Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Florez	Analyst:	Angela Raygoza	Bill Number:	SB 114
Related Bills:	See Prior Analysis	Telephone:	845-7814	Amended Date:	February 20, 2007
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/Specified Counties/ January 11, 2007, Freezing Conditions

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended __________________.

X 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 __________________.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED January 22, 2007, 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 January, 2007, freezing conditions.

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

SUMMARY OF AMENDMENTS

The February 20, 2007, amendments expanded the list of "specified counties" impacted by the January, 2007, freeze to include all 18 counties that are subject to the state of emergency proclaimed by Governor Schwarzenegger within the bill's provisions. The counties of El Dorado, Fresno, Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, Tulare, Ventura and Yuba are all identified within the bill as amended.

In addition, the amendments added several co-authors.

Board Position:			Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Brian Putler	2/28/07
____ N	____ OUA	X PENDING		

POSITION

Pending.

THIS BILL

This bill would add the freezing conditions that occurred in this state commencing January 11, 2007, in those counties specified by the Governor in his declaration of a state of emergency to the current list of specified disasters under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL).

Thus, this bill would treat the Governor-proclaimed state of emergency in the same manner as a Presidentially-declared disaster for income tax purposes.

Specifically, this bill would allow special disaster loss carryover treatment of losses sustained as a result of the state of emergency in those counties. The $100 and 10% of adjusted gross income limitations in existing law would apply to casualty losses on non-business property.

In addition, this bill would make a non-substantive technical change to the order in which the counties are listed with respect to a prior disaster unrelated to the freeze that is the subject of this bill.

IMPLEMENTATION CONSIDERATIONS

This bill lacks a definitive period for when the freeze disaster occurred. Implementing this bill could result in disputes between the department and taxpayers without further clarifying the language. Department staff is available to assist the author in developing language to resolve this issue.

It is unclear whether revisions to the list of counties specified in the Governor's proclamation of a state of emergency that might occur prior to or after enactment of this legislation are intended to be operative for purposes of determining which taxpayers are eligible for the relief provided by this legislation.

ECONOMIC IMPACT

Revenue Estimate

Based on data and assumptions discussed below, the Personal and Corporation Tax revenue loss from this bill would be as follows:

Revenue Analysis for SB 114 – Amended 2/20/07 Effective Immediately and Operative January 1, 2006 Enactment assumed before June 30, 2007 ($ in Millions)			
Fiscal Year	2006-07	2007-08	2008-09
Disaster Relief	a/	b/	b/

a/ Negligible Loss of less than $250,000
b/ Insignificant Gain of less than $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

According to data from the Department of Food and Agriculture, it is estimated that $1.5 billion in total crop damages occurred to California statewide from the recent freeze. Based on media reports, we estimate approximately 85% of the freeze-impacted crops are covered by insurance and would therefore not be affected by this proposal (15% uninsured x $1.5B statewide = $225 million uninsured). Under existing law, financial losses from the reduction in value of unharvested crops are not deductible under the casualty loss rules (because crops have zero income tax basis). Hence, the relevant impact of proposed law will primarily depend on the extent of non-crop losses to farming operations damaged by the specified freeze. For example, the reduction of the book value of a depreciable asset (e.g. tree, irrigation pipe, etc.) by the fair market value (e.g. appraisal value) would result in a disaster loss.

This estimate assumes that tax-deductible losses will be equivalent to 5% of the $225 million of uninsured losses (roughly $11 million). If 20% of such losses were applied to the preceding year, an estimated $180,000 of refunds would be accelerated ($11 million x 20% x 8% tax rate). To the extent such deductions would have been claimed in later years had they not been taken in 2006, there is a minor revenue gain in those later years.—

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