



**STATE OF HAWAII
ELECTIONS COMMISSION**

F.M. SCOTTY ANDERSON
ELECTIONS COMMISSION CHAIR

MINUTES

**REGULAR MEETING OF THE
ELECTIONS COMMISSION**

**JANUARY 13, 2016 @ 10:00 AM
STATE OFFICE TOWER
235 SO. BERETANIA STREET, ROOM 203
HONOLULU, HAWAII 96813**

Commissioners in Attendance:

Mr. F.M. Scotty Anderson, Chair
Ms. Patricia Berg
Mr. Kenneth Hiraki
Mr. Charles King
Ms. Carol Kitaoka
Ms. Terry Lynn Moore
Mr. Warren Orikasa
Mr. Victor Vierra

Technical Support Staff in Attendance:

Ms. Robyn Chun, Department of the Attorney General
Mr. Scott Nago, Chief Election Officer
Ms. Ruthie Ah Hee, Office of Elections
Ms. Judy Gold, Office of Elections
Ms. Jaime Kataoka, Office of Elections
Mr. David Rosenbrock, Office of Elections
Mr. Rhowell Ruiz, Office of Elections
Mr. Aaron Schulaner, Office of Elections
Ms. 'Auli'i Tenn, Office of Elections
Ms. Jamee-Lee Toro-Lopes, Office of Elections
Ms. Kristen Uyeda, Office of Elections

Guest in Attendance

Ms. Elise Anderson, Board of Registration
Ms. Pauline Chakmakjian
Mr. Kevin Dayton, Star Advertiser
Sen. Sam Slom

PROCEEDINGS

I. Call to Order

Chair Anderson called the meeting to order at 10:00 a.m. on January 13, 2016 at the State Office Tower, Room 203.

II. Roll Call and Determination of a Quorum

Elections Commission (EC) Secretary conducted roll call. Commissioner Young was not in attendance. All other Commissioners were in attendance and the Commission had a quorum.

III. Approval of Minutes for the Meeting of November 4, 2015

Commissioner Orikasa moved that the minutes be approved; the motion was seconded by Commissioner King and approved unanimously by the Commissioners.

IV. Public Testimony – Any interested person may submit comments or testimony on any agenda item

No public testimony was given.

V. Status of Operations Report from the Chief Election Officer, discussion and action, if appropriate

Chief Election Officer (CEO) Nago reported that since the last EC meeting, the Office of Elections (OE) has been focused on legislation, online voter registration, and preparations for the 2016 Elections. OE has submitted the five following bills to the Legislature for its consideration:

1. OE Package Bill No. 1 – Relating to Elections

This bill authorizes all-mail elections by transitioning voters to permanent absentee status and expanding the procedures used for absentee voting. The bill proposes a staggered implementation beginning in 2018 with the County of Kauai, followed by the County of Hawaii in 2020, and finally the City and County of Honolulu in 2022.

2. OE Package Bill No. 2 – Relating to Absentee Ballots

This bill authorizes the electronic transmission and return of absentee ballots for all voters within five days of an election. Currently, the law only allows military and overseas voters to accept and return ballots electronically. This bill provides additional time to vote for those who need a replacement ballot, or have not received a ballot at all.

3. OE Package Bill No. 3 – Relating to Voter Registration

This bill proposes an automatic voter registration program for driver's license and state identification card applicants, with an "opt-out" provision as required by federal law. This program would also serve to automatically update voter registration records to reflect any changes in residence address, mailing address, or name. Furthermore, the bill allows the electronic transmission of voter registration data from the driver's license and state identification card applications to the statewide voter registration system, to ensure the timely updating of the system.

4. OE Package Bill No. 4 – Relating to Elections

In order to address the increase in absentee mail voting, this bill introduces the preprocessing of returned mail ballots prior to an election. As soon as ballots are returned, election officials would be able to slice open the return ballot envelope and validate signatures. The ballots would then be removed and scanned no earlier than the fifteenth day prior to an election.

5. OE Package Bill No. 5 – Relating to Class C Felonies

This is a housekeeping bill that increases the fine associated with election day voter registration fraud from \$1,000 to \$10,000. This change would make the fine consistent with the traditional fine associated with a class C felony.

