



HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i 96813

Committee: Committee on Government Operations
Committee on Ways and Means
Bill Number: S.B. 82, S.D.1
Hearing Date/Time: Tuesday, March 2, 2021, 10:00 a.m.
Re: Testimony of the Hawai'i State Ethics Commission
SUPPORTING THE INTENT of S.B. 82, S.D.1, Relating to
Government Operation and Policy

Chair Moriwaki, Vice Chair Dela Cruz, and Members of the Committee on Government Operations, and
Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee on Ways and Means:

The Hawai'i State Ethics Commission ("Commission") supports the intent of S.B. 82, S.D.1, which promotes integrity in state government by requiring new state board members to undergo annual educational training concerning their mission and responsibilities under relevant federal, state, and local laws. The Commission believes that additional training will aid board members in executing their duties.

The Commission respectfully suggests that S.B. 82, S.D.1, be amended to include language specifically requiring ethics training for certain board/commission members and other state employees.

Currently, the Ethics Code mandates training for a limited set of state officials, including legislators and some state employees (such as department directors and deputy directors); the Commission recommends expanding the requirement for ethics training to all board and commission members (and state employees) who are required to file a public financial disclosure under Hawai'i Revised Statutes ("HRS") § 84-17(d), as follows:

SECTION 1: The Commission recommends the addition of the following language to subsection (1) (page 8, line 19 to page 9, line 3), with proposed additional text italicized:

(1) Upon appointment, each new member shall participate in a formal educational and orientation session with the head of the department or agency that administratively controls or supervises the member's board or commission *in addition to ethics training as provided in Chapter 84; provided that no new member shall receive voting rights until the educational and orientation session is completed.*

The Commission suggests adding Sections 2 and 3 of S.B. 82, S.D.1, as follows:

SECTION 2. Section 84-42, Hawaii Revised Statutes, is amended to read as follows:

~~“[§84-42] Mandatory ethics training course. [All state officers and employees enumerated in section 84-41] (a) Legislators, members of the board of education, trustees of the office of Hawaiian affairs, the governor, the lieutenant governor, executive department heads and deputies, and every other employee whose financial disclosure statement is a public record pursuant to section 84-17(d) shall complete an ethics training course administered by the state ethics commission as provided in this part.”~~

SECTION 3. Section 84-41, Hawaii Revised Statutes, is repealed.

~~“[§84-41 Applicability of part. This part applies to legislators, members of the board of education, trustees of the office of Hawaiian affairs, the governor, the lieutenant governor, and executive department heads and deputies. This part does not apply to any other officer or employee of the State.]”~~

This mandatory training requirement would not apply to all board/commission members; instead, it would only apply to those board/commission members (and other state employees) who are required to file public financial disclosure statements pursuant to HRS § 84-17(d).¹ The Commission believes that further education about the State

¹ HRS § 84-17(d) provides:

- (d) The financial disclosure statements of the following persons shall be public records and available for inspection and duplication:
 - (1) The governor, the lieutenant governor, the members of the legislature, candidates for and delegates to the constitutional convention, the trustees of the office of Hawaiian affairs, and candidates for state elective offices;
 - (2) The directors of the state departments and their deputies, regardless of the titles by which the foregoing persons are designated; provided that with respect to the department of the attorney general, the foregoing shall apply only to the attorney general and the first deputy attorney general;
 - (3) The administrative director of the State;
 - (4) The president, the vice presidents, the assistant vice presidents, the chancellors, members of the board of regents, and the provosts of the University of Hawaii;

(continued)

Ethics Code will assist board members and other state employees in carrying out their duties.

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on S.B. 82, S.D.1.

