



NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
LT. GOVERNOR

STATE OF HAWAII  
CABLE TELEVISION DIVISION  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET  
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HONOLULU, HAWAII 96809  
(808) 586-2620  
FAX (808) 586-2625

KEALI'I S. LOPEZ  
DIRECTOR

DONN YABUSAKI  
CABLE TELEVISION ADMINISTRATOR

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2012

Date: Monday, January 30, 2012  
Time: 2:00 p.m.

TESTIMONY ON H.B. 2652 - RELATING TO PUBLIC, EDUCATIONAL, OR  
GOVERNMENTAL ACCESS FACILITIES

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

My name is Donn Yabusaki, and I am the Cable Television Administrator, Department of Commerce and Consumer Affairs ("DCCA"). The DCCA opposes this bill as it is written.

The Department's chief concern revolves around the efficient allocation and use of limited resources. The bill, as currently written, will adversely impact the neighbor islands, with Kauai and the island of Hawaii suffering the most. There are presently four PEG access organizations, one in each County in the State, and they each oversee the development, production, and cablecasting of public, educational and governmental programs of on access channels and supervise and manage PEG facilities and resources. This measure if enacted will require the DCCA Director to designate a separate access organization for each of the three components of PEG: public access, educational access, and governmental access. This would ultimately mean that there would be up to twelve (12) separate designated access organizations, three (3) in each County to handle access channels and programming. There are enormous cost considerations if this measure is passed. Each of the separate designated access organizations would need its own playback facilities, administrative, and technical staff, which is

a very inefficient use of limited resources. For the neighbor island franchise areas, splitting the current level of access funding three ways would severely limit the capabilities of access organizations. For example, in 2011, Hoike on Kauai received approximately \$539,395 in access operating fees. If this were divided among three separate access organizations, then each entity would receive approximately \$179,798 to operate its facility and to cablecast programming. For capital payments, Hoike received \$71,430 in 2011, and assuming this amount is split among three entities would result in \$23,810 per separate access organization. This level of funding would not be sufficient to support any of the public, education, or government functions in a satisfactory manner.

Additionally, the cost to DCCA to perform annual financial and management audits on each access organization would severely deplete the resources of CATV and thus would impact other high priority communications programs within the division. Also, increasing the number of access entities that the Department oversees threefold would exceed the current staffing capacity of the Division.

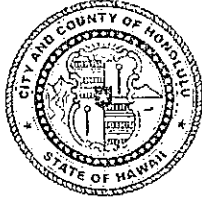
Another area of concern is the inefficient use of channel resources and equipment. For example, because of the large number of governmental proceedings that take place simultaneously, along with the duration of these proceedings, the amount of equipment and staffing for government programming would be disproportionately larger at times than that for the other components. When the Legislature is in session 5 months out of the year, there is a high demand for video equipment to cover committee hearings and proceedings; however, during the rest of the year with limited legislative hearings and proceedings, this equipment will be underutilized and there would also be a waste of channel resources. Pooling these equipment resources would make them available for use by the education or public sector when they are not being utilized by government.

DCCA suggests that there is an economy of scale when it comes to operational costs and efficiencies as evidenced by the consolidation in the local television broadcast market. Having a single playback facility in each county managed by a single set of operators to handle the playout of public, educational and governmental content is much more efficient than building and operating three separate playback facilities. Having a central pool of field equipment maintained by one group would also be more efficient than having three separate sets of field equipment.

The real issue that this bill is trying to address is managing the balance of content, which in turn drives the utilization of resources.

DCCA recognizes that there is a distinction between managing content issues, and managing the overall operations of an access organization. Because it is possible to maintain an economy of scale in the operations of a facility, while independently managing the content, the goals of this bill might be better served by concentrating on managing the balance of content instead of splitting limited resources,

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



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
530 SOUTH KING STREET, ROOM 202  
HONOLULU, HAWAII 96813-3065  
TELEPHONE: (808) 768-5010 • FAX: (808) 768-5011

**ERNEST Y. MARTIN**  
CHAIR and PRESIDING OFFICER  
HONOLULU CITY COUNCIL  
DISTRICT 2  
TELEPHONE: (808) 768-5002  
FAX: (808) 768-1222  
EMAIL: [emartin@honolulu.gov](mailto:emartin@honolulu.gov)

January 30, 2012

Committee on Consumer Protection & Commerce  
House of Representatives  
State of Hawaii  
415 South Beretania St.  
Honolulu, HI 96813

Testimony of  
**Ernest Y. Martin, Chair, Honolulu City Council**  
House Bill 2652  
Regular Session 2012

Chair Herkes, Vice Chair Yamane, and members of the Committee on Consumer Protection and Commerce:

Thank you for this opportunity to testify in strong support of House Bill 2652. The Council has advocated for several years that Hawaii's beneficiaries of the federal law which permits public, education and government (PEG) access to cable television are being underserved with the current structure.

The City & County of Honolulu hopes to receive its fair and equitable allocation of PEG funds to produce and broadcast its own programming. This desired capability is of great importance due to DCCA Decision & Order 346, which directs the Oahu cable franchisee, Oceanic Time Warner Entertainment, to install a digital cable connection between Honolulu Hale and Oceanic's facilities. The order also provides the City with its own dedicated channel on Oceanic. However, it also says that the City would be responsible for all costs on its side of the cable connection.

Clearly, the City is not sufficiently funded to capitalize and staff a full broadcast operation at the present time. However, with the fair and equitable allocation of PEG funds, the City would have the capacity to do so and may even consider becoming the access organization for the government component on Oahu.

Testimony of Council Chair Ernest Martin  
House Bill 2652  
January 30, 2012

Under this scenario, the City can independently pursue the maximization of its "G" opportunities under the federal telecommunications act. These initiatives envisioned by the City include, but are not limited to:

- a. Full control of programming on a dedicated channel.
- b. Customized, video-on-demand features to serve the residents of the City & County of Honolulu.
- c. Added capacity to provide substantially more information to residents on a systematic basis i.e. weekly road work reports, city construction schedules, adjusted services during holiday periods, City employment opportunities, etc.
- d. Integration with other digital-based media, such as Facebook, Twitter, and Internet video-streaming to enhance public information dissemination.

We further suggest that the committee ensure that the annual capital contribution to current PEG access providers is evenly divided among the beneficiary groups and that all assets purchased with PEG funds also be evenly shared.

The City Council looks forward to working with the committee on this matter.

Thank you for this opportunity to provide testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "Ernest Y. Martin", with a long, sweeping horizontal stroke extending to the right.

Ernest Y. Martin, Chair  
Honolulu City Council

## Testimony for HB2652 on 1/30/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 12:45 PM

**To:** CPCtestimony

**Cc:** jay@akaku.org

**Attachments:** 12 .doc (37 KB)

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: Yes  
Submitted by: Jay April  
Organization:  
E-mail: jay@akaku.org  
Submitted on: 1/27/2012

Comments:  
COMMITTEE ON CONSUMER PROTECTION AND COMMERCE  
Representative Robert N. Herkes, Chair  
Representative Ryan L. Yamine, Vice Chair

Monday, January 30, 2012, 2:00 PM Conference Room 325

Testimony of Jay April AGAINST HB 2652 -- Relating to Public, Educational, or Government Access Facilities

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 STRONGLY AGAINST HB 2652.

