



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

STATE OF HAWAII ELECTIONS COMMISSION

NOTICE OF ELECTIONS COMMISSION MEETING

Date: Tuesday, March 19, 2024
Time: 1:30 p.m.
Place: via Video Conference or Telephone*
or Office of Elections at 802 Lehua
Avenue, Pearl City, HI 96782

*Pursuant to Section 92-3.7, Hawaii Revised Statutes, the Elections Commission will be meeting remotely using interactive conference technology. The public may view the video and audio of the meeting through the following video conferencing link:

Video: <https://us02web.zoom.us/j/82031041040>

<u>Telephone:</u>	+1 346 248 7799	+1 564 217 2000
	+1 253 215 8782	+1 646 931 3860
	+1 669 444 9171	+1 929 205 6099
	+1 669 900 6833	+1 301 715 8592
	+1 719 359 4580	+1 309 205 3325
	+1 386 347 5053	+1 312 626 6799
	+1 253 205 0468	+1 689 278 1000
	+1 305 224 1968	+1 360 209 5623
	+1 507 473 4847	

Meeting ID: 820 3104 1040

The public may also attend the meeting at the Office of Elections, 802 Lehua Avenue, Pearl City, Hawaii 96782, where an audiovisual connection will be provided for the public to view and participate in the meeting.

In the event audiovisual communication cannot be maintained with all Commissioners participating in the meeting, the meeting shall be automatically recessed for up to thirty (30) minutes to allow staff to attempt to restore communication.

If, however, audiovisual communication cannot be restored, please go to <https://elections.hawaii.gov/about-us/boards-and-commissions/elections-commission/> for more information including reconnection instructions.

MEETING INFORMATION:

Public Testimony

Pursuant to Section 92-3, Hawaii Revised Statutes and Section 3-170-11, Hawaii Administrative Rules, oral testimony may be limited to three (3) minutes at the discretion of the presiding officer and will be accepted only on matters directly related to the board agenda. Generally, each agenda item is addressed (and testimony received) in the order listed in the agenda; however, agenda items may occur out of order without notice and testimony is not accepted for completed agenda items. The Board agenda and meeting materials for this meeting are also made available for inspection on the Elections Commission website at: <https://elections.hawaii.gov/about-us/boards-and-commissions/elections-commission/>.

Written Testimony

Pursuant to Section 3-170-11, Hawaii Administrative Rules, to ensure the public, as well as its board members, receive such testimony in a timely manner, written testimony should be submitted no later than two workdays prior to the scheduled meeting date and time. Any written testimony submitted after such time cannot be guaranteed to be distributed in time for the meeting. Written testimony may be submitted by one of the methods listed below:

- By email to: elections@hawaii.gov
- By U.S. Postal Mail: 802 Lehua Avenue, Pearl City, Hawaii 96782
- By facsimile to: (808) 453-6006

Written Testimony submitted to the Elections Commission will be made a public record and any contact information contained therein will be available for public inspection and copying. Please do not include information in your testimony that you do not want disclosed to the public.

Public Note

For propriety, all comments are to be addressed to the Elections Commission Chair. Arguments and side discussion will not be tolerated.

For Further Assistance

If you require special assistance or auxiliary aids and/or services to participate in the public hearing process of the Elections Commission, please contact the Office of Elections at (808) 453-8683 or toll free at 1-800-442-8683 or email

elections@hawaii.gov as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request.

A G E N D A

- I. Call to Order
- II. Roll Call and Determination of a Quorum
- III. Approval of Minutes for the February 20, 2024 meeting

Written Summary of February 20, 2024 meeting:
<https://elections.hawaii.gov/wp-content/uploads/2024-02-20-EC-Written-Summary.pdf>

Draft Minutes of February 20, 2024 meeting:
<https://elections.hawaii.gov/wp-content/uploads/2024-02-20-EC-Regular-Mtg-Minutes-DRAFT.pdf>

Video Recording of February 20, 2024 meeting:
Part 1: <https://www.youtube.com/watch?v=9FoEmHLLYS4>
Part 2: <https://www.youtube.com/watch?v=2xTyYuMK0SY>

- IV. Public Testimony

Any interested person may submit comments or testimony on any agenda item.

- V. Communications & Correspondence

[February 21](#) – Correspondence from Karl Dicks regarding timestamps of 2-20-24 EC meeting

[February 21](#) – Correspondence from R Jauch regarding the reappointment hearing for the Chief Election Officer

[February 21](#) – Correspondence from Karl Dicks regarding the EC meeting quorum

[February 22](#) – Correspondence from Vernelle Oku regarding the 2-20-24 EC meeting

[February 22](#) – Correspondence from Vernelle Oku regarding the use of executive session

[February 22](#) – Correspondence from Karl Dicks regarding the Chief Election Officer appointment

[February 23](#) – Correspondence from Ralph Cushnie regarding the motion to request chain of custody documents from counties

[February 24](#) – Correspondence from Karl Dicks regarding Chief Election Officer Appointment

[February 27](#) – Correspondence from Ralph Cushnie regarding notice of correction of the record

[February 28](#) – Correspondence from Karl Dicks regarding incorrect minutes and procedures

[February 28](#) – Correspondence from Ralph Cushnie regarding notice of correction of the record

[February 29](#) – Correspondence from Ralph Cushnie regarding notice of correction of the record

[February 29](#) – Correspondence from Karl Dicks regarding the transcript of the EC 2-20-24 EC meeting

[March 12](#) – Correspondence from Karl Dicks regarding minutes

[2024 State vs. County Responsibilities](#) – document related to State and County Responsibilities