Very truly yours,

Kee Campbell
Staff Attorney

-
- (5) The members of the board of education and the superintendent, the deputy superintendent, the state librarian, and the deputy state librarian of the department of education;
 - (6) The administrative director and the deputy director of the courts;
 - (7) The administrator and the assistant administrator of the office of Hawaiian affairs; and
 - (8) The members of the following state boards, commissions, and agencies:
 - (A) The board of directors of the agribusiness development corporation established under section 163D-3;
 - (B) The board of agriculture established under section 26-16;
 - (C) The state ethics commission established under section 84-21;
 - (D) The Hawaii community development authority established under section 206E-3;
 - (E) The Hawaiian homes commission established under the Hawaiian Homes Commission Act of 1920, as amended, and section 26-17;
 - (F) The board of directors of the Hawaii housing finance and development corporation established under section 201H-3;
 - (G) The board of land and natural resources established under section 171-4;
 - (H) The state land use commission established under section 205-1;
 - (I) The legacy land conservation commission established under section 173A-2.4;
 - (J) The natural area reserves system commission established under section 195-6;
 - (K) The board of directors of the natural energy laboratory of Hawaii authority established under section 227D-2;
 - (L) The board of directors of the Hawaii public housing authority established under section 356D-3;
 - (M) The public utilities commission established under section 269-2; and
 - (N) The commission on water resource management established under section 174C-7.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
1177 Alakea Street, First Floor
Honolulu, Hawaii 96813

EDMUND "FRED" HYUN
CHAIR

CLAYTON H.W. HEE
GENE DEMELLO
MEMBERS

ANDREW MORGAN
ACTING ADMINISTRATOR

No. _____

TESTIMONY ON SENATE BILL SB 82, SD 1
RELATING TO GOVERNMENT OPERATION AND POLICY



by
Andrew Morgan
Acting Paroles & Pardons Administrator

Senate Committee on Government Operations
and
Senate Committee on Ways and Means

Senator Sharon Y. Moriwaki, Chair GVO
Senator Donovan M. Dela Cruz, Chair WAM

Tuesday, March 2, 2021 – 10:00 a.m.
Via Videoconference

Chair Moriwaki, Chair Dela Cruz, and Committee Members:

The Hawaii Paroling Authority (HPA) supports the intent of Senate Bill 82, SD 1. The purpose of this bill is to require new board members to participate in formal educational and orientation sessions with the head of the department or agency that administratively controls or supervises the member's board or commission to gain voting rights.

The Hawaii Paroling Authority agrees that formal training is necessary for board members. Once the board member has been confirmed and training

is complete, his/her voting rights should be granted immediately. An inmate is allowed a hearing before a three-panel parole board. The board must review all information provided and make a determination if the inmate is suitable for release. The parole board conducts approximately 4000 hearings per year. Any delay in the member's rights to vote would create a backlog in the decision-making process. The Hawaii Paroling Authority believes that amendments in HRS-353-62 to include training for all new board members and HRS 353-63 to adjust the language for additional compensation for members before finalizing this bill.

Thank you for the opportunity to present this testimony.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON GOVERNMENT OPERATIONS
AND WAYS AND MEANS**

**MARCH 2, 2021
10:00 A.M.
CONFERENCE ROOM 211**

**SENATE BILL NO. 82, SD1
RELATING TO GOVERNMENT OPERATION AND POLICY**

Chairpersons Moriwaki and Dela Cruz and Members of the Committees:

Thank you for the opportunity to testify on proposed Senate Bill No. 82, SD1. This bill requires each new member of a board or commission to participate in a formal educational and orientation session with the head of the department with jurisdiction of that member's board or commission to receive voting rights, and additionally requires each department and agency to train their respective board members at least once per calendar year. The Department respectfully opposes this bill.

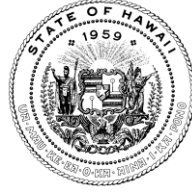
The board member selection process set forth in the enabling legislation establishing government agencies provide clear eligibility requirements that ordinarily include subject matter proficiency and experience. This process has yielded governance boards whose members who are knowledgeable, insightful, and decisive in providing invaluable policy guidance to government agencies. Effective training requires significant staff support, resources, and time. While the Department recognizes and acknowledges the value and benefit that training provides, we believe it is inadvisable to impose such additional burdens at this time on government agencies that are



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undergoing severe operational and staffing reductions due to budget shortfalls caused by the COVID-19 pandemic. A collateral impact of the crippling budget losses and freezes is the anticipated elimination of important government services to our agricultural stakeholders with bare minimum resources and staff.

Thank you for the opportunity to testify on this measure.



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Government Operations
and
Senate Committee on Ways and Means
Tuesday, March 2, 2021
10:00 a.m.
Via Videoconference**

On the following measure:

S.B. 82, S.D. 1, RELATING TO GOVERNMENT OPERATION AND POLICY

Chair Moriwaki, Chair Dela Cruz, and Members of the Committees:

My name is Catherine Awakuni Colón, and I am the Director of the Department of Commerce and Consumer Affairs (DCCA or Department). The Department appreciates the intent of this bill and offers comments.

The purpose of this bill is to require: (1) each new member of a board or commission to participate in a formal educational and orientation session with the head of the department with jurisdiction of that member's board or commission to receive voting rights; and (2) each department and agency to train their members at least once per calendar year.

Over 50 boards and commissions are administratively attached to the DCCA, including numerous professional and vocational licensing boards, and the board of directors of the Hawaii Hurricane Relief Fund. As such, this bill could have a significant impact on the DCCA. The Department recognizes and appreciates that this bill is

intended to ensure that board members have appropriate training to effectively fulfill their board responsibilities and agrees that board members should receive training. To that end, the Department offers the following suggestions and comments:

The language of this bill appears to be more appropriately located in Hawaii Revised Statutes section 26-35 rather than section 26-35.5.

The term “[u]pon appointment” on page 8, line 19 of S.D. 1 is ambiguous as it could be interpreted to refer to the date of Senate confirmation, the date the board member receives the letter of appointment, or another date.

The term “formal education and orientation session with the head of the department” on page 8, lines 20 and 21, appears to require the department head to conduct orientation training instead of the subject matter experts within the department who have greater expertise and familiarity with the relevant board. Therefore, this language may be overly specific as to whom must conduct the training.

Page 9, lines 1 through 3, prohibits a new member from receiving voting rights until training is completed. The Department has serious concerns about this prohibition. Although beneficial, training may not be necessary as a prerequisite for receipt of voting rights, as: (1) the member may not fully comprehend how to apply knowledge gleaned from training until an official matter comes before the board; (2) both the deputy attorney general and a department employee are present at the board meeting to answer questions; and (3) the inability of new members to cast a vote will negatively affect the board’s ability to meet quorum requirements and take action on pending board matters. As such, the Department requests that this precondition be deleted from the bill, in favor of language that requires orientation to occur within a certain period of time after appointment.

Page 9, lines 4 through 9, describes the annual training that must be conducted: “federal, state, and local laws; programs; processes and procedures; and statutes relevant to the work of the board or commission on which their members sit.” The Department has concerns that this vague and overly broad training requirement will invite unnecessary criticism and liability if a particular law, program, process, or procedure is inadvertently omitted from training.

The Department suggests that training received by any board member in any department be identified and bifurcated from department training or board-specific subject matter training. That way, the executive branch can more effectively and efficiently conduct mandatory training sessions while the departments can focus their training on board-specific orientation and subject matter training. The Department supports online on-demand training to reduce travel and per diem costs. In addition, because this bill places additional burdens on departments that house boards and commissions, as well as agencies that must conduct training, providing adequate funding to all affected departments and agencies would be important.

Should this measure pass, the Department would request additional funding and an additional position to implement the requisite training for the boards and commissions that the DCCA regulates. For the Committee's information, one to two members of each board and commission are typically replaced annually. In addition, the Department would request a delayed effective date to ensure sufficient time for implement this measure.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
GOVERNMENT OPERATIONS
and
WAYS AND MEANS**

**Tuesday, March 2, 2021
10:00 AM**

State Capitol, Conference room 211 and by Video Conference

**In consideration of
SENATE BILL 82 SENATE DRAFT 1
RELATING TO GOVERNMENT OPERATION AND POLICY**

Senate Bill 82 SD1 amends HRS §26-35.5 to include formal training to all state board members at least once a year. New members cannot vote until they have received the formal training.