In June of 1997, a report was prepared for the Cable Television Division of the DCCA. It was entitled, DISPUTES OVER PEG RESOURCES: Splitting the Baby is NOT the Solution. The State of Hawaii by and large heeded that advice and its independent Community Television operations, notably in Oahu and on Maui worked hard for years to become recognized as some of the best PEG Access stations in the nation.

This success is due in part to the fact that Hawaii PEG's adopted and put into effect a "best practice" integrated PEG model whereby independent non profits created for this specific purpose in each county provided channel space, unbiased gavel to gavel meeting coverage, nondiscriminatory access and low cost media training to local, state and native governments, private and public educational entities and a diverse and varied public. In short, Community Television in Hawaii has been empowering the local voices of each island community without censorship, editorial or state control for more than fifteen years.

By 2005, PEG Access on Maui became a victim of its own success. Private land development interests that did not like some of the messages being broadcast on these free speech venues conducted a sophisticated raid on PEG access coffers and combined with State Educational agencies to launch a privately financed lobbying campaign to split PEG funds into thirds. The end result was 25% of PEG funding for Maui's Community Television independent non-profit was re-allocated to state educational institutions with little or no accountability to neighbor island publics. Previously on Oahu, a similar development took place whereby 25% of Olelo's funds were diverted to state education through a consortium known as HENC and caps

were placed on Olelo's franchise fees by order of the DCCA.

In recent years through the use of the State Procurement Code and other means, the thoroughly discredited "Split the Baby" rubric is back in force with government bureaucrats, state agencies and other vested interests and the monopoly cable operator, Time Warner Cable hard at work to Split the Baby again resulting in the diminishment if not outright demise of the Public Access sector in Hawaii.

At a recent National Conference for Media Reform in Minneapolis I had the opportunity to discuss this very issue with Nicholas Johnson and George Stoney, the architects of PEG Access policy at the FCC in 1972. Back then, Nick Johnson was FCC Commissioner and George Stoney was working with Red Burns at the National Film Board of Canada and running the Alternate Media Center at NYU. They saw the big cable monopolies coming and they envisioned Community Television (PEG Access) as an important social mechanism by which cable companies would pay "rent" for using public rights of way. Their vision was to democratize the dominant mass communications medium of our time by making possible a policy and infrastructure to foster true participatory localism in media. Both men told me that using the term "PEG Access" was their biggest "mistake" because over time a misconception came about in some jurisdictions that "P," "E" and "G" ought to be separated financially. They assured me that this was never the intent.

The letters in "P," "E" and "G" symbolized constituencies served ( Public, Education, Government ) and were not conceptualized as funding categories to be split. We should have just called it "Community Television," they said, "because it is really about all of us".

Be that as it may, some areas with a huge subscriber base ( i.e. New York City ) have split "P," "E" and "G" successfully because the dollars are there to do it. In most places around the country, like Hawaii's neighbor islands, they simply are not.

The reality is that smaller jurisdictions such as Maui would be devastated by such a funding scheme resulting in the diminishment if not outright destruction of the resource. Why? Because the economy of scale to support three stations (P,E and G) including studios and facilities as opposed to one PEG access station does not exist.

The real tragedy of the electronic commons here is that in best practice the "E" money in PEG was never meant to augment or replace what I call, "I" or Institutional Television which can be defined as instructional or educational television (K-12 and higher) funded appropriately by state and/or local taxes.

This is the crux of the disagreement over "E" funds that nearly destroyed PEG Access on Maui in 2005 where UH and DOE succeeded in getting 33% and currently 25% of PEG funds. Without diminishing in any way the significance and value of both "E" and "G" programming, it is fair to say that if the funding mechanism for PEG Access disappeared tomorrow, it is likely "E" and "G" would still exist. "P" almost certainly would not.

With respect to "E", the operative word is "ACCESS." Educational ACCESS TV

( as opposed to say, Educational or Instructional TV ) means that any and all educators, teachers, students or clients of public, private, parochial, charter, adult or any other form of education are entitled to: equal ACCESS to tools - cameras, computers, etc. - equal ACCESS to skills - the means of video production - equal

ACCESS to ideas - media literacy and creative endeavor - as well as physical ACCESS' to cable channels - the right to broadcast. The key difference embodied in the term "Access" is that these privileges are not the exclusive preserve of the

program managers of a given educational institution or entity but are inclusive of all comers within the "subset of potential users.

Educational Access, therefore, in its purest sense was never intended to entitle one or two specific state institutions access to cable subscribers while ignoring the responsibility to provide tools, skills and training to all educational sectors.

A similar analogy applies to "Government Access" or "G" programming.

Government Access was meant to provide citizens access to government, not the other way around. The thinking was that if citizens could observe the workings of government in action they would be more likely to engage more fully in a participatory democracy. "G" was never intended to be state-controlled TV or even municipally-controlled TV programmed by a government entity. The best practice model is more like CSPAN where an independent non profit is charged with airing unbiased public affairs programming and unedited gavel to gavel coverage of government meetings. This is not unlike the model we see employed at Akaku today. A pure "G" model in Hawaii would be inclusive of state, county, local and native government voices and would be inclusive of those who have an interest in civic issues raised in a healthy public domain.

As far as the Public or "P" is concerned, the reality is that "we" are all the public. It is "all about us" and the fully local communities we serve. The "P" sector is the most overlooked, the most disparate and the most inchoate. This is where views from diverse and often antagonistic sources are most likely to originate. This is where the sometimes untidy but necessary ferment of local electronic democracy occurs. This is the area where free speech tends to be the most vibrant. Precisely because it is so disorganized, unpredictable and unfunded, it is the most vulnerable and in need of the most protection. This is why I am a strong advocate of the integrated PEG Access model. As stated before, if cable franchise fees were to go away tomorrow, I am fairly certain state sponsored "E" and "G" channels will continue to exist. I am also quite certain that "P" channels would not.

One of the reasons there has been so much wrangling in Hawaii about all this over the years is that it appears the stake holders and policymakers have never really sat down to sort this all out in terms of defining these resources intelligently. Instead what we have had is a sad legacy of turf wars over limited money and resources.

It may be time to revisit some fundamental questions and question old assumptions. It may be time to look at the 1% cable franchise fee allocation to KHET; whether or not there exists a compelling argument to split P,E,G in a population center like Oahu but perhaps not on neighbor islands; consider statewide revenue sharing of franchise fees among access centers to benefit rural communities; consider collection of the full 5% of cable fees allowed by Federal law; determine whether it is feasible or appropriate for UH/DOE to adopt an inclusive Educational Access model; or whether the State of Hawaii can approach telecommunications with meaningful reform before we all miss the digital boat. The fact is that we need more financial resources to Community Media to help close the digital divide ( like percentages from internet and cable modem fees ) Whether or not Hawaii can position itself to achieve maximum public benefit from cable access, broadband, community radio and emerging community technology centers with fast internet for all at a reasonable cost remains to be seen. In any event. I do believe these are endeavors worthy of our best efforts.

