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# A BILL FOR AN ACT

RELATING TO TAX APPEALS.

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

1 SECTION 1. Section 26-10, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) There shall be within the department of taxation a  
4 taxation board of review [~~for each taxation district~~] and a tax  
5 appeal court. The composition of [~~each~~] the taxation board of  
6 review and the tax appeal court and [~~its~~] their respective  
7 functions, duties, and powers shall be as [~~heretofore~~] provided  
8 [~~by law for the boards of review and tax appeal court existing~~  
9 ~~immediately prior to November 25, 1959.~~] in chapter 232."

10 SECTION 2. Section 232-6, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "§232-6 [Appointment,<sup>7</sup> Taxation board of review;  
13 appointment, removal, compensation. (a) There is created a  
14 taxation board of review for [~~each taxation district.~~  
15 ~~Additional boards may be created in any taxation district by the~~  
16 ~~director of taxation where the number of disputes to be decided~~  
17 ~~cannot be reasonably decided within one year. Each taxation~~



1 ~~district shall have no more than three boards. Each board] the~~  
2 State.

3 (b) The board shall consist of [five] no more than ten  
4 members who shall be [citizens] residents of the State [and  
5 ~~residents of the district for which the board is appointed,~~  
6 ~~shall have resided at the time of appointment for at least three~~  
7 ~~years in the State,~~] and shall be appointed and be removable by  
8 the governor as provided in section 26-34. The governor shall  
9 designate a member of [~~each~~] the board to act as chairperson  
10 thereof. In addition, the governor shall designate a member of  
11 [~~each~~] the board to act as vice chairperson who shall serve as  
12 the chairperson of the board during the temporary absence from  
13 the State, illness, or disqualification of the chairperson. Any  
14 vacancy in [~~any~~] the board shall be filled for the unexpired  
15 term. Each member shall receive and be paid out of the treasury  
16 compensation for the member's services at the rate of \$10 per  
17 day for each day's actual attendance and the member's actual  
18 traveling expenses. No officer or employee of the State shall  
19 be eligible for appointment to [~~any such~~] the board.

20 (c) Any vacancy in the board shall not impair the  
21 authority of the remaining members to exercise all the powers of



1 the board. The governor may appoint, without regard to  
 2 section 26-34, an acting member of the board during any regular  
 3 member's temporary absence from the State, temporary inability  
 4 to act due to recusal, or illness. An acting member, during the  
 5 acting member's term of service, shall have the same powers and  
 6 duties as the regular member; provided that an acting member  
 7 appointed due to a regular member's recusal shall be appointed  
 8 for the case in which the recusal occurred, and the acting  
 9 member's appointment shall terminate when the final decision is  
 10 filed or the case is withdrawn."

11 SECTION 3. Section 232-7, Hawaii Revised Statutes, is  
 12 amended to read as follows:

13 "**§232-7 [Beards] Taxation board of review; duties, powers,**  
 14 **procedure before.** (a) The taxation board of review [~~for each~~  
 15 ~~district~~] shall hear informally all disputes between the  
 16 assessor and any taxpayer in all cases in which appeals have  
 17 been duly taken and the fact that a notice of appeal has been  
 18 duly filed by a taxpayer shall be conclusive evidence of the  
 19 existence of a dispute; provided that this [~~provision~~]  
 20 subsection shall not be construed to permit a taxpayer to



1 dispute an assessment to the extent that it is in accordance  
2 with the taxpayer's return.

3 (b) ~~[Each]~~ At least three board members shall be present  
4 at any meeting or proceeding of the board to constitute a  
5 quorum. The board shall hold public meetings at some central  
6 location in ~~[its]~~ each taxation district at least once annually  
7 and shall hear, as speedily as possible, all appeals presented  
8 for each year. Taxpayers and others appearing before the board  
9 may also participate via teleconference or any other cost-  
10 efficient means of the board's choosing.

11 (c) A taxpayer's identity and final documents submitted in  
12 support or opposition of an appeal shall be public information;  
13 provided that an individual taxpayer ~~[is]~~ shall be authorized to  
14 redact all but the last four digits of the taxpayer's social  
15 security number from any accompanying tax return. ~~[Each]~~ The  
16 board ~~[shall have the power and authority to]~~ may decide all  
17 questions of fact and all questions of law, excepting questions  
18 involving the Constitution or laws of the United States,  
19 necessary to the determination of the objections raised by the  
20 taxpayer in the notice of appeal; provided that ~~[ne]~~ the board  
21 shall not have the power to determine or declare an assessment



1 illegal or void. Without prejudice to the generality of the  
2 foregoing, ~~[each]~~ the board shall have the power to allow or  
3 disallow exemptions pursuant to law, whether or not previously  
4 allowed or disallowed by the assessor, and to increase or lower  
5 any assessment.

