chair  
Representative Ryan L. Yamine, Vice Chair

Monday, January 31, 2011, 2:00 PM

Aloha Chair Herkes, Vice Chair Yamine and members of the Committee,

My name is Gene Zarro, I am a 35 year resident of Maui and have enjoyed and looked forward to the programming of Akaku since its inception.

I am testifying in strong support of HB 112.

I am honored to say I am the Chairman of the Board of Akaku an organization whose goal is to not only empower the voice of Maui's citizens and their right of Free Speech through Public Access TV but also to allow the creative side of Mauians to have another outlet for all that wish to enjoy.

Akaku is a well run 501c3 organization with a board of 13 members representing the Community, the DOE, UH Maui, Maui County Government and the Producers.

It is an organization that is audited yearly by an outside CPA firm and passes these audits with little comment.

This is a unique organization and needs to be supported. It is not an organization that anyone can just step in and run. The staff of Akaku are very talented in the media industry and not only produce award winning TV they bring educational opportunities to all who would like to become presenters through this medium.

The bill is intended to provide strong accountability and performance standards for Akaku, Maui County's Akaku Community Television, as well as the community-based public access television providers serving Oahu (Olelo Community Television) the Big Island (Na Leo O Hawaii) and Kauai (Hoike Community Television) These community-anchor, non-profit, public access organizations have been a vibrant part of our public discourse and civic engagement throughout the state for more than twenty years and this bill will ensure that they continue to be fully accountable and responsive to the needs of our local communities, the DCCA and the state.

The content of this bill incorporates draft rules from your own 2008 HCR 358 Legislative Task Force which recommended that this reasonable method of PEG Access designation be used in lieu of a

fatally flawed state procurement process initiated six years ago by the previous Administration, an ongoing RFP process that has cost the PEG Access organizations and the state many thousands of dollars with no end in sight.

Recommendation 3 of the HCR 358 Task Force Report states:

*"The Task Force recommends that in place of competitive procurement, the DCCA be charged with adopting Administrative Rules that guide a new process for the designation of a PEG Access organizations in a manner that is similar to the process used by DCCA for cable franchises, a process that is already well understood by the DCCA and the public, This process should provide ample opportunity for input by the public on each island within the local franchise area and allow for interested parties to intervene*

HB 112 provides for a regulatory framework that will silence even the harshest critic of the current PEG access designation. We would like to respectfully request that your committee approve HB112 which will grant Akaku and the other community media organizations a sense of certainty they have earned from decades of dedicated community service. This will allow these community-based organizations to continue to expand and build upon their only mission: to provide extended media opportunity and a vibrant voice for all the people of Hawaii Nei.

Thank you for the opportunity to testify before you today.

Gene Zarro  
Chair, Akaku  
808 385 1197  
[gene.zarro@gmail.com](mailto:gene.zarro@gmail.com)



## CPCtestimony

---

**From:** Tina Lia [tinalia@tinalia.com]  
**Sent:** Saturday, January 29, 2011 9:25 AM  
**To:** CPCtestimony  
**Cc:** Jay April; Linda Puppolo  
**Subject:** Testimony in Support of HB112

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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. I am testifying in support of HB112.

This bill will establish accountability standards for Hawai'i's community television stations which will ensure that our non-profit public access organizations are meeting the needs of the public, educational sector, and government. In addition, HB112 will provide rules for PEG Access designation which will put an end to the state procurement process. The current RFP process has drained significant resources from our public access stations and our government funds through six years of litigation. This RFP process is fundamentally wrong and detrimental to the future of free speech in our state.

Hawai'i's public access stations are the voice of our community. The public depends on these stations as a forum for freedom of speech and an outlet for sharing information through creative, educational programming. I ask that you support HB112 and provide our community television organizations with the stability of a strong, fair regulatory process.

Aloha,  
Tina Lia  
[tinalia@tinalia.com](mailto:tinalia@tinalia.com)

## CPCtestimony

---

**From:** Chris Conybeare [conybeare@msn.com]  
**Sent:** Sunday, January 30, 2011 1:37 PM  
**To:** CPCtestimony  
**Subject:** HB112 01-31-11 Conference Room 325 at 2:00PM

### COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Representative Robert N. Herkes, Chair  
Representative Ryan L. Yamine, Vice Chair

Monday, January 31, 2011, 2:00 PM

Testimony **IN SUPPORT** of HB112 – Relating to Cable Television Systems

My name is Chris Conybeare, as president of the Media Council Hawaii, I offer my testimony in strong support of HB112 .