[Election State and County Responsibilities](#) – document related to State and County Responsibilities

- VI. Discussion of the evaluation and reappointment of the Chief Election Officer
- VII. Executive Session
 - A. Pursuant to section 92-5(a)(8), Hawaii Revised Statutes (HRS), the Commission anticipates going into executive session to discuss the approval of the executive session minutes from February 20, 2024 meeting

- B. Pursuant to section 92-5(a)(2), HRS, the Commission anticipates going into executive session to discuss and evaluate the performance of and the reappointment of the Chief Election Officer
- VIII. Vote to approve the executive session minutes from February 20, 2024 meeting
- IX. Summary of the criteria and key points in the evaluation of the Chief Election Officer. Vote on the reappointment of the Chief Election Officer
- X. Adjournment

IV. PUBLIC TESTIMONY

From: [Ralph Cushnie \(EC\)](#)
To: [Bueno, Nedielyn I](#)
Cc: [OE.Elections](#)
Subject: [EXTERNAL] RE: Election Certification
Date: Wednesday, February 21, 2024 5:17:08 PM

Hi Nedielyn please submit this to written testimony so that this is shared with commissioners. I Have requested the County Certifications from the office of elections please provide them so commissioners can inspect the certifications. The certifications are not posted on the website.

In accordance with HAR 3-170-4 Please provide the Elections Commission with copies of Counties' Certification of their 2022 county contests results. These should have been provided to the state prior to the overall 2022 certification of the election according to Scott Nago's testimony in the January 16 Elections Commissions meeting.

Meeting Minutes from Jan16, 2024

"Commissioner Cushnie asked if the counties certify their elections and pass the certification on to the Office of Elections. Chief Election Officer (CEO) Scott Nago provided a response stating that the Office of Elections certifies the overall election and that the counties certify their county contests, issue their certificate of winners, and certify their charter questions."

From: Bueno, Nedielyn I <nedielyn.i.bueno@hawaii.gov>
Sent: Tuesday, February 20, 2024 11:20 AM
To: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Subject: RE: Election Certification

Hi Commissioner Cushnie,

The email was forwarded to Chair Curtis.

Thanks,
Nedielyn

From: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Sent: Tuesday, February 20, 2024 11:18 AM
To: Bueno, Nedielyn I <nedielyn.i.bueno@hawaii.gov>
Subject: [EXTERNAL] RE: Election Certification

Hi Nedielyn has this been forwarded to the entire commission or just the chair?

From: Bueno, Nedielyn I <nedielyn.i.bueno@hawaii.gov>
Sent: Tuesday, February 20, 2024 8:31 AM
To: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>; OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>

Subject: RE: Election Certification

Hi Commissioner Cushnie,

I have forwarded your email to Chair Curtis.

Thanks,
Nedielyn

From: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>

Sent: Sunday, February 18, 2024 5:57 PM

To: OE.Elections <elections@hawaii.gov>; Bueno, Nedielyn I <nedielyn.i.bueno@hawaii.gov>

Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>

Subject: [EXTERNAL] Election Certification

Hi Nedielyn, please share this e-mail with the entire Elections Commission.

In accordance with HAR 3-170-4 Please provide the Elections Commission with copies of Counties' Certification of their 2022 county contests results. These should have been provided to the state prior to the overall 2022 certification of the election according to Scott Nago's testimony in the January 16 Elections Commissions meeting.

"Commissioner Cushnie asked if the counties certify their elections and pass the certification on to the Office of Elections. Chief Election Officer (CEO) Scott Nago provided a response stating that the Office of Elections certifies the overall election and that the counties certify their county contests, issue their certificate of winners, and certify their charter questions."

Thank you for your time.

From: [Ralph Cushnie \(EC\)](#)
To: [Bueno, Nedielyn J;](#) [OE.Elections](#)
Cc: [Michael C Curtis, REALTOR;](#) [Jade Tanigawa;](#) [Lyndon Yoshioka](#)
Subject: [EXTERNAL] FW: Chain of Custody Documentation
Date: Thursday, February 22, 2024 8:20:32 PM
Attachments: [RE Daily Auditable Accounting of Ballots Received Via Drop Box and USPS 2022 Primary Election.msg](#)
[RE Drop Box Info 2020 election .msg](#)

Hi Nedielyn, please submit this to written testimony for Chain of custody documents from county clerks for the next scheduled meeting. Please copy all of the commissioners.

From: Ralph Cushnie
Sent: Thursday, November 30, 2023 8:20 PM
To: 'Lyndon Yoshioka' <lyoshioka@kauai.gov>; counciltestimony@kauai.gov;
councilmembers@kauai.gov
Cc: melrapozo@gmail.com; Mel Rapozo <mrapozo@kauai.gov>; Jade Tanigawa <jtanigawa@kauai.gov>;
Matthew Bracken <mbracken@kauai.gov>
Subject: RE: Chain of Custody Documentation

Hi Lyndon, per your e-mail below you stated that “[the chain of custody process utilized by our office, including any documentation, was developed for our own internal use and is not mandated by Hawai'i law.](#)”

You further indicated that you only count ballots to assess workflow and allocate resources. “[As stated previously these rough manual counts that are only used to gauge work flow and to assist in allocating resources.](#)”

Upon further research according to HAR 3-177-453 it appears that the county has a legal obligation to keep proper chain of custody records. Can you please advise us as to why the County has not been doing this and how it will be corrected.

printers or any other means by which ballots may be delivered to a voter service center in a timely manner. Notwithstanding anything to the contrary, any type of ballot authorized by election officials may be used in the voter service center. [Eff. JUL 26 2020] (Auth: HRS §11-4) (Imp: HRS §§11-109, 11-112, 11-119)

§3-177-453 Accountability and security of ballots. (a) The chief election officer or designated representative shall maintain a complete count of marksense ballots. All ballots shall be safeguarded to prevent mishandling or misuse.

