

JAN 22 2016

A BILL FOR AN ACT

RELATING TO A LAW ENFORCEMENT STANDARDS BOARD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that it is the role of
2 the State to oversee and regulate those professions and
3 occupations that have a significant impact on society. The
4 Hawaii Revised Statutes regulate private security guards. Law
5 enforcement is another area in which the State should do more to
6 provide statewide standards and uniformity.

7 The legislature further finds that the State and counties
8 grant to police, sheriffs, and other law enforcement officers
9 immense powers, such as the authority to search, arrest, and use
10 deadly force. Hawaii is the only state in the country without
11 any state-level regulation of police. Regulation is left to the
12 counties. Hawaii is only one of a handful of states that does
13 not establish minimum standards required to be a police officer
14 and does not have any procedure for revoking a police officer's
15 certification for serious misconduct.

16 The legislature further finds that the consequences of a
17 lack of statewide oversight of police are a matter of serious



1 public concern. Several recent incidents have highlighted a
2 need for greater oversight. For example, a former Honolulu
3 police officer was recently sentenced to prison for using
4 unreasonable force to violate the civil rights of two men. In
5 another incident, a Honolulu police sergeant was caught on video
6 in public engaged in a violent physical fight with his
7 girlfriend. In yet another example, the Federal Bureau of
8 Investigation is investigating the chief of police of the city
9 and county of Honolulu for alleged criminal violations.
10 Numerous local media stories have reported on the lack of power
11 that the Honolulu police commission possesses to implement
12 meaningful disciplinary actions for its police officers.

13 The legislature further finds that the State must enact a
14 law that certifies law enforcement officers to ensure the
15 highest standards of professionalism, the uniformity of
16 standards, and accountability throughout our islands.

17 The purpose of this Act is to establish a law enforcement
18 standards board for the certification of county police officers,
19 state public safety officers, and employees of the departments
20 of transportation and land and natural resources with police
21 powers.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 LAW ENFORCEMENT STANDARDS BOARD

6 § -1 Definitions. As used in this chapter, unless the
7 context clearly indicates otherwise, the following terms shall
8 mean as follows:

9 "Board" means the law enforcement standards board.

10 "Law enforcement officer" means:

- 11 (1) A police officer employed by a county police
12 department;
- 13 (2) A public safety officer employed by the department of
14 public safety; or
- 15 (3) An employee of the department of transportation or the
16 department of land and natural resources who is
17 conferred by law with general police powers.

18 § -2 Creation of law enforcement standards board;
19 composition. (a) There is created in the department of the
20 attorney general, for administrative purposes only, the law



1 enforcement standards board, which shall consist of seven ex
2 officio members and four public members.

3 (b) The ex officio members of the board shall be:

4 (1) The chiefs of police of the four counties;

5 (2) The director of public safety;

6 (3) The director of transportation; and

7 (4) The chair of the board of land and natural resources.

8 (c) One public member from each of the four counties shall
9 be appointed by the governor, in accordance with section 26-34.

10 At least two of the four public members holding a position on
11 the board at any given time shall:

12 (1) Possess a master's or doctorate degree related to
13 criminal justice;

14 (2) Possess a law degree and have experience:

15 (A) Practicing in Hawaii as a deputy attorney
16 general, a deputy prosecutor, deputy public
17 defender, or private criminal defense attorney;
18 or

19 (B) Litigating constitutional law issues in Hawaii;

20 (3) Be a recognized expert in the field of criminal
21 justice, policing, or security; or



1 (4) Have work experience in a law enforcement capacity;
2 provided that experience in the Honolulu police
3 department shall not be sufficient to qualify under
4 this paragraph.

5 (d) The public members of the board shall receive no
6 salary, but shall be entitled to reimbursement for necessary
7 expenses, including travel expenses.

8 § -3 Powers. The board shall have the power to do as
9 follows:

- 10 (1) Adopt rules in accordance with chapter 91 to implement
11 this chapter;
- 12 (2) Establish minimum standards for employment as a law
13 enforcement officer and certify persons to be
14 qualified as law enforcement officers;
- 15 (3) Establish minimum criminal justice curriculum
16 requirements for basic, specialized, and in-service
17 courses and programs for schools operated by or for
18 the State or a county for the specific purpose of
19 training law enforcement officers;
- 20 (4) Consult and cooperate with the counties, agencies of
21 the State, other governmental agencies, universities,



- 1 colleges, and other institutions concerning the
2 development of law enforcement officer training
3 schools and programs of criminal justice instruction;
- 4 (5) Employ, subject to chapter 76, an administrator and
5 other persons necessary to carry out its duties under
6 this chapter;
- 7 (6) Investigate when there is reason to believe that a law
8 enforcement officer does not meet the minimum
9 standards for employment, and in so doing, may
10 subpoena persons, books, records, or documents related
11 to the investigation and require answers in writing
12 under oath to questions asked by the council or the
13 administrator;
- 14 (7) Establish and require participation in continuing
15 education programs for law enforcement officers;
- 16 (8) Charge and collect fees for applications for
17 certification as a law enforcement officer; and
- 18 (9) Establish procedures to revoke a certification issued
19 pursuant to section -6(b) for serious misconduct.
- 20 § -4 Law enforcement standards board special fund;
21 established. There is established in the state treasury the law



1 enforcement standards board special fund. The revenues of the
2 special fund shall consist of appropriations made by the
3 legislature, fees charged by the board, grants, gifts, and
4 interest on moneys deposited in the special fund. The special
5 fund shall be used to defray the expenses of the board in
6 implementing this chapter.

