



**STATE OF HAWAII
ELECTIONS COMMISSION**

F.M. SCOTTY ANDERSON
ELECTIONS COMMISSION CHAIR

MINUTES

**REGULAR MEETING OF THE
ELECTIONS COMMISSION**

**JUNE 12, 2019 @ 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
Mr. Michael Curtis
Mr. Jeffrey Kuwada
Ms. Zale Okazaki
Ms. Carol Seielstad
Ms. Cynthia Takenaka

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. Marc Arakawa, Office of Elections
Mr. Joseph Bird, Office of Elections
Ms. Nedielyn Bueno, Office of Elections
Ms. Jaime Kataoka, 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. Chad Blair, Honolulu Civil Beat
Mr. Bart Dame, Democratic Party
Mr. Casey Harlow, Hawaii Public Radio

Ms. Sandy Ma, Common Cause Hawaii
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 December 13, 2018 at the State Office Tower, Room 203.

II. Roll Call and Determination of a Quorum

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

III. Approval of Minutes for the Meeting of December 13, 2018

Commissioner Seielstad moved that the minutes be approved; the motion was seconded by Commissioner Curtis, and approved unanimously by the Commissioners.

IV. Status of Operations Report from the Chief Election Officer

CEO Nago reported that the National Governors Association is hosting a six-month policy academy focusing on the cybersecurity of elections, and that Hawaii was one of the six states chosen to participate. The academy will concentrate primarily on securing the voter registration database and communications between various agencies.

For the 2019 Legislative Session, CEO Nago stated that the Office of Elections (OE) submitted three bills regarding automatic voter registration, removing the social security number (SSN) from the nomination paper, and allowing voters with special needs to obtain an accessible electronic ballot outside of the current five-day-window restriction. Of these bills, the only one that did not pass was automatic voter registration. CEO Nago added that bills relating to recounts and all-mail elections also passed.

CEO Nago explained that HB 1248 CD 1, which implements all-mail elections, is currently being reviewed by the Governor. He stated that the bill specifies that the responsibilities will be split in the same way that absentee mail ballots are

currently handled, with the state responsible for printing and counting the ballots, and the counties responsible for voter registration, and mailing and receiving the ballots.

CEO Nago reported that OE is working with the County Elections Divisions to clean up the voter registration rolls, starting with a notification card mailed to each voter in August 2019. He explained that this notification card will be similar to the yellow card that is mailed prior to each election, which serves two purposes: informs the voter of their polling place location, and aids in the cleanup of the voter registration rolls. Since the yellow card will be sent by nonforwardable mail, any that are returned to the County Elections Division will be sent a second notification card by forwardable mail, asking the voter to update their registration record. Once a voter is issued that second notification card, they are designated as “inactive” and are removed from the voter registration rolls if they fail to update their registration within the next two election cycles.

CEO Nago added that OE will also be asking voters to return notification cards to their County Elections Division if any are received in error (e.g., a voter no longer resides at that address). Rather than simply throwing them away, returning them will help to clean up the voter registration rolls. CEO Nago stated that there are currently 775,000 registered voters in Hawaii, 734,000 of which are active voters. This means that approximately 40,000 or 5% of voters are designated as “inactive,” and can only be removed from the voter registration rolls if they fail to update their registration within two election cycles.

Following the notification cards, CEO Nago said that voters will be sent a signature capture card in order to obtain a signature sample from each voter. This will be put into a database and used to validate the voted ballot return envelopes. Yellow cards will be mailed around the end of March 2020, and then ballots will be mailed about 18 days prior to the election.

Regarding the scanning of the signatures, Commissioner Curtis asked CEO Nago if a ballot that is rejected is evidence of voter fraud. CEO Nago replied that if a voter says they did not receive their ballot but it was somehow returned, then it would be voter fraud. However, under the new bill, if a signature cannot be validated against the database, the voter will be contacted and provided an opportunity to correct the situation. Commissioner Curtis asked CEO Nago if it is considered fraud if a person signs a ballot on another person’s behalf. CEO Nago confirmed that it would be fraud, but said that sometimes a spouse or other family member signs the wrong ballot by accident. Commissioner Curtis stated that the Kauai County Clerk told him that they have experienced cases where an individual signed for their spouse because they were sleeping. CEO Nago replied that they should not be doing that.