CEO Nago reported that there were news reports last week regarding a nationwide voter information breach in which over 191 million voter records had been exposed, however OE was able to quickly determine that their information

was secure. He explained that Hawaii law allows the release of public information (i.e., name, district/precinct, and voter status), and information that has been issued for election purposes (e.g., voter addresses used by campaigns), but not social security numbers or birth dates.

In preparation for the 2016 Elections, CEO Nago stated that OE has reserved a total of 233 polling places, and is currently in the process of recruiting over 4,600 election day volunteers to work in the polling places, counting centers, control center, and to deliver ballots. Candidates can begin to file for office on February 1, 2016, and have until June 7, 2016 to file their nomination papers. There are presently five qualified political parties, and the deadline to form a new political party is February 25, 2016. OE's media campaign will be kicking off in February, highlighting online voter registration, as well as recruitment for precinct officials, dates and deadlines, voting instructions, and voter services.

Commissioner Berg stated that since the last EC meeting, the members of the EC had the opportunity to review the video recording of the Informational Briefing on November 3, 2015 with the Senate Committee on Judiciary and Labor (JDL) and the House Committee on Judiciary (JUD). She explained that there were several concerns addressed at the Informational Briefing, primarily voter identification. Commissioner Berg said that she did not see anything in CEO Nago's Status of Operations report regarding how these issues were addressed. CEO Nago replied that the state law allows each of the county clerks to determine what is considered sufficient identification for voter registration. He explained that they currently follow the requirements of the "Help America Vote" Act, which accepts a current and valid photo ID or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. Commissioner Berg asked CEO Nago to confirm that each county is able to develop its own requirements for voter registration identification. CEO Nago verified that they can under the current law, however they are looking to standardize the requirements statewide.

Commissioner Berg asked CEO Nago for clarification regarding OE Package Bill No. 4, regarding the preprocessing of returned mail ballots. CEO Nago explained that with the current process, as the ballots are mailed back, the signatures are verified, and then the ballots are locked away. On election day, the ballots are taken to the counting center, sliced open from the secret ballot envelope, straightened out, put into stacks, and scanned. Due to the increasing volume of absentee mail ballots, it is gradually becoming more difficult to have the results totaled by poll closing time. OE Package Bill No. 4 proposes that the State of Hawaii adopt a process similar to that of an all-mail election, in which returned ballot envelopes are sliced open, and the ballots scanned within the 15-day period prior to election day. This way, if the bulk of the processing is done beforehand, the ballots will only need to be tabulated on election day.

Commissioner King asked if this change would require the official observer to come in every day, to which CEO Nago confirmed that it would.

Commissioner Vierra noticed that there is a new political party, the Aloha Aina Party, being formed on the Big Island. He asked what the requirements are for them to become certified. CEO Nago replied that new political parties are required to circulate a petition and obtain 707 valid signatures of registered voters by the deadline in order to become qualified as a new political party. Commissioner Vierra asked if new political parties need to be recertified every election cycle. CEO Nago explained that there is a ten-year provision through which a political party having first qualified by petition under HRS §11-62 and having been qualified as a political party for three consecutive general elections by petition or meeting the vote requirements of HRS §11-61(b), shall be deemed a qualified political party for the following 10-year period, assuming the party continues to field candidates for office. However if parties do not meet the minimum requirements, they are disqualified and would need to reapply in the following election cycle.

Commissioner Vierra stated that he viewed the U.S. Election Assistance Commission (EAC) roundtable discussion online in which elections officials from various states (e.g., Florida, New Hampshire) reviewed past issues, as well as future elections. Commissioner Vierra said that the roundtable participants stressed attention to procedures, and asked if OE has training sessions planned for their 4,000 volunteers. CEO Nago answered that the law requires that the volunteers are properly trained and certified. He added that there is a control center in each county on election day that volunteers are able to contact to ensure that all answers and resolutions going out to the public are standardized.

Commissioner Vierra stated that the EAC roundtable also emphasized the timeliness of results, and acknowledged that CEO Nago touched upon this issue with OE Package Bill No. 4. CEO Nago clarified that since Hawaii allowed individuals to request absentee mail ballots without a reason (e.g., being out of state, etc.), more people are voting by mail rather than on election day at the polls. Thus, being able to begin preprocessing prior to election day will be greatly beneficial.