The Department of Land and Natural Resources offers the following comments.

By placing the bill within HRS §26-35.5 the department assumes that the intent of the legislature is to limit liability for board members by conducting these trainings. However, there is no language in the amendment to tie trainings to liability. If a member does not attend an annual training, state coverage for liability does not change. The Department suggests that the legislature clarify the reason for the training so there is a focus to the material. If the purpose of the training is not to decrease liability, then perhaps training belongs in another section, such as HRS §26.35.

The Department supports training for board members, but has 2 boards, 5 commissions, 5 burial councils, the Aha Moku and several other small legislatively authorized committees or councils that may fall under the scope of this bill. To have the “head of the department” attend all of these trainings would significantly detract from her other duties. The Department suggests this language be removed. The Department supports modular web or video-based training so that members, who are volunteers and often lead busy lives, can take the training at time convenient to their schedules.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

The proposed language of the bill would prohibit members from voting if they do not receive the training. The Department notes that this could affect quorum for some boards and suggests this language be removed.

Given the number of Boards and Commissions within the Department, it would make logistical sense to train new board and commission members at the required annual training, rather than to hold separate trainings. Further, most boards and commissions share general basic duties and responsibilities, and this part of the training should be standardized across the department, or possibly across all departments. For example, responsibilities under ethics laws or sunshine laws do not differ by department.

The Department notes, with regard to process, procedures, and statutes, deputy Attorney Generals are normally on hand to guide the boards with legal advice.

Thank you for the opportunity to testify on this measure.



DAVID Y. IGE
Governor

JOSH GREEN
Lieutenant Governor

MIKE MCCARTNEY
Director

DANIEL ORODENKER
Executive Officer

SCOTT A.K. DERRICKSON AICP
Chief Planner

RILEY K. HAKODA
Chief Clerk/Planner

NATASHA A. QUINONES
Program Specialist

FRED A. TALON
Drafting Technician

LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

Statement of
Daniel E. Orodenker
Executive Officer
State Land Use Commission

Before the
Senate Committees on

Government Operations
and
Ways and Means

Tuesday March 2, 2021
10:00 AM
CR 211, Virtual Video Conference

In consideration of
SB 82 SD1
RELATING TO GOVERNMENT OPERATION AND POLICY

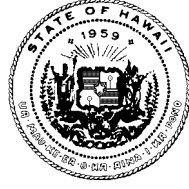
Chairs Moriwaki and Dela Cruz; Vice Chairs Dela Cruz and Keith-Agaran; and members of the Senate Committees on Government Operations, and Ways and Means:

The Land Use Commission takes no position on SB 82 SD1 but offers comments.

While the LUC fully supports the training and education of commissioners, and in fact undertakes significant measures to do so, we would suggest that the provision requiring board or commission members be given an orientation by the head of the department with jurisdiction over that board or commission should be amended. While in some cases, such as the Board of Land and Natural resources, the head of the department may have a working knowledge of the role, activities and issues facing that board or commission, many do not. For entities such as the Land Use Commission, the Director will not have the requisite knowledge to provide assistance to the commissioners. We would suggest that the provision contained in the proposed section (k) (1) be amended to require training by the Executive officer, Executive Director or key staff rather than the Director.

Thank you for the opportunity to testify on this matter.

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

March 1, 2021

TO: The Honorable Senator Sharon Y. Moriwaki, Chair
Senate Committee on Government Operations

The Honorable Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways & Means

FROM: Cathy Betts, Director

SUBJECT: **SB 82 SD1 – RELATING TO GOVERNMENT OPERATION AND POLICY.**

Hearing: March 2, 2021, 9:30 a.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this measure and provides comments regarding the proposed subsection (I). DHS appreciates points discussed in the testimony of the Department of Commerce & Consumer Affairs.