(b) The clerk shall maintain a complete and current count of all marksense ballots issued, spoiled, and received in their county. The accounting of marksense ballots by the clerk shall be recorded on forms prescribed by the chief election officer. [Eff. JUL 26 2020] (Auth: HRS §11-4) (Imp: HRS §§11-109, 11-152)

§3-177-454 Electronic voting systems; marking of marksense ballot. (a) After receiving the marksense ballot, the voter shall properly mark the ballot in the manner and color of ink, softness of pencil graphite, or other ~~manner prescribed~~ by the chief

Ralph Cushnie

From: Lyndon Yoshioka <lyoshioka@kauai.gov>

Sent: Friday, January 27, 2023 5:10 PM

To: Ralph Cushnie <ralph@cushniecci.com>

Cc: melrapozo@gmail.com; Mel Rapozo <mrapozo@kauai.gov>; Jade Tanigawa <jtanicawa@kauai.gov>

Subject: RE: Chain of Custody Documentation

As noted during our meeting on Wed, 1/11/23, the chain of custody process utilized by our office, including any documentation, was developed for our own internal use and is not mandated by Hawai'i law.

Apologies for the delay, attached are envelope counts from the 2022 General Election the you requested earlier.

Mahalo.

From: Ralph Cushnie <ralph@cushniecci.com>

Sent: Friday, January 27, 2023 6:43 AM

To: Lyndon Yoshioka <lyoshioka@kauai.gov>; Jade Tanigawa <jtanicawa@kauai.gov>

Cc: melrapozo@gmail.com

Subject: Chain of Custody Documentation

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Lydon and Jade is chain of custody documentation required to account for ballots received by the county of Kauai? Is the County of Kauai required to know how many ballots it has in its possession and where the ballots came from?

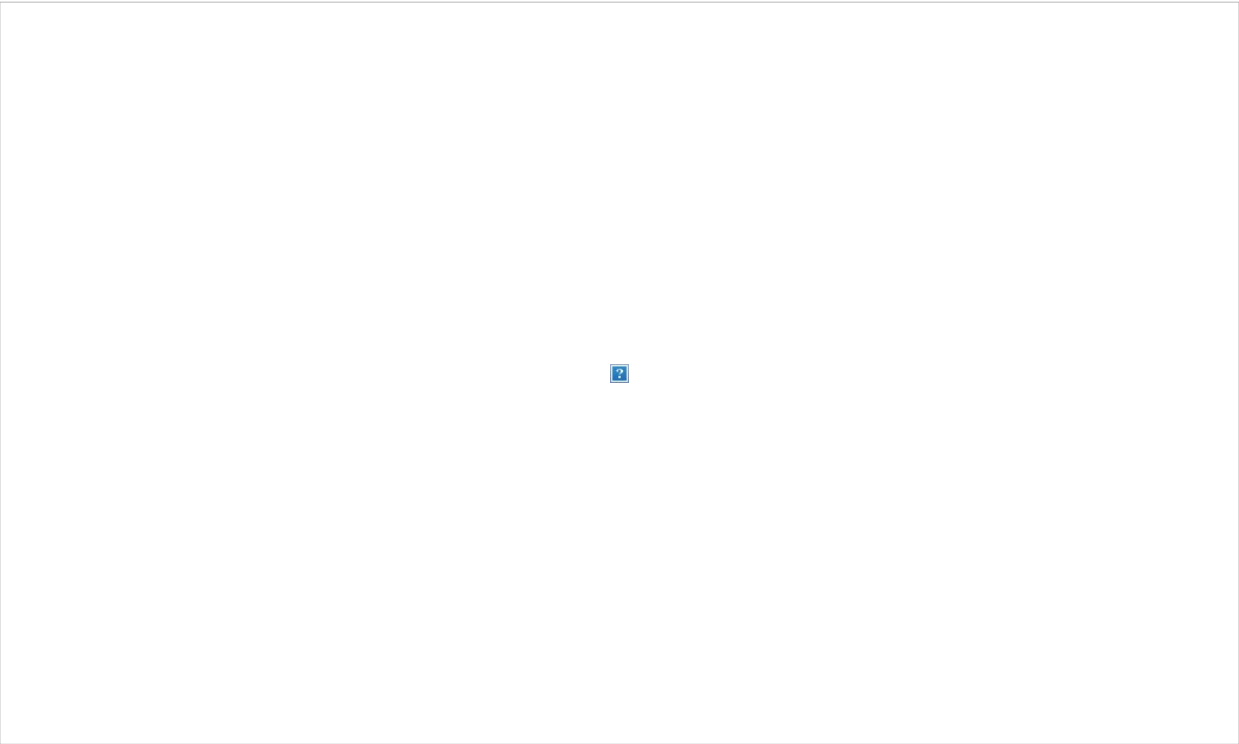
Ralph Cushnie

From: [Lyndon Yoshioka](#)
To: [Ralph Cushnie](#)
Cc: [Jade Tanigawa](#)
Subject: RE: Daily Auditable Accounting of Ballots Received Via Drop Box and USPS 2022 Primary Election
Date: Friday, August 26, 2022 3:30:55 PM
Attachments: [image001.png](#)

The updated counts are below. As stated previously these rough manual counts that are only used to gauge work flow and to assist in allocating resources.