6 ~~[(e)]~~ (d) The board shall base its decision on the  
7 evidence before it, and, as provided in section 231-20, the  
8 assessment made by the assessor shall be deemed prima facie  
9 correct. All decisions of the board shall be reduced to writing  
10 and shall state separately the board's findings of fact and  
11 conclusions of law. The board shall file with the assessor  
12 concerned its decision in writing on each appeal decided by it,  
13 and a certified copy of the decision shall be furnished by the  
14 assessor to the taxpayer concerned by delivery or by mailing the  
15 copy addressed to the taxpayer's last known place of residence.

16 ~~[(d)—Each]~~ (e) The board and each member thereof, in  
17 addition to all other powers, shall also have the power to  
18 subpoena witnesses, administer oaths, examine books and records,  
19 and hear and take evidence in relation to any subject pending  
20 before the board. The tax appeal court shall have the power,  
21 upon request of the ~~[boards,]~~ board, to enforce by proper



1 proceedings the attendance of witnesses and the giving of  
2 testimony by [~~them,~~] witnesses and the production of books,  
3 records, and papers at the hearings of the [~~boards.~~] board.

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

16 SECTION 4. Section 232-13, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§232-13 Hearing de novo; bill of particulars.** The  
19 hearing before the tax appeal court shall be a hearing de novo.  
20 Irrespective of which party prevails in proceedings before [a]  
21 the state taxation board of review or any equivalent



1 administrative body established by county ordinance, the  
2 assessment as made by the assessor, or if increased by the  
3 board, or equivalent county administrative body, the assessment  
4 as so increased, shall be deemed prima facie correct. Each  
5 party shall have the right to introduce, or the tax appeal  
6 court, of its own motion, may require the taking of [~~such~~]  
7 evidence in relation to the subject pending as in the court's  
8 discretion may be deemed proper. The court, in the manner  
9 provided in section 232-16, shall determine all questions of  
10 fact and all questions of law, including constitutional  
11 questions, involved in the appeal.

12 The jurisdiction of the tax appeal court [~~is~~] shall be  
13 limited to the amount of valuation or taxes, as the case may be,  
14 in dispute as shown on the one hand by the amount claimed by the  
15 taxpayer or county and on the other hand by the amount of the  
16 assessment, or if increased by the board, or equivalent county  
17 administrative body, the assessment as so increased.

18 Assessments for the same year upon other similar property  
19 situated in the State shall be receivable in evidence upon the  
20 hearing.



1           Upon the application of either the taxpayer, [~~the~~] county,  
2 or [~~the~~] assessor, the judge of the tax appeal court, upon  
3 notice, may allow and direct a bill of particulars of the claim  
4 of either the taxpayer, [~~the~~] county, or [~~the~~] assessor to be  
5 delivered to the other, and, in case of default, the judge shall  
6 preclude the person [~~so~~] defaulting from giving evidence of the  
7 part or parts of the person's affirmative claim of which  
8 particulars have not been delivered."

9           SECTION 5. Section 232-14, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11           "(b) The [~~boards~~] taxation board of review [~~shall have~~  
12 ~~power~~], consistent with this chapter and chapter 91, [~~to~~] may  
13 make rules relating to procedure[~~r~~] and [~~to~~] prescribe forms to  
14 be used, including procedure and forms for the issuance of  
15 subpoenas and other process by the [~~boards of review~~] board or  
16 members [~~thereof.~~] of the board. The rules shall have the force  
17 and effect of law."

18           SECTION 6. Section 232-14.5, Hawaii Revised Statutes, is  
19 amended to read as follows:

20           "**[~~§~~232-14.5~~]~~ Appeals relating to claims for refund.**

21           (a) The denial in whole or in part by the department of



1 taxation of a tax refund claim may be appealed by the filing of  
2 a written notice of appeal to [a] the taxation board of review  
3 or the tax appeal court within thirty days after notice of the  
4 denial of the claim.

5 (b) An appeal may be filed with [a] the taxation board of  
6 review or the tax appeal court for review of the merits of a tax  
7 refund claim, upon a notice of appeal filed at any time after  
8 one hundred eighty days from the date that the claim was filed;  
9 provided that the department has not given notice of a denial of  
10 the claim within that period.

