



**STATE OF HAWAII
OFFICE OF ELECTIONS**

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SCOTT T. NAGO
CHIEF ELECTION OFFICER

November 13, 2023

To: Elections Commission

From: Scott T. Nago
Chief Election Officer

Re: Status of Operations

After completing the 2023 Legislative Session, our office has focused on preparing for the 2024 Elections.

2023 LEGISLATIVE SESSION

The following is a summary of the election-related measures that passed the 2023 Legislative Session.

1. RELATING TO VALIDATION OF BALLOTS (ACT 7, SLH 2023)

HRS § 11-108 Counting of mail-in ballots; validity; ballots included in recounts; certification of final tabulation

This is a housekeeping measure we submitted as part of our 2023 bill package. This bill syncs the deadline for voters to cure any deficiency with their return envelope and the deadline for the county clerks to validate ballots to the same date.

Before the law change, voters had up to five business days after an election for voters to cure their ballots (HRS §11-106). Due to Statehood Day after the Primary Election and Veterans Day after the General Election, it could be up to nine calendar days after an election, depending on the day of the election and the subsequent holiday. However, the five-business day deadline conflicted with the seven-calendar day deadline for the county clerks to validate ballots (HRS §11-108(c)). The new law now

provides that the deadline is five business days after the election for both statutes.

2. RELATING TO BOARDS OF REGISTRATION (ACT 13, SLH 2023)

HRS § 11-41 Boards of registration, appointment, tenure

The law was clarified to reflect that a board member needs to be a registered voter of the county associated with their board for their entire term of office. Additionally, it provides a process for confirming the party membership of a board member and addresses what occurs when a board member changes political parties during their term of office.

3. RELATING TO ADVISORY COMMITTEES (ACT 14, SLH 2023)

HRS § 11-10.5 Statewide elections accessibility needs advisory committee

HRS § 11-10.6 County elections accessibility needs advisory committees

This law renames the statewide and county special needs advisory committees to the election accessibility advisory committees. The advisory committees are focused on equal and independent access to voter registration, casting of ballots, and other election services. This bill was recommended by the Statewide Elections Accessibility Needs Advisory Committee.

4. RELATING TO CAST BALLOTS (ACT 113, SLH 2023)

HRS § 11-__ Validity of cast mail-in ballot where voter later becomes ineligible

HRS § 15-13.5 Validity of cast absentee ballot where voter later becomes ineligible

HRS § 15D-10.5 Validity of cast military-overseas ballot where covered voter later becomes ineligible

This measure clarifies that the ballot of a voter who was qualified at the time they cast their ballots would be counted, even if they were to subsequently die or otherwise become ineligible before election day.

5. RELATING TO ELECTIONS (ACT 114, SLH 2023)

HRS § 14-__ Elector replacement; associated certificates

HRS § 14-21 Nomination of presidential electors and alternates; certification by parties; notification of nominees; pledge

HRS § 14-25 Duties of the governor; certification of electors by the governor

HRS § 14-27 Filling vacancies of presidential electors; presiding officer

HRS § 14-28 Convening and voting for president and vice president; party vote; invalid vote

This bill adopts the provisions of the Uniform Faithful Presidential Electors Act. It updates the rules and procedures associated with certifying electors, replacing electors, and invalidating the vote of any elector who violates their pledge to vote for their party's nominee.

6. RELATING TO ELECTIONS (ACT 115, SLH 2023)

HRS § 11-__ Digital voter information guide

HRS § 11-118.5 Constitutional amendments, proposed; attorney general statement

This is a new law that requires the Office of Elections to compile a digital voter guide. The digital voter guide will include (1) a photograph and short candidate statement of less than 150 words; (2) an explanation of proposed constitutional amendments prepared by the Attorney General; (3) an explanation of proposed county ballot questions prepared by the applicable county corporation counsel; and (4) voting information. The digital voter guide will be translated into Olelo Hawaii, Chinese, Ilocano, and Tagalog based on federal and state law.

Additionally, this bill ensures that the digital voter guide is accessible and that physical copies will be available at all public libraries for viewing.

7. RELATING TO VOTING MORE THAN ONCE DURING AN ELECTION (ACT 116, SLH 2023)

HRS § 19-3 Election frauds

The law was clarified to reflect the prohibition against voting more than once in an election also applied to those who might attempt to vote not only here, but in another state or territory for the same election.

