California State Board of Equalization,
Legislative and Research Division

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State Capitol Building (from the East) c.1945
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PROPERTY TAX LEGISLATION 2010

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Assembly Bill 157 (Anderson) Chapter 341

Disaster Relief: Base Year Value Transfers - 2003 San Diego Cedar Fires

Effective September 27, 2010. Amends Section 69 of the Revenue and Taxation Code.

BILL SUMMARY

This bill allows the San Diego County board of supervisors to enact an ordinance to increase from 5 years to 7 years the timeframe a property owner has to acquire or construct a property to replace one damaged or destroyed in the 2003 Cedar Fire and remain eligible to receive a base year value transfer.

Sponsor: Assembly Member Anderson

LAW PRIOR TO AMENDMENT

Revenue and Taxation Code Section 69 provides tax relief to persons who own property substantially damaged or destroyed in a governor-declared disaster. Among the various requirements and conditions, the base year value of the damaged property may be transferred to a comparable property within the same county within 5 years of the date the disaster occurred.

AMENDMENTS

County Optional. This bill adds subdivision (f) to Section 69 to authorize the San Diego County board of supervisors to extend the number of years to acquire a replacement property from 5 to 7 years for property damaged in the Cedar Fire.

Retroactive. If San Diego enacts an ordinance, these provisions can be made retroactive to property owners impacted by the Cedar Fire. The bill includes Legislative findings and declarations that these provisions fulfill a statewide public purpose. Those are that homeowners affected by the Cedar Fire, which occurred in October 2003, are still struggling to replace their homes lost in the wildfires or have encountered delays not of their making.

IN GENERAL

Disaster Relief. There are a variety of provisions in property tax law to provide property tax relief for disaster victims. These provisions address both the short term and the long term consequences of the disaster as it relates to current and future property tax liabilities. In the short term, property tax liability is redetermined to reflect the damage to the property. Additionally, some taxpayers may defer the next property tax installment payment. Over the long term, property owners may rebuild or repair damaged properties without incurring any increase in property tax liability. Alternatively, property owners may relocate rather than rebuild without being adversely impacted by the property tax consequences. The various provisions that provide property tax relief for disaster victims in the Revenue and Taxation Code are as follows:

DISASTER RELIEF REFERENCE CHART

Section	Property Type	Type of Relief Available	Type of Disaster
170	All property types	Assessment reduction	Any disaster or calamity
194 & 194.1	Real property and manufactured homes	Property tax deferral – next installment	Governor-proclaimed
195.1	Real property and manufactured homes	Property tax deferral – second consecutive installment	Governor-proclaimed
194.9	Real property and manufactured homes	Property tax deferral – supplemental assessment	Governor-proclaimed
69	All property types	Base year value transfer	Governor-proclaimed
69.3	Principal place of residence	Base year value transfer	Governor-proclaimed
69.5	Principal place of residence —over 55 or physically disabled	Base year value transfer	Any disaster or calamity
172 & 172.1	Manufactured home	Base year value transfer	Governor-proclaimed
70	Real property only	New construction exclusion	Any disaster or calamity
5825	Manufactured home	New construction exclusion; Base year value transfer	Any disaster or calamity

Property Tax System. California's system of property taxation under Article XIII A of the State Constitution (Proposition 13) values property at its 1975 fair market value, with annual increases thereafter limited to the amount of inflation or 2%, whichever is less, until the property changes ownership or new construction occurs. Once a reassessable event occurs (i.e., a change in ownership or new construction), the value of the property for tax purposes is redetermined based on its current market value. The value initially established, or redetermined where appropriate, is referred to as the "base year value."

Because real estate values generally appreciate at a rate greater than 2% per year, when an event occurs triggering a reassessment of property to its current market value, the reassessed value (i.e., its new base year value) will likely be substantially higher.

California property tax law provides for various situations where the base year value of a property is either: (1) retained, notwithstanding that new construction has taken place or that the property has changed ownership, or (2) transferred to another property, notwithstanding that the property has changed ownership. These special situations are provided pursuant to various constitutional amendments modifying the original Proposition 13 framework and serve to avoid the otherwise required reassessment of a property to its current market value.

New Construction Exclusion. For instance, related to the subject matter of this bill, Revenue and Taxation Code Section 70(c) provides that “where real property has been damaged or destroyed by misfortune or calamity, ‘newly constructed’ and ‘new construction’ does not mean any *timely* reconstruction of the real property, or portion thereof, where the property after reconstruction is substantially equivalent to the property prior to damage or destruction." Any reconstruction of real property, or portion thereof, that is not substantially equivalent to the damaged or destroyed property, is treated as new construction. If this occurs, only that portion that exceeds what is deemed to be substantially equivalent reconstruction would be assessed at current market value. Section 70(c) does not provide any time limitation as to what is considered "timely" new construction for purposes of the exclusion.

Under this provision, however, reconstruction that does qualify means that the property will retain its previous assessed value after its reconstruction. Consequently, a property that is rebuilt after a fire will continue to be assessed at the same amount even though the property has been entirely newly constructed. (This new construction exclusion was provided by Proposition 8 in 1978).

Base Year Value Transfers. Specifically related to this bill, Section 69 provides that persons who own property substantially damaged or destroyed in a governor-declared disaster may transfer the base year value of that property to a property acquired or constructed as a replacement if it is acquired within five years after the disaster. "Substantially damaged" means physical damage amounting to more than 50 percent of its current market value immediately prior to the damage. Base year value transfers are available for all property types, with the limitation that the original property and the replacement property must be of the same property *type*: residential, commercial, agricultural, or industrial. The replacement property is "comparable" if it is similar in size, utility, and function to the destroyed property, and if the market value of the acquired property does not exceed 120% of the fair market value of the replaced property in its pre-damaged condition. Property owners may, nevertheless, still receive the disaster relief in cases where the value of the replacement property exceeds the 120% limitation. In such cases, the amount over this threshold is assessed at full market value and added to the transferred base year value. (Proposition 50 of 1986 authorized this base year value transfer provision.)

Section 69.3 provides similar disaster base year value transfer provisions, but unlike Section 69, which applies to all property types, it is limited to principal places of residence purchased in another county and only applies to homes purchased in counties where the board of supervisors has adopted an ordinance making this benefit available. Additionally, replacement homes must be purchased within 3 years rather than 5 years. As of 2009, there are nine counties that have such an ordinance: Contra Costa, Los Angeles, Modoc, Orange, San Francisco, Santa Clara, Solano, Sutter, and Ventura. (Proposition 171 in 1995 authorized this base year value transfer provision.)

BACKGROUND

In 2006, **AB 1890** (Stats. 2006, Ch. 317; Mountjoy) extended the timeframe for Section 69 base year value transfers from 3 years to 5 years for all disasters occurring on or after July 1, 2003. Prior to that, in 1993, **AB 1824** (Stats. 1993, Ch. 1053) extended the timeframe from 2 years to 3 years for all disasters occurring on or after October 20, 1991, the date of the Oakland hill's fire. In 1997, **SB 594** (Stats. 1997, Ch. 941) provided a special 5 year timeframe for any victim of the 1994 Northridge earthquake.

COMMENTS

1. **Purpose.** To ensure that affected property owners in San Diego County have sufficient time to acquire a suitable replacement property.
2. **Key Amendments.** The **August 17, 2010** amendments corrected a conflict between the Legislative Counsel digest and the actual amendments to Section 69 to limit the provisions of this bill to property damaged or destroyed by the Cedar Fire of 2003 and located in San Diego County. In addition, the amendments reinstated Board sponsored amendments made last year by SB 824 (SR&T) to treat land and improvements separately for purposes of meeting the 50% damage test that were inadvertently deleted by prior amendments. The **June 22, 2010** amendments made the provisions of this bill applicable only if a county board of supervisors enacts an ordinance. The **May 20, 2009** amendments changed the date for which this bill applies from disasters occurring on or after July 1, 2007 to those occurring on or after October 1, 2007.
3. **Base year value transfers provide tax relief to disaster victims.** Permitting persons to "transfer" their base year value from one property to another provides tax relief by allowing property owners to continue paying taxes on the replacement property equivalent to that paid on the property from which they were displaced. Without a base year value transfer, the taxes on the new property would likely be significantly more because, under the general change in ownership laws, the taxes would be based on the property's current fair market value. The rationale for providing a base year value transfer is that the tax laws should not further afflict disaster victims by imposing upon them higher property taxes. If the disaster had not occurred, those individuals would not have been compelled to relocate and thereby forfeit their Proposition 13 protected base year values.
4. **The 5 year timeframe is a statutory limitation.** The constitution provides that the Legislature shall provide for these types of base year value transfers and Section 69 is the implementing statute. Article XIII A, Section 2(e) of the California Constitution does not expressly authorize the Legislature to establish time requirements for acquiring a replacement property within the same county. It may be more appropriate to establish time periods that do not unnecessarily exclude taxpayers from receiving the benefits otherwise available. A more liberal time period could prevent constitutional challenges to establishing any time limit.
5. **Five years might not be enough time.** While most property owners will likely fit into the existing 5 year period, the financial impact to the individual property owner that doesn't can be significant. Delays occur for a variety of reasons: unsettled insurance claims, uninsured or underinsured property owners, limited supply of replacement properties available for purchase, and lack of construction workers. This is especially true where the disaster creates mass destruction in a localized area. And in present times, there are added reasons for delays, such as difficulties in obtaining financing or purchasers that are experiencing unprecedented delays in completing the purchase of a bank-owned home.

6. **This bill does not amend the 3 year timeframe for Section 69.3 base year value transfers because of constitutional constraints.** Section 69.3 provides similar tax relief for replacement principal places of residence located in a different county. However, because the 3 year time limit is expressly specified in the constitutional provision authorizing these types of transfers, to extend this timeframe would first require a constitutional amendment.

7. **The new construction exclusion of Section 70(c) for disaster victims has no express time limit other than the reconstruction be "timely."** Thus, property tax administrators have flexibility in determining what is "timely" based on the facts of each situation. Section 70(c) applies to persons that rebuild on the original site after a disaster. Section 69 applies to persons that buy another property to replace the one damaged or damaged.

Assembly Bill 308 (Cook) Chapter 433

State Assessees Property Tax Revenue Allocation – San Bernardino Mountainview Power Plant

Effective September 29, 2010. Amends Sections 100, 100.95, 755, and 756 of the Revenue and Taxation Code.

BILL SUMMARY

This bill allows for the continued allocation of property tax revenues derived from a power plant located in San Bernardino County using a situs basis method after its transfer to a public utility.

Sponsor: Inland Valley Development Agency

LAW PRIOR TO AMENDMENT

Incremental Growth – Countywide. Incremental growth in property tax revenue from state assessed property occurring post-1987, with the exception of railroad property[1] and certain electrical generation facilities as noted later, is shared on a "**countywide**" basis. The increase in revenue could result from increased property values, new acquisitions of property, or new construction. Incremental growth revenue is distributed to nearly all governmental agencies and school entities in the county in proportion to each entity's share of the county's total ad valorem property tax revenue in the prior year. Under the countywide basis of revenue allocation, all entities receive a share in the growth in revenue regardless of whether the value growth actually occurred within the jurisdictional boundaries of the particular entity.

Electric Generation Facilities

The allocation of property tax revenues derived from electric generation facilities depends upon various factors, such as the owner and date of significant events, as follows:

Locally Assessed Electric Generation Facilities – Situs Basis. Property tax revenues from locally assessed property are allocated on a situs basis. This means that the revenues accrue only to those taxing jurisdictions in the tax rate area where the property is located. Some facilities, such as co-generation plants and facilities using renewable sources of energy such as wind or solar, are assessed at the local level by the county assessor.

State Assessed Electric Generation Facilities – Varies.

- **Public Utility Owned Power Plants – Placed in Service before 01/01/07– Countywide Basis**. Revenues from state assessed electrical generation facilities placed in service by a rate regulated public utility before January 1, 2007 are allocated using the countywide basis. *§100*
- **Public Utility Owned Power Plants – Placed in Service on or after 01/01/07– Hybrid Basis**. Revenue from state assessed electrical generation facilities placed in service by a rate regulated public utility on or after January 1, 2007 is allocated

[1] For railroad property, incremental growth is shared on a countywide basis for post 2007 growth.

according to a statutory formula that is a **blend of the countywide and situs basis methods.** The allocation is as follows: the county, K-14 school districts, and non-enterprise special districts receive the same percentage of tax revenues they received in the previous year; the city receives 90 percent of the remaining property tax revenues; and the city or water district that provides water service to the power plant receives the remaining 10 percent of revenues. All other entities, including redevelopment entities, receive none of the revenues derived from facility. *§100.95*

- **Merchant Power Plants – Situs Basis**. Beginning with the 2003-04 fiscal year, revenues from state assessed electrical generation facilities that are not owned by a rate-regulated public utility (i.e., merchant power plants[2]) are allocated only to the governmental agencies and school entities in the tax rate area where the facility is located (i**.e., situs basis).** From 1999 through 2003, merchant power plants were locally assessed by the local county assessor. As a result, situs basis revenue allocation occurred by default. In 2003, the assessment jurisdiction over merchant power plants was transferred from local county assessors to the Board of Equalization (BOE). Concurrently, the law was changed to continue to provide for situs basis revenue allocation after the switch from local to state assessment. Without this change in law, the revenues from these plants would have been distributed on a countywide basis. *§100.9(a)*
- **Palomar Energy Center– Hybrid Basis.** Revenues derived from the Palomar Energy Center, which was placed in service in 2006 and owned by San Diego Gas & Electric (SDG&E) in the City of Escondido, are allocated according to a statutory formula that is a **blend of the countywide and situs basis methods.** The allocation is as follows: the county and K-14 school districts receive the same percentage of tax revenues they received in the previous year; the city receives the remaining property tax revenues. The county is to distribute its share to various entities as specified. *§100(k)*

Mountainview Power Plant: Switching from Situs to Hybrid Basis. The property tax revenues from the Mountainview power plant in San Bernardino County, which is the subject of this bill, have been allocated according to a situs basis pursuant to Section 100.9 since the plant was originally constructed in 2005. It was built and operated by a wholly owned subsidiary of Southern California Edison, a rate regulated utility. As such, it has been treated as a merchant power plant. However, in March 2010, the ownership of the power plant was transferred from the subsidiary to Southern California Edison. As a result, current law requires that the revenue allocation procedures for the plant change from the situs basis for merchant power plants outlined in Section 100.9 to the hybrid basis for public utility owned power plants outlined in Section 100.95.

AMENDMENT

This bill adds subdivision (l) to Section 100 to require that the county auditor allocate property tax revenue from the Mountainview power plant only to those governmental agencies and school entities in the tax rate area where the property is located (i.e., situs basis). These provisions apply only if a joint powers authority comprised of cities and a county adopts a resolution stating that the property is subject to a redevelopment plan and provides a copy of the resolution, including a legal description of the property, to the county auditor and the BOE prior to January 1, 2011. This bill also specifies that the

[2] Generally, a "merchant power plant" generates electricity for sale in the open wholesale power market, whereas a power plant owned by a public utility generates electricity for its customers use.

BOE may amend the tax rolls for the 2010-11 fiscal year to make the required allocations, and makes conforming amendments to Sections 100.95, 755 and 756.

With respect to the functions of the BOE, this bill requires that after the BOE annually determines the value of all of the property owned by Southern California Edison, the portion of value that is allocated to the Mountainview power plant be assigned to the specific tax rate area where the property is located, pursuant to Section 100.9(a).

IN GENERAL

State Assessed Property. Article XIII, Section 19 of the California Constitution requires the BOE to assess property owned or used by regulated railroad companies. It also requires the BOE to assess the property owned by certain public utilities. These properties are commonly referred to as "state assessed" properties because the BOE, rather than the local county assessor, is responsible for determining the value of the property for property tax purposes. However, counties are responsible for billing, collecting, and apportioning the resulting taxes. These functions are the responsibility of the county auditor and the county tax collector.

Unitary Property. A state assessee's property holdings are valued as a single unit and the total value is subsequently allocated among the counties. Generally, state assessed properties operate as an integrated unit and often cross county boundaries. Property owned or used by a state assessee that is used in the company's primary operations as part of the company's integrated system is assessed as "unitary property" and the company is valued as a single unit under the principal of unit valuation. A "unit valuation" of a public utility company or a railroad company captures the value of the company's property as a system of interrelated assets, rather than a valuation of individual components of land, buildings, and other assets. For these companies, value depends on the interrelation and operation of the entire public utility or entire railroad. For example, there would be little worth to one section of railroad track or one section of an electrical transmission line; rather their value depends on being a part of an integrated system.

Property Tax Revenue Allocation

Property tax revenues derived from state assessed property differ from that of locally assessed property:

Locally Assessed Property. Generally, property tax revenues from locally assessed property are allocated by situs of the property and accrue only to the taxing jurisdictions in the tax rate area where the property is located (i.e., situs basis). A tax rate area is a specific geographical area within a county wherein each parcel is subject to the taxing powers of the same combination of taxing agencies. Statewide there are about 61,300 tax rate areas.

State Assessed Property. The revenue allocation system for state assessed unitary property, with the exception of railroad unitary property, was established by legislation enacted in 1986 via AB 2890 (Stats. 1986, Ch. 1457). Prior to the 1988-89 fiscal year, the property tax revenues from state and locally assessed property were allocated using the situs basis – that is by tax rate area. However, the process of identifying property according to tax rate area had become overwhelming for state assessees. As a result, AB 2890 was enacted to allow state assessees to report their unitary property holdings by county, rather than by individual tax rate area. It also allowed the BOE to allocate unitary values by county, rather than by tax rate area. This change allowed state assessees to receive only one tax bill per county for their unitary property holdings. Previously, each state assessee received hundreds of property tax bills from each county where they owned unitary property because a separate tax bill was prepared for each tax rate area where property was physically located.

