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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 board of review [~~for each taxation district~~] and a tax appeal  
5 court. The composition of [~~each~~] the board of review and the  
6 tax appeal court and [~~its~~] their respective functions, duties,  
7 and powers shall be as [~~heretofore~~] provided [~~by law for the~~  
8 ~~boards of review and tax appeal court existing immediately prior~~  
9 ~~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] 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 an acting member of the  
2 board during the temporary absence from the State, temporary  
3 inability to act due to recusal, or illness of any regular  
4 member. An acting member, during the acting member's term of  
5 service, shall have the same powers and duties as the regular  
6 member; provided further that an acting member appointed due to  
7 a regular member's recusal shall be appointed for the case in  
8 which the recusal occurred, and the acting member's appointment  
9 shall terminate when the final decision is filed or the case is  
10 withdrawn. "

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

13 "§232-7 ~~[Boards]~~ Board of review; duties, powers,  
14 procedure before. (a) The board of review [~~for each district~~]  
15 shall hear informally all disputes between the assessor and any  
16 taxpayer in all cases in which appeals have been duly taken and  
17 the fact that a notice of appeal has been duly filed by a  
18 taxpayer shall be conclusive evidence of the existence of a  
19 dispute; provided that this provision shall not be construed to  
20 permit a taxpayer to dispute an assessment to the extent that it  
21 is in accordance with the taxpayer's return.



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

9           (c) A taxpayer's identity and final documents submitted in  
10 support or opposition of an appeal shall be public information;  
11 provided that an individual taxpayer is authorized to redact all  
12 but the last four digits of the taxpayer's social security  
13 number from any accompanying tax return. ~~[Each]~~ The board shall  
14 have the power and authority to decide all questions of fact and  
15 all questions of law, excepting questions involving the  
16 Constitution or laws of the United States, necessary to the  
17 determination of the objections raised by the taxpayer in the  
18 notice of appeal; provided that ~~[ne]~~ the board shall not have  
19 power to determine or declare an assessment illegal or void.  
20 Without prejudice to the generality of the foregoing, ~~[each]~~ the  
21 board shall have power to allow or disallow exemptions pursuant



1 to law, whether or not previously allowed or disallowed by the  
2 assessor, and to increase or lower any assessment.

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

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



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

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

15       "**§232-13 Hearing de novo; bill of particulars.** The  
16 hearing before the tax appeal court shall be a hearing de novo.  
17 Irrespective of which party prevails in proceedings before [a]  
18 the state board of review or any equivalent administrative body  
19 established by county ordinance, the assessment as made by the  
20 assessor, or if increased by the board, or equivalent county  
21 administrative body, the assessment as so increased, shall be



1 deemed prima facie correct. Each party shall have the right to  
2 introduce, or the tax appeal court, of its own motion, may  
3 require the taking of such evidence in relation to the subject  
4 pending as in the court's discretion may be deemed proper. The  
5 court, in the manner provided in section 232-16, shall determine  
6 all questions of fact and all questions of law, including  
7 constitutional questions, involved in the appeal.

8 The jurisdiction of the tax appeal court is limited to the  
9 amount of valuation or taxes, as the case may be, in dispute as  
10 shown on the one hand by the amount claimed by the taxpayer or  
11 county and on the other hand by the amount of the assessment, or  
12 if increased by the board, or equivalent county administrative  
13 body, the assessment as so increased.

14 Assessments for the same year upon other similar property  
15 situated in the State shall be receivable in evidence upon the  
16 hearing.

17 Upon the application of either the taxpayer, the county, or  
18 the assessor, the judge of the tax appeal court, upon notice,  
19 may allow and direct a bill of particulars of the claim of  
20 either the taxpayer, the county, or the assessor to be delivered  
21 to the other, and in case of default the judge shall preclude



1 the person [sø] defaulting from giving evidence of the part or  
2 parts of the person's affirmative claim of which particulars  
3 have not been delivered."

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

6 "(b) The [~~boards~~] board of review shall have power,  
7 consistent with this chapter and chapter 91, to make rules  
8 relating to procedure, and to prescribe forms to be used,  
9 including procedure and forms for the issuance of subpoenas and  
10 other process by the [~~boards of review~~] board or members  
11 thereof. The rules shall have the force and effect of law."

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

14 "[+]§232-14.5[+] Appeals relating to claims for refund.

