

SUMMARY ANALYSIS OF AMENDED BILL

Author: Devore, et al. Analyst: Angela Raygoza Bill Number: AB 1759
 Related Bills: See Prior Analysis Telephone: 845-7814 Amended Date: June 19, 2008
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/2007 Calendar Year Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura County Wildfires and 2008 County of Butte Wildfires

_____ 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 introduced/amended _____.

_____ FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED

May 19, 2008, STILL APPLIES.

_____ OTHER – See comments below.

SUMMARY

This bill would allow special tax treatment, called disaster loss treatment, for losses sustained as a result of the 2007 Southern California and June 2008, County of Butte wildfires.

This analysis will not address the bill's changes to the Property Tax Law, as they do not impact the department.

SUMMARY OF AMENDMENTS

The June 19, 2008, amendments would add the June 2008, County of Butte wildfires to the current list of specified disasters under the Personal Income Tax (PIT) Law and the Corporation Tax Law (CTL).

As a result of the amendments, the "Program Background," "This Bill," and "Economic Impact" discussions, as provided in the department's analysis of the bill as introduced May 19, 2008, have been revised. Except for these amended discussions provided in this analysis, the remainder of the department's analysis of the bill as introduced May 19, 2008, still applies.

Board Position:	Asst. Legislative Director	Date
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<input checked="" type="checkbox"/> PENDING		
	Deborah Barrett	6/24/08
	for Patrice Gau-Johnson	

PROGRAM BACKGROUND

Governor Arnold Schwarzenegger proclaimed on September 15, 2007, a state of emergency declaring the Butler Two Wildfire that occurred in San Bernardino to be a state disaster. President George W. Bush did not declare the Butler Two Wildfire as a federal disaster.

Governor Arnold Schwarzenegger proclaimed on October 21, 2007, a state of emergency declaring the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties to be a state disaster. On October 23, 2007, President George W. Bush proclaimed the same counties to be a federal disaster.

Governor Arnold Schwarzenegger proclaimed on June 11, 2008, a state of emergency declaring the Ophir and Humboldt Wildfires that occurred in the County of Butte to be in a state of disaster. President George W. Bush did not declare the Ophir or Humboldt Wildfires as a federal disaster.

ANALYSIS

THIS BILL

This bill would add the Butler Two Wildfire that occurred in San Bernardino County on September 15, 2007, and ended September 20, 2007, to the list of specified disasters. This bill would also add the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties, beginning October 21, 2007, and the County of Butte wildfires that occurred in June 2008, to the current list of specified disasters under PIT and CTL.

As a Governor-proclaimed disaster, this bill would allow a taxpayer to elect to file an amended return for the prior taxable year and allow special carry forward treatment for up to fifteen taxable years for losses sustained as result of the Butler Two, 2007 Southern California Wildfires, and June 2008, County of Butte Wildfires. The same carry forward rule applies to individual non-business losses if the total losses for the year exceed 10% of the individual's federal adjusted gross income.

ECONOMIC IMPACT

Revenue Estimate

The bill would have the following revenue impact:

Revenue Analysis for AB 1759 As amended June 19, 2008 Assumes Enactment after June 30, 2008				
Fiscal Year	2007-08	2008-09	2009-10	Total for three years
Disaster Relief	Loss < \$500,000	Gain < \$150,000	Gain < \$150,000	Loss < \$250,000

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

Revenue Discussion

2007 Southern California Wildfires

The most current data from the Office of Emergency Services (OES) indicates a total of 2,180 structures were destroyed and 482 were damaged as a result of the October 2007, Southern California Wildfires (total structures = 2,662). Research conducted suggests approximately \$1.6 billion of insured property losses were sustained as a result of the targeted wildfires and another \$400 million was uninsured for a total of \$2 billion in damages. It is estimated that 90% of uninsured losses would exceed the minimum adjusted gross income threshold resulting in total casualty loss deduction of \$360 million ($\$400 \text{ million} \times 90\% = \360 million). The average affected taxpayer would have a potential casualty loss of \$135,000 ($\$360 \text{ million} \div 2,662 \text{ structures}$). Current California tax law allows taxpayers with fire losses to amend their 2006 tax returns until April 15, 2008; this bill extends the filing period until October 15, 2008. It is likely that most taxpayers affected by the fires will have filed an amended return claiming their fire losses by April 15th to receive an accelerated refund.

Based on expectations about taxpayer filing behavior, it is assumed that 1% of the value of casualty losses would be filed on an amended 2006 return and that one-half of those losses could be used to offset reported income. The revenue loss accrued to 2007-08 would be negligible, less than \$250,000 ($\$360 \text{ million} \times .01 \times .50 \times .09 \text{ marginal rate} = \$162,000$.) Because these losses were used on the amended 2006 return, they would not be available to offset income in later years. Therefore, for 2008-09 and 2009-10, there would be insignificant revenue gains of less than \$150,000 in each year, resulting in an insignificant net revenue loss for the 3-year period of less than \$150,000.

Currently, affected taxpayers have ten years to deduct their disaster losses. Given that the average casualty loss for the fires is estimated to be \$135,000, it is unlikely that many taxpayers will have losses remaining after ten years. Therefore, the long-term revenue effect of the additional five years of carryover is assumed to be insignificant.

2008 County of Butte Wildfires

The most current data from the Office of Emergency Services (OES) indicates 74 structures were damaged or destroyed by the Ophir and Humboldt Fires occurring in the County of Butte in June 2008. Research conducted suggests approximately \$6 million of uninsured property losses were sustained as a result of the targeted wildfires (74 homes \times \$400,000 average value of home \times 20% uninsured value \approx \$6 million). It is estimated that 90% of uninsured losses would exceed the minimum adjusted gross income threshold, resulting in total losses of \$5.3 million ($\$5.9 \text{ million} \times 90\% = \5.3 million). The average affected taxpayer would have a potential casualty loss of \$72,000 ($\$5.3 \text{ million} / 74 \text{ structures} \approx \$72,000$).

Current California tax law allows taxpayers with disaster losses to report their losses on the original 2008 tax return and years thereafter. This bill would allow taxpayers to make an election to amend their 2007 tax return and report their disaster losses by October 15, 2009. Based on departmental data, 40% or \$200,000 of accelerated losses would be reported on the 2007 amended return with the proposed election (\$5,300,000 losses x 40% accelerated losses ≈ \$2 million in accelerated losses) (\$2 million accelerated losses x 9% tax rate ≈ \$200,000 revenue loss). The revenue impact of this bill would be realized during the 2007-08 fiscal year when the amended returns would be filed and the accelerated refunds would be paid. Because these losses were used on the amended 2007 return, they would be unavailable to offset income in later years. Therefore, for 2008-09 and 2009-10, there would be insignificant revenue gains of less than \$150,000 in each year.

Currently, affected taxpayers have ten years to deduct their disaster losses. Given that the average casualty loss for the fires is estimated to be \$72,000, it is unlikely that many taxpayers will have losses remaining after ten years. Therefore the long-term revenue effect of the additional five years of carryover is assumed to be insignificant.

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