



UNIVERSITY OF HAWAII SYSTEM

TESTIMONY

HB 784

RELATING TO CABLE TELEVISION

Testimony Presented Before the
House Committee on
Consumer Protection and Commerce

February 14, 2005

by

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Chancellor, Maui Community College
University of Hawai'i

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Chair Hiraki and Members of the Committee:

I am here to testify in support of HB 784 to amend Section 440G-15, HRS to distribute one-third of all fees collected for the provision of cable service in the County of Maui to Maui Community College and the Maui District Department of Education (DOE) to equally share the annual allocations from PEG franchise fees with government and public entities. As a concerned citizen as well as Chancellor to Maui Community College, the only accredited public institution of higher education serving the island of Maui, I have witnessed the decline of resources from these fees to public and higher education. Last year the PEG Board, AKAKU, has effectively eliminated all funds for public and higher education in Maui County.

This bill would restore a fair portion of the PEG franchise fees to educational entities that are fully accredited by the Western Association of Schools and Colleges (WASC). These resources are crucial to address needs in education identified as priority by the most recent Focus Maui Nui survey, the County of Maui, the Maui Chamber of Commerce and the Maui Economic Development Board Strategic Plan.

Your support of the legislation will positively affect the entire public and higher education system by providing increasingly significant resources that would allow students on

Lanai, Molokai and on Maui to access expanded and improved levels of learning through cable television.

BACKGROUND

In 1983 Maui Community College (MCC) began distance learning services on Cable TV, including a mixture of live classes and pre-taped telecourses. For over 20 years, MCC has been providing the citizens of Maui County access to educational services and programs such as credit and non-credit courses, arts and humanities programs, life-long learning programs as well as access to both lower education and higher education programming through The Department of Education (DOE) and MCC/University of Hawai'i systems statewide.

In 1987 the Maui PEG Planning Committee was created by the Department of Commerce and Consumer Affairs (DCCA), comprised of MCC, DOE, County and non-profit agency representatives.

In 1992 the DCCA established the Maui PEG Consortium as an advisory board for distribution of PEG franchise fees. Cable franchise fees were allocated, per mandate with DCCA to P, E, and G services. A Public Access channel was also started on Maui.

Having been assured by the proposers of the new board that funding for the DOE and MCC would continue at the same levels, the PEG consortium was dissolved and AKAKU became the agency for PEG management on Maui in 1997 and has since been the management arm of PEG franchise fees.

On June 17, 1999, a contract was signed between the DCCA and AKAKU making AKAKU the agency for PEG access management for Maui County. AKAKU continues to be the management arm governing Maui County's PEG franchise fees and activities. MCC's willingness to support the dissolution of the Maui PEG Consortium was based on a verbal agreement that future funding provided to MCC for education access would continue at prior levels.

The allocation of franchise fees for educational access was initially established by the DCCA at an average of 29% of the annual franchise fee. The “E” portion of funding provided to MCC and the Maui DOE from 1993 until 1999 was at an average of 29% of the franchise fee. [Note: MCC was allotted an average of 19.3%, while the Maui DOE received an average of 9.7%.]. Following the establishment of AKAKU as the PEG access management arm, funding to MCC and the Maui DOE for the “E” portion of franchise fees dropped from an average of 29% to an average of 15%. *It is important to note that MCC and the Maui DOE are the only WASC accredited institutions currently broadcasting educational programming in Maui County.*

The “E” portion of funding provided to MCC (operators of the “E” segment of PEG) continued from 1993 until 1999. During those years, funding for “E” remained at an average of 29% of franchise fees. Directly following the establishment of AKAKU, funding to the “E” portion of franchise fees dropped to 15% (\$53,000 of a total of \$535,000).