15 (a) The denial in whole or in part by the department of  
16 taxation of a tax refund claim may be appealed by the filing of  
17 a written notice of appeal to [a] the board of review or the tax  
18 appeal court within thirty days after notice of the denial of  
19 the claim.

20 (b) An appeal may be filed with [a] the board of review or  
21 the tax appeal court for review of the merits of a tax refund



1 claim, upon a notice of appeal filed at any time after one  
2 hundred eighty days from the date that the claim was filed;  
3 provided that the department has not given notice of a denial of  
4 the claim within that period.

5 (c) Notwithstanding any law to the contrary under title  
6 14, this section shall apply to tax refund claims for all taxes  
7 administered by the department of taxation. The procedures for  
8 appeals from tax assessors, [a] the board of review, and the tax  
9 appeal court provided under this chapter and under section 235-  
10 114 shall apply to appeals relating to tax refund claims under  
11 this section. Any claimed tax refund or credit appealed  
12 pursuant to this section shall be awarded only if the claim  
13 therefor was filed within the applicable statutory period of  
14 limitation."

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

17 "**§232-15 Appeal to board of review.** [~~The appeal to a~~  
18 ~~board of review may be either to the board of review for the~~  
19 ~~district in which the taxpayer has the taxpayer's principal~~  
20 ~~place of business or to the board of review for the district in~~  
21 ~~which the taxpayer resides or has the taxpayer's principal~~



1 ~~office or to the board of review of the first district.]~~ The  
 2 notice of appeal to the board of review must be lodged with the  
 3 board and the assessor on or before the date fixed by law for  
 4 the taking of the appeal. An appeal to the board of review  
 5 shall be deemed to have been taken in time if the notice thereof  
 6 shall have been [~~deposited in the mail, postage prepaid,~~]  
 7 postmarked and properly addressed to the board and assessor, on  
 8 or before such date.

9       The notice of appeal must be in writing and any such  
 10 notice, however informal it may be, identifying the assessment  
 11 involved in the appeal and stating the grounds of objection to  
 12 the assessment shall be sufficient. [~~Upon the necessary~~  
 13 ~~information being furnished by the taxpayer to the assessor, the~~  
 14 ~~assessor shall prepare the notice of appeal upon request of the~~  
 15 ~~taxpayer and any notice so prepared by the assessor shall be~~  
 16 ~~deemed sufficient as to its form.]~~

17       The appeal shall be considered and treated for all purposes  
 18 as a general appeal and shall bring up for determination all  
 19 questions of fact and all questions of law, excepting questions  
 20 involving the Constitution or laws of the United States,  
 21 necessary to the determination of the objections raised by the



1 taxpayer in the notice of appeal. Any objection involving the  
2 Constitution or laws of the United States may be included by the  
3 taxpayer in the notice of appeal and in such case the objections  
4 may be heard and determined by the tax appeal court on appeal  
5 from a decision of the board of review; but this provision shall  
6 not be construed to confer upon the board [~~of review~~] the power  
7 to hear or determine such objections. Any notice of appeal may  
8 be amended at any time prior to the board's decision; provided  
9 the amendment does not substantially change the dispute."

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

12 "(a) A taxpayer or county may appeal directly to the tax  
13 appeal court without appealing to [a] the state board of review  
14 or any equivalent administrative body established by county  
15 ordinance; provided that a taxpayer appealing a real property  
16 tax assessment shall first obtain a decision from an  
17 administrative body established by county ordinance, prior to  
18 appealing to the tax appeal court, if county ordinance requires  
19 a taxpayer to do so. An appeal to the tax appeal court is  
20 properly commenced by filing, on or before the date fixed by law  
21 for the taking of the appeal, a written notice of appeal in the



1 office of the tax appeal court and by service of the notice of  
 2 appeal on the director of taxation and, in the case of an appeal  
 3 from a decision involving the county as a party, the real  
 4 property assessment division of the county involved. An  
 5 appealing taxpayer shall also pay the costs in the amount fixed  
 6 by section 232-22."