11 (c) Notwithstanding any law to the contrary under  
12 title 14, this section shall apply to tax refund claims for all  
13 taxes administered by the department of taxation. The  
14 procedures for appeals from tax assessors, [a] the taxation  
15 board of review, and the tax appeal court provided under this  
16 chapter and under section 235-114 shall apply to appeals  
17 relating to tax refund claims under this section. Any claimed  
18 tax refund or credit appealed pursuant to this section shall be  
19 awarded only if the claim therefor was filed within the  
20 applicable statutory period of limitation."



1 SECTION 7. Section 232-15, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§232-15 Appeal to taxation board of review.** [~~The appeal~~  
4 ~~to a board of review may be either to the board of review for~~  
5 ~~the district in which the taxpayer has the taxpayer's principal~~  
6 ~~place of business or to the board of review for the district in~~  
7 ~~which the taxpayer resides or has the taxpayer's principal~~  
8 ~~office or to the board of review of the first district.] (a)~~

9 The notice of appeal [~~must~~] to the taxation board of review  
10 shall be lodged with the board and assessor [~~on or before~~] no  
11 later than the date fixed by law for the taking of the appeal.

12 An appeal to the taxation board of review shall be deemed to  
13 have been taken in time if the notice thereof shall have been  
14 [~~deposited in the mail, postage prepaid,~~] postmarked and  
15 properly addressed to the board and assessor, on or before  
16 [~~such~~] that date.

17 (b) The notice of appeal [~~must~~] shall be in writing and  
18 any [~~such~~] notice, however informal it may be, identifying the  
19 assessment involved in the appeal and stating the grounds of  
20 objection to the assessment shall be sufficient. [~~Upon the~~  
21 ~~necessary information being furnished by the taxpayer to the~~



1 ~~assessor, the assessor shall prepare the notice of appeal upon~~  
2 ~~request of the taxpayer and any notice so prepared by the~~  
3 ~~assessor shall be deemed sufficient as to its form.]~~

4       (c) The appeal shall be considered and treated for all  
5 purposes as a general appeal and shall bring up for  
6 determination all questions of fact and all questions of law,  
7 excepting questions involving the Constitution or laws of the  
8 United States, necessary to the determination of the objections  
9 raised by the taxpayer in the notice of appeal. ~~[Any]~~ If any  
10 objection involving the Constitution or laws of the United  
11 States ~~[may be]~~ is included by the taxpayer in the notice of  
12 appeal ~~[and in such case],~~ the ~~[objections]~~ objection may be  
13 heard and determined by the tax appeal court on appeal from a  
14 decision of the taxation board of review; ~~[but]~~ provided that  
15 this ~~[provision]~~ subsection shall not be construed to confer  
16 upon the board ~~[of review]~~ the power to hear or determine ~~[such~~  
17 ~~objections.]~~ the objection. Any notice of appeal may be amended  
18 at any time prior to the board's decision; provided the  
19 amendment does not substantially change the dispute."

20       SECTION 8. Section 232-16, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:



1           "(a) A taxpayer or county may appeal directly to the tax  
2 appeal court without appealing to [a] the state taxation board  
3 of review or any equivalent administrative body established by  
4 county ordinance; provided that a taxpayer appealing a real  
5 property tax assessment shall first obtain a decision from an  
6 administrative body established by county ordinance, [~~prior to~~]  
7 before appealing to the tax appeal court, if county ordinance  
8 requires a taxpayer to do so. An appeal to the tax appeal court  
9 is properly commenced by filing, on or before the date fixed by  
10 law for the taking of the appeal, a written notice of appeal in  
11 the office of the tax appeal court and by service of the notice  
12 of appeal on the director of taxation and, in the case of an  
13 appeal from a decision involving the county as a party, the real  
14 property assessment division of the county involved. An  
15 appealing taxpayer shall also pay the costs in the amount fixed  
16 by section 232-22."

17           SECTION 9. Section 232-17, Hawaii Revised Statutes, is  
18 amended to read as follows:

19           "**§232-17 Appeals from [boards] taxation board of review to**  
20 **tax appeal court.** An appeal shall lie to the tax appeal court  
21 from the decision of [a] the state taxation board of review, or



1 equivalent administrative body established by county ordinance.  
2 An appeal to the tax appeal court [~~is~~] shall be properly  
3 commenced by the filing, by the taxpayer, [~~or the~~] county, or  
4 [~~the~~] director of taxation, of a written notice of appeal in the  
5 office of the tax appeal court within thirty days after the  
6 filing of the decision of the state taxation board of review or  
7 an equivalent county administrative body, and, in the case of  
8 any appealing taxpayer, the payment of the costs of court in the  
9 amount fixed by section 232-22, and service of the notice of  
10 appeal on the director of taxation and, in the case of an appeal  
11 from a decision involving the county as a party, the real  
12 property assessment division of the county involved. A notice  
13 of appeal shall be sufficient if it states that the taxpayer,  
14 county, or director of taxation appeals from the decision of the  
15 state taxation board of review, or an equivalent county  
16 administrative body, to the tax appeal court and may be amended  
17 at any time. The appeal shall bring up for determination all  
18 questions of fact and all questions of law, including  
19 constitutional questions involved in the appeal.