The content of this bill incorporates draft rules from your own 2008 HCR 358 Legislative Task Force which recommended that this reasonable method of PEG Access designation be used in lieu of a fatally flawed state procurement process. Recommendation 3 of the HCR 358 Task Force Report states:

*"The Task Force recommends that in place of competitive procurement, the DCCA be charged with adopting Administrative Rules that guide a new process for the designation of a PEG Access organizations in a manner that is similar to the process used by DCCA for cable franchises, a process that is already well understood by the DCCA and the public, This process should provide ample opportunity for input by the public on each island within the local franchise area and allow for interested parties to intervene*

HB 112 provides for a necessary and fair regulatory framework to govern selection, evaluation and continuation of PEG Access services and will permit Community Television to flourish. I respectfully request We would like to respectfully request that your committee give approval to this legislation. Thank you.

Aloha,  
Chris Conybeare, President  
Media council Hawaii

# COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Suite 203, Honolulu, Hawai'i 96817  
Phone/E-mail: (808) 533-3454/[communityallianceonprisons@hotmail.com](mailto:communityallianceonprisons@hotmail.com)



## COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Robert N. Herkes, Chair  
Rep. Ryan I. Yamane, Vice Chair  
Monday, January 31, 2011  
Room 325

### **HB 112 - STRONG SUPPORT**

[CPCtestimony@Capitol.Hawaii.gov](mailto:CPCtestimony@Capitol.Hawaii.gov)

Aloha Chair Herkes, Vice Chair Yamane and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working on prison reform and justice issues in Hawai'i for more than a decade. We respectfully offer our testimony always being mindful that Hawai'i has some 6,000 people behind bars with almost 1,800 individuals serving their sentences abroad, thousands of miles away from their loved ones and homes – ancestral home for a disproportionate number.

I am also the producer and host of *Hawai'i InJustice*, an 'Olelo community television show that airs the first Tuesday of every month at 8:30 pm and every Thursday morning at 8 am on Channel 54.

HB 112 allows the Director of Commerce and Consumer Affairs (DCCA) to designate an access organization to oversee public, educational and governmental channels on cable television.

Community Alliance on Prisons stands in strong support of this measure that preserves the community voice and clarifies Chapter 440G, outlining the criteria the Director must consider before letting a contract from PEG access.

This is important because the community voice is part of the Director's criteria for selection. This is especially vital in challenging economic times. We the people must always be vigilant that the government doesn't corporatize public assets. These are known as The Commons.

PEG (Public, Education, Government) access is a vital part of a thriving democracy. It provides access to information that is, in some cases available nowhere else. Access to current information is even more important for Hawai'i. Access to technology facilitating information to connect our islands is not a luxury – it is a necessity.

This bill ensures that the public has a voice in keeping public access, well, public! Public access (and we mean PEG access) is

- a public right
- democracy in action
- a way to create a more informed citizenry
- a way to build strong, involved, and committed communities
- a window for policymakers to see, hear and understand issues important to their constituents

When we say public access is a public right, we mean that is the rent - and it is indeed low rent considering the corporate benefit cable television operators gain from the use of public-rights-of-way.

*A vibrant democracy demands participation*

Many people feel left out of the mainstream media. The community's voice is often relegated to a 30 second sound bite, if anything at all.

Public access/Community Television provides a venue for the discussion of issues important to the community. This education encourages participation in the democratic process.

*Public access/Community television is vital in Hawai'i because we are a multi-cultural society*

We have many immigrants who come to Hawai'i and desperately want to connect with what is going on, but find it very difficult to determine how to do this. Mainstream television and our print media do not do much to help people fit in.

*Community television is vital in Hawai'i because we are a multi-cultural society*

We have many immigrants who come to Hawai'i and desperately want to connect with what is going on, but find it very difficult to determine how to do this. Mainstream television and our print media do not do much to help people fit in.

*Freedom of speech is a vital component of democracy*

The Constitution has been under siege, and one of the most important freedoms enshrined in the Bill of Rights is freedom of speech. Public Access/Community Television provides an uncensored venue for our community to learn about issues, to find ways to participate in their communities, and to be more active contributors in shaping Hawai'i's future. Public access promotes the first amendment!

*Community television increases civic literacy*

Hawai'i has pitiful voting numbers. We rank at the bottom for voter participation. It is obvious from our dismal voting numbers that people feel disenfranchised and separated from the government. Yet we are the government. Public access/Community Television brings issues to the people and calls for their participation. In election cycles, the community can tune in and hear from candidates running for office. This creates a more engaged and educated voter.

