



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI`I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON JUDICIARY

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2014

Date: Thursday, April 3, 2014
Time: 2:00 p.m.

TESTIMONY ON S.B. NO. 2048, S.D. 1, H.D. 1 – RELATING TO CABLE TELEVISION SYSTEMS.

TO THE HONORABLE KARL RHOADS, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Catherine Awakuni, and I am the Cable Television Administrator at the Department of Commerce and Consumer Affairs (the “**Department**”). I am testifying in support of S.B. No. 2048, S.D. 1, H.D. 1 with further clarifications as suggested below.

Act 19, Session Laws of Hawai`i 2011, authorizes the Director of Commerce and Consumer Affairs to designate public, educational and governmental (“**PEG**”) access organizations without going through the public procurement process and requirements.

The Department supports S.B. No. 2048, S.D. 1, H.D. 1 which amends Act 19 (codified as HRS § 440G-8.3) by: (1) deleting the sunset provision of the act; (2) clarifying that a PEG may be designated in each franchise area; and (3) removing the requirement that the Department conduct annual management and financial audits of designated PEG access organizations. However, for further clarity and to provide the Director of the Department reasonable latitude with respect to PEG designations, the Department recommends that this Committee amend the first sentence of the provision to read as follows:

The director may designate [an] access organizations in each franchise area to oversee the development, operation, supervision, management, production, and broadcasting of programs of public, educational, or governmental access

facilities obtained under section 440G-8; provided that the designation shall be exempt from chapter 103D.

In addition, the removal of the requirement that the Department conduct annual management and financial audits of the PEGs will provide the Department with flexibility to regulate the PEG access organizations. The Department intends to include as a requirement periodic management and financial reviews in the contracts with the designated PEG access organizations to ensure sufficient oversight and transparency.

Thank you for the opportunity to provide testimony on S.B. No. 2048, S.D. 1, H.D. 1.



April 1, 2014

The Honorable Representative Karl Rhoads
Chair
Committee on Judiciary
415 S. Beretania Street, Room 302
Honolulu, HI 96813

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Roy K. Amemiya, Jr.
President/CEO

Dear Chair Rhoads, Vice Chair Har and Members of the JUD Committee;

Subject: In support of SB 2048, SD1 HD1 Relating to Cable Television Systems

My name is Roy Amemiya, CEO and President of 'Ōlelo Community Media, the PEG Access Provider for O`ahu. We support SB 2048, SD1 HD1 and urge you to advance the bill unamended. The bill has a proper effective date of June 29, 2014.

This bill is important because when Act 19 was passed in 2011, it contemplated that each of the four counties would complete the PEG designation process prior to the repeal date of June 30, 2014. Currently, none of the designations have been completed and at a Cable Advisory Committee meeting earlier this week, DCCA indicated that the designation process could not be completed for the four counties by that date. This bill eliminates the repeal date.

SB 2048, SD1 HD1 would eliminate mandatory audits, but please note that DCCA would still retain the authority and discretion to have periodic audits conducted. Presently, 'Ōlelo has its financials audited each year by a reputable local CPA firm.

For the above reasons, we respectfully request that the Committee pass this measure out unamended. Thank you for the opportunity to address you today.

Roy K. Amemiya, Jr.
CEO and President
'Ōlelo Community Media

HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE
STATE OF HAWAII
Representative Karl Rhoades, , Chair
Representative Sharon E. Har, Vice Chair

April 3, 2014
2:00 PM
Conference Room 325

TESTIMONY IN SUPPORT OF SB2048

My name is Jay April, I am a Maui resident and President and CEO of Akaku: Maui Community Television.

In September of 2013 Akakū: Maui County Community Television presented to the Department of Commerce and Consumer Affairs its Application for Designation as the PEG Access Organization for Maui County. We applaud the Governor and State Legislature for protecting PEG access by statute and this legislation before you will avoid another divisive, expensive and acrimonious procurement process such as the one that failed so miserably under the previous Administration. Historically, Hawai'i is known for protecting and preserving its public lands, and for more than twenty years, the State has safeguarded public electronic spectrum on cable as well. This has resulted in the establishment of successful PEG Access Channels on cable systems in each county, where anyone can come and talk story.