Essentially AB 2890 established a prescribed formula, performed by the county auditor. The results of AB 2890 are as follows:

1. Preserves each local agency's tax base (hereafter called the "unitary base") for any jurisdiction which had state assessed property sited within its boundaries in the 1987-88 fiscal year.
2. Thereafter, annually increases each local agency's "unitary base" by two percent (provided revenues are sufficient).
3. If there is any property tax revenue remaining after each local agency has been distributed their "unitary base" plus two percent, then this surplus revenue, referred to as "incremental growth," is distributed to all agencies in the county. Agencies with unitary bases also receive a share of the incremental growth.
4. "Incremental growth" revenues are shared with all jurisdictions in the county (i.e., county wide distribution) in proportion to the entity's share of property tax revenues derived from locally assessed property.
5. It is often stated that all state assessee revenue is shared "countywide," but this is not technically true. It is only incremental growth that is distributed "countywide" without regard to where the growth in value took place or where new construction occurred.

By establishing unitary bases, jurisdictions were held harmless by the allocation system established by AB 2890 and some jurisdictions (those with little or no state assessed property located in their jurisdictional boundaries prior to AB 2890) have since benefited from the countywide system established for sharing the incremental growth.

The historical rationale for the countywide system. The countywide system was established to ease the administrative burdens on state assessees, the state, and counties. Detailed record keeping was necessary to report property holdings, allocate property value, and allocate property tax revenue by the fine detail of the tax rate area. As previously noted, AB 2890 (Hannigan) in 1986 created the countywide system. According to the author's press release on this bill, the Assembly Revenue and Taxation Committee had held an interim hearing in the Fall of 1985 on property tax issues that resulted in a number of suggested reforms subsequently included in AB 2890. The press release summarizes the various reforms and, with respect to the new revenue allocation system, it describes the proposed new system as follows:

> **Distribute the value of state assessed property to counties on a countywide basis, and distribute the revenue to local jurisdictions in proportion to their local assessed value.**
>
> Rationale: This will eliminate a very burdensome administrative job for the BOE and for taxpayers – the placing of state assessed value into tax rate areas. No jurisdiction will lose any money because the AB 8 distribution formula (and the specific provisions of this legislation) will guarantee all taxing jurisdictions that they will get the same amount of revenue that they got in the prior year from state assessees plus an amount for growth.

In 1987, an Assembly Revenue and Taxation Committee analysis on a related measure, AB 454, provided additional insight into the rationale for establishing the countywide system. That analysis noted:

> In AB 2890 (Hannigan) of 1986, a formula distribution of state assessed unitary values was adopted. The justification for this provision were (1) that state assessed unitary property is assessed on a company basis, not on a location basis, and a situs allocation is not consistent with the theory and practice with state assessed valuation procedures and (2) that the attempt to break apart a unitary assessment for the purpose of a situs assessment was causing taxpayers and the State to spend hundreds of thousands of dollars for a bureaucratic purpose that provided no social purpose other than to provide jobs to those doing the work.

Select Properties – Situs Basis. For certain state assessed properties newly constructed after the countywide system was established, legislation was enacted to instead provide revenue allocation under a situs basis. Hence, the property tax revenues derived from these particular projects go to the jurisdictions in the tax rate area where the project was to be sited rather than being shared with all jurisdictions located in the county as "incremental growth." See the following table for details on the specific properties. *§100 (i), (j), and (k).*

Electrical Deregulation. As a result of electrical deregulation, 22 electrical generation facilities previously owned by public utilities were sold to private companies. As an additional consequence of deregulation, it was anticipated that non-public utility companies would construct future generation facilities. Because of these developments, the BOE decided to examine the question of the boundaries of its assessment jurisdiction over companies selling electricity in a post-deregulation era.

Prior to deregulation, local county assessors assessed all electrical generation facilities except those owned by the regulated public utilities. This generally included co-generation facilities and facilities using renewable sources of energy such as wind or solar. Immediately after deregulation, county assessors additionally assumed the assessment of power plants divested by regulated public utilities as well as newly constructed power plants built by private companies post-deregulation. The transfer of assessment jurisdiction of divested plants was a result of a BOE regulation, Rule 905. However, beginning in 2003, the BOE amended this regulation to reassert its jurisdiction over divested electrical generation facilities and certain newly constructed facilities. The BOE maintained and continues to assess, those generation facilities owned by public utilities, which are primarily hydroelectric and nuclear facilities.

Electrical Deregulation and Revenue Allocation: Divesture of Power Plants – Situs Basis. A significant issue raised by interested parties in the hearings on Rule 905 was the revenue allocation consequences of state vs. local assessment of electrical generation facilities. Many local jurisdictions made decisions to approve the construction of new facilities in their communities based in part on the expected property tax revenues. Under local assessment, revenue allocation was situs based. A transition to state assessment (and by default to countywide distribution) would significantly diminish the revenue proceeds from these properties. To address this concern, AB 81 (Migden, Stats. 2002, Ch. 57) changed the revenue allocation of these divested and newly constructed facilities to provide for situs basis revenue allocation under state assessment. Thus, the revenue from newly constructed and repowered plants remained situs based after the BOE reasserted its jurisdiction over these properties. The revenue allocation of power plants *divested* by public utilities, as well as those *newly constructed* by merchant power plant owners, has been on a situs basis since 1999. *Property Tax Rule 905 and AB 81 (Migden, Ch. 57, Stats. 2002)*

Public Utility Owned Power Plants: Re-entry into Electrical Generation – Hybrid of Countywide & Situs Basis. While it had been anticipated that public utilities would no longer be involved in new electrical generation facilities, this proved not to be the case. In 2004, AB 2558 (Stats. 2004, Ch. 640) was enacted to address the planned construction of the Palomar energy plant that would be sold to San Diego Gas & Electric once construction was complete. Without AB 2558, the property tax revenues from this facility would have switched from situs basis to the countywide basis after the sale of the plant to a rate regulated public utility. This would have negatively impacted the City of Escondido were the plant was located and special purpose legislation related to the revenue allocation for the Palomar facility was enacted. *AB 2558 (Plescia, Stats. 2004, Ch. 640)*

In 2006, general purpose legislation for all future plants newly placed in service by public utilities was enacted through SB 1317 (Torklakson, Stats. 2006, Ch. 791). Southern California Edison sponsored the bill to change the revenue allocation procedures for any facility placed in service by a public utility on or after January 1, 2007 to provide a financial incentive for cities to support the construction of electrical generation facilities and substations within their boundaries by ensuring a greater share of the resulting property tax revenues. *SB 1317 (Torklakson, Stats. 2006, Ch. 791)*

Railroads - Transition to Countywide System. Railroads were not included in the countywide system established in 1986 at the request of that industry. However, in 2006 the industry sponsored legislation to also convert to a countywide system AB 2670 (Stats. 2006, Ch. 791). This change was sought because the railroads had also become overwhelmed with the administrative complexities of reporting unitary property at the micro tax rate area level and sought the benefits of the countywide system. *AB 2670 (Aghazarian, Stats. 2006, Ch. 791)*

Table of Revenue Allocation Procedures

Revenue allocation procedures for state and local property are summarized in the following table:

Property Type	Revenue Allocation	Rev And Tax Code	Legislation
Locally Assessed Property	Situs Basis	§96 et. seq.	AB 8 (1979)
State Assessed Property			
Unitary Property* *Special exceptions noted below	Pre-1987 values: Situs Basis Incremental Growth: Countywide	§100	AB 2890 (Stats. 1986, Ch. 1457)
Operating Nonunitary Property[3]	Countywide	§100	AB 2890 (Stats. 1986, Ch. 1457)

[3] Operating nonunitary properties are those that the assessee and its regulatory agency consider to be operating as a unit, but the BOE considers not part of the unit in the primary function of the assessee. These properties are

Property Type	Revenue Allocation	Rev And Tax Code	Legislation
Nonunitary Property	Situs Basis	§§755 & 756	
Regulated Railway Companies (Unitary Property)	Pre-2007 values: Situs Basis Incremental Growth: Countywide	§100.11	AB 2670 (Stats. 2006, Ch. 791)
Merchant Owned Power Plants 50 MW or more Location: Statewide	Situs Basis	§100.9 Property Tax Rule 905	AB 81 (Stats. 2002, Ch. 57)
Public Utility Owned Power Plants (2007) Qualified property placed in service on or after 1/1/07.	Hybrid Countywide: *County* *K-14* *Special Districts* Situs Basis *City* *Water Provider*	§100.95	SB 1317 (Stats. 2006, Ch. 872)
Specific Properties			
Pacific Bell (Computer Center) Location: City of Fairfield	Situs Basis – as specified	§100(I)	AB 454 (Stats. 1987, Ch. 921)
PG&E (Education and Training Center) Location: City of Livermore	Situs Basis – as specified	§100(J)	SB 53 (Stats. 1991, Ch. 465)
SDG&E (Power Plant -Never Constructed*) Location: City of Chula Vista	Situs Basis – as specified	§100(K)*	AB 1108 (Stats. 1993, Ch. 1045)
SDG&E (Palomar Energy Center - Power Plant) Location: City of Escondido (San Diego County)	Situs Basis – as specified	§100(K)	AB 2558 (Stats. 2004, Ch. 640)
Railroad Loading Facility – Not yet constructed Location: Victorville (San Bernardino County)	Situs Basis – as specified	§100.1(A)	AB 2670 (Stats. 2006, Ch. 791)

COMMENTS

1. **Purpose.** To continue to receive the same portion of property tax revenue from the Mountainview power plant that its received since its completion. Without this bill, the IVDA will receive none of the property tax from the plant since redevelopment agencies are not provided for in Section 100.95.

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valued separately and apart from unitary property (i.e., not valued as part of the unit). An example would be land on which a substation has been removed but it still is carried in the rate base) §723.1

2. **Mountainview Power Plant: Construction and Sale.** The Mountainview power plant is located in the City of Redlands (San Bernardino County). The power plant was completed in 2005 and was originally owned by an unregulated subsidiary of SCE. As a merchant power plant, situs basis revenue allocation has been in effect since its original construction pursuant to Section 100.9. However, in March 2010 the plant was transferred to SCE, a regulated public utility. The ownership transfer has triggered a change in the revenue allocation procedure to that outlined in Section 100.95.

3. **Mountainview Power Plant: Redevelopment Project Area.** The Mountainview power plant is located within the Inland Valley Development Agency (IVDA) redevelopment project area. Formed in 1990, IVDA is a joint powers authority comprised of the County of San Bernardino and the cities of Colton, Loma Linda, and San Bernardino. The IVDA is responsible for redeveloping the non-aviation portion of the former Norton Air Force Base and surrounding properties. Since the plants construction, a large percentage of the property taxes derived from the plant have been allocated to the IVDA (special property tax revenue allocations apply for property located in redevelopment districts whereby the RDA receives a greater share of revenues from activity occurring in the area). The Senate Appropriations Committee estimated that the IVDA receives about $4.5 million of its $8.3 million in revenue from the plant. Under existing law, because Section 100.95 does not authorize an allocation to a redevelopment area, the IVDA will receive no share in the property tax revenue without this bill.

Assembly Bill 384 (Ma) Chapter 228

Commercial Air Carriers – Certificated Aircraft Assessments

Effective January 1, 2011. Amends Sections 401.17, 441, and 1153.5 of the Revenue and Taxation Code.

BILL SUMMARY

This bill extends the application of the following provisions of law related to commercial air carriers for 5 more fiscal years:

- Streamlined property tax administrative procedures for use in the assessment of property owned by commercial air carriers using a centralized approach whereby each air carrier files a single consolidated property statement with one designated "lead" county for all of its property subject to assessment in California. *§§441 and 1153.5*
- The assessment methodology to follow in determining the annual fair market value of certificated aircraft owned by commercial air carriers. *§401.17*

In addition, with respect to the fair market value of any particular aircraft, this bill provides that the value determined using the prescribed methodology:

- Benefits from a rebuttable presumption of correctness and outlines the types of evidence that may be used to rebut the presumption.
- Any individual aircraft that is still assessed to the original owner can not exceed its original cost from the manufacturer.

Sponsor: California Assessors' Association

LAW PRIOR TO AMENDMENT

Section 401.17 outlines the methodology for determining the annual fair market value of certificated aircraft for property tax purposes. The value is based upon the lesser of (1) a historical cost basis, as specified, or (2) prices listed in the *Airliner Price Guide*, a commercially-prepared value guide for aircraft, with certain specified adjustments. Currently, the law provides that the fair market value of aircraft so determined "is" or "shall be" the value of the aircraft for property tax purposes. These provisions are scheduled to sunset after the 2010-11 fiscal year. *§401.17*

Consolidated Property Statement - Centralized Reporting. Revenue and Taxation Code Section 441(m) provides that commercial air carriers operating in multiple airport locations in California may file a single consolidated property statement with a designated "lead" county. The property statement details property holdings, acquisition costs, and flight and ground data which serve as the basis for determining property tax assessed values for the upcoming year. These provisions are scheduled to be repealed on December 31, 2010. *§441*

Centralized Administrative System: The Centralized Fleet Calculation Program. Revenue and Taxation Code Section 1153.5 outlines the process for selecting the lead county for each commercial air carrier and notifying the air carrier of the responsible lead county to which it is to file its consolidated property statement pursuant to Section

441(m). The lead county responsible for a particular air carrier calculates the total fleet value of the carrier's certificated aircraft for each make, model, and series as specified by Section 401.17. The fleet value and other information are then transmitted to the other counties and each individual county determines its allocated portion of the fleet based on the flight data for its particular county to complete the assessment process. The lead county is also responsible for transmitting property statement information for non-aircraft personal property and fixtures to the relevant county and leading the audit team responsible for any audit of the commercial air carrier. These provisions are scheduled to be repealed on December 31, 2010. *§1153.5*

AMENDMENT

Sunset Date Extension. This bill extends the fiscal year to which these provisions apply to the 2015-16 fiscal year and extends the repeal date provisions to December 31, 2015.

In addition, this bill makes the following changes to Section 401.17:

- **Rebuttable Presumption of Correctness.** Expressly provides that the fair market value of certificated aircraft determined using the specified assessment methodology only enjoys a rebuttable presumption of correctness. *§401.17(a) and (b)*
- **Evidence for Rebutting Presumption.** Specifies that the preallocated fair market value of an aircraft produced using the delineated methodology may be rebutted by evidence including, but not limited to, appraisals, invoices, and expert testimony. *§401.17(a)*
- **Original Cost - Maximum Value for Original Owner.** Provides that the value of an individual aircraft assessed to the original owner of that aircraft is not to exceed its original cost from the manufacturer. *§401.17(a)*
- **Effective Date.** Provides that the above amendments apply with respect to the lien dates occurring on and after January 1, 2011. *§401.17(f)*

IN GENERAL

Business Personal Property. Personal property used in a trade or business is generally taxable and its cost must be reported annually to the assessor on the business property statement as provided in Revenue and Taxation Code Section 441. Personal property is not subject to the valuation limitations of Proposition 13. It is valued each lien date at current fair market value.

Certificated Aircraft. Certificated aircraft used by air carriers is subject to taxation when in revenue service in California. Generally, certificated aircraft are commercial aircraft operated by air carriers for passenger or freight service. Certificated aircraft are valued for purposes of property taxation under a "fleet" concept. This means that the basis of the assessed value is not the value of any single aircraft owned by an air carrier, but rather the value of ***all*** aircraft of each particular fleet type[4] (i.e., all aircraft owned of an identical make and model regardless of age) that is flown into the state. Aircraft fly in and out of the state; no single or particular aircraft remains located in the state on a permanent basis. Under the "fleet" concept, the types of aircraft that have gained situs in California by their entry into revenue service are valued as a fleet and

[4] Types are grouped by make and model. For example, Boeing 737-300s and 737-500s; Boeing 747-400s; Airbus A300-F4-600S; and McDonnnel Douglas DC 10-30s.

then only an allocated portion of the entire value of the fleet is ultimately taxed to reflect actual presence in California.

The Fleet Concept - Example. An individual air carrier, Blue Sky Airlines, for example, may operate the following types of aircraft in its overall fleet: Boeing 737-300s and 737-500s; Boeing 747-400s; and Boeing 767-200s and 767-300s. Each of these types of aircraft is considered to be a fleet type. Thus, Blue Sky Airlines may have a fleet of 100 Boeing 737-500s, but only 30 of those aircraft may actually make contact in Sacramento County during the year. For purposes of property taxation in Sacramento County, the full cash value of all 100 of Blue Sky Airline's Boeing 737-500 aircraft is determined and the computed allocation ratio is applied to that value.

Valuation and Apportionment. Section 401.17 details the assessment methodology for determining the market value of certificated aircraft owned by commercial air carriers to be used for the 2005-06 to 2010-11 fiscal years. (Section 401.15 details the methodology that was used for the 1997-98 to 2003-04 fiscal years.) Section 1152 provides an allocation formula to determine the frequency and the amount of time that an air carrier's aircraft makes contact and maintains situs within a county. Property Tax Rule 202, subdivision (c) provides further details in the allocation procedure. An allocation ratio is made up of two components: a ground and flight time factor, which accounts for 75% of the ratio, and an arrivals-and-departures factor, which accounts for 25% of the ratio. The sum of these two factors yields the allocation ratio, which is applied to the full cash value of a fleet of a particular type of aircraft operated by an air carrier and, thus, the calculation of the assessed value for that type of aircraft. The sum of the assessed allocated values for each make and model used by an air carrier results in the total assessed value of the aircraft for that air carrier for a particular county.

BACKGROUND

Settlement Agreement (1998). Prior to January 1, 1999, California law did not provide any specific assessment methodology procedure for valuing certificated aircraft or for valuing the carrier's taxable possessory interest in the publicly owned airport in which they operated. In 1997-98, a group of counties and air carrier industry representatives met to resolve issues related to the taxation of property owned and used by air carriers, which resulted in a written settlement agreement to dispose of outstanding litigation and appeals over the valuation of taxable possessory interest assessments in airports and the valuation of certificated aircraft. The settlement agreement was codified in a three-piece legislative package:

AB 1807 (Stats. 1998, Ch. 86; Takasugi):

- outlined the valuation procedures for certificated aircraft for a six year period,
- included the monetary portion of the settlement agreement, and
- included extensive uncodified legislative findings and declarations.

