



**LATE**

# SB2325

**Measure Title:** RELATING TO A LAW ENFORCEMENT STANDARDS BOARD.

**Report Title:** Law Enforcement Standards Board; Special Fund; Appropriations (\$)

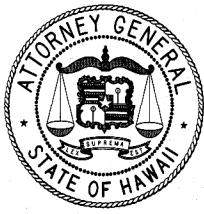
**Description:** Establishes a law enforcement standards board for the certification of county police officers, state public safety officers, and employees of the departments of transportation and land and natural resources with police powers. Establishes a special fund. Appropriates funds.

**Companion:** [HB1903](#)

**Package:** Women's Legislative Caucus

**Current Referral:** PSM/CPH, JDL/WAM

**Introducer(s):** L. THIELEN, BAKER, ESPERO, GREEN, IHARA, INOUYE, SHIMABUKURO, Chun Oakland, Kidani, Riviere



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2016**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2325, RELATING TO A LAW ENFORCEMENT STANDARDS BOARD.

**BEFORE THE:**

SENATE COMMITTEES ON PUBLIC SAFETY, INTERGOVERNMENTAL AND  
MILITARY AFFAIRS AND ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

**DATE:** Thursday, February 11, 2016 **TIME:** 8:30 a.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
James E. Halvorson, Deputy Attorney General, or  
Jeffrey A. Keating, Deputy Attorney General

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Chairs Nishihara and Baker and Members of the Committees:

The Department of the Attorney General provides comments and concerns regarding this bill.

This Bill establishes a law enforcement standards board for the certification of state and county law enforcement officers in Hawaii. The board would establish uniform minimum standards for law enforcement officers, establish criminal justice curriculum requirements for the training of law enforcement officers, facilitate the development of law enforcement officer training programs and schools, certify law enforcement officers who meet those standards, establish and require participation in continuing education programs, investigate and regulate law enforcement officers who do not meet minimum standards or engage in misconduct, revoke certifications of law enforcement officers who do not meet minimum standards or who engage in misconduct, and adopt rules to implement these responsibilities.

First, the responsibilities and expectations of this board may exceed the capability of a small, unpaid, part-time board. The addition of an administrator and support staff may not be adequate to meet the obligations of the board. For an example of scope of this proposed program, we might look to California's Commission on Peace Officer Standards and Training (POST). POST was established to set minimum selection and training standards for California law enforcement. The POST program, however, is voluntary. Participating agencies agree to abide by the POST standards. There is no regulatory component to POST. Information about the POST program can be found at its website, [www.post.ca.gov](http://www.post.ca.gov). POST has more than 130 staff

members that operate under an executive director, three assistant executive directors, and eight bureau chiefs for administrative services, computer services, basic training, standards-evaluation and research, training-delivery and compliance, learning technology resources, management counseling and leadership development, and training program services. California is a large state, but as broad as California's program is, POST still does not include an investigator or regulatory agency to oversee and enforce the mandatory certification program like that proposed by this bill.

Second, this bill authorizes the law enforcement standards board to investigate and deny or revoke the certification of a candidate or law enforcement officer who fails to meet or maintain the minimum standards established by the board or who has been involved in an act of misconduct. The bill does not however, provide for an administrative hearing and appeals process for these decisions and actions.

Third, it may be inconsistent with collective bargaining agreements to create a law enforcement standards board that would take action against law enforcement officers for misconduct. Under collective bargaining agreements, employers have the right to discipline officers for misconduct based on just cause, and unions have the right to grieve such disciplinary actions. Under this bill, though, the law enforcement standards board is not the employer, not a party to the collective bargaining agreement, and not subject to the grievance procedure.

Fourth, section 26H-6, Hawaii Revised Statutes, requires an analysis by the legislative auditor for new regulatory measures that would subject unregulated professions and vocations to licensing or other regulatory controls. Therefore, the auditor must conduct an analysis regarding the certification or licensing of law enforcement officers. It does not appear that the auditor has conducted the required analysis.

Finally, if minimum training requirements and standards are established, then there should be adequate and affordable training resources to meet those requirements, or there will not be enough qualified law enforcement officers available to enable agencies to meet their law enforcement responsibilities. Either the agencies will be required to provide the minimum training to new recruits and current officers, or public or private educational institutions will need to establish and provide the minimum training programs and pass on the costs of those programs to the recruits.

In addition to minimum training for law enforcement officers, state law enforcement officers need specialized training in areas of expertise and responsibility. For example, the Department of Land and Natural Resource's Division of Conservation and Resource Enforcement Officers require specific training in land and marine resources and marine enforcement. The Department of the Attorney General needs specialized training in high technology crimes, financial crimes, environmental crimes, and plant and animal quarantine laws. This additional training carries additional costs. If the board establishes minimum mandatory law enforcement officer training requirements, but training is not available, agencies may not have sufficient law enforcement personnel to meet their responsibilities.

Thank you for the opportunity to comment.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

NOLAN P. ESPINDA  
DIRECTOR

Cathy Ross  
Deputy Director  
Administration

Jodie F. Maesaka-Hirata  
Deputy Director  
Corrections

Shawn H. Tsuha  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 2325  
RELATING TO A LAW ENFORCEMENT STANDARDS BOARD

By  
Nolan P. Espinda, Director

Senate Committee on Public Safety, Intergovernmental Affairs, and Military Affairs  
Senator Clarence K. Nishihara, Chair  
Senator Will Espero, Vice Chair

Senate Committee on Commerce, Consumer Protection, and Health  
Senator Rosalyn H. Baker, Chair  
Senator Michelle N. Kidani, Vice Chair

Thursday, February 11, 2016; 8:30 a.m.  
State Capitol, Conference Room 229

Chairs Nishihara and Baker, Vice Chairs Espero and Kidani, and Members of the Committee:

The Department of Public Safety (PSD) **opposes** Senate Bill (SB) 2325, which seeks to create a Law Enforcement Standards Board under the Office of the Attorney General. Although PSD agrees with the intent of this measure, the Department believes that several components of the bill are problematical.

Primarily, one of the mechanisms to create the board requires that all existing resources for the training/certification of law enforcement officers be transferred to the office of the Attorney General. In addition, the provision to deny/remove certification of currently serving law enforcement officers may actually conflict with existing state/county laws and regulations that govern the hiring, training, and dismissal of employees, as well as, provisions of existing collective bargaining agreements.

Thank you for the opportunity to testify on this measure.