



**STATE OF HAWAII
ELECTIONS COMMISSION**

F.M. SCOTTY ANDERSON
ELECTIONS COMMISSION CHAIR

MINUTES

**REGULAR MEETING OF THE
ELECTIONS COMMISSION**

**AUGUST 31, 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
Mr. Bill Bates
Ms. Patricia Berg
Mr. Charles King
Ms. Zale Okazaki
Mr. Warren Orikasa
Mr. Steven Steffey
Ms. Cynthia Takenaka

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 (CEO)
Ms. Ruthie Ah Hee, Office of Elections
Ms. Nedielyn Bueno, Office of Elections
Ms. Judy Gold, Office of Elections
Ms. Jaime Kataoka, Office of Elections
Mr. Jonathan Keen, 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. Kristen Uyeda, Office of Elections

Guests in Attendance:

Mr. Sudesh Kumar, Office of Enterprise Technology Services
Mr. Danny Mateo, Maui County Clerk
Mr. Josiah Nishita, Maui Deputy County Clerk
Sen. Sam Slom
Ms. Corie Tanida, Common Cause Hawaii

PROCEEDINGS

I. Call to Order

Chair Anderson called the meeting to order at 10:02 a.m. on August 31, 2016 at the State Office Tower, Room 203.

II. Swearing In of New Elections Commission Members

- a. Mr. Bill Bates, County of Maui –
Appointed by Senate Minority Leader Sam Slom
- b. Ms. Zale Okazaki, City and County of Honolulu –
Appointed by House Speaker Joseph Souki
- c. Mr. Steven Steffey, County of Hawaii –
Appointed by House Minority Leader Beth Fukumoto
- d. Ms. Cynthia Takenaka, City and County of Honolulu
Appointed by Senate President Ronald Kouchi

III. Roll Call and Determination of a Quorum

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

IV. Approval of Minutes for the Meeting of June 27, 2016

Commissioner Berg moved that the minutes be approved; the motion was seconded by Commissioner King and approved by Commissioners Anderson

and Orikasa. The newly appointed Commissioners Bates, Okazaki, Steffey, and Takenaka abstained.

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

CEO Nago reported that there were minimal issues on Saturday, Primary Election Day. One issue that occurred involved switching out a voting machine at a polling place on the Windward side. Since the Primary Election, the Office of Elections (OE) has conducted the audits of the results and started preparations for the General Election ballot. The deadline to file a contest for cause was Monday, August 22nd, and as there were no contests filed, the results and list of winners were then certified.

CEO Nago explained that there will be a special election contest on the General Election ballot to fill the remaining term of office for U.S. Representative, District I. In addition, there will be 20 charter amendment questions for Honolulu, so each Oahu voter will receive a set of two ballots.

CEO Nago stated that voter registration increased 2.9% from the 2014 General Election, and 4.3% from the 2014 Primary Election. In regards to online voter registration, there were 40,000 transactions statewide, which include existing voters requesting a permanent absentee ballot or updating their record, as well as new registrations. This year was the first time that same-day voter registration at the AB walk sites was offered, through which approximately 1,000 people registered. In 2018, Election Day registration at the polling places will be available.

Chair Anderson shared that the newspaper had published a letter to the editor regarding low voter turnout and inflated voter rolls. OE and the counties had submitted a response, however the newspaper had chosen not to publish it. Chair Anderson asked CEO Nago to explain his response to the Commission. CEO Nago stated that his response detailed the process through which the county clerks update the voter registration rolls. He explained that prior to the election, the county clerks mail all voters a yellow card that cannot be forwarded. If it is returned, the clerk changes the voter's status to "inactive," and mails a follow-up white card through which the voter can re-register. If the voter fails to reactivate their record, they cannot be removed from the voter registration rolls until two election cycles have passed.

Another issue covered in the response was in regards to deceased individuals on the voter rolls. CEO Nago explained that the Department of Health provides a list of names of those who have passed away in the State of Hawaii. Thus, there

would be no record if a Hawaii resident passed away in another state or country. If the spouse of a deceased individual continues to live at the same residence, the yellow card may be thrown away rather than returned. CEO Nago said that if one wanted to remove a deceased person from the voter rolls, they would need to provide sufficient information to the clerk's office to verify their claim.

