

ACT 218

S.B. NO. 2378

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 salaried 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 salaried 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 its chairperson [thereof], who shall be:

- (1) An attorney at law licensed to practice in all courts of the State; or
- (2) A certified public accountant having experience in the State.

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, temporary inability to act due to recusal, 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 actual attendance and the member's actual traveling expenses. No officer or employee of the State shall be eligible for appointment to the board.]

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occurred, and the acting member's appointment shall terminate when the final decision is filed or the case is withdrawn.

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

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

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

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

1. By amending subsection (b) to read:

"(b) At least [three] two board members shall be present at any meeting or proceeding of the board to constitute a quorum. The board shall validate its actions by a concurrence of a majority of the members who heard the appeal. The board shall [hold public meetings at some central location in each taxation district at least once annually and shall] hear, as speedily as possible, all appeals presented for each year. Each appeal shall be considered a contested case hearing under section 91-9. Written notice of the hearing shall meet the requirements of section 91-9.5; provided that if the notice is sent to the taxpayer's last known address, a return receipt shall not be required and, in lieu of a return receipt, the board shall post the notice on its website for a minimum of fifteen consecu-

tive days before the scheduled hearing date and provide confirmation that the notice was mailed. Taxpayers and others appearing before the board may also participate via teleconference or any other cost-efficient means of the board's choosing."

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

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

(e) The board and each member thereof, in addition to all other powers, shall also have the power to subpoena witnesses, administer oaths, examine books and records, and hear and take evidence in relation to any subject [~~pending before the board.~~] raised by the parties before the board. The tax appeal court shall have the power, upon request of the board, to enforce by proper proceedings the attendance of witnesses, giving of testimony by witnesses, and production of books, records, and papers at the hearings of the board."

SECTION 3. Notwithstanding any law to the contrary, the sitting members of the taxation board of review that were appointed pursuant to section 232-6, Hawaii Revised Statutes, it read the day before the effective date of section 1 of this Act, may hold over in office until their successors are appointed and qualified pursuant to section 1 of this Act.

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

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$518,542 or so much thereof as may be necessary for fiscal year 2022-2023 to effectuate this Act, including the payment of the salaries of board members, hiring of administrative support or legal staff, and other associated administrative costs.

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

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date. This Act also does not affect the county real property tax appeals and the respective county boards of review to which they are appealed, nor does this Act abrogate any county ordinance relating to a county's real property tax appeal procedures.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval; provided that section 1 shall take effect on January 1, 2023, and section 5 shall take effect on July 1, 2022.

(Approved June 27, 2022.)