

JOSH GREEN, M.D.
GOVERNOR



ANNE E. LOPEZ
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December 1, 2023

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

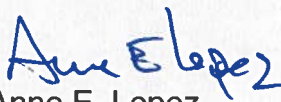
The Honorable Scott K. Saiki
Speaker and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

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

For your information and consideration, I am transmitting a copy of the Report 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 (808) 586-1500.

Sincerely,


Anne E. Lopez
Attorney General

c: Josh Green, M.D., Governor
Sylvia Luke, Lieutenant Governor
Legislative Reference Bureau (Attn: Karen Mau)
Leslie H. Kondo, State Auditor
Luis Salaveria, Director of Finance, Department of Budget and Finance
Stacey A. Aldrich, State Librarian, Hawaii State Public Library System
David Lassner, Ph.D., President, University of Hawaii

Enclosure

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REPORT ON THE LAW ENFORCEMENT STANDARDS BOARD

Pursuant to Section 139-9, Hawaii Revised Statutes

Submitted to
The Thirty-Second State Legislature
Regular Session of 2023

Section 139-9, Hawaii Revised Statutes (HRS), requires the Law Enforcement Standards Board (Board), established within the Department of the Attorney General for administrative purposes only, 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 Board was established by Act 220, Session Laws of Hawaii 2018 (Act 220), which added to the HRS 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, HRS, 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 July 26, 2023 meeting, the Board:

- (1) Received the report of the Permitted Interaction Group II (PIG II), tasked to propose administrative rules for adoption by the Board. PIG II recommended that consistent with advice from the Department of the Attorney General, those rules that are duplicative of Roberts Rules or the Hawaii Revised Statutes be repealed from the Board's administrative rules to prevent future inconsistencies. PIG II also recommended that the Board administrative rules be updated to reflect fourteen Board members instead of fifteen Board members, pursuant to section 42 of Act 278 of the 2022 Legislative Session;
- (2) Received the report and drafts position descriptions proposed by Permitted Interaction Group I (PIG I) for Law Enforcement Standards Board staff positions titled "Board Administrator" and "Office Assistant." PIG I also recommended that the Administrator position have a minimum qualification of ten years' experience in law enforcement with five years of supervisory experience; preferred qualifications to be twenty-five years of experience in law enforcement with ten years of supervisory experience; and
- (3) Received report from Vice Chair Adrian Dhakhwa regarding the approved budget for the Law Enforcement Standards Board in the following amounts:
 - (A) Administrator: \$120,000 for fiscal years 2024-2025;
 - (B) Office Assistant: \$38,238 for fiscal year 2024, and \$40,248 for 2025;
 - (C) Office Supplies: \$3,000 for fiscal years 2024-2025; and
 - (D) Nothing for rent and office space, with current plans for the Board office space to be in the State Office Tower.

At its August 31, 2023, meeting, the Board:

- (1) Approved the recommendations and proposed Law Enforcement Standards Board Administrative Rules drafted by Permitted Interaction Group II (PIG II);
- (2) Approved the recommendations and proposed Position Descriptions for (1) Board Administrator and (2) Office Assistant as drafted by Permitted Interaction Group I;

- (3) Received a status report regarding Senate Bill No. 1046 (2021) and House Bill No. 892 (2021), companion bills that did not pass in either 2021 or 2022, and matters raised in Board legislation that remain unaddressed by the Legislature; and
- (4) Discussed proposing legislation that would be similar to Senate Bill No. 1046 (2021) and House Bill No. 892 (2021) to address concerns regarding consistency with Act 278 of the 2022 Legislative Session, future funding of the Board, clarification of the Board's powers, deadlines for the Board to meet statutory requirements, additional Board staffing, and other matters of importance to the purpose and goals of the Board.

At its September 25, 2023, meeting, the Board:

- (1) Received a report from the Attorney General's Office regarding proposed legislation that seeks to address various Board issues that remain unresolved after the 2023 Legislative Session, discussed matters related to the introduction of such legislation, and voted to approve the proposed Board legislation to the Thirty-Second State Legislature Regular Session of 2024;
- (2) Discussed and voted to approve non-substantive amendments to bill language as proposed by the Department of the Attorney General during the 2024 Legislative session on behalf of the Board;
- (3) Authorized Chair, Vice Chair, or their designees to provide testimony on behalf of the Board and encouraged members to seek supporting testimony from the departments of the Board members supporting Board legislation;
- (4) Discussed the formation of a Board Legislative Committee to act on behalf of the Board through providing testimony, research and drafting of Board legislation, and representation before various Legislative bodies in pursuing matters relevant to Board powers and duties; and
- (5) Reviewed and approved the proposed Board Annual Report. Discussed and voted to approve non-substantive amendments to the Board's annual report as proposed by the Department of the Attorney General on behalf of the Board.

III. Accounting of Expenditures

No expenditures were made.

IV. Recommended Legislation

The Board continues to support legislation for 2024 that would be similar to the legislation submitted for the 2021 legislative session that would address the following:

- (1) Amend deadlines for completing Board responsibilities;
- (2) Provide an exemption for the Board administrator from civil service requirements under chapter 76, Hawaii Revised Statutes;
- (3) Increase the law enforcement officer members on the Board, from two to five;
- (4) Amend the ex officio member requirements to allow those members to designate an alternate to serve on the Board; and
- (5) Except from the certification requirement those law enforcement officers who were employed before July 1, 2026, and for whom termination of the employment would violate any collective bargaining agreement.