8. RELATING TO ELECTIONS (ACT 117, SLH 2023)

HRS § 11-__ Legal name of candidates; publication

Act 117, SLH 2023, requires the Office of Elections and the Campaign Spending Commission to include a candidate's legal name wherever the name requested to be printed on the ballot is used, except on the ballot. As such, our office will include the candidate's legal name and ballot name on the Candidate Report issued during candidate filing, and in the digital voter guide.

PROPOSED LEGISLATION

For the 2024 Legislative Session, we are planning to submit two bills, described below.

1. RELATING TO THE ELECTORAL COLLEGE

HRS § 14-26 Assembly of electors at state capital; time

Congress passed the Electoral Count Reform and Presidential Transition Improvement Act of 2022, which changed the date of the electoral college from "the first Monday after the second Wednesday in December" to "the first Tuesday" (3 USC § 7). We plan to submit a housekeeping bill to amend HRS §14-26 that notes the date of the electoral college to conform with the federal law.

2. RELATING TO THE VOTER INFORMATION GUIDE

HRS § 11-__ Digital voter information guide

We are proposing a bill to clarify that the contents of the voter guide shall not be released to any requester in whole or in part before the public release of the entire guide. Releasing candidate statements or ballot question explanations before the digital voter guide is complete may cause undue bias and advantage to the requestor, and voter confusion.

DIGITAL VOTER GUIDE IMPLEMENTATION

Starting with the 2024 Elections, our office will compile a digital voter guide. The digital voter guide will provide statements from candidates, explanations of ballot questions, and voting information. There will be different versions for the primary election and another for the general election. The digital voter guide will be translated into Olelo Hawaii, Chinese, Ilocano, and Tagalog. It

will also be available online at elections.hawaii.gov at least 45 days before election day to coincide with sending ballots to uniformed and overseas voters.

For candidates, submitting a statement of less than 150 words and a photo for inclusion in the digital voter guide is optional. However, to participate, candidates will have to submit their statement and photo by the time of filing their nomination paper. The primary election will include the statements and photos provided by candidates who will appear on the primary election ballot. The general election digital voter guide will republish the candidate statements and photos of those who will appear on the general election ballot, and explanations of ballot questions provided by the Department of the Attorney General for proposed constitutional amendments and the respective Corporation Council for county questions.

Notice of the digital voter guide will be provided on the ballot and as part of the email sent to voters receiving an electronic ballot. Additionally, copies of the digital voter guide will be available to view at the 51 state libraries 18 days before each election to coincide with the delivery of mail ballot packets to voters. We will coordinate with the Hawaii State Public Library System for distribution.

POLITICAL PARTY PETITIONS

Groups interested in fielding candidates for ballot access must gather signatures on a petition to be recognized as a political party. Interested groups can request a petition by applying with our office. The petition is required to contain not less than one-tenth of one percent of the total registered voters of the State as of the last preceding general election. There were 861,358 registered voters for the 2022 General Election, requiring 862 valid signatures on the petition. At the time of filing the petition, State law also requires that the group submit its party rules and officers. The deadline for groups to qualify a political party is February 22, 2024.

Currently, there are four qualified political parties for the 2024 Elections - Democratic Party of Hawaii, Libertarian Party of Hawaii, No Labels Hawaii, and the Hawaii Republican Party. To date, No Labels Hawaii is the only party that has qualified by petition for this election cycle. The remaining three parties remained qualified by receiving the requisite number of votes in the 2022 General Election or through the ten-year provision as required by law.

MAUI FIRES

Voters impacted by the August fires on Maui are urged to check and update, if appropriate, their voter registration ahead of the 2024 Elections. We are reminding voters that ballots are not forwardable through the mail and that submitting a USPS change of address does not correspondingly update the voter registration record. In conjunction with the Maui County Clerk, we mailed out a voter registration application to voters in House District 14, which includes Lahaina and West Maui, with information about updating their mailing addresses.

We understand that impacted voters may need to make a few address changes between now and the upcoming elections and that we need to be prepared to address those requests promptly to best ensure that every voter is able to receive their ballot.

