



**STATE OF HAWAII  
ELECTIONS COMMISSION**

**MINUTES**

WILLIAM B. MARSTON  
ELECTION COMMISSION CHAIR

**REGULAR MEETING OF THE  
ELECTIONS COMMISSION**

**NOVEMBER 7, 2013 @ 10:00 AM  
STATE OFFICE TOWER  
235 SO. BERETANIA STREET, ROOM 204  
HONOLULU, HAWAII 96813**

**Commissioners in Attendance:**

Mr. William Marston, Chair  
Ms. Patricia Berg  
Mr. Charles King  
Ms. Carol Kitaoka  
Ms. Xara Marshall  
Ms. Zale Okazaki  
Mr. Victor Vierra  
Mr. Danny Young

**Technical Support Staff in Attendance:**

Ms. Robyn Chun, Department of the Attorney General  
Ms. Valri Kunimoto, Department of the Attorney General  
Mr. Scott Nago, Chief Election Officer  
Ms. Judy Gold, Office of Elections  
Ms. Sheri Ann Longoria, Office of Elections  
Ms. Kristen Oka, Office of Elections  
Mr. Rex Quidilla, Office of Elections  
Ms. Carolyn Roldan, Office of Elections  
Mr. David Rosenbrock, Office of Elections  
Mr. Aaron Schulaner, Office of Elections  
Ms. Auli'i Tenn, Office of Elections

**Guests in Attendance:**

Ms. Shirley Magarifuji – County of Maui  
Ms. Nina Magoun  
Ms. Janet Mason – League of Women Voters

Mr. Michael Palcic  
Senator Sam Slom  
Mr. Lyndon Yoshioka – County of Kauai

## PROCEEDINGS

### I. Call to Order

Chair Marston called the meeting to order at 10:00 a.m. on November 7, 2013, at the State Office Tower, Room 204.

### II. Roll Call and Determination of a Quorum

Elections Commission Secretary conducted roll call. Commissioner Warren Orikasa was not in attendance.

### III. Approval of Minutes for the August 21, 2013 Elections Commission Meeting

With corrections to the minutes, Chair Marston asked for a motion to approve the minutes. Commissioner Young moved that the minutes be approved, Commissioner Marshall seconded the motion and the minutes were approved by the remaining Commissioners.

### IV. Public Testimony – Any interested person may submit data, views or arguments on any agenda item

Commissioner Marshall noted that at the last meeting, discussion was held on public testimony being listed before the Chief Election Officer's report. She wanted to know if it was decided that it had to be done that way because of the law. Commissioner Marshall also noted that it is her understanding the issue brought forth during the testimony was that the testifiers would like to hear the Chief Election Officer's report before they testified. Hearing his report prior to testifying would give them an opportunity to ask questions and testify based on the information that was given to them during the report. She asked if it would be possible to change the sequence of the agenda items.

Chair Marston asked if Counsel was available to answer this question. Deputy AG Valri Kunimoto responded that the current agenda is okay and noted that the Chief Election Officer Nago can take comments from the public after his report, however, he does not need to respond to any of the public's comments or questions.

**Nina Magoun** testified that, as noted in her letter to the Commission, she recommends there be split shifts for up to 25% of the Precinct Officials working in the larger precincts on election days. She also noted for the Commission that she gathered information regarding this issue from several other states that would help address some doubts and recruitment problems. Chair Marston noted for her that this item is on today's agenda for discussion.

Commissioner Marshall asked Ms. Magoun if it would be possible for her to provide the Commission with the information that she gathered from the other states. Ms. Magoun responded that the team who worked a split shift would need to find their own partners and team members must be prepared to work the entire day if their partners did not show up as agreed. Ms. Magoun noted that in her opinion, split shifts should be limited to those who are 70 years or older and those that have worked previous elections so that they have work experience. Commissioner Marshall asked what states are doing this and she responded Alaska, Virginia and Kansas.

