
A BILL FOR AN ACT

RELATING TO PUBLIC, EDUCATIONAL, OR GOVERNMENTAL ACCESS
FACILITIES.

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

1 SECTION 1. The State has long supported providing public,
2 educational, and governmental cable channel access to the
3 residents of this State. The State, in its role as grantor of
4 cable television franchises, requires each cable company to
5 provide public, educational, and governmental access channels.
6 Under current law, an access organization may apply to be
7 designated to oversee the development, operation, supervision,
8 management, production, and broadcasting of programs of public,
9 educational, or governmental access facilities. Unlike the
10 majority of other jurisdictions, however, Hawaii currently
11 allows the same access organization to be designated for all
12 three types of programming: public, educational, and
13 governmental.

14 In an evaluation of public, educational, and governmental
15 access facilities conducted by the department of commerce and
16 consumer affairs, it was reported that the allocation of
17 resources to Hawaii's accredited educational institutions is



1 who are generally viewed as the primary constituency of the
2 public, educational, and governmental access movement. Whether
3 intended or not, this hierarchy of public, educational, and
4 governmental access components has resulted in a lack of
5 responsiveness, accountability, and efficiency among each of the
6 competing public, educational, and governmental access
7 components.

8 The legislature finds that the principles of public,
9 educational, and governmental access call for three robust and
10 equal components, none of which is superior to another: public
11 programming, educational programming, and governmental
12 programming. The legislature also finds that it is important to
13 ensure the equal availability of public access, educational
14 access, and governmental access cable channels across all
15 islands and to ensure consistency of available financial
16 resources from access organizations to each of the three public,
17 educational, and governmental access components.

18 The legislature further finds that having separate access
19 organizations for each component will allow each access
20 organization independently to develop a focused mission, develop
21 specialization and expertise in specific programming, and be
22 responsive, efficient, and accountable to its own specific



1 audience. The separation of public, educational, and
2 governmental components will also ensure that funding is
3 provided equally to each of the access components through their
4 respective access organizations and that each access
5 organization will have independent control over its own
6 resources.

7 The purpose of this Act is to require the director of
8 commerce and consumer affairs to designate separate access
9 organizations for each of the three components of public,
10 educational, and governmental access: public access,
11 educational access, and governmental access.

12 SECTION 2. Section 440G-3, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By adding a three new definitions to be appropriately
15 inserted and to read:

16 "Educational access facilities" means channel capacity
17 designated for use by educational institutions and the
18 facilities and equipment for the use of that channel capacity.

19 "Governmental access facilities" means channel capacity
20 designated for use by the government and the facilities and
21 equipment for the use of that channel capacity.



1 "Public access facilities" means channel capacity
2 designated for use by the general public and the facilities and
3 equipment for the use of that channel capacity."

4 2. By deleting the definition of "public, educational, or
5 governmental access facilities".

6 [~~"Public, educational, or governmental access facilities"~~
7 ~~means (1) channel capacity designated for public, educational,~~
8 ~~or governmental uses and (2) facilities and equipment for the~~
9 ~~use of that channel capacity."]~~

10 SECTION 3. Section 440G-8.3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§440G-8.3[+] Designation of access organizations for
13 public, educational, or governmental access channels. (a) The
14 director [may] shall designate [an] a separate access
15 organization to oversee the development, operation, supervision,
16 management, production, and broadcasting of programs [~~of public,~~
17 ~~educational, or governmental access facilities obtained under~~
18 ~~section 440G-8.3]~~ for each of the following: public access
19 facilities, educational access facilities, and governmental
20 access facilities; provided that the [designation] designations
21 shall be exempt from chapter 103D.



1 (b) No access organization shall be designated except upon
2 written application or proposal to the director, and following a
3 public hearing on each island within the local franchise area
4 that provides opportunity for public input and allows interested
5 parties to intervene.

6 (c) In determining whether to make a designation, the
7 director shall consider:

- 8 (1) The content of the application or proposal;
- 9 (2) The public need for the proposed service;
- 10 (3) The ability and experience of the applicant to offer
11 public, educational, or government programming
12 broadcast services;
- 13 (4) The suitability of the applicant;
- 14 (5) The financial responsibility of the applicant;
- 15 (6) The technical and operational ability of the applicant
16 to perform efficiently the services for which the
17 designation is requested;
- 18 (7) Any objections arising from the public hearing, the
19 cable advisory committee, or elsewhere; and
- 20 (8) Any other matters that the director deems appropriate
21 under the circumstances.



1 (d) The director may require an applicant to provide
2 information on its process for selecting members of its board of
3 directors; provided that the director shall have no authority to
4 require that an applicant amend its selection process as a
5 condition of designation.

6 (e) An applicant shall provide information regarding its
7 past performance and any proposed practices for ensuring that
8 the public, educational, or governmental access facilities, as
9 applicable, support the diversity of viewpoints and uphold the
10 public's right of free speech.

11 (f) The director shall ensure that the terms and
12 conditions required of the operation of [~~an~~] each access
13 organization designated under subsection (a) are fair to the
14 public, taking into account the geographic, topographic, and
15 economic characteristics of the service area and the economics
16 of providing cable access in the service area.

17 (g) Any decision designating, modifying, or rescinding a
18 designation of an access organization or the requirements
19 [~~therefore~~] therefor shall first be submitted to the cable
20 advisory committee for advice under section 440G-13.



H.B. NO. 2652

Report Title:

Public, Educational, or Governmental Access Facilities

Description:

Requires the DCCA director to designate separate access organizations for each of the 3 components of PEG access: public, educational, and governmental.

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