



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

H.B. NO. 2352, H.D. 1, S.D. 1, RELATING TO LAW ENFORCEMENT.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, April 2, 2024 **TIME:** 10:05 a.m.

LOCATION: State Capitol, Room 016 and Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Adrian Dhakhwa,
Deputy Attorney General, at 808-586-1160)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) supports this bill.

The purposes of this bill are to: (1) clarify membership requirements for the law enforcement standards board to facilitate participation and representation; (2) enable the board to research the impact of uniform standards, certification, and training on existing legal requirements; (3) establish new deadlines for the completion of the board's responsibilities; and (4) exempt the board administrator from civil service laws.

The law enforcement standards board, established in 2018 by section 139-2, Hawaii Revised Statutes, is responsible for establishing minimum standards for employment as a law enforcement officer. The board is also responsible for creating and overseeing the certification, re-certification, and revocation of certification processes for law enforcement officers. It must establish minimum criminal justice curriculum requirements for basic, specialized, and in-service courses and programs for the training of law enforcement officers. The board is also responsible for investigating law enforcement officers when there is reason to believe that an officer does not meet the minimum standards for employment.

This bill will aid the board in accomplishing its statutory duties by increasing the size and perspective of the board and allowing ex-officio members to use designees. Currently, only the Chairperson of the Board of Land and Natural Resources and the

Director of Taxation are allowed to use designees, whereas the other ex-officio members do not have the same flexibility. This bill will also help the board accomplish its goals by extending a board member's term from three years to four years, which will enhance the commitment and stability of board members.

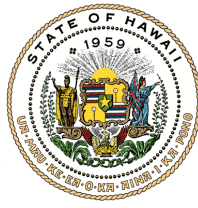
Currently, collective bargaining rules and employment laws govern various aspects of a law enforcement officer's career. Explicitly authorizing the board to study and evaluate these rules and laws will allow the board to establish standards, certification procedures, and training requirements that comport within the existing framework.

Additionally, the board was given an original deadline of July 1, 2019, to establish its standards and certification process. That deadline was pushed back to December 31, 2021. The Legislature provided full funding for the board's administrator and support staff for Fiscal Year 2023-2024, and this bill sets forth a realistic deadline of July 1, 2026, to accomplish all of the statutory duties listed in section 139-3, Hawaii Revised Statutes.

Exempting the board administrator position from civil service will allow the board the flexibility it needs to meet its broad duties and responsibilities. The board's role and that of the administrator are unique and not within the traditional civil service classification system. The board, therefore, needs the discretion to hire or terminate without complying with civil service requirements.

We respectfully ask your committee to change the defective effective date to the original effective date of "upon its approval" and otherwise pass this bill in its current form. Thank you for the opportunity to testify on this bill.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



JORDAN LOWE
DIRECTOR

MICHAEL VINCENT
Deputy Director
Administration

JARED K. REDULLA
Deputy Director
Law Enforcement

SYLVIA LUKE
LT GOVERNOR
KE KE'ENA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LAW ENFORCEMENT

Ka 'Oihana Ho'okō Kānāwai

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TESTIMONY ON HOUSE BILL 2352, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO LAW ENFORCEMENT

Before the Senate Committee on Judiciary

Tuesday, April 2, 2024; 10:05 a.m.

State Capitol Conference Room 016, Via Videoconference

WRITTEN TESTIMONY ONLY

Chair Rhoads, Vice Chair Gabbard, and members of the Committee:

The Department of Law Enforcement (DLE) **supports** House Bill 2352, House Draft 1, Senate Draft 1.

This bill clarifies the membership of the Law Enforcement Standards Board and adds to certain powers and duties of the Board, and establishes new deadlines for the completion of board responsibilities.

This is an important measure to assist the law enforcement community with the membership requirements and broader participation of law enforcement on the Board, direction to guide the Board in its duties, and deadlines to help establish benchmarks for successful accomplishment of the Board's work.

Thank you for the opportunity to testify in support of this bill.



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS
" A Police Organization for Police Officers Only "
Founded 1971

March 28, 2024

The Honorable Karl Rhoads
Chair
The Honorable Mike Gabbard
Vice-Chair
Senate Committee on Judiciary
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: **HB 2352 HD1 SD1 – Law Enforcement Standards Board**

Dear Chair Rhoads, Vice-Chair Gabbard, and Honorable Committee members:

I serve as the President of the State of Hawaii Organization of Police Officers (“SHOPO”) and write to you on behalf of our Union in **opposition** to HB 2352 HD1 SD1. This bill proposes multiple changes to existing law concerning the Law Enforcement Standards Board (“Board”). Along with eliminating the Board’s previous deadline to finalize its standards, this bill also widens the breadth of the Board’s powers to include review of and conducting its own studies. The bill also adds benchmark dates in 2026 for when its approved trainings and certifications would be applicable as requirements for existing and incoming law enforcement officers.

SHOPO opposes this bill because it creates duplicate certifications, standards, and law enforcement training already established and managed by the respective county police departments through their accredited training academies and does not adequately address collective bargaining rights guaranteed under the Hawaii Constitution.