PURPOSE: The purpose of the bill requires each new member of a board or commission to participate in a formal educational and orientation session with the head of the department with jurisdiction of that member's board or commission to receive voting rights. Requires each department and agency to train their members at least once per calendar year. (SD1)

With regard to proposed subsection (I), DHS agrees that training resources should be available to new members as well as interested applicants to boards and commissions. DHS respectfully suggests that training mandates and resources be centralized and on-line, and perhaps be made available during the application process, so that applicants understand more fully their role, responsibilities, and time commitment when becoming a member of a State

board or commission. The ability to record course completion for core curriculum would also be a benefit.

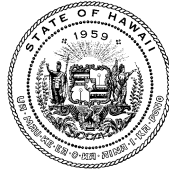
For commissions or councils that do not have paid staff, the administrative tasks of these commissions or councils are often left to the agency staff to perform. As administrative staff resources are limited, and in the case of DHS are more often cost-allocated to program funding streams, these unfunded responsibilities will require additional general funded resources to support these training modules and mandates.

DHS also requests clarification of the required training subject matter. While commissions may be attached for administrative purposes, unless the Legislature has provided it, the agency may not necessarily have any controls, supervisory authority, or subject matter knowledge over the mission, or the work of the attached commission, board, or council. Depending upon the backgrounds and interests of the members, the statutory mission can be interpreted broadly and differently from previous board or commission leadership. Additional resources should be made available to the board or commission directly so that they may develop their own training resources.

DHS is concerned that the business of the board or commission not be delayed because a member is not able to vote due to their lack of specified training; quorum would be difficult to maintain whenever new members join which may further delay the work of the board or commission.

Thank you for the opportunity to provide comments on this measure.

DAVID Y. IGE
GOVERNOR



CURT T. OTAGURO
COMPTROLLER
AUDREY HIDANO
DEPUTY COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
CURT T. OTAGURO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
COMMITTEES ON
GOVERNMENT OPERATIONS
AND
WAYS AND MEANS

TUESDAY, MARCH 2, 2021, 10:00 A.M.
CONFERENCE ROOM 211 VIA VIDEOCONFERENCE, STATE CAPITOL

S.B. 82, S.D. 1

RELATING TO GOVERNMENT OPERATION AND POLICY.

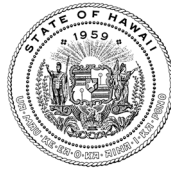
Chairs Moriwaki and Dela Cruz, Vice Chairs Dela Cruz and Keith-Agaran, and members of the Committees, thank you for the opportunity to submit testimony of S.B. 82. S.D. 1.

The Department of Accounting and General Services (DAGS) appreciates the intent of S.B. 82, S.D. 1 which requires each new member of a board or commission to participate in a formal educational and orientation session with the head of the department with jurisdiction of that member's board or commission to receive voting rights and requires each department and agency to train their members at least once per calendar year. The DAGS has seven (7) attached agencies that have their own boards and commissions. The DAGS offers the following comments:

1. Hawaii Revised Statutes, section 26-35(a)(8) restricts the department head from supervising or controlling the board or commission "in the exercise of its functions, duties and powers".

2. The head of the agency that has direct administrative control or supervision to the board or commission members should confirm with their board/commission chair that all members had the appropriate training.
3. Board or commission chairs should send certifications of completed training to the Office of the Governor's Boards and Commissions Office to track compliance.
4. We recommend that all members of boards and commissions also be required to complete existing training offered by the State Ethics Commission and the Office of Information Practices.

Thank you for the opportunity to submit testimony on this matter.