If you have any questions, please feel free to contact me at (808) 453-VOTE (8683) or 1-800-442-VOTE (8683).

From: [Jamie Detwiler](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] Testimony for 11/15/23 EC Meeting
Date: Monday, November 13, 2023 8:27:14 AM
Attachments: [Testimony 11-15-23 ElectionCommission.pdf](#)

Aloha Election Commission,

Please see the attached written testimony for the 11/5/23 EC Meeting.

I also plan to testify via Zoom on 11/15/23 at 1:00 PM.

Mahalo,
Jamie Detwiler, President
Hawaii Federation of Republican Women
808-476-1002

November 15, 2023 (Testimony via Zoom) – Hawaii Elections Commission

Aloha. Thank you, Mr. Chair and Commissioners for this opportunity to testify.

My name is Jamie Detwiler. I am the 2022 Hawaii State House of Representatives candidate for District 37 representing Mililani and Waipio Gentry and currently serve as the President of the Hawaii Federation of Republican Women.

The subject of my testimony refers to Agenda item VI. Discussion, Review, and Implementation of Method of Evaluation for the Chief Election Officer, and action, if appropriate.

I submitted a similar testimony to the EC on April 10, 2023, regarding a salary increase for the Chief Election Officer. No response has been received as of today. Maladministration facts:

1. Failure to perform audits in the 2022 Primary and General Elections in accordance with HRS 16-42. I recommend that the results of the audits be published for the public.
2. Failure to respond to my written request to comply with HRS 16-42 received by the Office of Elections on 11/14/22 by certified U.S. Mail and in-person date stamped by OE
3. Failure to respond to my written request for a hand count of House District 37 received by the Office of Elections on 11/14/22 by certified U.S. Mail based on the following evidence of maladministration:
 - a. No documentation of Chain of Custody for Drop Box Ballots and U.S. Mail ballots.
 - b. Disparity between the favorable results for my opponent for the Mail-in votes and favorable results for myself for the In-person votes.
 - c. No post-election accounting of unused pre-printed ballots used at Honolulu Hale, Kapolei Hale, and Voter Service Centers.
 - d. No Chain of custody for a supplemental drop box used at Honolulu Hale on Election Day that was wheeled out to the curb because the primary box was full.
4. I also testified before the House Committee on Judiciary and Hawaii Affairs on HB132 regarding elections on 2/2/23. When Chair Tarnas called Mr. Nago back to the podium to answer a follow up question as to why he and his office failed to respond to a written inquiry to the OE, he replied that some of these requests are not valid and may result in legal action. That was an unacceptable answer as to why his office has still not responded to my certified mail inquiry.
5. Dirty Voter Rolls – On November 6, 2020, Mr. Nago stated during a PBS Hawaii interview that over 100,000 ballots were mailed to the wrong address or to deceased people. That's one-eighth of the registered voters. This is not an acceptable performance metric.

For these and many other concerns, I strongly recommend an evaluation rating of "Poor". I also recommend a written admonishment to include suspension with consideration to remove from office based on poor performance.

I am a retired Federal Civilian. I have over 30 years in social services and healthcare administration in the private and Federal sector. I served as a supervisor and program manager during my career where I underwent multiple audits as well as conducted program audits. The procedural maladministration described today is unacceptable and warrants immediate attention.

Respectfully submitted,
Jamie Detwiler

From: [Ralph Cushnie](#)
To: [Ralph Cushnie](#)
Cc: [OE.Elections](#)
Subject: [EXTERNAL] Testimony for Elections Commission meeting
Date: Monday, November 13, 2023 9:43:36 AM

Hello office of elections I have the following questions.

Does the office of elections require chain of custody documentation to be kept on ballots ?

Do ballots qualify as “evidence” per the Hawaii Rules of Evidence ?

Is a ballot image an exact duplication of a ballot?

What is the legal definition of a ballot image?

Please explain how ballots are locked and unlocked and what is its purpose.
“following the election, the ballot images are locked so that they are only available for review. Specifically, no further action can be taken – including resolving voting errors or writing vote data for tabulation.”

Can ballot images be altered to decide voter intent before they are locked?

Under the rules of evidence, Authentication may require not only proof of identity but also evidence that the item remains unaltered, do ballot images qualify under this rule?

Ralph Cushnie