STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**08/17/10**	Bill No:	**AB 1662**
Tax:	**Property**	Author:	**Portantino and Jeffries**
Related Bills:	**AB 1690 (Chesbro)** **AB 1766 (Gaines)** **AB 2136 (V. Manuel Perez)** **SB 1494 (SR&T)**		

BILL SUMMARY

This bill, among other things, would:

- Allow persons whose homes were destroyed in specified disasters to retain the homeowners' exemption on their property while they are in the process of rebuilding. §218
- Provide one-year state reimbursement to backfill property tax revenue loss resulting from assessment reductions related to these disasters. §§195.158-195.169
- Limit state reimbursement to backfill property tax revenue loss for future fire disasters occurring after January 1, 2011 to counties that have met specified fire protection, prevention, and education requirements. §170.5

SUMMARY OF AMENDMENTS

The amendments since the last analysis make conditional any state reimbursement to local governments for property tax revenue losses associated with fire disasters as specified.

ANALYSIS

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."

Section 218 of the Revenue and Taxation Code 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 this bill, 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]

[1]A home destroyed after January 1, 2010, would continue to be eligible for the exemption on the 2010-11 property tax bill. However, if the home has not been rebuilt and occupied by the next lien date, January 1, 2011, it would not be eligible for the homeowners' exemption on the 2011-12 property tax bill.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

Disaster Relief - Property Reassessment for Property Owners. Section 170 of the Revenue and Taxation Code 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 these provisions. These provisions apply to both governor-declared disasters and site-specific disasters, such as a home fire. 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 the loss in a property's market value. The loss in value must be at least $10,000. The prior assessed value of the damaged property is reduced in proportion to the loss in market value; the new reduced value is used to calculate a pro-rata reduction in taxes. The affected property retains its lower value, with reduced taxes, until it is restored, repaired, or reconstructed. Generally, taxpayers have up to 12 months to file a request for reassessment.

Disaster Relief - State Reimbursement for Local Governments. Additionally, legislation is frequently enacted to fully reimburse local governments for one year's property tax revenue loss associated with Section 170 reductions in assessment.

PROPOSED LAW

Homeowners' Exemption. This bill would allow persons whose homes were destroyed in specified disasters in certain counties to retain the homeowners' exemption on their property while they are in the process of rebuilding. Those are:

Wildfires - 2009. This bill adds subdivision (z) to Section 218 to provide that a dwelling qualified for the homeowners' exemption prior to the commencement of the wildfires listed in the Governor's disaster proclamations of August 2009, and that was subsequently damaged or destroyed by these wildfires and any other related casualty in the counties of Los Angeles and Monterey, will continue to be eligible for the homeowners' exemption.

Winterstorms - 2010. This bill adds subdivision (aa) to Section 218 to provide that a dwelling qualified for the homeowners' exemption prior to the commencement dates of severe winter storms for which the Governor issued a proclamation of a state emergency in January 2010 and subsequently damaged or destroyed by the severe rainstorms, heavy snows, floods, or mudslides and any other related casualty in Calaveras, Imperial, Los Angeles, Orange, Riverside, San Francisco, San Bernardino, and Siskiyou counties will continue to be eligible for the homeowners' exemption.

State Reimbursement for Local Governments. This bill also provides state reimbursement for property tax revenue losses due to Section 170 disaster relief reassessments. Specifically, it adds provisions to the Revenue and Taxation Code that outline the process and timeline to be followed by the affected counties, the Department of Finance, and the State Controller. (§§195.158, 195.159 & 195.160 for the wildfires and §§195.167, 195.168, & 195.169 for winter storms).

State Reimbursement– Major Fires Occurring After January 1, 2011. This bill adds Revenue and Taxation Code Section 170.5 to provide that, for any fire disaster occurring after January 1, 2011, for which legislation is introduced to fully reimburse local governments for property tax revenue losses, the Department of Finance will not certify a county auditor's estimate of property tax reductions from Section 170 reassessments as a result of those disasters, unless the county demonstrates that it was in compliance with specified requirements at the time the fire occurred. These requirements relate to arrangements for *structural* fire protection services in state

responsibility areas (areas where the state is responsible for *wildland* fire protection), fire prevention requirements specific to land in very high fire hazard severity zones, and public education programs related to fire risk reduction for land designated in very high fire hazard severity zones.

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 below.

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

Special purpose legislation has been enacted in recent years to provide that dwellings that were destroyed by specific disasters, as noted in the following table, 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.

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

COMMENTS

1. **Sponsor and Purpose.** The author is sponsoring this measure to provide some financial relief to persons whose homes were damaged or destroyed as a result of these natural disasters and provide property tax revenue backfill to affected local governments.

2. **Amendments.** The **August 17, 2010** amendments add Section 170.5 to the bill related to future state reimbursements based on county compliance with the fire protection, prevention, and education requirements. The **April 7, 2010** amendments added provisions for 8 counties affected by winter storms occurring in January 2010. Those counties are: Calaveras, Imperial, Los Angeles, Orange, Riverside, San Francisco, San Bernardino, and Siskiyou. The March 10, 2010 amendments added provisions for Monterey County which was affected by wildfires occurring in August 2009.

3. **This bill would allow homeowners whose residences were damaged or destroyed as a result of fires or storms to retain the homeowners' exemption on their property while they are in the process of rebuilding their homes.** Homes that are uninhabitable on the lien date (January 1, 2010) are technically ineligible for the exemption for the upcoming fiscal year (2010-11) under current law.

4. **The Board advises county assessors that damaged homes may keep the exemption but totally destroyed homes may not.** 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. (See Letter To Assessors 82/50, Question G16) However, when a dwelling has been totally destroyed, staff has opined that because no dwelling exists there is no occupancy or possibility of occupancy on the lien date

and the property would not be eligible for the exemption even if the property was under construction. (See Property Tax Annotation 505.0019 "Homeowners' Exemption – Disaster Impact") Referenced documents are available at www.boe.ca.gov select "Property Tax."

5. **Related Bills.** AB 1690 (Chesbro), AB 1766 (Gaines), and AB 2136 (V. Manual Perez) also amend Section 218 for various California disasters occurring in 2009 and 2010. In addition, SB 1494 (SR&T) proposes to amend Section 218 to make the homeowners' exemption provisions of this bill standard for all Governor declared disasters without the need for special purpose legislation. Additional amendments will be needed to prevent chaptering out issues.

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

The revenue estimate is limited to the property tax provisions of this bill.

Based on a review of published materials, conversations with assessors in affected counties, as well as a review of prior legislation for major winter storms occurring in both 2005 and 2006, we estimate the property tax revenue loss associated with this bill will be less than $150,000.

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