Commissioner Vierra shared that the EAC roundtable discussed a well-informed electorate and election staff, and consistency of procedures. They also talked about the importance of transparency of communications and the public perception of elections. Commissioner Vierra said that the bottom line of the discussion was that elections are a complex endeavor and that there is no such thing as a "perfect" election. All that can be done is to be prepared and stay on top of everything as best as possible. CEO Nago agreed and stated that those are the reasons why OE has standardized procedures so that all situations can be handled in a consistent way.

Commissioner Hiraki asked CEO Nago how he envisions OE changing, assuming that the whole package of bills are passed (e.g., differences in cost, voter turnout, etc.). CEO Nago responded that their most critical bill is the all-mail election proposal. He explained that the last time Hawaii had an all-mail election was for the special election in 2010, which resulted in greater voter turnout than the previous special election in 2003 that was not all-mail. Based on that data and nationwide statistics, there is greater voter turnout when elections are conducted by mail. CEO Nago added that voter turnout is also dependent upon the type of election; Hawaii holds elections every two years, whereas elections are held annually in other jurisdictions. Furthermore, presidential and gubernatorial elections typically have higher voter turnout. Commissioner Hiraki asked CEO Nago what percentage of an increase he anticipates if the all-mail bill passes. CEO Nago replied that voter turnout was approximately 20% for the 2003 special election, versus about 55% for the all-mail 2010 special election, however it is difficult to predict how these numbers would translate in a regular scheduled election. In regards to cost, CEO Nago stated that transitioning to all-mail elections would save over \$800,000 based on the State's current contract. Commissioner Hiraki asked if this change would mean a reduction in OE staffing, to which CEO Nago agreed, explaining that election day officials, nor polling places, would be required.

Chair Anderson asked CEO Nago to confirm the five political parties currently qualified. Kristen Uyeda (Office of Elections) listed the Hawaii Republican Party, the Democratic Party of Hawaii, the Green Party of Hawaii, the Hawaii Independent Party, and the Libertarian Party of Hawaii.

Senator Slom asked if there is a specific exclusion for the new limited driver's license in OE Package Bill No. 3 regarding automatic voter registration. CEO Nago answered that an individual applying for a limited purpose driver's license would not be allowed to automatically register to vote, nor would they be able to use the limited purpose license to register to vote online. Sen. Slom asked if OE's package bill addresses this exclusion specifically, to which CEO Nago said that it does not.

Sen. Slom asked if OE's package of bills would become effective with this 2016 election, assuming that they all pass. CEO Nago replied that all bills would become effective for the 2016 election except for the OE Package Bill No. 1, relating to all-mail elections.

Sen. Slom thanked CEO Nago for making the correction on OE Package Bill No. 5, in regards to increasing the fine associated with election day voter registration fraud from \$1,000 to \$10,000. Sen. Slom asked if CEO Nago has any data on the total number of fraud cases in Hawaii up to date, to which CEO Nago stated that he believed that the last case of voter registration fraud occurred in the '80s.

Sen. Slom recalled that voter fraud was discussed at the joint informational briefing, and that either Hawaii is a “perfect” state with no fraud, or that there is no due diligence to discover fraudulent information. In following up with Commissioner Berg’s inquiry, Sen. Slom asked if any improvements have been made since the informational briefing with regard to voter registration fraud. CEO Nago explained that he cannot speak for what the counties do on their end, but know that all fraudulent findings are reported to the prosecutor’s office. Sen. Slom asked if CEO Nago could find out exactly what the counties do and report back by the next EC meeting, to which CEO Nago said that he would. Sen. Slom asked if the state does anything in regards to fraud, to which CEO Nago responded that voter registration is not under the state’s jurisdiction.

Chair Anderson asked CEO Nago if an individual would be able to register to vote with a limited driver’s license and an electric bill. CEO Nago replied that any person can register to vote as long as they have a social security number, and are a U.S. citizen, a resident of Hawaii, and at least 18 years old. Chair Anderson asked if OE is able to verify voter registration with a social security number on the spot, to which CEO Nago agreed that they could.

Commissioner Hiraki asked if the time to process election results would be shortened if OE’s package of bills were to pass. CEO Nago explained that there are typically two rounds of results for mail elections (e.g., 6:00 PM and 8:00 PM). In regards to the last all-mail special election, 98% of the ballots were tabulated by 6:00 PM, and the rest by 8:00 PM. CEO Nago stated that they would expect similar numbers if the all-mail bill were to pass. If the preprocessing bill passes, CEO Nago said that he envisions all of the absentee ballots tabulated by the first round of results, and the polling place ballots totaled by the second round of results.