AB 2318 (Stats. 1998, Ch. 85; Knox) specified the assessment methodology for valuing the air carrier’s taxable possessory interest in publicly owned airports.

SB 30 (Stats. 1998, Ch. 87; Kopp) allowed counties and taxpayers to enter into written settlement agreements granting taxpayers tax credits.

Centralized Assessment Procedures (2005). Beginning in 2006, **AB 964** (Stats. 2005, Ch. 699, J. Horton) established the current centralized assessment procedure for certificated aircraft. The 2005 legislation refined and built upon the valuation methodology first established by the 1998 Settlement Agreement. Specifically, it recognized the need to distinguish between different types of aircraft: passenger aircraft (main-line jets or regional jets) and freighter aircraft (production or converted). In addition, it recognized the need to detail the specific calculation of the variable components that was previously lacking. To calculate a reproduction cost new less depreciation value indicator (i.e., the historical cost basis) each variable component was addressed; specifically: (1) acquisition cost, (2) price index, (3) percent good factor, and (4) economic obsolescence. With respect to using the *Airliner Price Guide*, a "blue book" value guide for aircraft, the use of values referenced in that guide was specifically delineated and recognized that air carriers generally receive a fleet discount that is not reflected in prices listed in the guide. The 2005 legislation also improved the methodology to better reflect economic obsolescence by establishing detailed procedures in determining adjustments for economic obsolescence to better capture significant changes in market values due to severe changes in the industry's economic condition.

Other Centralized Assessment Attempts. As introduced, **AB 964** initially proposed transferring assessment responsibility from the local county assessor to the Board. Similar provisions had previously been proposed in 2003, **by SB 593 (**Ackerman), which was held in the Senate Appropriations Committee. The **California Performance Review Report** had recommended in its 2004 report to the Governor that the Board assess aircraft owned by commercial airlines to address inefficiencies which have since been corrected by 2005's AB 964.

COMMENTS

1. **Purpose.** To extend the sunset date related to these provisions of law to ensure continued uniform statewide assessment of certificated aircraft. The sponsors further state that the centralized assessment procedures have proven to be a success, resulting in administrative efficiencies for both the air carriers and the counties.

2. **Key Amendments.** The **May 5, 2010** amendments (1) specified the types of evidence that could be used to rebut the presumption that the aircraft values determined using the prescribed methodology is indicative of its actual fair market value and (2) provided that the value of any individual aircraft, that is still assessed to the original owner of that aircraft, shall not exceed its original cost from the manufacturer. These amendments were made to address concerns raised by one airline carrier.

3. **Rebuttable Presumption of Correctness.** This bill expressly provides that the annual fair market value determined using the codified methodology only enjoy a rebuttable presumption of correctness. Thus, either the assessor or the air carriers could rebut the presumption. If the assessor valued the aircraft using a different methodology, then the assessor would not have any presumption of correctness before the appeals board should the air carrier appeal the assessment. And, if the assessor did value the aircraft using the methodology, and the taxpayer appealed those assessments, the taxpayer would have to produce sufficient evidence to the appeals board to overcome the presumption of correctness.

4. **A codified valuation methodology for certificated aircraft. Prior to 1998, the valuation of aircraft had been a contentious area.** Codifying the valuation methodology has reduced these conflicts. This bill will provide certainty and predictability in the valuation of aircraft for both assessors and commercial air carriers. Absent a codified methodology, there is no guarantee that the values determined by each individual county assessor would be the same, higher, or lower than they would be without this bill**.**

5. **Centralized calculation of the fleet value by a lead county ensures statewide consistency in the base valuation of the fleet.** Prior to the institution of the 2005 centralized assessment procedures, some air carriers charged that even though all of the counties were using the same codified assessment methodology, the fleet value calculated by various counties continued to differ. Counties countered that the value discrepancies could be traced to differences in the information reported by the air carriers to the different counties or differences that were subsequently discovered via an audit of the carrier by one county's individual audit. The existing procedures ensure a uniform statewide assessment by designating a lead county to calculate the fleet value and further ensure that all counties receive the same information since the air carriers report all information to a single county which is then distributed. Therefore, current law eliminates any reporting discrepancies from one county to another and achieves the goal of statewide uniform assessed values for aircraft.

6. **The central assessment of aircraft results in administrative efficiencies for both commercial air carriers and counties.** Prior to 2006, air carriers submitted duplicative information about their fleet of aircraft to every county for every location in which they operated. The one-stop reporting procedures have reduced the carriers' administrative reporting burdens.

7. **Related Legislation.** AB 311 (Ma) contained provisions nearly identical to this bill. AB 384 primarily differs from AB 311 in that it includes the rebuttable presumption of correctness and includes a value cap on certain aircraft with respect to original owners. The Governor vetoed AB 311 noting that there was still one more year before the provisions expired and that, in that time, full consensus with the airlines should be sought since one airline had been opposed to AB 311.

Assembly Bill 1341 (Lowenthal) Chapter 442

Possessory Interests – Long Beach Court House

Effective September 29, 2010. Uncodified findings and declaration of law.

BILL SUMMARY

This bill provides that a project agreement between a nongovernmental entity and the Judicial Council to replace and operate the Long Beach Courthouse is not a taxable possessory interest because the nongovernmental entity's interest lacks the element of independence.

Sponsor: Judicial Council of California

LAW PRIOR TO AMENDMENT

Possessory Interests. Revenue and Taxation Code Section 107 sets forth the three essential elements that must exist to find that a person's use of publicly-owned tax-exempt property rises to a level of a taxable possessory interest. Those elements are independence, durability, and exclusivity.

With respect to the element of independence, Section 107(a)(1) defines "independent" to mean "the ability to exercise authority and exert control over the management or operation of the property or improvements, separate and apart from the policies, statutes, ordinances, rules, and regulations of the public owner of the property or improvements. A possession or use is independent if the possession or operation of the property is sufficiently autonomous[5] to constitute more than a mere agency."

Relevant case law and Property Tax Rule 20, a regulation, additionally require that a possessor derive "private benefit." "Private benefit" means "that the possessor has the opportunity to make a profit, or to use or be provided an amenity, or to pursue a private purpose in conjunction with its use of the possessory interest. The use should be of some private or economic benefit to the possessor that is not shared by the general public."

Court Facility Development. Government Code Section 70391.5 (SB 82, Stats. 2007, Ch. 176) and Senate Bill 77 (Stats. 2007, Ch. 171) together set out a procedure by which the Judicial Council may evaluate and, if determined to be in the best interests of the State, enter into agreements for court facility development that include alternate methods of project delivery, including a public-private partnership component.

SB 77 authorized the Administrative Office of the Courts to gather information for a public-private partnership agreement for the delivery of the new Long Beach Courthouse and authorized the Judicial Council to enter into a multiyear agreement for delivery of the courthouse, provided the agreements meet "established performance expectations."

[5]Property Tax Rule 20 specifies that "[t]o be sufficiently autonomous to constitute more than a mere agency, the possessor must have the right and ability to exercise significant authority and control over the management or operation of the real property, separate and apart from the policies, statutes, ordinances, rules, and regulations of the public owner of the real property."

Government Code Section 70391.5 requires the Judicial Council to "develop performance expectations for court facility proposals, including benchmark criteria for total project life-cycle costs, project cost comparisons to traditional delivery and financing options, project risk assessments and allocations, utility and energy conservation requirements that meet or exceed state standards, and court security operations cost controls and reduction goals."

AMENDMENT

Independence. Related to a project agreement entered into by the Judicial Council with a nongovernmental entity in accordance with Government Code Section 70391.5 to replace the Long Beach Courthouse, this bill adds uncodified language to provide that for purposes of Section 107(a)(1), the nongovernment entity does not have independent possession or use of the Courthouse, if all of the following criteria are met:

- **Build and Operate.** The nongovernmental entity is required to design, build, finance, operate, and maintain the Courthouse.
- **Nongovernmental Entity Selection Process.** The Judicial Council establishes performance expectations and benchmark criteria for the court facility proposal in accordance with Government Code Section 70391.5 to select the nongovernmental entity.
- **Thirty Five Year Term.** The Judicial Council and other governmental entities have exclusive use and control of the Courthouse land and improvements for court and related activities for a term of 35 years.
- **Title.** The Judicial Council will hold title to the land and improvements of the Courthouse.
- **Ownership for Federal Income Tax Purposes, etc.** The nongovernmental entity is not treated as the owner of the improvements of the Courthouse for any purpose, including federal income tax purposes, and does not take as a deduction any depreciation on the improvements.
- **Security Transaction.** Any lease-leaseback of land and improvements of the Courthouse with the nongovernmental entity is solely for the purpose of providing security for the payment by the Judicial Council of the service fee for services provided by the nongovernmental entity in connection with a court facility.

Nongovernmental Uses. This bill provides that its provisions do not apply to any lease of, or improvements to, the Long Beach Courthouse by the Judicial Council with a nongovernmental entity to the extent the land or improvements are used by the nongovernmental entity as commercial office space, retail space, or paid parking spaces not designated for use for governmental purposes or court facilities.

Legislative Intent. The bill states that it is the intent of the Legislature in enacting this act to provide legislative direction to county assessors, the Board, the courts, and other involved parties regarding the interpretation of the term "independent" as it relates to the Long Beach Courthouse.

IN GENERAL

Possessory Interests. In certain instances a property tax assessment may be levied when a person or entity uses publicly-owned real property that, with respect to its public owner, is either immune or exempt from property taxation. These uses are commonly referred to as "possessory interests" and are typically found where an individual or entity leases, rents, or uses federal, state or local government facilities and/or land.

Revenue and Taxation Code Section 107 establishes parameters within which assessors and judicial authorities determine the existence of taxable possessory interests. Generally, those determinations are made according to the facts and circumstances in each individual case.

Section 107.6 requires that when the state or any local government enters into a written contract with a private party whereby a possessory interest subject to property taxation may be created, the private party must be notified in the contract of the potential property tax consequences. If this notification is not given in the contract, the party may recover damages from the contracting state or local government.

COMMENTS

1. **Purpose.** To provide legislative direction to Los Angeles County and to ensure that possessory interest taxes will not be levied on this particular project. The bill includes detailed Legislative findings and declarations as to its purpose.

2. **Amendments.** The **August 2, 2010** amendments deleted language stating that the provisions of this bill are declaratory of existing law. The **June 28, 2010** amendments deleted the prior version of the bill related to the disabled veterans' exemption.

3. **Constitutional Considerations.** Legislation to exempt various possessory interests by statute has been often argued to be an "unconstitutional" exemption of real property. It is claimed that the appropriate course of action is to instead seek the approval of the voters of California by proposing a constitutional amendment to exempt the particular class of real property from property taxation. Therefore, some may argue that this legislation, if enacted, would similarly constitute an "unconstitutional" exemption of real property. However, in *City of San Jose v. Carlson (1997) 57 Cal.App. 4th 1348,* the court acknowledged the appropriateness of legislative action to set parameters on the element of durability. A similar rationale could be made for this bill, with respect to the element of independence. The Sixth District Court of Appeals in *City of San Jose* invited the Legislature to establish some statutory standards in measuring durability. The court stated:

    > Although we agree that the element of durability seems to have been 'diluted to a degree of almost nonexistence' (*United Airlines, Inc.* v. *County of San Diego* (1991) [cite omitted]), the Legislature has not seen fit to reverse the growing trend toward finding taxable possessory interests in short-term uses, even in its most recent amendments to Section 107. If there is a sound basis for distinguishing between a second time user and a third time user of government-owned property for purposes of identifying a taxable possessory interest, **it is within the province of the Legislature to clarify the parameters of that interest** in terms of frequency, duration, and length of time between uses. [Emphasis added.]

Assembly Bill 1662 (Portantino) Chapter 447

Disaster Relief – Wildfires and Winter Storms

Effective September 29, 2010. Among its provisions, adds Sections 195.167, 195.168, 195.169 and 218.4 to the Revenue and Taxation Code.

BILL SUMMARY

Among other things, this bill:

- Allows persons whose homes were destroyed in specified disasters to retain the homeowners' exemption on their property while they are in the process of rebuilding. *§218.4*
- Provides state reimbursement to backfill property tax revenue loss resulting from assessment reductions related to 2010 severe winter storms for eight counties. *§§195.167, 195.168, & 195.169*

Sponsor: Assembly Member Portantino

LAW PRIOR TO AMENDMENT

Homeowners' Exemption. Article XIII, Section 3(k) of the California Constitution exempts from property tax the first $7,000 of the full value of a dwelling when occupied by an owner as his or her principal residence. This exemption is commonly referred to as the "homeowners' exemption."

Section 218 of the Revenue and Taxation Code details the qualifications for the homeowners' exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied, is vacant, or is under construction on the lien date (January 1), the property is not eligible for the exemption for the upcoming tax year.

Relevant to this bill, homes that are totally destroyed on the lien date for a particular fiscal year (that is January 1 for the forthcoming fiscal year that begins July 1) are not eligible for the homeowners' exemption. For example, a home destroyed on or before January 1, 2010 is not eligible for the homeowners' exemption on the 2010-11 property tax bill.[6]

Disaster Relief - Property Reassessment for Property Owners. Section 170 of the Revenue and Taxation Code provides that property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance authorizing these provisions. These provisions apply to both governor-declared disasters and site-specific disasters, such as a home fire. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property as of the date of the disaster to recognize the loss in a property's market value. The loss in value must be at least $10,000. The prior assessed value of the damaged property is reduced in proportion to the loss in market value; the new reduced value is used to calculate a pro-rata reduction in taxes. The affected property

[6]A home destroyed after January 1, 2010, would continue to be eligible for the exemption on the 2010-11 property tax bill. However, if the home has not been rebuilt and occupied by the next lien date, January 1, 2011, it would not be eligible for the homeowners' exemption on the 2011-12 property tax bill.

retains its lower value, with reduced taxes, until it is restored, repaired, or reconstructed. Generally, taxpayers have up to 12 months to file a request for reassessment.

Disaster Relief - State Reimbursement for Local Governments. Additionally, legislation is frequently enacted to fully reimburse local governments for one fiscal year's property tax revenue loss associated with Section 170 reductions in assessment.

AMENDMENT

Homeowners' Exemption. This bill adds Section 218.4 to allow persons whose homes were destroyed in specified disasters to retain the homeowners' exemption on their property while they are in the process of rebuilding. Those are:

> **Los Angeles and Monterey Wildfires – August 2009.** Related to the proclamation of a state of emergency for Los Angeles and Monterey county issued in August 2009, Section 218.4(b) provides that a dwelling qualified for the homeowners' exemption prior to the commencement of the wildfires and that was subsequently damaged or destroyed by these wildfires and any other related casualty will continue to be eligible for the homeowners' exemption. *§218.4(b)*
>
> **Placer County Wildfires – August 2009.** Related to the proclamation of a state of emergency for Placer County issued in August 2009, Section 218.4(c) provides that a dwelling qualified for the homeowners' exemption prior to August 30, 2009 that was subsequently damaged or destroyed by the wildfires and any other related casualty will continue to be eligible for the homeowners' exemption. *§218.4(c)*
>
> **Eight Counties – Severe Winter Storms– January 2010.** Related to the proclamations of a state of emergency for Calaveras, Imperial, Los Angeles, Orange, Riverside, San Francisco, San Bernardino, and Siskiyou counties issued in January 2010, Section 218.4(d) provides that a dwelling qualified for the homeowners' exemption prior to the commencement dates of the severe winter storms and subsequently damaged or destroyed by the severe rainstorms, heavy snows, floods, or mudslides and any other related casualty will continue to be eligible for the homeowners' exemption. *§218.4(d)*
>
> **Kern County Wildfires – July 2010.** Related to the proclamation of a state of emergency for Kern County issued in July 2010, Section 218.4(e) provides that a dwelling qualified for the homeowners' exemption prior to July 26, 2010 that was subsequently damaged or destroyed by the wildfires and any other related casualty will continue to be eligible for the homeowners' exemption. *§218.4(e)*

State Reimbursement for Local Governments – Severe Winter Storms– January 2010. This bill also provides state reimbursement for property tax revenue losses due to Section 170 disaster relief reassessments related to the January 2010 winter storms for the 2009-10 fiscal year. Specifically, it adds provisions to the Revenue and Taxation Code that outline the process and timeline to be followed by the eight eligible counties, the Department of Finance, and the State Controller. *§§195.167, 195.168, & 195.169*

IN GENERAL

Disaster Relief. There are a variety of provisions in property tax law to provide property tax relief for disaster victims. These provisions address both the short term and the long term consequences of the disaster as it relates to current and future property tax liabilities. In the short term, property tax liability is redetermined to reflect the damage to the property. Additionally, some taxpayers may defer the next property tax installment payment. Over the long term, property owners may rebuild or repair damaged properties without incurring any increase in property tax liability. Alternatively, property owners may relocate rather than rebuild without being adversely impacted by the property tax consequences. The various provisions in the Revenue and Taxation Code are noted below.

