
A BILL FOR AN ACT

RELATING TO ATTORNEYS.

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

1 SECTION 1. Section 231-4.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§231-4.5 Administrative rules officer; specialists;**
4 ~~[appointment and duties]~~ **special tax counsel designation.** [The
5 ~~director of taxation may appoint an administrative rules~~
6 ~~officer, and administrative rules specialists as necessary to~~
7 ~~assist the administrative rules officer. The administrative~~
8 ~~rules officer shall direct the adoption of rules related to~~
9 ~~taxes administered by the department, assist with the issuance~~
10 ~~of tax memoranda and tax information releases, and perform other~~
11 ~~duties as directed by the director. The administrative rules~~
12 ~~officer and the administrative rules specialists shall be exempt~~
13 ~~from chapters 76 and may be legal or accounting professionals;~~
14 ~~provided that no individual appointed under this section shall~~
15 ~~render legal services reserved to the attorney general under~~
16 ~~chapter 28.]~~ (a) Notwithstanding any law to the contrary, any
17 licensed attorney employed by the department as administrative



1 rules officer or administrative rules specialist shall be
2 designated special tax counsel and shall be authorized to:

3 (1) Provide legal advice to the department relating to
4 title 14 subject to the attorney-client privilege;
5 (2) Represent the department before a board of review
6 under chapter 232 and provide legal services in such
7 representation subject to the attorney-client and
8 attorney-work product privileges; and

9 (3) Represent the department before the tax appeal court
10 under chapter 232 with the approval of the attorney
11 general and subject to attorney general supervision,
12 in the capacity of special deputy attorney general.

13 (b) Notwithstanding any law to the contrary, including
14 subsection (a), any and all legal advice or communications of
15 any form given by the licensed-attorney administrative rules
16 officer, administrative rules specialist, and special tax
17 counsel, shall be disclosed to the public in accordance with
18 standards provided by federal law and federal court
19 interpretation for public disclosure of Internal Revenue Service
20 Office of Chief Counsel advice and communications.

21 (c) The department shall keep daily records of time spent
22 by each licensed-attorney administrative rules officer,



1 administrative rules specialist, and special tax counsel, on
2 categories of work, including but not limited to representation
3 of the department before the board of review, representation
4 before the tax appeal court, legislation, rules, tax information
5 releases, notices, private rulings or letters, and advice to the
6 department by branch. The department shall report to the
7 legislature ten days prior to the convening of each regular
8 legislative session of the time so spent by each such person by
9 category of work for the preceding year."

10 SECTION 2. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect upon its approval.



H.B. NO. 3386
H.D. 1
S.D. 2
C.D. 1

Report Title:

Attorneys; Legislature; Judiciary; Taxation

Description:

Designates special tax counsel and provides for their authority. Provides for disclosure. Requires the Department of Taxation to keep daily records of time spent on various tasks for several categories of work within the department. (HB3386 CD1)