Commissioner Berg expressed concerns regarding same day registration, that the ability to walk in on election day with just a utility bill to register is making fraud convenient. CEO Nago stated that the law allows any voter to challenge another voter either because the person is not who they claim to be, or the person is not entitled to vote in that precinct. He explained that this is why it is important to assign local neighborhood residents to work in the polling places so that they are better able to determine these types of fraud. CEO Nago added that according to the “Help America Vote” Act, a current and valid photo ID or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter is acceptable in order to register. Commissioner Berg asked if a picture ID is required to vote at the polls. CEO Nago responded that if a person did not have a picture ID, they could corroborate their identity with the election day official and be allowed to vote.

VI. 2016 Legislative Session

Chair Anderson asked if the EC has sufficiently discussed legislation under the previous agenda item, to which everyone agreed.

VII. Open Forum: Public comments on issues for the Commission's consideration for the next Commission meeting and action, if appropriate. Presentations limited to three minutes.

Ms. Elise Anderson – Oahu Board of Registration: Ms. Elise Anderson introduced herself as a member of the Oahu Board of Registration (BOR), which meets on election days to resolve disputes. She stated that one BOR member's term had expired, and that the Governor had decided to reappoint another person who did not show up to his confirmation. Ms. Anderson explained that this position has been vacant for the past year, which is significant as there are only two other members on the BOR. She said that the BOR has had a high profile ongoing dispute over the last year, and is concerned that if they disagree on an issue, the case will be brought to a standstill. Ms. Anderson asked if the EC could assist in urging the Governor to appoint a third member to the BOR.

Chair Anderson said his understanding was that an individual remains in their seat on the board until the Governor's appointee is confirmed by the Legislature, which was the procedure when he was on the Contractor's Licensing Board. Ms. Anderson explained that the BOR member whose term had ended had just assumed that his term was finished at the end of the legislative session. Chair Anderson asked how long ago the BOR member's term had expired, to which Ms. Anderson replied that it occurred around April of last year.

Commissioner Vierra asked who the chair of the BOR is, to which Ms. Anderson named Mr. Alan Burdick. Commissioner Vierra asked if Mr. Burdick has made any effort to write to the Governor to solve this issue. Ms. Anderson said that she was not sure if he had done so. Commissioner Vierra suggested that Mr. Burdick write a letter to the Governor to make him aware of the situation.

Chair Anderson asked Ms. Anderson for the correct name of the board. Ms. Anderson stated that the Board of Registration (BOR) is responsible for reviewing elections disputes, and meets all day on primary and general election days in the basement of the Capitol. She went on to say that the BOR has been working on a residency dispute regarding an elected official since the end of the last general election.

Commissioner Orikasa agreed with Commissioner Vierra in that this issue is not under the jurisdiction of the EC, but rather the BOR and the Governor. Ms.

Anderson explained that she had thought the EC meeting was the right place to voice her concern as both the EC and the BOR are involved in elections issues.

Commissioner King asked if the BOR's liaison is with OE, to which Ms. Anderson agreed. Commissioner Berg stated that she thinks that OE should assist BOR in obtaining a third member. CEO Nago clarified that the BOR is attached to DAGS, and that although OE provides staff work to them, the BOR gets most of their support from the AG. Judy Gold (OE) added that OE has been in contact with the Governor's Boards and Commissions Office, and that they have been telling OE that they have been trying to find people to fill the BOR vacancies on Oahu, as well as on the neighbor islands. Ms. Gold said that there is a relevant statute that states that BOR members who are held over only serve through the end of the next legislative session, unless otherwise permitted by the Governor's Boards and Commissions Office.

Ms. Anderson explained that the BOR member who was not reappointed had applied for the position, but was not given a reason as to why he was replaced. She asked if it is protocol for the Governor to make this information explicit, to which Chair Anderson replied that it is the Governor's decision whether or not to reveal his reasoning.

Commissioner Moore requested that the next EC meeting agenda include a discussion about returning to an open meeting format using teleconferencing, especially since this is an election year.

VIII. Adjournment

With no further business before the Commission, Chair Anderson adjourned the meeting.

Elections Commission meeting was adjourned at 10:34 a.m.

Respectfully submitted:



Jaime Kataoka
Elections Commission Secretary