Commissioner Curtis asked CEO Nago what would happen if an individual signed another person's ballot with the intent of committing voter fraud. In that circumstance, CEO Nago answered that they would have to investigate and turn the case over to the proper authority for prosecution.

In reference to HB 1248 CD 1, Commissioner Curtis stated that it says that a voter can be purged automatically from the voter registration rolls if they miss five elections. CEO Nago corrected this statement by explaining that federal law states that a voter can only be removed if a mailer is returned. He reiterated that notification cards and ballots are not forwardable, so the ones that are returned are removed from the voter registration rolls after two election cycles.

Commissioner Curtis read in HB 1248 CD 1 that an individual can challenge a person's right to vote. CEO Nago explained that the election challenge process allows anyone to challenge another voter for not being the person they say they are, or not living where they say they live. These challenges would be reported to the Clerk's Office, the voter can appeal the Clerk's decision to the Board of Registration, and then may ultimately be appealed to the courts.

Commissioner Curtis pointed out the section regarding the approval of the wording for ballot questions on page 37, and said that how a question is asked often determines the answer. He asked CEO Nago where the wording for the ballot questions come from. CEO Nago replied that the wording for the constitutional amendment questions comes from the Senate and the House, as they have to pass two-thirds of both houses in order to appear on the ballot. He added that the charter amendment questions are transmitted by the respective County Clerk.

Commissioner Curtis referred to the section regarding the recording of the overage or underage on page 47, and asked CEO Nago who receives this report. CEO Nago explained that it is a public report that has always been filed after each election. Commissioner Curtis asked if this is in reference to a percentage of error, to which CEO Nago answered that it is not. He clarified that an overage or underage refers to receiving more or less ballots than ballot envelopes, respectively.

Commissioner Curtis pointed out the section regarding an election tie that starts on page 50 and ends on page 54 with "by lot." He asked CEO Nago if "by lot" means to flip a coin, to which CEO Nago said that "by lot" means "by chance," so a coin flip or a drawing would be appropriate.

Commissioner Bates said it seems as though one of the greatest challenges is educating the public in hopes of increasing voter participation. He asked if

CEO Nago could elaborate on OE's plans to get the message across. CEO Nago shared that he just read a letter to the editor in the paper that said that all-mail elections may or may not increase turnout. He explained that turnout is not the reason why OE is in favor of all mail, but because it makes the process accessible and convenient for all voters. Rather than having to drive to a polling place and wait in line, voters will receive their ballot in the mail, and can fill it out and return it at their convenience. CEO Nago added that OE is just one aspect of turnout, and that candidates also play a role in whether people choose to vote or not. He reiterated that OE's main purpose is to make the voting process as accessible and convenient as possible.

Commissioner Bates asked CEO Nago what methods OE will be utilizing to reach out to the public. CEO Nago stated that OE's intention is to run a television campaign in conjunction with the notification cards in order to reach all voters statewide.

Commissioner Kuwada asked CEO Nago if the signature database will be maintained by the state. CEO Nago replied that the database will be maintained by the state, but the inputting and the ownership of the data is the responsibility of each individual county.

Commissioner Okazaki asked CEO Nago if OE will have staff trained for the signature verification part of the process. CEO Nago explained that the City Clerk's Office currently has a machine that scans and electronically verifies signatures, and that they are looking to obtain the same equipment for the neighbor island counties.

Ms. Sandy Ma, executive director of Common Cause Hawaii, asked CEO Nago if the machine that verifies signatures will be available to the neighbor islands by the next election cycle. CEO Nago said that is the plan, and that HB 1248 CD 1 provides money to procure these scanners. Commissioner Okazaki asked how many scanners will be provided, to which CEO Nago answered one per county. Ms. Ma asked CEO Nago what will happen if the machines are not available in time for the 2020 elections. CEO Nago replied that the signature verification could be done manually, however the counties are already preparing to procure the machines and are just waiting for the Governor to sign the bill.