Akakū, despite its tiny budget and the geographical challenge of serving some of the most remote and rural areas on earth, has become a national leader in PEG innovation. We currently enjoy widespread support from virtually all sectors of our Maui Nui community including education and government. We have demonstrated leadership as a community anchor institution in bringing advanced mobile journalism and media literacy skills to our youth and have received widespread recognition for deploying new cellular bonding technology to transmit "live" video from remote locations for air on our channels and on the web. Because of the support we receive from our community, Akakū continues to be one of the best fully local independent community television organizations in the United States.

Today, these laudable programs, what is left of public media in general, and Hawai'i's local franchising authority itself, DCCA, are challenged by the immense legal and monopoly power of the incumbent cable and dominant wire line broadband provider, Oceanic Time Warner Cable. We are now at the crossroads of cable and broadband convergence, but due to gridlock in Washington, and the lobbying resources expended by the cable industry at the federal level, telecommunications reform is years away. DCCA has a unique opportunity right now to take decisive action to balance this incumbent cable monopoly influence with regulatory action in line with the founding principles of public access media in Hawai'i. Today's DCCA can make sure that there is significant public benefit for Maui Nui in exchange for Oceanic Time Warner Cable's use of our

public rights of way and make the Governor's Hawai'i Broadband Initiative a reality for others in the nation to emulate.

We see this PEG designation process as a first step toward a public media renaissance in which Akakū and Hawai'i's PEGs, with the guidance of DCCA, are recognized as true community anchor institutions that can integrate broadband literacy programs and new media technology into our curricula; promote mobile journalism training and access to media across all platforms and devices; support live and local citizen reporting from the cameras we all carry in our pockets and establish a Hawaii C-SPAN and a statewide PEG network. We envision nothing less than an ***Integrated Community Media Framework for 21st Century Hawai'i, serving all residents of Hawai'i, with full participation from neighbor islands including the most remote areas of Hana, Moloka'i and Lana'i.***

Akakū has included in our Application for Designation, a draft PEG Access Organization Agreement and important franchise renewal terms that impact the ability of the PEG Access Organization to serve the community, as well as terms that are essential for Maui County's future.

With your support, we are excited and upbeat about our future and look forward to working with Director Keali'i Lopez, the Department and our Cable Administrator, Catherine P. Awakuni in helping to keep our PEG stations on Maui and in Hawaii the very best for a very long time.

Mahalo Nui Loa,

Jay April
President and CEO
Akakū: Maui Community Television

SB2048

Submitted on: 4/2/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alberto Rojas	Valley Isle Sunset Rotary	Support	No

Comments: MAXIMIZE AKAKU's potential, by ridding them of this ridiculous LAW! it is not advantageous to the public of MAUI, nor the State Government. Please reverse this incessant need to waste taxpayer money on a RULE that CLEARLY has no support...

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SB2048

Submitted on: 4/2/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
C.R.P. Montague-Mullins	Na Leo 'O Hawai'i	Support	No

Comments:

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SB2048

Submitted on: 4/2/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Noel Ching-Johnson	Akaku	Support	No

Comments: Aloha! The DCCA is the only State Agency that should be tasked with designation of PEG organizations like Akaku. I strongly support SB2048 HD1 Noel Ching-Johnson

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SB2048

Submitted on: 4/1/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
shanti berg	Individual	Support	No

Comments: I am in support of this bill.

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Aloha

As a long-time producer and fan of Akaku: Maui Community Television, I ask that you support SB2048 HD1. The staff and facilities of Akaku provide valuable services and resources to the community of Maui, and the DCCA is the appropriate agency for designating organizations like Akaku for such important responsibilities. For the sake of one of our last vestiges of freedom of speech, please allow the DCCA to continue serving the people of Hawaii in the PEG access designation process.

