



**STATE OF HAWAII
OFFICE OF ELECTIONS**

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
www.hawaii.gov/elections

KEVIN B. CRONIN
CHIEF ELECTION OFFICER

AARON H. SCHULANER
GENERAL COUNSEL

REPORT TO THE ELECTION COMMISSION

ELECTION PLAN FOR 2010 ELECTIONS

PRECINCT CLOSINGS

OFFICE OF ELECTIONS

DECEMBER 1, 2009

INTRODUCTION

The Elections Commission requested by December 1, 2009, an election plan for the 2010 elections. This election plan originates from the report to the Hawai'i Legislature on June 15, 2009, under Act 163, section 56 (2009), that requires the Office of Elections to report to the legislature about the procurement of a voting system and to identify precincts that are proposed not to be opened and instead consolidated into other precincts for the 2010 elections. The elections plan provides for identifying the polling places not to be opened and consolidated into other precincts for the elections.

At this time the resources provided to the Office of Elections (election office or OE) by the administration and the legislature are insufficient to plan and organize for the state's voters the elections at a minimum level of adequacy in terms of the additional staff and funds necessary for reasonable elections.¹ This inadequacy is explained further in this report. The authority to hire staff and secure additional funds is needed by December 15, 2009, to give the 2010 elections a chance.

The core of the election plan consists of reducing the number of open polling places. This plan results from and is driven by the Office of Elections' precarious condition caused by the state's current economic crisis. These circumstances leave the election office with significantly reduced and insufficient staff to properly organize and administer the 2010 elections.

GENERAL BACKGROUND

Office of Elections Staffing

The Office of Elections typically has a core full time staff of eighteen (18) employees, including the chief election officer. There currently exists, however, four core staff vacancies in critical positions that are necessary to help to organize and plan our elections. They include the ballot operations section head, the election support services election specialist, the information communications systems analyst, and the voter services election specialist. The office has no authority to recruit and hire for these positions. In addition by January of an election year, the staff needs the authority to begin to phase in, to recruit and hire, and to train an additional fifteen (15) seasonal workers. These required seasonal workers perform various essential functions relating to ballot operations for candidate filing and related ballot functions; precinct operations for election official recruitment; counting center operations for counting center official recruitment; clerical assistance, and various election supply packing and shipping functions. Our elections office's budgetary situation now includes sufficient funds to pay only for our current 14 member staff and, even if we had the authority to hire, the office does not have the funds to pay the salaries for the four vacant and the 15 seasonal worker

¹ Based on the 2008 elections, a minimum level of adequacy is 18 full time staff and 15 seasonal workers who would begin work soon after January 1, 2010. This would require an additional funding to pay such staff. We would overall need approximately \$400,000 to pay those staff, acquire election materials, and secure ballot transportation contracts up to June 30, 2010.

Currently, only 14 full time staff is available, we have no authority to hire additional staff, and we don't have the necessary funding to pay for those staff, acquire election materials, or secure ballot transportation costs.

positions needed during the first half of 2010 that is also the second half of FY 2010. The administration has either not acted on or declined our several requests for authorization to fill those positions. Our most recent request for such authority was submitted in October and is pending.

Election Office's Budget

The Office of Elections (elections office or OE) budget for FY 2010 significantly constrains its capacity to plan and organize the elections. The office's budget has been reduced functionally by approximately \$400,000 through a combination of provisos and budget restrictions.

During the 2009 legislative session the Office of Elections asked for additional funds to pay for a new voting system for the 2010 elections. The state's election budget in previous years -- 2004, 2006, and 2008 -- had been supplemented with the use of federal funds distributed to the state under the Help America Vote Act of 2002 to pay the full cost of the state's voting system. In these previous years, this voting equipment and vendor support cost had averaged approximately \$5.8 million. The time had come for the state to pay more of its share of the cost of its elections.

The legislature understood and accepted the need for additional funds for a new voting system for the 2010 elections. The legislature increased the OE budget to \$3,894,805 for FY 2010 from \$2,548,529, which included \$1.3 million for voting equipment and vendor support, in FY 2008.² This budget increase totaled \$1,346,276. The final budget bill as a result of a proviso, however, restricted \$2,800,000 of the election office's budget for the voting system. This created a difference of \$153,724³ that is removed from the elections office's operating funds. The result is the legislature essentially transferred \$153,724 from the election office's normal operating funds and restricted the funds for the procurement of a voting system for the 2010 elections.

The budget bill further reduced the Office of Elections' budget by placing on its appropriation a second proviso of \$113,791. These personnel funds could only be used for positions that had been converted to civil service, even though in the prior fiscal year the election office's budget had not been subject to such a proviso.⁴

We made several inquiries and requests about the possible removal of these provisos but have not received any commitments that the provisos will be removed in the upcoming legislature that begins in January 2010.

² It should be noted that the funds for the voting system are placed in the non-election year fiscal year budget and the funds are then encumbered for payment in following fiscal year when the election occurs. As such, a comparison of FY 2008 and FY 2010 is appropriate.