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

9 "§232-17 Appeals from [~~boards~~] board of review to tax  
 10 appeal court. An appeal shall lie to the tax appeal court from  
 11 the decision of [a] the state board of review, or equivalent  
 12 administrative body established by county ordinance. An appeal  
 13 to the tax appeal court is properly commenced by the filing, by  
 14 the taxpayer, [~~e~~] the county, or the director of taxation, of a  
 15 written notice of appeal in the office of the tax appeal court  
 16 within thirty days after the filing of the decision of the state  
 17 board of review or an equivalent county administrative body,  
 18 and, in the case of any appealing taxpayer, the payment of the  
 19 costs of court in the amount fixed by section 232-22, and  
 20 service of the notice of appeal on the director of taxation and,  
 21 in the case of an appeal from a decision involving the county as



1 a party, the real property assessment division of the county  
2 involved. A notice of appeal shall be sufficient if it states  
3 that the taxpayer, county, or director of taxation appeals from  
4 the decision of the state board of review, or an equivalent  
5 county administrative body, to the tax appeal court and may be  
6 amended at any time. The appeal shall bring up for  
7 determination all questions of fact and all questions of law,  
8 including constitutional questions involved in the appeal.

9 In case of an appeal by the county or the director of  
10 taxation, a copy of the notice of appeal shall be forthwith  
11 delivered or mailed to the taxpayer concerned or to the clerk of  
12 the county concerned in the manner provided in section 232-7 for  
13 giving notice of decisions.

14 An appeal shall be deemed to have been taken in time, and  
15 properly commenced, if the notice thereof and costs, if any, and  
16 the copy or copies of the notice shall have been deposited in  
17 the mail, postage prepaid, properly addressed to the tax appeal  
18 court, director of taxation, taxpayer or taxpayers, and, if  
19 relevant, the real property assessment division of the county  
20 involved, respectively, within the time period provided by this  
21 section."



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

3 "§232-18 Certificate of appeal to tax appeal court. Upon  
4 the perfecting of an appeal to the tax appeal court, the tax  
5 assessor [~~of the district from which the appeal is taken~~] shall  
6 immediately send up to the tax appeal court a certificate in  
7 which there shall be set forth the information required by  
8 section 232-16 to be set forth in the notice of appeal where an  
9 appeal is taken direct from the assessment to the tax appeal  
10 court.

11 The certificate shall be accompanied by the taxpayer's  
12 return, if any has been filed; provided that the department of  
13 taxation is authorized to redact all but the last four digits of  
14 an individual taxpayer's social security number from an  
15 accompanying tax return, a copy of the notice of appeal to the  
16 state board of review, or an equivalent administrative body  
17 established by county ordinance, and any amendments thereto, and  
18 the decision or action, if any, of the state board of review or  
19 equivalent administrative body. Failure of the assessor to  
20 comply herewith shall not prejudice or affect the taxpayer's,  
21 county's, or assessor's appeal and the certificate of appeal may



1 be amended at any time up to the final determination of the  
2 appeal."

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

5 "§232-20 Certificate of appeal. Upon the perfection of an  
6 appeal, the judge of the tax appeal court shall send to the  
7 appellate court a certificate in which there shall be set forth,  
8 among other things:

- 9 (1) A brief description of the assessment and the property  
10 involved in the appeal, if any, in sufficient detail  
11 to identify the same together with the valuation  
12 placed on the property by the assessor;
- 13 (2) The valuation claimed by the taxpayer or county;
- 14 (3) The taxpayer's or county's grounds of objection to the  
15 assessment;
- 16 (4) The valuation, if any, placed thereon by an  
17 administrative body established by county ordinance  
18 equivalent to [a] the state board of review; and
- 19 (5) The valuation placed thereon by the tax appeal court.

20 The certificate shall be accompanied by the taxpayer's  
21 return, if any, a copy of the notice of appeal from the



1 assessment and any amendments thereof, the decision, if any, of  
 2 the state board of review or equivalent county administrative  
 3 body, a copy of the notice of appeal from the decision of the  
 4 state board of review, or equivalent county administrative body,  
 5 if any, and any amendments thereof, and a transcript or  
 6 statement of the evidence before and the decision of the tax  
 7 appeal court, and all exhibits, motions, orders, or other  
 8 documents specified by either the taxpayer, the county, or the  
 9 assessor. No failure of the judge of the tax appeal court to  
 10 send or properly prepare the certificate or the accompanying  
 11 documents shall prejudice, limit, or in any manner affect the  
 12 taxpayer's, county's, or assessor's appeal, and the certificate  
 13 of appeal may be amended at any time up to the final  
 14 determination of the appeal."