Ms. Janet Mason of the League of Women Voters added that there is also a bill with the Governor regarding plain English and Hawaiian language translations for the constitutional amendment questions.

V. Implementation of All-Mail Elections
House Bill No. 1248, H.D. 1, S.D. 2, C.D. 1

Chair Anderson stated that they have finished discussing HB 1248 CD 1 during CEO Nago's Status of Operations Report.

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

No public testimony was given.

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.

Mr. Bart Dame – Democratic Party: Mr. Dame introduced himself as a national committee member of the Democratic Party, and wanted to inform the EC that the Democratic Party is preparing for their presidential primary. Although the presidential primaries are held by the political parties and not OE, Mr. Dame explained that many people do not understand the distinction, and OE continues to get flooded with inquiries.

Mr. Dame stated that the Democratic Party is planning to hold their presidential primary on April 4, 2020, with walk-in voting available at 20 sites across the state. They are going to utilize rank choice voting, which involves selecting first, second, and third choice candidates. If a candidate does not obtain the 15% viability to qualify for national delegates, then they are dropped, and the votes are shifted to their second choice, and then third choice, until it falls under a candidate who is viable and qualifies for national delegates.

Mr. Dame said that the Democratic Party is also preparing to mail absentee ballots to the approximately 100,000 members statewide. He added that they are working with vendors to obtain scanners that are capable of reading and tabulating the votes. Mr. Dame stated that it will be an ambitious and expensive project for the Democratic Party, and just wanted OE and the EC to be aware of it.

Chair Anderson asked CEO Nago if he wanted to comment on the issue. CEO Nago stated that in every presidential year, OE gets flooded with calls from the public regarding where to go to vote for the presidential primary, despite the fact that OE does not conduct this election. He explained that there were

complaints that the political party was not answering the phone, so OE does their best to direct callers to their polling place.

VIII. Discussion, Review, and Implementation of Method of Evaluation for the Chief Election Officer and action, if appropriate.

Chair Anderson stated that the EC will be voting on CEO Nago's reappointment, as his term is up in February of next year. He told the EC that their meeting folders contained the surveys that were used for CEO Nago's evaluation in 2015, and that he would like them to take it home, review it, and see if there are any changes that they would like to make. Following this, they will collect the completed surveys and vote on CEO Nago's reappointment.

Commissioner Curtis asked if the surveys will be collected at a later date, to which Chair Anderson said that they will be, and that the EC has some time before they need to vote on the reappointment. Commissioner Curtis asked CEO Nago how long his contract is. CEO Nago said that he does not really have a contract, but that his term expires in February 2020. Commissioner Okazaki asked what CEO Nago means when he says he does not have a contract, to which Deputy AG Kunimoto explained that he is not on a contract with the State and his position is appointed.

With no further comments, Chair Anderson asked for a motion to go into executive session as stated in the agenda, i.e., to approve the minutes for the executive session for the meeting of December 13, 2018; and pursuant to Section 92-5(a)(4), HRS, to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities, and action, if appropriate, relating to litigation. The motion was made by Commissioner Takenaka, seconded by Commissioner Seielstad, and approved unanimously by the Commissioners.

The Commission went into executive session at 10:28 a.m.

IX. Executive Session

Approval of Minutes for the Executive Session for the Meeting of December 13, 2018

Pursuant to Section 92-5(a)(4), HRS, consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities, and action, if appropriate, relating to recent litigation.

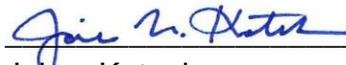
The Commission reconvened into open meeting at 10:38 a.m.

X. Adjournment

With no further business before the Commission, Chair Anderson adjourned the meeting.

Elections Commission meeting was adjourned at 10:39 a.m.

Respectfully submitted,



Jaime Kataoka

Elections Commission Secretary