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December 2, 2021

The Honorable Ronald D. Kouchi
President and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki
Speaker and Members of the House of
Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Law Enforcement Standards Board's Report to the Legislature on the Law Enforcement Standards Board as required by section 139-9, Hawaii Revised Statutes (HRS). Pursuant to section 139-2, HRS, the Law Enforcement Standards Board is placed within the Department of the Attorney General for administrative purposes only. In accordance with section 93-16, HRS, I am also informing you that the report may be viewed electronically at <http://ag.hawaii.gov/publications/reports/reports-to-the-legislature/>.

If you have any questions or concerns, please feel free to call me at 586-1500.

Respectfully,


Clare E. Connors
Attorney General

c: David Y. Ige, Governor
Josh Green, Lieutenant Governor
Legislative Reference Bureau (Attn.: Karen Mau)
Leslie H. Kondo, State Auditor
Craig K. Hirai, Director of Finance, Department of Budget and Finance
Stacey A. Aldrich, State Librarian, Hawaii State Public Library System
David Lassner, PhD., President, University of Hawaii

Enclosure

State of Hawai'i
Department of the Attorney General



REPORT ON THE LAW
ENFORCEMENT STANDARDS BOARD

Pursuant to Section 139-9, Hawaii Revised Statutes

Submitted to
The Thirty-First State Legislature
Regular Session of 2022

Section 139-9, Hawaii Revised Statutes, requires the Law Enforcement Standards Board, established within the Department of the Attorney General, State of Hawaii, to submit a report to the Legislature that includes:

- (1) A description of the activities of the board;
- (2) An accounting of the expenditures from the law enforcement standards board special fund in the previous fiscal year and the remaining balance of the fund; and
- (3) Recommended legislation, if any.

I. The Law Enforcement Standards Board:

The Law Enforcement Standards Board (“Board”) was established by Act 220, Session Laws of Hawaii 2018 (“Act 220”), which added to the Hawaii Revised Statutes a new chapter that is codified as chapter 139. The Board is charged with providing programs and standards for training and certification of law enforcement officers. Specifically, as set forth in section 139-3, the Board shall:

- (1) Adopt rules in accordance with chapter 91 to implement this chapter;
- (2) Establish minimum standards for employment as a law enforcement officer and to certify persons to be qualified as law enforcement officers;
- (3) Establish criteria and standards in which a person who has been denied certification, whose certification has been revoked by the board, or whose certification has lapsed may reapply for certification;
- (4) Establish minimum criminal justice curriculum requirements for basic, specialized, and in-service courses and programs for schools operated by or for the State or a county for the specific purpose of training law enforcement officers;
- (5) Consult and cooperate with the counties, agencies of the State, other governmental agencies, universities, colleges, and other institutions concerning the development of law enforcement officer training schools and programs of criminal justice instruction;
- (6) Employ, subject to chapter 76, an administrator and other persons necessary to carry out its duties under this chapter;
- (7) Investigate when there is reason to believe that a law enforcement officer does not meet the minimum standards for employment, and in so doing, may:
 - (A) Subpoena persons, books, records, or documents;

- (B) Require answers in writing under oath to questions asked by the board; and
- (C) Take or cause to be taken depositions as needed in investigations, hearings, and other proceedings, related to the investigation;
- (8) Establish and require participation in continuing education programs for law enforcement officers;
- (9) Have the authority to charge and collect fees for applications for certifications as a law enforcement officer;
- (10) Establish procedures and criteria for the revocation of certification issued by the board;
- (11) Have the authority to revoke certifications; and
- (12) Review and recommend statewide policies and procedures relating to law enforcement, including the use of force.

II. Activities of the Board

At its April 9, 2021 meeting, the Board:

- (1) Discussed the status of pending Board legislation, Senate Bill No. 1046 and House Bill No. 892;
- (2) Received an update on the Board's request for funding;
- (3) Received a status report from Permitted Interaction Group I, reporting that it met and presented sixteen questions for state boards across the country, and received responses that will be presented at the next Board meeting; and
- (4) Received a status report from Permitted Interaction Group II, reporting that it met and is in the process of finalizing draft administrative rules that it will be recommending to the Board.

At its October 26, 2021 meeting, the Board:

- (1) Received the report of Permitted Interaction Group I, which included a report of Peace Officer Standards and Training (POST) entities across the nation, and responses to questions posed to POST boards across the nation;

- (2) Received the report of Permitted Interaction Group II, which included draft administrative rules for the Board's consideration;
- (3) Discussed the annual report of the Board to be submitted to the Legislature for the 2022 session; and
- (4) Discussed proposed Board legislation for 2022.

The Board plans to meet before the end of the year for discussion and decision making on the reports of the two permitted interaction groups.

III. Accounting of Expenditures

No expenditures. The Board had no funding.

IV. Recommended Legislation

The Board continues to support the proposed legislation submitted for the 2021 legislative session that would:

- (1) Explain the need to delay implementation of Act 220 to allow for further study;
- (2) Clarify that all ex officio members can have their designees serve on the Board;
- (3) Increase the number of law enforcement officer Board members from two to five, to ensure representation from each county and the State;
- (4) Delete the county police department experience restriction for the Board members who fill Board positions as members of the public;
- (5) Provide that the appointment of Board members by the Governor shall not be subject to Senate confirmation;
- (6) Require consideration of the Legislative Reference Bureau's study conducted pursuant to Act 124, Session Laws of Hawaii 2018, and require the Board's own study to evaluate how to efficiently and effectively satisfy its duties in accordance with the law;
- (7) Provide for the employment of a board administrator, without regard to chapter 76 civil service requirements, and one clerical position to assist the Board;

- (8) Delay the effective date of the certification, training, employment, and revocation and denial requirements of Act 220; and
- (9) Request an appropriation to cover the costs of staffing and Board expenses for the next year.

The Board's proposed legislation was introduced for the 2021 legislative session as Senate Bill No. 1046 and House Bill No. 892. At the Board meeting on October 26, 2021, the Board voted to change the implementation date for the certification of law enforcement officers from June 30, 2023 to June 30, 2024.