

SUMMARY ANALYSIS OF AMENDED BILL

Author: Hollingsworth, et al. Analyst: Angela Raygoza Bill Number: SB 1064
 Related Bills: See Prior Analysis Telephone: 845-7814 Amended Date: August 8 & August 14, 2008
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/ 2007 Calendar Year/July 2007 Specified County Wildfires, October 2007 Riverside County Damaging Winds/May & June 2008 Specified County Wildfires and July 2008 Santa Barbara and Inyo County Rainstorms

_____ 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

July 14, 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 wildfires and rainstorms that occurred in areas of California, as specified, during 2007 and 2008.

SUMMARY OF AMENDMENTS

The August 8 and August 14, 2008, amendments would add the July, 2007, Inyo County wildfire, July, 2008, Inyo rainstorms, and the May, 2008, wildfires that occurred in Humboldt County to the current list of specified disasters under the Personal Income Tax (PIT) Law and the Corporation Tax Law (CTL).

Board Position:	Asst. Legislative Director	Date
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<input checked="" type="checkbox"/> PENDING	Patrice Gau-Johnson	8/27/08

As a result of the August 8 and August 14, 2008, amendments, the "Program Background," "This Bill," and "Economic Impact" discussions, as provided in the department's analysis of the bill as amended July 14, 2008, have been revised. Except for these amended discussions provided in this analysis, the remainder of the department's analysis of the bill as amended July 14, 2008, still applies.

PROGRAM BACKGROUND

Governor Arnold Schwarzenegger proclaimed on September 15 and 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 state disasters. On October 23, 2007, President George W. Bush proclaimed the same counties to be a federal disaster.

On November 2, 2007, Governor Arnold Schwarzenegger proclaimed the wind damage that occurred in Riverside County in October, 2007, to be a state disaster. President George W. Bush did not declare the Riverside county wind damage a federal disaster.

In May, June, July, and August of 2008, Governor Arnold Schwarzenegger proclaimed states of emergency, declaring wildfires that occurred in Butte, Kern, Humboldt, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity Counties to be state disasters. On June 28 and July 4, 2008, President George W. Bush declared the same counties, other than Humboldt County, to be federal emergencies.

Governor Arnold Schwarzenegger proclaimed on July 15, 2007, a state of emergency declaring the July, 2007, wildfire, known as the "Inyo Complex Fire" and July, 2008, rainstorms that occurred in Inyo County to be state disasters. President George W. Bush did not declare the July, 2007, Inyo County wildfire and July, 2008, severe rainstorms to be federal emergencies.

ANALYSIS

THIS BILL

This bill would add the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties during calendar year 2007; damage that occurred in the Riverside county during October, 2007, as a result of strong winds; and the wildfires that occurred in May, June, and July, 2008, in Butte, Kern, Humboldt, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity Counties to the current list of specified disasters under the PIT Law and the CTL. In addition, this bill would add the July, 2007, Inyo wildfire and July, 2008, rainstorms that occurred in Inyo County to the list of specified disasters.

As a Presidentially-declared disaster, this bill would allow special carry forward treatment for up to 15 taxable years for losses sustained as a result of the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties during calendar year 2007. In addition, the wildfires that occurred in May, June, and July, 2008, in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity Counties were Presidentially-declared disasters. The same carry forward rule applies to individual nonbusiness losses if the total losses for the year exceed 10% of the individual's federal adjusted gross income (AGI).

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 15 taxable years for losses sustained as a result of the October, 2007, Riverside County damaging winds; May, 2008, Humboldt County wildfires; July, 2007, Inyo County wildfire; and July, 2008, Inyo County rainstorms. The same carry forward rule applies to individual nonbusiness losses if the total losses for the year exceed 10% of the individual's federal AGI.

ECONOMIC IMPACT

Revenue Estimate

The revenue impact from this bill would be as follows:

Revenue Analysis for SB 1064 – as Amended August 14, 2008 Effective for Tax Year BOA January 1, 2008 Assumes Enactment after June 30, 2008				
Fiscal Year	2007-08	2008-09	2009-10	Total for three years
Disaster Relief	Loss < \$250,000	Gain < \$150,000	Gain < \$150,000	Loss < \$150,000

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 AGI threshold resulting in total casualty loss deduction of \$360 million (\$400 million x 90% = \$360 million). The average affected taxpayer would have a potential casualty loss of approximately \$135,000 (\$360 million ÷ 2,662 structures).

Current law allows taxpayers with disaster 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 under current law by April 15 to receive an accelerated refund. Based on expectations concerning taxpayer filing behavior, it is assumed that 1% of the value of casualty losses would be filed on an amended 2006 return and that half of those losses would be used to offset reported income. The revenue loss accrued to 2007-08 would be \$162,000 ($\$360 \text{ million} \times .01 \text{ assumption rate} \times .50 \text{ of the losses} \times .09 \text{ marginal tax rate} = \$162,000$), a negligible loss of less than \$250,000.

To the extent these deductions would have been claimed in later years had they not been taken in 2006, there is an insignificant revenue gain in those 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 three-year period of less than \$150,000.

Under current law, 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 10 years. Therefore, the long-term revenue effect of the additional five years of carryover beyond the ten years currently allowed is assumed to be insignificant.

Riverside County Wind Damage

The Governor's proclamation indicated that the extremely high winds in Riverside County "have caused over six million dollars in public facility damage." Uninsured losses represent 20% of the total losses, resulting in uninsured losses of \$1.2 million ($\$6 \text{ million} \times .20 = \1.2 million).

Based on expectations concerning taxpayer filing behavior, it is assumed that 25% of the value of casualty losses would be filed on an amended 2006 return and that 90% of those losses would exceed the minimum AGI threshold. The result would be an accrued revenue loss for 2007-08 of \$27,000 ($\$1.2 \text{ million} \times .25 \text{ of the losses} \times .09 \text{ marginal tax rate} = \$27,000$), an insignificant loss of less than \$150,000.

Under current law, affected taxpayers have ten years to deduct their disaster losses. Given that the average casualty loss for the winds is less than \$10,000, it is unlikely that many taxpayers will have losses remaining after 10 years. Therefore, the long-term revenue effect of the additional five years of carryover beyond the ten years currently allowed is assumed to be insignificant.

2008 California Wildfires

Research conducted indicates the 2008 wildfires destroyed approximately 200 properties. It is estimated that the average value of these properties is \$400,000 and that 20% of this value is uninsured, for a total of \$16,000,000 ($200 \text{ properties destroyed} \times \$400,000 \text{ avg. value} \times .20 \text{ uninsured losses}$). It is assumed that 90% or \$7.2 million of these losses exceed the AGI threshold and that taxpayers could claim 50% of these losses in one year ($\$16,000,000 \times .90 \times .50 = \7.2M). Applying a 9% tax rate, the total amount that could be refunded is \$648,000 ($\$7,200,000 \times .09 = \$648,000$). Using a 1% assumption to estimate those who would delay the filing of an amended return beyond April 15, 2009, the revenue effects would be approximately \$6,480 ($\$648,000 \times .01 = \$6,480$). The prior estimate of a revenue loss of less than \$250,000 would be unchanged.

The extended carryover period is assumed to have no added revenue effect given the small amount of losses eligible for carryover.

2008 California Wildfires and Rainstorm (no presidential declaration)

Research indicates there was no significant real property damage sustained as a result of either the wildfires occurring in Humboldt County commencing May, 2008 or the wildfire and rainstorm casualty events occurring in Inyo County in July, 2007, and 2008. As such, the revenue impact is unchanged.

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