



**STATE OF HAWAII
OFFICE OF ELECTIONS**

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

SCOTT T. NAGO
CHIEF ELECTION OFFICER

December 2, 2011

The Honorable Shan Tsutsui, President
And Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear President Tsutsui and Members of the Senate:

For your information and consideration, I am transmitting two (2) copies of the Report to the Legislature in accordance with Section 31 of Act 164, Session Laws of Hawaii 2011.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott T. Nago", with a long horizontal line extending to the right.

SCOTT T. NAGO
Chief Election Officer

STN:AHS:cr
OE-174-11

Enclosure



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SCOTT T. NAGO
CHIEF ELECTION OFFICER

December 2, 2011

The Honorable Calvin K.Y. Say, Speaker
And Members of the House of Representatives
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear Speaker Say and Members of the House:

For your information and consideration, I am transmitting two (2) copies of the Report to the Legislature in accordance with Section 31 of Act 164, Session Laws of Hawaii 2011.

Sincerely,

SCOTT T. NAGO
Chief Election Officer

STN:AHS:cr
OE-175-11

Enclosure



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SCOTT T. NAGO
CHIEF ELECTION OFFICER

December 2, 2011

Ms. Charlotte Carter-Yamauchi
Acting Director
Legislative Reference Bureau
State Capitol, Room 446
Honolulu, Hawaii 96813

Dear Ms. Carter-Yamauchi:

For your information and consideration, I am transmitting two (2) copies of the Report to the Legislature in accordance with Section 31 of Act 164, Session Laws of Hawaii 2011.

Also enclosed are copies of the letters of transmittal to the Senate President and the Speaker of the House.

Sincerely,

SCOTT T. NAGO
Chief Election Officer

STN:AHS:cr
OE-176-11

Enclosure

Report to the Twenty-Sixth State Legislature
2012 Regular Session

Relating to Civil Service Conversion of the Office of Elections

As Required by
Act 164, Session Laws of Hawaii 2011

December 2, 2011

Pursuant to Section 30 of Act 164, Session Laws of Hawaii (SLH) 2011, the Office of Elections hereby submits the following report concerning the conversion of various positions to civil service.

SECTION 30. Provided that of the general fund appropriation for office of elections (AGS 879), the sum of \$113,791 or so much thereof as may be necessary for fiscal year 2011-2012 and the sum of \$113,791 or so much thereof as may be necessary for fiscal year 2012-2013 shall be used for 14.5 civil service positions converted from exempt under Act 213, Session Laws of Hawaii 2007; provided further that only the amount needed to fund the difference between the exempt position salaries and the actual salary requirements of the civil service positions shall be expended; provided further that the funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse to the general fund; provided further that the department of accounting and general services shall prepare a report detailing:

- (1) The positions converted to civil service;
- (2) The status of each of the 14.5 positions not yet converted to civil service and reason for the delay of conversion; and
- (3) The actual additional amount needed to convert each of the 14.5 exempt positions to civil service for the most recently completed fiscal year;

and provided further that the department shall submit the report to the legislature no later than thirty days prior to the convening of the 2012 and 2013 regular sessions.

Act 164, SLH 2011.

Regarding items (1) and (3) of Section 30, the Office of Elections reports that no positions have been converted as of this time and as such no

determination can be made as to the additional amount needed to convert each position. Therefore, the focus of this report is on item (2) regarding the status of civil service conversion and the reasons for the delay.

Previously, in 2007, the Legislature authorized the conversion of various positions within the Office of Elections. Specifically, the civil service conversion law provided as follows:

SECTION 115. Provided that for the fourteen positions being converted from temporary to permanent in office of elections (AGS 879), no officer or employee of the State shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee shall be transferred or appointed to a civil service position without the necessity of examination; provided further that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws; provided further that an officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; and provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

Act 213, SLH 2007.

Former Governor Linda Lingle, as part of her budget execution policies, determined that Section 115 of Act 213, SLH 2007 was legally defective. As a consequence, the civil service conversion process could not proceed during her administration.

With the recent change in administration, new discussions were held with the Department of Accounting and General Services (DAGS) regarding the ability to proceed with the civil service conversion. It was agreed that the civil service conversion could go forward as there was no dispute that the positions had been previously designated for civil service conversion by the Legislature. However, the provision concerning the retaining of benefits and privileges by incumbent

office holders would not be implemented due to the prior concerns over its legality.

The Office of Elections worked with the Department of Accounting and General Services – Personnel Office (DAGS-Personnel) to review the positions and prepare them for civil service conversion. This review indicated that various positions, such as the section heads, will not be able to be fit into existing civil service position classifications. The Office of Elections has been informed that this means that new civil service position classifications would need to be developed and that this process may take years.

In the interim, however, the Department of Human Resources Development (DHRD) has created a temporary position classification series called General Professional which will be utilized until permanent classes can be established. The General Professional classification series is composed of the classifications of General Professional III through General Professional VII. DHRD created this temporary position classification series in response to similar situations in which exempt positions had been authorized for civil service conversion but did not fit into the current classification system. The Office of Elections' section head positions will need to be reviewed and recommended for appropriate assignment within this classification series. Depending on the results of that review, the positions that report to those section heads may or may not be determined appropriate for classification into that series.

As described to the Office of Elections, the civil service conversion process involves the following: (1) an initial review by DAGS-Personnel of the position is conducted; (2) DAGS-Personnel submit a recommendation to DHRD as to how to classify the position; (3) DHRD conducts its own review, and (4) DHRD determines the appropriate civil service classification. After a position is converted, the Office of Elections will coordinate with DAGS-Personnel to recruit applicants to fill the new position in compliance with civil service laws.

As part of the review process, DAGS-Personnel is able to conduct onsite audit inspections to familiarize itself with the duties and responsibilities of the position and to determine if the position description appropriately reflect those duties and responsibilities. The audit inspections are essentially extensive interviews of the incumbents of positions that are going to be converted. The process involves, in part, going line by line through each position description and asking the incumbent to explain and elaborate on each position duty and responsibility.

Onsite inspections have been conducted for the counting center operations, precinct operations, and voter services section head positions. The election support services section head position did not require an onsite inspection due to DAGS-Personnel's prior familiarity with the position. The ballot operations section head onsite inspection is expected to be conducted prior to the end of the year.

DAGS-Personnel has submitted recommendations to DHRD regarding the counting center operations and election support services section head positions. On November 2, 2011, DHRD had a meeting with the Office of Elections to ask follow up questions it had about the counting center operations and election support services section head positions. The Office of Elections has no current estimate as to how long DHRD's review will be for those two positions. However, it is our understanding that after those two positions are converted, the conversion of the other positions will benefit from DHRD's acquired familiarity with the operations of the Office of Elections. Specifically, after the section head positions are converted, it will be easier to classify and convert the election specialists that report to those section heads. Finally, the remaining positions such as the warehouse worker and information communication systems analyst positions will be converted.

While no definite commitments have been given as to when the conversion will be completed, it is the Office of Elections' hope that it will be completed prior to the completion of the current fiscal year and prior to the conducting of the 2012 elections, so as not to unduly interfere with the execution of those elections.