

STAND. COM. REP. NO.

2588

Honolulu, Hawaii

MAR 01 2018

RE: S.B. No. 36
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 36, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONSUMER PROTECTION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Department of Commerce and Consumer Affairs to regulate all channel designations and relocation of public, educational, and governmental access channels; and
- (2) Allow cable operators to relocate or change the designation of public, educational, and governmental access channels only under certain conditions.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs; Office of the Mayor, County of Maui; Councilmember Derek S.K. Kawakami, Kaua'i County Council; Joann A. Yukimura, Kaua'i County Council; 'Ōlelo Community Media; PlayBuilders of Hawai'i Theater Company; Nā Leo TV; ALEA Bridge; PARENTS, Inc.; Hawaiian Music Hall of Fame; Waipahu Community Coalition; Akakū Maui Community Media; Hawai'i Association of Independent Schools; Hawai'i Justice Coalition; Nā Kama Kai; and twenty-seven individuals. Your Committee received



testimony in opposition to this measure from Charter Communications.

Your Committee finds that public, educational, and governmental (PEG) access programming has numerous important public benefits. PEG access programming promotes civic participation through local government cable casts, including broadcasting legislative hearings and sessions, county council meetings, and neighborhood board meetings, which allows viewers to remain informed of issues affecting communities throughout the State; connects Hawaii's unique communities via discussion and coverage of cultural matters and events; and serves a vital consumer protection function as a tool to alert the public during natural disasters and emergencies. Your Committee further finds that many of the State's PEG access channels have retained the same channel location for decades, are well-known to viewers, and have been branded by local community producers for their programs.

Unfortunately, one of the State's cable operators has recently decided to relocate the State's PEG access channels from their current high traffic locations to new, essentially vacant channel slots. Your Committee has heard the significant concerns voiced in testimony that this move will effectively make local, public, non-commercial community television channels hard to watch and hard to find. According to testimony received by your Committee, research has shown that when channels are relocated in this manner, in the absence of a well-funded, comprehensive rebranding campaign, a significant portion of the viewing audience is lost forever. Your Committee is therefore concerned that the forced relocation of the State's PEG access channels defeats the underlying purpose for which these non-commercial access channels were originally established -- to ensure access to cable television studios for people who would not otherwise have a voice and encourage civil engagement in local communities.

This measure therefore requires the Department of Commerce and Consumer Affairs (Department) to regulate all channel designations and relocation of PEG access channels and permits cable operators to relocate PEG access channels only if certain conditions are met. However, your Committee has heard the concerns raised in testimony by the Department that because federal laws bestow limited power to local franchising authorities (i.e., the Department on behalf of the State) regarding the



regulation of cable services, conflicts of law may arise and pose enforceability issues for the Department. Your Committee understands these concerns and concludes that an amendment to this measure is necessary.

Accordingly, your Committee has amended this measure by clarifying that, unless expressly prohibited by federal law, the Department of Commerce and Consumer Affairs shall regulate all channel designations and relocation of public, educational, and governmental access channels.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 36, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 36, S.D. 2, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



