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EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**  
TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS  
ON  
SENATE BILL NO. 2378, S.D. 1, H.D. 1

**March 21, 2022**  
**2:00 p.m.**  
**Room 325 and Videoconference**

RELATING TO THE TAXATION BOARD OF REVIEW

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2378, S.D. 1, H.D. 1, amends Section 232-6, HRS, to change the composition of the Taxation Board of Review (Board) from ten volunteer members to three full-time members; establish that the Chairperson of the Board shall be paid 85% of the salary of the Director of Taxation and the other Board members shall be paid 90% of the Chairperson's salary; decrease the quorum requirement from three members to two; and clarify the legal, procedural, and evidentiary framework that the Board must use in providing notice, adjudicating a contested case hearing, and reaching its decision. This bill also appropriates an unspecified amount of general funds in FY 23 for 3.00 Board members, 2.00 administrative staff members, and other related administrative expenses.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
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To: The Honorable Mark M. Nakashima, Chair;  
The Honorable Scot Z. Matayoshi, Vice Chair;  
and Members of the House Committee on Judiciary and Hawaiian Affairs

From: Isaac W. Choy, Director  
Department of Taxation

Date: Monday, March 21, 2022  
Time: 2:00 P.M.  
Place: Via Video Conference, State Capitol

**Re: S.B. 2378, S.D. 1, H.D. 1, Relating to the Taxation Board of Review**

The Department of Taxation (Department) strongly supports S.B. 2378, S.D. 1, H.D. 1, and offers the following comments for the committee's consideration.

S.B. 2378, S.D. 1, H.D. 1, amends section chapter 232, Hawaii Revised Statutes (HRS), to make several important changes to the State Taxation Board of Review (Board). It changes the Board's composition from ten volunteer members to three compensated members with two required for quorum, streamlines administrative procedures for validating board actions, and clarifies the legal, procedural, and evidentiary frameworks that the Board must use in providing notice, adjudicating contested case hearings, and reaching its decisions. It also makes appropriations for Board member salaries and administrative support and legal staff. The measure has a defective effective date of October 18, 2050.

The Department notes that the House Committee on Economic Development amended the previous version of this measure to clarify that the Chairperson of the Board shall be either a state-licensed attorney or a Certified Public Accountant with experience in the State, and that the Vice Chairperson shall serve as the Chairperson during the Chairperson's temporary inability to act due to recusal. The Department appreciates these changes and requests that they remain intact.

Establishing a paid professional Board with robust institutional support would greatly help the Department work through its significant backlog of appeals and ensure that Hawaii's taxpayers have their tax appeal issues resolved fairly and expeditiously. As such, the Department respectfully requests that the appropriation in Section 5 of \$518,452 be reinstated. In addition, the Department respectfully requests that Section 8, which contains the effective date, be restored to read:

SECTION 8. This Act shall take effect upon its approval, provided that section 1 shall take effect on January 1, 2023.

If the appropriation and the functional effective date are restored, the Department is able to administer the measure as written. Thank you for the opportunity to testify in support of this measure.