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

17 "§232-24 Taxes paid pending appeal. The tax paid upon the  
 18 amount of any assessment, actually in dispute and in excess of  
 19 that admitted by the taxpayer, and covered by an appeal to the  
 20 tax appeal court duly taken, shall, pending the final  
 21 determination of the appeal, be paid by the director of finance



1 into the [u]litigated claims fund[u]. If the final  
2 determination is in whole or in part in favor of the appealing  
3 taxpayer, the director of finance shall repay to the taxpayer  
4 out of the fund, or if investment of the fund should result in a  
5 deficit therein, out of the general fund of the State, the  
6 amount of the tax paid upon the amount held by the court to have  
7 been excessive or nontaxable, together with from the date of  
8 each payment into the litigated claims fund, the interest to be  
9 paid from the general fund of the State. For purposes of this  
10 section, the rate of interest shall be computed by reference to  
11 section 6621(a) (with respect to interest rate determination) of  
12 the Internal Revenue Code of 1986, as of January 1, 2010. The  
13 balance, if any, of the payment made by the appealing taxpayer,  
14 or the whole of the payment, in case the decision is wholly in  
15 favor of the assessor, shall, upon the final determination  
16 become a realization under the tax law concerned.

17 In a case of an appeal to [a] the board of review, the tax  
18 paid, if any, upon the amount of the assessment actually in  
19 dispute and in excess of that admitted by the taxpayer, shall  
20 during the pendency of the appeal and until and unless an appeal  
21 is taken to the tax appeal court, be held by the director of



1 finance in a special deposit. In the event of final  
 2 determination of the appeal in the board of review, the director  
 3 of finance shall repay to the appealing taxpayer out of the  
 4 deposit the amount of the tax paid upon the amount held by the  
 5 board to have been excessive or nontaxable, if any, the balance,  
 6 if any, or the whole of the deposit, in case the decision is  
 7 wholly in favor of the assessor, to become a realization under  
 8 the tax law concerned."

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

11 "(a) Any person aggrieved by any assessment of the tax or  
 12 liability imposed by this chapter may appeal from the assessment  
 13 in the manner and within the time hereinafter set forth. Appeal  
 14 may be made either to the [~~district~~] board of review or to the  
 15 tax appeal court. The first appeal to either the [~~district~~]  
 16 board of review or to the tax appeal court may be made without  
 17 payment of the tax so assessed. Either the taxpayer or the  
 18 assessor may appeal to the tax appeal court from a decision by  
 19 the board or to the intermediate appellate court from a decision  
 20 by the tax appeal court; provided that if the decision by the  
 21 board or the tax appeal court is appealed by the taxpayer, or



1 the decision by the board in favor of the department is not  
2 appealed, the taxpayer shall pay the tax so assessed plus  
3 interest as provided in section 231-39(b)(4)."

4 SECTION 14. Any member serving a term of appointment to  
5 one of the previously existing district boards of taxation  
6 review on the effective date of this Act shall be considered to  
7 be appointed to the new statewide board of review for the  
8 remainder of the member's current term, notwithstanding section  
9 232-6(b), Hawaii Revised Statutes; provided that, if more than  
10 ten members are still serving terms of appointment to their  
11 respective district boards on the effective date of this Act,  
12 priority preference for appointment to the new statewide board  
13 of review shall be based on length of term remaining.

14 SECTION 15. Any appeal or pending appeal to one of the  
15 district boards of taxation review in which a decision has not  
16 yet been rendered as of the effective date of this Act shall be  
17 automatically transferred to the jurisdiction of the newly  
18 constituted statewide board of review for adjudication. This  
19 Act shall not affect rights and duties that matured, penalties  
20 that were incurred, and proceedings that were begun before its  
21 effective date; provided that any affected taxpayer who has



1 already appeared before a board but has not yet had a decision  
2 rendered in their appeal may elect to either have the new  
3 statewide board issue a ruling based on all available  
4 information in the case or request a new hearing before the  
5 statewide board.

6 SECTION 16. This Act shall not affect county real property  
7 tax appeals and the respective county boards of review to which  
8 they are appealed, nor shall it abrogate any county ordinance  
9 relating to a county's real property tax appeal procedures.

10 SECTION 17. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 18. This Act, upon its approval, shall take effect  
13 on January 1, 2022.

14



**Report Title:**

Tax Appeals; Tax Board of Review

**Description:**

Replaces the four district tax boards of review with a single statewide board of review appointed by the Governor, consisting of ten members with three required for quorum. Authorizes board members and taxpayers to appear and conduct official business using cost-saving measures such as teleconferencing. (SD1)

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

