



**STATE OF HAWAII
OFFICE OF ELECTIONS**

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SCOTT T. NAGO
CHIEF ELECTION OFFICER

March 8, 2012

To: Elections Commission

From: Scott T. Nago
Chief Election Officer

Re: STATUS OF OPERATIONS

The Office of Elections, in addition to its normal preparations for the 2012 Elections, has been focused on the following items since our last meeting: (1) legislation; (2) reapportionment; and (3) personnel.

Legislation

The Office of Elections has testified and monitored a variety of bills this legislative session that may have an impact on the conducting of elections. Attached is a matrix of those election-related bills, which are still active this session. The Legislature has an internal calendar, which contains deadlines regarding actions that must have been taken regarding a bill, in order for it to be on track to be passed this session. The most recent internal deadline was the crossover deadline for bills that originated in one house to be transmitted to the other house.

The bills in our initial legislative package regarding obtaining an emergency appropriation of \$1,725,000 to fund the Office of Elections' share of the voting system contract for the 2012 Elections and the development of an online voter registration bill are still active and we are hopeful that they will be passed by the Legislature and signed into law by the Governor.

Reapportionment

On January 4, 2012, the Hawaii Supreme Court invalidated the most recent reapportionment plan and ordered the Reapportionment Commission to develop a new one that properly excluded non-residents from the population base that would be used to draw the boundaries for the state senate and state house seats.

As previously explained to the Reapportionment Commission, without the boundaries for each seat, we would not be unable to issue nomination papers to prospective candidates at the beginning of candidate filing season on February 1, 2012. HRS § 12-2.5. Additionally, without the boundaries, we would not be able to proceed with the drawing of precinct lines. Without precincts, we would not be able to determine and design the various ballot types which contain the specific contests that voters in a precinct can vote on. Finally, without precincts we would not be able to assign voters to their proper polling places or send them the traditional notice we provide them regarding where they are supposed to vote on election day, so as to avoid voter confusion. Simply put, the new plan needed to be completed as soon as possible, so as to not compromise the execution of the elections.

Due to the continued delay in finalizing the plan and concerns that the Reapportionment Commission did not fully appreciate the time constraints on finalizing a new plan the Office of Elections in coordination with the county clerks had to issue a formal letter and testify before Reapportionment Commission, on January 30, 2012, explaining the concerns of election officials. The following is an excerpt of that letter explaining our concerns in greater detail.

The election calendar begins with the opening of candidate filing. By law "[n]omination papers shall be made available from the first working day of February." HRS § 12-2.5. The Attorney General has advised us that under the present circumstances we cannot conduct candidate filing for State Senate and State House seats until the lines are finalized.

While candidate filing and ballot printing are two important tasks that occur after redistricting, we note that there are other equally critical election tasks that can only be conducted in a consecutive manner following the conclusion of redistricting.

Upon the filing of the reapportionment plan, a precincting process similar to redistricting occurs to create facility and resource allocation based boundaries. This process involves whether established polling places are capable of serving the numbers of voters for the precinct boundaries created. This process, which involves over 240 polling places statewide, can take several weeks to obtain verification and to make the appropriate adjustments as necessary. Legally, the precincts and polling places must appear in an election proclamation (issued on May 26, 2012 at least ten days prior to the close of filing), about 118 days from the date of this letter.

Following the precincting process, county election officials must reassign over 600,000 voters to these newly established precincts. This process involves the creation of address ranges that correspond to the new precinct boundaries. While a portion of this work can be conducted using

geographic information systems, a subset of this process is labor intensive, requiring manually assigning voters to correct districts due to inconsistencies in address numbering (as is frequently the case on the neighbor islands). This process also involves reconciling geographic information system based house number ranges with actual house numbering and frequently involves visits to locations to verify the accuracy of the house numbering ranges and the corresponding district assignments. The accuracy of this task is critical since errors could result in voters voting in the wrong contests and for the wrong candidates, which may result in an election contest being filed.

Furthermore, the Federal Military and Overseas Voter Empowerment Act requires that absentee ballots for military and overseas voters be mailed out at least 45 days prior to an election which involves a federal office. 42 USC § 1973ff-1. This requirement was the genesis for moving the Primary Election date from September to August. Consequently, the prospect of seeking a court order to delay the Primary Election (as has been done in other States with litigated redistricting plans) is not practicable in Hawaii's instance.

In terms of impact to the public, the primary concern is one of voter notification. That is, the mailing of postcards to inform voters of where to vote. This occurs only after the voter registration district reassignment process is completed.

Needless to say, there are a variety of other logistical and administrative matters related to the execution of the elections that are tied into knowing what the boundaries are for the various State Senate and State House districts. However, the examples above are effort intensive and can only be performed in a consecutive manner following the redistricting process.

We are sworn to do our utmost to implement the election, however, please know that any compression of the election timeline creates substantially higher challenges and increased risks for executing a successful election. Any efforts that the Commission can undertake to expedite its process will also have the favorable impact of reducing this risk caused by an already truncated timetable caused by the recent litigation.

Letter to Reapportionment Commission (January 30, 2012).

The date of February 29, 2012, was provided as the date when the plan needed to be completed, in order to give election officials the best opportunity to conduct the elections, without a significant increase in the risk of the elections being compromised.

Despite expressing an understanding of the logistical and administrative concerns which would result in a delayed issuance of the plan, the deadline of February 29, 2012 was allowed to pass and it now appears, hopefully, that the plan will be adopted on March 8, 2012, at the Reapportionment Commission's next meeting. We will do our best to work under these circumstances.

Personnel

We have made significant headway in the area of civil conversion, since our last meeting. Specifically, the Department of Human Resources Development (DHRD) has authorized the conversion of our Counting Center Operations, Election Support Services, and Precinct Operations Section Head positions. It is our understanding that with DHRD's acquired familiarity with the operations of the Office of Elections, most if not all of our remaining positions will be completed prior to the completion of the current fiscal year and prior to the conducting of the 2012 Elections, so as not to unduly interfere with the execution of those elections. In the event this does not occur, we may have to wait until immediately after the elections to complete the conversion of the remaining positions.

If you have any questions, please feel free to contact me at (808) 453-VOTE (8683) or 1-800-422-VOTE (8683).

Enclosure