This testimony today can hardly scratch the surface of these issues but I would like to invite each and every one of you to stop by Akaku anytime to learn more.

If legislators knew the entire history behind this deeply flawed "split the



baby&quot; idea and how it fragments rather than enhances local community communications framework and our broadband future they might be more inclined to be in favor of the present integrated approach.

The bottom line is that it is a very bad idea to split Hawaii's marketplace of ideas into thirds. It will diminish the open exchange of ideas between government and it's people , stifle the voices we all need to hear and damage local electronic democracy. Our people deserve better than that and I am looking forward to continued dialogue and collaboration in order to make Hawaii a better place for all of us to communicate with one another.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 12:48 PM

**To:** CPCtestimony

**Cc:** peterk@akaku.org

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Peter King

Organization: Individual

E-mail: peterk@akaku.org

Submitted on: 1/27/2012

**Comments:**

Rep. Herkes is bought and paid for by Time Warner Cable, and this bill must not be allowed to Pass!!!

Thank You

Peter

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 12:50 PM

**To:** CPCtestimony

**Cc:** thebassdragon@yahoo.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Shawn Loughran

Organization: Individual

E-mail: thebassdragon@yahoo.com

Submitted on: 1/27/2012

**Comments:**

This bill cites no report by the DCCA that claims the Educational institutions are the "primary" access centers. I know on Maui, the college and the HS do not provide services to the public that end up on the cable channels. THEY ARE NOT PUBLIC FACILITIES. Akaku with it's little funding provides more services than all those un-audited educational organizations combined.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 12:56 PM

**To:** CPCtestimony

**Cc:** lou@maui.net

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Louis Diliberto  
Organization: Individual  
E-mail: lou@maui.net  
Submitted on: 1/27/2012

**Comments:**

This is a terrible idea that is not in keeping with the federal mandate for PEG Access organizations, Public, Education and Government are constituencies not funding categories. Dividing up the funding will effectively destroy PEG access organizations and not allow for any public access in the future.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:01 PM

**To:** CPCtestimony

**Cc:** kmommaui@live.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Bonnie King  
Organization: Individual  
E-mail: kmommaui@live.com  
Submitted on: 1/27/2012

Comments:

THis bill will destroy Public access, please do not pass  
thank you

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:01 PM

**To:** CPCtestimony

**Cc:** Tree@hawaii.rr.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Stephen Luksic  
Organization: Individual  
E-mail: Tree@hawaii.rr.com  
Submitted on: 1/27/2012

**Comments:**

I Stephen Luksic, am a resident of Maui and I am against this inane bill to again destroy PUBLIC ACCESS. Mr. Herkes may not seem to understand that the acronym PEG is not a funding categorization, But PUBLIC ACCESS uses the PEG acronym as constituencies served.

WHY do we have to go over this every year? Does Mr. Herkes have ties or is he benefited by Time Warner. Deregulating the responsibility of TIME Warner by diminishing the effectiveness of PUBLIC ACCESS in NOT in the best interest of the State of Hawaii, the citizens, or our children. But HB2652 is In the best interest of TIME WARNER.

Thank you for your support.  
Stephen Luksic

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:04 PM

**To:** CPCtestimony

**Cc:** randomdevo@gmail.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Randy Mills

Organization: Individual

E-mail: randomdevo@gmail.com

Submitted on: 1/27/2012

Comments:

I am totally against breaking up PEGs...this makes absolutely no sense whatsoever!

OPPOSE OPPOSE OPPOSE!!!

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:07 PM

**To:** CPCtestimony

**Cc:** kattrackshawaii@aol.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kristin Tracy

Organization: Individual

E-mail: kattrackshawaii@aol.com

Submitted on: 1/27/2012

**Comments:**

I am against this Bill, the access to all constituents (PEG) should come through one public access entity in the interest of the public.



**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:07 PM

**To:** CPCtestimony

**Cc:** suntrops@aol.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Theresa M Roberts

Organization: Individual

E-mail: suntrops@aol.com

Submitted on: 1/27/2012

Comments:

I am totally against the DCCA splitting the money received from Time Warner to be given to education, government and public access.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:08 PM

**To:** CPCtestimony

**Cc:** Laurenyoungvieomai@gmail.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Lauren Young

Organization: Individual

E-mail: Laurenyoungvieomai@gmail.com

Submitted on: 1/27/2012

Comments:

This Bill is not in the public interest.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:08 PM

**To:** CPCtestimony

**Cc:** sullivan@hawaiiantel.net

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Peter A Sullivan

Organization: Individual

E-mail: sullivan@hawaiiantel.net

Submitted on: 1/27/2012

**Comments:**

This is a bad piece of legislation, and I'm surprised it was given a single hearing. What a waste of my taxpayer dollars. Kill the bill immediately and move on to more productive efforts.

Thank you.

Peter A Sullivan

PO Box 880718

Pukalani, HI 96788

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:10 PM

**To:** CPCtestimony

**Cc:** Blueflame3@rocketmail.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Alberto Rojas Jr.  
Organization: 9th Island Media  
E-mail: Blueflame3@rocketmail.com  
Submitted on: 1/27/2012

**Comments:**

I Strongly Oppose this Bill!!  
It is imperative that we support our current PEG Access,  
Not serrated them! They need more funding and consideration,  
Not separation of it!!

I'm Alberto Rojas Jr  
Maui resident

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:13 PM

**To:** CPCtestimony

**Cc:** indyproducer@rocketmail.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: David James Heckmann

Organization: Individual

E-mail: indyproducer@rocketmail.com

Submitted on: 1/27/2012

Comments:

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:13 PM

**To:** CPCtestimony

**Cc:** ainokeababie808@gmail.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sayble Bissen

Organization: Individual

E-mail: ainokeababie808@gmail.com

Submitted on: 1/27/2012

Comments:

I strongly believe that should the entities split, the entire Hawaii public access system will fall to pieces.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:15 PM

**To:** CPCtestimony

**Cc:** chivocj@gmail.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Noel Ching-Johnson

Organization: Individual

E-mail: chivocj@gmail.com

Submitted on: 1/27/2012

**Comments:**

Aloha. I stand completely Opposed to this Bill, HB2652. Public, Education and Government are not categories for you to plunder at will. PEG access is intended to give "The People" access. Akakū is a HUGE Benefit to the Maui Community. Leave it alone.

Sincerely

Noel Ching-Johnson

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:17 PM

**To:** CPCtestimony

**Cc:** tutuprouty@aol.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position:

Testifier will be present: No

Submitted by: Jacqueline Prouty

Organization: Individual

E-mail: tutuprouty@aol.com

Submitted on: 1/27/2012

**Comments:**

I am against the HB 2652. I am tired of the government interfering with freedom speech. Leave the public access stations alone. We are your constituents, please take the time to listen to what we want.