DISASTER RELIEF REFERENCE CHART

Section	Property Type	Type of Relief Available	Type of Disaster
170	All property types	Reassessment	Any disaster or calamity
194 & 194.1	Real property and manufactured homes	Property tax deferral – next installment	Governor-proclaimed
195.1	Real property and manufactured homes	Property tax deferral – second consecutive installment	Governor-proclaimed
194.9	Real property and manufactured homes	Property tax deferral – supplemental assessment	Governor-proclaimed
69	All property types	Base year value transfer	Governor-proclaimed
69.3	Principal place of residence	Base year value transfer	Governor-proclaimed
69.5	Principal place of residence —over 55 or physically disabled	Base year value transfer	Any disaster or calamity
172 & 172.1	Manufactured home	Base year value transfer	Governor-proclaimed
70	Real property only	New construction exclusion	Any disaster or calamity
5825	Manufactured home	New construction exclusion; Base year value transfer	Any disaster or calamity

BACKGROUND

Special purpose legislation has been enacted in recent years to provide that dwellings that were destroyed by specific disasters, as noted in the following table, will not be disqualified as a "dwelling" or be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

Disaster	Year	Legislation
Wildfires – Multiple Counties	2009	Stats. 2009, Ch. 299 (AB 1568)
Fire, Wind, Storms – Multiple Counties	2008	Stats. 2008, Ch. 386 (SB 1064)
Zaca Fire – Santa Barbara and Ventura	2007	Stats. 2007, Ch. 224 (AB 62)
Angora Fire – El Dorado County	2007	Stats. 2007, Ch. 224 (AB 62)
Freeze	2007	Stats. 2007, Ch. 224 (AB 62)
Day and Shekell Fires - Ventura County	2006	Stats. 2007, Ch. 224 (AB 62)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 396 (AB 1798)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 897 (AB 2735)
Shasta Wildfires	2005	Stats. 2005, Ch. 623 (AB 164)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 624 (AB 18)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 622 (SB 457)
San Joaquin levee break	2004	Stats. 2004, Ch. 792 (SB 1147)
San Simeon earthquake	2003	Stats. 2004, Ch. 792 (SB 1147)
Southern California wildfires	2003	Stats. 2004, Ch. 792 (SB 1147)
Oakland/Berkeley Hills fire	1992	Stats. 1992, Ch.1180 (SB 1639)
Los Angeles civil riots	1991	Stats. 1992, Ch. 17X (AB 38 X)

COMMENTS

1. **Purpose.** To provide some financial relief to persons whose homes were damaged or destroyed as a result of these natural disasters and provide property tax revenue backfill to affected local governments.

2. **Key Amendments.** The **August 31, 2010** amendments (1) deleted proposed Section 170.6 related to future state reimbursements for wildfires, (2) deleted proposed Sections 195.158 through 195.160 which would have provided state reimbursement to local governments for the Los Angeles and Monterey wildfires, and (3) added homeowners' exemption provisions for property owners for the Placer and Kern County wildfires that were previously contained in AB 50 (Nava). The **August 20, 2010** amendments moved the homeowners' exemption provisions from Section 214 to newly added Section 218.4 and renumbered proposed Section 170.5 as 170.6. The **August 17, 2010** amendments added Section 170.5 to the bill related to future state reimbursements based on county compliance with the fire protection, prevention, and education requirements. The **April 7, 2010** amendments added provisions for 8 counties affected by winter storms occurring in January 2010. Those counties are: Calaveras, Imperial, Los Angeles, Orange, Riverside, San Francisco, San Bernardino, and Siskiyou. The **March 10, 2010** amendments added provisions for Monterey County which was affected by wildfires occurring in August 2009.

3. **Governor's Proclamations of a State of Emergency:**

   - **Los Angeles and Monterey Counties:** On August 28, 2009, the Governor issued a proclamation for wildfires that started on August 26, 2009 in Los Angeles County and on August 27, 2009 for Monterey County.

- **Placer County:** On August 30, 2009, the Governor issued a proclamation for wildfires that started in Placer County on August 30, 2009.
- **Los Angeles, Orange, Riverside, San Francisco and Siskiyou Counties:** On January 21, 2010 the Acting Governor issued a proclamation for a series of winter storms that began in California on January 17, 2010.
- **San Bernardino County.** On January 22, 2010, the Acting Governor issued a proclamation for a series of winter storms that began in California on January 17, 2010.
- **Imperial and Calaveras Counties**: On January 27, 2010, the Governor issues a proclamation for a series of winter storms that began in California on January 17, 2010.
- **Kern County:** On July 28, 2010, the Governor issued a proclamation for wildfires that started in Kern County on July 26, 2010.

4. **This bill would allow homeowners whose residences were damaged or destroyed as a result of fires or storms to retain the homeowners' exemption on their property while they are in the process of rebuilding their homes.** Homes that are uninhabitable on the lien date are technically ineligible for the exemption for the upcoming fiscal year under current law.
5. **The Board advises county assessors that damaged homes may keep the exemption but totally destroyed homes may not.** Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners' exemption for those properties temporarily vacated for repairs. (See Letter To Assessors 82/50, Question G16.) However, when a dwelling has been totally destroyed, staff has opined that because no dwelling exists there is no occupancy or possibility of occupancy on the lien date and the property would not be eligible for the exemption even if the property was under construction. (See Property Tax Annotation 505.0019 "Homeowners' Exemption – Disaster Impact") Referenced documents are available at www.boe.ca.gov select "Property Tax."
6. **Related Bills.** AB 50 (Nava) would have also limited future state reimbursements for property taxes losses due to major wildfires. However, its provisions added Section 170.5 and only applied to wildfires that commenced on or after January 1, 2010. Additionally, AB 50 would have provided state reimbursement for the Placer and Kern County wildfires and extended the homeowners' exemption to homes destroyed in those fires. This bill was not approved by the Legislature. AB 1690 (Chesbro) and AB 2136 (V. Manual Perez) provide disaster relief provisions for earthquakes occurring in Humboldt County and Imperial County. In addition, SB 1494 (SR&T) amends Section 218 to make the homeowners' exemption provisions of this bill standard for all governor-declared disasters without the need for special purpose legislation.

Assembly Bill 1690 (Chesbro) Chapter 449

Disaster Relief – Humboldt County Earthquake

Effective September 29, 2010. Among its provisions, adds Sections 195.164, 195.165, 195.166 and 218.2 to the Revenue and Taxation Code.

BILL SUMMARY

Among other things, this bill:

- Allows persons whose homes were destroyed in an earthquake in Humboldt County occurring on January 9, 2010 to retain the homeowners' exemption on their property while they are in the process of rebuilding.
- Provides one-year state reimbursement to backfill any property tax revenue loss resulting from assessment reductions related to the earthquake.

Sponsor: Assembly Member Chesbro

LAW PRIOR TO AMENDMENT

Homeowners' Exemption. Article XIII, Section 3(k) of the California Constitution exempts from property tax the first $7,000 of the full value of a dwelling when occupied by an owner as his or her principal residence. This exemption is commonly referred to as the "homeowners' exemption."

Section 218 of the Revenue and Taxation Code details the qualifications for the homeowners' exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied, is vacant, or is under construction on the lien date (January 1), the property is not eligible for the exemption for the upcoming tax year.

Relevant to this bill, homes that are totally destroyed on the lien date for a particular fiscal year (that is January 1 for the forthcoming fiscal year that begins July 1) are not eligible for the homeowners' exemption. For example, a home destroyed on or before January 1, 2011 is not eligible for the homeowners' exemption on the 2011-12 property tax bill.[7]

Disaster Relief - Property Reassessment for Property Owners. Section 170 of the Revenue and Taxation Code provides that property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance authorizing these provisions. These provisions apply to both governor-declared disasters and site-specific disasters, such as a home fire. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property as of the date of the disaster to recognize the loss in a property's market value. The loss in value must be at least $10,000. The prior assessed value of the damaged property is reduced in proportion to the loss in market value; the new reduced value is used to calculate a pro-rata reduction in taxes. The affected property

[7]A home destroyed after January 1, 2010, would continue to be eligible for the exemption on the 2010-11 property tax bill. However, if the home has not been rebuilt and occupied by the next lien date, January 1, 2011, it would not be eligible for the homeowners' exemption on the 2011-12 property tax bill.

retains its lower value, with reduced taxes, until it is restored, repaired, or reconstructed. Generally, taxpayers have up to 12 months to file a request for reassessment.

Disaster Relief - State Reimbursement for Local Governments. Additionally, legislation is frequently enacted to fully reimburse local governments for one fiscal year's property tax revenue loss associated with Section 170 reductions in assessment.

AMENDMENTS

Homeowners' Exemption. Related to an earthquake occurring in Humboldt County on January 9, 2010, this bill adds Section 218.2 to the Revenue and Taxation Code to provide that any dwelling that qualified for the homeowners' exemption prior to the date of the earthquake for which the Governor issued a proclamation of a state of emergency in January of 2010, that was damaged or destroyed by the earthquake and any other related casualty, and that has not changed ownership since the earthquake, shall not be disqualified as a "dwelling" or be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to the earthquake. *§218.2*

State Reimbursement. This bill also provides state reimbursement for property tax revenue losses due to Section 170 disaster relief reassessments for the 2009-10 fiscal year. Specifically, it adds provisions to the Revenue and Taxation Code outlining the process and timeline to be followed by the affected county, the Department of Finance, and the State Controller. *§§195.164, 195.165, and 195.166*

IN GENERAL

Disaster Relief. There are a variety of provisions in property tax law to provide property tax relief for disaster victims. These provisions address both the short term and the long term consequences of the disaster as it relates to current and future property tax liabilities. In the short term, property tax liability is redetermined to reflect the damage to the property. Additionally, some taxpayers may defer the next property tax installment payment. Over the long term, property owners may rebuild or repair damaged properties without incurring any increase in property tax liability. Alternatively, property owners may relocate rather than rebuild without being adversely impacted by the property tax consequences. The various provisions in the Revenue and Taxation Code are noted below.

DISASTER RELIEF REFERENCE CHART

Section	Property Type	Type of Relief Available	Type of Disaster
170	All property types	Reassessment	Any disaster or calamity
194 & 194.1	Real property and manufactured homes	Property tax deferral – next installment	Governor-proclaimed
195.1	Real property and manufactured homes	Property tax deferral – second consecutive installment	Governor-proclaimed
194.9	Real property and manufactured homes	Property tax deferral – supplemental assessment	Governor-proclaimed
69	All property types	Base year value transfer	Governor-proclaimed

Section	Property Type	Type of Relief Available	Type of Disaster
69.3	Principal place of residence	Base year value transfer	Governor-proclaimed
69.5	Principal place of residence —over 55 or physically disabled	Base year value transfer	Any disaster or calamity
172 & 172.1	Manufactured home	Base year value transfer	Governor-proclaimed
70	Real property only	New construction exclusion	Any disaster or calamity
5825	Manufactured home	New construction exclusion; Base year value transfer	Any disaster or calamity

BACKGROUND

Special purpose legislation has been enacted in recent years to provide that dwellings that were destroyed by specific disasters, as noted in the following table, will not be disqualified as a "dwelling" or be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

Disaster	Year	Legislation
Wildfires – Multiple Counties	2009	Stats. 2009, Ch. 299 (AB 1568)
Fire, Wind, Storms – Multiple Counties	2008	Stats. 2008, Ch. 386 (SB 1064)
Zaca Fire – Santa Barbara and Ventura	2007	Stats. 2007, Ch. 224 (AB 62)
Angora Fire – El Dorado County	2007	Stats. 2007, Ch. 224 (AB 62)
Freeze	2007	Stats. 2007, Ch. 224 (AB 62)
Day and Shekell Fires - Ventura County	2006	Stats. 2007, Ch. 224 (AB 62)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 396 (AB 1798)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 897 (AB 2735)
Shasta Wildfires	2005	Stats. 2005, Ch. 623 (AB 164)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 624 (AB 18)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 622 (SB 457)
San Joaquin levee break	2004	Stats. 2004, Ch. 792 (SB 1147)
San Simeon earthquake	2003	Stats. 2004, Ch. 792 (SB 1147)
Southern California wildfires	2003	Stats. 2004, Ch. 792 (SB 1147)
Oakland/Berkeley Hills fire	1992	Stats. 1992, Ch.1180 (SB 1639)
Los Angeles civil riots	1991	Stats. 1992, Ch. 17X (AB 38 X)

COMMENTS

1. **Purpose.** To provide some financial relief to persons whose homes were damaged or destroyed as a result of the earthquake and to provide property tax revenue backfill to affected local governments.
2. **Key Amendments.** The **August 19, 2010** amendments removed the homeowners' exemption provisions of this bill from Section 218 and instead moved them into newly created Section 218.2.
3. **Proclamations.** On January 12, 2010, the Governor issued a proclamation of a state of emergency for Humboldt County for the 6.5 magnitude earthquake that occurred on January 9, 2010.
4. **This bill would allow homeowners whose residences were damaged or destroyed as a result of the earthquake to retain the homeowners' exemption on their property while they are in the process of rebuilding their homes.** Homes that are uninhabitable on the next lien date (January 1, 2011) would be technically ineligible for the exemption for the forthcoming fiscal year (2011-12) under current law.
5. **The Board advises county assessors that damaged homes may keep the exemption but totally destroyed homes may not.** Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners' exemption for those properties temporarily vacated for repairs. (See Letter To Assessors 82/50, Question G16) However, when a dwelling has been totally destroyed, staff has opined that because no dwelling exists there is no occupancy or possibility of occupancy on the lien date and the property would not be eligible for the exemption even if the property was under construction. (See Property Tax Annotation 505.0019 "Homeowners' Exemption – Disaster Impact") Referenced documents are available at www.boe.ca.gov select "Property Tax."
6. **Related Bills.** AB 1662 (Portantino), and AB 2136 (V. Manual Perez) enact similar amendments to extend the homeowners' exemption for various California disasters, as well as provide for property tax loss reimbursement. In addition, SB 1494 (SR&T) amends Section 218 to make the homeowners' exemption provisions of this bill standard for all governor-declared disasters without the need for special purpose legislation.

Assembly Bill 2136 (V. Manuel Perez) Chapter 461

Disaster Relief – Imperial County Earthquake

Effective September 29, 2010. Among its provisions, adds Sections 195.170, 195.171, 195.172 and 218.3 to the Revenue and Taxation Code.

BILL SUMMARY

Among other things, this bill:

- Allows persons whose homes were destroyed in an earthquake in Imperial County occurring on April 4, 2010, to retain the homeowners' exemption on their property while they are in the process of rebuilding. *§218.3*
- Provides one-year state reimbursement to backfill any property tax revenue loss resulting from assessment reductions related to the earthquake. *§§195.170, 195.171, and 195.172*

Sponsor: Assembly Member V. Manual Perez

LAW PRIOR TO AMENDMENT

Homeowners' Exemption. Article XIII, Section 3(k) of the California Constitution exempts from property tax the first $7,000 of the full value of a dwelling when occupied by an owner as his or her principal residence. This exemption is commonly referred to as the "homeowners' exemption."

Section 218 of the Revenue and Taxation Code details the qualifications for the homeowners' exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied, is vacant, or is under construction on the lien date (January 1), the property is not eligible for the exemption for the upcoming tax year.

Relevant to this bill, homes that are totally destroyed on the lien date for a particular fiscal year (that is January 1 for the forthcoming fiscal year that begins July 1) are not eligible for the homeowners' exemption. For example, a home destroyed on or before January 1, 2011 is not eligible for the homeowners' exemption on the 2011-12 property tax bill.[8]

Disaster Relief - Property Reassessment for Property Owners. Section 170 of the Revenue and Taxation Code provides that property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance authorizing these provisions. These provisions apply to both governor-declared disasters and site-specific disasters, such as a home fire. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property as of the date of the disaster to recognize the loss in a property's market value. The loss in value must be at least $10,000. The prior assessed value of the damaged property is reduced in proportion to the loss in market value; the new

[8]A home destroyed after January 1, 2009, would continue to be eligible for the exemption on the 2009-10 property tax bill. However, if the home has not been rebuilt and occupied by the next lien date, January 1, 2010, it would not be eligible for the homeowners' exemption on the 2010-11 property tax bill.

reduced value is used to calculate a pro-rata reduction in taxes. The affected property retains its lower value, with reduced taxes, until it is restored, repaired, or reconstructed. Generally, taxpayers have up to 12 months to file a request for reassessment.

Disaster Relief - State Reimbursement for Local Governments. Additionally, legislation is frequently enacted to fully reimburse local governments for one year's property tax revenue loss associated with Section 170 reductions in assessment.

AMENDMENTS

Homeowners' Exemption. Related to an earthquake occurring in Imperial County on April 4, 2010, this bill adds Section 218.3 to provide that any dwelling that qualified for the homeowners' exemption prior to the date of the earthquake for which the Governor issued a proclamation of a state of emergency in April 2010, that was damaged or destroyed by the earthquake and any other related casualty, and that has not changed ownership since the earthquake, shall not be disqualified as a "dwelling" or be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to the earthquake.

State Reimbursement. This bill also provides state reimbursement for property tax revenue losses due to Section 170 disaster relief reassessments. Specifically, it adds provisions to the Revenue and Taxation Code that outline the process and timeline to be followed by the affected counties, the Department of Finance, and the State Controller. *§§195.170, 195.171, and 195.172*

IN GENERAL

Disaster Relief. There are a variety of provisions in property tax law to provide property tax relief for disaster victims. These provisions address both the short term and the long term consequences of the disaster as it relates to current and future property tax liabilities. In the short term, property tax liability is redetermined to reflect the damage to the property. Additionally, some taxpayers may defer the next property tax installment payment. Over the long term, property owners may rebuild or repair damaged properties without incurring any increase in property tax liability. Alternatively, property owners may relocate rather than rebuild without being adversely impacted by the property tax consequences. The various provisions in the Revenue and Taxation Code are noted below.