**Senator Sam Slom** testified that he was the individual who brought the issue of public testimony placement on the agenda to the Commissions attention on several occasions. He feels that it would garner more public input if testimony could be given after the CEO's report. He also noted that he would like to know what changes and implementations have been put in place by the Office of Elections. Chair Marston noted that this discussion has taken place at previous Commission meetings and a CD has been put together. Senator Slom asked if this CD is available to the public and was told yes. He asked if a copy could be made available to him and he was told yes. The Commission Secretary will send him a copy of the CD.

**Michael Palcic** testified that he served as the Oahu Advisory Council Chair during the last Reapportionment. He noted for the Commission that there was a great apportionment injustice done to the state of Hawaii when certain segments of the population were removed from the census. Commissioner Berg asked who these groups of people were and Mr. Palcic answered that the groups were military personnel and their dependents and out of state students. Commissioner Marshall asked if this situation fell under the jurisdiction of the Elections Commission. Mr. Palcic answered that he felt this situation may affect the integrity of elections so he brought this issue before the Commission.

**Janice Mason** from the League of Women Voters testified that she was here to alert the Commission of an issue that the League was tracking very carefully. This issue concerns the violation of the National Voting Rights Act (NVRA), which requires the Hawaii Health Connector to provide individuals receiving Medicare benefits the ability to register to vote. The League feels that Hawaii is not doing

this and has brought this issue to the attention of the Health Connector, Attorney General, and the Chief Election Officer. She states that the League was told that since the Health Connector was a non-profit, it was not subject to the NVRA requirements. She further stated that the League is losing patience with regards to resolving this dispute

Commissioner Okazaki asked who in the State responded to the League. Janet Mason noted that the Chief Election Officer responded to them based on the Attorney General who stated that the Health Connector is not subject to the NVRA since it is a non-profit and not a state agency. Commissioner Vierra asked which states are currently in compliance and Ms. Mason responded that every state except Hawaii and Oregon.

Commissioner Young asked the Chief Election Officer if he had an opinion regarding this concern. Chief Election Office Nago responded that the Office of Elections has just recently been notified by the Health Connector that applicants will be routed through the Department of Human Services (DHS) so that they can register to vote. The Office of Elections is now working with the DHS to make sure they are in compliance with the NVRA. He further explained that Hawaii is unique in that a non-profit agency, Hawaii Health Connector, was formed to handle the health care responsibilities while other states worked directly with their Human Services departments.

V. Status report from the Chief Election Officer

CEO Scott Nago reported that a professional services consultant has been procured to develop specifications and a new voter registration system which needs to be operational by 2016.

Commissioner Marshall noted that she is impressed with the fact that there has never seemed to be any issues with voter registration fraud. She wanted to know what will be done when developing this new system to ensure that there will be the same level of security to prevent any type of fraud. CEO Nago responded that there is not much difference between online registration and someone filling out an application and sending it in. The verification of the identity of the registered voter is on the backend where identity is verified when the person votes. Signatures are verified for absentee voters when they request an absentee ballot and when the ballot is returned. Polling place workers verify the identity of the voter and make sure the voter is living in the correct district.

CEO Nago further reported that the Office of Elections is now in preparation for the 2014 Elections. The OE is currently meeting with the counties and the voting system vendors to discuss the specs for the printing of the 2014 election ballots.

OE is also revamping the training manuals for precinct officials and are making the necessary arrangements for the training of approximately 3000 precinct officials. He also reported that as it was done in the past, the OE is looking into having split shifts at the polls. The OE will look into ways that it can apply split shifts to certain groups for the 2016 election. He noted that split shifts will probably be made available only to those groups that can provide double the amount of workers needed.

Commissioner Okazaki noted for the group that she has worked at the polls and the long shifts are difficult to work. CEO Nago agreed and said that the pilot project will probably start with nonprofit groups such as Project Grad and the Rotary Club who do it for fund raising.

Chair Marston asked Kauai County Election Administrator Lyndon Yoshioka what the County of Kauai thinks about the split shifts for poll workers. EA Yoshioka responded that the County of Kauai did try something similar to what Ms. Magoun is proposing a while ago. This was done at a limited amount of polling places with a limited amount of positions. Although he understands there may be some benefits, he would be reluctant to changing the way it is done now without some careful consideration.

