

LAW ENFORCEMENT STANDARDS BOARD

THURSDAY, AUGUST 31, 2023, 9:00 AM
THIS MEETING WAS HELD AS A VIDEO CONFERENCE
MEMBERS OF THE PUBLIC JOINED IN
THE ZOOM WEBINAR MEETING.

OPEN SESSION MEETING MINUTES

I. CALL TO ORDER; PUBLIC NOTICE; AND ROLL CALL.

The meeting was called to order by Board Chair Todd Raybuck at approximately 09:06 a.m.

A. Call to Order; Public Notice; Roll Call and

Present were Board Members: Department of the Attorney General designee Matthew Dvonch (for AG Anne Lopez); Director Gary Suganuma, LESB Board Chairperson Chief Todd Raybuck; Chief Arthur Logan; Jared Redulla; Jason Redulla; Adrian Dhakhwa; and Director Ed Sniffen. All members confirmed they were in a non-public location and not in the presence of persons who had a personal business, property, or financial interest on any issue before the Board at the meeting.

Also present were Deputy Attorney General (DAG) Lance Goto, DAG Candace Park, and DAG Lauren Nakamura.

B. Quorum Determination.

The eight Board Members present constituted a quorum.

II. PUBLIC TESTIMONY.

Instructions given by Chair Raybuck and DAG Lance Goto regarding public testimony and DAG Goto confirmed that no testimony had been submitted prior to the meeting. Chair Raybuck asked if there was currently any public testimony on any of the Agenda items. There was none.

III. APPROVAL OF BOARD MINUTES FOR THE JULY 26, 2023 MEETING.

Chair Raybuck asked if there was currently any public testimony on this agenda item. There was none.

A. Open Session Meeting Minutes for LESB Meeting on July 26, 2023 Discussion and Approval.

Draft minutes of the LESB Meeting held on July 26, 2023 distributed prior to meeting and available on the LESB Board website.

Adrian Dhakhwa noted the following amendments to Open Session Meeting Minutes for LESB Meeting on July 26, 2023:

- Title of document changes: Thursday must be changed to Wednesday
- Henry Haina standing in for Chief Jason Redulla designee of Director Dawn Chang of the Department of Land and Natural Resources
- Board membership changes must reflect presence of Henry Haina standing in for Chief Jason Redulla designee of Director Dawn Chang of the Department of Land and Natural Resources
- Page 2 Section V: addition of the following language: “pursuant to Act 278 passed last Legislative Session, reflecting the change from Department of Public Safety to the Department of Law Enforcement”.

Jason Redulla noted that Henry “Aina” needs to be amended to Henry “Haina”.

Motion to adopt the amendments and approve the amended minutes of July 26, 2023 Open Session. Motion seconded by Chief Logan. Solicitation of objections or abstentions. No objections. Motion passed, July 26, 2023 Open Session Meeting Minutes as amended approved.

B. Approval of Open Session Meeting Minutes for LESB Meeting on July 26, 2023.

Motion to adopt the amendments and approve the amended minutes of July 26, 2023 Open Session. Motion seconded by Chief Logan. Solicitation of objections or abstentions. No objections. Motion passed, July 26, 2023 Open Session Meeting Minutes as amended approved.

IV. DECISION MAKING REGARDING PROPOSED ADMINISTRATIVE RULES/BYLAWS OF THE BOARD.*

* Matters which require consultation with the Board’s attorneys on questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities, will be discussed in Executive Session pursuant to §92-5(a)(4), HRS.

Chair Raybuck asked if there was currently any public testimony on this agenda item. There was none.

Pursuant to H.R.S. § 92-2.5, the Permitted Interaction Group gave an oral report on their findings and recommendations at the July 26, 2023 meeting. Draft Proposed Administrative Rules/Bylaws of the Board as reported by the Permitted Interaction Group on July 26, 2023 distributed prior to meeting and available on the LESB Board website.

