

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
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To: The Honorable Donovan M. Dela Cruz, Chair;
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair;
and Members of the Senate Committee on Ways and Means

The Honorable Karl Rhoads, Chair;
The Honorable Jarrett Keohokalole, Vice Chair;
and Members of the Senate Committee on Judiciary

From: Isaac W. Choy, Director
Department of Taxation

Date: Wednesday, March 2, 2022
Time: 9:30 A.M.
Place: Via Video Conference, State Capitol

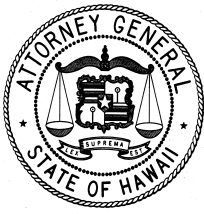
Re: S.B. 1046, S.D. 1, Relating to Law Enforcement

The Department of Taxation (Department) supports S.B. 1046, S.D. 1, an Administration measure, and offers the following comments for your consideration.

S.B. 1046, S.D. 1, clarifies membership and certain powers and duties of the Law Enforcement Standards Board (LESB), establishes new deadlines for the completion of board responsibilities, and provides appropriate funds and resources to enable the board to accomplish its mission. The Director of Taxation or the Director's designee is a member of the LESB. S.B. 1046, S.D. 1, is effective upon its approval.

S.B. 1046, S.D. 1, allows the designees of the Attorney General, Director of Public Safety, and Chiefs of Police of the four counties to be members on the LESB. This will allow greater flexibility as currently afforded to the Director of Transportation, Chairperson of the Board of Land and Natural Resources, and Director of Taxation.

Thank you for the opportunity to provide testimony in support of this measure.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

S.B. NO. 1046, S.D. 1, RELATING TO LAW ENFORCEMENT.

BEFORE THE:

SENATE COMMITTEES ON WAYS AND MEANS AND ON JUDICIARY

DATE: Wednesday, March 2, 2022 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 211, Via Videoconference

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

Chairs Dela Cruz and Rhoads and Members of the Committees:

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

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 standards, certification, and training requirements on existing legal requirements; (3) establish new deadlines for the completion of the board's responsibilities; (4) provide the necessary funds and resources for the board's mission; and (5) exempt the board administrator position from civil service.

The law enforcement standards board, established in 2018 by section 139-2, Hawaii Revised Statutes (HRS), 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.

Pursuant to section 5 of Act 47, Session Laws of Hawaii 2020, the board was tasked to finalize its standards and certification process by December 31, 2021.

The board needs funding, staff, and resources to comply with its statutory requirements. It also needs an extension of time, beyond December 31, 2021, to complete its tasks. This bill from 2021 extends the deadline to June 30, 2023, but as indicated in its "Report on the Law Enforcement Standards Board" to the Thirty-First State Legislature, Regular Session of 2022, the Board is now requesting that this deadline be extended to June 30, 2024. This bill also gives the board the necessary funding to hire an administrator and cover its costs. 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. While the bill currently requests an appropriation of \$292,500, the board, through its Chairperson, Kauai Police Chief Todd Raybuck, is requesting that the appropriation be increased to \$483,000.

Accordingly, the Department recommends the following amendments:

(1) Amend section 139-6(a), HRS, in section 5 of the bill, on page 19, lines 9-10, to read as follows:

(a) No person may be appointed to a law enforcement officer after June 30, [2023] 2024, unless the person:

(2) Amend section 139-6(b), HRS, in section 5 of the bill, on page 19, lines 18-19, to read as follows:

(b) ~~[The]~~ Beginning on July 1, [2023] 2024, the board shall issue a certification to an applicant who meets the requirements of

(3) Amend section 139-7(a), HRS, in section 6 of the bill, on page 20, lines 10-12, to read as follows:

. . . the department of the attorney general, after June 30, [2023] 2024, unless the person possesses a valid certification issued by the board pursuant to section 139-6(b).

(4) Amend section 139-7(b)(2), HRS, in section 6 of the bill, on page 20, lines 18-21, to read as follows:

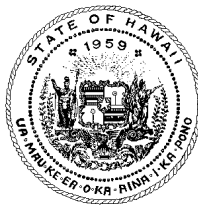
(2) Who entered into employment with the applicable county police department or state department before July 1, ~~[2023]~~ 2024, and termination of employment would violate any valid collective bargaining agreement.

(5) To reflect an increased appropriation amount to fund the Law Enforcement Standards Board, amend sections 8 and 9 of the bill, on page 21, at lines 9 and 13, by replacing \$292,500 with \$483,000 for fiscal year 2022-2023.

Enabling the board to study and evaluate the impact of standards, certification, and training requirements on collective bargaining and employment laws, rules, and agreements will allow the board to establish standards, certification, and training requirements in a purposeful and intentional manner.

