STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**03/25/10**	Bill No:	**AB 1782**
Tax:	**Property**	Author:	**Harkey**
Related Bills:	**AB 1662 (Portantino)** **AB 1690 (Chesbro)**		

BILL SUMMARY

This bill would establish general purpose provisions applicable to future natural disasters for which the Governor declares an impacted county to be in a state of emergency. Specifically:

- Allows any person whose home was damaged or destroyed by the natural disaster to retain the homeowners' exemption on the property.
- Provides state reimbursement to local governments to backfill property tax revenue losses resulting from assessment reductions related to the natural disaster.

CURRENT LAW

Homeowners' Exemption. Article XIII, Section 3(k) of the California Constitution exempts from property tax the first $7,000 of the full value of a dwelling when occupied by an owner as his or her principal residence. This exemption is commonly referred to as the "homeowners' exemption."

Revenue and Taxation Code Section 218 details the qualifications for the homeowners' exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied, is vacant, or is under construction on the lien date (January 1), the property is not eligible for the exemption for the upcoming tax year.

Relevant to natural disaster situations, homes that are totally destroyed on the lien date for a particular fiscal year (that is January 1 for the forthcoming fiscal year that begins July 1) are not eligible for the homeowners' exemption. For example, a home destroyed on or before January 1, 2010 is not eligible for the homeowners' exemption on the 2010-11 property tax bill.[1]

Special purpose legislation has been enacted in recent years for most natural disasters to provide that a dwelling destroyed in specified events for which the Governor declared a state of emergency will not be disqualified as a "dwelling" or be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

Disaster Relief - Property Reassessment for Property Owners. Revenue and Taxation Code Section 170 provides that property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance authorizing its provisions. These provisions apply to both Governor declared disasters and site-specific disasters, such as an individual home fire.

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[1] A home destroyed on or after January 1, 2009, would continue to be eligible for the exemption on the 2009-10 property tax bill. However, if the home has not been rebuilt and occupied by the next lien date, January 1, 2010, it would not be eligible for the homeowners' exemption on the 2010-11 property tax bill.

Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property as of the date of the disaster to recognize its loss in market value. To be eligible, the loss in value must be at least $10,000. Tax relief is provided by reducing the prior assessed value of the damaged property in proportion to the loss in its market value; the new reduced value is used to calculate a pro-rata reduction in taxes. The property retains its reduced value, thus lowering tax liability, until it is restored, repaired, or reconstructed. Generally, taxpayers have up to 12 months to file a request for reassessment after a disaster.

Disaster Relief - State Reimbursement for Local Governments. Legislation is usually enacted to fully reimburse local governments for one fiscal year's property tax revenue loss associated with providing Section 170 assessment reductions. The county auditor of the impacted county, the State Controller, and the Department of Finance are responsible for administering these provisions.

PROPOSED LAW

Homeowners' Exemption. This bill would add subdivision (z) to Section 218 to provide that a dwelling that qualified for the homeowners' exemption and that was damaged or destroyed by a natural disaster in a designated area declared by the Governor to be in a state of emergency during a specified period of time, and that has not changed ownership since commencement date of the disaster, and shall not be disqualified as a "dwelling" or be denied the exemption solely on the basis that, as a result of the disaster, the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to the disaster.

State Reimbursement for Local Governments. This bill would add Chapter 7 (commencing with Section 199) "Emergency Property Tax Reassessment Reimbursement" to Part 1 of Division 1 of the Revenue and Taxation Code to provide general purpose provisions related to the reimbursement procedure followed by county auditor, the State Controller, and the Department of Finance to recoup property tax losses due to the disaster. This provision is not addressed in this analysis with any detail since it falls outside the purview of the Board.

IN GENERAL

Disaster Relief. There are a variety of provisions in property tax law to provide property tax relief for disaster victims. These provisions address both the short term and the long term consequences of the disaster as it relates to current and future property tax liabilities. In the short term, property tax liability is redetermined to reflect the damage to the property. Additionally, some taxpayers may defer the next property tax installment payment. Over the long term, property owners may rebuild or repair damaged properties without incurring any increase in property tax liability. Alternatively, property owners may relocate rather than rebuild without being adversely impacted by the property tax consequences. The various provisions in the Revenue and Taxation Code are noted as follows:

DISASTER RELIEF REFERENCE CHART

Section	Property Type	Type of Relief Available	Type of Disaster
170	All property types	Reassessment	Any disaster or calamity
194 & 194.1	Real property and manufactured homes	Property tax deferral – next installment	Governor-proclaimed
195.1	Real property and manufactured homes	Property tax deferral – second consecutive installment	Governor-proclaimed
194.9	Real property and manufactured homes	Property tax deferral – supplemental assessment	Governor-proclaimed
69	All property types	Base year value transfer	Governor-proclaimed
69.3	Principal place of residence	Base year value transfer	Governor-proclaimed
69.5	Principal place of residence —over 55 or physically disabled	Base year value transfer	Any disaster or calamity
172 & 172.1	Manufactured home	Base year value transfer	Governor-proclaimed
70	Real property only	New construction exclusion	Any disaster or calamity
5825	Manufactured home	New construction exclusion; Base year value transfer	Any disaster or calamity

BACKGROUND

In 2006, the Office of Planning and Research sponsored similar legislation in AB 3039 (Houston). This bill failed passage in Assembly Appropriations Committee.

Additionally, in 2006, the Board sponsored legislation contained in SB 1607 (Senate Revenue and Taxation Committee) which was limited in scope to the homeowners' exemption provisions. These provisions were deleted from SB 1607 in the Assembly Revenue and Taxation Committee after the Assembly Appropriations Committee did not approve AB 3039 (Houston).