Adrian Dhakhwa wished to notate in the Proposed Administrative Rules/Bylaws of the Board currently references that the Board has 15 members. However, given the change to 14 members as notated in the July 26, 2023 Open Session Meeting Minutes as amended, the Board may have to amend the Administrative Rules/Bylaws when Act 278 takes effect (January 2024). Chief Raybuck suggested that the change be made after Act 278 takes effect.

Motion to adopt the Proposed Administrative Rules/Bylaws of the Board as presented by

the Permitted Interaction Group on July 26, 2023 meeting made by Jared Redulla, motion seconded by Chief Logan. Roll call vote taken, no objections or abstentions. Motion passed, Law Enforcement Standard Board Proposed Administrative Rules/Bylaws of the Board as presented by the Permitted Interaction Group on July 26, 2023 meeting approved.

V. DECISION MAKING REGARDING POSITION DESCRIPTIONS FOR ADMINISTRATOR AND OFFICE ASSISTANT

* Matters which require consultation with the Board's attorneys on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities, will be discussed in Executive Session pursuant to §92-5(a)(4), HRS.

Chair Raybuck asked if there was currently any public testimony on this agenda item. There was none.

Pursuant to H.R.S. § 92-2.5, the Permitted Interaction Group gave an oral report on their findings and recommendations at the July 26, 2023 meeting. Draft position descriptions for the LESB Administrator and Office Assistant positions as reported by the Permitted Interaction Group on July 26, 2023 distributed prior to meeting and available on the LESB Board website.

Adrian Dhakhwa made a motion to adopt the proposed LESB Administrator Position Description as reported by the Permitted Interaction Group on July 26, 2023. Motion seconded by Jason Redulla. Roll call vote taken, no objections or abstentions. Motion passed, LESB Administrator Position Description as reported by the Permitted Interaction Group on July 26, 2023 meeting approved.

Chief Logan made a motion to adopt the proposed LESB Office Assistant Position Description as reported by the Permitted Interaction Group on July 26, 2023. Motion seconded by Gary Sukanuma. Roll call vote taken, no objections or abstentions. Motion passed, LESB Office Assistant Position Description as reported by the Permitted Interaction Group on July 26, 2023 meeting approved.

VI. NEW BUSINESS.

Chair Raybuck asked if there was currently any public testimony on this agenda item. There was none.

Draft LESB legislation distributed prior to meeting and available on the LESB Board website. Chief Raybuck noted that previously, the Board authorized the Chair and Vice Chair of the LESB to submit legislation on behalf of the Board without prior Board approval, and that prior legislation affected the LESB through changes to the H.R.S. rules and requirements expected of the LESB.

A. Legislative Issues.

1. Discussion and Decision Making on Proposed Board Legislation

Senate Bill 1046 and House Bill 892 – Chief inquired if the Department of the Attorney General had comment regarding these bills. Adrian Dhakhwa noted that the language sought in

SB 1046 on behalf of the Board has always been the same, requesting that the Administrator position be exempt, the designees allowed for the ex-officio members, members can be added without undergoing senate confirmation, issues regarding the effective date of certifications are all standard things which should be presented before the legislature. Adrian Dhakhwa recommended for the LESB to present another bill this session with the same language as previously proposed until the Board sees results with the Legislature. Chair Raybuck noted that House Bill 892 is a companion bill to SB 1046. Chief Logan concurred with Adrian Dhakhwa, Board should provide testimony and to sit down with the public safety committees in House and Senate to advocate for the LESB, perhaps a role that the LESB Legislative Committee can fulfill, and volunteered to participate on any such committee. Adrian Dhakhwa also volunteered to join committee, and asked to amend the board goals dates noted from 2024 to 2025.

Chair made a motion to approve LESB submittal of bills mirroring SB 1046 and HB 892 with proposed amendments noted by Vice Chair Adrian Dhakhwa. Chair noted that previously the Board legislation was made as part of the Attorney General package, and it was introduced as part of the Administration package. Prior motion made by Chair Raybuck withdrawn. A new motion to approve LESB submittal of bills mirroring SB 1046 and HB 892 with proposed amendments noted by Vice Chair Adrian Dhakhwa and submitted through Administrative package made by Matthew Dvonch. Motion seconded by Jared Redulla. Vote taken, no objections or abstentions. Motion approved.