Exempting the board administrator position from civil service will allow the board the flexibility it needs to meet its broad duties and responsibilities within the tight deadlines. 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.

The Department respectfully requests the passage of this bill with the proposed amendments.



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
1177 Alakea Street, 6th Floor
Honolulu, Hawaii 96813

MAX N. OTANI
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Tommy Johnson
Deputy Director
Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 1046, SENATE DRAFT 1
RELATING TO LAW ENFORCEMENT.

By
Max N. Otani, Director

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran., Vice Chair

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Wednesday, March 2, 2022; 9:30 a.m.
Via Videoconference

Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and
Members of the Committees:

The Department of Public Safety (PSD) supports Senate Bill (SB) 1046,
Senate Draft (SD) 1, which clarifies membership, powers, and duties of the Law
Enforcement Standards Board.

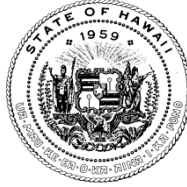
PSD welcomes the measure's authorization for the hiring of an exempt board
administrator, as well as the funding and defined duties and responsibilities of the
board, and the expanded membership of the Law Enforcement Standards Board, to
include designees from the Executive Branch department directors.

SB 1046, SD 1 permits the membership of the board to be comprised of
subject matter experts who can devote the necessary time and resources into the
board's purpose and function. PSD also notes that its House companion, HB 892,
HD 1, proposes to enable the board to establish a uniform standard of minimum
continuing education requirements for all law enforcement officers to meet to remain

in good standing. The Department respectfully suggests that the Committees on Ways and Means and Judiciary consider a similar amendment for this bill.

As in any ongoing organization, funding must be allocated to the Law Enforcement Standards Board for it to be viable and to function as intended. Most importantly, SB 1046, SD 1 authorizes the hiring of the board administrator as an exempt employee, thereby expediting the hiring process of a highly qualified applicant and providing flexibility in the candidate's duties, responsibilities, and accountability for the position.

Thank you for the opportunity to provide this testimony.



LATE

TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
ROSS M. HIGASHI
EDUARDO P. MANGLALLAN
PATRICK H. MCCAIN
EDWIN H. SNIFFEN

**STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION**
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 2, 2022
9:30 a.m.
State Capitol, Teleconference

**S.B. 1046, S.D. 1
RELATING TO LAW ENFORCEMENT**

Senate Committee on Ways and Means & Judiciary

The Department of Transportation (DOT) **supports** this bill which would make changes to the Law Enforcement Standards Board (LESB) membership and provide much needed funding for the LESB to perform their duties of certifying law enforcement officers.

The Legislature wisely established the LESB in 2018 to perform this very important function and provided that the Chiefs of Police and the Attorney General be members of the board. The aspect that we would like to draw attention to is the funding. At present, the bill would appropriate \$292,500 for the operation of the office. At the last board meeting, the issue of funding was discussed and we're confident that the LESB can fulfill its duties and responsibilities if given the proper resources.

Thank you for the opportunity to provide testimony.

Mitchell D. Roth
Mayor



Paul K. Ferreira
Police Chief

Kenneth Bugado, Jr.
Deputy Police Chief

County of Hawai'i

POLICE DEPARTMENT

349 Kapi'olani Street • Hilo, Hawai'i 96720-3998
(808) 935-3311 • Fax (808) 961-8865

February 28, 2022

Senator Donovan M. Dela Cruz
Chairperson and Committee Members
Committee on Ways and Means
Senator Karl Rhoads
Chairperson and Committee Members
Committee on Judiciary
415 South Beretania Street
Honolulu, Hawai'i 96813

RE : SENATE BILL 1046, SD 1, RELATING TO LAW ENFORCEMENT
HEARING DATE : MARCH 2, 2022
TIME : 9:30 A.M.

Dear Senators Dela Cruz and Rhoads:

The Hawai'i Police Department **strongly supports** Senate Bill 1046, SD 1, which seeks to clarify membership and certain powers and duties of the Law Enforcement Standards Board, establishes new deadlines for the completion of board responsibilities, and provides appropriate funds and resources to enable the board to accomplish its mission.

The Law Enforcement Standards Board (Board), established in 2018 by section 139-2, Hawaii Revised Statutes, lacks the necessary resources to meet all of the statutory requirements set forth by legislature. Establishing minimum standards for employment as a law enforcement officer and certifying persons qualified as law enforcement officers, is not a task to be taken lightly and requires dedicated resources, that this proposed legislation seeks to address.

We agree with the Department of the Attorney General that this proposed legislation will enable the board to study and evaluate the impact of standards, certification, and training requirements on collective bargaining and employment laws, rules, and agreements, thereby allowing the board to establish standards, certification, and training requirements in a purposeful and intentional manner.