**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:17 PM

**To:** CPCtestimony

**Cc:** marc.takamori@gmail.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Marc Takamori

Organization: Individual

E-mail: marc.takamori@gmail.com

Submitted on: 1/27/2012

Comments:

Public Access works.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:41 PM

**To:** CPCtestimony

**Cc:** kimo1246@yahoo.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Jim Williams  
Organization: Individual  
E-mail: kimo1246@yahoo.com  
Submitted on: 1/27/2012

Comments:

Separating PEG?!! Some legislator wants to suppress the public voice by doing this, bottom line. It makes no sense to separate public, education and government into separate organizations with separate facilities. Buying duplicate equipment three times is ludicrous. DO NOT PASS this segment of the bill.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:46 PM

**To:** CPCtestimony

**Cc:** info@soundlikehale.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Halemanu Villiarimo

Organization: Individual

E-mail: info@soundlikehale.com

Submitted on: 1/27/2012

**Comments:**

We must keep community access television free of political and corporate influence and preserve the right of free speech and content by individual citizens.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:52 PM

**To:** CPCtestimony

**Cc:** malia215@aol.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Malia Nordman

Organization: Individual

E-mail: malia215@aol.com

Submitted on: 1/27/2012

**Comments:**

I am against HB 2652 and the splitting of funds going to education, government and public access.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:55 PM

**To:** CPCtestimony

**Cc:** davecorrigan2002@yahoo.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: David Corrigan

Organization: Big Island Video News

E-mail: davecorrigan2002@yahoo.com

Submitted on: 1/27/2012

Comments:

In the "unintended consequences" category, Big Island Video News opposes HB2652, as it would splinter the Na Leo o Hawaii organization on Hawaii Island. Thus, it would jeopardize the ONLY dedicated daily television news service for the island, which is the only way many residents can see what is happening on opposite ends of the island, or learn about some of the things their local legislators are working on at home and on Oahu. Na Leo o Hawaii is headed in the right direction, and this bill will derail the recent accomplishments made by the PEG public access station, which we strongly feel have been to the betterment of the Hawaii Island community.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:59 PM

**To:** CPCtestimony

**Cc:** toddnordman@yahoo.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ernest Nordman

Organization: Individual

E-mail: toddnordman@yahoo.com

Submitted on: 1/27/2012

**Comments:**

I am against the legislature dividing the PEG Access stations into 3 separate access organizations.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 1:59 PM

**To:** CPCtestimony

**Cc:** baron@hawaii247.com

**Attachments:** testimony.txt (500 B)

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: Yes

Submitted by: Baron Sekiya

Organization: Na Leo 'O Hawai'i

E-mail: baron@hawaii247.com

Submitted on: 1/27/2012

**Comments:**

In regards to HB2652, I strongly oppose this bill as a measure that will break-up the vehicle for voices in the community.

To be blindsided by the the quick introduction of HB2652 Representative Herkes without proper time for the P.E.G. stations or before the public to evaluate the measure violate the spirit of the sunshine law for the legislative process.

I urge everyone to vote down HB2652

Baron Sekiya

President, Na Leo O Hawaii

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 2:04 PM

**To:** CPCtestimony

**Cc:** jude-naleo@hawaii.rr.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Judith Lyon

Organization: Na Leo O Hawaii

E-mail: jude-naleo@hawaii.rr.com

Submitted on: 1/27/2012

**Comments:**

I respectfully request that no decisions be made on HB2652 without a more reasonable time for comments by the public on HB2652. Other states who have approached public access in this manner have effectively eliminated the "public" delineation of this three part access to broadcasting and free speech opportunities. To agree to HB2652 will likely have the same effect, thereby denying the rights of the people of Hawaii to true public access.



**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 2:06 PM

**To:** CPCtestimony

**Cc:** MMOQ@mac.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Mark Moquin

Organization: Individual

E-mail: MMOQ@mac.com

Submitted on: 1/27/2012

Comments:

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 2:21 PM  
**To:** CPCtestimony  
**Cc:** spark@olelo.org  
**Attachments:** Testimony in Opposition to~1.pdf (66 KB)

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325  
Testifier position:  
Testifier will be present: No  
Submitted by: Roy K. Amemiya, Jr.  
Organization: Olelo Community Media  
E-mail: spark@olelo.org  
Submitted on: 1/27/2012

Comments:

January 27, 2012

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

COMMUNITY MEDIA

Board of Directors  
Jim Boersema  
Chair

Jill Takasaki Canfield  
Lynette Cruz  
Lubuwan Falanruw  
Pat Garvey  
Rochelle Gregson  
Ormond Hammond  
Nelson Lau  
Bennette Misalucha  
Diane Peters-Nguyen  
Jon E. Murakami  
Mario R. Ramil  
Mike Rosenberg  
Steve Sombrero  
John Williamson

Roy K. Amemiya, Jr.  
President/CEO

Dear Chair Herkes and Members of the CPC Committee;

**Subject: Letter in Strong Opposition to HB 2652 Relating to Public, Educational or Governmental Access Facilities**

My name is Roy Amemiya, President and CEO of 'Ōlelo Community Media, the PEG Access Provider for O'ahu. I am writing to strongly oppose HB 2652 Relating to Public, Educational or Governmental Access Facilities. This bill would require the Director of the DCCA to designate separate access organizations for each of the three components of public, educational and governmental access.

In these difficult economic times, it is imperative that we continue to leverage resources through partnerships. Attempting to split the community into P, E and G units that are separately funded and operated will not yield benefit for any of the three sectors. Three artificially separated entities (P without E without G) will each struggle to maintain current service levels while being forced to duplicate resources and management that were previously centralized. Splitting community access television in Hawai'i will result in additional burden and diminished resources for the Public, Education and Government communities. Ultimately, this legislation would result in weakening community access to a point of irrelevance. Certainly, this is not the intent of this bill, but it would likely be the result.

More than unnecessarily encumbering the PEG communities, this bill would undo years of community and sector partnering at a time when partnerships seem to be the only way our State and our people can survive. Much of the success of community access television in Hawai'i is achieved through programming and collaboration that bridges one or more of these sectors. Our students and Government come together under programs such as Youth Capitol Commentary; our Public and Government pair up through 'Ōlelo's VOTE! programs; 'Ōlelo has brought our Public, Educational and Government partners together to create Community Media Centers, a place where students, elected officials and members of the general public can gather, share ideas and create programs that express their unique points of view. This bill would dismantle all that 'Ōlelo has worked so hard to build.

The current community access model that has served O'ahu since 1989 works. There is no compelling reason to split PEG into three separate access centers. Indeed, in the end, all sectors only stand to lose from such a division.

We ask you to table HB 2652. Thank you for the opportunity to testify.

