

SB 1222

RELATING TO REAL PROPERTY TAX APPEALS.

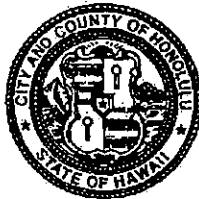
Requires persons appealing real property tax assessment to first appeal to the applicable county real property tax review board prior to appealing to the state tax court.

DEPARTMENT OF BUDGET AND FISCAL SERVICES

CITY AND COUNTY OF HONOLULU

REAL PROPERTY ASSESSMENT DIVISION
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ACTING DIRECTOR

GARY T. KUROKAWA
ADMINISTRATOR

February 10, 2010

Honorable Will Espero
Chair, PGM Committee
Hawaii State Capitol, Room 231
415 South Beretania Street
Honolulu, HI 96813


RE: SB1222 - RELATING TO REAL PROPERTY TAX APPEALS

The City and County of Honolulu is not opposed to the current SB1222. However, we would like to propose an amendment to SB1222, which we have included with this testimony. This amendment will provide each county the option of requiring real property tax appellants to first obtain a decision from an administrative body prior to appealing to the Tax Appeal Court via each county's property tax ordinances.

Under current City and County of Honolulu ordinance, real property tax appellants have the option to file an appeal to the Boards of Review or Tax Appeal Court (including small claims court). One of the grounds for appeal refers to the illegality, on any ground arising under the Constitution or laws of the United States of the laws of the state or the ordinances of the city in addition to the ground of illegality of the methods used. Revised Ordinances of Honolulu, Section 8-12.9(c) states that the board of review does not have the power to hear or determine objections involving the Constitution or laws of the United States. Should an appellant file an appeal under this ground of appeal, the appellant should have the option to file directly to the Tax Appeal Court.

For reasons stated above, we urge you to pass this measure and allow the flexibility at the county level to impose appropriate requirements. Thank you for your time and opportunity to testify on this important matter.

Respectfully Submitted,


Gary T. Kurokawa, Administrator
Real Property Assessment Division
City and County of Honolulu

Proposed
SD1 S.B. NO.

A BILL FOR AN ACT

RELATING TO REAL PROPERTY TAX APPEALS.

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

SECTION 1. The legislature finds that the current law permits a taxpayer appealing a real property tax assessment to appeal directly to the state tax court, bypassing the applicable county real property tax review board. This creates inefficiency and waste for both state and county governments. County real property tax review boards are frequently able to conclusively settle disputes regarding real property tax assessments. Requiring appellants to first appeal to the applicable county real property tax review board will promote fairness for all taxpayers.

SECTION 2. Section 232-16, Hawaii Revised Statutes, is amended to read as follows:

"§232-16 Appeal to tax appeal court. A taxpayer or county[, in all cases,] may appeal directly to the tax appeal court without appealing to a state board of review, or any equivalent administrative body established by county

ordinance[.]; provided that where county law requires a taxpayer appealing a real property tax assessment to first obtain a decision from an administrative body before appealing to the tax appeal court, then the taxpayer shall first obtain a decision from an administrative body established by county ordinance before appealing to the tax appeal court. An appeal to the tax appeal court is properly commenced by filing, on or before the date fixed by law for the taking of the appeal, a written notice of appeal in the office of the tax appeal court and by service of the notice of appeal on the director of taxation and, in the case of an appeal from a decision involving the county as a party, the real property assessment division of the county involved. An appealing taxpayer shall also pay the costs in the amount fixed by section 232-22.

The notice of appeal to the tax appeal court shall be sufficient if it meets the requirements prescribed for a notice of appeal to the board of review and may be amended at any time; provided that it sets forth the following additional information, to wit:

A brief description of the property involved in sufficient detail to identify the same and the valuation placed thereon by the assessor.

The notice of appeal shall be accompanied by a copy of the taxpayer's return, if any has been filed; provided that an individual taxpayer is authorized to redact all but the last four digits of the taxpayer's social security number from any accompanying tax return.

In the case of a taxpayer appealing a real property tax assessment to tax appeal court, where county law requires a taxpayer appealing a real property tax assessment to first obtain a decision from an administrative body established by county ordinance before appealing to the tax appeal court, the notice of appeal shall be accompanied by a copy of the decision from an administrative body established by county ordinance.

