

## ACT 93

S.B. NO. 2048

A Bill for an Act Relating to Cable Television Systems.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to:

- (1) Authorize the director of commerce and consumer affairs to designate access organizations in each franchise area;
- (2) Delete the requirement that the department of commerce and consumer affairs conduct annual management and financial audits of designated public, educational, or governmental access channels, as these access organizations are already required to provide annual independently audited financial statements to the department; and
- (3) Remove the sunset provision in Act 19, Session Laws of Hawaii 2011, thereby permanently allowing the director of commerce and consumer affairs to designate an access organization in each franchise area to oversee public, educational, and governmental channels and requiring the cable advisory committee to advise the director and access organizations on certain matters.

SECTION 2. Section 440G-3, Hawaii Revised Statutes, is amended by amending the definition of "service area" to read as follows:

~~"[Service area]"~~ "Franchise area" or "service area" means the geographic area for which a cable operator has been issued a cable franchise."

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

~~"[§440G-8.3] Designation of access organizations for public, educational, or governmental access channels. (a) The director may designate [an] access [organization] 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.

(b) No access organization shall be designated except upon written application or proposal to the director, and following a public hearing on each

island within the local franchise area that provides opportunity for public input and allows interested parties to intervene.

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

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

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

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

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

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

~~[(h) The department shall conduct an annual management and financial audit of the access organization designated under this section.]~~"

SECTION 4. Act 19, Session Laws of Hawaii 2011, is amended by amending section 4 to read as follows:

~~"SECTION 4. This Act shall take effect on July 1, 2011; provided that this Act shall be repealed on June 30, 2014, and section 440G-13, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act]."~~

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on June 29, 2014.

(Approved June 16, 2014.)