7 § -5 **Training programs.** The board shall establish and
8 maintain law enforcement training programs through agencies and
9 institutions deemed appropriate by the board for applications
10 for certification.

11 § -6 **Standards.** (a) No person may be appointed as a
12 law enforcement officer unless the person:

13 (1) Has satisfactorily completed a basic program of law
14 enforcement training approved by the board; and

15 (2) Possesses other qualifications that the board has
16 established for the employment of law enforcement
17 officers, including minimum age, education, physical
18 and mental standards, citizenship, good conduct, moral
19 character, and experience.

20 (b) The board shall issue a certificate evidencing
21 satisfaction of the requirements of this section to an applicant



1 who satisfies the requirements of subsection (a) or
2 satisfactorily completes a program or course of instruction in
3 another jurisdiction equivalent in content and quality to that
4 required under subsection (a).

5 (c) The board may deny or revoke the certificate of an
6 applicant or law enforcement officer who fails to meet or
7 maintain the standards required under this section (a).

8 § -7 Employment of law enforcement officers. (a)

9 Except as provided under subsection (b), no person may be
10 appointed as a law enforcement officer by any county police
11 department, the department of public safety, the department of
12 transportation, or the department of land and natural resources,
13 unless the person has a valid certificate issued by the board
14 under section -6.

15 (b) This section shall not apply to a person employed on a
16 probationary basis, except that employment on a probationary
17 basis may not exceed the period authorized for probationary
18 employment as determined by the board."

19 SECTION 3. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so



1 much thereof as may be necessary for fiscal year 2016-2017 for
2 deposit into the law enforcement standards board special fund.

3 SECTION 4. There is appropriated out of the law
4 enforcement standards board special fund the sum of
5 \$ or so much thereof as may be necessary for fiscal
6 year 2016-2017 for the purposes of this Act.

7 The sum appropriated shall be expended by the department of
8 the attorney general for the purposes of this Act.

9 SECTION 5. All rights, powers, functions, and duties of
10 the department of land and natural resources, the department of
11 transportation, and the police departments of the several
12 counties relating to law enforcement standards are transferred
13 to the department of the attorney general.

14 All officers and employees whose functions are transferred
15 by this Act shall be transferred with their functions and shall
16 continue to perform their regular duties upon their transfer,
17 subject to the state personnel laws and this Act.

18 No officer or employee of the State having tenure shall
19 suffer any loss of salary, seniority, prior service credit,
20 vacation, sick leave, or other employee benefit or privilege as
21 a consequence of this Act, and such officer or employee may be



1 transferred or appointed to a civil service position without the
2 necessity of examination; provided that the officer or employee
3 possesses the minimum qualifications for the position to which
4 transferred or appointed; and provided that subsequent changes
5 in status may be made pursuant to applicable civil service and
6 compensation laws.

7 An officer or employee of the State who does not have
8 tenure and who may be transferred or appointed to a civil
9 service position as a consequence of this Act shall become a
10 civil service employee without the loss of salary, seniority,
11 prior service credit, vacation, sick leave, or other employee
12 benefits or privileges and without the necessity of examination;
13 provided that such officer or employee possesses the minimum
14 qualifications for the position to which transferred or
15 appointed.

16 If an office or position held by an officer or employee
17 having tenure is abolished, the officer or employee shall not
18 thereby be separated from public employment, but shall remain in
19 the employment of the State with the same pay and classification
20 and shall be transferred to some other office or position for
21 which the officer or employee is eligible under the personnel



1 laws of the State as determined by the head of the department or
2 the governor.

3 SECTION 6. All appropriations, records, equipment,
4 machines, files, supplies, contracts, books, papers, documents,
5 maps, and other personal property heretofore made, used,
6 acquired, or held by the department of land and natural
7 resources, the department of transportation, and the police
8 departments of the several counties relating to the functions
9 transferred to the department of the attorney general shall be
10 transferred with the functions to which they relate.

11 SECTION 7. All rules, policies, procedures, guidelines,
12 and other material adopted or developed by the department of
13 land and natural resources, the department of transportation,
14 and the police departments of the several counties to implement
15 provisions of the Hawaii Revised Statutes which are reenacted or
16 made applicable to the department of the attorney general by
17 this Act, shall remain in full force and effect until amended or
18 repealed by the department of the attorney general pursuant to
19 chapter 91, Hawaii Revised Statutes. In the interim, every
20 reference to the department of land and natural resources, the
21 department of transportation, and a police department of any of



1 the several counties or the chair of the board of land and
 2 natural resources, the director of transportation, or the chief
 3 of police of any of the several counties in those rules,
 4 policies, procedures, guidelines, and other material is amended
 5 to refer to the department of the attorney general or the
 6 attorney general as appropriate.

7 SECTION 8. This Act does not affect rights and duties that
 8 matured, penalties that were incurred, and proceedings that were
 9 begun before its effective date.

10 SECTION 9. This Act shall take effect on July 1, 2016;
 11 provided that the prohibition against the employment of
 12 noncertificated law enforcement officers established under
 13 section -7 contained in section 2 of this Act shall take
 14 effect on July 1, 2017.

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S.B. NO. 2325

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.

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