Aloha,

Roy K. Amemiya, Jr.  
President and CEO

1122 Māpunapuna Street, Honolulu, Hawai'i 96819 Tel: (808) 834-0007 Fax: (808) 836-2546 [www.olelo.org](http://www.olelo.org)

WHEN OUR VOICE THRIVES, SO DOES OUR COMMUNITY.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 3:51 PM

**To:** CPCtestimony

**Cc:** Cheri.blue.99@gmail.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Cheri

Organization: Individual

E-mail: Cheri.blue.99@gmail.com

Submitted on: 1/27/2012

Comments:

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 4:01 PM

**To:** CPCtestimony

**Cc:** diaz@mauigateway.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ave Diaz

Organization: Maui Family Support Services

E-mail: diaz@mauigateway.com

Submitted on: 1/27/2012

**Comments:**

I oppose this bill, we do not need one person/entity/ to control public access channels when broadcasting information.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 4:03 PM

**To:** CPCtestimony

**Cc:** hselnick1@hotmail.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: howard selnick

Organization: akaku

E-mail: hselnick1@hotmail.com

Submitted on: 1/27/2012

Comments:

this bill is promoted by commercial organizations that want to stop public speech and take control of our public airways. do not let big business take away the public right to speak their minds.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 4:40 PM  
**To:** CPCtestimony  
**Cc:** cdkoppdds@hawaii.rr.com  
**Attachments:** HB2652\_Kopp\_Testimony.doc (30 KB)

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Clifford Kopp, DDS  
Organization: Individual  
E-mail: cdkoppdds@hawaii.rr.com  
Submitted on: 1/27/2012

Comments:

*Clifford D. Kopp, DDS*  
Practice Limited to Prosthodontics  
76-6225 Kuakini Hwy D-101  
Kailua-Kona, HI 96740

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Regarding HB2652

January 27, 2012

To whom it may concern:

I am of the understanding that HB2652 will place in jeopardy the existence of Na Leo O Hawaii offices in Kailua-Kona, and could also threaten the viability of the entire organization.

As a member and Community Service Chair of both the Rotary Club of Kona, and now the Rotary Club of Kona Sunrise, as well as being President of the Kailua-Kona Community Parade Association, and Vice-chair of the Hawaii Island Billfish Tournament Parade, I have had the pleasure to witness the need for community television to communicate to the public not only information preceding events but also the positive results of community events.

This includes the community reconstruction of Higashihara Park Children's Playground, which otherwise would have been torn down by the County of Hawaii. Na Leo O Hawaii has been an extremely positive factor in the growing success of two of the largest parades in the state of Hawaii, the Kailua-Kona Community Christmas Parade and the Kailua-Kona Community Independence Day Parade. These events have been shown on community television at no expense to the non-profit volunteer committee comprised of Rotarians and Lions Club members.

Na Leo O Hawaii has equally permitted community access to a variety of upcoming community events and not-for-profit entities, which in these difficult times, permits needed publicity which otherwise could not be paid for. This includes such varied issues related to drug abuse, reading fairs, publicly built skate parks, and the Kapilina Brick Garden project at the West Hawaii Civic Center, which in itself, supports seven worthy island-wide non-profits.

Na Leo O Hawaii is Community Television. It is a necessary option to the commercialized world we live in. Just as all community projects result in, community television aids in the positive growth of a society. Without it, we become that much more fractionated.



If this bill is going to further move our society in a global direction by eliminating something as successful as Community Television here in Kailua-Kona, then I am adamantly opposed. At the very least, discussion of this bill should include what community programs are to be carted away, if it is passed.

Sincerely,

Clifford D. Kopp, DDS

Community Service Chair, Rotary Club of Kona Sunrise  
President, Kailua-Kona Community Parade Association  
Secretary, Kapilina Brick Garden Project  
President, West Hawaii Crime Stoppers, Inc.

200 Akamainui Street  
Mililani, Hawaii 96789-3999  
Tel: 808-625-2100  
Fax: 808-625-5888



Honorable Robert N. Herkes, Chair  
House Committee on Consumer Protection & Commerce  
Hawaii State Capitol  
Honolulu, HI 96813

**RE: HB2652 – Relating to Public, Educational, or Governmental  
Access Facilities – Testimony in Support**  
January 30, 2012; 2:00 p.m., Hawaii State Capitol Room 325

Aloha Chair Herkes, Vice Chair Yamane, and members of the committee,

On behalf of Oceanic Time Warner Cable (Oceanic), which provides a diverse selection of entertainment, information, and communication services to over 425,000 Hawaii households, schools and businesses and currently employs more than 1,000 highly-trained individuals, we appreciate the opportunity to express our support of this bill, which provides that the Department of Commerce and Consumer Affairs shall designate separate access organizations for public access facilities, educational access facilities and governmental access facilities.

Oceanic is supportive of PEG to the extent that it provides programming of interest to our customers and to the extent that PEG programming is provided in a fiscally-responsible manner. All of the current public access providers in our state currently receive a substantial amount of their operating and capital funding from Oceanic's subscribers through franchise fees and capital payments. In 2011 alone, for example, Oceanic's subscribers provided over \$7.5 million in operating funds and over \$1.1 million in capital funds to Olelo, Akaku, Hoike and Na Leo combined. On Oahu alone, Oceanic's customers have provided to Olelo over \$96 million in operating funds and capital funds combined since 1989.

Given the substantial support that Oceanic's customers currently provide to public access providers, Oceanic believes that the opportunity to develop PEG programming, and the available resources distributed for PEG programming, should be equitably determined. Oceanic believes that it is important that all segments of our PEG community – public, education and government, have an equal voice in our community, an equal opportunity to independently tailor their operations and programming to their specific constituents, and an equal opportunity to access available resources to accomplish their missions in a fiscally-responsible manner.

Having separate providers to serve each PEG segment will also help to ensure greater transparency, accountability and accessibility in PEG operations and the use of available funding, as each segment will have a more clearly-defined role, as well as a specific constituency to which it must respond, serve and be accountable to. At the same time, independent access providers for each PEG segment will permit each provider to have greater freedom to independently develop robust, creative and responsive programming – all of which are hallmarks of traditional access programming, and all of which will provide greater benefits to Hawaii residents. In fact, as it stands now, the DOE and the University of Hawaii already operate and program the education channels independently of Olelo, Akaku, Hoike and Na Leo. This bill would further formalize this existing arrangement and would provide greater flexibility to the education partners because they would be able to directly access available funding.

Finally, Oceanic understands that conflicts have arisen in the past between various PEG segments over funding and programming to the point of causing, in some cases, significant friction between some of the segments and potential disruptions in services to PEG constituents. This bill will ensure that such disagreements and disruptions are minimized, since each segment of our PEG community would be more clearly defined, and more importantly, each PEG segment would have an equal opportunity to develop their own programming and services using available resources in order to best serve the needs of their specific constituents. Indeed, in many other areas across the country, separate organizations provide different segments of PEG programming for these very reasons, and to the greater overall benefit of the community.

We appreciate the opportunity to offer our testimony on this bill.

Sincerely,

Bob Barlow  
President of Oceanic Time Warner Cable

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 2:33 PM

**To:** CPCtestimony

**Cc:** pomaibrown@yahoo.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Pomai Brown  
Organization: Individual  
E-mail: pomaibrown@yahoo.com  
Submitted on: 1/27/2012

**Comments:**

HB2652 Is BAD BAD BAD for the people of the Big Island! We need to have our voices heard, not extinguished. By splitting up the PEG stations in to separate entities, and dividing the allotted budget(s) into 'thirds', will no doubt result in poor client services, limited accessibilty and greater headache for those in the community that want to get their respective messages out in to the community.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 3:06 PM

**To:** CPCtestimony

**Cc:** cpolopal@hawaiiantel.net

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Paul Bonanno

Organization: Individual

E-mail: cpolopal@hawaiiantel.net

Submitted on: 1/27/2012

**Comments:**

I'm totally against HB2652 the splitting up of monetary funds, (trickle down affect) starting with U. Hawaii, Education, C. Gov. and last especially concerning the public access cable TV. That is helping educate all ages of the public, as well as, broadcasting local, state, and government meetings. With in house and field productions education.