Nina Magoun commented that she has worked at the polls for about 30 years and has been the sole recruiter for about half of the poll workers for nearly 20 years with the exception of a few years when she was unable to. She stated that she was not aware of Kauai County trying to do split shifts. Her encouraging split shifts is to make an effort to try and retain the older and experienced workers. Although the training has been excellent, retaining experienced workers is better for the polling places. Experienced workers will just need to familiarize themselves with the current updates. She notes that having a limited number of split shift workers would be very beneficial.

Commissioner Berg states that it sounds like this could be beneficial and she would like to see this tested on one county and we could see what the results would be. Chair Marston asks that an update be placed on the next meeting agenda.

CEO Nago reported that in preparation for the election year, seasonal staff will begin working in January of 2014. He explains that on a non-election year, the OE has approximately 18 staff working and on an election year, there is a total of 33 staff working. There currently is a hiring freeze for the State so a letter requesting permission to hire our seasonal employees has been sent to the Governor.

He also reports that we currently have a Memorandum of Agreement (MOA) with Kanu Hawaii to assist with voter registration. They will be assisting us in trying to register people in districts where voter registration is low. Commissioner Marshall asked who Kanu Hawaii is. CEO Nago explained that they are a non-profit, non-partisan group that is involved with various projects. Commissioner Marshall noted that even though groups say they are non-partisan, their involvement in certain activities would not be considered non-partisan. CEO Nago explained that before partnering with Kanu Hawaii, the OE did research into their activities to ensure that they are a non-partisan group and they do not endorse any candidates.

Commissioner Marshall asked if Senator Slom was asked what he thought of this organization. Since Senator Slom was in the audience, she asked him if he knew of this organization and if he knew they were non-partisan. Senator Slom answered that he was not familiar with them and would defer this to the Office of Elections. CEO Nago noted that Kanu Hawaii did go out on their own to various areas during the last election to help get people registered to vote. The Office of Elections would like to provide some kind of resources for them to better their operations when assisting us.

Commissioner Marshall then asked the League of Women Voters what their opinion was and Janet Mason responded that working with them is a great idea and they are perceived as a non-partisan organization.

CEO Nago continued his report stating that with regards to NVRA compliance, the Office of Elections has met with the Department of Human Services to provide refresher training and to make sure that they are providing voter registration forms to all of their clients. The OE will also meet with the Department of Health to do the same thing. The OE has recently met with the Department of Education to ensure that voter registration forms will be passed out to all students who are 16 yrs. or older so that they can pre-register to vote. A liaison will be provided for them to answer any questions that they may have.

CEO Nago noted that the Office of Elections also tries to provide voter registration forms for all government agencies, outside of those that are affected by the NVRA, so that they can place them on their counters for the public.

Chair Marston commented that voter registration is an ongoing event in this state. However, actual voter turnout is a problem. The voter turnout number is low in comparison to the number of registered voters. Perhaps the Commission and the Office of Elections could work together to try and come up with ideas to increase the voter turnout numbers. Commissioner Kitaoka commented that the

Department of Education is working to educate students to increase their voter awareness.

Commissioner Marshall noted that the Office of Elections should work on ways to make the public aware that things have been done to address last years problems and there will be no long waits or ballot shortages that the public will have to endure. Commissioner King suggested that OE also try to promote ways for voters to vote more easily and perhaps open a Facebook page for voter education.

VI. Discussion on election day poll worker staffing inquiry

Chair Marston asked if there were any additional comments since the topic of poll worker staffing has already been discussed. Commissioner Berg wanted to know if this topic could be listed on the next meeting's agenda so that a status report could be given. CEO Nago responded yes.

Commissioner Marshall also asked if Nina Magoun would consider the Office of Elections consulting with her with regards to poll worker recruitment. Both she and CEO Nago agreed.

