

SUMMARY ANALYSIS OF AMENDED BILL

Author: Florez/Ashburn Analyst: Nicole Kwon Bill Number: SB 923
 Related Bills: See Prior Analysis Telephone: 845-7800 Amended Date: April 26, 2005
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/Loss Sustained On Or After January 1, 2005 As A Result Of The West Nile Virus

_____ 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 DEPARTMENTS CONCERNS stated in the previous analysis of bill as amended March 29, 2005.

_____ FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED March 29, 2005, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would allow taxpayers special tax treatment for losses sustained as a result of the West Nile virus.

SUMMARY OF AMENDMENTS

The April 26, 2005, amendments made a minor change to the intent language allocating funds set up for West Nile virus control. The implementation considerations, revenue estimate, and policy considerations from the department’s prior analysis are included below for convenience. The remainder of the department’s analysis of the bill as amended on March 29, 2005, still applies.

POSITION

Pending.

Board Position:	Department Director	Date
_____ S		
_____ SA		
_____ N		
_____ NA		
_____ O		
_____ OUA		
_____ NP		
_____ NAR	Brian Putler	5/18/05
<input checked="" type="checkbox"/> PENDING		

IMPLEMENTATION CONSIDERATIONS

This bill would allow a special loss treatment for losses sustained as a result of West Nile virus. However, it is not clear what constitutes a loss resulting from West Nile virus or how the department would be able to establish or verify that West Nile virus was responsible for the loss. As a result, this bill would be difficult to administer and could lead to disputes between taxpayers and the department.

It appears that the authors' intent was to provide treatment similar to that of disaster losses. However, disaster loss treatment typically identifies a period during which the loss is sustained and may be eligible for special disaster loss treatment. This bill would allow any specified loss sustained on or after January 1, 2005, to receive the special loss treatment.

Current law provides a special net operating loss deduction for taxpayers impacted by Pierce's disease. Pierce's disease affects farmers and their crops. This special net operating loss deduction is limited to losses resulting from the business of farming and is only allowed if the Department of Food and Agriculture verifies the reason for the loss. The author may wish to pursue a similar statute for taxpayers that suffer a loss as a result of West Nile virus.

ECONOMIC IMPACT

Revenue Estimate

Based on the discussion below, the revenue loss from this bill is as follows:

Estimated Revenue Impact of SB 923 Amended April 26, 2005		
Assumed Enactment Date After June 30, 2005		
Fiscal Year Impact		
\$ In millions		
2005-06	2006-07	2007-08
-\$300	-\$300	-\$300

Revenue Discussion

The language in this bill could allow broad application of the special loss treatment for losses that are even remotely related to West Nile virus. Assuming that all possible losses can be considered eligible under this bill, it is estimated that 6%, or \$3.5 billion, of losses in the current year will be used to offset income in the prior year. Based on preliminary data for the 2003 tax year, net losses for businesses were almost \$58 billion ($\$58 \text{ billion} \times 6\% = \3.5 billion). Applying an average tax rate of 8.5% would result in the revenue loss of approximately \$300 million annually ($\$3.5 \text{ billion} \times 8.5\%$).

ARGUMENTS/POLICY CONSIDERATIONS

Generally, disasters are required to be declared by the Governor or the President to receive special disaster loss treatment. This bill would attempt to provide the same treatment but without the state or federal executive requirement.

Disaster loss treatment typically identifies a period of time in which the loss is sustained and may be eligible for special disaster loss treatment. This bill is written to allow any loss sustained on or after January 1, 2005, to receive the special loss treatment. Therefore, this bill would allow the loss to be carried forward until completely used, creating a precedent.

LEGISLATIVE STAFF CONTACT

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