

JAN 26 2022

A BILL FOR AN ACT

RELATING TO THE STATE TAXATION BOARD OF REVIEW.

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

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

3 "**§232-7 Taxation board of review; duties, powers,**
4 **procedure before.** (a) The taxation board of review shall hear
5 informally all disputes between the assessor and any taxpayer in
6 all cases in which appeals have been duly taken and the fact
7 that a notice of appeal has been duly filed by a taxpayer shall
8 be conclusive evidence of the existence of a dispute; provided
9 that this subsection shall not be construed to permit a taxpayer
10 to dispute an assessment to the extent that it is in accordance
11 with the taxpayer's return.

12 (b) At least three board members shall be present at any
13 meeting or proceeding of the board to constitute a quorum.

14 Notwithstanding sections 91-11 and 92-15, the board shall
15 validate its actions by a concurrence of a majority of the
16 members who heard the appeal. The board shall ~~[hold public~~
17 ~~meetings at some central location in each taxation district at~~
18 ~~least once annually and shall]~~ hear, as speedily as possible,

S.B. NO. 3144

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

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

S.B. NO. 3144

1 foregoing, the board shall have the power to allow or disallow
2 exemptions pursuant to law, whether [~~or not~~] previously allowed
3 or disallowed by the assessor, and to increase or lower any
4 assessment.

5 (d) The board shall base its decision solely on the law
6 and evidence [~~before~~] presented directly to it [~~7~~] by the
7 parties, and, as provided in section 231-20, the assessment made
8 by the assessor shall be deemed prima facie correct. All
9 decisions of the board shall be reduced to writing and shall
10 state separately the board's findings of fact and conclusions of
11 law. The board shall file with the assessor concerned its
12 decision in writing on each appeal decided by it, and a
13 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 (e) The board and each member thereof, in addition to all
17 other powers, shall also have the power to subpoena witnesses,
18 administer oaths, examine books and records, and hear and take
19 evidence in relation to any subject [~~pending before the board.~~]
20 raised by the parties. The tax appeal court shall have the
21 power, upon request of the board, to enforce by proper
22 proceedings the attendance of witnesses, giving of testimony by

S.B. NO. 3144

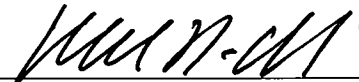
witnesses, and production of books, records, and papers at the
hearings of the board."

SECTION 2. This Act does not affect rights and duties that
matured, penalties that were incurred, or proceedings that were
begun before its effective date. This Act also does not affect
county real property tax appeals and the respective county
boards of review to which they are appealed, nor does it
abrogate any county ordinance relating to a county's real
property tax appeal procedures.

SECTION 3. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY:



BY REQUEST

S.B. NO. 3144

Report Title:

State Taxation Board of Review

Description:

Authorizes the members of the State 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 may use in reaching its decisions.

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 THE STATE
TAXATION BOARD OF REVIEW.

PURPOSE: To authorize the State Taxation Board of
Review to validate all Board actions by a
majority vote of the Board members present
and constituting quorum, and to clarify the
acceptable legal and evidentiary basis for
any Board decision.

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

JUSTIFICATION: Although the State Taxation Board of Review
was created to replace the separate boards
for each of the four taxation districts, the
authorizing statute is silent on the number
of board members necessary to validate an
action of the Board (such as issuing an
official decision). As a result, the Board
must follow section 92-15, HRS, which
provides that validation requires a majority
of all the members to which the Board is
entitled. Under current law, only three
members of the maximum ten-member Board must
be present for quorum, but six members would
be required for validation of Board actions.
Requiring a validation by majority vote of
all members present and constituting quorum,
instead of validation by a majority of all
Board members, regardless of their
participation, would better allow tax
appeals to be heard and resolved more
expeditiously. Explicitly limiting the
Board's deliberations to only the specific
law and evidence presented by the parties
will also improve efficiency in the appeals
system, conserve resources, and ensure an
even playing field for taxpayers who may not
have legal representation or sophisticated
tax law knowledge.

Impact on the public: Taxpayers will benefit from a more streamlined and efficient appeals process; aggrieved taxpayers will more readily receive a chance to be heard and have their issues adjudicated.

Impact on the department and other agencies: The Department will benefit from streamlined and expedited appellate review and eliminating the substantial backlog of cases at the Board level.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.