DISASTER RELIEF REFERENCE CHART

Section	Property Type	Type of Relief Available	Type of Disaster
170	All property types	Reassessment	Any disaster or calamity
194 & 194.1	Real property and manufactured homes	Property tax deferral – next installment	Governor-proclaimed
195.1	Real property and manufactured homes	Property tax deferral – second consecutive installment	Governor-proclaimed
194.9	Real property and manufactured homes	Property tax deferral – supplemental assessment	Governor-proclaimed
69	All property types	Base year value transfer	Governor-proclaimed

Section	Property Type	Type of Relief Available	Type of Disaster
69.3	Principal place of residence	Base year value transfer	Governor-proclaimed
69.5	Principal place of residence —over 55 or physically disabled	Base year value transfer	Any disaster or calamity
172 & 172.1	Manufactured home	Base year value transfer	Governor-proclaimed
70	Real property only	New construction exclusion	Any disaster or calamity
5825	Manufactured home	New construction exclusion; Base year value transfer	Any disaster or calamity

BACKGROUND

Special purpose legislation has been enacted in recent years to provide that dwellings that were destroyed by specific disasters, as noted in the following table, will not be disqualified as a “dwelling” or be denied the homeowners’ exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

Disaster	Year	Legislation
Wildfires – Multiple Counties	2009	Stats. 2009, Ch. 299 (AB 1568)
Fire, Wind, Storms – Multiple Counties	2008	Stats. 2008, Ch. 386 (SB 1064)
Zaca Fire – Santa Barbara and Ventura	2007	Stats. 2007, Ch. 224 (AB 62)
Angora Fire – El Dorado County	2007	Stats. 2007, Ch. 224 (AB 62)
Freeze	2007	Stats. 2007, Ch. 224 (AB 62)
Day and Shekell Fires - Ventura County	2006	Stats. 2007, Ch. 224 (AB 62)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 396 (AB 1798)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 897 (AB 2735)
Shasta Wildfires	2005	Stats. 2005, Ch. 623 (AB 164)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 624 (AB 18)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 622 (SB 457)
San Joaquin levee break	2004	Stats. 2004, Ch. 792 (SB 1147)
San Simeon earthquake	2003	Stats. 2004, Ch. 792 (SB 1147)
Southern California wildfires	2003	Stats. 2004, Ch. 792 (SB 1147)
Oakland/Berkeley Hills fire	1992	Stats. 1992, Ch.1180 (SB 1639)
Los Angeles civil riots	1991	Stats. 1992, Ch. 17X (AB 38 X)

COMMENTS

1. **Purpose.** To provide some financial relief to persons whose homes were damaged or destroyed as a result of the earthquake and provide property tax revenue backfill to affected local governments.
2. **Proclamations.** On April 5, 2010, the Governor issued a proclamation of a state of emergency for Imperial County due to a 7.2 magnitude earthquake, centered in Baja California, Mexico, that occurred on April 4, 2010.
3. **This bill would allow homeowners whose residences were damaged or destroyed as a result of the earthquake to retain the homeowners' exemption on their property while they are in the process of rebuilding their homes.** Homes that are uninhabitable on the next lien date (January 1, 2011) would be technically ineligible for the exemption for the forthcoming fiscal year (2011-12) under current law.
4. **The Board advises county assessors that damaged homes may keep the exemption but totally destroyed homes may not.** Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners' exemption for those properties temporarily vacated for repairs. (See Letter To Assessors 82/50, Question G16) However, when a dwelling has been totally destroyed, staff has opined that because no dwelling exists there is no occupancy or possibility of occupancy on the lien date and the property would not be eligible for the exemption even if the property was under construction. (See Property Tax Annotation 505.0019 "Homeowners' Exemption – Disaster Impact") Referenced documents are available at www.boe.ca.gov select "Property Tax."
5. **Related Bills.** AB 1662 (Portantino), and AB 1690 (Chesbro) enact similar provisions for various disasters. In addition, SB 1494 (SR&T) amends Section 218 to make the homeowners' exemption provisions of this bill standard for all governor-declared disasters without the need for special purpose legislation.

Assembly Bill 2314 (Block and Knight) Chapter 150

Disabled Veterans' Exemption – Delayed Disability Ratings

Effective January 1, 2011. Amends Section 276.1 of the Revenue and Taxation Code.

BILL SUMMARY

Related to the retroactive granting of a disabled veterans' property tax exemption once a disabled veteran receives a 100% disability rating letter from the United States Department of Veterans Affairs (USDVA) or the military service from which the veteran was discharged, this bill:

- Increases the minimum amount of time a disabled veteran has to file a claim for the exemption and receive the full amount of the exemption from 30 days to 90 days.
- Deletes a requirement that the disabled veteran have a "pending" application with the USDVA.

Sponsor: Board of Equalization

LAW PRIOR TO AMENDMENT

Article XIII, Section 4 of the California Constitution provides that the Legislature may exempt from property tax, in whole or in part, the home of a person or a person's spouse, if the person, because of injury or disease incurred in military service, is totally disabled. This exemption is commonly referred to as the "disabled veterans' exemption." The disabled veterans' exemption is also available to the unmarried surviving spouse of a person who dies while on active military duty or to the unmarried surviving spouse of a veteran who may or may not have already been receiving the exemption but later dies as a result of a service connected injury or disease.

Revenue and Taxation Code Section 205.5 is the implementing statute. It provides that "totally disabled" means a veteran who has a disability rating from the USDVA or the military service from which the veteran was discharged at 100 percent or has a disability compensation rating at 100 percent because he or she is unable to secure or follow a substantially gainful occupation. The exemption, which is compounded annually by an inflation factor, has two tiers, depending upon the claimant's income.

For the 2010-11 fiscal year, the disabled veterans' exemption amount will be $172,592 of assessed value for those with a household income below $51,699 (the "low income exemption"). For all others, the disabled veteran's exemption amount will be $115,060 (the "basic exemption").

QUALIFICATION	BASIC	LOW INCOME
Veteran Disability Rating = 100% Disability Compensation = 100% Blind Loss of Two or More Limbs **Spouse of Qualified Veteran** Surviving Spouse of Disabled Veteran Surviving Spouse of Person Who Died on Active Duty	**$115, 060*** *$100,000 as adjusted for inflation	**$172,592*** *$150,000 as adjusted for inflation **Household Income less that $51,669

A claim must be filed with the county assessor by specified deadlines. A claim filed after the specified deadline will still be granted, but the exemption will be provided at a reduced amount (i.e., "partial exemption") of either 90% or 85% of the exemption amount depending upon the circumstance.

Section 276.1 provides an exception to the general rule of a partial exemption for late-filed claims in the case where the USDVA has not finished processing the veterans' disability rating certification. Specifically, if a person files a late claim due to a pending disability rating from the USDVA, the full amount of the exemption will be granted, effective as of the date of a disability, provided a claim is filed the later of 30 days after receiving a disability rating letter from the USDVA or on or before the next following lien date (January 1).

AMENDMENT

This bill amends Section 276.1 to extend from 30 days to 90 days the minimum amount of time a disabled veteran has to file a claim to receive the full amount of the disabled veterans' exemption retroactively to the effective date of disability in cases where the necessary disability rating letter issued by the USDVA was not timely. In addition, it deletes a requirement that a disabled veteran have had an "application pending" with the USDVA.

IN GENERAL

The following table notes the various code sections relevant to the provisions of this bill. The exemption amounts noted are applied to the assessed value of the home.

Relevant Revenue & Taxation Code Sections

§ 205.5	Eligibility Qualifications	100% Disability or Compensation Rating by USDVA
§ 277	Claim Filing	Requirement to File
§ 276	Claim Filed Timely	**Full Exemption Amount** Basic Exemption $ 115,060 Low Income Exemption $ 172,592
§ 276	Claim Filed Late	**Partial Exemption** ❖ **90%** Between February 16 and December 10 ➢ Basic Exemption $103,554 ▪ ($115,060 x 90%) ➢ Low Income Exemption $155,333 ▪ ($172,592 x 90%) ❖ **85%** After December 10 ➢ Basic Exemption $ 97,801 ▪ ($115,060 x 85%) ➢ Low Income Exemption $146,703 ▪ ($172,592 x 85%)
§ 276.1	Claim Filed Late - Delayed Disability Rating	**Full Exemption Amount - Retroactively Granted** ❖ Refund of Taxes Previously Paid ➢ 100% for up to four years prior taxes ❖ Cancellation of Outstanding Taxes, Interest, Penalties ➢ 100%
§276.2	Claim Filed On Property Newly Eligible After Lien Date (Jan. 1)	**Full Exemption Amount** Basic Exemption $ 115,060 Low Income Exemption $ 172,592

With respect to the effective date of the exemption in cases of delayed disability ratings under Section 276.1, the disabled veterans' exemption will be granted beginning on the effective date of the disability, as determined by the USDVA or the military service in which the veteran served. Generally, this will result in a refund of a portion of property taxes previously paid.

BACKGROUND

In 2000, Section 276.1 was added to the Revenue and Taxation Code (SB 1362, Ch. 1085, Stats. 2000) to allow a retroactive granting of the disabled veterans' exemption without a "late filing penalty" that effectively reduced the amount of the exemption in cases of delayed disability ratings. When Section 276.1 was added it gave claimants until the "next following lien date" after receiving the letter to file a claim with the assessor. Since the lien date is January 1, this meant that someone who received a disability rating in the mail in early January would have nearly a year to file, whereas someone who received their rating on December 31 would only have until the next day to file the required claim with the assessor's office. To address this issue, the Board sponsored follow up legislation in 2002 to give claimants *at least* 30 days after receiving their qualifying disability rating letter to file the necessary paperwork. SB 2092 (SR&T Committee, Stats. 2002, Ch. 775) gave newly qualified claimants the *later* of 30 days after receipt of the letter or the next lien date (i.e., January 1), to ensure that persons that receive a letter in December would have a more reasonable opportunity to file a claim to receive the full amount of the exemption.

COMMENTS

1. **Purpose.** To remove unnecessary impediments to providing disabled veterans with the maximum amount of the exemption on their home on a retroactive basis should they become eligible for the exemption at a future date.

2. **It can take some time before the USDVA finishes processing a veterans' disability rating certification.** In cases where the veteran is appealing the initial disability rating, it can take a number of years for the issuance of a final USDVA disability rating certification of 100%. In 2000, legislation was enacted to allow disabled veterans to receive the full amount of the exemption retroactively once they receive a qualifying disability rating with a back dated effective date of disability – but they were only given until the next January 1 to file a claim. In 2002, legislation was enacted to give veterans at least 30 days to file the claim once they receive the rating letter.

3. **This bill would eliminate a requirement for having had a "pending" application with the USDVA.** This is an unnecessary precondition that could disqualify a disabled veteran from receiving the full amount of the exemption since there may not have been a "pending" application. Furthermore, some administrators request proof or substantiation that an application had been pending. This can be an onerous task for the disabled veteran if the proof is not easily obtainable. A "pending" application is irrelevant to the process and contrary to the sprit of providing the exemption to qualified veterans and their spouses.

4. **This bill would give veterans who receive the required 100% disability rating letter late in the calendar year more time (up to 90 days) to file for the property tax exemption for which they become newly qualified.** A disabled veteran who receives a disability rating in early January has nearly a full year to file the required

claim and receive the full benefit of the exemption. Whereas in the worst case scenario, a disabled veteran receiving a rating on December 31 only has 30 days to file the claim to receive the full amount of the exemption, otherwise the exemption defaults to a partial exemption of 85%.

5. **Thirty days will not always be enough time to file a claim.** There are a variety of materials as well as various programs and benefits that disabled veterans, surviving spouses of qualified veterans, and their families must sort through after receiving their eligibility status, which can be overwhelming. Some newly qualified veterans will be aware of the property tax exemption and will promptly file a claim. Others may have already filed a protective claim, if the particular county where they live has an administrative practice of accepting such claims without the required disability rating letter. However, some will become aware of the exemption too late to receive the full amount of the exemption that would have otherwise been available on their home.

6. **In practical application, this bill provides an additional property tax refund of $172 (or $259 in case of low-income claimants) for each tax year open to refund for disabled veterans who would not otherwise meet the deadline without the extra 60 days or who may not have had a pending application.** A disabled veteran who is filing late because of a delayed disability rating and who also misses the extended filing period for such delayed ratings would typically be eligible for an 85% partial exemption. Thus, the exemption would be granted in the amount or $97,801 rather than $115,060. And in the case of a low-income claimant, the exemption would be $146,702 rather than $172,592. At the basic 1% property tax rate, this equates to a loss to the disabled veteran of about $172 for the basic exemption, and about $259 for the low-income exemption.

Assembly Billx6 11 (Hill) Chapter 2

Disaster Relief – San Mateo County San Bruno Explosion and Fire

Effective October 19, 2010. Among its provisions, adds Sections 195.176, 195.177, 195.178, and 218.6 to the Revenue and Taxation Code.

BILL SUMMARY

Among other things, this bill:

- Allows persons whose homes were destroyed by the San Bruno explosion and fire in San Mateo County occurring on September 9, 2010, to retain the homeowners' exemption on their property while they are in the process of rebuilding. *§218.6*
- Provides one-year state reimbursement to backfill any property tax revenue loss resulting from assessment reductions related to the explosion and fire*. §§195. 176, 195.177, 195.178*

Sponsor: Assembly Member Hill

LAW PRIOR TO AMENDMENT

Homeowners' Exemption. Article XIII, Section 3(k) of the California Constitution exempts from property tax the first $7,000 of the full value of a dwelling when occupied by an owner as his or her principal residence. This exemption is commonly referred to as the "homeowners' exemption."

Section 218 of the Revenue and Taxation Code details the qualifications for the homeowners' exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied, is vacant, or is under construction on the lien date (January 1), the property is not eligible for the exemption for the upcoming tax year.

Relevant to this bill, homes that are totally destroyed on the lien date for a particular fiscal year (that is January 1 for the forthcoming fiscal year that begins July 1) are not eligible for the homeowners' exemption. For example, a home destroyed on or before January 1, 2011 is not eligible for the homeowners' exemption on the 2011-12 property tax bill.[9]

Disaster Relief - Property Reassessment for Property Owners. Section 170 of the Revenue and Taxation Code provides that property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance authorizing these provisions. These provisions apply to both governor-declared disasters and site-specific disasters, such as a home fire. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property as of the date of the disaster to recognize the loss in a property's market value. The loss in value must be at least $10,000. The prior assessed value of the damaged property is reduced in proportion to the loss in market value; the new

[9]A home destroyed after January 1, 2010, would continue to be eligible for the exemption on the 2010-11 property tax bill. However, if the home has not been rebuilt and occupied by the next lien date, January 1, 2011, it would not be eligible for the homeowners' exemption on the 2011-12 property tax bill.

reduced value is used to calculate a pro-rata reduction in taxes. The affected property retains its lower value, with reduced taxes, until it is restored, repaired, or reconstructed. Generally, taxpayers have up to 12 months to file a request for reassessment.

Disaster Relief - State Reimbursement for Local Governments. Additionally, legislation is frequently enacted to fully reimburse local governments for one year's property tax revenue loss associated with Section 170 reductions in assessment.

AMENDMENT

Homeowners' Exemption. Related to an explosion and fire occurring in San Mateo County on September 9, 2010, this bill adds Section 218.6 to the Revenue and Taxation Code to provide that any dwelling that qualified for the homeowners' exemption prior to the date of the explosion and fire for which the Governor issued a proclamation of a state of emergency in September of 2010, that was damaged or destroyed by the explosion and fire and any other related casualty, and that has not changed ownership since the explosion and fire, shall not be disqualified as a "dwelling" or be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to the explosion and fire. *§218.6*

State Reimbursement. This bill also provides state reimbursement for property tax revenue losses due to Section 170 disaster relief reassessments. Specifically, it adds provisions to the Revenue and Taxation Code that outline the process and timeline to be followed by San Mateo County, the Department of Finance, and the State Controller. *§§195. 176, 195.177, and 195.178*

IN GENERAL

Disaster Relief. There are a variety of provisions in property tax law to provide property tax relief for disaster victims. These provisions address both the short term and the long term consequences of the disaster as it relates to current and future property tax liabilities. In the short term, property tax liability is redetermined to reflect the damage to the property. Additionally, some taxpayers may defer the next property tax installment payment. Over the long term, property owners may rebuild or repair damaged properties without incurring any increase in property tax liability. Alternatively, property owners may relocate rather than rebuild without being adversely impacted by the property tax consequences. The various provisions in the Revenue and Taxation Code are noted as follows.

