Franchise Tax Board

REVISED ANALYSIS

Author:	Houston	Analyst:	Darrine Distefano	Bill Number:	AB 2165
Related Bills:	See Legislative History	Telephone:	845-6458	Original Analysis Date:	July 7, 2004
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SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/Middle River Levee Break In San Joaquin County

X REVENUE ESTIMATE CHANGED.

___ FURTHER CONCERNS IDENTIFIED.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED July 7, 2004 STILL APPLIES.

X OTHER – See comments below.

SUMMARY OF BILL

This bill would allow taxpayers special tax treatment, called disaster loss treatment, for losses sustained as a result of the Middle River levee break in San Joaquin County.

SUMMARY OF REVISION

The department's July 7, 2004, *SummaryAnalysis of Amended Bill*, incorrectly stated the revenue losses under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL). Disaster losses under the CTL should not have been included in the revenue estimate because these losses fall under the general net operating loss (NOL) rules. For business taxpayers, state law allows 100% of the NOL to be carried forward for ten years without special treatment.

ECONOMIC IMPACT

Revenue Estimate

Estimated PITL Impact
AB 2165 – Middle River Levee
As Revised
(In Millions)
Fiscal Year Impact

Fiscal Year	**2003-04**	**2004-05**	**2005-06**	**2006-07**
Revenue Loss	Insignificant	Insignificant	Insignificant	Insignificant

Insignificant = Less than $150,000

Board Position:			Legislative Director	Date
___ S	___ NA	___ NP		
___ SA	___ O	___ NAR	Jana Howard for Brian Putler	7/23/04
___ N	___ OUA	X PENDING		

However, as explained below, under this bill the total amount of revenue loss for fiscal years 2003 – 2007 is approximately $32,000.

Revenue Discussion

It is estimated that the total cost of fighting the flooding caused by the Middle River levee break will be nearly $53 million. The total amount of damages was estimated to be $10 million. Since the majority of the damages were crop losses, it is assumed that none of these losses would be reimbursed by insurance coverage and that approximately 90% would be business related losses. This yields approximately $1 million in personal property loss.

In order for a taxpayer to calculate the amount of disaster loss that can be deducted, the taxpayer uses three factors. First, the loss must be limited to the basis of the property (cost of the property plus cost of any improvements minus deductions such as depreciation). Second, any insurance proceeds or reimbursements must be deducted. Third, the taxpayer subtracts 10% of their federal adjusted gross income (AGI). The remaining amount is the disaster loss that can be claimed by the taxpayer.

Using the department's disaster loss model, after reducing qualifying losses for AGI and basis limitations of $250,000 and estimated first year usage of $225,000 (historical usage of similar losses under current law), it is projected that $525,000 in additional losses will be allowed to be carried forward or back under this bill ($1 million - $250,000 - $225,000 = $525,000). At a 6% average marginal tax rate, the total revenue loss over the 2003-2007 fiscal years is estimated to be approximately $32,000 ($525,000 x 6% ~ $31,500).

LEGISLATIVE STAFF CONTACT

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