No for Me  
thank you

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Monday, January 30, 2012 9:22 AM

**To:** CPCtestimony

**Cc:** han1nah@msn.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Marie Ullman  
Organization: Individual  
E-mail: han1nah@msn.com  
Submitted on: 1/30/2012

Comments:

Akakū is my FREEDOM of speech I'm just learning how to use. They are teaching me skills on the job type training to help me get off state assisted unemployment. No other .org can be so prideful to hold the peoples rights so respectfully. Please allow the PEG channels ALL run through the many many years of combine experience found under the roof of 333 Dairy Road Kahului Maui Hawaii. Mahalo for allowing the FREEDOM to testify today. Marie next big small kine producer.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Consumer Protection & Commerce  
January 30, 2012 at 2:00 pm

By

David Lassner

Vice President for Information Technology/CIO, University of Hawai'i

HB 2652 – RELATING TO PUBLIC, EDUCATIONAL, OR GOVERNMENTAL ACCESS  
FACILITIES

*Comments*

Chair Herkes, Vice Chair Yamane and Members of the Committee:

Thank you for this opportunity to provide testimony on HB 2652, which would require Department of Commerce and Consumer Affairs (DCCA) to designate separate entities for P, E and G access. It is unclear if the intent is to create separate organizations for each sector for each county. So rather than take a position on this specific language, I would like to provide input from the University of Hawai'i, which has been involved in Educational Access since the implementation of PEG access in Hawai'i. This testimony summarizes and is fully grounded in the input that has previously been provided to DCCA on behalf of all accredited education in Hawai'i during the course of strategic planning by DCCA regarding the future of PEG. That full document, slightly dated, was entered into the public record during DCCA proceedings and can be provided to the Committee on request.

Hawai'i's statewide cable franchising has been a vital component of the ways in which Hawai'i's educational community has served the people of Hawai'i. The University of Hawai'i, Department of Education and Hawai'i Association of Independent Schools have worked together, primarily through the Hawai'i Educational Networking Consortium (HENC) to leverage this opportunity for the people of all islands. The Department of Commerce and Consumer Affairs has been a strong supporter of accredited education and our work since the inception of PEG in Hawai'i.

It should be clarified that as accredited educators, the focus of our Educational Access program is on using cable television and associated resources to provide education services on all islands. This is distinct from the classic vision of Public Access, which focuses on ensuring the first amendment rights of the speaker. And it is distinct from training programs in schools that help students and others learn to produce program to share their voices. We have great appreciation for these important forms of Public Access; these represent a laudable but somewhat distinct mission from Educational Access, which focuses on providing services for the viewer.

DCCA has historically ensured availability of Educational Access cable channels on all islands. Some years back we negotiated with the PEG entities to achieve consistent analog educational channel lineups on all islands. We have recently pioneered the transition of

analog Access channels to digital on all islands but one, where the PEG entity opposed the transition that would have increased the number of educational channels available to their County and would have freed up bandwidth for increased broadband access for customers.

The availability of financial resources from the PEG access organizations to support Educational Access has been less consistent and has been the source of many unproductively contentious discussion over many many years. Currently, 25% of the gross PEG allocations on Oahu and in Maui County are provided to support accredited Educational Access programming. This was achieved only with the support and influence of DCCA and in one case, after the threat of legislative intervention. Under the new process now being implemented for designating PEG entities for each County, we already see attempts by at least one PEG entity to reduce this commitment to accredited Educational Access programming.

In addition to the PEG aspects of the franchise agreement, the I-Net provisions of the cable franchise agreements are critical to serving our under-funded public schools, campuses and education centers statewide, as is the funding support for the I-NET provided by DCCA through franchise fees. This is the source of the required matching funds that enable Hawai'i to execute the current \$44m ARRA project that is bringing fiber optic connectivity at gigabit speeds to public schools, public libraries and UH sites on every island, including inter-island connectivity.

At this time it is probably most useful to share our primary concerns rather than endorse specific solutions without understanding how they might help or hinder our ongoing efforts to increase educational opportunities for citizens on all islands.

Our major concern is ensuring the continuing availability of essential accredited Educational Access resources, no matter how the issues relating to Public access or P programming are resolved. To that end, we would hope that the State's approach to PEG provides for:

- 1) Direct assignment of dedicated channels on all islands for Educational Access programming from accredited educational institutions – with high-quality connections from educational origination facilities into the cable networks. As of this spring, we have achieved this in all counties other than Maui.

- 2) A firm decision institutionalized in public policy that maximizes the level of PEG programming resources allocated to support production of Educational Access programming by accredited educational institutions on these channels -- without continued pitting of Hawai'i's educational community against the proponents of Public Access programming in a zero-sum game that is constantly and contentiously negotiated and renegotiated.

- 3) Continued financial commitment to the Institutional Network to serve the State's public educational and government institutions.

We believe these should be statewide commitments so that we can maximize access to educational opportunities for Hawai'i's people on all islands.

Thank you for your consideration of our concerns on this important matter.



**Community Media Producers Association  
(CMPA)**

1658 LIHOLIHO ST #506  
HONOLULU, Hawaii 96822  
[cmpa@hawaiiantel.net](mailto:cmpa@hawaiiantel.net)

Aloha Chair Herkes, Vice chair Yamane, and COMMITTEE ON CONSUMER PROTECTION & COMMERCE (CPC) members,

The Community Media Producers Association (CMPA) supports the intent of HB 2652, but only with amendments to make the designation process transparent!!

Amendment 1: The Public component should be mandated to be a “membership” corporation as defined by the Hawaii Nonprofit Corporations Act.

Amendment 2: As long as any component of PEG is funded, all shall be.

Amendment 3: Because all 3 Public Funded components should be considered as state actors for the purpose(s) of Freedom of Speech, there should be a high level of transparency. Compliance with Open Records and Open Meetings Laws should be required.

**History:**

CMPA is the organization that was instrumental in getting Public Access Television started as facilitators of Free Speech in Hawai'i to give those who didn't traditionally have access to the media a venue to disseminate their message to the masses. The State of Hawai'i then created Public, Education and Government (PEG) Cable Access Centers in all 4 counties. HRS 440G-16 requires DCCA to adopt a "Rule" under HRS Chapter 91 in order for DCCA to designate a non-profit corporation to provide the services. However, rules were not in place when PEGs were originally created, and the rule that was finally put into place in 2008 (§16-131-70 Designation and selection of access organizations.), was never followed and was just negated by Act 19 2011, passed in the 2011 Legislative Session. The rule currently in place is in essence for PEG contracts to go out for competitive bid. Thus, there is no rule in place.

It is our contention that DCCA does not have the authority to designate a PEG Access corporation without a rule under HRS Chapter 91 in place.