STATE OF HAWAII
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
201 MERCHANT STREET, SUITE 1700
HONOLULU, HAWAII 96813
Oahu (808) 586-7390
Toll Free 1(800) 295-0089
www.eutf.hawaii.gov

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ADMINISTRATOR
DEREK M. MIZUNO

ASSISTANT ADMINISTRATOR
DONNA A. TONAKI

WRITTEN ONLY

TESTIMONY BY DEREK MIZUNO
ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATES COMMITTEE ON GOVERNMENT OPERATIONS AND WAYS AND
MEANS
ON SENATE BILL NO. 82 S.D. 1

March 2, 2021
10:00 a.m.
Conference Room 211 & Via Videoconference

RELATING TO GOVERNMENT OPERATION AND POLICY

Chairs Moriwaki and Dela Cruz and Members of the Committees:

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees has not taken a position on this bill. EUTF staff would like to provide comments.

The intent of this bill is to mandate a formal educational and orientation session for new board members and annual training for all board members. New EUTF board members currently receive a formal educational and orientation session with the EUTF Administrator prior to their first Board meeting. EUTF staff would like to raise concerns on the requirement for an annual training session. The EUTF board meets monthly for 2-3 hours and usually has at least one Administrative, Benefits or Investment Committee meeting (another 2-3 hours) each month. During these meetings, the Board and committees discuss the "mission, roles, and responsibilities under federal, state and local

EUTF's Mission: We care for the health and well being of our beneficiaries by striving to provide quality benefit plans that are affordable, reliable, and meet their changing needs. We provide informed service that is excellent, courteous, and compassionate.

laws; programs; processes and procedures; and statutes relevant to the work of the board". Additionally, most EUTF board members serve long tenures with many serving the full two, four-year terms. Annual mandatory training on the basic functions and rules of the EUTF does not seem to be necessary.

Thank you for the opportunity to testify.



STATE OF HAWAII
Executive Office on Early Learning
2759 South King Street
HONOLULU, HAWAII 96826



March 1, 2021

TO: Senator Sharon Y. Moriwaka, Chair
Senator Donovan M. Dela Cruz, Vice Chair
Senate Committee on Government Operations

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

FROM: Lauren Moriguchi, Director
Executive Office on Early Learning

SUBJECT: Measure: S.B. No. 82 S.D. 1 – RELATING TO GOVERNMENT OPERATION AND POLICY

Hearing Date: Tuesday March 2, 2021

Time: 10:00 a.m.

Location: Videoconference

Bill Description: Requires each new member of a board or commission to participate in a formal educational and orientation session with the head of the department with jurisdiction of that member's board or commission to receiving voting rights. Requires each department and agency to train their members at least once per calendar year (SD1).

EXECUTIVE OFFICE ON EARLY LEARNING'S COMMENTS

Good morning. I am Lauren Moriguchi, Director of the Executive Office on Early Learning (EOEL). EOEL is providing comments on S.B. No. 82 – relating to government operation and policy. The purpose of this bill is to require: each new member of a board or commission to participate in a formal educational and orientation session with the head of the department with jurisdiction of that member's board or commission to receive voting rights, and each department/agency to train their members at least once per calendar year.

EOEL is statutorily responsible for the development of the State's early childhood system that shall ensure a spectrum of high-quality development and learning opportunities for children throughout the state, from prenatal care until the time they enter kindergarten, with priority given to underserved or at-risk children. The Early Learning Board (ELB) was established as a governing board through Act 202, SLH 2017.

ELB is responsible for directing the EOEL on how best to meet the developmental and educational needs of children, from prenatal care to entry into kindergarten; providing recommendations to EOEL on improving the quality, availability, and coordination of early learning

programs; promoting collaboration across agencies and stakeholders serving young children; and appoint the EOEL director and evaluating the director on an annual basis.

Subsection (l) of Section 1, (page 8 lines 19-21 and page 9 lines 1-3), of S.B. No. 82 S.D. 1 states that “upon appointment, each new member shall participate in a formal educational and orientation session with the head of the department or agency that administratively controls or supervises the member’s board or commission; provided that no new member shall receive voting rights until the educational and orientation session is completed.”