³ The \$153,724 is the difference between the budgeted amount of \$2.8 million for the voting equipment and the sum of the amount of \$1.3 million provided for voting equipment historically and the additional amount of \$1,346,276 appropriated in the FY 2010 election office budget.

⁴ An extensive history concerning the civil service conversion decision, process, and funding exists but is not provided here.

The election office has also been subjected to additional restriction in personnel funds that the administration applied across the board to all agencies to help the state balance its budget. This amount for the elections office equals \$113,346. In our discussions with the administration, we learned the state's circumstances are such that the administration believes it cannot and will not remove this restriction on the election office's budget.

These provisos and budget restriction total \$380,861 (\$153,724 + \$113,791 + \$113,346). This reduced amount plus payments for salaries, overhead and maintenance, and incidental office supplies since July 1, 2009, leaves in the election budget as of December 1, 2009, approximately \$461,107 to pay all staff salaries, overhead and maintenance, and incidental office supplies for the remainder of this fiscal year ending on June 30, 2010, and no funds remaining to pay for any additional staff and salaries and election supplies.⁵ This calculation appears on page 11.

Based on the funds required in recent months for staff salaries and building maintenance that total approximately \$67,991 per month, the total projected cost for the rest of the fiscal year, seven months, would be approximately \$475,937 without allowing any funds to pay for any other expenses and for any Election Commission meetings. As of December 1, the election office funds available are insufficient to meet these salary and building maintenance costs for the remainder of this fiscal year. This calculation appears on 12.

Staff and Funding Consequences

These staffing and funding circumstances leave the election office at this time with basically no authority to hire needed full time and seasonal staff and no funds to acquire materials for election preparations and to contract for ballot transportation before June 30, 2010.

In terms of funding, we have explored with the federal government the use of Help America Vote Act (HAVA) funds to use for election personnel. We have received a positive response from the U.S. Election Assistance Commission (EAC), the federal agency responsible for distributing and monitoring the use of federal HAVA funds, about using HAVA funds for election personnel, as long we meet certain criteria. Unfortunately, the four full time staff vacancies and 15 seasonal positions are all budgeted to be funded with state funds. As such, the Department of Budget and Finance has informed us that we cannot simply use federal funds to pay for those positions, even temporarily. Instead, if we want to use federal funds we would need to enter into personal services contracts for comparable services. This personnel service contract process is complex and requires that approval to enter into such contracts be authorized by the governor. In October we submitted a detailed request to the governor for such authorization. The request is currently with the Department of Budget and Finance. We plan to continue to lobby for approval.

⁵ The approximately \$458,110 may vary over time depending on actual costs for building maintenance and other necessary expenses that may be incurred.

ELECTION PLAN FOR 2010 ELECTIONS

It is now too late to organize and implement the 2010 elections in the same manner as the 2008 elections. This lost time in filling our vacant positions significantly handicaps the election office's staff and the county election administrators' capacity to organize and plan for the elections.

At this late date any hope for a reasonable election is that we ultimately will receive approval from the administration to hire staff and to enter into personal services contracts for our vacant positions and everyone works overtime to make up for the lost time.

If for some reason we are unable to fill the vacant positions, then the current staff is simply insufficient in number to assume the additional responsibilities required to plan, organize, and implement the 2010 elections. Even will all staff currently helping each other, the staff has insufficient personnel to perform all the necessary work, which will soon escalate rapidly, to plan and implement elections in Hawaii going forward. Notably this lack of "boots on the ground" can be seen in the need to recruit precinct workers, one of the most critical needs for elections in Hawaii.

Currently only Precinct Operations Section Head Judy Gold is available to recruit the approximately 2,600 needed precinct officials. During this same period during 2008, she and three seasonal workers worked diligently to recruit, train, and assign approximately 2,600 needed precinct officials to serve the 212 polling places opened on Oahu for the 2008 elections. She and her 3 seasonal workers after January 1, 2008, spent on average approximately 260 man hours per week for this purpose, obviously working fewer hours during the early spring, but working more hours in a rapidly trend to many more hours each week, including Saturdays, as the elections drew near. This number of precinct officials was minimally sufficient. If Ms. Gold, a very dedicated election worker and public servant, needed 3 seasonal workers to assist her to recruit 2,600 election officials who were barely sufficient for 212 polling places, how could she alone or, for that matter, with the help of current staff who will be forced to neglect their primary duties be reasonably expected to recruit a sufficient number of election officials and precinct workers? This same problem applies to ballot operations to administer the candidate filing functions that begin February 1, 2010, to election support services for the election preparation functions, and to counting center for its planning and preparation functions. Waiting until July 1, 2010, when the FY 2011 budget takes effect provides no solution even if all currently budgeted funds remain. The lack of preparation work for candidate filing and the other election preparation functions cannot be cured after June 30, 2009, because the time for recruiting, hiring, and training additional staff and performing such the integral and related election activities necessary to be performed during the spring will have been lost.

In short, the 14 current elections office staff cannot do the same election preparation work for the 2010 elections that 33 elections office staff previously performed for the 2008 elections no matter what others may believe or critics may say.