



**STATE OF HAWAII  
ELECTIONS COMMISSION**

F.M. SCOTTY ANDERSON  
ELECTIONS COMMISSION CHAIR

**MINUTES**

**REGULAR MEETING OF THE  
ELECTIONS COMMISSION**

**FEBRUARY 22, 2018 @ 10:00 AM  
STATE OFFICE TOWER  
235 SOUTH 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. Steven Steffey  
Ms. Cynthia Takenaka  
Mr. Victor Vierra

Technical Support Staff in Attendance:

Ms. Valri Kunimoto, Department of the Attorney General  
Mr. Scott Nago, Chief Election Officer (CEO)  
Ms. Ruth Ah Hee, Office of Elections  
Mr. Joseph Bird, Office of Elections  
Ms. Nedielyn Bueno, Office of Elections  
Ms. Judy Gold, Office of Elections  
Ms. Jaime Kataoka, Office of Elections  
Mr. Rhowell Ruiz, Office of Elections  
Mr. Aaron Schulaner, Office of Elections  
Ms. 'Auli'i Tenn, Office of Elections

Guests in Attendance:

Mr. Bart Dame  
Ms. Janet Mason, League of Women Voters of Hawaii

## PROCEEDINGS

### I. Call to Order

Chair Anderson called the meeting to order at 10:00 a.m. on February 22, 2018 at the State Office Tower, Room 203.

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

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

### III. Approval of Minutes for the Meeting of March 13, 2017

Commissioner Steffey moved that the minutes be approved, the motion was seconded by Commissioner Bates, and approved unanimously by the Commissioners.

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

CEO Nago reported that the Office of Elections (OE) submitted two bills this session. HB 1686 and companion SB 2145 relate to state senate vacancies, and HB 1687 and companion SB 2146 concern the publication of election notices. CEO Nago explained that the latter bill would ensure that OE is able to comply with the statutory deadlines for proclamations by allowing them to be posted to OE's website in addition to the newspapers. In this way, OE can reliably post election notices as necessary, rather than solely relying on the schedules of the newspapers, which require orders to be placed at least three days in advance.

With regard to all-mail elections, CEO Nago stated that there is one bill that is still moving through the House. It is currently in House Finance and calls for statewide implementation in 2020.

As part of the new voter registration system that OE migrated to last year, CEO Nago said that they are implementing an HTML ballot for overseas voters this year. The purpose of the HTML ballot is to ensure accessibility for those with disabilities, who will be able to use their readers to read the ballot, then subsequently mark, print, sign, and return to their Clerk's Office.

CEO Nago reported that in 2016, people were able to register and vote at absentee walk locations, and over 3,000 voters took advantage of that opportunity. This year, election day registration will be newly implemented. CEO Nago explained that the Counties have designated Election Day Officials at the polling places to serve as registration clerks, and that OE has worked with them to develop the procedures.

CEO Nago said that the candidate filing period runs from February 1st through June 5th, and that OE is also working on recruiting over 4,000 Election Day Officials. He added that OE's upcoming media campaign will begin in June and run all the way through to the General Election.

In reference to the "Voter Education" section of CEO Nago's report, Commissioner King noticed that OE coordinated with the Hawaii Farm Bureau to provide outreach services at their Farmer's Market. CEO Nago said that the objective is to just get the message out there.

Commissioner Steffey asked if OE's contracts with television and radio outlets for advertisements are done in house or contracted out. CEO Nago replied that they are contracted out through a procurement process.

Commissioner Vierra said he understands that OE submitted two bills this legislative session, and that CEO Nago testifies before various committees as a representative of the office. Commissioner Vierra asked CEO Nago if anyone actively lobbies on behalf of the office, and meets with legislators to discuss the bills that OE is trying to pass. CEO Nago responded that they do make themselves available to legislators, who sometimes contact OE prior to hearings to gain a better understanding of the bill in question.

Commissioner Bates mentioned that on television last week, he saw there was a national convention in which all states were represented, including Hawaii. He asked CEO Nago if he would like to comment on what took place at the convention. CEO Nago explained that there are two associations: the National Association of Secretaries of State and the National Association of State Election Directors, both of which hold conferences periodically throughout the year. CEO Nago stated that he did not attend because we are currently in the middle of the legislative session, and the convention was held in Washington DC. He added that he is unsure if they misspoke, or if the Lieutenant Governor, who is Hawaii's Secretary of State, was in attendance. Furthermore, CEO Nago said that OE receives the materials from such conferences after the fact.

Commissioner Steffey asked CEO Nago if he thinks it would be effective for him or another OE representative to attend the conference and hear the different

perspectives of other election officers. CEO Nago answered that they do attend similar conferences held by the U.S. Elections Assistance Commission.