The EOEL is attached to the Department of Education (HIDOE) for administrative purposes only, and is governed by a separate board, the ELB. As such, it is unclear whether the director of EOEL or the Superintendent of HIDOE would be responsible for providing the formal educational and orientation session with ELB members. Furthermore, current language would not allow a designee or subject matter expert, who may be more familiar with the relevancy of the board, within the EOEL or HIDOE to conduct the training.

On page 8, line 19, the term “upon appointment” is unclear and could be interpreted to refer to the date of Senate confirmation, the date the board member receives the letter of appointment, or another date.

EOEL would also like to respectfully express concerns around the requirement that “no new member shall receive voting rights until the educational and orientation session is complete.” EOEL agrees that training for new members would be beneficial, however, it may not be a necessary prerequisite for receipt of voting rights as: the member may not fully comprehend how to apply knowledge gleaned from training until an official matter comes before the board; subject matter experts both within the office and on the board are present at board meetings to answer questions; and the inability of new members to cast a vote may negatively impact the board’s ability to meet quorum requirements, potentially impacting necessary action on important board-related matters and decisions.

Page 9, lines 6 through 9, states the annual training that departments and agencies “shall train their members regarding their mission, roles, and responsibilities under federal, state, and local laws; programs; processes and procedures; and statutes relevant to the work of the board or commission on which their members sit.” As EOEL is statutorily responsible for the coordination of the early childhood system, this training may encompass laws, programs, processes and procedures, and statutes that fall under the purview of other departments such as the Department of Human Services, HIDOE, and the Department of Health. This would require extensive time, collaboration, and additional resources to implement. Furthermore, EOEL has concerns that the vague requirement may invite unnecessary liability if a particular law, program, process, or statute is unintentionally or inadvertently omitted from the training and orientation.

Should this measure pass, and the EOEL is determined to be responsible for conducting the training and orientation, the office would need to request additional funding and an additional position to implement the requisite training that would require coordination and collaboration with other departments.

Thank you for your consideration, and for the opportunity to testify on this bill. I am happy to answer any questions you may have.

SB-82-SD-1

Submitted on: 2/24/2021 1:59:56 PM

Testimony for GVO on 3/2/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch, Sr.	Individual	Support	No

Comments:

Please pass SB82, SD1. Thank you, Mike Golojuch, Sr.

SB-82-SD-1

Submitted on: 2/25/2021 5:12:52 PM

Testimony for GVO on 3/2/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Will Caron	Individual	Support	No

Comments:

Seems like a good practice for those with decision-making authority to be trained and familiar with their subject material. I support. Mahalo.

SB-82-SD-1

Submitted on: 2/28/2021 12:30:28 AM

Testimony for GVO on 3/2/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Pcola_Davis	Individual	Support	No

Comments:

I support this bill to require formal education and orientation of new board members prior to having voting rights. After completion voting rights will be received.

Newly appointed members need an orientation and formal education for performing what is required and knowing what is expected of them. Appointments do not necessarily mean that the member is fully prepared to carry out their responsibilities.

Due to new legislation and other changes that may affect any board or commission, it is necessary to annually require training of their members regarding their mission, roles, and responsibilities under federal, state, and local laws; programs; processes and procedures; and statutes relevant to the work of the board or commission on which their members sit."

There also should be an accounting of when the training was completed.

SB-82-SD-1

Submitted on: 2/26/2021 3:49:20 PM

Testimony for GVO on 3/2/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
ANNETTE TASHIRO	Individual	Oppose	No

Comments:

As an appointed member of the Statewide Independent Living Council and State Rehabilitation Council, I found that it takes awhile to get appointed. Then, after receiving confirmation, the timeline to receive orientation and training has been a challenge. By the time one sits on the council and attend meetings it sometimes takes almost a year before one can vote on any business that may affect people in the community. There must be a more efficient process to receive formal education and orientation from the head of the department or agency. Also, heads of departments are appointed by the Governor and whenever the Governor changes so does the Department heads. What happens to consistency of content?

By the time voting rights are received the person's time on the Board, Commission, or Council may have expired.