Therefore, CMPA believes that this legislation should specify that a rule shall be promulgated for each separate entity (P, E & G). The Public has a significant stake in the outcome of said designations in that they, not Government or Education, are required to pay the fees that support PEG Access facilities (intended to provide for the Public to exercise Free Speech) and maintain the public right of ways cable providers use. Board structures of these PEGs should be mandated to include those who contribute the most time and/or content for the channels, not limited to “one and only one producer”.

CMPA also believes for resource allocation percentages to be "equal" the cable benefits already received by the state must be taken into consideration. PEGs now receive, via DCCA, 3% of Oceanic Time Warner's gross revenues. These are funds collected from the PUBLIC. In addition to that pass-through amount the state receives a sizable amount, according to ex-DCCA CATV division administrator Sonobe: "Mr. Sonobe stated that "...INET benefits received from cable operators total far more than the 5% of gross revenue, more like **10 times this amount.**" (emphasis added) [Page 4 paragraph 3: Cable Advisory Committee 01-10-07 Meeting Minutes ] The INET is not accessible to the Public at all.

CMPA maintains all records going back prior to the implementation of Act 301 1987. Please feel free to request any information needed. These records reveal that there was never any documentation of the intent of the PEG designation to not go out for competitive bid, in spite of Governor Abercrombie's letter to the HCR 358 Task Force, on his then Congressional letterhead, claiming that was the intent. Although CMPA formally requested a copy of the document referred to by the governor that showed that "the intent of the law was not to subject PEG access to procurement," no response at all was provided by that office. When we called his Congressional office, the office manager said Ms. Lopez invited then Congressman Abercrombie for a "tour of 'Olelo". After the tour Ms. Lopez asked Abercrombie to send a letter to the HCR 358 Task Force, a committee of all PEG administrators and government agents assigned the task to come up with alternatives to procurement for PEGs. Abercrombie then asked Ms. Lopez to write what she wanted him to say and send it on to him to have that information incorporated into his letter to the Task Force. However, it certainly seems that her letter was passed on in its entirety since it erroneously states that he was in the State Legislature at the time of the PEG legislation, when actually he was a member of the Honolulu City Council at that time. Since we do know that the letter was requested of and was likely written by now-DCCA director Lopez during her tenure as 'Olelo CEO, we view this as biased and self-serving.

PEGs have been in existence now for 20 years, in violation of state Law. I sincerely hope you provide for proper legal documentation so it can finally be made pono. Millions in legal fees have been wasted the past 2 decades over P, E & G funding disputes. It is time to let the "sunshine" in, so We The People may exercise free speech without discrimination and with equitable funding.

Sincerely,  
*Jeff Garland*  
Community Media Producers Association (CMPA)

"A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or, perhaps both. Knowledge will forever govern ignorance. And a people who mean to be their own governors, must arm themselves with the power knowledge gives."

- *James Madison* -

further reading:

Keeping the Public Out of Public Access Hawaiian Style - by Ed Coll

Public, Education, and Government Cable Television Access in Hawai'i: Unscrambling the Signals

Disputes Over PEG Resources - Splitting The Baby Is Not The Solution.

Hawaii PEG Access STUDIES & PLANS:

DCCA 2005 Independent Third Party Reviews

DCCA 2004 PEG Plan

'Olelo 2002 Strategic Plan Update

'Olelo 2001 Strategic Plan

DCCA Statewide Cable Access Plan

DCCA/PEG Access Worksession, handout from August '97 meeting

Views of a Participant August '97 Meeting  
LRB Study on PEG Access

'Olelo Comprehensive Review Task Force FINAL DRAFT

Study Contracted but not Released by 'Olelo concerning "Education"

HCR 358 Task Force review

many more have been done. PEGs have been studied to death. Time to stop wasting Public Funds and do the pono thing.

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, January 27, 2012 8:15 PM  
**To:** CPCtestimony  
**Cc:** editdisproductions@hotmail.com  
**Attachments:** CPC TESTIMONY 13012 .doc (37 KB)

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Steven Glenn Blackwell Jr.  
Organization: Individual  
E-mail: editdisproductions@hotmail.com  
Submitted on: 1/27/2012

Comments:

Public Access works. Its a great medium for free speech to those who can't afford air time otherwise.....also its a great way for youth to get involved with television production that otherwise could not afford cine schools and college classes.

**COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**

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

Monday, January 30, 2012, 2:00 PM Conference Room 325

Testimony of Jay April **AGAINST** HB 2652 – Relating to Public, Educational, or Government Access Facilities

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 **STRONGLY AGAINST** HB 2652.

In June of 1997, a report was prepared for the Cable Television Division of the DCCA. It was entitled, **DISPUTES OVER PEG RESOURCES: Splitting the Baby is NOT the Solution**. The State of Hawaii by and large heeded that advice and its independent Community Television operations, notably in Oahu and on Maui worked hard for years to become recognized as some of the best PEG Access stations in the nation.

This success is due in part to the fact that Hawaii PEGs adopted and put into effect a “best practice” integrated PEG model whereby independent non profits created for this specific purpose in each county provided channel space, unbiased gavel to gavel meeting coverage, nondiscriminatory access and low cost media training to local, state and native governments, private and public educational entities and a diverse and varied public. In short, Community Television in Hawaii has been empowering the local voices of each island community without censorship, editorial or state control for more than fifteen years.

By 2005, PEG Access on Maui became a victim of its own success. Private land development interests that did not like some of the messages being broadcast on these free speech venues conducted a sophisticated raid on PEG access coffers and combined with State Educational agencies to launch a privately financed lobbying campaign to split PEG funds into thirds. The end result was 25% of PEG funding for Maui’s Community Television independent non-profit was re-allocated to state educational institutions with little or no accountability to neighbor island publics. Previously on Oahu, a similar development took place whereby 25% of Olelo’s funds were diverted to state education through a consortium known as HENC and caps were placed on Olelo’s franchise fees by order of the DCCA.

In recent years through the use of the State Procurement Code and other means, the thoroughly discredited “Split the Baby” rubric is back in force with government bureaucrats, state agencies and other vested interests and the monopoly cable

operator, Time Warner Cable hard at work to Split the Baby again resulting in the diminishment if not outright demise of the Public Access sector in Hawaii.

At a recent National Conference for Media Reform in Minneapolis I had the opportunity to discuss this very issue with Nicholas Johnson and George Stoney, the architects of PEG Access policy at the FCC in 1972. Back then, Nick Johnson was FCC Commissioner and George Stoney was working with Red Burns at the National Film Board of Canada and running the Alternate Media Center at NYU. They saw the big cable monopolies coming and they envisioned Community Television (PEG Access) as an important social mechanism by which cable companies would pay "rent" for using public rights of way. Their vision was to democratize the dominant mass communications medium of our time by making possible a policy and infrastructure to foster true participatory localism in media. Both men told me that using the term "PEG Access" was their biggest "mistake" because over time a misconception came about in some jurisdictions that "P," "E" and "G" ought to be separated financially. They assured me that this was never the intent.

The letters in "P," "E" and "G" symbolized constituencies served ( Public, Education, Government ) and were not conceptualized as funding categories to be split. We should have just called it "Community Television," they said, "because it is really about all of us".