20 In case of an appeal by the county or [~~the~~] director of  
21 taxation, a copy of the notice of appeal shall be forthwith



1 delivered or mailed to the taxpayer concerned or to the clerk of  
2 the county concerned in the manner provided in section 232-7 for  
3 giving notice of decisions.

4 An appeal shall be deemed to have been taken in time, and  
5 properly commenced, if the notice thereof and costs, if any, and  
6 the copy or copies of the notice shall have been deposited in  
7 the mail, postage prepaid, properly addressed to the tax appeal  
8 court, director of taxation, taxpayer or taxpayers, and, if  
9 relevant, the real property assessment division of the county  
10 involved, respectively, within the time period provided by this  
11 section."

12 SECTION 10. Section 232-18, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§232-18 Certificate of appeal to tax appeal court.** (a)  
15 Upon the perfecting of an appeal to the tax appeal court, the  
16 tax assessor [~~of the district from which the appeal is taken~~]  
17 shall immediately send up to the tax appeal court a certificate  
18 in which there shall be set forth the information required by  
19 section 232-16 to be set forth in the notice of appeal where an  
20 appeal is taken direct from the assessment to the tax appeal  
21 court.



1       **(b)** The certificate shall be accompanied by the taxpayer's  
2 return, if any has been filed; provided that the department of  
3 taxation [~~is authorized to~~] may redact all but the last four  
4 digits of an individual taxpayer's social security number from  
5 an accompanying tax return, a copy of the notice of appeal to  
6 the state taxation board of review, or an equivalent  
7 administrative body established by county ordinance, and any  
8 amendments thereto, and the decision or action, if any, of the  
9 state board of review or equivalent administrative body.  
10 Failure of the assessor to comply [~~herewith~~] with this section  
11 shall not prejudice or affect the taxpayer's, county's, or  
12 assessor's appeal, and the certificate of appeal may be amended  
13 at any time up to the final determination of the appeal."

14       SECTION 11. Section 232-20, Hawaii Revised Statutes, is  
15 amended to read as follows:

16       "**§232-20 Certificate of appeal.** Upon the perfection of an  
17 appeal, the [~~judge of the~~] tax appeal court shall send to the  
18 appellate court a certificate [~~in which there~~] that shall [~~be~~  
19 ~~set forth, among other things:~~] include:

20       (1) A brief description of the assessment and the property  
21       involved in the appeal, if any, in sufficient detail



- 1 to identify the same together with the valuation  
2 placed on the property by the assessor;
- 3 (2) The valuation claimed by the taxpayer or county;
- 4 (3) The taxpayer's or county's grounds of objection to the  
5 assessment;
- 6 (4) The valuation, if any, placed thereon by an  
7 administrative body established by county ordinance  
8 equivalent to [a] the state taxation board of review;  
9 and
- 10 (5) The valuation placed thereon by the tax appeal court.

11 The certificate shall be accompanied by the taxpayer's  
12 return, if any[~~7~~]; a copy of the notice of appeal from the  
13 assessment and any amendments thereof[~~7~~]; the decision, if any,  
14 of the state taxation board of review or equivalent county  
15 administrative body[~~7~~]; a copy of the notice of appeal from the  
16 decision of the state taxation board of review or equivalent  
17 county administrative body, if any, and any amendments  
18 thereof[~~7~~]; and a transcript or statement of the evidence before  
19 and the decision of the tax appeal court[~~7~~] and all exhibits,  
20 motions, orders, or other documents specified by either the  
21 taxpayer, [~~the~~] county, or [~~the~~] assessor. No failure of the



1 judge of the tax appeal court to send or properly prepare the  
2 certificate or the accompanying documents shall prejudice,  
3 limit, or in any manner affect the taxpayer's, county's, or  
4 assessor's appeal, and the certificate of appeal may be amended  
5 at any time up to the final determination of the appeal."