Therefore I oppose the proposed changes unless some of the appointment issues are resolved.

SB-82-SD-1

Submitted on: 2/26/2021 9:05:11 PM

Testimony for GVO on 3/2/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dennis L. Neves	Individual	Oppose	No

Comments:

When I first became a commissioner I attended a two day orientation with each of the section managers and the department manager as well. I don't feel formal training is needed. I believe each sections policies and procedures and past commissioner policy decisions need to be provided to the commissioners. I feel a good orientation with updated information is adequate for decision making.

SB-82-SD-1

Submitted on: 2/27/2021 5:32:19 PM

Testimony for GVO on 3/2/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tara Reed	Individual	Oppose	No

Comments:

As a long time standing committee member in a variety of arenas including county and state boards for the Governor I find that restricting voting until mandatory training by a "director" would further complicate and delay decision. A voting member can simply abstain from voting if they do not have enough information to make an informed decision. A member can easily familiarize themselves with bylaws available upon being appointed. If passed, this requirement would hinder and discourage participation in my experienced opinion.

Thank You,

Tara Reed BSW

current member of Maui Area Service Board SAMH and State Council on Mental Health

SB-82-SD-1

Submitted on: 3/1/2021 10:03:50 AM

Testimony for GVO on 3/2/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kenneth Zeri	Individual	Oppose	No

Comments:

Dear Senators Moriwaki and Dela Cruz,

I write to oppose this current bill. The proposed amendments under section 1 (l) and (m) are unclear as to the specifics recommended for an orientation. This could mean critical legal issues such as Sunshine laws and critical operational issues such as overall department structure and mission. Further, the bill does not address issues regarding quorum. For instance, if the member is not to be allowed to vote until oriented, does that person still count towards quorum, or does it in somehow negatively impact the establishment of quorum.

Lastly, this seems to be a very granular operational issue that should frankly be under the direction of the director versus incorporated into law. I have had the honor of serving on the EMS Advisory Committee and we have undertaken this type of orientation recently. I recommend the same for all other boards and commissions.

Please hold this bill in committee.

Sincerely,

Kenneth Zeri, RN, MS

SB-82-SD-1

Submitted on: 2/28/2021 11:56:22 PM

Testimony for GVO on 3/2/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
GLENN M SAKUDA	Individual	Comments	No

Comments:

I am currently the Chair of the Board of Review for the First Taxation District. This testimony represents my personal views and may not represent the views of the other members of the Board of Review.

I believe that the Boards of Review under HRS section 232-6 should not be subject to training conducted by the Department of Taxation, as proposed by SB 82, SD 1. Because of the role of the Boards of Review in hearing tax appeals, the Boards of Review should remain impartial. However, SB 82, SD 1 would require the Department of Taxation – one of the parties to each appeal – to train the Board of Review members, who are the decision makers in each appeal. It is likely that any such training would reflect the views of the Department of Taxation. Whether intentional or not, the training could put appellant taxpayers at greater disadvantage in appeals if Board members become predisposed to accept the Department of Taxation’s views in appeal hearings because of the training received.

If the Board of Review is to remain an effective alternative to an appeal to the Tax Appeal Court, the impartiality of the Boards of Review should be maintained. The appearance of impartiality is also important for taxpayers. Taxpayers should be confident that the Board of Review has fairly considered their evidence and arguments and that the Board members were not predisposed to favor of the Department of Taxation as a result of training given to the Board members by the Department of Taxation.

The Boards of Review have the powers and responsibilities that are set forth in in HRS section 232-7. The Board members are required to decide on the correctness of the amounts assessed against taxpayers by the Department of Taxation, based on the evidence presented at the appeals hearings. The statute is brief and does not provide detailed requirements for the performance of the Board’s duty of rendering decisions on appeals. There are no Administrative Rules issued under HRS sections 232-6 or 232-7. I believe that the Chair of the Board of Review of each Taxation District would be capable of training new Board members on the provisions of HRS section 232-6 and 232-7 and on any legislative changes to those provisions.