An appeal to the tax appeal court shall be deemed to have been taken in time if the notice thereof and costs and the copy of the notice shall have been deposited in the mail, postage prepaid, properly addressed to the tax appeal court, the director of taxation, or the real property assessment division of the county involved, and to the taxpayer or taxpayers in the case of an appeal taken by a county, respectively, on or before the date fixed by law for the taking of the appeal.

An appeal to the tax appeal court shall bring up for review all questions of fact and all questions of law,

including constitutional questions, necessary to the determination of the objections raised by the taxpayer or county in the notice of appeal."

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

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

INTRODUCED BY: _____

Report Title:

Real Property Tax Assessment; Appeal; County Real Property Tax Review Board

Description:

Provides each county the option of requiring persons appealing real property tax assessments to first appeal to the applicable county real property tax review board prior to appealing to the state tax court.

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

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WAILUKU, MAUI, HAWAII 96793
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February 8, 2011

TO: Honorable Will Espero, Chair
Senate Committee on Public Safety, Government Operations, and Military Affairs

FROM: Joseph Pontanilla, Council Vice-Chair *Joseph Pontanilla*

DATE: February 12, 2011

SUBJECT: **TESTIMONY IN SUPPORT OF SB 1222, RELATING TO REAL PROPERTY TAX APPEALS**

Thank you for the opportunity to testify in support of SB 1222 Relating to Real Property Tax Appeals. The purpose of the legislation requires real property tax appellants to first obtain a decision from an administration body established by county ordinance prior to appealing to the Tax Appeal Court. I provide this testimony as an individual member of the Maui County Council.

I support **SB 1222** for the following:

1. Each county has one or more local review boards commissioned for the hearing of real property tax appeals. Local boards operate under less complicated procedures than formal court review fostering a quicker adjudication of appeal cases.
2. Disputed tax amounts under appeal are set aside and unavailable until resolution of an appeal as resource to the counties. The State Tax Appeal Court, under limited operating means, is currently unable to promptly hear tax appeal cases. Bypassing the county boards of review process suspends for greater duration a county's ability to access much needed revenue resources.
3. Successful resolution of appeals at a county level will alleviate burden and workload at the Hawaii State Judiciary.

I respectfully urge you to support this measure that allows for greater efficiency in the tax appeals process.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TAX APPEALS, Real property tax appeals

BILL NUMBER: SB 1222; HB 1532 (Similar)

INTRODUCED BY: SB by Tsutsui; HB by Souki, Yamashita and 2 Democrats

BRIEF SUMMARY: Amends HRS section 232-16 to require a taxpayer appealing a real property tax assessment to first obtain a decision from an administrative body established by county ordinance before appealing to the tax appeal court.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: Currently, a taxpayer may appeal a real property tax assessment to: (1) a real property tax board of review; or (2) the Tax Appeal Court or the small claims procedure of the Tax Appeal Court for disputes under \$1,000. This measure would require a taxpayer to obtain a decision by the real property assessment division of the respective county prior to appealing any assessment to the Tax Appeal Court. It appears that this measure proposes to alleviate unnecessary appeals to the Tax Appeal Court, some of which may have been attributable to errors on the property assessment made by the respective county's real property tax office. On the other hand, the adoption of this measure would prohibit the filing of an appeal of a real property assessment directly with the Tax Appeal Court and this may be a denial of a taxpayer's due process.

It should be noted that while the real property taxing powers have been transferred to the respective counties, the proposed measure, which encroaches on the county's real property taxing powers, may be construed to be unconstitutional.

Digested 2/9/11

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 07, 2011 12:01 PM
To: PGM Testimony
Cc: kaloat14@maryknolls.school.org
Subject: Testimony for SB1222 on 2/12/2011 9:00:00 AM

Testimony for PGM 2/12/2011 9:00:00 AM SB1222

Conference room: 229
Testifier position: oppose
Testifier will be present: No
Submitted by: Tyson Kaloa
Organization: Individual
Address:
Phone:
E-mail: kaloat14@maryknolls.school.org
Submitted on: 2/7/2011

Comments: