

JAN 24 2018

A BILL FOR AN ACT

RELATING TO TAX APPEALS.

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

SECTION 1. Section 232-7, Hawaii Revised Statutes, is amended to read as follows:

"§232-7 Boards of review; duties, powers, procedure before. (a) The board of review for each district shall hear informally all disputes between the assessor and any taxpayer in all cases in which appeals have been duly taken and the fact that a notice of appeal has been duly filed by a taxpayer shall be conclusive evidence of the existence of a dispute; provided that this provision shall not be construed to permit a taxpayer to dispute an assessment to the extent that it is in accordance with the taxpayer's return.

(b) Each board shall hold public meetings at some central location in its taxation district, at least once annually and shall hear, as speedily as possible, all appeals presented for each year. A taxpayer's identity and final documents submitted in support or opposition of an appeal shall be public information; provided that an individual taxpayer is authorized to redact all but the last four digits of the taxpayer's social

S.B. NO. 2824

1 security number from any accompanying tax return. Each board
2 shall have the power and authority to decide all questions of
3 fact and all questions of law, excepting questions involving the
4 Constitution or laws of the United States, necessary to the
5 determination of the objections raised by the taxpayer in the
6 notice of appeal; provided that no board shall have power to
7 determine or declare an assessment illegal or void. Without
8 prejudice to the generality of the foregoing, each board shall
9 have power to allow or disallow exemptions pursuant to law
10 whether or not previously allowed or disallowed by the assessor
11 and to increase or lower any assessment.

12 (c) The board shall base its decision on the evidence
13 before it, and, as provided in section 231-20, the assessment
14 made by the assessor shall be deemed prima facie correct. The
15 board shall file with the assessor concerned its decision in
16 writing on each appeal decided by it, and a certified copy of
17 the decision shall be furnished by the assessor to the taxpayer
18 concerned by delivery or by mailing the copy addressed to the
19 taxpayer's last known place of residence.

20 (d) Each board and each member thereof in addition to all
21 other powers shall also have the power to subpoena witnesses,
22 administer oaths, examine books and records, and hear and take

S.B. NO. 2824

1 evidence in relation to any subject pending before the board.
2 The tax appeal court shall have the power, upon request of the
3 boards, to enforce by proper proceedings the attendance of
4 witnesses and the giving of testimony by them, and the
5 production of books, records, and papers at the hearings of the
6 boards.

7 (e) If there exists more than one board of review in a
8 taxation district, the chair of one board, administratively and
9 without requirement of any formal action, may assign a member of
10 that board to serve as a temporary member of the requesting
11 board for purposes of establishing a quorum at a designated
12 meeting of the requesting board. The temporary member shall
13 serve only for the specific board meeting for which the
14 assignment is made and only for the period necessary to
15 establish and maintain a quorum. A temporary member may
16 participate in discussion and vote on all matters before the
17 board. Nothing herein shall prevent a member from being
18 assigned multiple times under this subsection.

19 (f) When the board has been unable to constitute quorum to
20 hear or decide an appeal for twelve consecutive months after the
21 appeal is made because of vacancies on the board or conflicts of
22 interest of board members, the appeal shall be dismissed

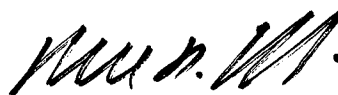
S.B. NO. 2824

1 administratively upon service of a notice of dismissal by mail
2 to the taxpayer by the chairperson of the board or the
3 department if there is no chairperson. The taxpayer may appeal
4 to the tax appeal court within thirty days of the date the
5 notice of dismissal is mailed, subject to the provisions in
6 section 232-16. The payment of the tax so assessed pursuant to
7 section 235-114 shall not be required for an appeal to the tax
8 appeal court made under this subsection."

9 SECTION 2. New statutory material is underscored.

10 SECTION 3. This Act shall take effect upon its approval
11 and shall apply to all appeals made to the board of review,
12 including appeals made before the effective date of this Act;
13 provided that, for appeals made before the effective date of
14 this Act, the twelve-month period provided for in section 232-
15 7(f), Hawaii Revised Statutes, shall begin to run on July 1,
16 2018.

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INTRODUCED BY:



BY REQUEST

S.B. NO. 2824

Report Title:

Tax Appeals

Description:

Requires dismissal of appeals to the board of review if the board has been unable to constitute quorum for twelve consecutive months from the date the appeal is made and allows taxpayers to appeal to the tax appeal court within thirty days of dismissal.

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

JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO TAX APPEALS.

PURPOSE: Require dismissal of appeals to the board of review if the board has been unable to constitute quorum for twelve consecutive months after the date the appeal is made. Allow taxpayers to appeal to the tax appeal court within thirty days of dismissal.

MEANS: Amend section 232-7, Hawaii Revised Statutes.

JUSTIFICATION: The department finds that requiring the dismissal of appeals that the board of review has been unable to hear within one year due to the board's inability to constitute quorum and allowing taxpayers to subsequently appeal to the tax appeal court will allow appeals to be decided expeditiously and discourage taxpayers from filing an appeal with the board of review when quorum cannot be reached for the sole purpose of delaying payment of taxes.

Impact on the public: The public will benefit from having appeals decided expeditiously.

Impact on the department and other agencies: The department will benefit from a reduction in frivolous appeals or abuse of the tax appeal system. The department will also benefit from having appeals decided expeditiously.

GENERAL FUND: Indeterminate.

OTHER FUNDS: None.

OTHER AFFECTED

Page 2

SB. NO. 2824

AGENCIES: None.

EFFECTIVE DATE: Upon approval.