Keep Public Access PUBLIC! We support this measure that ensures the public will have a voice in the PEG process that is made clearer with the amendment to Chapter 440G.

A vibrant democracy demands an involved citizenry and every effort to educate and involve the citizens on important issues should be wholeheartedly supported by our government.

Preserving, enhancing, and amplifying the public, educational, and governmental voices  
is what *Who the People* is all about!

Mahalo for this chance to share our thoughts.



# LIFE OF THE LAND

76 North King Street, Suite 203

Honolulu, Hawai'i 96817

Phone: 533-3454; [henry.lifeoftheland@gmail.com](mailto:henry.lifeoftheland@gmail.com)

## COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Robert N. Herkes, Chair

Rep. Ryan I. Yamane, Vice Chair

Date: Monday, January 31, 2011

Time: 2 p.m.

Location: Conference Room 325

### **HB 112 – PEG Access**

### **STRONG SUPPORT**

Aloha Chair Herkes, Vice Chair Yamane and Members of the Committee.

My name is Henry Curtis and I am the Executive Director of Life of the Land, Hawai'i's own energy, environmental and community action group advocating for the people and `aina for four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

Community TV plays a critical role in this State. It is a place where we the people can get information out into the public airwaves, and where we can access that information.

It is important that those who have the ability to change the management of Community TV do so in an open and fair way.

Mahalo

Henry Curtis

## **CPCtestimony**

---

**From:** Lance [holter@maui.net]  
**Sent:** Friday, January 28, 2011 2:21 PM  
**To:** CPCtestimony  
**Subject:** HB112 01-31-11 Conference Room 325 at 2:00PM

**Importance:** High

### **COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**

*Representative Robert N. Herkes, Chair*

*Representative Ryan L. Yamine, Vice Chair*

*Monday, January 31, 2011, 2:00 PM*

Testimony **IN SUPPORT** of HB112 – Relating to Cable Television Systems

My name is Lance Holter, I am a resident of Maui County and am the Chairman of the Maui County Democratic Party.

#### **I strongly support HB112**

The bill provides strong service and accountability standards for Maui County's Akaku Community Television, as well as the community-based public access television providers Olelo Community Television, Na Leo O Hawaii and Hoike Community Television. These community based, not for profit, public access television stations have proved to be a vibrant component of public communication and civic relationships in the state for more than twenty years and HB112 will ensure continual accountability and responsiveness for the requirements of our Island communities, and state agencies. **Our Democracy and the successful deliverance of social justice depends on public access and I continually witness the ability for our citizens and station producers to use local programming for the furtherance of conveying important information, education and services to our rural communities served by public access television.. this is true Democracy in action** !

HB112 bill incorporates draft rules from the 2008 HCR 358 Legislative Task Force which recommended reasonable methods of PEG Access designation be used in lieu of a procurement process initiated some time ago by the Lingle Administration, a mean spirited RFP process costing the Public Access organizations and the state thousands of dollars and continuing to waste our monetary resources.

As an example, see recommendation 3 of the Task Force Report which states:

*"The Task Force recommends that in place of competitive procurement, the DCCA be charged with adopting Administrative Rules that guide a new process for the designation of a PEG Access organizations in a manner that is similar to the process used by DCCA for cable franchises, a process that is already well understood by the DCCA and the public, This process should provide ample opportunity for input by the public on each island within the local franchise area and allow for interested parties to intervene*

Therefore, HB 112 provides for a regulatory framework that even critics of the existing PEG access designation would agree to. I respectfully request your committee approve HB112 which will grant our community PEG's the certainty and continuity they deserved from their community service allowing these community-based organizations to build upon the promise of providing a Democratic voice for all the people of Hawaii.

Thank you for allowing me to express my concerns to you today.

Lance Holter, Chairman- Democratic party of Maui County  
PO Box 790656  
Paia, HI 96779  
Tele 579-9442



**ADA**

HAWAII

AMERICANS FOR DEMOCRATIC ACTION

OFFICERS

Brian Hallet, President  
Juliet Begley, Vice-President  
Fritz Fritschel, Treasurer  
Chuck Huxel, Secretary

DIRECTORS

Nancy Bey Little  
John Bickel  
Tom Horton  
Jim Olson  
Barbara Polk  
Jan Lubin  
Stephen O'Harrow  
George Simson

Guy Archer (Alt)  
Josh Frost (Alt)  
Bart Dame (Alt)  
Marcia Schweitzer (Alt)

MAILING ADDRESS

PO. Box 617  
Honolulu,  
Hawai'i 96822  
Karin Gill (Alt)

January 29, 2011

TO: Chair Robert Herkes, Vice Chair Ryan Yamane  
Members of the Committee on Consumer Protection and Commerce

FROM: Americans for Democratic Action/Hawaii  
Barbara Polk, Legislative Chair

RE: SUPPORT FOR HB 112 RELATING TO CABLE TELEVISION SYSTEMS

Americans for Democratic Action/Hawaii supports this bill because it offers a method of selecting PEG access providers that takes into account a wider variety of public interests and needs that does the standard procurement procedure.

