
A BILL FOR AN ACT

RELATING TO THE TAXATION BOARD OF REVIEW.

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

1 SECTION 1. Section 232-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§232-6 Taxation board of review; appointment, removal,~~
4 **compensation.** (a) There is created a taxation board of review
5 for the State.

6 (b) The board shall consist of [~~no more than ten~~] three
7 members who shall be residents of the State and shall be
8 appointed for terms of six years each and be removable by the
9 governor as provided in section 26-34[~~-~~]; provided that the
10 terms of the members first appointed shall end on June 30, 2025,
11 June 30, 2027, and June 30, 2029, respectively, as designated by
12 the governor at the time of their appointments. Notwithstanding
13 section 26-34, no member shall be appointed to the board for
14 more than three consecutive terms.

15 The governor shall designate a member of the board to act
16 as chairperson [~~thereof~~], who shall be:



- 1 (1) An attorney having ten years of active experience,
2 with an emphasis on taxation and litigation, who is
3 licensed to practice in all of the courts of this
4 State; or
- 5 (2) A certified public accountant having ten years of
6 public accounting experience in the State.

7 In addition, the governor shall designate a member of the
8 board to act as vice chairperson who shall serve as the
9 chairperson of the board during the temporary absence from the
10 State, temporary inability to act due to recusal, illness, or
11 disqualification of the chairperson. Any vacancy in the board
12 shall be filled for the unexpired term. [~~Each member shall~~
13 ~~receive and be paid out of the treasury compensation for the~~
14 ~~member's services at the rate of \$10 per day for each day's~~
15 ~~actual attendance and the member's actual traveling expenses.~~
16 ~~No officer or employee of the State shall be eligible for~~
17 ~~appointment to the board.]~~

18 (c) Any vacancy in the board shall not impair the
19 authority of the remaining members to exercise all the powers of
20 the board. The governor may appoint, without regard to section
21 26-34, an acting member of the board during any regular member's



1 temporary absence from the State, temporary inability to act due
2 to recusal, disqualification, or illness. An acting member,
3 during the acting member's term of service, shall have the same
4 powers and duties as the regular member; provided that an acting
5 member appointed due to a regular member's recusal or
6 disqualification shall be appointed for the case in which the
7 recusal or disqualification occurred, and the acting member's
8 appointment shall terminate when the final decision is filed or
9 the case is withdrawn.

10 (d) The members shall devote full time to their duties as
11 members of the board. The chairperson of the board shall be
12 paid a salary set at eighty-five per cent of the salary of the
13 director of taxation, and the salary of each other member shall
14 be ninety per cent of the chairperson's salary. No member,
15 during the member's term, shall hold any other public office or
16 be in the employment of the State or a county, or any department
17 or agency thereof, or any employee organization.

18 (e) The board shall be within the department of taxation
19 for budgetary and administrative purposes. All members of the
20 board shall be exempt from chapters 76 and 89.



1 (f) At the close of each fiscal year, the board shall
2 submit a written report to the governor and the director of
3 taxation on its activities, including the cases heard and their
4 dispositions, and the names, duties, and salaries of its
5 officers and employees; provided that the report shall not
6 contain any information that is not made public under section
7 232-7."

8 SECTION 2. Section 232-7, Hawaii Revised Statutes, is
9 amended by amending subsections (b) to (e) to read as follows:

10 "(b) At least [~~three~~] two board members shall be present
11 at any meeting or proceeding of the board to constitute a
12 quorum. Notwithstanding sections 91-11 and 92-15, the board
13 shall validate its actions by a concurrence of a majority of the
14 members who heard the appeal. The board shall [~~hold public~~
15 meetings at some central location in each taxation district at
16 least once annually and shall] hear, as speedily as possible,
17 all appeals presented for each year. The hearings shall be
18 considered contested case hearings under section 91-9. Written
19 notice of the hearing shall meet the requirements of section
20 91-9.5; provided that if the notice is sent to the taxpayer's
21 last known address, a return receipt shall not be required. In



1 lieu of a return receipt, the department of taxation shall post
2 the notice on its website for a minimum of fifteen consecutive
3 days before the scheduled hearing date and provide confirmation
4 that the notice was mailed. Taxpayers and others appearing
5 before the board may also participate via teleconference or any
6 other cost-efficient means of the board's choosing.

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



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

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



1 SECTION 3. The members of the taxation board of review
2 serving on the day of the effective date of section 1 of this
3 Act shall continue to serve until the governor has appointed new
4 members in a manner that meets the composition requirements of
5 section 232-6, Hawaii Revised Statutes, as amended by section 1
6 of this Act.

7 SECTION 4. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 5. This Act shall not affect county real property
11 tax appeals and the respective county boards of review to which
12 they are appealed, nor shall it abrogate any county ordinance
13 relating to a county's real property tax appeal procedures.

14 SECTION 6. The department of taxation shall establish
15 three new full-time equivalent (3.0 FTE) taxation board of
16 review member positions. The department of taxation may
17 establish two new full-time equivalent (2.0 FTE) staff positions
18 to serve as administrative support or legal staff to the
19 taxation board of review.

20 SECTION 7. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$518,452 or so much



1 thereof as may be necessary for fiscal year 2022-2023 to carry
2 out the purposes of this Act, including the payment of salaries
3 of members, the hiring of staff, and other associated
4 administrative costs.

5 The sum appropriated shall be expended by the department of
6 taxation for the purposes of this Act.

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

9 SECTION 9. This Act shall take effect upon its approval;
10 provided that:

11 (1) Section 7 shall take effect on July 1, 2022; and

12 (2) Section 1 shall take effect on January 1, 2023.

13



Report Title:

Taxation Board of Review; Membership; Composition; Appropriation

Description:

Beginning 1/1/2023, amends the membership, composition, compensation, and duties of the taxation board of review. Amends quorum requirements. Authorizes members of the taxation board of review to validate the board's actions with a concurrence of the majority of members who heard the appeal. Specifies that board meetings are contested case hearings with certain notice requirements. Clarifies the legal and evidentiary framework for the board to use when making decisions. Appropriates funds to the department of taxation to establish staff positions. (HD2)

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