Additionally, please note the following:

- The “No. Pulled” column represents the number of envelopes that were pulled for the day because they were unsigned or contained a non-matching signature;
- The “Received Manually” column represents the number of envelopes that were added back into the count because the envelope issue (i.e., missing or non-matching signature) which initially caused the envelope to be pulled was cured by the voter (i.e., signed and signature verified); and
- Individual counts for 7/28/22 and 7/29/22 were misplaced so only the Total is provided for those dates.



From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Wednesday, August 24, 2022 3:18 AM
To: Lyndon Yoshioka <lyoshioka@kauai.gov>
Cc: Jade Tanigawa <jtanicawa@kauai.gov>
Subject: RE: Daily Auditable Accounting of Ballots Received Via Drop Box and USPS 2022 Primary Election

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Good morning, Lyndon please provide me with the final numbers.

Ralph Cushnie

From: Lyndon Yoshioka <lyoshioka@kauai.gov>
Sent: Thursday, August 4, 2022 8:18 AM
To: Ralph Cushnie <ralph@cushniecci.com>
Cc: Jade Tanigawa <jtanicawa@kauai.gov>
Subject: RE: Daily Auditable Accounting of Ballots Received Via Drop Box and USPS 2022 Primary Election

Current ballot envelope manual hand-counts are depicted below. Envelopes from the different sources were mixed up on 7/28 and 7/29 so only a total is reported. However, the bulk did come from the USPS. As stated previously these manual counts are only used to gauge work flow and resource allocation.

Also, attached are our procedures for collecting ballots from drop boxes.

Date	Hanalei NC	Princeville Library	Kilauea NC	Waipouli SC	Elections Division	Kōloa NC	Kalāheo NC	Hanapēpē NC	Waiimea NC	USPS	Office	VSC	
7/28/22													843
7/29/22													1,062
7/30/22	0	0	2	1	26	2	3	1	4	851	0	0	890

8/2/22	3	4	0	7	62	2	1	0	1	778	12	4	874
8/3/22	0	0	0	0	53	0	0	0	0	1,084	12	0	1,149

From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Sunday, July 31, 2022 12:50 PM
To: Lyndon Yoshioka <lyoshioka@kauai.gov>; Jade Tanigawa <jtanicgawa@kauai.gov>
Subject: RE: Daily Auditable Accounting of Ballots Received Via Drop Box and USPS 2022 Primary Election

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Lydon and Jade please provide this count to all the members of the Board of Registration Kauai and Niihau.

Ralph Cushnie
Board of Registrations Kauai and Niihau

From: Ralph Cushnie
Sent: Friday, July 29, 2022 6:59 AM
To: Lyndon Yoshioka <lyoshioka@kauai.gov>; Jade Tanigawa <jtanicgawa@kauai.gov>
Subject: Daily Auditable Accounting of Ballots Received Via Drop Box and USPS 2022 Primary Election

Lyndon and Jade please provide a daily auditable accounting of Ballots received from Registered Voters via drop box and USPS for the 2022 Primary Election.

The list should include but not limited to:

- Daily number of ballots received from each drop location and total ballots received per day from the USPS.
 - Daily USPS receipt of ballots delivered, and the County verification of daily USPS ballot counts with proper chain of custody forms.
 - Number of ballots determined to be from non-Registered Voters and therefore will not be counted.
 - Numbers should be tallied to a summary spread sheet and be auditable to chain of custody records for each drop box location and daily USPS deliveries.
- Drop Box plus USPS plus in person voting equal State of Hawaii official results

I look forward to working with you both and to help with your continued efforts to ensure safe and secure elections.

Ralph Cushnie
Board of Registration Kauai and Niihau

From: [Lyndon Yoshioka](#)
To: [Ralph Cushnie](#)
Cc: [Jade Tanigawa](#)
Subject: RE: Drop Box Info 2020 election
Date: Monday, July 25, 2022 9:38:13 AM

[Please see below for responses.](#)

From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Sunday, July 24, 2022 5:32 AM
To: Lyndon Yoshioka <lyoshioka@kauai.gov>; Jade Tanigawa <jtanigawa@kauai.gov>
Subject: RE: Drop Box Info 2020 election

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Lydon, Jade, I need to let the public know about this. I do not think it is possible to miscount (or not count) 1 out of every 10 envelopes that was received by your office. **The counts taken were intended to provide our office with a rough number of envelopes received so we could estimate the number of outstanding envelopes and use this count to properly allocate resources. To imply that a discrepancy in this count and the number of ballots counted is a sign that something nefarious has occurred is wrong.** Could the voting machines play a role in this discrepancy without county officials knowing? **No.**

Ralph Cushnie

Board of Registration Kauai and Niihau

From: Ralph Cushnie
Sent: Saturday, July 23, 2022 10:35 AM
To: Lyndon Yoshioka <lyoshioka@kauai.gov>; Jade Tanigawa <jtanigawa@kauai.gov>
Subject: FW: Drop Box Info 2020 election

This is a video compilation of National Democrat Politicians describing concerns. I just googled it.
<https://trendingpolitics.com/viral-video-democrats-slam-voting-machines-and-undermine-confidence-in-americas-elections-knab/>

Ralph Cushnie

From: Ralph Cushnie
Sent: Saturday, July 23, 2022 10:22 AM
To: Lyndon Yoshioka <lyoshioka@kauai.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>
Subject: RE: Drop Box Info 2020 election

Lyndon, there is a lot of talk about election machines at a national level. All sides of the political spectrum are on record saying that the machines cannot be trusted. Is it possible that the machines created are added these extra ballots without the knowledge of anyone in the county?