Chair Anderson mentioned a third concern that was addressed in the response, regarding individuals in other states hacking into voting machines. CEO Nago clarified that there have been no hacks in Hawaii, and that the Office of Enterprise Technology Services (ETS) has provided OE with a list of sites that they should be blocking. Commissioner Berg asked if the Hart machines that scan the ballots are connected to the internet. CEO Nago replied that the machines are not connected to the internet, but rather the information is stored on a memory card which is removed and secured at the end of the night.

Commissioner Berg reported that she had visited a couple of polling places on Kauai, and that everything seemed to be running smoothly. A precinct official had relayed to her an incident involving a woman who was encouraged by a precinct worker to vote on the machine, as it was not being used. Halfway through the process, she became frustrated, and wanted to vote on a paper ballot instead. When she was told that it would be too difficult to reverse what she had voted on the machine, the woman became upset and left the polling place without voting. CEO Nago stated that the woman should have been allowed to cancel her vote on the machine and be issued a paper ballot. He asked Commissioner Berg at which polling place she had heard of this incident, to which Commissioner Berg answered that it was at Hanalei Elementary School. CEO Nago maintained that the precinct official did not follow the proper procedure and that OE will follow up.

Commissioner Berg asked CEO Nago if voters with an "inactive" status are counted in the total number of registered voters. CEO Nago responded that the "inactive" records are included in the total registration count. Commissioner King asked CEO Nago if this is true for the statistics nationwide. CEO Nago explained that nationwide statistics usually reflect the voter eligible population (i.e., anyone who is an American citizen and over 18 years old), and that Hawaii has approximately a 30% voter turnout.

Commissioner Takenaka stated that she went to her polling place, Holy Trinity Church on Primary Election Day, and there seemed to be a little confusion, as she is a permanent absentee voter. The precinct worker made a phone call to verify Commissioner Takenaka's voter status, and recited her social security number loudly in the polling place. A second privacy issue occurred when Commissioner Takenaka was completing the affidavit, and it appeared as though

the precinct worker had stacked the carbon affidavits on top of each other, as she could read the signature and social security number of the person who had completed an affidavit before her. CEO Nago stated that OE will remind the precinct workers about how to handle sensitive information.

Commissioner Steffey asked CEO Nago if there is a specific procedure in place for securing the memory cards that are removed from the Hart ballot scanning machines. CEO Nago explained that everything is sealed, verified by official observers, and signed off on when it goes out before Election Day, and when it comes back.

CEO Nago mentioned that OE had received a few emails from Mr. Clif Hasegawa of Maui, wanting to validate the results of the Primary Election. CEO Nago clarified that this issue stemmed from the lawsuit with the Democratic Party regarding Hawaii's single party primary.

Commissioner Berg stated that it seemed as though the issue could be solved by replacing the word "or" with "and" so that the statute reads, "A voter shall be entitled to vote only for candidates of one party and for nonpartisan candidates." CEO Nago explained that the statute is worded as such because in Hawaii's single party primary, a voter must choose one party or the group of nonpartisan candidates, which is separate from the nonpartisan office contests (i.e., Office of Hawaiian Affairs, council races, etc.). He added that the statute does not address these nonpartisan office contests.

Mr. Aaron Schulaner, OE General Counsel clarified that HRS 12-31 only references the partisan federal and state contests listed on the primary election ballot, not the nonpartisan county contests. Commissioner Steffey asked if the court has ever specifically addressed the construction of HRS 12-31, to which Mr. Schulaner answered that there have never been any issues regarding the statute itself.

Commissioner Bates asked CEO Nago if Mr. Clif Hasegawa has received a response to his emails. CEO Nago replied that OE did send a response to Mr. Hasegawa.

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

Commissioner Berg asked CEO Nago if he could discuss OE's readiness for the 2016 General Election, and if there are new staff in the neighbor island county clerks' offices. CEO Nago explained that there are always new staff in the clerks'

offices due to the fact that they hire seasonal staff who only work during election years. He stated that Commissioner Berg may have been referring to the past issue regarding the new Elections Administrator (EA), however, there has not been a new EA since 2012. CEO Nago added that the EAs on the neighbor islands have over 30 years of experience combined.

Commissioner Berg asked CEO Nago if there is a process in place to ensure that ballot shortages will not occur. CEO Nago said that they print enough ballots to send out and also monitor voter turnout. Commissioner Berg asked CEO Nago if the number of specific ballots printed is equivalent to the number of registered voters in that precinct. CEO Nago replied that Commissioner Berg is correct, minus the number of voters who have already voted by mail or AB walk site.