It is for these reasons that we urge this committee to support this legislation. Thank you for allowing the Hawai'i Police Department to provide comments relating to Senate Bill 1046, SD 1.

Sincerely,

PAUL K. FERREIRA
POLICE CHIEF



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS

" A Police Organization for Police Officers Only "
Founded 1971

February 28, 2022

ONLINE/FAX: 808-586-6091; 808-587-7348

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice-Chair
Senate Committee on Ways and Means
Hawaii State Capitol, Rooms 208, 221

And

ONLINE/FAX: 808-586-6131; 808-587-7220

The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice-Chair
Senate Committee on Judiciary
Hawaii State Capitol, Rooms 204, 205
415 South Beretania Street
Honolulu, HI 96813

Re: **SB1046 SD1-Relating to Law Enforcement**

Dear Chairs Dela Cruz and Rhoads, Vice-Chairs Keith-Agaran and Keohokalole, 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 **strong opposition** to SB1046 SD1. This bill seeks to use a Law Enforcement Standards Board ("Board") to duplicate certifications, standards, and law enforcement training through a that are already established and managed by the respective county police departments through their accredited training academies.

The report from the Committee on Public Safety, Intergovernmental, and Military Affairs states that it "believes that these employment and certification standards are necessary for public health, safety, and welfare," but provides no reasoning or basis for its unsupported and conclusory statement. The Committee also did not explain why or provide a basis for its premise that the current county police training academies have somehow failed to establish or meet "minimum" law enforcement standards, certifications, or develop adequate officer training schools and programs. We view the establishment of this Board as another knee jerk reaction to the George Floyd situation, which did not involve any of our officers, and the Kealoha scandal which involved five (5) officers who have been appropriately dealt with and held criminally responsible for their wrongdoing. Nonetheless, this bill paints with a broad brush and seeks to add another yet another bureaucratic layer at an inopportune time while we are in the midst of a

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice-Chair
Senate Committee on Ways and Means
and
The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice-Chair
Senate Committee on Judiciary
February 28, 2022
Re: SB1046 SD1-Relating to Law Enforcement
Page 2

staffing crisis like we have never seen before. Rather than do something to help us recruit and retain police officers, SB1046 SD1 makes it that much more difficult for us to protect our community with an adequate number of police officers.

The bill and the establishment of this Board directly infers that the county police departments and their respective training academies are subpar, do not currently incorporate acceptable and reasonable minimum standards of employment, and do not have acceptable criminal justice curriculums. The Board, in essence, wants to usurp the training curriculum and standards implemented by the respective county police department's training academies. Given Chief Paul Ferreira's support for the bill, maybe he knows something we don't about the quality of his training staff and the training curriculum his department uses on the Big Island as he seems to feel that he needs help to improve his training with the aid of outside sources and third parties.¹

Aside from the significant monetary expenditures associated with this Board and the baseless assumption that our county police academies are substandard or deficient, it is unclear why this Board is needed for "certifications" when 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. The policies and training of each county police department have many in common, but they also have special provisions and aspects tailored to each island's unique demands and diverse communities. The money required to fund this Board could be better spent on expanding our prison system so that the same criminals we arrest over and over can be properly incarcerated rather than being allowed to roam the streets to continue terrorizing our law abiding citizens.

The bill will also create two different tiers of police officers, one group that is grandfathered under the existing standards of each county police department, and a second group that will fall under the new standards the Board establishes. For a para-military organization, this will create dissension among the ranks particularly when we are desperately in need of recruits to mitigate the severe staffing crisis we are experiencing.

¹ The bill allows the police chiefs to send a "designee" to participate in Board activities. The police chiefs themselves should be required to participate rather than pass their responsibilities on to someone else. If the police chiefs want this bill, they should not have the option of passing the buck.

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice-Chair
Senate Committee on Ways and Means
and
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Senate Committee on Judiciary
February 28, 2022
Re: SB1046 SD1-Relating to Law Enforcement
Page 3

In addition, decisions made by the Board could impact collective bargaining and undermine the mandatory negotiation requirements set forth in HRS §89-9 that are part of our constitutional rights under the Hawaii Constitution. The Board can also act to revoke an officer's certification which may also indirectly conflict with our collective bargaining agreement, the outcome of a grievance proceeding, and HRS §89. We do not believe these intended or unintended ramifications were thoroughly considered and vetted before the Board was established in the first instance. The Board will require a labor specialist to fully understand HRS §89 and its implications, which does not appear to be the criteria for any of the Board members.

To make the Board truly all-inclusive and transparent, we recommend that a Board position 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 our members operate on the front lines in the battle against crime and have 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. We further recommend and suggest that the "One county law enforcement officer from each of the four counties" also be an officer nominated by the Union for the governor's appointment.