Ralph Cushnie

Vice President

CUSHNIE CONSTRUCTION COMPANY, INC. Lic. # ABC-28974

Certified UDBE/HUBZone

Office: 808.332.9000 Ext. 4 • Cell: 808.645.0955

Fax: 808.332.9400 • Email: ralph@cushniecci.com

Mailing Address: P.O. Box 910 • Kalaheo, Kauai, Hawaii 96741

Physical Address: 4702 Lae Road • Kalaheo, Kauai, Hawaii 96741

From: Lyndon Yoshioka <lyoshioka@kauai.gov>

Sent: Saturday, July 23, 2022 9:02 AM

To: Ralph Cushnie <ralph@cushniecci.com>

Cc: Jade Tanigawa <jtanigawa@kauai.gov>

Subject: RE: Drop Box Info 2020 election

Voted ballot envelope chain of custody:

- Voter > USPS > Election Division
- Voter > Dropbox > Election Division
- Voter > Election Division (in-person drop-off at service window)

The discrepancy is likely due to inaccurate manual envelope counts over time. I will check with staff and get back to you.

From: Ralph Cushnie <ralph@cushniecci.com>

Sent: Friday, July 22, 2022 4:06 PM

To: Lyndon Yoshioka <lyoshioka@kauai.gov>

Cc: Jade Tanigawa <jtanigawa@kauai.gov>

Subject: RE: Drop Box Info 2020 election

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Hello Lyndon and Jade I am hoping we can get this cleared up as soon as possible.

Ralph Cushnie

From: Ralph Cushnie

Sent: Thursday, July 21, 2022 6:15 AM

To: Lyndon Yoshioka <lyoshioka@kauai.gov>

Cc: Jade Tanigawa <jtanigawa@kauai.gov>

Subject: RE: Drop Box Info 2020 election

Thank you, Lyndon, Per the General election Summary Report there were 2350 in person ballots cast. 2350 ballots cast in person plus 28,352 cast via drop box and mail totals to 30,702 ballots. The County of Kauai reported 34,081 ballots counted. Where did the extra 3,379 ballots come from? How were they received please provide chain of custody for those also.

Ralph Cushnie

Vice President

CUSHNIE CONSTRUCTION COMPANY, INC. Lic. # ABC-28974

Certified UDBE/HUBZone

Office: 808.332.9000 Ext. 4 • **Cell:** 808.645.0955

Fax: 808.332.9400 • **Email:** ralph@cushniecci.com

Mailing Address: P.O. Box 910 • Kalaheo, Kauai, Hawaii 96741

Physical Address: 4702 Lae Road • Kalaheo, Kauai, Hawaii 96741

From: Lyndon Yoshioka <lyoshioka@kauai.gov>

Sent: Wednesday, July 20, 2022 9:14 PM

To: Ralph Cushnie <ralph@cushniecci.com>

Cc: Jade Tanigawa <jtanigawa@kauai.gov>

Subject: RE: Drop Box Info 2020 election

Per your request the counts provided only represent envelopes received via drop boxes, not ballots counted. This response is late because I am at home recovering from COVID.

From: Ralph Cushnie <ralph@cushniecci.com>

Sent: Sunday, July 17, 2022 1:14 PM

To: Lyndon Yoshioka <lyoshioka@kauai.gov>

Cc: Jade Tanigawa <jtanigawa@kauai.gov>

Subject: RE: Drop Box Info 2020 election

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

attachment

Ralph Cushnie

From: Ralph Cushnie

Sent: Sunday, July 17, 2022 1:13 PM

To: Lyndon Yoshioka <lyoshioka@kauai.gov>

Cc: Jade Tanigawa <jtanigawa@kauai.gov>

Subject: RE: Drop Box Info 2020 election

Hi Lyndon, I have added the totals of the 2020 general election drop box counts. I came up with a total of 28,352. The online print out reports a total of 31,731. The difference is 3,379 ballots. Should these numbers line up?

Ralph Cushnie

Vice President

CUSHNIE CONSTRUCTION COMPANY, INC. Lic. # ABC-28974

Certified UDBE/HUBZone

Office: 808.332.9000 Ext. 4 • Cell: 808.645.0955

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Physical Address: 4702 Lae Road • Kalaheo, Kauai, Hawaii 96741

From: Lyndon Yoshioka <lyoshioka@kauai.gov>

Sent: Thursday, July 14, 2022 12:42 PM

To: Ralph Cushnie <ralph@cushniecci.com>

Cc: Jade Tanigawa <jtanigawa@kauai.gov>

Subject: RE: Drop Box Info 2020 election

[See attached. We could not locate dropbox counts for the 2020 Primary Election.](#)

From: Ralph Cushnie <ralph@cushniecci.com>

Sent: Thursday, July 14, 2022 8:52 AM

To: Lyndon Yoshioka <lyoshioka@kauai.gov>

Cc: Jade Tanigawa <jtanigawa@kauai.gov>

Subject: RE: Drop Box Info 2020 election

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Good Morning, I am following up on this request to make sure you got it. My understanding is that

chain of custody documents and records are public information. Please let me know if I am mistaken.