Be that as it may, some areas with a huge subscriber base ( i.e. New York City ) have split "P," "E" and "G" successfully because the dollars are there to do it. In most places around the country, like Hawaii's neighbor islands, they simply are not.

The reality is that smaller jurisdictions such as Maui would be devastated by such a funding scheme resulting in the diminishment if not outright destruction of the resource. Why? Because the economy of scale to support three stations (P,E and G) including studios and facilities as opposed to one PEG access station does not exist.

The real tragedy of the electronic commons here is that in best practice the " E" money in PEG was never meant to augment or replace what I call, " I " or Institutional Television which can be defined as instructional or educational television (K-12 and higher) funded appropriately by state and/or local taxes.

This is the crux of the disagreement over "E" funds that nearly destroyed PEG Access on Maui in 2005 where UH and DOE succeeded in getting 33% and currently 25% of PEG funds. Without diminishing in any way the significance and value of both "E" and "G" programming, it is fair to say that if the funding mechanism for PEG Access disappeared tomorrow, it is likely "E" and "G" would still exist. "P" almost certainly would not.

With respect to "E", the operative word is "ACCESS. " Educational ACCESS TV ( as opposed to say, Educational or Instructional TV ) means that any and all educators, teachers, students or clients of public, private, parochial, charter, adult or any other form of education are entitled to: equal ACCESS to tools -cameras, computers, etc. – equal ACCESS to skills - the means of video production- equal ACCESS to ideas - media literacy and creative endeavor - as well as physical ACCESS to cable channels - the right to broadcast. The key difference embodied in the term "Access" is that these privileges are not the exclusive preserve of the program managers of a given educational institution or entity but are inclusive of all comers within the "E" subset of potential users.

Educational Access, therefore, in its purest sense was never intended to entitle one or two specific state institutions access to cable subscribers while ignoring the responsibility to provide tools, skills and training to all educational sectors.

A similar analogy applies to "Government Access" or "G" programming. Government Access was meant to provide citizens access to government, not the other way around. The thinking was that if citizens could observe the workings of government in action they would be more likely to engage more fully in a participatory democracy. "G" was never intended to be state-controlled TV or even municipally-controlled TV programmed by a government entity. The best practice model is more like CSPAN where an independent non profit is charged with airing unbiased public affairs programming and unedited gavel to gavel coverage of government meetings. This is not unlike the model we see employed at Akaku today. A pure "G" model in Hawaii would be inclusive of state, county, local and native government voices and would be inclusive of those who have an interest in civic issues raised in a healthy public domain.

As far as the Public or "P" is concerned, the reality is that "we" are all the public. It is "all about us" and the fully local communities we serve. The "P" sector is the most overlooked, the most disparate and the most inchoate. This is where views from diverse and often antagonistic sources are most likely to originate. This is where the sometimes untidy but necessary ferment of local electronic democracy occurs. This is the area where free speech tends to be the most vibrant. Precisely because it is so disorganized, unpredictable and unfunded, it is the most vulnerable and in need of the most protection. This is why I am a strong advocate of the integrated PEG Access model. As stated before, if cable franchise fees were to go away tomorrow, I am fairly certain state sponsored "E" and "G" channels will continue to exist. I am also quite certain that "P" channels would not.

One of the reasons there has been so much wrangling in Hawaii about all this over the years is that it appears the stake holders and policymakers have never really sat down to sort this all out in terms of defining these resources intelligently. Instead what we have had is a sad legacy of turf wars over limited money and resources.

It may be time to revisit some fundamental questions and question old assumptions. It may be time to look at the 1% cable franchise fee allocation to KHET; whether or not there exists a compelling argument to split P,E,G in a population center like Oahu but perhaps not on neighbor islands; consider statewide revenue sharing of franchise fees among access centers to benefit rural communities; consider collection of the full 5% of cable fees allowed by Federal law; determine whether it is feasible or appropriate for UH/DOE to adopt an inclusive Educational Access model; or whether the State of Hawaii can approach telecommunications with meaningful reform before we all miss the digital boat. The fact is that we need more financial resources to Community Media to help close the digital divide ( like percentages from internet and cable modem fees ) Whether or not Hawaii can position itself to achieve maximum public benefit from cable access, broadband, community radio and emerging community technology centers with fast internet for all at a reasonable cost remains to be seen. In any event, I do believe these are endeavors worthy of our best efforts.

This testimony today can hardly scratch the surface of these issues but I would like to invite each and every one of you to stop by Akaku anytime to learn more.

If legislators knew the entire history behind this deeply flawed "split the baby" idea and how it fragments rather than enhances local community communications framework and our broadband future they might be more inclined to be in favor of the present integrated approach.

The bottom line is that it is a very bad idea to split Hawaii's marketplace of ideas into thirds. It will diminish the open exchange of ideas between government and its people, stifle the voices we all need to hear and damage local electronic democracy. Our people deserve better than that and I am looking forward to continued dialogue and collaboration in order to make Hawaii a better place for all of us to communicate with one another.



Representative Robert Herkes, Chair  
Representative Ryan I. Yamane, Vice Chair  
Committee on Consumer Protection and Commerce  
Monday, January 12  
2:00 PM, House conference room 324

**RE: HB2652**

**Opposed**

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

I am very disappointed that this bill is being heard. Year after year PEGS have had to spend valuable time and resources defending their right to exist, instead of being able to focus their attention on improving their programming.

I am a frequent user of Akaku Community Television and have also used Olelo Community Television. I have found staff at both organizations to be extremely helpful and knowledgeable; and equipment and facilities to be of high quality and in good repair. I have not, as the DCCA evaluation reported, found, "a lack of responsiveness, accountability, and efficiency" in either Akaku or Olelo Community Televisions.

HB2652 is unclear as to whether its intent is that accredited educational institutions *should* be the primary beneficiary, or that popular thinking intends this. Page 1, line 17 states, "...it was reported that the allocation of resources to Hawaii's accredited educational institutions is who are generally viewed as the primary constituency of the public, educational, and governmental access movement." "Generally viewed" by whom?

I, personally do not believe that accredited educational institutions should be the primary constituency of PEGS.

In order to maintain a democracy, free speech is imperative. In my experience both Akaku and Olelo are already doing an excellent job of providing this venue. As the old adage says, "If it ain't broke, don't fix it." Both stations additionally comprehensively cover County and State legislative hearings - bringing transparency to government.

If Hawaii's accredited educational institutions feel that they are not receiving their fair share of funding, then this should be addressed directly, instead of disrupting the community PEGs - Akaku and Olelo - who are appropriately doing their jobs of serving the community's television access needs.

I urge you to defer HB2652

Mahalo for hearing my concerns.

Netra Halperin  
Kihei, Maui  
(808) 359-1673

**Testimony for HB2652 on 1/30/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Saturday, January 28, 2012 4:46 AM

**To:** CPCtestimony

**Cc:** cindymaul@yahoo.com

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Testimony for CPC 1/30/2012 2:00:00 PM HB2652

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Cindy Williams  
Organization: Individual  
E-mail: cindymaui@yahoo.com  
Submitted on: 1/28/2012

**Comments:**

Please do not support HB 2652, it would damage an already frail link to the voice of our community. Thank you.