Last, we suggest that the appointment of anyone to the Board should be with the advice and consent of the senate like any other board or commission, and that a study relating to the "centralized state enforcement division or agency" exclude the county police departments who operate on a county budget and county needs and requirements.

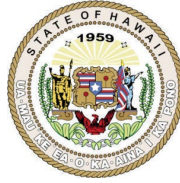
In summary, this bill duplicate certifications, standards, and law enforcement training already established and managed by the respective county police departments through their accredited training academies. We also believe that the funding required for this Board could be better spent on other meaningful projects especially during the economic woes many in our community are suffering from the Covid-19 pandemic.

We thank you for allowing us to be heard and to share our concerns on this proposal and hope your committee will unanimously reject this bill and withhold funding until further consideration is given to the issues and concerns we have raised.

Respectfully submitted,

ROBERT "BOBBY" CAVACO
SHOPO President

DAVID Y. IGE
GOVERNOR



LATE

TODD G. RAYBUCK
CHAIR

STATE OF HAWAII
LAW ENFORCEMENT STANDARDS BOARD
425 QUEEN STREET
HONOLULU, HAWAII 96813

BOARD MEMBERS
SHERRY BIRD
JADE BUTAY
SUZANNE D. CASE
ISAAC W. CHOY
NICHOLAS R. COURSON
ADRIAN DHAKHWA
PAUL FERREIRA
HARRY S. KUBOJIRI
MAX N. OTANI
JOHN PELLETIER
HOLLY SHIKADA
CRAIG TANAKA
RADE VANIC

March 1, 2022

Testimony of Chair Todd G. Raybuck
On Behalf of the
Law Enforcement Standards Board
Before the
Committee on Ways and Means
Committee on Judiciary
March 2, 2022, 9:30:00 am
via Videoconference

In consideration of
Senate Bill 1046 SD1
Relating to Law Enforcement

Honorable Chairs Dela Cruz and Rhoads, and Members of the Committees:

I submit the following testimony on behalf of the Members of the Law Enforcement Standards Board ("Board") in **strong support** of this bill, with proposed amendments.

The Board, established by section 139-2, HRS, has not received the funding, staff, and resources it needs to accomplish its mission, as a result the Board also needs an extension of its deadlines. This is the fourth consecutive legislative session the Board has had a request before the Legislature to make necessary amendments to ACT 220 (2018) and provide the essential resources the Board requires to carry out the important work placed upon it by Hawaii State Legislature.

The Board requests the following amendments to House Bill No. 892 HD1:

1. Amend Section 5 of the bill, on pages 19, relating to Section 139-6, Hawaii Revised Statutes, to read as follows:
 - a. "(a) No person may be appointed to a law enforcement officer after ~~June 30, 2023~~, June 30, 2024, unless the person: ...", and

- b. “(b) [~~The~~] Beginning on ~~July 1, 2023~~, July 1, 2024, ...”.
 2. Amend Section 6 of the bill, on pages 20, relating to Section 139-7, Hawaii Revised Statutes, to read as follows:
 - a. “(a) ... or the department of the attorney general, after ~~June 30, 2023~~, June 30, 2024, unless the person...”.
 - b. “(2) ... applicable county police department or state department before ~~July 1, 2023~~, July 1, 2024, and termination of employment ...”.
 3. Amend Sections 8 and 9, on pages 21, to reflect an appropriation amount of \$483,000 for fiscal year 2022-2023.

The Board believes the extension to the date for certification of law enforcement officers is necessary to provide adequate time to identify and develop the standards and certification process.

The Board is requesting the appropriation of \$483,000 to provide for competitive salaries/fringe benefits for the executive director and clerical position as well as providing the necessary funding for office space and associated expenses to successfully carry out their duties. The amount the Board is requesting through this amendment was the same amount the Board requested before the Thirtieth Session of the Legislature (2020).

The Board’s reduced request in Senate Bill No. 1046 (\$292,500) was submitted out of respect to the State’s financial crisis brought upon by the COVID-19 pandemic. At the time, the Board believed it was the minimum amount of funds necessary to begin to make forward progress. The Board makes its current request recognizing there are higher than predicted State revenues and improved budget conditions.

The amendments requested and approval of this bill will have a direct positive effect on the Board’s ability to execute its responsibilities. Therefore, the Board respectfully requests the passage of this bill with the proposed amendments. Without the amendments and necessary resources requested within this testimony and Senate Bill 1046 SD1, the Board will be unable to successfully implement the will of the Legislature.

On behalf of the Law Enforcement Standards Board, mahalo nui loa for your consideration and assistance in moving this important piece of legislation forward.