DISASTER RELIEF REFERENCE CHART

Section	Property Type	Type of Relief Available	Type of Disaster
170	All property types	Reassessment	Any disaster or calamity
194 & 194.1	Real property and manufactured homes	Property tax deferral – next installment	Governor-proclaimed
195.1	Real property and manufactured homes	Property tax deferral – second consecutive installment	Governor-proclaimed
194.9	Real property and manufactured homes	Property tax deferral – supplemental assessment	Governor-proclaimed
69	All property types	Base year value transfer	Governor-proclaimed

Section	Property Type	Type of Relief Available	Type of Disaster
69.3	Principal place of residence	Base year value transfer	Governor-proclaimed
69.5	Principal place of residence —over 55 or physically disabled	Base year value transfer	Any disaster or calamity
172 & 172.1	Manufactured home	Base year value transfer	Governor-proclaimed
70	Real property only	New construction exclusion	Any disaster or calamity
5825	Manufactured home	New construction exclusion; Base year value transfer	Any disaster or calamity

BACKGROUND

Special purpose legislation has been enacted in recent years to provide that dwellings that were destroyed by specific disasters, as noted in the following table, will not be disqualified as a "dwelling" or be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

Disaster	Year	Legislation
Wildfires – Multiple Counties	2009	Stats. 2009, Ch. 299 (AB 1568)
Fire, Wind, Storms – Multiple Counties	2008	Stats. 2008, Ch. 386 (SB 1064)
Zaca Fire – Santa Barbara and Ventura	2007	Stats. 2007, Ch. 224 (AB 62)
Angora Fire – El Dorado County	2007	Stats. 2007, Ch. 224 (AB 62)
Freeze	2007	Stats. 2007, Ch. 224 (AB 62)
Day and Shekell Fires - Ventura County	2006	Stats. 2007, Ch. 224 (AB 62)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 396 (AB 1798)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 897 (AB 2735)
Shasta Wildfires	2005	Stats. 2005, Ch. 623 (AB 164)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 624 (AB 18)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 622 (SB 457)
San Joaquin levee break	2004	Stats. 2004, Ch. 792 (SB 1147)
San Simeon earthquake	2003	Stats. 2004, Ch. 792 (SB 1147)
Southern California wildfires	2003	Stats. 2004, Ch. 792 (SB 1147)
Oakland/Berkeley Hills fire	1992	Stats. 1992, Ch.1180 (SB 1639)
Los Angeles civil riots	1991	Stats. 1992, Ch. 17X (AB 38 X)

COMMENTS

1. **Purpose.** To provide some financial relief to persons whose homes were damaged or destroyed as a result of the explosion and fire and provide property tax revenue backfill to affected local governments.
2. **Proclamation of State of Emergency.** On September 10, 2010, the Acting Governor issued executive order S-14-10 proclaiming a state of emergency for San Mateo County for the explosion and fire that occurred on September 9, 2010 in San Bruno.
3. **This bill would allow homeowners whose residences were damaged or destroyed as a result of the explosion and fire to retain the homeowners' exemption on their property while they are in the process of rebuilding their homes.** Homes that are uninhabitable on the next lien date (January 1, 2011) would be technically ineligible for the exemption for the forthcoming fiscal year (2011-12) under current law.
4. **The Board advises county assessors that damaged homes may keep the exemption but totally destroyed homes may not.** Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners' exemption for those properties temporarily vacated for repairs. (See Letter To Assessors 82/50, Question G16) However, when a dwelling has been totally destroyed, staff has opined that because no dwelling exists there is no occupancy or possibility of occupancy on the lien date and the property would not be eligible for the exemption even if the property was under construction. (See Property Tax Annotation 505.0019 "Homeowners' Exemption – Disaster Impact") Referenced documents are available at www.boe.ca.gov select "Property Tax."
5. **Related Bills.** SBx6 21(Yee) is identical to this bill. AB 1662 (Portantino), AB 1690 (Chesbro), and AB 2136 (V. Manual Perez) enact similar amendments for various California disasters, occurring in 2009 and 2010. In addition, SB 1494 (SR&T) amends Section 218 to make the homeowners' exemption provisions of this bill standard for all governor-declared disasters without the need for special purpose legislation.

Senate Bill 858 (Budget and Fiscal Review Committee) Chapter 721

Collection Cost Recovery Fee

Urgency measure, effective October 2010, but operative January 1, 2011. Among its provisions adds Sections 11534 and 38577 to the Revenue and Taxation Code.

BILL SUMMARY

In part, this budget trailer bill authorizes the Board of Equalization (BOE) to impose and collect a collection cost recovery fee on any person that fails to pay amounts due and owing.

Sponsor: Budget Committees

LAW PRIOR TO AMENDMENT

Existing Chapter 4.3 (commencing with Section 16580) of Part 2 of Division 4 of Title 2 of the Government Code (GC), known as the Accounts Receivable Management (ARM) Act, provides that a participant, including the BOE, may have certain requirements, or be able to utilize certain methods, related to collections. Specifically, GC Section 16583.1 allows a state agency to impose a reasonable fee, not to exceed the actual costs, to recover the agency's collection costs on a past due account.

Existing law authorizes the BOE to use various collection actions to collect delinquent accounts receivables, including, but not limited to: bank levies, liens, wage garnishments, till-tap and keeper warrants, permit revocations, alcoholic beverage license suspensions, seizure and sale of assets, offsets, and court actions. The BOE's use of these tools is consistent with its established collection policies and procedures as provided in the Compliance Policy and Procedures Manual, Chapter 7, Collections.

The State's procedures for collection of delinquent accounts are detailed in the State Administrative Manual (SAM) Section 8776 et seq.

Penalty relief provisions that are included in the various tax, fee, and surcharge laws in the Revenue and Taxation Code permit the BOE to provide penalty relief in those cases where the BOE finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect.

AMENDMENT

This bill adds Sections 11534 (Private Railroad Car Tax) and 38577 (Timber Yield Tax), to the Revenue and Taxation Code to authorize the BOE to impose and collect a collection cost recovery fee on any person that fails to pay amounts due and owing. The collection fee shall be in an amount equal to the BOE's costs for collection, as reasonably determined by the BOE.

The fee may only be imposed if the BOE has mailed a demand notice to that person requiring payment and advising the person that continued failure to pay may result in collection action, including the addition of a collection fee. The fee is operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

Interest will not accrue on the collection fee, but the fee shall be collected in the same manner as the related unpaid tax or fee liability is collected.

The BOE may relieve the taxpayer of the fee if the BOE finds that a person's failure to pay the amount being collected is due to reasonable cause and circumstances beyond the person's control and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect. Any person requesting relief from the collection fee must file a statement with the BOE, under penalty of perjury, stating the facts upon which the person bases the request for relief.

Funds received by the BOE will be deposited into the same tax or fee fund that the revenues derived from those taxes or fees are deposited.

The measure is effective immediately, but the collection fee is operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

IN GENERAL

Fees for collection of past due accounts are imposed by the Franchise Tax Board (FTB) and taxing agencies in other states. The FTB currently imposes a flat rate fee for collecting liabilities greater than $100. As of July 2009, the fee was $217 for individuals and $413 for corporations.

The BOE contacted six other state taxing agencies to obtain information regarding collection fees. In general, the taxing agencies imposed a fee when a liability remained unpaid for 90-100 days. They also imposed the fee retroactively to all unpaid liabilities, and most taxing agencies have been imposing collection fees since 1988; the FTB's collection fee started in 1993.

BACKGROUND

Senate Bill SB4x 16 (Chapter 23, Stats. 2009), among other things, added GC Section 16583.1, which authorized state agencies to impose a fee to recover collection costs on past due liabilities.

COMMENTS

1. **Purpose.** To provide specific authority within BOE's tax laws to collect a cost recovery fee using our normal collection actions.

2. **This bill allows the BOE to collect the fee using our normal collection actions.** Government Code Section 16583.1 allows a state agency to impose a reasonable fee, not to exceed the actual costs, to recover the collection costs on a past due account. However, there are no current provisions that allow the BOE to obtain payment of the fee through involuntary collection actions, such as liens, levies, wage garnishments, and other collection actions.

   This bill is effective immediately, but the collection fee is operative with respect to a demand notice for payment which is mailed on or after January 1, 2011. The actual implementation date, amount of the fee, programming, notices, and other important administrative details will be addressed administratively by the BOE.

3. **The relief of the collection fee is similar to the current relief of penalty provisions.** As mentioned previously, taxpayers may be relieved of a penalty in those cases where the BOE finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect. The BOE will administer a request for relief from the collection fee in a manner that is consistent with the current relief of penalty provisions.

Senate Bill 863 (Committee on Budget and Fiscal Review) Chapter 722

Williamson Act Contracts

Effective October 19, 2010. Amends Section 16142, 16142.1, and 51244, adds Section 16148, and repeals and adds Section 51244.33 of the Government Code.

BILL SUMMARY

This bill, among other things, allows eligible participating counties to revise Williamson Act Contracts and levy an additional assessment, as specified.

Sponsor: California Farm Bureau Federation and the Resource Landowners Coalition.

LAW PRIOR TO AMENDMENT

The Williamson Act authorizes a city or county to enter into 10-year contracts with owners of land devoted to agricultural use, whereby the owners agree to continue using the property for that purpose, and the city or county agrees to value the land accordingly for purposes of property taxation. Existing law sets forth procedures for reimbursing cities and counties for property tax revenues not received as a result of these contracts.

AMENDMENT

Contract Term Revision. Beginning January 1, 2011, and until January 1, 2015, this bill authorizes a county, in any fiscal year in which payments authorized for reimbursement to a county for lost revenue due to the Williamson Act are less than 1⁄2 of the participating county's actual foregone general fund property tax revenue, to revise the term for newly renewed and new contracts, as specified. Either a county's share of the general property tax dollar as listed in Table 15 of the most recent annual report issued by the Board of Equalization or 20%, whichever is higher, shall be used as the measure of a county's forgone revenue. *Government Code §§16142(e)(1) and 16142.1(d)(1)*

Additional Assessment. This bill requires that an addition to the assessed value of properties subject to the Williamson Act be conveyed to the auditor, consistent with the 10-percent reduction in the length of the restriction, equal to 10 percent of the difference between the valuation pursuant to Section 423, 423.3, or 423.5 of the Revenue and Taxation Code, as applicable, and the valuation under subdivision (b) of Section 51 or Section 110.1 of the Revenue and Taxation Code whichever is lower. If the valuation under subdivision (b) of Section 51 or Section 110.1 is lower, the addition to the assessed value shall be zero. *Government Code §16142(b)(3)*

Nonrenewal Alternative. Alternatively, a landowner may instead choose to nonrenew and begin the cancellation process and no additional assessment will be levied. *§51244(b)(4)*

Revenues. The increased amount of tax revenue that results from the additional assessment shall be separately displayed on the taxpayer's annual bill. The bill also provides that any increased revenues generated by this bill shall be paid to the county. *Government Code §16142(b)(3) and §51244.3(a)*

Appropriation. This bill appropriates $10,000,000 from the General Fund to the Controller for the 2010–11 fiscal year to make subvention payments to counties, as specified. *§16148*

Supersedes AB 2530. The bill provides the provisions of Chapter 391 of the Statutes of 2010 (AB 2530) will not become effective if this bill is enacted.

COMMENT

Purpose. This bill is clean up to AB 2530 (Stats. 2010, Ch. 391, Nielson) which was co-sponsored by the California Farm Bureau Federation and the Resource Landowners Coalition. Because the 2009-10 Budget essentially eliminated Williamson Act subventions to counties by cutting the appropriation to $1,000, many counties are considering ending their participation in the Williamson Act program. Supporters argue that with the potential loss of state funding for the Williamson Act program for the second straight year, many counties can no longer afford to continue to offer Williamson Act contracts to farmers and ranchers. These bills are intended to offer the opportunity to renegotiate the terms of a contract in order to preserve the program and still provide counties with the ability to recoup some of their lost revenues.

Senate Bill 1250 (Ducheny) Chapter 327

Possessory Interests – Military Housing

Effective January 1, 2011. Amends Section 107.4 of the Revenue and Taxation Code.

BILL SUMMARY

Related to the property tax exemption on possessory interests available to private contractors that develop and operate military housing projects, this bill:

- Expands its provisions to include military housing projects for single, unaccompanied, or married service members without dependents.
- Excludes its provisions from applying to any individual units rented to an unaffiliated member of the general public, as defined, and require the private contractor to annually report to the assessor any units rented to such persons as well as be responsible for any property taxes on those particular units.

Sponsor: San Diego County

LAW PRIOR TO AMENDMENT

Section 107.4 of the Revenue and Taxation Code provides that a private contractor's interest in rental military *family* housing is not subject to property taxation as a taxable possessory interest, provided certain requirements and conditions are met.

AMENDMENTS

Property Type. This bill amends Section 107.4 to delete the word "family" throughout its text. Thus, the exemption could also apply to the privatization of unaccompanied housing (i.e., housing for enlisted service members without dependents).

Property Tenants. This bill adds subdivision (b) to Section 107.4 to provide that this section does not apply to a military housing unit managed by a private contractor that is rented to a tenant who is an "unaffiliated member of the general public," which is defined to mean "a person who is not a current member of the military." It further provides that a housing unit that is rented to, or occupied by, a person employed as management or maintenance personnel for the military housing property is not to be considered a unit rented to an unaffiliated member of the general public.

Private Contractor: Reporting and Property Tax Responsibility. This bill adds Section 107.4(b)(2) to require the private contractor to annually notify the assessor by February 15 of any units that had been rented to unaffiliated members of the general public on January 1. Any property taxes levied on those units would be the responsibility of the private contractor.

IN GENERAL

In certain instances a property tax assessment may be levied when a person or entity uses publicly-owned real property that, with respect to its public owner, is either immune or exempt from property taxation. These uses are commonly referred to as "taxable possessory interests" and are typically found where an individual or entity leases, rents or uses federal, state or local government property.

Revenue and Taxation Code Section 107 sets forth the three essential elements that must exist to find that a person's or entity's use of publicly-owned tax-exempt property rises to a level of a taxable possessory interest. The use must be independent, durable and exclusive of rights held by others in the property.

Section 107 defines "independent" to mean "the ability to exercise authority and exert control over the management or operation of the property or improvements, separate and apart from the policies, statutes, ordinances, rules, and regulations of the public owner of the property or improvements. A possession or use is independent if the possession or operation of the property is sufficiently autonomous[10] to constitute more than a mere agency."

Property Tax Rule 20(c)(8), a regulation, additionally requires that a possessor derive a "private benefit" from the use of the property. "Private benefit" means "that the possessor has the opportunity to make a profit, or to use or be provided an amenity, or to pursue a private purpose in conjunction with its use of the possessory interest. The use should be of some private or economic benefit to the possessor that is not shared by the general public."

Section 107.4 provides a possessory interest exemption for a private contractor's interest in rental military *family* housing, by stating that the contractor's interest in the property is not "independent" when certain criteria are met. Thus, if qualified, these interests will not be deemed to be a *taxable* possessory interest.

LEGISLATIVE HISTORY

In 2004, Senate Bill 451 (Ch. 853, Ducheny) added Section 107.4 to provide that a possession or use of land or improvements is *not* independent if that possession or use is pursuant to a contract, including, but not limited to, a long-term lease, for the private construction, renovation, rehabilitation, replacement, management, or maintenance of housing for active duty military personnel and their dependents, if specific criteria are met. An interest that is not independent fails to meet one of the three necessary elements for the interest to be subject to property tax. Thus, a private contractor's interest in military housing meeting the eligibility criteria of Section 107.4 would be exempt from property tax.

In 2006, Senate Bill 1400 (Ch. 251, Kehoe) added subdivision (o) to Section 107.4 to define the phrase "military housing under military control" as a military base that "restricts public access to the military base." SB 1400 clarified that privately-developed military housing not located on a military base does not qualify for the military housing possessory interest tax exemption. Shortly after enactment of Section 107.4, concern arose that the statute might not adequately define the term "military housing under military control," and that more expansive interpretations of the military housing possessory interest exemption might be advanced by developers of off-base military housing. The definition refinement was made to avoid an interpretation that Section 107.4 exempts all privatized military housing from the possessory interest tax by creating the bright line test of restricted public access. San Diego County sponsored

[10]Property Tax Rule 20(c)(5) specifies that "[t]o be 'sufficiently autonomous' to constitute more than a mere agency, the possessor must have the right and ability to exercise significant authority and control over the management or operation of the real property, separate and apart from the policies, statutes, ordinances, rules, and regulations of the public owner of the real property."

the legislation because they have a number of privatized military housing projects, some of which are eligible for exemption and others which are not.

In 2009, [AB 1332](#) (Salas) would have also expanded the exemption available to private contractors that operate military family housing projects to those that operate housing projects for single enlisted service members. In addition, it would have also refined and expanded upon the requirement that the property tax savings from the exemption inure solely to the benefit of the residents of the military housing projects. Furthermore, it would have detailed the documentation and information that the assessor may request from the private contractor to administer the exemption. This San Diego County sponsored bill was held in Assembly Appropriations.

Also in 2009, AB 1344 (Fletcher) would have expanded the taxable possessory interest property tax exemption available to private contractors that operate military family housing projects to those that operate housing projects for single enlisted service members. It would have also modified various provisions that require that the property tax savings from the exemption extended to the private contractor to inure solely to the benefit of the residents of the military housing projects. That bill was held in the Assembly Revenue and Taxation Committee.

BACKGROUND

Congress established the Military Housing Privatization Initiative (MHPI) in 1996 as a tool to help the military improve the quality of life for its service members by upgrading the condition of their housing. The MHPI was designed and developed to attract private sector financing, expertise and innovation to provide necessary housing faster and more efficiently than traditional military construction processes would allow. The military enters into agreements with private developers selected in a competitive process to own, maintain and operate family housing via a fifty-year lease. The Department of Defense maintains an extensive website on the MHPI program.

In 2003, Congress authorized the Department of the Navy to undertake up to three pilot projects for the privatization of unaccompanied housing. The various services call unaccompanied housing by different names, such as bachelor enlisted quarters, barracks and dormitories. The Navy selected Clark Pinnacle to redevelop Naval Station San Diego as part of the first large-scale public-private venture to provide housing for single military personnel. The Clark Pinnacle proposal was selected through competitive bidding. Clark Pinnacle is a partnership between Clark Realty Capital, a real estate and construction company headquartered in Bethesda, Md., and Pinnacle, a real estate investment management firm headquartered in Seattle. Construction broke ground in January 2007 and was substantially completed in March 2009.

The first pilot project, Pacific Beacon LLC, privatized 258 units of Navy-owned unaccompanied housing units (Palmer Hall) and provides for the construction of 941 apartments at Naval Station San Diego (Pacific Beacon). The LLC owns, operates, and manages the project for 50 years.

A March 26, 2009, press release states: “The Department of the Navy and Clark Realty Capital celebrated the grand opening of Pacific Beacon today at Naval Base San Diego. As the nation’s first large-scale privatized housing community for unaccompanied military personnel, Pacific Beacon sets a new tradition in excellence by offering luxury living to single service members stationed in the San Diego metro area. The three luxury high-rise residences will serve as home to over 1,800 unaccompanied service members stationed in the San Diego metro area. Developed through a public-private venture between the Department of the Navy and Clark Realty Capital, Pacific Beacon opened its first building to residents in December of 2008. The entire project achieved substantial completion on March 12, 2009. The community constructed by Clark Construction Group and Clark Builders Group features 941 dual master suites and unique, resort-style amenities that rival any luxury high-rise apartment building in San Diego. The units are all priced at or below the Basic Allowance for Housing (BAH) rates of qualified residents." www.pacificbeacon.com

COMMENTS

1. **Purpose.** "To allow military housing (both single and family) provided under a long-term lease held by a private contractor to be exempt from possessory interest classification for annual property tax assessments if the tax savings from the housing projects are applied towards improvements for the housing residents above and beyond the contract requirements."

