

JAN 21 2022

A BILL FOR AN ACT

RELATING TO THE TAXATION BOARD OF REVIEW.

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

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

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

(b) The board shall consist of ~~[no more than ten]~~ three members who shall be residents of the State and shall be appointed and be removable by the governor as provided in section 26-34. The governor shall designate a member of the board to act as chairperson ~~[thereof]~~. In addition, the governor shall designate a member of the board to act as vice chairperson who shall serve as the chairperson of the board during the temporary absence from the State, illness, or disqualification of the chairperson. Any vacancy in the board shall be filled for the unexpired term. ~~[Each member shall receive and be paid out of the treasury compensation for the member's services at the rate of \$10 per day for each day's~~



~~1 actual attendance and the member's actual traveling expenses.~~

~~2 No officer or employee of the State shall be eligible for
3 appointment to the board.]~~

4 (c) Any vacancy in the board shall not impair the
5 authority of the remaining members to exercise all the powers of
6 the board. The governor may appoint, without regard to section
7 26-34, an acting member of the board during any regular member's
8 temporary absence from the State, temporary inability to act due
9 to recusal, disqualification, or illness. An acting member,
10 during the acting member's term of service, shall have the same
11 powers and duties as the regular member; provided that an acting
12 member appointed due to a regular member's recusal or
13 disqualification shall be appointed for the case in which the
14 recusal or disqualification occurred, and the acting member's
15 appointment shall terminate when the final decision is filed or
16 the case is withdrawn.

17 (d) The members shall devote full time to their duties as
18 members of the board. The chairperson of the board shall be
19 paid a salary set at eighty-five per cent of the salary of the
20 director of taxation, and the salary of each other member shall
21 be ninety per cent of the chairperson's salary. No member,



1 during the member's term, shall hold any other public office or
2 be in the employment of the State or a county, or any department
3 or agency thereof, or any employee organization.

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

7 (f) At the close of each fiscal year, the board shall
8 submit a written report to the governor and the director of
9 taxation on its activities, including the cases heard and their
10 dispositions, and the names, duties, and salaries of its
11 officers and employees; provided that the report shall not
12 contain any information that is not made public under section
13 232-7."

14 SECTION 2. Section 232-7, Hawaii Revised Statutes, is
15 amended by amending subsections (b), (c), (d), and (e) to read
16 as follows:

17 "(b) At least [~~three~~] two board members shall be present
18 at any meeting or proceeding of the board to constitute a
19 quorum. Notwithstanding sections 91-11 and 92-15, the board
20 shall validate its actions by a concurrence of a majority of the
21 members who heard the appeal. The board shall [~~hold public~~



1 ~~meetings at some central location in each taxation district at~~
2 ~~least once annually and shall]~~ hear, as speedily as possible,
3 all appeals presented for each year. The hearings shall be
4 considered contested case hearings under section 91-9. Written
5 notice of the hearing shall meet the requirements of section
6 91-9.5; provided that, if the notice is sent to the taxpayer's
7 last known address, a return receipt shall not be required. In
8 lieu of a return receipt, the department shall post the notice
9 on its website for a minimum of fifteen consecutive days before
10 the scheduled hearing date and provide confirmation that the
11 notice was mailed. Taxpayers and others appearing before the
12 board may also participate via teleconference or any other
13 cost-efficient means of the board's choosing.

14 (c) A taxpayer's identity and final documents submitted in
15 support or opposition of an appeal shall be public information;
16 provided that an individual taxpayer shall be authorized to
17 redact all but the last four digits of the taxpayer's social
18 security number from any accompanying tax return. The board may
19 decide all questions of fact and all questions of law, excepting
20 questions involving the Constitution or laws of the United
21 States, necessary to the determination of the objections raised



1 by the taxpayer in the notice of appeal; provided that the board
2 shall not have the power to determine or declare an assessment
3 illegal or void. Without prejudice to the generality of the
4 foregoing, the board shall have the power to allow or disallow
5 exemptions pursuant to law, whether [~~or not~~] previously allowed
6 or disallowed by the assessor, and to increase or lower any
7 assessment.

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

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



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

7 SECTION 3. 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 4. 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 5. 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 6. 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 7. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 8. This Act shall take effect upon its approval;
10 provided that:

11 (1) Section 6 shall take effect on July 1, 2022; and

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

13
INTRODUCED BY: 



Report Title:

Taxation Board of Review; Appropriation

Description:

Reduces the size of the Taxation Board of Review from ten members to three, with at least two members required for quorum. Establishes that the members shall be full-time employees, with compensation based on a percentage of the salary of the director of taxation. Authorizes the 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. Clarifies that board meetings are contested case hearings and provides notice requirements. Clarifies the legal and evidentiary framework the board shall use in reaching its decisions. Appropriates moneys to the Department of Taxation to establish three full-time equivalent Taxation Board of Review members and two full-time equivalent staff positions.

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

