



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date Amended	<b>06/25/08</b>	Bill No:	<b><a href="#">SB 1562</a></b>
Tax:	<b>Property</b>	Author:	<b>Hollingsworth and Ducheny</b>
Related Bills:	<b>AB 1759 (DeVore) SB 1064 (Hollingsworth)</b>		

**BILL SUMMARY**

This bill restarts the four-year property tax exemption period for newly planted fruit and nut bearing trees and three year exemption for grapevines currently in their exemption phase that must be pruned back as a result of specified disasters.

**Summary of Amendments**

The amendments since the previous analysis extend the provisions of this bill to grapevines damaged in the disasters.

**ANALYSIS**

**CURRENT LAW**

**Orchards and Vineyards.** Fruit and nut bearing trees and grapevines are subject to property tax as “living improvements” but they are exempt from tax during a portion of their immature life. Article XIII, Section 3(i) of the California Constitution exempts from property tax fruit and nut trees planted in orchard form until four years after the season first planted. Grapevines planted in vineyard form are exempt for three years. The land in which the trees and grapevines are planted remains subject to tax.

Revenue and Taxation Code Section 211 restates the exemption provisions of the constitution. It additionally provides that, if a tree currently exempt from tax as a “new planting” is so damaged as a result of freezes occurring in December 1990, December 1998, and January 2007 that it must be pruned to the trunk or bud union to establish a new shoot, the pruning of the tree will be considered a “new planting” which restarts the exemption period for that tree. With respect to grapevines, these provisions are only applicable to the December 1990 freeze.

In addition to the exemption for newly planted orchards and vineyards provided by Section 211, Property Tax Rule 131 provides that the exemption period will also apply to individual trees or vines when a tree or vine is newly planted within an existing orchard or vineyard (i.e., a replacement tree or vine). It also provides that a new exemption period will be allowed when a tree or vine that has reached commercial production is grafted to the extent that it causes another non-producing period before the tree or vine will bear fruit, nuts, or grapes.

Once the exemption period expires and the trees or vines are subject to tax, Section 53 provides the initial base year value of the trees or vines for purposes of Proposition 13 will be the full cash value of the trees or vines as of January 1 on the first year they are taxable.

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**PROPOSED LAW**

**Orchards and Vineyards.** This bill would amend Section 211 to restart the four- and three-year exemption period for fruit and nut trees and grapevines that, while they were still in their exemption period, were so severely damaged by wildfires and strong winds that they required pruning to the trunk or bud union to establish a new shoot.

<b>Revenue and Taxation Code</b>	<b>Governor's Proclamation</b>	<b>Counties Affected</b>	<b>Event Commencing</b>
Section 211(a)(4)	Wind	1	October 20, 2007
Section 211(a)(5)	Wildfires	7	October 21, 2007

**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 and for some the next property tax installment payment may be deferred. Over the long term, property owners may rebuild or repair the damage to their property without incurring any increase in property tax liability. Alternatively, property owners may instead relocate rather than rebuild without being adversely impacted by the property tax consequences. The various provisions of law in the Revenue and Taxation Code are noted below.

**DISASTER RELIEF REFERENCE CHART**

<b>Section</b>	<b>Property Type</b>	<b>Type of Relief Available</b>	<b>Type of Disaster</b>
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

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**Property Taxation of Non-Williamson Act Land.** Agricultural property is subject to the assessment rules of Proposition 13, in that it retains its base year value until new construction or a change in ownership takes place. Inflationary increases in assessment are limited to no more than two percent a year. Trees and vines are subject to property tax as “living improvements” and a base year value is established for them once the exemption period for new plantings ends. In addition to the typical costs of land preparation and planting, an investment in an orchard or vineyard is a long-term venture with a period of several years before any cash flow is realized. Both types of crops require several years to reach maturity, and the land is committed to that specific use with little flexibility to other uses. In recognition of this fact, the law exempts fruit and nut bearing trees and grapevines from taxation during a portion of their immature life. The taxation of the trees and vines is synchronized with their ability to produce a sellable crop. (The *land* on which the trees and vines are planted remains subject to taxation; it is only the *trees and vines* that are temporarily exempt.)

**Property Taxation: California Land Conservation Act (Williamson Act).** Under the Williamson Act, landowners may enter into contracts with participating cities and counties to restrict their lands to agricultural or open-space uses. The contract must be for a minimum term of 10 years, and are automatically renewed each year unless other action is taken. In exchange for entering into these contracts, the land and any living improvements (such as trees and vines) are valued according to their income earning ability. The valuation of land and improvements under these contracts is based on a statutory formula that capitalizes the income that the land is capable of producing from its agricultural use. The law also provides that each year, the property will be assessed at the lowest of the factored base year value, the Williamson Act value, or the current fair market value. In this way, landowners participating in the Williamson Act program are guaranteed that their land value will never be assessed at a greater value than noncontracted land.