Ralph Cushnie

Vice President

CUSHNIE CONSTRUCTION COMPANY, INC. Lic. # ABC-28974

Certified UDBE/HUBZone

Office: 808.332.9000 Ext. 4 • Cell: 808.645.0955

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Mailing Address: P.O. Box 910 • Kalaheo, Kauai, Hawaii 96741

Physical Address: 4702 Lae Road • Kalaheo, Kauai, Hawaii 96741

From: Ralph Cushnie

Sent: Tuesday, July 12, 2022 5:39 AM

To: Lyndon Yoshioka <lyoshioka@kauai.gov>

Cc: Jade Tanigawa <jtanicawa@kauai.gov>

Subject: RE: Drop Box Info 2020 election

Thank you

Ralph Cushnie

Vice President

CUSHNIE CONSTRUCTION COMPANY, INC. Lic. # ABC-28974

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Physical Address: 4702 Lae Road • Kalaheo, Kauai, Hawaii 96741

From: Ralph Cushnie

Sent: Tuesday, July 12, 2022 5:36 AM

To: Lyndon Yoshioka <lyoshioka@kauai.gov>

Cc: Jade Tanigawa <jtanicawa@kauai.gov>

Subject: Drop Box Info 2020 election

Good morning, Lyndon, could you provide me the statistics on drop boxes. I would like to know how many ballots were collected each day for each drop box. Also, could you provide the daily count of ballots that were received in the mail.

Ralph Cushnie

Board of Registration Kauai and Niihau

From: [Ralph Cushnie \(EC\)](#)
To: [OE Elections; Bueno, Nedielyn I](#)
Cc: [Michael C Curtis, REALTOR; dylanandriom@gmail.com; aaquino047@gmail.com; Kahioli Papalimu](#)
Subject: [EXTERNAL] Elections Commission website needs to be corrected
Date: Monday, March 11, 2024 4:17:00 PM
Attachments: [image001.png](#)

Hi Nedielyn please correct the Elections Commission website to include all the duties of the Elections Commission under HRS11-7.5. This is a screen shot of the website and below it is the actual HRS 11-7.5. It seems that items 5 and 6 were left off. Please send this to the entire commission and submit under written testimony.

- (5) Conduct a performance evaluation of the chief election officer within two months after the date a general election is certified;
- (6) Hold a public hearing on the performance of the chief election officer and consider the information gathered at the hearing in deliberations on the chief election officer's reappointment; and

Duties

The duties of the Elections Commission provided under Hawaii Revised Statutes §11-7.5 are as follows:

- Hold Public Hearings;
- Investigate and hold hearings for receiving evidence of any violations and complaints;
- Adopt rules pursuant to chapter 91;
- Employ, without regard to chapter 76, a full-time Chief Election Officer, pursuant to section 11-1.6; and
- Advise the Chief Election Officer on matters relating to elections

§11-7.5 Duties of the elections commission. The duties of the elections commission are to:

- (1) Hold public hearings;
- (2) Investigate and hold hearings for receiving evidence of any violations and complaints;
- (3) Adopt rules pursuant to chapter 91;
- (4) Employ, without regard to chapter 76, a full-time chief election officer, pursuant to section 11-1.6;
- (5) Conduct a performance evaluation of the chief election officer within two months after the date a general election is certified;
- (6) Hold a public hearing on the performance of the chief election officer and consider the information gathered at the hearing in deliberations on the chief election officer's reappointment; and
- (7) Advise the chief election officer on matters relating to elections. [L 2004, c 57, pt of §6; am L 2015, c 173, §2]

MOANA M. LUTEY
County Clerk



RICHELLE M. THOMSON
Deputy County Clerk

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

March 12, 2023

State of Hawaii Elections Commission
Michael Curtis, Chair
Via email: elections@hawaii.gov

RE: Reappointment of Scott Nago, Chief Election Officer

Dear Chair Curtis and members of the Elections Commission:

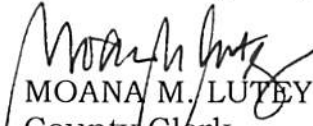
Thank you for the opportunity to provide testimony in support of the reappointment of Scott Nago as Chief Election Officer for the State of Hawaii. This letter is written on behalf of myself, Deputy Clerk Richelle Thomson and the senior members of the Office of the County Clerk's Elections Division for the County of Maui.

Our office strongly supports Mr. Nago's reappointment because he has helped guide our office through multiple elections over the past fifteen years. Mr. Nago has demonstrated strong leadership skills and a proven depth of knowledge in elections. The experience and institutional knowledge held by Mr. Nago, and the team he has built in the Office of Elections, are critical to conducting successful elections in compliance with federal and state law.

Mr. Nago has always promptly responded to any election related questions we have had over the years. In addition, he remains fully accessible during the election cycles. Mr. Nago does not shy away from work and is willing to jump in and assist where needed.

The vast amount of institutional knowledge and election experience make Mr. Nago an invaluable asset to this state. As a result, our office fully supports the Elections Commission's reappointment of Mr. Nago.

With best regards,


MOANA M. LUTEY
County Clerk

March 12, 2024
Page 2



Richelle M. Thomson
Deputy County Clerk



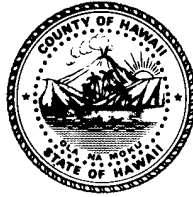
Marielle Ramos
Elections Administrator



Dana Ann Nakooka
Senior Election Clerk



Jo-Ann Joan
Senior Election Clerk



JON HENRICKS
County Clerk

OFFICE OF THE COUNTY CLERK

Elections Division
County of Hawai'i
Hawai'i County Building
25 Aupuni Street
Hilo, Hawai'i 96720

TESTIMONY OF JON HENRICKS
COUNTY CLERK, COUNTY OF HAWAI'I
TO THE STATE OF HAWAI'I ELECTIONS COMMISSION
RELATING TO THE REAPPOINTMENT OF MR. SCOTT NAGO AS CHIEF ELECTION OFFICER

March 12, 2024

Chair Curtis and Members of the Elections Commission:

The Office of the County Clerk, and its Elections Division, support the reappointment of Mr. Scott Nago as Chief Election Officer for the State of Hawai'i, Office of Elections.