The Board sponsored similar standard purpose legislation with respect to retaining the disabled veterans' exemption after a Governor declared disaster with Senate Bill 1495 (Stats. 2008, Ch. 594). That bill amended Section 279 to allow the disabled veterans' exemption to remain in effect if a home is damaged or destroyed in any disaster for which the Governor proclaimed a state of emergency.

COMMENTS

1. **Sponsor and Purpose.** The author is sponsoring this measure to eliminate the need to enact special purpose legislation each time there is a natural disaster. This would provide automatic property tax reimbursement to counties in which the Governor has declared a state of emergency, eliminating the need for the Legislature to pass urgency statutes in the aftermath of such disasters. It would also allow impacted homeowners to retain the homeowners' exemption.

2. **The frequent amendments to Section 218 are tedious and complex.** The bills for property tax reimbursement are newly added sections of code and do not require double joining amendments. However, with respect to the homeowners' exemption, there is a need for double and triple joining language in years with multiple disasters. Further complicating this matter is that Section 218 is a foundational section for the homeowners' exemption. Thus, other legislation seeking to modify the exemption, such as proposed increases or administrative changes must also be tracked for chaptering out issues. This bill provides predictability by automating the process. It is also environmentally friendly by reducing legislative bill printing costs and travel costs by local governments that travel to the Capitol to ensure enactment of property tax backfill legislation for their disaster-stricken county and disaster relief for businesses and residents.

3. **State of emergency proclamations routinely make reference to the date the disaster began or occurred.** The proclamation does not typically designate a particular span of time, and to our knowledge, nothing is issued to officially end the proclamation period. As such, the following amendment to Section 218 is suggested.

   (z) A dwelling that qualified for an exemption under this section and that was damaged or destroyed by a natural disaster in a designated area declared by the Governor to be in a state of emergency ~~during a specified period of time~~, and that has not changed ownership since the commencement date of the disaster <u>as specified in the Governor's proclamation</u>, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that, as a result of that disaster, the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to the disaster."

4. **Property tax reimbursement is typically provided for a particular fiscal year as specified in the legislation specific to the disaster.** Disaster relief legislation typically reimburses disaster-stricken counties for property tax losses for a particular fiscal year. The author may wish to consult with the Department of Finance to consider amending this language to clarify that the backfill will be limited to losses sustained in a single fiscal year, which would be designated by the Director of Finance, in accordance with their administrative procedures. The issue of the particular fiscal year for which reimbursement will be made has not generally been an issue. However, in 2007, wildfires in El Dorado County occurred on June 24, 2007 with only a few days left in the fiscal year that ended on June 30, 2007. Consequently, the fiscal year designated in the legislation of 2006-07 essentially provided no reimbursement to the County. Consequently, the fiscal year for relief was changed to the next fiscal year via follow up legislation.

5. **Governor's signing message on special purpose legislation.** Governor Schwarzenegger included a signing message in 2005's AB 18 (Ch. 624, Stats. 2005) requesting that standard purpose legislation be enacted to avoid the need to introduce special purpose legislation each year. The following table lists the special purpose legislation enacted in recent years.

Disaster	Year	Legislation
Wildfires – Multiple Counties	2009	Stats. 2009, Ch. 299 (AB 1568)

Disaster	Year	Legislation
Fire, Wind, Storms – Multiple Counties	2008	Stats. 2008, Ch. 386 (SB 1064)
Zaca Fire – Santa Barbara and Ventura	2007	Stats. 2007, Ch. 224 (AB 62)
Angora Fire – El Dorado County	2007	Stats. 2007, Ch. 224 (AB 62)
Freeze	2007	Stats. 2007, Ch. 224 (AB 62)
Day and Shekell Fires - Ventura County	2006	Stats. 2007, Ch. 224 (AB 62)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 396 (AB 1798)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 897 (AB 2735)
Shasta Wildfires	2005	Stats. 2005, Ch. 623 (AB 164)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 624 (AB 18)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 622 (SB 457)
San Joaquin levee break	2004	Stats. 2004, Ch. 792 (SB 1147)
San Simeon earthquake	2003	Stats. 2004, Ch. 792 (SB 1147)
Southern California wildfires	2003	Stats. 2004, Ch. 792 (SB 1147)
Oakland/Berkeley Hills fire	1992	Stats. 1992, Ch.1180 (SB 1639)
Los Angeles civil riots	1991	Stats. 1992, Ch. 17X (AB 38 X)

6. **Related Bills.** SB 1494 (SR&T) contains a Board-sponsored provision that also proposes to amend Section 218 to make the homeowners' exemptions provisions standard for all Governor declared state of emergencies without the need for special purpose legislation. In addition, AB 1662 (Portantino) and AB 1690 (Chesbro) provide special purpose legislation for disasters occurring in 2009 and 2010. Also, SB 1430 (Walters) proposes unrelated amendments to Section 218 to increase the amount of the homeowners' exemption for seniors.

COST ESTIMATE

The Board would incur some minor absorbable costs in informing and advising county assessors, the public, and staff of the law changes and addressing ongoing implementation issues and questions. These costs are estimated to be under $10,000.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

Homeowners' Exemption Subvention. This bill does not have a direct revenue impact. The revenue impact of this bill over time will depend on the number and extent of disasters in the future. To provide a frame of reference, for the last three years, the average revenue impact related to extending the homeowners' exemption for various disasters was about $84,000 (2009: $60,000, 2008: $170,000 and 2007: $22,000). Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners' exemption for those properties temporarily vacated for repairs. Therefore, damaged properties are not factored into the revenue estimate for homeowners' exemption retention.

Property Tax Revenue Loss Reimbursement. The revenue impact of this bill over time will depend on the number and extent of disasters in the future. Typically, the associated revenue loss has been in the millions of dollars.

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