Line Edits:

- Chief Logan: Page 18, Section 6, Line 16– delete “department of public safety” to be changed to “department of law enforcement”, deletion of “department of transportation”
- Chief Raybuck: change all references to “June 30, 2023” deadline to “June 30, 2026”. Chair Raybuck noted that as discussed in prior testimony to Legislature and in prior LESB meetings, date change will allow Board to have a reasonable date to meet the legislative deadline that has now passed.

Jared Redulla requested that the date be changed to June 30, 2026 in anticipation of needed time for the Board, the Board Administrator to not only meet the statutory objectives but also address other matters of necessary to Board operations e.g. certification, de-certifications, rulemaking regarding Board and practices of the Board; which are lengthy and have strict legal requirements to take effect. Jason Redulla concurred, adding that smaller agencies will also need time have to make requests to the legislature for appropriations in order to comply with the standards set by the Board in order to implement such standards. Given that it is unclear whether such appropriations will be approved by the Legislature, additional time is needed to ensure that all agencies have the resources to properly implement the standards required by the Board.

Chair Raybuck noted that the rule-making process that the Board will have to undergo is lengthy in order to meet legal requirements. To ensure that the Board meets its duty to create standards and rules for all law enforcement officers of the State, particularly important and necessary in this day and age, time is needed. Changing of the date from 2023 to 2026 is not meant to further delay the work of the Board, but reflects a realistic timeline necessary to identify and implement the significant requirements to be proffered by the Board for law enforcement officers of the State. Much of the work to implement the standards proposed by the Board is

outside of Board purview, and more importantly, the Board cannot function as intended without appropriate funding, resources and staffing – as such issues must be addressed in order for the Board to function and achieve its goals. Adrian Dhakhwa inquired if 2027 is a better timeframe. Chief Raybuck noted that 2026 would be a very ambitious and challenging deadline for the Board to meet its goals, but does not want to give the impression that the Board is consistently pushing out dates to give a “comfortable” timeframe to address issues at a leisurely pace. The Board’s prior requests to the legislature for assistance and modifying necessary language to allow the Board to function and operate as intended have been unsupported and to further extend the date would potentially jeopardize legislative support.

- Bill language on Section 5 on page 17 and 18 has dates that may need to be changed to June 30, 2026.
- On page 1, at the top of the page, reference to “state public safety officers” and “employees with police powers at the Department of Transportation” should be replaced with law enforcement officers of the Department of Law Enforcement.
- Chief Raybuck asked if additional language for funding is necessary as it is unclear if there is adequate funding for a Board Administrator, or an Office Assistant. There is sufficient funding for filling the position, but additional funding may be necessary. DAG Lance Goto noted that appropriations provisions on page 19, sections 8 and 9, can be deleted from the bill as the Board's funding is under the Attorney General’s budget. DAG Lance Goto noted that discussion on this area can take place in Agenda Item VI(B), and any budgetary requests would be directed to the Attorney General. Matthew Dvovich noted that the last legislative session LESB funding requests were included in the AG budgetary requests, and the AG can do so again, and concurs that separate appropriation language in this bill is unnecessary. Bill language to be amended to delete references to appropriations as funding source is now the Attorney General’s Office.
- Chief Logan wanted to review Section 139-7 of the bill, to ensure that it concurs with collective bargaining agreements already in place and clarify how the Board certification works with police department administration of officer employment. DAG Goto asked if page 19 line 4 addresses the concerns raised by Chief Logan. Chair Raybuck stated that law enforcement officers must meet the requirements set by the LESB in order to be certified and to be employed as a law enforcement officer. LESB has the ability to remove certification from law enforcement officers after adverse employment action which would effectively make the officer ineligible for employment by other law enforcement agencies in the State of Hawaii and potentially in other states as there is a national body that maintains a list of decertified officers. The language in paragraph 2 on page 19 ensures that law enforcement officers who entered into county or state employment prior to July 1, 2023 would not be affected by the LESB. This does not mean that officers hired before that date do not have to comply with the standards set by LESB, it would just mean that LESB will not retroactively terminate officers who met training requirements for their particular employment prior to July 1, 2023. Moving forward however, if the LESB sets training standards - all officers would be required to meet training standards set by the LESB. LESB Rules could clarify this point.

