

JOSH GREEN, M.D.
GOVERNOR



DEPT. COMM. NO. 153

ANNE E. LOPEZ
ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
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425 QUEEN STREET
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VALERIE M. KATO
ACTING FIRST DEPUTY ATTORNEY
GENERAL

December 9, 2022

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, 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 Law Enforcement Standards Board (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 January 26, 2022, meeting, the Board:

- (1) Conducted deliberations and decision-making on the report of Permitted Interaction Group I (PIG I), tasked to contact police officer standards boards for the purpose of gathering and sharing information to the assist the Board in establishing law enforcement officer standards in Hawaii. The Board approved the recommendation of PIG I to secure dedicated funding for the Board;
- (2) Conducted deliberations and decision-making on the report of Permitted Interaction Group II (PIG II), tasked to propose administrative rules for adoption by the Board. The Board approved the recommendation of PIG II to refer the proposed administrative rules to the Attorney General for legal review and request that the Attorney General brief the Board in a subsequent meeting on the chapter 91, HRS, rulemaking procedures for boards;
- (3) Distributed the "Model Minimum Standards" of the International Association of Directors of Law Enforcement Standards and Training (IADLEST) for Board review and discussion at a later time; and
- (4) Discussed the pending Board legislation during the 2022 Legislative Session and authorized the Chair or designee to reach out to the Legislature and request hearings on the bills and submit testimony on behalf of the Board.

At its August 30, 2022, meeting, the Board:

- (1) Received a legal review from the Department of the Attorney General of the Board's proposed administrative rules, and was advised regarding the rulemaking process pursuant to chapter 91, HRS;
- (2) Discussed proposed administrative rules and created a Permitted Interaction Group to further work on the Board's proposed administrative rules or bylaws;
- (3) Received a status report regarding Senate Bill No. 1046 (2021) and House Bill No. 892 (2021) and matters raised in Board legislation that remain unaddressed; and

- (4) Discussed funding received by the Legislature for two positions, (A) Board Administrator, and (B) Office Assistant, through the budget for the Department of the Attorney General, and created a Permitted Interaction Group (PIG III) to draft position descriptions and to recommend hiring processes.

At its December 2, 2022, meeting, the Board:

- (1) Permitted PIG II to defer its status report regarding the Board's Proposed Administrative Rules/Board Bylaws as more time was needed to prepare its report, and seek further guidance regarding proposed amendments to administrative rules and/or by-laws;
- (2) Received a report from the Attorney General's Office regarding proposed Board legislation which seeks to address various Board issues that remain unresolved after the 2022 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 2023;
- (3) Received a report from the Attorney General's Office regarding the Board's Budget Request, including:
 - (A) Inclusion of the Board Budget Request in the Department of the Attorney General Budget proposal, and
 - (B) Details of the proposed budget request as follows:
 1. Administrator: \$60,000;
 2. Office Assistant: \$22,000;
 3. Special Projects and Consultation: \$120,000;
 4. Lease Payment: \$54,000;
 5. Copier: \$14,000;
 6. Supplies: \$6,000;
 7. Telephone: \$6,000;
 8. Licenses, memberships, dues: \$5,000;
 9. Postage: \$12,000; and

10. Travel: \$18,000.

The Board discussed the proposed Board Budget Request and voted to approve the Board's Budget Request's inclusion into the Department of the Attorney General Budget proposal;

- (4) PIG III requested to defer its status report regarding the Board Administrator and Board Office Assistant draft position descriptions and hiring processes, as well as other related staffing issues; and
- (5) Reviewed and approved the proposed Board Annual Report.

III. Accounting of Expenditures

No expenditures. The Board had no funding.

IV. Recommended Legislation

The Board continues to support legislation for 2023 that would be similar to the legislation submitted for the 2022 legislative session and would address the following:

- (1) Deadlines for completing Board responsibilities;
- (2) Other Board costs such as workspace, a contract researcher, travel for board members, and operational costs such as copying and supplies;
- (3) Board personnel who are not exempt from civil service requirements under chapter 76, HRS;
- (4) Five, instead of two, law enforcement officer members;
- (5) Designees for all ex officio members;
- (6) Extend the terms of the members from three to four years; and
- (7) Excepting from the certification requirement, those law enforcement officers who were employed before July 1, 2025, and whether termination of the employment would violate any collective bargaining agreement.