Mr. Nago has demonstrated a commitment to ensuring that our elections are conducted with integrity and in full accordance with law. He and his staff have been accessible and responsive as we work together to conduct County, State, and Federal Elections in the County of Hawai'i. Mr. Nago is a career election official, dedicating much of his working life to this critical field of public governance.

Thank you for the opportunity to provide testimony in support of Mr. Nago's reappointment as Chief Election Officer.

Aloha Elections Commission Chair Curtis and EC Members,

Mahalo for this opportunity to submit testimony.

I am submitting testimony pertaining to agenda item V Communications and Correspondence, documents titled, “2024 State vs. County Responsibilities” and “Election State and County Responsibilities” and agenda item VI Discussion of the evaluation and reappointment of the Chief Election Officer.

In the document titled “State vs. County Responsibilities” the Office of Elections claims the only responsibilities they have pertaining to the statewide voter registration database is to maintain the hardware and provide the software.

The Office of Election’s interpretation of the section in HAVA regarding the “statewide voter registration list” is incorrect and in violation of HAVA section 303- state requirements of the computerized statewide voter registration list.

This interpretation of state vs. county duties is also in violation of the NRVA requirements pertaining to the statewide voter registration database.

HAVA

SEC. 303. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.

(a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS.—

(1) IMPLEMENTATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), **each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level** that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the “computerized list”), and includes the following:

(i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State.

(ii) The computerized list contains the name and registration information of every legally registered voter in the State.

(iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State.

(iv) The computerized list shall be coordinated with other agency databases within the State.

(v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.

(vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.

(vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi).

(viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State. (emphasis my own)

NVRA:

“Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters”.

If the Chief Elections Officer has correctly interpreted HAVA and the NVRA, why is there an active lawsuit against the Scott Nago and the Office of Elections filed by the Public Interest Legal Foundation (PILF, aka “the Foundation”) regarding this issue?

As background, in 2023 PILF representatives attempted to obtain the statewide voter registration file (as they have done in many other states) and were denied by the Office of Elections.

The gist of the lawsuit consists of two points:

- “The Foundation stated clearly that the NVRA does not allow the Hawaii Office of Elections to delegate its federal responsibilities to the County Clerks.
- The Foundation reiterated a second NVRA violation in that Hawaii’s statutes and administrative rules do not include the Foundation’s federally authorized intended purpose as a legally permissible use.”

I humbly request an investigation by this commission into these violations of the NVRA and HAVA section 303.

Respectfully submitted,

Corinne Solomon
Oahu Resident

Case 1:23-cv-00389, filed September 21, 2023

PUBLIC INTEREST LEGAL FOUNDATION, INC. vs. SCOTT T. NAGO Plaintiff Public Interest Legal Foundation (the “Foundation”), by its attorneys, brings this action for violations of Section 8 of the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. § 20507.

<https://publicinterestlegal.org/wp-content/uploads/2023/09/2023-09-21-filed-Complaint-dkt-1.pdf>

March 14, 2024

Elections Commission
c/o Hawai'i State Office of Elections
802 Lehua Avenue
Pearl City, Hawai'i 96782

Aloha, Commissioners,

**RE: SUPPORT FOR THE REAPPOINTMENT OF SCOTT T. NAGO AS
CHIEF ELECTION OFFICER**

This letter is to express my wholehearted support for the reappointment of Scott T. Nago as Chief Election Officer for the State of Hawai'i.

In my professional capacity as the former Elections Administrator and current Deputy County Clerk for the County of Kaua'i, I've worked closely with Mr. Nago since he was initially hired by the Office of Elections in 1998.

Mr. Nago is highly intelligent and hardworking and provides the principled and committed leadership that the Office of Elections and election officials statewide need, especially during these highly contentious times. He will never shy away from making difficult decisions and is also a highly skilled manager who is comfortable with allowing staff to utilize their expertise to address issues within their areas of responsibility.

Due to these qualities, Mr. Nago has earned the professional respect of election officials statewide, which is no easy task. Countless individuals have worked as election officials but because it is thankless work and an easy target for conspiracist, only the most committed remain and make it a career. Mr. Nago and the staff that he has assembled in the Office of Elections are committed beyond measure and we are extremely fortunate to have them.

Thank you for this opportunity to express my wholehearted support for the reappointment of Scott T. Nago as Hawai'i's Chief Election Officer.

Sincerely,



LYNDON M. YOSHIOKA

March 13, 2024

Elections Commission
c/o Hawai'i State Office of Elections
802 Lehua Avenue
Pearl City, HI 96782

RE: SUPPORT FOR THE REAPPOINTMENT OF SCOTT T. NAGO AS CHIEF ELECTION OFFICER

Aloha Commissioners,

I fully support the reappointment of Scott Nago as the Elections Chief Election Officer.

I have worked with Scott Nago since 2002 and believe he should be reappointed as the Elections Chief Election Officer.

Thank you,

Geri Unciano

From: [Rami PositiveSpace](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] Testimony for March 19, 2024
Date: Thursday, March 14, 2024 2:46:27 PM

Aloha,

This is my first written testimony for the Elections Commission. I object to the executive session being used to determine Scott Nago for a reappointment. His reappointment should be conducted in a public session.

Respectfully,
Rami Donahoe
Hawaii Republican Party
District 17-02 Precinct Chair

From: [R.Jauch](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] EC Testimony for 3/19/24
Date: Thursday, March 14, 2024 3:11:52 PM

Chair Curtis and Commissioners,

Legalese is a language of confusion that works against the people. A lawful system protects the rights of the people.

During the last meeting, Deputy AG Stella Kam stated employee evaluations can be deliberated in Executive Session UNLESS the employee requests it is conducted in Public Session per HRS 92-5

If the AGs interpretation stands then I respectfully ask that Scott Nago request the Commissioner's evaluation and deliberation for reappointment or dismissal be conducted in public session.

Section 92-5(a), HRS, of the Sunshine Law gives the board the discretion to go into an executive meeting only for only very specific reasons. The following was cited by AG Cam but not in its totality.

(2) Personnel Decisions. A board may hold an executive meeting to "consider the hire, evaluation, dismissal or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved." However, if the person who is the subject of the board's meeting requests that the board conduct its business about him or her in an open meeting, the request must be granted, and an open meeting must be held.

Scott Nago's performance as Chief Operations Officer does not fall under the provision: where matters affecting privacy will be involved. I'm not an attorney but my interpretation is that the Commission must conduct the evaluation in public session.

I would also like to testify on the door that was opened by Chair Curtis and Mr. Cushnie regarding neutrality at the top of the first meeting of newly sworn Commissioner Cushnie, newly sworn Chair Curtis and Deputy AG Nakamura.

Chair Curtis has spoken this year during two separate District meetings of the Hawaii Republican Party. The Party exists to recruit, train and elect Republican candidates into office. In the meeting that he attended in my District he advised that we abandon our platform of Vote Validity and concentrate efforts on helping out with a local soccer field project as there is nothing wrong with the mail in voting elections. Mr. Curtis voiced the same at a neighboring meeting held by Gail Smith that was attended by my husband Michael Jauch. A local soccer field has nothing to do with the HRP mission statement at all.

These occasions clearly illustrate to me that Mr. Curtis is not a neutral party in the arena of state elections and should step down as Chair.

Ralph Cushnie on the other hand has always approached his involvement with Hawaii elections at a local and state level with neutrality citing statistical data and State law.

In my opinion Ralph Cushnie won the HRS 16-42 lawsuit with the ruling from the Hawaiian Supreme Court that Scott Nago violated the audit laws. I disagree with the inability to find harm in the decision. I was a candidate for the Kauai County Council but was eliminated by 200 votes in the 2022 primary.

Regards,
Rosemarie Jauch

Kauai Signature Verification Observer
[808-212-6883](tel:808-212-6883)

TESTIMONY

Hawaii Election Commission

March 19, 2024

Aloha Chair Curtis and Members of the Hawaii Election Commission,

I am submitting testimony pertaining to agenda item V. Communications and Correspondence.

I submitted 2 letters by Certified USPS mail and in-person to the Office of Elections and Mr. Scott Nago in November 2022 and have not received a response from the OE and Mr. Nago as of this date. I have repeatedly stated this during previous EC meetings for the past 1 ½ years.

Why is my correspondence not listed on this agenda?

When will I receive a response?

Thank you for this opportunity to testify.

Respectfully submitted,
Jamie Detwiler

From: [Karen Mori-Kawamura](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] Reappointment of Chief Elections Officer Scott Nago
Date: Friday, March 15, 2024 10:08:54 AM

To: Elections Commission

From: Karen S Mori-Kawamura
Kauai County Elections Observer

Re: Reappointment of Chief Elections Officer Scott Nago

I strongly recommend reappointment of Scott Nago as Chief Election Officer. He has been an advocate for an unbiased, accessible and secure election. Scott and his team have evaluated the many election counting systems available. The current Hart system to process the mail-in ballots and the touch screen available prior to and including election day provide audit trails and verification of what the voter marked. Voters who want to see their vote counted have the opportunity when they feed their ballot in. Those with vision impairment or not confident they can physically mark the ballot are able to use touch screen that has a recorded paper trail of what they chose.

Scott had Observers who had questions at the Audit pick the voted ballot box, precinct and candidate in addition to the required audit. 100% accurate

Scott has maintained a professional response to questions of the election procedures. He and the Kauai County Elections office have acted on suggestions made by Observers and other election volunteers.

Some issues could not be solved - for example

When we had precincts, the forms were not always filled out properly (seal numbers put in wrong boxes).

Seals not secured on cans.

Volunteer Chairs were new or precincts short staffed. People make errors.

Moving to mail-in system and still have the Walk-in Voting Center available has made sense, since

there is a shortage of Election Volunteers. This past election was the first time I can remember that

there were a number of first- time Observers who did not show up on the days they signed up after

orientation or one day at the Counting Center. Which makes it harder for the Observers who do

report to the Counting Center to act as the eyes and ears at all stations. The Kauai Elections Office had to call to see if anyone was available.

i do not believe we should be considering a new Chief Elections Officer with less than 6 months to the Hawaii Primary Election. There should be survey sent out to the County Elections Offices and all volunteer elections workers to evaluate the Chief Elections Officer. With conspiracy theories circulating, we need stability and transparency in the 2024 Hawaii State Election. I support Scott Nago as Chief Election Officer.

Respectfully submitted by,

Karen S Mori-Kawamura
Kauai County Elections Observer