#### BACKGROUND

**Freeze Damage Related Pruning.** Similar special purpose legislation was enacted for three severe freezes occurring in December 1990, December 1998 and January 2007.

Freezes	Type	Bill Number
December 1990	Trees & Grapevines	AB 1771 (Harvey) Stats. 1991, Ch.1034
December 1998	Trees	SB 1014 (Poochigian) Stats. 1999, Ch. 291
January 2007	Trees	AB 297 (Maze) Stats. 2007, Ch. 225

AB 1771 was the first bill to start a new exemption period for fruit or nut bearing trees or grapevines, damaged by the December 1990 freeze. AB 1771 was sponsored by the Kern County Assessor in an effort to provide relief to farmers who had vineyards and orchards still within the initial exemption period for newly planted vines and trees when the December 1990 freeze hit. SB 1014 was sponsored by the California Citrus Mutual. Grapevines were not included in this bill because they were not damaged by the 1998 freeze. AB 297 was sponsored by the author and similarly did not include grapevines.

#### COMMENTS

- Sponsor and Purpose.** The authors are sponsoring this measure to restart the exemption period for young trees and grapevines damaged by specified wildfires and windstorms occurring in 2007.

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2. **Amendments.** The **June 25, 2008** amendments extend the provisions of this bill to grapevines. The **May 27, 2008** amendments deleted provisions which would have allowed counties to enact an ordinance permitting taxpayers engaged in certain farming activities that were significantly impacted by specified disasters to defer their next property tax installment payment for one year without interest or penalty. The **May 19, 2008** amendments, which were related to the subsequently deleted provisions for property tax deferral, specified that: (1) the applications for deferral are to be made with the assessor, (2) the property owner is to estimate the percentage revenue loss, and (3) the assessor may request additional information necessary to verify the revenue loss.
3. **Proclamations.** Related to this bill, the governor has issued two proclamations of a state of emergency for various counties as noted below:

**Wildfires.** In October 2007, a proclamation was issued for more than 11 major wildfires burning in seven counties in Southern California at that time. Eventually there were a total of 23 fires that burned between October 20 and November 9, 2007.

Date	County
October 21, 2007	Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura

**Winds.** On November 2, 2007, a proclamation was issued for extremely high winds and resulting damage that began about October 20, 2007.

Date	County
November 2, 2007	Riverside

4. **To avoid the need to introduce legislation for each specific disaster in the future, should general purpose provisions be considered instead?** The pruning provisions apply to a narrow class of trees and vines – those currently in an exemption period. Existing law already restarts the exemption period for trees and vines that must be pulled and replaced and for those that are grafted and no longer can produce a crop. Given the narrow scope of these provisions in practical application it may be preferable to make these provisions automatic whenever the governor issues a proclamation of a state of emergency for a county where the disaster affects trees or grapevines.
5. **Suggested Technical Amendment.** The phrase “or vineyard” should be added to Section 211 as noted below.

(4) For purposes of exemption pursuant to this subdivision, any fruit- or nut-bearing tree, or any grapevine, severely damaged during the exemption period by the extremely strong and damaging winds that commenced on October 20, 2007, that were the subject of the Governor’s November 2, 2007, proclamation of a state of emergency so as to require pruning to the trunk or bud union to establish a new shoot as a replacement for the damaged tree or grapevine, shall be considered a new planting in orchard or vineyard form.

(5) For purposes of exemption pursuant to this subdivision, any fruit- or nut-bearing tree, or any grapevine, severely damaged during the exemption period by the wildfires that commenced on October 21, 2007, that were the subject of the Governor’s October 21, 2007, proclamation of a state of

emergency so as to require pruning to the trunk or bud union to establish a new shoot as a replacement for the damaged tree or grapevine, shall be considered a new planting in orchard or vineyard form.

6. **Related Legislation.** Property tax backfill legislation for assessment reductions under Section 170 for the wildfires and wind storms is pending this year in AB 1759 (DeVore) and SB 1064 (Hollingsworth).

### **COST ESTIMATE**

With respect to administration, the Board would incur insignificant costs in informing and advising local county assessors, the public, and staff of the law changes. These costs are estimated to be under \$10,000.

### **REVENUE ESTIMATE**

Based on a survey of County Assessors' offices in the seven disaster counties affected by the wildfires and winds the amount of damaged or destroyed fruit and nut trees and grapevines is minimal. Most counties reported no tree damage or tree loss, with one county estimating tree and grapevine damages to be between \$300,000 and \$1 million in assessed value. Therefore, with respect to the pruning provisions of this bill, the revenue impact at the basic one percent property tax rate is (\$300,000 to \$1,000,000) x 1%, or between \$3,000 and \$10,000.

### **REVENUE SUMMARY**

The pruning provisions of this bill would result in a revenue loss to counties in the affected disaster areas of between \$3,000 and \$10,000 annually for the length of the exemption period.

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