

HB 550

HD1, SD1



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TO THE SENATE COMMITTEE ON
WAYS AND MEANS

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Date: March 30, 2011

Time: 9:30 a.m.

TESTIMONY ON H.B.550, H.D. 1, S.D. 1 – RELATING TO TELEVISION.

TO THE HONORABLE DAVID Y. IGE, CHAIR, AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (Department) appreciates the opportunity to provide written testimony in support of the intent of H.B. 550, H.D. 1, S.D. 1, Relating to Television. My name is Everett Kaneshige, and I am the Department's Deputy Director.

Section 1 of H.B. 550, H.D. 1, S.D. 1 proposes an analysis of the allocation of cable operator franchise fees to: "(1) Public, education, and government access organizations; (2) Hawaii Public Television Foundation; and (3) the department of commerce and consumer affairs' cable television division to determine the basis and rationale for the distribution of amounts to each entity for fiscal years 2008, 2009, and 2010 and to determine whether the rationale for distribution includes audit costs, and by whom."

The Department supports the analysis in section 1.

Section 2 of H.B. 550, H.D. 1, S.D. 1 directs the auditor to review the reports of financial, technical and operational condition and ownership submitted by 'Ōlelo Community Television pursuant to HRS §440G-14. The Department would like to point out that 'Ōlelo is not required to provide reports pursuant to HRS §440G-14, as described in lines 13 – 16 on page 2 since HRS §440G-14 applies only to cable operators. 'Ōlelo does provide the Department with audited financial statements on an

annual basis and year-end activity reports on programming hours, but these reports are not equivalent to the comprehensive financial, technical, operational and ownership reports provided by cable operators pursuant to HRS §440G-14. The audited financial statements are also not the same as management and performance audits of the finances and operations of 'Ōlelo contemplated by the language in the original H.B. 550. If the Committee feels that it is appropriate to proceed with a performance audit of 'Ōlelo, the Department would be willing to take the lead on conducting the audit. For the Committee's information, the Department has already considered requiring more comprehensive reporting by PEG access organizations and has included such requirements in RFP 10-007 SW for PEG access services.

If, however, the Committee would like for the auditor to review existing information at this time rather than conduct a performance audit, the Department is supportive of this intent but suggests that technical changes be made in the bill's language as currently drafted. For the Committee's convenience, the Department is attaching a proposed S.D. 2 for its consideration. The Department would be happy to work with the Chair and his staff on any proposed amendments.

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

A BILL FOR AN ACT

RELATING TO TELEVISION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The auditor shall conduct an analysis of the allocation of cable operator franchise fees to:

- (1) Public, education, and government access organizations;
- (2) The Hawaii Public Television Foundation; and
- (3) The department of commerce and consumer affairs' cable television division,

to determine the basis and rationale for the distribution of funds to each entity for fiscal years 2008, 2009, and 2010. The auditor shall submit a report of the auditor's findings to the legislature no later than twenty days prior to the convening of the regular session of 2012.

SECTION 2. The auditor shall review the financial, operational, and activity reports ~~of financial, technical, and operational condition and ownership~~ submitted for the years 2005 through 2010 by 'Olelo Community Television

~~pursuant to the department of commerce and consumer affairs section 440C-14, Hawaii Revised Statutes, and the most recent independent, third party review of 'Olelo Community Television's financial, operating, and equipment records and compliance with agreements with the department of commerce and consumer affairs. The auditor's review shall determine whether the reports currently required by statute provided by 'Olelo Community Television are sufficient to enable effective oversight of 'Olelo Community Television and shall contain recommendations as to whether or not a more extensive review including a financial and performance audit of the finances and operations of 'Olelo Community Television is necessary.~~

The auditor shall submit reports of the auditor's findings and recommendations to the legislature no later than twenty days prior to the convening of the 2012 regular session.

SECTION 3. This Act shall take effect on July 1, 2011.