Public access cable TV gives members of the public a way to air their concerns and interests, in addition to providing access to the political process and to educational programming. In an era of increasing media consolidation, it is important that public access channels continue to be guided by public interest. We believe that HB 112 provides a process that appropriately allows for greater public input and consideration in selecting the providers. We urge your support for the bill.



Representative Robert Herkes, Chair  
Representative Ryan Yamane, Vice-Chair  
Consumer Protection and Commerce Committee

House of Representatives of the State of Hawai'i

Lance D. Collins, Ph.D  
Law Office of Lance D Collins

Monday, January 31, 2011  
Support HB No. 112, Relating to the 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 then, in similar form as Senate Bill 2387 during the Twenty Fifth 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.

Nevertheless, the bill creates a level of stability and clear procedure for the director to exercise her discretion in designating access organizations and may help resolve some of these other issues.

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

Mahalo.

## **CPCtestimony**

---

**From:** Jay April [jay@akaku.org]  
**Sent:** Friday, January 28, 2011 1:40 PM  
**To:** CPCtestimony  
**Subject:** HB112 01-31-11 Conference Room 325 at 2:00PM

### **COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**

Representative Robert N. Herkes, Chair  
Representative Ryan L. Yamine, Vice Chair

Monday, January 31, 2011, 2:00 PM

Testimony **IN SUPPORT** of HB112 – Relating to Cable Television Systems

My name is Jay April, I am a resident of Maui County, President and CEO of Akaku: Maui County Community Television and a member of the HCR 358 Legislative Task Force. I offer my testimony in strong support of HB112

The bill is intended to provide strong accountability and performance standards for Akaku, Maui County's Akaku Community Television, as well as the community-based public access television providers serving Oahu (Olelo Community Television) the Big Island (Na Leo O Hawaii) and Kauai (Hoike Community Television) These community-anchor, non-profit, public access organizations have been a vibrant part of our public discourse and civic engagement throughout the state for more than twenty years and this bill will ensure that they continue to be fully accountable and responsive to the needs of our local communities, the DCCA and the state.

The content of this bill incorporates draft rules from your own 2008 HCR 358 Legislative Task Force which recommended that this reasonable method of PEG Access designation be used in lieu of a fatally flawed state procurement process initiated six years ago by the previous Administration, an ongoing RFP process that has cost the PEG Access organizations and the state many thousands of dollars with no end in sight.

Recommendation 3 of the HCR 358 Task Force Report states:

*"The Task Force recommends that in place of competitive procurement, the DCCA be charged with adopting Administrative Rules that guide a new process for the designation of a PEG Access organizations in a manner that is similar to the process used by DCCA for cable franchises, a process that is already well understood by the DCCA and the public, This process should provide ample opportunity for input by the public on each island within the local franchise area and allow for interested parties to intervene*

HB 112 provides for a regulatory framework that will silence even the harshest critic of the current PEG access designation. We would like to respectfully request that your committee approve HB112 which will grant Akaku and the other community media organizations a sense of certainty they have earned from decades of dedicated community service. This will allow these

community-based organizations to continue to expand and build upon their only mission: to provide extended media opportunity and a vibrant voice for all the people of Hawaii Nei.

Thank you for the opportunity to testify before you today.

## CPCtestimony

---

**From:** Dan Cohen [dcohen@maui.net]  
**Sent:** Friday, January 28, 2011 4:07 PM  
**To:** CPCtestimony  
**Subject:** testimony in support of HB112

### COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Representative Robert N. Herkes, Chair

Representative Ryan L. Yamine, Vice Chair

Monday, January 31, 2011, 2:00 PM

### Testimony IN SUPPORT of HB112 – Relating to Cable Television Systems

My name is Dan Cohen, and I am a registered, voting, resident of Maui County and I offer my testimony in strong support of HB112

The bill is intended to provide strong accountability and performance standards for Akaku, Maui County's Akaku Community Television, as well as, the community-based public access television providers serving Oahu, Olelo Community Television, the Big Island, Na Leo O Hawaii and Kauai, Hoike Community Television. These community-anchor non-profit public access organizations have been a vibrant part of our public discourse and civic engagement throughout the state for more than twenty years and this bill will ensure that they continue to be fully accountable and responsive to the needs of those respective local communities, the DCCA and the state.

