

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Hollingsworth & Soto, et. al Analyst: Darrine Distefano Bill Number: SB 438

Related Bills: See Prior Analysis Telephone: 845-6458 Amended Date: April 12, 2004

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Disaster Loss Deduction/Excess Loss Carryover/Los Angeles, San Bernardino, Riverside, San Diego, & Ventura County Fires

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO Support.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED February 24, 2004 STILL APPLIES.

OTHER - See comments below.

## SUMMARY

This bill would allow taxpayers special tax treatment, called disaster loss treatment, for losses sustained as a result of the Southern California wildfires, losses related to the wildfires, and the San Simeon earthquake.

## SUMMARY OF AMENDMENTS

The April 12, 2004, amendments delete the specific dates of October 21, 2003, through February 2, 2004, for losses related to the floods, mudflows, and debris flows that were directly related to the Southern California wildfires.

The revenue estimate provided in the department's prior analysis still applies and is included below for convenience. The remainder of the department's analysis of the bill as amended February 24, 2004, still applies.

## POSITION

Support.

At its February 25, 2004, meeting the Franchise Tax Board voted 2-0 to support this bill with the representative of the Department of Finance abstaining.

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA      \_\_\_\_\_ NP  
\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
\_\_\_\_\_ N      \_\_\_\_\_ OUA       PENDING

Legislative Director

Date

Brian Putler

4/29/04

ECONOMIC IMPACT**Revenue Estimate**

Based on the discussion below, the revenue losses from this bill are as follows:

<b>Estimated PIT Revenue Impact SB 438 as Amended April 12, 2004 (In Millions) Fiscal Year Impact</b>			
<b>Fiscal Year</b>	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>
Revenue Loss	-\$5	-\$9	-\$4

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

**Revenue Discussion**

The impact of this bill would depend on the amount of disaster losses carried back, carried forward at 100% instead of 60%, and the amount of carryover losses deducted in subsequent years.

The estimated losses were determined in several steps. First, it is assumed that the special disaster loss treatment provided in this bill would be for losses sustained as a result of the Southern California wildfires, floods, mudflows, debris flows directly related to the fires, and the San Simeon earthquake. Second, the total amount of damages for the Southern California wildfires was estimated to be \$2.8 billion and the total amount of damages from the San Simeon earthquake was estimated to be \$34 million in private losses.

It is estimated that approximately 20% of fire damage and 90% of the earthquake damage would not be reimbursed by insurance coverage for a total deductible loss of \$590 million ( $\$2.8 \text{ billion} \times 20\% + \$34 \text{ million} \times 90\% = \$590 \text{ million}$ ).

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 applying qualifying losses for AGI and basis limitations of \$147 million and an estimated first year usage of \$148 million (historical use of similar losses under current law), it is projected that \$250 million in losses would be allowed to be carried forward under the bill ( $\$590 \text{ million} - \$147 \text{ million} - \$148 \text{ million} = \$295 \text{ million}$ ).

At a 6% average marginal tax rate, the total revenue loss over a period of a few fiscal years is estimated to be approximately \$18 million, all attributable under the Personal Income Tax Law (PITL) ( $\$295 \text{ million} \times 6\% \sim \$18 \text{ million}$ ).

**LEGISLATIVE STAFF CONTACT**

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