In June 2000, MCC received a letter from the president of the AKAKU Board of Directors stating that: *“For long term planning and development of educational access in Maui County, AKAKU will commit ongoing funding at a fourteen percent level . . . You can plan your educational access activities with this allocation in mind.”*

Although MCC has been in active negotiations with AKAKU since the summer of 2000 to reach an “E” percentage that is fair and reflects the needs and desires of the community for educational programming, no funds were received or contracts negotiated. Based on the written confirmation noted above from the AKAKU Board President, MCC established advance accounts to cover operational expenses. *Despite the discontinuation of PEG funding, MCC honored its commitment and continued to provide educational access.*

Since 2000, MCC has been actively engaged in ongoing discussion and negotiations with AKAKU: submitting proposals; exploring possible partnership arrangements; attending AKAKU Board and committee meetings all the while acting in good faith in the hopes that a mutually satisfactory agreement could be reached. After approximately two years of paperwork, negotiations, and mediation, the AKAKU Board voted to release funding of approximately 9% of the franchise fees (\$56,789) to MCC for the 2002-03 fiscal year. Unfortunately, no retroactive funding for fiscal years 1999-00, 2000-01, and 2001-02 was released. *The total retroactive funding total for these years - given MCC's previous 19.3% average of the franchise fees - would amount to over \$300,000.*

Numerous attempts have been made to resolve the funding issues between MCC as the "E" channel provider and the AKAKU Board. During many of the discussions MCC representatives were led to believe that the funding issues would be resolved and that funds allocated for the "E" portion of PEG would be released.

TODAY: FUNDING AND COMMITMENT TO EDUCATION

In July of 2003, the AKAKU Board unanimously voted to no longer provide operating funds for any State Agency, including MCC and the DOE. Since MCC operates the designated higher "E" channel of the PEG access network, this vote demonstrates the Boards lack of understanding regarding:

- 1) Contractual requirements with DCCA and the AKAKU Board to provide funds to the "E" portion of PEG access. Per contract financial support must be made to the "E" channel providers: MCC
- 2) Misunderstanding of the College's financial requirements to operate MCC-TV. Engineering, programming, and operational support to manage MCC-TV on a 24/7 basis requires funding. The availability of educational services is essential to the economic growth of our state. Programs and classes are facing cutbacks. Without additional funding from AKAKU to assist in the college in the production and

operation of MCC-TV, the residents of Maui County may not benefit from expanded intellectual, educational and cultural programming these funds would help provide.

CONCLUSION

Historically, education received a fair 28-32% of PEG funds. This permitted MCC and the DOE to support and strengthen our vital distance education services and outreach efforts. Since AKAKU took over the administration of PEG funds on Maui, they have cut educational funding to \$96,000.00 for the fiscal years 1999-2004. This reduction has occurred despite an annual increase in cable access franchise fees allocated to AKAKU through Oceanic Time Warner Cable. Negative effects of these actions upon the college include the reduction in quality of services and instruction to cable TV students due to staff reductions, lack of ability to meet escalating student and community demand for distance education services, and the of inability to upgrade physical plant operations, including DTV format conversion from aging analog master control operations (currently in use) to digital and automated programming systems.

Education is responsible for half of the programming appearing on the four Maui PEG channels. MCC produces approximately 45 hours of new, original, local programming in the form of live credit classes and community education programs weekly. MCC also absorbs the full burden of equipping, maintaining, and operating the Education channel (MCC-TV) and programming it twenty-four hours a day, seven days a week, 365 days a year. These services represent substantial in-kind and out-of-pocket costs to the College on behalf of county-wide community access services.

In exchange for these vital community contributions, MCC is requesting a fair appropriation of the PEG resources to help offset the substantial costs of supporting these efforts. While we support the public access and government access missions, we ask that the educational needs be given equal consideration. The DCCA's support of the Olelo-HENC agreement underscores the State's commitment to the concept of using PEG funds to bring comprehensive educational programs that meet both the broad and the specific needs of our growing populations. The educational community

cannot maintain the current training and programming needs, or meet the escalating demand for cable classes and life-long learning via cable TV without the full funding that the State intended us to receive when they set up the PEG structure.

The college would like to see PEG access funds fairly distributed between the three access channels, Public, Education and Government. This means a yearly allocation of 30% of the total PEG franchise fees should be reserved for Education access (divided between both DOE & MCC based on their needs) and these funds should be allocated as soon as practical. In addition, funding that has not been released to Educational access since 1999, must also be released. These funds are currently held in reserve by AKAKU and are currently being used as investment funds. Based on 15% per year (30% divided between MCC & DOE), the College should receive past funding amounting to approximately \$350,000 for fiscal years 1999 through 2004.

Thank you for this opportunity to testify in support of this measure.