VII. Discussion on how the Office of Elections handles legislation

Commissioner Berg asked what criteria is being used to select bills for monitoring and who develops testimony for these bills. She also noted that since it is their job to advise the Office of Elections, why is legislation not discussed with the Commission early on in the legislative process. She understands that the Commission is not involved with the day to day operations but advising is a responsibility of the Commission. She feels that legislation is important and the Commission should be included and informed early on during the legislative process.

CEO Nago explained that the Office of Elections has a mission statement which is to provide secure, accessible, and convenient election services. If the legislation fits the mission statement, we will either support or provide technical assistance. As an example, same day voter registration was supported by this office because it supported our mission statement. This office will also provide testimony and technical assistance for those bills that work against our mission statement.

Commissioner Berg noted that she believes there sometimes are unintended consequences with legislation. She would like to see more information gathered from people and more information included in the testimony instead of testimony

being generic in nature. Commissioner Marshall agreed that perhaps the Commission's feelings should be heard before testimony is drafted.

Chair Marston noted that at the present time, the Commission receives a summary of legislation from the beginning of the legislative process and they also receive copies of the testimony that is submitted to the Legislature. Based on what is being discussed, he feels that there are obligations under the sunshine law which will not allow the Commission to meet to discuss legislation before every hearing. He suggested that if any Commissioner feels very strongly about a piece of legislation, they should go to CEO Nago and discuss their position with him.

Commissioner Berg noted that this would be after the fact. She would like to get a list of legislation that the Office of Elections will be monitoring and what position the Office will be taking. She would also like to be able to give feedback before the Office of Elections takes a position. Commissioner Okazaki asked Deputy AG Kunimoto if this was part of the Commission's job description under the statute. Deputy AG Kunimoto responded that she believes this duty is deferred to the CEO under the statute. She also noted that if the CEO were to speak in behalf of the Commission, there would have to be a meeting prior to his disclosure so his current practice is within reason. Deputy AG Kunimoto also states that she understands that Commissioner Berg would like to give some input but it would have to be collective input because it would be coming from the Elections Commission.

Commissioner Marshall stated that she did not understand this because she feels Commissioner Berg is only asking for the opportunity to provide input before Scott takes a position. Commissioner Young suggested that perhaps CEO Nago could send the Commission a list of bills that will be heard and the Chair could decide if there should be a meeting or not. Deputy AG Kunimoto noted for the Commission that the hearing notices come out really fast and working on trying to schedule meetings prior to hearings will be difficult if not impossible.

Commissioner Young noted that opinions could be submitted to the Office of Elections as a private citizen and CEO Nago agreed.

#### VIII. Discussion on Office of Information Practices – Sunshine Law training

Commission Secretary Carolyn Roldan reported to the Commission that she was in contact with Office of Information Practices (OIP) regarding the Sunshine Law Training. The OIP suggested that in preparation for the presentation/training, the Commission should watch the training videos that are on the OIP website, take



the brief quiz, and make a list of questions that they may have. The questions should be sent to the Secretary who will then consolidate them and forward them to the OIP. Doing this will shorten the time spent on training.

The Commission agreed on this suggestion and the Secretary will be going forward to arrange the training which will be done at the next Commission meeting.

Chair Marston asked for a motion to move into Executive Session. The motion was made by Commissioner Young, seconded by Commissioner Okazaki and approved by the remaining Commissioners.

The Commission resolved into executive session at 11:16 a.m.

IX. Executive Session

Pursuant to Haw. Rev. Stat. 92-5 (a)(4) Consult with the Commission's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities and liabilities and action, if appropriate.

The Commission ended Executive Session at 11:40 am and resolved into open meeting at 11:42 am.

X. Adjournment

With no further business before the Commission, Chair Marston asked for a motion to adjourn the meeting. Motion was moved by Commissioner Young, seconded by Commissioner Okazaki and approved unanimously by the remaining Commissioners.

Next Commission meeting is tentatively scheduled for Wednesday, February 5, 2014.

Elections Commission meeting was adjourned at 11:45 a.m.

Respectfully submitted,



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Carolyn L. Roldan  
Elections Commission Secretary