

Appendix B – Meeting Minutes June 15, 2022

Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Sandy Ma, Executive Director of Common Cause Hawaii;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii;

Chair Foley convened the meeting at 2:02 pm. All Commissioners were present for the meeting except Vice Chair Robert Harris and member Florence Nakakuni who were excused.

Resources:

The Commission's website, which includes related materials and information such as House Resolution No. 9 (Regular Session of 2022), the Commission's Interim Report, and meeting notices and minutes, can be found here: [Committees \(hawaii.gov\)](#)

Recordings of the Commission's public meetings may be viewed on the House of Representatives' YouTube channel found here: [Hawaii House of Representatives - YouTube](#)

The Commission may be contacted via email at standardsofconduct@capitol.hawaii.gov

The Commission will meet in the upcoming weeks on the following topics:

- June 29, 2022: Campaign Finance Reform;
- July 13, 2022: Criminal Prosecution and Fraud; and
- July 27, 2022: Open Government Laws.

Limited decision-making occurred at the meeting. Any proposals or recommendations to be made by the Commission to the House of Representatives in its Final Report will be the subject of future public meetings with public input.

Appendix B – Meeting Minutes June 15, 2022

I. Call to order

Due to technical difficulties, the first few minutes of the hearing, including the opening remarks and the start of public testimony, were not audible.

II. Approval of minutes

The Commission adopted the minutes from the April 14, 2022, meeting. The minutes for the June 1, 2022, meeting were briefly discussed but adoption of the minutes was deferred until the next meeting.

III. Public testimony

The Commission received written public testimony from numerous individuals.

The Commission heard oral public testimony pertaining to:

- Conflicts of interest when legislators are practicing attorneys or profit sharing partners in a law firm but cannot disclose the conflict due to attorney-client privilege;
- Subjecting the Legislature to Sunshine Law and state ethics requirements;
- The benefits of legislative term limits;
- General barriers for new candidates to enter an election;
- Concerns over legislation introduced by former legislators subject to pending criminal investigations; and
- An examination of how empty seats are filled when a legislator resigns.

IV. Discussion of reforms related to elections and voting

Members Mason and Ma facilitated presentations by external presenters on term limits, the one-party dominance in Hawaii, and voter education.

- a. Jessica Jones Capparell, Director of Government Affairs at the League of Women Voters of the United States, provided a presentation on term limits, including an overview of the history of the implementation of term limits on a federal level and state level as well as common arguments for and against the use of term limits. It was noted that the League of Women Voters opposes term limits. The League of Women Voters suggests reforming campaign spending, including the implementation of small dollar contribution systems and donor disclosure; addressing redistricting and gerrymandering; and fighting voter suppression laws as alternatives to term limits.
- b. Dr. Neal Milner a local columnist and former political science professor at the University of Hawaii provided a presentation on the dominance of the one-party

Appendix B – Meeting Minutes June 15, 2022

system in Hawaii. Dr. Milner discussed the effect of multi-party systems on corruption in politics, including the public perception of corruption, and whether the lack of party competitiveness can be changed by the Commission. Dr. Milner provided a review of barriers to establishing a viable two-party system in Hawaii, including voting habits, national trends towards hyper-partisanship, nationalization of politics in general, and media coverage. Dr. Milner does not believe the Commission has the legal authority to change the one-party system and although corruption or perceived corruption causes indignation, it has little staying power. Dr. Milner suggests the Commission consider measures to create a system to act in a way similar to an opposition party that can hold candidates accountable.

- c. Donna Oba, President of the League of Women Voters of Hawaii and Raymond de Vega of the State Office of Elections provided presentations on the importance of voter education.
 - i. Ms. Oba provided an overview of the vote411.org website, which includes information on voter eligibility, campaign finance, and candidate responses. The presentation included a tutorial on using the vote411.org website. Ms. Oba noted that vote411 only shows candidates in the primary elections but will show ballot measures and proposed county charter measures for general elections, which may have pros and cons posted by the League of Women Voters. Ms. Oba notes that people in the State are accessing the site at a rate that's comparable to other states of a similar size.
 - ii. Mr. de Vega provided an overview of voter education in Hawaii, specifically discussing the objectives of voter education, including addressing the mechanics of voting; obstacle and problem areas; what education tactics are used in Hawaii; and the future of voter education and how to move forward. Mr. de Vega identified services provided by the Voter Service section of the Office of Elections on voter education with respect to the mechanics of voting. Mr. de Vega identified problem areas, including reaching broad and targeted audiences, maintaining engagement, and identifying effective messaging. Mr. de Vega identified how these obstacles are addressed, including the types of education outreach currently done by the Office of Elections. Mr. de Vega also discussed the process of reviewing and removing voting records. The Commission discussed how Hawaii compares to other states in voter turnout and how to encourage more people to register to vote; Mr. de Vega noted that there was an increase in voter turnout for the 2020 election that was likely due to the move to vote by mail and that focusing on the pre-registration and young voter registration program is an area of growth.

V. Prescriptive Discussion Issues

Appendix B – Meeting Minutes June 15, 2022

Member Mason provided an overview of prescriptive measures to address legislator conduct, including recently introduced legislation. Specifically, the following bills were briefly discussed:

- a. SB216 (2021): Prohibit Agents of Candidates from Assisting Voters — Currently candidates may assist voters via phone but can't do the same in person; SB216 proposed expanding this restriction agents of the candidates.
- b. SB1268 (2021): Adopting a Code of Fair Campaign Practices — Prior case law may make this difficult and legislation would have to be crafted to avoid the issues raised in *Ancheta v. Watada*, 135 F. Supp. 2d 1114 (D. Haw. 2001).
- c. SB741 SD1 HD1 (2022) and SB2250 (2022): Remedies for Faithless Electors — Although rare, there have been incidents of faithless electors in the past. While being a faithless elector has been illegal for some time, there are currently no remedies for actions by faithless electors. SB741 and SB2250 address remedies for faithless electors.

Member Ma provided a brief presentation on ranked choice voting and the unicameral legislative system, including discussing previously introduced bills in Hawaii on such topics. Member Ma provided a high-level overview of the pros and cons of a unicameral Legislature and how it would impact standards of conduct and transparency. SB2162 SD1 HD1 CD1 (2022), which would provide for ranked choice voting in special federal elections and special elections for County Prosecutor was introduced during the 2022 session and is pending Governor Ige's signature.

Member Mason also suggested looking at initiative, referendum, and recall as additional prescriptive measures. "Initiative" allows the voting public to directly put a measure or charter amendment on the ballot; "referendum" allows the public to take action to remove a recently passed measure from the books; and "recall" allows for the removal of a sitting legislator from office. All three approaches bypass the Legislature. "Initiative" is already in place in the counties. Twenty-six states have "initiative" and "referendum" in place, while only sixteen states have "recall" system.

The Commission briefly discussed concerns about implementing initiative, referendum, and recall, specifically allowing constitutional amendments to be put on the ballot by referendum and the creation of a cluttered ballot dominated by special interests. The Commission also discussed ranked choice voting, including expanding ranked choice to additional offices and elections. Chair Foley suggested moving forward all topics discussed today except for a unicameral Legislature. The Commissioners present agreed with that plan of action.

VI. Other Matters

Appendix B – Meeting Minutes June 15, 2022

The Commission's next meeting is scheduled for June 29 at 2:00 pm to discuss campaign finance reform.

Meeting adjourned at 3:55 pm.