STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

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

BILL SUMMARY

Among other things, this bill would:

- Allow persons whose homes were destroyed in a wildfire occurring in Placer County that began on August 30, 2009, to retain the homeowners' exemption on their property while they are in the process of rebuilding. *§218*
- Provide one-year state reimbursement to backfill any property tax revenue loss resulting from assessment reductions related to the wildfires. *§§195.161, 195.162, and 195.163*
- 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 that was destroyed on or before January 1, 2010, and not rebuilt and occupied by 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. Related to wildfires occurring in Placer County on January 9, 2010, this bill adds subdivision (z) to Section 218 to provide that any dwelling that qualified for the homeowners' exemption prior to August 30, 2009, that was damaged or destroyed by the wildfires and any other related casualty, and that has not changed ownership since August 30 2009, shall 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, or was temporarily uninhabited as a result of restricted access to the property due to the wildfires.

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. (§§195.161, 195.162, and 195.163)

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.

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 the wildfires 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.

3. **Proclamations.** On August 30, 2009, the Governor issued a proclamation of a state of emergency for Placer County due to wildfires that started that same day.

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

5. **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."

6. **Related Bills.** AB 1662 (Portantino), AB 1690 (Chesbro), and AB 2136 (V. Manuel Perez) also amend Section 218 for various Governor declared disasters occurring in California for 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

According to Placer County, the state reimbursement to Placer County related to the loss of assessed value due to the fire will total about $140,000. In addition, the continued state subvention for the homeowners' exemption will be about $3,000. Thus, this bill has a total revenue impact of $143,000.

Analysis prepared by:	Rose Marie Kinnee	916-445-6777	08/18/10
Revenue by:	Vanessa Shum	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	

ls 1766-2rk.doc

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.