Mahalo,
Stuart Hirotsu
808 280-5424
kotonk544@yahoo.com

HOUSE COMMITTEE ON JUDICIARY (JUD)
Representative Karl Rhoads, Chairman
Representative Sharon E. Har, Vice Chairman

Hearing: April 3, 2014 at 2:00 pm
House Conference Room 325

TESTIMONY IN SUPPORT OF SB2048 HD1

My name is Suki Halevi. I am a resident of Maui County and the Director of Development at Akakū: Maui Community Television, and I am submitting this testimony individually.

I strongly support SB2048 HD1. DCCA is the appropriate State agency to act as the local franchising authority, working with cable providers to obtain the best possible services for the communities of Hawai'i and designating experienced community-based non-profit organizations to act as the public, educational and governmental (PEG) access organizations for each county in the State.

State law requires DCCA to protect the public interest in the cable franchise process, which includes terms pertaining to the designated PEG access organizations, and DCCA is the appropriate agency to do this. Some years ago, there was a divisive attempt to destabilize this process by moving PEG designation from DCCA to the procurement office. I respectfully request that the legislature set this matter to rest by adopting SB 2048. As stated in the Committee Report, "[t]he State's efforts to safeguard the public electronic spectrum on cable has enabled the establishment of successful public, educational, and governmental access channels on cable systems in each county. This measure will permanently allow the Director to designate an access organization to oversee public, educational, and governmental channels and will also ensure that the Cable Advisory Committee continues to be able to advise the Director and access organizations on certain matters."

SB 2048 also amends Section 440G to eliminate the requirement that DCCA conduct annual management and financial audits of the designated PEG access organizations, in addition to providing annual independently audited financial statements. As the Committee found, this requirement should be repealed because it is a "duplicative expense for the Department and an unnecessary use of subscribers' fees."

For these reasons, I strongly support SB2048 HD1. Thank you for your consideration and for taking these steps to safeguard and advance the public interest in the PEG access organization designation process.

Respectfully submitted,
Suki Halevi

SB2048

Submitted on: 4/1/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph D Pluta	Individual	Support	No

Comments: I strongly support SB2048 HD1. DCCA is the appropriate state agency for designating experienced, successful community-based non-profit organizations such as Akakū Maui Community Television to manage public, educational and governmental (PEG) access resources. SB2048 HD1 will allow DCCA to continue to serve the public interest in the PEG access organization designation process.

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SB2048

Submitted on: 4/1/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Mentzel	Individual	Support	No

Comments: Sample testimony: I strongly support SB2048 HD1. DCCA is the appropriate state agency for designating experienced, successful community-based non-profit organizations such as Akakū Maui Community Television to manage public, educational and governmental (PEG) access resources. SB2048 HD1 will allow DCCA to continue to serve the public interest in the PEG access organization designation process.

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SB2048

Submitted on: 4/1/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kat Tracy	Individual	Support	No

Comments: I support that DCCA continue to oversee the PEG access designation for the state.

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SB2048

Submitted on: 4/1/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Peter King	Individual	Support	No

Comments: i support this bill

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To: COMMITTEE ON JUDICIARY
Rep. Karl Rhoads, Chair
Rep. Sharon E. Har, Vice Chair

Hearing on April 3, 2014, 2:00pm

SB2048 HD1, Relating to Cable Television Systems

My name is Sean Taketa McLaughlin and I strongly support SB2048 HD1.

I am a former member of the Cable Advisory Committee (twice appointed by Governor Waihee), for a time in the 1990's I was Telecommunications Director for the Honolulu City Council and then served as Executive Director and CEO for Akaku: Maui Community TV from 1997 to 2005. Over the decades, I've followed the progress of cable TV, telecommunications and broadband regulation in Hawai'i.

In spite of past conflicts of interest that appeared to corrupt the agency's cable regulation, the Department of Commerce and Consumer Affairs (DCCA) remains the appropriate State agency for designating successful community-based non-profit organizations such as Akakū Maui Community Television, 'Olelo: Community TV, and Na Leo 'O Hawai'i to manage public, educational and governmental (PEG) access resources.