Commissioner Berg asked CEO Nago if there are procedures in place in regards to hurricane readiness. CEO Nago stated that OE and the counties rely heavily on Civil Defense for information regarding things like road closures, and how it affects accessibility to polling places. He said that prior to the Primary Election, they were in constant communication with County of Hawaii's Civil Defense because of heavy rain issues. In one circumstance, lightning had struck and caused one of the servers for the statewide voter registration system to go down, and Civil Defense needed to send out backup generators. CEO Nago stated that OE and the counties work together with Civil Defense to make group decisions based on the information that they provide.

Senator Sam Slom: Sen. Slom thanked the newly appointed EC members for their volunteer work, and expressed appreciation for the EC having taken his suggestion by moving the Public Testimony agenda item after the CEO's Status of Operations Report. He said that he shared the same polling place as Commissioner Takenaka, and thought that everyone did a great job. Sen. Slom explained that he had changed his mailing address over a year ago, which is beyond the forwarding period, so he never received the yellow card. However, the precinct workers were able to confirm his information and allow him to vote.

Sen. Slom voiced his concern about the low voter turnout, and suggested that more could be done to improve these numbers. He asked CEO Nago if the advertisements on television were paid or public service announcements (PSA), to which CEO Nago replied that they were comprised of both. Sen. Slom said that the EC should encourage OE to create more PSAs via television and radio, and to reach out to local celebrities, athletes, and entertainers as potential spokespersons.

In regards to the hacking concern, Sen. Slom asked CEO Nago if there are any new procedures in place to guarantee that the memory cards are secure.

CEO Nago confirmed that the voting system is a standalone system that is not connected to the internet in any way, and that everything is sealed with a unique serial number and recorded.

Pertaining to Commissioner Berg's comments about Hawaii's single party primary, Sen. Slom mentioned that he has heard of individuals who think that they are required to select a political party in the primary, and remain with the same party through the general election. Thus, he suggested that an educational effort would be beneficial.

Sen. Slom asked CEO Nago who is responsible for providing information on the different charter amendments. With regard to the two constitutional amendments, CEO Nago stated that the law used to require the Legislative Reference Bureau (LRB) to provide pros and cons on the charter amendments, however the law has since changed. He added that in some states like California, this information is provided by the AG's Office. Sen. Slom asked CEO Nago if he can find out who will provide this information, as education should be the main goal.

- 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.

No public comments were made.

With no further comments, the Commission dissolved into Executive Session at 10:33 a.m.

- VIII. Executive Session

Pursuant to Section 92-5(a)(4), HRS, consult with attorney regarding Green Party of Hawaii v. Nago and Democratic Party of Hawaii v. Nago.

The Commission resolved into open meeting at 10:51 a.m.

- IX. Adjournment

Commissioner Steffey reiterated that Senator Slom had encouraged the EC to do more to remedy low voter turnout, and asked if there is anything the EC is able to do to help. Commissioner Berg suggested that the EC can encourage OE to do more PSAs, and said that she thought OE's "I'm a Voter" campaign was great. CEO Nago clarified that the "I'm a Voter" campaign was done by Hawaii News

Now. Chair Anderson asked CEO Nago if there is money in the budget that is earmarked for these advertisements, to which CEO Nago replied that OE uses federal funds for these commercials. He added that OE's advertisements cover the mechanics of voting (i.e., voter registration, precinct official recruitment, online registration, single party primary, etc.). CEO Nago stated that the most effective way of increasing voter turnout in other states has been going to all-mail elections. Chair Anderson agreed and encouraged the EC to push their legislators to support all-mail elections.

Commissioner King mentioned that on Kauai, there were different spaces open for early voting for the Primary Election, and it seemed to be fairly successful. He added that having various locations open, as well as signs on the roadways contributed to awareness and participation.

Chair Anderson stated that Hawaii has three ways of voting, that there are too many people involved, and that it is too expensive. He said that it is becoming increasingly difficult to find individuals who want to work in the polls. Commissioner Okazaki asked if high school students are more willing to work for the \$80 stipend. CEO Nago answered that they are less interested than they used to be. Commissioner Okazaki asked if OE feeds the precinct workers, to which CEO Nago replied that OE does not.

Commissioner Bates mentioned that Commissioner Vierra had shared a video via email with the rest of the EC regarding the hacking of voting machines and the issue of security. He asked CEO Nago if he had any thoughts on the video. CEO Nago stated that Commissioner Vierra had sent the video before the Primary Election, and because a lot has happened since then, he would need to first review it to refresh his memory. Chair Anderson reiterated that OE's system cannot be hacked into, as CEO Nago explained earlier.