2. **Key Amendments.** The **August 9, 2010** amendments (1) specified that Section 107.4 does not apply to units rented to unaffiliated members of the general public, as defined; (2) specified that any property taxes on such units would be the responsibility of the private contractor and (3) deleted the June 2 amendment adding the word "solely" -- that the housing be used "solely" for active duty personnel or their dependents. The amendments relating to unaffiliated members were made to address concerns expressed by the Senate Appropriations Committee that the property tax exemption provided by this bill should not apply to individual units being rented out to the general public in the event that there is insufficient rental demand from members of the military. The word "solely" was deleted due to concerns from the private contractor that some units are occupied by its employees who manage and maintain the housing project such as the leasing manager, etc. which might make the project ineligible for the exemption. The **June 2, 2010** amendments deleted provisions making this bill retroactive. This amendment was made because Section 107.4 is no longer necessary in order to exempt the Pacific Beacon project from the property tax as a result of a recent legal opinion on the project issued by the Board's legal department. The June 2 amendments also specified that the possessory interest exemption for military housing set forth in Section 107.4 must be *solely* for active duty military personnel and their dependents.

3. **Pacific Beacon.** To date, Pacific Beacon is the only privatized housing for unaccompanied service members located in California. Board legal staff has opined that the private contractor in this project does not have a taxable possessory interest under Section 107, which is the general taxable possessory interest statute. It was determined that the contractor's interest in this particular case is not independent because the contractor is serving as an agent of the government. Thus, the amendments made by this bill to Section 107.4, which is the possessory interest statute explicitly related to military housing projects, are not needed to exempt this particular project from the property tax.

4. **Supporters note that the need for affordable quality military housing exists for all military service men and women regardless of whether they have a family.** By removing the designation of "family" housing, any housing project for military service members that otherwise qualifies under Section 107.4 would benefit from the possessory interest tax exemption.

Senate Bill 1493 (Committee on Revenue and Taxation) Chapter 185
Property Tax Omnibus Bill

Effective January 1, 2011. Among it provisions, amends Sections 75.31, 155.20, 465, 619, and 621 of the Revenue and Taxation Code.

BILL SUMMARY

This property tax omnibus bill:

- Allows the assessor to notify a taxpayer of an assessment value change because of a change in ownership or new construction (i.e., supplemental assessment value notice) via electronic mail rather than the US mail if the taxpayer so requests. *§75.31*
- Clarifies that property eligible for exemption under a low value exemption ordinance threshold must continue to fall under that threshold with inflation adjustments. *§155.20*
- Allows the assessor to dispose of certain documents obtained from a property owner once the documents are imaged, as specified, rather than storing the documents for three years before they can be disposed. *§465*
- Allows the assessor to provide annual value notices via e-mail upon written request by the taxpayer. *§619*
- Allows the assessor to use the office's Internet Web site to post annual value notice information required by Section 619 that it would otherwise be required to publish in a paid newspaper advertisement. *§621*

Sponsor: California Assessors' Association (CAA)

Supplemental Assessment Notices – E-mail
Revenue and Taxation Code Section 75.31

LAW PRIOR TO AMENDMENT

When a new base year value has been established for a change in ownership or completion of new construction, Revenue and Taxation Code Section 75.31 requires the assessor to send a notice of the new base year value to the assessee called a "notice of supplemental assessment" via regular US mail. The notice from the county assessor precedes the actual property tax bill (or property tax refund) issued for the supplemental assessment by the county tax collector.

Section 75.32 provides that failure to receive the notice required by Section 75.31 does not affect the validity of the assessment.

AMENDMENT

This bill amends Section 75.31 to allow the assessor to provide the required notice of supplemental assessment to the assessee by electronic mail (e-mail) in lieu of regular United States mail, if the assessee makes a written request that it desires to receive these notices via e-mail rather than regular mail.

COMMENTS

1. **Purpose.** To allow taxpayers to receive these supplemental assessment notices by e-mail upon request. The sponsor notes that providing an electronic alternative reduces administrative cost as well as the environmental impact of paper notices.
2. **Notification by e-mail requires both taxpayers and assessors to opt in.** Supplemental assessment notices via e-mail would only be used if both the taxpayer and the particular county assessor wish to receive and send the notices in this manner.
3. **Requires Written Request.** Taxpayers wanting these notices by e-mail would have to make a written request.

Low Value Ordinance Exemption – Inflation Adjustments
Revenue and Taxation Code Section 155.20

LAW PRIOR TO AMENDMENT

Base Year Values and Annual Inflation Factor. The “base year value” of real property is the Proposition 13 protected value of a property. Under existing law once the base year value of real property is established, it must be adjusted in subsequent years by an inflation factor, not to exceed more than two percent per year.

Specifically, Revenue and Taxation Code Section 110.1 provides that the "full cash value" of real property means its fair market value as of the date on which a purchase or change in ownership occurs. Subdivision (b) of Section 110.1 provides that this value is to be known as the “base year value” while subdivision (f) of Section 110.1 requires that the base year value be annually adjusted by an inflation factor, as specified in subdivision (a) of Section 51.

Low Value Property Exemption. Section 155.20 authorizes a county board of supervisors to exempt from property tax all real property with a “base year value (as determined pursuant to Chapter 1 (commencing with Section 50) of Part 0.5… so low that, if not exempt, the total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessing and collecting them.”

This exemption is usually referred to as the “low value ordinance” exemption. The purpose of the exemption is efficiency in the administration of the property tax. If the taxes generated from the property are less than the costs of assessing and collecting those same taxes, then the taxation of that property is not cost effective and should be exempt. Details of the exemption are as follows:

> **Value Threshold**. Existing law caps the value of property that can be exempted from tax under a low value ordinance. For real property, the threshold is property with a total base value year of $10,000 or less. For personal property, the threshold is also $10,000 – but the value threshold is based on current market value. (The base year value concept is only applicable to real property.) Certain possessory interests have a higher threshold of $50,000. *§155.20 (b)(1)*
>
> **Total Value.** To qualify for the exemption, the *total* base year value of the property must not exceed the threshold. *§155.20(b)(1)*

New Construction. Existing law expressly provides that the exemption can not be used as the basis to exempt minor improvements to otherwise taxable real property (i.e., new construction). *§155.20(e)(1)*

Exceptions. The exemption can not be applied to certain types of enforceably restricted property already receiving preferential assessment treatment, such as open space properties, historical properties and timberland. Nor can it apply to certain golf courses. *§155.20(c)*

AMENDMENT

This bill amends Section 155.20 to add the phrase "as adjusted by an annual inflation factor pursuant to subdivision (f) of Section 110.1," wherever the term "base year value" is used. This serves to expressly provide that the "base year value" for purposes of applying the low value exemption is the "adjusted base year value." A parcel of real property or a real property interest that is exempt under the low value exemption would become taxable in a subsequent year if the adjustments for inflation raise the total value above the threshold level set by the particular county.

IN GENERAL

Section 1(a) of Article XIII of the California Constitution provides that all property is taxable unless otherwise provided by that Constitution or the laws of the United States.

Section 7 of Article XIII provides that "[t]he Legislature, two-thirds of the membership of each house concurring, may authorize a county board of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them."

The Legislature enacted Section 155.20 to provide the necessary statutory implementation. Section 155.20 limits the maximum value of property that may be exempted. The current limit is $10,000, except that for certain possessory interests in fairgrounds and convention centers the limit is $50,000.

BACKGROUND

The authorization for the low value ordinance exemption was established by a constitutional amendment, Proposition 8, in November 1974. Proposition 8 also revised various articles of the State Constitution relating to taxation generally, as recommended by the Constitution Revision Commission. According to documents related to the legislation that added Section 155.20 to implement this constitutional amendment, many county assessors had decided not to assess certain real property interests, such as undeveloped mining rights, where the value of the property was minor. The constitutional amendment, therefore, was intended to provide some legal authority for the actual assessment practice.

The maximum value of property that may be exempted under a low value ordinance has been periodically increased as noted in the following table. The most recent increase was sponsored by the CAA in 2009.

Amount	Year	Legislation
$ 400	1975	AB 728 (Stats. 1975, Ch. 106)
$1,500	1980	SB 1414 (Stats. 1980, Ch. 1098)
$2,000	1984	AB 511 (Stats. 1984, Ch. 1040)
$5,000	1995	SB 722 (Stats. 1995, Ch. 497)
$10,000	2009	SB 822 (Stats. 2009, Ch. 204)

COMMENTS

1. **Purpose**. To eliminate confusion as to whether the original base year value or the adjusted base year value is to be used for the purpose of exempting low value assessments. This bill would clearly state that inflation adjustments are to be considered when determining eligibility for the low value exemption.
2. **Using the adjusted base year value as the basis for determining eligibility under the low value exemption is consistent with the fundamental purpose of the exemption.** If the taxable value of a property over time reaches the point where it becomes cost effective to assess and collect the taxes on the property, the basic premise of the exemption is no longer applicable to the property in question.
3. **This bill codifies the Board's legal guidance on this issue**. In 1999, the Board's legal staff opined that the inflation factor must be included. Section 155.20 does not specifically state that the adjusted base year value is to be used. Instead, it refers to a "base year value as determined pursuant to Chapter 1 (Commencing with Section 50) of Part 0.5 of the Revenue and Taxation Code." Chapter 1 contains Sections 50 through 54. Therein, Section 50 cross references the definition of base year value in Section 110.1 (which is in Chapter 1 of Part 1). And subdivision (f) of Section 110.1 requires that base year values be adjusted by an inflation factor to be determined as provided in Section 51(a), which is in Chapter 1 of Part 0.5.
4. **This bill would clearly state that inflation adjustments are to be considered when determining eligibility for the low value exemption.** As demonstrated above, deciphering the Revenue and Taxation Code on this point is unnecessarily complicated and confusing.

Record Retention and Destruction
Revenue and Taxation Code Section 465

LAW PRIOR TO AMENDMENT

Revenue and Taxation Code Section 465 specifies the requirements related to the retention and destruction of documents obtained from taxpayers as well as first-time claims for the welfare exemption, the religious exemption, and the disabled veterans' exemption.

Generally, the assessor may destroy any document six years after the lien date for the tax year for which that document was obtained. However, the documents can be destroyed after just three years if they are microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents.

With respect to first-time claims for the welfare exemption, the religious exemption, and the disabled veterans' exemption, the first year's claim must be held for as long as the property continues to receive the exemption. Once the property is no longer receiving the exemption, then the first time claim can be destroyed after six years and if preserved electronically, then 3 years. First time claims for these exemptions include important information not required to be provided in subsequent years, which is why there are separate retention requirements for these claims.

AMENDMENT

This bill amends Section 465 to allow these documents and exemption claims to be destroyed immediately upon preservation in a medium that provides access to the documents such as microfilm, microfiche, electronic document imaging, or other media that captures a true image of the document that may later be retrieved. Therefore, this amendment deletes the requirement that the documents and claims be held for three years prior to destruction.

COMMENTS

1. **Purpose.** To eliminate paper storage costs. Counties that scan paper documents in order to have electronic versions of paper documents must still store and retain paper documents for a minimum of three years. According to the sponsor, this is a redundant and expensive practice.

2. **Amendments.** The **June 21, 2010** amendments made technical changes suggested in the prior analysis. First-time exemption claims that are specified in subdivision (b) of Section 465 must be retained for as long as the property is receiving the exemption (which could be indefinitely). Only six years *after* the exemption is no longer in effect, may the first time claim be destroyed. Thus since the intent of this bill is to capture the first time exemption claim electronically and immediately dispose of the paper claim, then the phrase "Immediately after the lien date described in paragraph (1)" was struck in Section 465(b)(2). Otherwise the paper claim would have to be held until the property was no longer eligible for the exemption. In addition, the amendments make the language of subdivisions (a) and (b), related to documentation preservation techniques, identical to avoid any future confusion as to the methods allowable for exemption claims. For this same reason, the word "immediately" was added to subdivision (a) for clarity and consistency with subdivision (b).

Annual Value Notices – Email
Revenue and Taxation Code Section 619

LAW PRIOR TO AMENDMENT

Revenue and Taxation Code Section 619 generally requires the assessor to annually notify taxpayers by mail of increases in the assessed values of property by July 1, the date that the assessment roll must be completed. However, an annual value notice is not required when the only change in value is the application of the annual inflation factor (generally a 2% increase in assessed value).

Section 619(e) provides that neither the taxpayer's failure to receive the notice, nor the assessor's failure to send the notice, affects the validity of the assessment.

AMENDMENT

This bill amends Section 619 to allow the assessor to provide the required notice by electronic mail (e-mail) in lieu of regular United States mail, if the assessee makes a written request that it desires to receive these notices via e-mail rather than regular mail.

COMMENTS

1. **Purpose.** To allow taxpayers to receive these value notices by e-mail upon request. The sponsor notes that providing an electronic alternative reduces administrative cost as well as the environmental impact of paper notices.
2. **Notification by e-mail requires both taxpayers and assessors to opt in.** Value notices via e-mail would only be used if both the taxpayer and the particular county assessor wish to receive and send the notices in this manner.
3. **Requires Written Request.** Taxpayers wanting these value notices by e-mail would have to make a written request.

Annual Value Notices – Assessor Website Posting
Revenue and Taxation Code Section 621

LAW PRIOR TO AMENDMENT

As an alternative to Revenue and Taxation Code Section 619, which generally requires the assessor to annually notify taxpayers of **increases** in assessed value via the US mail, as discussed previously, Section 621 provides that the information can be published in the local newspaper, as specified, upon board of supervisor approval.

Section 1603(b)(3)(D) expressly states that the provisions of Section 621 may not be substituted as a means of providing notice to taxpayers for purposes of establishing an assessment appeal deadline of September 15, rather than November 30, for those counties that do not send annual value notices to all property owners in the county.

AMENDMENT

This bill amends Section 621 to also allow the assessor, with approval of the board of supervisors, to post the required information on the county assessor's Internet Web site.

Pursuant to Section 1603(b)(3)(D), posting the county's assessment roll on an Internet Web site would not serve to change the appeals deadline for the county.

COMMENTS

1. **Purpose.** To provide counties with a timely and cost effective way of providing the required annual assessment value change notices.
2. **Increased number of notices during difficult fiscal times.** At a time of budget shortfalls for many counties, postage costs are rising. At the same time, the volume of notices required to be mailed will be increasing since many properties are currently assessed at reduced amounts (i.e., decline in value assessments or "Prop 8" assessments) rather than the Proposition 13 value. Thus, as real estate values improve in the coming years, value change notices will be required on these properties every year until Proposition 13 values become controlling.
3. **Notification via the Web site rather than US Mail would require Board of Supervisor Approval.** Taxpayers would be able to look up the value of their property for the upcoming year on the assessor's Web site.
4. **Notification by Newspaper Publication.** The provision to publish lists of assessments in the newspaper have been in place since 1963 and predate Proposition 13 controlled assessments. Today, it would be uncommon for a county to publish assessed values in a newspaper.
5. **Notification by Web site Will Not Change the Final Appeals Date.** Currently, only 10 counties annually notify all property owners in the county of their assessed value by mail and thus have an appeals deadline of September 15.

Senate Bill 1494 (Committee of Revenue and Taxation) Chapter 654

Property Tax Omnibus Bill

Effective January 1, 2011. Among its provisions, amends Sections 61, 63.1, 69.5, 218, 401.10, 1604, 4831, and 5096 and repeals 1624.3, 1636.2 and 1636.5 of the Revenue and Taxation Code.

BILL SUMMARY

Related to the Property Taxes:

- Related to change in ownership provisions for certain leasehold interests, recasts its provisions to correct a renumbering error. *§61*
- Related to the parent-child change in ownership exclusion, adds the trustee of a trust to the list of persons who can sign claims for the exclusion on behalf of eligible transferors and transferees. *§63.1*
- Related to base year value transfers for those over 55 and the disabled, expressly states that such transfers are available when the original property is held in a trust, provided the claimant is a trustor or present beneficiary of that trust. *§69.5*
- Establishes a generic provision to allow disaster victims to keep the homeowners' exemption whenever the governor proclaims a state of emergency. *§218*
- Extends provisions related to the assessment of intercounty pipeline rights-of-way that are otherwise scheduled to sunset on January 1, 2011. *§401.10*
- Related to pending assessment appeals, clarifies that the two year period before a property owner's opinion of value becomes controlling also applies to supplemental and escape assessment appeals. *§1604*
- Repeals Sections 1624.3 and 1636.2, related to assessment appeal board members and hearing officers, because they are duplicative of Section 1612.5.
- Repeals Section 1636.5, related to hearing officers, because it is duplicative of Section 1612.7.
- Related to the statute of limitations on assessment roll corrections, recasts its provisions for clarity. *§4831*
- Related to property tax refunds resulting from an assessment appeal, corrects a cross reference error. *§5096*

Sponsor: Board of Equalization

Change in Ownership – Leasehold Interests
Revenue and Taxation Code Section 61

LAW PRIOR TO AMENDMENT

California property tax law provides for various situations in which the base year value Under existing property tax law, real property is reassessed to its current fair market value when there is a "change in ownership." Revenue and Taxation Code Section 61 lists specific situations considered to be a change in ownership. Subdivision (c) of Section 61 provides that the creation, termination, and transfer of certain leasehold interests with a term of 35 years or more can be a change in ownership resulting in reassessment.

AMENDMENT

This bill amends subdivision (c) of Section 61 to correct a renumbering error therein by adding paragraph and subparagraph designations to the previously undesignated text and making complete sentences for each provision.