6 SECTION 12. Section 232-24, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§232-24 Taxes paid pending appeal.** (a) The tax paid  
9 upon the amount of any assessment, actually in dispute and in  
10 excess of that admitted by the taxpayer, and covered by an  
11 appeal to the tax appeal court duly taken, shall, pending the  
12 final determination of the appeal, be paid by the director of  
13 finance into the [~~"litigated claims fund".~~] litigated claims  
14 fund. If the final determination is in whole or in part in  
15 favor of the appealing taxpayer, the director of finance shall  
16 repay to the taxpayer out of the fund, or if investment of the  
17 fund should result in a deficit therein, out of the general fund  
18 of the State, the amount of the tax paid upon the amount held by  
19 the court to have been excessive or nontaxable, together with  
20 from the date of each payment into the litigated claims fund,  
21 the interest to be paid from the general fund of the State. For



1 purposes of this section, the rate of interest shall be computed  
2 by reference to section 6621(a) (with respect to interest rate  
3 determination) of the Internal Revenue Code of 1986, as of  
4 January 1, 2010. The balance, if any, of the payment made by  
5 the appealing taxpayer, or the whole of the payment, in case the  
6 decision is wholly in favor of the assessor, shall, upon the  
7 final determination become a realization under the tax law  
8 concerned.

9 (b) In a case of an appeal to [a] the taxation board of  
10 review, the tax paid, if any, upon the amount of the assessment  
11 actually in dispute and in excess of that admitted by the  
12 taxpayer, shall, during the pendency of the appeal and until and  
13 unless an appeal is taken to the tax appeal court, be held by  
14 the director of finance in a special deposit. In the event of  
15 final determination of the appeal in the taxation board of  
16 review, the director of finance shall repay to the appealing  
17 taxpayer out of the deposit the amount of the tax paid upon the  
18 amount held by the board to have been excessive or nontaxable,  
19 if any, the balance, if any, or the whole of the deposit, in  
20 case the decision is wholly in favor of the assessor, to become  
21 a realization under the tax law concerned."



1 SECTION 13. Section 235-114, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Any person aggrieved by any assessment of the tax or  
4 liability imposed by this chapter may appeal from the assessment  
5 in the manner and within the time hereinafter set forth. Appeal  
6 may be made either to the [~~district~~] taxation board of review or  
7 to the tax appeal court. The first appeal to either the  
8 [~~district~~] taxation board of review or to the tax appeal court  
9 may be made without payment of the tax [ø] assessed. Either  
10 the taxpayer or the assessor may appeal to the tax appeal court  
11 from a decision by the board or to the intermediate appellate  
12 court from a decision by the tax appeal court; provided that if  
13 the decision by the board or the tax appeal court is appealed by  
14 the taxpayer, or the decision by the board in favor of the  
15 department is not appealed, the taxpayer shall pay the tax [ø]  
16 assessed plus interest as provided in section 231-39(b)(4)."

17 SECTION 14. Any member serving a term of appointment to  
18 one of the previously existing district boards of taxation  
19 review on the effective date of this Act shall be considered to  
20 be appointed to the new statewide taxation board of review for  
21 the remainder of the member's current term, notwithstanding



1 section 232-6(b), Hawaii Revised Statutes; provided that if more  
2 than ten members are still serving terms of appointment to their  
3 respective district boards on the effective date of this Act,  
4 priority preference for appointment to the new statewide  
5 taxation board of review shall be based on length of term  
6 remaining.

7 SECTION 15. Any appeal or pending appeal to one of the  
8 district boards of taxation review in which a decision has not  
9 yet been rendered as of the effective date of this Act shall be  
10 automatically transferred to the jurisdiction of the newly  
11 constituted statewide taxation board of review for adjudication.

12 SECTION 16. This Act shall not affect rights and duties  
13 that matured, penalties that were incurred, and proceedings that  
14 were begun before its effective date; provided that any affected  
15 taxpayer who has already appeared before a district board of  
16 taxation review but has not yet had a decision rendered in the  
17 taxpayer's appeal may elect to either have the new statewide  
18 taxation board of review issue a ruling based on all available  
19 information in the case or request a new hearing before the  
20 statewide board.



1 SECTION 17. This Act shall not affect county real property  
2 tax appeals and the respective county boards of review to which  
3 they are appealed, nor shall it abrogate any county ordinance  
4 relating to a county's real property tax appeal procedures.

5 SECTION 18. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 19. This Act shall take effect on January 1, 2022.



**Report Title:**

Tax Appeals; Taxation Board of Review

**Description:**

Replaces the four district tax boards of review with a single statewide taxation board of review appointed by the Governor, consisting of ten members with three required for quorum. Authorizes taxpayers and others appearing before the board to participate using cost-efficient means such as teleconferencing. (HD1)

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