Commissioner Takenaka asked CEO Nago about OE's policy regarding visitors (i.e., general public, herself, etc.) at the Capitol on Election Day. CEO Nago said that Ms. Jaime Kataoka, OE Secretary, had informed him that Commissioner Takenaka was interested in visiting the Capitol on Primary Election Day, and asked her if she had come and was turned away. Commissioner Takenaka replied that she did go to the Capitol really late on Election night, walked to the Senate Floor, and observed the last batch of ballots being counted. CEO Nago explained that there are usually sheriffs posted at the entrance who require a badge to enter the building. However, there is a new person in charge of special duty who posted the request late, so consequently not all slots were filled. CEO Nago stated that for most of Primary Election Day, there were sheriffs at the doors stopping people.

Commissioner Okazaki asked CEO Nago if OE will be cutting the pay of the sheriffs since they did not fulfill their contract. Mr. Rhowell Ruiz, Election Support Services Section Head, explained that OE only compensated the sheriffs for the services that were provided, so since they were understaffed, OE paid them less than usual. Commissioner Okazaki asked Mr. Ruiz how OE is going to solve this issue next time. Mr. Ruiz responded that OE plans to meet with the new person in charge ahead of time and do a walk-through at the Capitol.

Commissioner Okazaki asked if sheriffs are less expensive than police officers, to which CEO Nago confirmed that they are, and said that the Capitol is a state building that is normally guarded by sheriffs.

Commissioner Orikasa asked if the sheriff's office is obligated to provide full security on election days. CEO Nago answered that they are not.

Commissioner Orikasa asked if this is the first time that this has occurred, to which CEO Nago confirmed that it is. Chair Anderson indicated that the current system is not very good and that the services should automatically be in place. Commissioner Okazaki asked CEO Nago how OE is going to prevent this issue from reoccurring. CEO Nago explained that when they meet with the sheriff's department, they are going to use Primary Election Day as an example and request that they post the notice earlier. He added that OE submits this written request for their assistance six months in advance. Commissioner Steffey asked CEO Nago what would happen if the notice was posted on time, but the slots were still not filled up. CEO Nago responded that there are sheriffs assigned to work patrol who will cover, but if a breach occurred somewhere, they would be called to respond.

Commissioner King suggested that CEO Nago introduce his OE staff for the new EC members:

Mr. Rhowell Ruiz – Election Support Services
Mr. Aaron Schulaner – General Counsel
Ms. 'Auli'i Tenn – Counting Center Operations
Ms. Nedielyn Bueno – Voter Services
Ms. Kristen Uyeda – Ballot Operations
Mr. David Rosenbrock – Computer Services
Ms. Ruthie Ah Hee – Election Support Services, Warehouse
Ms. Judy Gold – Precinct Operations
Ms. Jaime Kataoka – Secretary

Commissioner Takenaka asked CEO Nago if the people counting the ballots are volunteers. CEO Nago explained that the individuals running the ballots through the machines are hired by the vendor. Commissioner Takenaka asked if these

hires are local people. CEO Nago replied that most of them are hired locally through a temporary staffing agency, however the vendor flies in some of their staff to oversee the temporary workers.

Commissioner Berg suggested that the EC schedule a video conference meeting after the General Election. She pointed out that if there are any issues, that would be when the general public would want to speak to the EC. Chair Anderson agreed that the next EC meeting should be video conferenced, but wanted to inform the new EC members that they have been very unsuccessful with video conferencing in the past, with zero attendees. He added that video conference meetings require more complicated preparations and additional expenses, but believes it is important especially right after the General Election. Commissioner Takenaka asked if the video conferencing includes all of the counties, to which Chair Anderson confirmed that it does.


Commissioner Berg asked if the EC will not be meeting again until after the General Election. Chair Anderson stated that if no issues arise in the next few weeks, the EC can plan to meet after the General Election. He informed the new EC members that the EC does not have regularly scheduled meetings, but rather they meet only as needed.

Commissioner Bates wanted to acknowledge the attendance of Maui County Clerk, Mr. Danny Mateo, and Maui Deputy County Clerk, Mr. Josiah Nishita.

With no further business before the Commission, Chair Anderson asked for a motion to adjourn the meeting. The motion was made by Commissioner Orikasa, seconded by Commissioner Berg, and approved unanimously by the Commissioners.

Elections Commission meeting was adjourned at 11:06 a.m.

Respectfully submitted,



Jaime Kataoka
Elections Commission Secretary