A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT STANDARDS BOARD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI‘I:

SECTION 1. The legislature, by Act 220, Session Laws of Hawaii 2018, enacted chapter 139, Hawaii Revised Statutes, to create a law enforcement standards board for the certification of law enforcement officers, including county police officers, state public safety officers, and employees with police powers at the departments of transportation, of land and natural resources, of the attorney general, and of taxation.

The board is responsible for establishing minimum standards for employment as a law enforcement officer and certifying persons qualified as law enforcement officers. It is also responsible for establishing minimum criminal justice curriculum requirements for basic, specialized, and in-service courses and programs for the training of law enforcement officers. It must consult and cooperate with the counties, state agencies, other governmental agencies, universities and colleges, and other institutions, concerning the development of law enforcement officer training schools and programs. The board is also
responsible for regulating and enforcing the certification
requirements of law enforcement officers.

These are important and substantial duties that require
evaluation to ensure that existing legal obligations are not
compromised. Before imposing new standards impacting the
employment of law enforcement officers, the board must consider
collective bargaining and other employment requirements. At a
minimum, the board must evaluate how probationary periods,
training requirements (i.e., the types of training, the number
of hours of training, and the availability of training
facilities), and the issuance, suspension, and revocation of
certification will impact obligations already established by
law.

Such evaluation should include consideration of the study
conducted by the legislative reference bureau pursuant to Act
124, Session Laws of Hawaii 2018, and any additional study
necessary to determine the impact of uniform standards,
certification, and training for all law enforcement.

The board has determined that it will need significantly more
time and funds to accomplish its mission.

The purposes of this Act are to clarify board membership
requirements to facilitate participation and representation, to
enable the board to research the impact of uniform standards,
certification, and training on existing legal requirements, to establish new and more realistic deadlines for the completion of the board's significant responsibilities, and to provide appropriate funds and resources to enable the board to accomplish its mission.

SECTION 2. Section 139-2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) There is established the law enforcement standards board within the department of the attorney general for administrative purposes only. The purpose of the board shall be to provide programs and standards for training and certification of law enforcement officers. The law enforcement standards board shall consist of the following voting members: nine ex officio individuals[, two] or their designees, five law enforcement officers, and four members of the public.

(1) The nine ex officio members of the board shall consist of the:

(A) Attorney general[.] or the attorney general's designee;

(B) Director of public safety[.] or the director's designee;

(C) Director of transportation or the director's designee;
(D) Chairperson of the board of land and natural resources or chairperson's designee;

(E) Director of taxation or the director's designee;

and

(F) Chiefs of police of the four counties or the designee of each of the chiefs of police;

(2) The five law enforcement officers shall be from each of the four counties and one from the State, shall each have at least ten years of experience as a law enforcement officer, and shall be appointed by the governor and notwithstanding section 26-34, shall not be subject to senatorial confirmation; and

(3) The four members of the public shall consist of one member of the public from each of the four counties and shall be appointed by the governor. At least two of the four members of the public holding a position on the board at any given time shall:

(A) Possess a master's or doctorate degree related to criminal justice;

(B) Possess a law degree and have experience:

(i) Practicing in Hawaii as a deputy attorney general, a deputy prosecutor, a deputy
public defender, or a private criminal
defense attorney; or

(ii) Litigating constitutional law issues in
Hawaii;

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

(D) Have work experience in a law enforcement
capacity[, provided that experience in a county
police department shall not itself be sufficient
to qualify under this paragraph].

(b) The law enforcement officers and the members of the
public on the board shall serve for a term of [three] four
years, provided that the initial terms shall be staggered, as
determined by the governor."

SECTION 3. Section 139-3, Hawaii Revised Statutes, is
amended to read as follows:

"[-f]§139-3[+] Powers and duties of the board. 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[7 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 certification as a law enforcement officer; [and]

(10) Establish procedures and criteria for the revocation of certification issued by the board;

(11) Consider studies relevant to the board's objectives, including but not limited to the study that examines consolidating the law enforcement activities and responsibilities of various state divisions and agencies under a single, centralized state enforcement division or agency, conducted pursuant to Act 124, Session Laws of Hawaii 2018; and

(12) Conduct its own study to evaluate how to efficiently and effectively satisfy its duties in accordance with the law."

SECTION 4. Act 220, Session Laws of Hawaii 2018, is amended by amending section 6 to read as follows:

ATG-16(19)
"SECTION 6. This Act shall take effect on July 1, 2018; provided that [the law enforcement standards board established under this Act shall finalize its standards and certification process by July 1, 2019.] sections -5 through -8, of the new chapter in section 2 of this Act shall not be enforced until July 1, 2023."

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of $275,000 or so much thereof as may be necessary for fiscal year 2019-2020 for deposit into the law enforcement standards board special fund.

SECTION 6. There is appropriated out of the law enforcement standards board special fund the sum of $275,000 or so much thereof as may be necessary for the fiscal year 2019-2020 for:

1. One permanent administrator position (1.0 FTE) exempt from chapter 76, Hawaii Revised Statutes, and one permanent clerical position (1.0 FTE) subject to chapter 76, Hawaii Revised Statutes; and
2. Administration and operating costs of the law enforcement standards board.

The sum appropriated shall be expended by the law enforcement standards board.
SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.
Report Title: Law Enforcement Standards Board

Description: Clarifies membership and certain powers and duties of the Law Enforcement Standards Board, establishes new and more realistic deadlines for the completion of board responsibilities, and provides appropriate funds and resources to enable the board to accomplish its mission.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.
DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT STANDARDS BOARD.

PURPOSE: To clarify board membership requirements, to enable the board to research the impact of standards, certification and training requirements on existing legal requirements, to establish new deadlines for the completion of the board’s responsibilities, and to provide the necessary funds and resources for the board’s mission.

MEANS: Amend sections 139-2 and 139-3, Hawaii Revised Statutes and section 6 of Act 220, Session Laws of Hawaii 2018 ("Act 220").

JUSTIFICATION: Increasing the size of the board and allowing ex-officio members to use designees will expand the perspective of the board while increasing its operational flexibility.

Collective bargaining and employment laws and rules dictate various aspects of a law enforcement officer’s career from start to finish. Explicitly authorizing the board to study and evaluate these laws, rules, and agreements will allow the board to establish standards, certifications and training requirements in a purposeful and intentional manner.

A proper study and evaluation takes time and resources; therefore, certain aspects of the new chapter established by Act 220 should take effect on July 1, 2023 and an increased amount should be appropriated to fund dedicated staff.
Impact on the public: The public will benefit from a careful consideration of the existing laws, rules and agreements by a better-resourced, larger, and more flexible board. This should result in better standards, certification, and training requirements and thereby increase public confidence in law enforcement and improve public safety generally.

Impact on the department and other agencies: Approval of this bill will have a direct positive effect on the board’s ability to execute its responsibilities.

Additionally, county police officers, state public safety officers, and employees with police powers at the departments of Transportation, of Land and Natural Resources, of the Attorney General, and Taxation will all benefit from better standards, certification, and training requirements.

GENERAL FUND: $275,000.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Departments of Transportation, of Land and Natural Resources, and of Taxation.

EFFECTIVE DATE: Upon approval.