The content of this bill incorporates draft rules from your own 2008 HCR 358 Legislative Task Force which recommended that this reasonable method of PEG Access designation be used in lieu of a fatally flawed state procurement process initiated six years ago by the previous Administration, an ongoing RFP process has cost the PEG Access organizations and the state many thousands of dollars with no end in sight.

Recommendation 3 of the HCR 358 Task Force Report states:

"The Task Force recommends that in place of competitive procurement, the DCCA be charged with adopting Administrative Rules that guide a new process for the designation of a PEG Access organizations in a manner that is similar to the process used by DCCA for cable franchises, a process that is already well understood by the DCCA and the public, This process should provide ample opportunity for input by the public on each island within the local franchise area and allow for interested parties to intervene

HB 112 provides for a regulatory framework that will silence even the harshest critic of the current PEG access designation.

I respectfully request that your committee approve HB112 which will grant Akaku and the other community media organizations a sense of certainty they have earned from decades of dedicated community service. This will allow these community-based organizations to continue to expand and build upon their only mission: to provide extended media opportunity and a vibrant voice for all the people of Hawaii Nei.

## CPCtestimony

---

**From:** Hawai'i People's Fund [peoples@lava.net]  
**Sent:** Saturday, January 29, 2011 4:25 PM  
**To:** CPCtestimony  
**Subject:** For Monday 2 PM

**TO:** Committee on Consumer Protection & Commerce  
**RE:** HB 112  
**From:** Nancy Aleck

In Support

Monday January 31, 2011 2 PM Room 325

Aloha Representatives Herkes and Yamane and Members of the CPC Committee,

I am hopeful that you will consider, pass, and champion House Bill 112.

It provides for strong accountability of community-based public access television throughout the islands. It is a fair process that allows the public a voice and PEG providers a level playing field. The recommended process parallels that currently used and workable for Cable franchises. And it will end a process that has been unfair, unworkable and actually stuck and costly for a number of years.

The more the people have a voice and direct access to media, the greater our democracy.

Thank you,

Nancy Aleck  
Honolulu, Hawaii

---

## CPCtestimony

---

**From:** Michael Duberstein [iliwai34@hawaii.rr.com]  
**Sent:** Sunday, January 30, 2011 5:05 PM  
**To:** CPCtestimony  
**Subject:** Strong support for House Bill 112

Aloha Kakou

I am writing to urge your strong and continued support for House Bill 112. I have served as a Board Member of Akaku: Maui Community Television since the end of 2007 and I also am certified as a Producer by Akaku. I remember two years ago when community support for Akaku was being challenged and literally hundreds of Maui residents showed up at both the Cameron Center and at our studios--during a Board meeting--to indicate their enthusiastic backing not only for us as Akaku, but just as strongly for the concept of total public access to broadcast media.

In addition, in 2008 I attended the national convention of the Alliance For Community Media in Washington, D.C. (incidentally using my own funds). At that meeting Akaku was praised over and over as the ideal model for community broadcasting. That praise wasn't asked for; it came from professionals in the industry who were--and still are--well aware of the benefits Akaku provides Maui Nui.

I look forward to passage of House Bill 112 in both the House and Senate, and I am sure our new governor also strongly is behind it.

Mahalo, aloha and malama pono

M. J. Duberstein  
34 Iliwai Loop  
Kihei 96753  
808-891-0597

## **CPCtestimony**

---

**From:** Elle Cochran [ellecochran@gmail.com]  
**Sent:** Sunday, January 30, 2011 9:07 AM  
**To:** CPCtestimony  
**Subject:** I SUPPORT HB 112

To Whom It May Concern,  
Let our voice be heard! Please support HB 112.  
Mahalo for your consideration.

--

Elle Cochran  
10 Halawai Dr. Ste. 1  
Lahaina, HI. 96761

808-281-7709  
[ellecochran@gmail.com](mailto:ellecochran@gmail.com)

## CPCtestimony

---

**From:** Stephen Luksic [Tree@hawaii.rr.com]  
**Sent:** Sunday, January 30, 2011 10:49 AM  
**To:** CPCtestimony  
**Subject:** Support HB 112

*Support*

I support HB 112,  
A bill such as this is long overdue. Please approve this bill.

Thank you,  
Stephen Luksic  
PO Box 73  
Kula HI 96790  
808-875-2008