

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 for terms of six years each and be removable by the governor as provided in section 26-34~~[-]~~; provided that the terms of the members first appointed shall end on June 30, 2025, June 30, 2027, and June 30, 2029, respectively, as designated by the governor at the time of their appointments. Notwithstanding section 26-34, no member shall be appointed to the board for more than three consecutive terms. The governor shall designate a member of the board to act as chairperson thereof~~[-]~~ who shall be an attorney at law licensed to practice in all courts of the State. In addition, the governor shall designate a member of



1 the board to act as vice chairperson who shall serve as the  
2 chairperson of the board during the temporary absence from the  
3 State, illness, or disqualification of the chairperson. Any  
4 vacancy in the board shall be filled for the unexpired term.

5 ~~[Each member shall receive and be paid out of the treasury~~  
6 ~~compensation for the member's services at the rate of \$10 per~~  
7 ~~day for each day's actual attendance and the member's actual~~  
8 ~~traveling expenses. No officer or employee of the State shall~~  
9 ~~be eligible for appointment to the board.]~~

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



1 appointment shall terminate when the final decision is filed or  
2 the case is withdrawn.

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

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

14 (f) At the close of each fiscal year, the board shall make  
15 a written report to the governor and the director of taxation on  
16 its activities, including the cases and their dispositions, and  
17 the names, duties, and salaries of its officers and employees;  
18 provided that the report shall not contain any information that  
19 is not made public under section 232-7."

20 SECTION 2. Section 232-7, Hawaii Revised Statutes, is  
21 amended as follows:



1           1. By amending subsection (b) to read:

2           "(b) At least [~~three~~] two board members shall be present  
3 at any meeting or proceeding of the board to constitute a  
4 quorum. The board shall validate its actions by a concurrence  
5 of a majority of the members who heard the appeal. The board  
6 shall [~~hold public meetings at some central location in each~~  
7 ~~taxation district at least once annually and shall~~] hear, as  
8 speedily as possible, all appeals presented for each year. Each  
9 appeal shall be considered a contested case hearing under  
10 section 91-9. Written notice of the hearing shall meet the  
11 requirements of section 91-9.5; provided that if the notice is  
12 sent to the taxpayer's last known address a return receipt shall  
13 not be required and in lieu of a return receipt, the board shall  
14 post the notice on its website for a minimum of fifteen  
15 consecutive days before the scheduled hearing date and provide  
16 confirmation that the notice was mailed. Taxpayers and others  
17 appearing before the board may also participate via  
18 teleconference or any other cost-efficient means of the board's  
19 choosing."

20           2. By amending subsections (d) and (e) to read:



1           "(d) The board shall base its decision solely on the law  
2 and evidence [~~before~~] presented directly to it [~~7~~] by the parties  
3 and, as provided in section 231-20, the assessment made by the  
4 assessor shall be deemed prima facie correct. All decisions of  
5 the board shall be reduced to writing and shall state separately  
6 the board's findings of fact and conclusions of law. The board  
7 shall file with the assessor concerned its decision in writing  
8 on each appeal decided by it, and a certified copy of the  
9 decision shall be furnished by the assessor to the taxpayer  
10 concerned by delivery or by mailing the copy addressed to the  
11 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 before the board. The tax appeal court  
17 shall have the power, upon request of the board, to enforce by  
18 proper proceedings the attendance of witnesses, giving of  
19 testimony by witnesses, and production of books, records, and  
20 papers at the hearings of the board."



1       SECTION 3. The department of taxation shall establish three  
2 new full-time equivalent (3.0 FTE) taxation board of review  
3 member positions. The department of taxation may establish two  
4 new full-time equivalent (2.0 FTE) positions to serve as  
5 administrative support or legal staff to the taxation board of  
6 review.

7       SECTION 4. There is appropriated out of the general  
8 revenues of the State of Hawaii the sum of \$518,452 or so much  
9 thereof as may be necessary for fiscal year 2022-2023 to  
10 effectuate this Act, including the payment of the salaries of  
11 board members, the hiring of administrative support or legal  
12 staff, and other associated administrative costs.

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

15       SECTION 5. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date. This Act also does not affect  
18 the county real property tax appeals and the respective county  
19 boards of review to which they are appealed, nor does it  
20 abrogate any county ordinance relating to a county's real  
21 property tax appeal procedures.

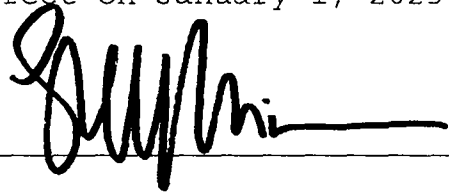


1           SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 7. This Act shall take effect upon its approval,  
4 provided that section 1 shall take effect on January 1, 2023.

5

INTRODUCED BY: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "S. M. H.", is written over a horizontal line that follows the text "INTRODUCED BY:". The signature is stylized and cursive.

# S.B. NO. 2376

**Report Title:**

Taxation Board of Review; Appropriation

**Description:**

Adjusts membership of the State Taxation Board of Review to three paid, full-time members, and sets a two-member quorum. Establishes compensation schedule for board members. Authorizes board members to validate board actions by a majority of the 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.*