Commissioner Steffey observed that the voter registration postcard that OE mailed out seemed very effective in regard to the online voter registration statistics provided in CEO Nago's report. Commissioner Steffey asked CEO Nago what the cost of the postcard was, and if it is something that OE might consider doing again. CEO Nago replied that the cost was approximately \$71,000 for the printing and postage, and that this postcard was intended to raise awareness and coincide with National Voter Registration Day. He said that OE is considering additional postcards to cover other topics, such as recruitment. Commissioner Steffey commented that the jump in online voter registration activity probably had more to do with the postcard than National Voter Registration Day, as the increase continued into the month after, and CEO Nago agreed.

In response to Commissioner Vierra's inquiry regarding lobbying for bills, Chair Anderson explained that he had attempted to do so during the last legislative session. He was told that he could only lobby as an individual, not as a representative of the Elections Commission.

Regarding the election-related issues being discussed in the national news, Chair Anderson advised the rest of the Commissioners that they may be questioned by members of the public. Thus, Chair Anderson prepared a list of questions for CEO Nago to answer for the Commission.

Chair Anderson asked CEO Nago if there was any evidence during the last election of any outside tampering with the election process or anyone's vote. CEO Nago replied that there was no evidence of tampering with votes, as the vote counting system is not attached to the internet. He explained that the vote counting system is tested, certified, locked down, and sealed by independent official observers prior to each election, and that tampering with a machine would require breaking the physical seal. On election day, the voting machines are managed at the polling places by the election day officials. Finally on election night, the results are audited, so any tampering that occurred would be found in the audit.

CEO Nago stated that there was also no evidence of any tampering with the voter registration system. He said that OE works with the state Office of Enterprise Technology Services (OETS), who in turn works with the U.S. Department of Homeland Security (DHS) to ensure that the system is secure and equipped with the necessary security programs and updates. CEO Nago disclosed that it was reported that 21 states were targeted during the last election, but OE was informed by DHS that Hawaii was not one of those states.

Chair Anderson asked CEO Nago if there was any evidence of voter fraud or voter registration fraud in our state. CEO Nago responded that OE is not aware of any evidence of fraud in the state, and that the last conviction occurred in 1982. He added that the county clerks are responsible for voter registration, so if an incident did occur, the clerk would make the first determination, which would get appealed to the Board of Registration, and then appealed to the Intermediate Court of Appeals.

Chair Anderson asked CEO Nago if the legislature should pass all-mail voting, and asked him to discuss the safety factors built into the system that will protect its integrity. CEO Nago affirmed that all-mail voting should be implemented because it is already happening. He reported that since 2014, more people have been voting absentee than on election day. Furthermore, it is becoming increasingly difficult to recruit precinct officials to staff the polling places.

CEO Nago stated that there are already many safeguards built into the current system for mail-in ballots. He explained that each voter is required to sign their ballot, which is verified against their signature on file prior to being counted. In addition, every ballot is uniquely identified, so if a voter were to request a replacement ballot, the clerks would be able to distinguish between the two and only count the one that is valid.

Commissioner Takenaka asked CEO Nago if the bill regarding voting by mail is scheduled to be heard by any legislative committees. CEO Nago answered that the bill has not scheduled as of today, but thinks that it will be heard this session.

Commissioner Steffey asked about HB 293/ SB 461, Relating to Class C Felonies. CEO Nago reiterated that the bill is a housekeeping measure that would amend the fine from \$1,000 to \$10,000 to be consistent with the penalty for voter fraud and other class C felonies. He pointed out that SB 461 is still alive and has crossed over to the House.

Commissioner Vierra asked CEO Nago what the legislature's concerns are regarding all-mail voting. CEO Nago said he believes it was a funding issue, as OE estimated a need for \$1 million in startup costs, \$200,000 of which would be spent on office voter education, and the rest divided amongst the counties for scanners/sorters, signature captures, drop boxes, and security for the drop boxes. He added that operational costs were also questioned, which is not something that can be answered now, as the 2020 operational costs would come out of the 2020 budget next session.

Commissioner Steffey asked CEO Nago to confirm that the estimated cost savings of switching to all-mail voting would be \$800,000 per election. CEO Nago stated that the savings would be approximately \$750,000 per

election, which is essentially the labor cost for election day officials. He explained that the \$750,000 estimate was calculated in 2014; when the current contract expires in 2020, OE will go through the procurement process to secure a new contract, which will determine a more updated savings estimate.

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

**Ms. Janet Mason, League of Women Voters (LWV):** Ms. Mason affirmed that LWV supports voting by mail, and that if the bills that CEO Nago mentioned (HB 291, SB 459) are scheduled for hearings, LWV will definitely testify in favor of them. She reported that LWV is following several other bills regarding voting by mail: HB 2541, which has been heard by the House Committees on Judiciary and Finance, and HB 1401 from last year, which is currently in conference. Ms. Mason stated that it is unclear which of the bills will pass, but the differences between them are minimal. With regard to the legislature's concerns about the cost, Ms. Mason explained that the \$1 million startup cost estimate was somehow confused with the \$4 million total of the capital and operating costs, which is not accurate. She said that LWV does not know the cost related details, and will need to rely on OE to address these questions from the legislature. Ms. Mason reiterated that LWV is going to be very active in advancing voting by mail, primarily because of the evidence that it improves voter turnout, and they are hopeful that it will pass this year.

**Mr. Bart Dame:** Mr. Dame stated that there are a couple of issues he would like to discuss, and is unsure if they have already been addressed, as he arrived late to the meeting. As there is currently no Senate Minority Leader, he expressed concerns that the EC will not have a full body once the respective appointee is termed out at the end of June. He advised that the Legislature will need to come up with a solution to ensure that the EC is fully staffed. Mr. Dame said that this same concern also applies to the Reapportionment Commission, which includes members appointed by the Senate Minority Leader. He explained that although he is a democrat, he thinks it is important for the Reapportionment Commission to be balanced to ensure that district lines are bipartisan and fair. Finally, Mr. Dame asked what kind of safeguards are in place to protect our local voter rolls and software from Russian election interference.

Chair Anderson replied that the issue of election hackers was already addressed earlier in today's meeting. With regard to the appointing authority for the Elections and Reapportionment Commissions, Chair Anderson said that without a Senate Minority Leader, the appointments would then be made by the Chief Justice of the Supreme Court.

According to HRS §11-7(5)(c), Commissioner Steffey stated that a vacancy in the EC shall be filled within 15 days, otherwise it will be filled promptly thereafter by the Chief Justice of the Supreme Court. He said that he is unsure if this rule applies also to the Reapportionment Commission, and CEO Nago confirmed that it does.

VI. 2018 Legislative Session

Chair Anderson stated that they have finished discussing legislation during CEO Nago's Status of Operations report.

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.

Chair Anderson asked if anyone had specific issues they would like to discuss at the next EC meeting.

Regarding recruitment of poll workers, Commissioner Takenaka asked CEO Nago what she should do if she knows of a group who is interested in working on election day. CEO Nago asked Commissioner Takenaka if it is a nonprofit group earning money for their organization. Commissioner Takenaka responded that they are not a nonprofit group, but rather a business group who would be working for themselves. CEO Nago asked Commissioner Takenaka to provide him with their contact information, and OE will get in touch with them.

Commissioner Steffey asked CEO Nago what the qualifications are for election day workers. CEO Nago answered that election day workers need to be able to read and write English, registered to vote in Hawaii, and at least 16 years old. He added that some positions require the ability to lift equipment as heavy as 40 pounds. Commissioner Okazaki asked whose insurance covers it, and CEO Nago said that the state is self-insured.

VIII. Review of Roles and Responsibilities of Elections Commission

Chair Anderson explained that he wanted to review the responsibilities of the EC so that all of the members were on the same page. In reference to HRS §11-7.5, he stated that the duties of the EC are to:

- (1) Hold public hearings, like this meeting today;
- (2) Investigate and hold hearings for receiving evidence of any violations and complaints, which has been done in the past;
- (3) Adopt rules pursuant to chapter 91, if any changes were to be made;

- (4) Employ, without regard to chapter 76, a full-time chief election officer (CEO), which the EC does;
- (5) Conduct a performance evaluation of the CEO within two months after the date a general election is certified, which the EC does;
- (6) Hold a public hearing on the performance of the CEO and consider the information gathered at the hearing in deliberations on the CEO's reappointment; and
- (7) Advise the CEO on matters relating to elections.

Chair Anderson also made reference to HRS §11-8, which states that EC members are allowed to do things such as register, vote, and join a political party, but cannot take an active part in political management or campaigns. Chair Anderson encouraged the rest of the EC to act as private citizens, and contact their legislators or testify at hearings if they feel strongly about any particular legislation.

With no further comments, the Commission dissolved into Executive Session at 10:30 a.m.

IX. Executive Session

The Commission dissolved into Executive Session to consider and approve Executive Session minutes from the Commission meeting on March 13, 2017.

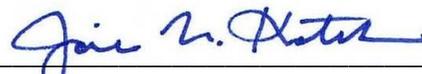
The Commission resolved into open meeting at 10:32 a.m.

X. Adjournment

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

Elections Commission meeting was adjourned at 10:33 a.m.

Respectfully submitted,



Jaime Kataoka

Elections Commission Secretary