SB2048 HD1 will allow DCCA to step up and actively support the public interest through the PEG access organization designation and oversight process.

Oversight will still be needed to ensure that DCCA learns from past mistakes, where private cable operators previously dominated State regulation. With the authority provided in this measure, DCCA can begin to act independently of the private interests of Time Warner, the dominant cable operator and more in the public's interest.

If you would like more perspective regarding DCCA and cable regulation in Hawai'i, please feel free to contact me anytime. E-mail: seantaketa@gmail.com or cell: 707-616-2381.

SB2048

Submitted on: 4/1/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Shawn Michael	Individual	Support	No

Comments:

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SB2048

Submitted on: 4/2/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Tom Blackburn-Rodriguez	Individual	Support	No

Comments: Dear Judiciary Committee Members, I strongly support SB2048 HD1. DCCA is the appropriate state agency for designating experienced, successful community-based non-profit organizations such as Akakū Maui Community Television to manage public, educational and governmental (PEG) access resources. SB2048 HD1 will allow DCCA to continue to serve the public interest in the PEG access organization designation process.

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SB2048

Submitted on: 4/1/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jacqueline L Prouty	Individual	Support	No

Comments:

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I am in support of SB2048 which continues to give the Director of DCCA the ability to designate an access organization in each franchise area. It also deletes the requirement that the DCCA conduct annual managerial and financial audits of the designated access organizations.

SB2048

Submitted on: 3/31/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Moran	Individual	Support	No

Comments: Please support this bill

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SB2048

Submitted on: 4/1/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Councilmember Don Couch	Individual	Support	No

Comments:

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SB2048

Submitted on: 4/1/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Theresa Roberts	Individual	Support	No

Comments:

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SB2048

Submitted on: 4/1/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Donna Dunham	Individual	Support	No

Comments:

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SB2048

Submitted on: 4/2/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
LINDA DORSET	Akaku	Support	No

Comments: I strongly support SB2048 HD1. DCCA should continue as the state agency for designating experienced, successful community-based non-profit organizations to manage public, educational and governmental (PEG) access resources. They have the best background to make informed decisions. SB2048 will allow DCCA to continue to serve the public interest in the PEG access organization designation process.

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SB2048

Submitted on: 4/2/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel	Individual	Support	No

Comments: I strongly support SB2048 which will allow for the DCCA to designate PEG Access Organizations in each county that can demonstrate a true reflection of the uniquely local needs and interests of their constituents and are fully accountable to DCCA and the State. Community Communications like PEG Access are a priceless asset based on performance over time, not a commodity to be sold to the lowest bidder. They clearly do not belong in a procurement regimen. This bill will follow the recommendation of your 2008 Legislative Task Force and avoid the pitfalls of a misplaced, fatally flawed, divisive and expensive state procurement process that languished for seven years under a previous administration. It will create much needed stability for PEG Access and provide a framework for community media to continue to extend media opportunity and a vibrant voice for all the people of Hawai'i Nei.

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SB2048

Submitted on: 4/2/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Malerba	Individual	Support	No

Comments: I strongly support SB2048 HD1. I believe that the DCCA is the only appropriate state agency for designating experienced, successful community-based non-profit organizations such as Akakū Maui Community Television to manage public, educational and governmental (PEG) access resources. Passage of SB2048 HD1 will allow DCCA to continue to serve the public interest in the PEG access organization designation process. I therefore urge the legislative body to pass this measure.

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SB2048

Submitted on: 4/2/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sayble Bissen	Individual	Support	No

Comments: I support this bill.

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SB2048

Submitted on: 4/2/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ruhi Moran	Individual	Support	No

Comments: Thank you for this opportunity to submit my testimony. I strongly support SB 2048. DCCA is the appropriate State agency to act as the local franchising authority. Maui nui is counting on our representatives to safeguard our community voice through Akaku.