As you may already know, all four (4) county police departments and their respective police academies are accredited by the Commission on Accreditation for Law Enforcement Agencies (“CALEA”). CALEA is nationally known as the gold standard benchmark in law enforcement and its accreditation seals are internationally recognized as the “Marks of Professional Excellence” for public safety agencies. Our county officers are highly trained, experienced, and investigate the broad range of crimes set forth in the Hawaii penal code as codified in the Hawaii Revised Statutes. Our officers are held to the highest professional standards and are investigated and held accountable for the slightest deviations or infractions.

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The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice-Chair
Senate Committee on Judiciary
March 28, 2024
SHOPO Testimony Page 2
Re: HB 2352 HD1 SD1 – Law Enforcement Standards Board

The policies and training of each county police department have much in common, but they also have special provisions and aspects tailored to each island's unique demands and diverse communities. It remains unanswered as to how another layer of training and certification is going to solve the current officer staffing crisis that is only getting worse, and when many current recruits are unable to pass the rigorous training standards required by each county police training academy.

The current version of this bill does not adequately address our members' collective bargaining rights guaranteed under the Hawaii Constitution. See HRS § 89-9. Collective bargaining is required anytime there are changes to wages, hours or working conditions of our members. We maintain our serious concern that the Board's power to revoke an officer's certification may also indirectly conflict with our collective bargaining agreement, the outcome of a grievance proceeding, and HRS chapter 89.

We reiterate our suggestion that if this Board continues forward, in order to make it truly all-inclusive and transparent, a position should be created for the appointment of a representative from our Union for the purpose of providing insight and input on training, certification, standards, and collective bargaining. Our Union and members operate on the front lines in the battle against crime and have the necessary training, current experience and knowledge that others on the Board will not possess. If the true intent is to make things better, having a Union representative on the Board will further that objective. While we appreciate that additional county law enforcement officers including an officer from each of the four counties are proposed to sit on the Board, we recommend that the county officers should hold the rank of lieutenant or lower and be nominated by the Union for the governor's appointment.

Finally, we recommend that the appointment of the public members of the Board should be with the advice and consent of the senate like any other board or commission and that the police chiefs themselves should be required to participate rather than pass their responsibilities on to someone else.

We thank you for allowing us to be heard to share our serious concerns with this bill and hope your committee will unanimously reject this bill and/or defer until further consideration is given to the issues and concerns we have raised.

Respectfully submitted,

ROBERT "BOBBY" CAVACO
SHOPO President



Hawai'i

Committee: Judiciary
Hearing Date/Time: Tuesday, April 2, 2024, at 10:10am
Place: Conference Room 016 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i With Comments and Proposed Amendments on H.B. 2352 HD1 SD1 Relating to Law Enforcement**

Dear Chair Rhoads, Vice Chair Gabbard and Members of the Committee:

ACLU of Hawai'i submits comments and proposed amendments on **HB 2352 HD1 SD 1**.

The Composition of the Board Does Not Adequately Represent Communities Most Heavily Policed as Recommended by the President's Task Force on 21st Century Policing Guide.

The President's Task Force on 21st Century Policing Guide lists the following principles under Pillar Two relating to Policy & Oversight: **1) Community input and involvement and 2) Local civilian oversight**. See <https://portal.cops.usdoj.gov/resourcecenter/RIC/Publications/cops-p341-pub.pdf>

Contrary to these best practices, HB 2352 HD1 SD1 increases the number of law enforcement officers on the Law Enforcement Standards Board from two officers to five officers, while continuing to allow the four public members to come from a law enforcement background as well.

The eight *ex officio* members of the Board also overwhelmingly work in law enforcement; among those members are four police chiefs and the Director of Law Enforcement. Meanwhile, there are currently *no* spots on the Board exclusively designated for those who can effectively represent the Hawai'i communities most heavily policed, such as public defenders, civil rights attorneys, social workers, and people with experience in police auditing or oversight.

Best practices in oversight requires reserving at least one-third of Board seats for members that can meaningfully represent the communities most heavily policed, and thus most impacted by police misconduct. These voices and expertise are crucial in ensuring that the Board's rules and decisions reflect the needs and aspirations of the entire community, and their inclusion can help strengthen relations between law enforcement and their communities.

Proposed Amendment

Currently, the proposed LESB will consist of 17 members. Given the criteria for the four public members, it's possible that all 4 public members will have a law enforcement background rather than reflecting representatives from impacted communities.

To remedy the disparity in composition of the Board, we recommend at least **requiring that one-third or more of the total Board slots allocated to members representative of Hawaii's most impacted communities.** This includes adding more public defenders, civil rights attorneys, social workers, criminologists and people with experience in police auditing or oversight.

Thank you for considering our testimony on **H.B. 2352 HD1 SD2** relating to the composition of the Law Enforcement Standards Board.

Sincerely,

Carrie Ann Shirota

Carrie Ann Shirota
Policy Director
ACLU of Hawai'i
cshirota@acluhawaii.org

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.