Adrian Dhakhwa asked if the revisions to the bill could be addressed without forming a Permitted Interaction Group? Matthew Dvovich noted that using a PIG would take time and would

make it difficult for the Board to meet the deadline for legislative proposals to the Administrative package and suggested that it would be better if the AGs work on the language. The Governor will decide whether to include the LESB bill in the Administrative package. Deadline is the next few weeks to get draft bills to the governor's office. Final Deadline of early November for final drafts to be presented to Governor's office.

Jared Redulla made a motion to allow Vice Chair Adrian Dhakhwa authority to craft language suitable for this bill. Gary Sukanuma suggested that this be an agenda item for the next meeting, and then anyone can bring proposed language for the bill to the next LESB meeting for discussion and decision making by the Board.

Motion made by Chair Raybuck to defer decision making on this Agenda item to allow board members to propose bill language amendments based upon the discussion of the Board today and for decision making at the next LESB meeting. Motion seconded by Chief Logan. Vote taken, no objections or abstentions. Motion approved.

2. Discussion and Decision Making on Board Action during Legislative Session
 - a) *Generating Testimony*
 - b) *Authority to Testify on Behalf of the Board*
3. Discussion and Decision Making on Proposal for a Legislative Committee

Chair and Vice Chair have previously been authorized to present testimony on behalf of the Board. Motion to authorize other Board members to present testimony on behalf of the Board. Matthew Dvovich inquired whether in the past when Board legislation was presented by the AGs office, did the AG office itself file testimony? Adrian Dhakhwa did not believe so. Testimony came from Chief Raybuck on behalf of the LESB Board. Members including the AG's Office provided independent testimony on behalf of the bill, but not representing the Board. Chief Raybuck requested that Board members provide independent testimony in support of the LESB bills through the departments which the Board Members represent.

Chief Logan suggested that Chair, Vice Chair, or designee be authorized to present testimony on behalf of the LESB, and individual Board members can present independent testimony in support of the LESB legislation. Adrian Dhakhwa concurred to allow flexibility in who represents LESB before the legislature.

Motion to defer Agenda Items VI(A)(2) through (3) to the next LESB meeting in mid-September by Jared Redulla. Seconded by Chief Logan. Vote taken, no objections or abstentions. Motion approved.

B. Budget Request to the Department of the Attorney General

Adrian Dhakhwa noted that current budget request includes funding for Administrator, Office Assistant and Office Supplies. Previously the Board had discussed seeking funding for a research analyst to assist in gathering information from similar Boards regarding standards promulgated across the country. Does the Board seek additional positions or funding and what is the justification?

Chief Raybuck noted that prior funding requests had included the research analyst because all the other states have similar Boards with various rules, regulations and standards. Conducting research regarding these matters likely falls outside the duties of the LESB Administrator or Office Assistant. DOJ appears to be focused on making all state standards consistent throughout the country. The Board previously requested \$400,000 which would include funding for this position and model Board's latest request in a similar fashion. Matt Dvnoch noted that proposed AG budget must be delivered to Department of Budget and Fiscal Services. If this is finalized at the next meeting the Board budget request could be included in the AG proposed budget.

VII. ADJOURNMENT.

Chair Raybuck thanked the Board Members for their support and participation in the LESB meetings, as well as before the Legislature. Specific recognition for those responding to Maui Fires. Motion to adjourn the meeting made by Adrian Dhakhwa. Motion seconded by Chief Logan. Meeting adjourned.

DRAFT