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SB2048

Submitted on: 4/2/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
pamela Telford	Individual	Support	No

Comments:

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SB2048

Submitted on: 4/2/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Stephen Luksic	Individual	Support	No

Comments: Aloha, My name is Stephen Luksic, I live in Kula Maui and currently I am the Technical Director of Akaku: Maui Community Television. I have been involved in media production through television and film for over 30 years. Though my experience with non-profits and institutes of higher education I am proud to be working with a great community resource. Before I gained employment at Akaku, 5years ago, I volunteered my time by teaching classes or helping others with video technology at Akaku, since 1999. Trying to stay on top of the technological trends in video and internet is a daunting task. Helping others understand and utilize these tools is essential for the development of a productive community. The amount of time and money Akaku and staff spend defending our existence is unbelievable. I think we do 3 audits a year right now. Isn't once a year enough? Much of the time and money could be better spent on serving the community. The DCCA could better serve the community by spending more time regulating and overseeing the corporations that take their obscene profits out of the state rather than causing a well respected non profit organization to constantly justify the good done for the citizens of Maui. Thank you for your help in making PEG access a stronger community resource for the citizens of Hawaii.

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HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

COMMITTEE ON JUDICIARY

Rep. Karl Rhoads, Chair
Rep. Sharon E. Har, Vice Chair

Re: SB2048 SD1 HD1 – Related to Cable Television systems
Testimony in favor

Aloha, I am J Robertson, Managing Director at Ho'ike Kauai Community Television. I appreciate the time you allow for this testimony on SB 2048. I am in support of this bill and encourage your committee to pass it forward.

Originally, Act 19 from the 2011 Hawaii Legislative session provided for an efficient method of determining the management of Hawaii's Public, Education and Government entities. It was hoped at that time that three years would be sufficient to accomplish the designation. Unfortunately, that has not happened. However, the intent of the initial measure was to allow for a streamlined process that insures public accountability.

To date all four of Hawaii's PEG systems have applied for designation. We are the only applicants. Due to difficulties and priorities the designation process has not accomplished the task. There should not have been a sunset provision from the outset and SB 2048 will remedy the situation and allow the Department of Commerce and Consumer Affairs to continue to conduct business without the hindrance of the procurement process.

In our recent discussions with the DCCA we feel that the designation is pending and we are actually very close to securing an agreement. This bill will allow this to come to a satisfactory conclusion.

We also support the removal of the requirement for annual financial and management audits. This will not remove our obligation to be transparent or provide detailed information. Instead, it will allow the DCCA to be more flexible and efficient in their oversight of our operations.

It is with the intent of providing the best service to the people of our island and allowing the DCCA to conduct their affairs in a more production manner that we support this bill and respectfully request and encourage this committee to pass the bill.

On behalf of the people of Kauai I thank you for the opportunity to address this issue with you today.

J Robertson
Managing Director
Ho'ike Kauai Community Television
4211 Rice Street, #103
Lihue, Hawaii, 96766

LATE

SB2048

Submitted on: 4/2/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Leslee Florea	Individual	Support	No

Comments: I strongly support SB2048 which will allow for the DCCA to designate PEG Access Organizations in each county that can demonstrate a true reflection of the uniquely local needs and interests of their constituents and are fully accountable to DCCA and the State. Community Communications like PEG Access are a priceless asset based on performance over time, not a commodity to be sold to the lowest bidder. They clearly do not belong in a procurement regimen. This bill will follow the recommendation of your 2008 Legislative Task Force and avoid the pitfalls of a misplaced, fatally flawed, divisive and expensive state procurement process that languished for seven years under a previous administration. It will create much needed stability for PEG Access and provide a framework for community media to continue to extend media opportunity and a vibrant voice for all the people of Hawai'i Nei.

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LATE

SB2048

Submitted on: 4/3/2014

Testimony for JUD on Apr 3, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Tim Smith	Individual	Oppose	No

Comments:

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