BACKGROUND

AB 3076 (Ch. 364, Stats. 2006) amended subdivision (c) of Section 61 to include floating homes in provisions related to the change in ownership consequences of manufactured homes located on rented or leased land. However, these amendments also mistakenly deleted the "(1)" at the beginning of the first sentence of subdivision (c). Presumably, it was deleted because it appeared to be a paragraph designation while the other two paragraphs within subdivision (c) were not numbered. However, the “(1)” was actually part of a numbered list within the first sentence of the first paragraph. As a result, this leaves the second number in the list (“(2)”) floating in the first sentence, which leads to technical impreciseness.

COMMENT

The creation, termination, and transfer of certain leasehold interests with a term of 35 years or more can be a change in ownership resulting in reassessment. This bill corrects a drafting error inadvertently created by recent amendments to Section 61(c) made by Ch. 364, Stats. 2006 (AB 3076). These technical amendments correct a dangling “(2)” within the first sentence as well as improve the readability of the subdivision.

This provision ensures that for those disaster victims that ultimately decide to relocate rather than rebuild a base year value transfer will be available to them in those locations where land values comprised more than 50% of the property’s value.

Parent-Child Exclusion – Claims Filed by Trustees

Revenue and Taxation Code Section 63.1

LAW PRIOR TO AMENDMENT

Under existing property tax law, property is reassessed to its current fair market value whenever there is a "change in ownership." However, a change in ownership exclusion is available for transfers of property between parents and children under certain conditions. Revenue and Taxation Code Section 63.1 details the terms and conditions to receive the parent-child change in ownership exclusion.

Transfers of real property between parents and children through the medium of a trust are eligible for the parent-child exclusion. Section 63.1(c)(9) provides that the term "transfer" includes any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust. For change in ownership purposes, one looks through the trust to determine who has present beneficial ownership of the real property held in the trust. If the requirements of Section 63.1 are otherwise satisfied, transfers to and from a trust are eligible for the exclusion.

Relevant to this bill, one requirement is that the parties involved must file and sign a claim form with the assessor certifying to the parent-child relationship and providing specified information before the exclusion can be granted. Section 63.1(d) lists the persons who must file a claim and provide the required certifications and does not expressly list the trustee of the transferee's or transferor's trust as a person that may sign the claim form or provide the required certifications.

AMENDMENT

This bill amends Section 63.1 to add the trustee of a trust to the list of persons who can sign parent-child and grandparent-grandchild claims and make the required certifications on behalf of eligible transferors and transferees.

BACKGROUND

The Board advises that a trustee can sign the parent-child claim form since the trustee has the fiduciary responsibility to carry out the terms of the trust and can sign legal documents on behalf of the trust. This guidance is found in Letter to Assessors (LTA) 2008/018, question 50.

However, despite the express LTA guidance, because Section 63.1(d) does not expressly list trustees, this causes uncertainty and confusion for property owners and tax practitioners who address this issue infrequently. As trusts have become more popular as estate planning tools, Board staff is increasingly addressing these ongoing concerns.

COMMENT

Claims for the parent-child change in ownership must be filed, signed, and may be inspected by specified persons. This bill expressly adds the trustee of a transferee's or transferor's trust to that list. This amendment reflects current administrative practices and serves to provide clarity to property owners and tax practitioners.

Base Year Value Transfers – Trusts
Revenue and Taxation Code Section 69.5

LAW PRIOR TO AMENDMENT

Revenue and Taxation Code Section 69.5 provides that persons over the age of 55 years and disabled persons may, subject to many conditions and limitations, transfer the base year value of their primary residence to a newly acquired or constructed replacement residence.

Section 69.5(d) provides that the property tax relief provided by this section shall be available to a claimant who is the co-owner of the original property as a joint tenant, a tenant in common, or a community property owner. Property owned by a trust is not expressly addressed in Section 69.5[11].

AMENDMENT

This bill amends Section 69.5 to expressly state that a base year value transfer is available to a claimant where the original property is held in a trust provided the claimant is a trustor or present beneficiary of the trust.

BACKGROUND

Property owned by a trust is not expressly addressed in Section 69.5, as a result assessors, taxpayers, and attorneys have questioned whether a base year value can be transferred if either the original property or replacement dwelling is held in trust.

The Board has issued guidance on this issue in LTA 2006/010, question B2. In this LTA, the Board states that the taxpayer may file as a claimant if he files as the present beneficial owner of the trust (not as trustee of the trust). For property tax purposes, the property owner is the person who has the present beneficial interest of a trust (with the exception of a Massachusetts or business trust, which is regarded as a legal entity); the trustee holds legal title to the trust property, but does not have a present beneficial ownership interest unless the trustee is also a named beneficiary of the trust. Therefore, an individual who has the present beneficial interest of a trust is considered the claimant for purposes of Section 69.5 and should receive the base year value transfer benefit if all of the requirements of the section are met.

However, despite the LTA guidance, because Section 69.5 does not expressly address trusts, this causes uncertainty and confusion for property owners and tax practitioners who address this issue infrequently. As trusts have become more popular as estate planning tools, Board staff is increasingly addressing these ongoing concerns.

COMMENT

Base year value transfers for principal places of residence are available to persons over the age of 55 and the disabled. The bill expressly provides that a person who owns a home that is held in trust may qualify for a transfer if the person is the present beneficiary of the trust. This amendment reflects current administrative practices and serves to provide clarity to property owners and tax practitioners.

[11] With the exception of Section 69.5(n), related to access to confidential claims for base year value transfers, which provides that the trustee of a trust in which the claimant or the claimant's spouse is a present beneficiary may have access to the claim.

Disaster Relief – Generic Homeowners' Exemption Retention Provisions
Revenue and Taxation Code Section 218

LAW PRIOR TO AMENDMENT

Article XIII, Section 3(k) of the California Constitution exempts from property tax the first $7,000 of the full value of a dwelling when occupied by an owner as his or her principal residence. This exemption is commonly referred to as the "homeowners' exemption."

Revenue and Taxation Code Section 218 details the qualifications for the homeowners' exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied, is vacant, or is under construction on the lien date (January 1), the property is not eligible for the exemption for the upcoming tax year.

Relevant to natural disaster situations, homes that are totally destroyed on the lien date for a particular fiscal year (that is January 1 for the forthcoming fiscal year that begins July 1) are not eligible for the homeowners' exemption. For example, a home destroyed on or before January 1, 2010 is not eligible for the homeowners' exemption on the 2010-11 property tax bill.[12]

Special purpose legislation has been enacted in recent years for most natural disasters to provide that a dwelling destroyed in specified events for which the Governor declared a state of emergency will not be disqualified as a "dwelling" or be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

AMENDMENT

This bill amends Section 218 to provide that each time there is a governor-declared disaster a property that has been destroyed by the disaster will continue to be eligible to receive the homeowners' exemption. In addition, this bill would codify current administrative practice as it relates to homes that are partially damaged in any type of disaster. The amendments to Section 218 address eligibility for the exemption for three scenarios:

Partial Damage – Any Disaster. A dwelling that is not occupied on the lien date, because it had been partially destroyed or damaged in a disaster (including governor-declared disasters or any other type of disaster including a stand alone disaster such as a home fire) where the owner's absence is temporary and the owner intends to return to the home when possible to do so, will continue to be eligible to receive the homeowners' exemption. *§218(b)(2)*

Total Destruction – Governor Declared Disaster. A dwelling that has suffered total destruction in a governor-declared disaster will continue to be eligible to receive the homeowners' exemption. *§218(b)(3)*

Total Destruction – Non-Governor Declared Disaster. A dwelling that was previously eligible for the homeowners' exemption but no longer exists on the lien date because it suffered total destruction in a disaster that was not a governor-declared

[12] A home destroyed on or after January 1, 2009, would continue to be eligible for the exemption on the 2009-10 property tax bill. However, if the home has not been rebuilt and occupied by the next lien date, January 1, 2010, it would not be eligible for the homeowners' exemption on the 2010-11 property tax bill.

disaster, will not be eligible for a homeowners' exemption until the structure is replaced and occupied. *§218(b)(2)*

RELATED LEGISLATION

In 2006, the Governor's Office of Planning and Research (OPR) sponsored similar legislation with its AB 3039 (Houston). This bill failed passage in Assembly Appropriations Committee.

Additionally, in 2006, the Board sponsored legislation contained in SB 1607 (Senate Revenue and Taxation Committee) which was limited in scope to the homeowners' exemption provisions. These provisions were deleted from SB 1607 in the Assembly Revenue and Taxation Committee after the Assembly Appropriations Committee did not approve AB 3039 (Houston).

The Board sponsored similar standard purpose legislation with respect to retaining the disabled veterans' exemption after a governor-declared disaster with Senate Bill 1495 (Stats. 2008, Ch. 594). That bill amended Section 279 to allow the disabled veterans' exemption to remain in effect if a home is damaged or destroyed in any disaster for which the Governor proclaimed a state of emergency.

COMMENTS

1. **Purpose.** To eliminate the need for special purpose legislation and expressly codify existing advice relating to a home that suffers partial damage as opposed to total destruction. It also removes the special purpose provisions from Section 218 in order to restore this section of law to the basic fundamentals. It will improve efficiency and save on legislative bill printing costs by avoiding the need for double and triple joining language in years with multiple disasters. In addition, individual members could still carry legislation for their district for property tax revenue backfill purposes.

2. **The frequent amendments to Section 218 are tedious and complex.** Individual members would still carry legislation for their district for property tax revenue backfill purposes. Since the bills for property tax reimbursement are newly added sections of code such bills do not require double joining amendments. However, with respect to the homeowners' exemption, there is a need for double and triple joining language in years with multiple disasters. Further complicating this matter is that Section 218 is a foundational section for the homeowners' exemption. Thus, other legislation seeking to modify the exemption, such as proposed increases or administrative changes, must also be tracked for chaptering out issues.

3. **This bill provides certainty by automating the process.** It is also environmentally friendly by reducing legislative bill printing costs.

4. **Governor's signing message on special purpose legislation.** Governor Schwarzenegger included a signing message in 2005's AB 18 (Ch. 624, Stats. 2005) requesting that standard purpose legislation be enacted to avoid the need to introduce special purpose legislation each year. The following table lists the special purpose legislation enacted in recent years.

Disaster	Year	Legislation
Wildfires – Multiple Counties	2009	Stats. 2009, Ch. 299 (AB 1568)
Fire, Wind, Storms – Multiple Counties	2008	Stats. 2008, Ch. 386 (SB 1064)
Zaca Fire – Santa Barbara and Ventura	2007	Stats. 2007, Ch. 224 (AB 62)
Angora Fire – El Dorado County	2007	Stats. 2007, Ch. 224 (AB 62)
Freeze	2007	Stats. 2007, Ch. 224 (AB 62)
Day and Shekell Fires – Ventura County	2006	Stats. 2007, Ch. 224 (AB 62)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 396 (AB 1798)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 897 (AB 2735)
Shasta Wildfires	2005	Stats. 2005, Ch. 623 (AB 164)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 624 (AB 18)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 622 (SB 457)
San Joaquin levee break	2004	Stats. 2004, Ch. 792 (SB 1147)
San Simeon earthquake	2003	Stats. 2004, Ch. 792 (SB 1147)
Southern California wildfires	2003	Stats. 2004, Ch. 792 (SB 1147)
Oakland/Berkeley Hills fire	1992	Stats. 1992, Ch. 1180 (SB 1639)
Los Angeles civil riots	1991	Stats. 1992, Ch. 17x (AB 38x)

5. **Parity with Disabled Veterans' Exemption.** This bill is consistent with legislation enacted in 2008 for the disabled veterans' exemption.

6. **Partial Damage.** Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners' exemption for those properties temporarily vacated for repairs. (See Letter To Assessors 82/50, Question G16.) Thus, this provision codifies current guidance and administrative practices.

7. **Related Bills.** AB 1782 (Harkey) also proposed to amend Section 218 to make the homeowners' exemptions provisions standard for all governor-declared state of emergencies without the need for special purpose legislation. It also would have made property tax backfill automatic which this bill does not propose. In addition AB 1662 (Portantino) and AB 1690 (Chesbro) provide special purpose legislation for disasters occurring in 2009 and 2010. In addition, SB 1430 (Walters) proposed unrelated amendments to Section 218 to increase the amount of the homeowners' exemption for seniors.

Intercounty Pipeline Rights-of-Way
Revenue and Taxation Code Section 401.10

LAW PRIOR TO AMENDMENT

Revenue and Taxation Code Section 401.10 sets forth the assessment methodology used to determine the value of intercounty pipeline rights-of-way. These provisions apply for each tax year from the 1984-85 tax year to the 2010-11 tax year. This section of law is scheduled to be repealed on January 1, 2011.

AMENDMENT

This bill amends Section 401.10 to extend the codified valuation methodology to the 2015-16 tax year. This extends the provisions for five more years. The section of law will be repealed by its own provisions on January 1, 2016.

BACKGROUND

The valuation methodology for intercounty pipeline rights-of-way was first established in 1996 by AB 1286 (Stats. 1996, Ch. 76). It codified an agreement reached between county assessors and intercounty pipeline rights-of-way owners after litigation transferred assessment from the Board to local county assessors. The methodology was subsequently extended for ten more years in 2000 by AB 2612 (Stats. 2000, Ch. 607).

The methodology is based upon a prescribed dollars-per-mile schedule that determines value according to the "density classification" of the property as follows: $20,000 per mile for high density; $12,000 per mile for transitional density; and $9,000 per mile for low density. The value determined using the methodology has a rebuttable presumption of correctness. In addition, the property owner is precluded from challenging the legality of the assessment. If the methodology is not used, then the assessor's presumption of correctness is negated and the property owner may challenge the legality of the assessment.

Commencing in 1993 local county assessors were required to begin to assess intercounty pipeline rights-of-way after a lawsuit ruling that the prior assessment of these rights by the Board was outside of its assessment jurisdiction. The court ruled that, while the pipelines themselves are properly assessed by the Board, the rights-of-way through which the pipelines run were outside of the Board's assessment jurisdiction. County assessors were directed to make these assessments instead. (*Southern Pacific Pipe Lines, Inc*. v. *State Board of Equalization* 14 Cal.App.4th 42)

The initial transition from state to local assessment had several problems. For one, the intercounty nature of these interests made the valuation process difficult under traditional local assessment procedures. Additionally, the valuation of these interests by the various counties was not uniform. Furthermore, there were contentions regarding legality of the assessments. Thus, to avoid protracted litigation over how these assessments would be made at the local level, property owners and counties negotiated the assessment methodology codified in Section 401.10. These provisions are scheduled to sunset after the 2010-11 fiscal year.

COMMENTS

1. **Purpose.** The valuation methodology in place since 1996 has proven to work well. If Section 401.10 sunsets, then there would be a void in existing law with respect to property tax assessment of intercounty pipeline rights-of-way.
2. **Board Sponsored at Request of Interested Parties.** The California Assessors' Association and taxpayer representatives have requested that these provisions be extended and have requested that the Board sponsor legislation as part of its annual Property Tax Omnibus measure. The Board took a neutral position on the 1996 legislation establishing the methodology and supported the 2000 legislation extending its provisions for 10 years.

Taxpayers' Opinion of Value – Supplemental and Escape Assessment Appeals
Revenue and Taxation Code Section 1604

LAW PRIOR TO AMENDMENT

A taxpayer may appeal the assessed value of his or her property for property tax purposes by filing an application for reduction in assessment with the county assessment appeals board. Revenue and Taxation Code Section 1603, subdivision (a), allows taxpayers to file applications appealing assessments on the regular assessment roll (the annual assessment), and Section 1603, subdivisions (b)-(d), prescribe the deadlines for filing such applications. Section 1605, subdivision (b), allows taxpayers to appeal assessments made outside the regular assessment period (escape and supplemental assessments) by filing applications under Section 1603, subdivision (a), but within the time periods prescribed by Section 1605, subdivisions (b), (c), and (e).

In either case, the application requires that the taxpayer state an opinion of value. In order to encourage assessment appeals boards to hear and decide applications in a timely manner, Section 1604, subdivision (c) provides that if the appeals board fails to hear evidence and make a final determination on the application within two years of the application, the taxpayer's opinion of market value, as reflected on the application, will be the value upon which taxes are to be levied for the tax year covered by the application. If the applicant's opinion of value is enrolled, because the application was not timely heard and decided, that value is to remain on the roll until the appeals board makes a final determination on that application.

AMENDMENT

This bill makes various amendments to Section 1604 to clarify that the two year period that an assessment appeals board has to decide appeals before a property owner's opinion of value becomes controlling applies to supplemental and escape assessment appeals.

BACKGROUND

The Tax Section of the California State Bar annually sponsors an informal working meeting for tax administrators and tax professionals to discuss issues affecting California tax administration in an objective environment. The meeting is referred to as "Eagle Lodge West."

One property tax issue discussed at the 2009 meeting was a lack of clarity with respect to whether the two-year time limit for hearing local property tax appeals applies to appeals of supplemental and escape assessments filed under Section 1605, in addition to appeals of assessments on the regular roll that are filed under Section 1603.

Apparently, some readers are uncertain about whether the two-year period for hearing and deciding appeals in Section 1604, subdivision (c), applies to applications for reductions of escape and supplemental assessments. This uncertainty appears to be caused by redundant language in the first sentence of Section 1604, subdivision (b)(1), and references to Section 80, subdivision (a), in Section 1604, subdivision (d). However, the legislative history regarding the enactment and subsequent amendments to Section 1604, subdivision (c), do not contain any statements indicating that the Legislature intended to limit the application of subdivision (c) to applications appealing regular assessments. In addition, in LTA 1995/56 the Board opined that "[w]hile not free of doubt, we are of the opinion that the two-year period also applies to those applications filed outside the regular period under Section 1605" and there no longer seems to be any dispute.

Therefore, the group drafted the clarifying, non-substantive amendments included in this bill to address this issue:

- Deleted the first sentence of subdivision (b) (1) of Section 1604 which states "(a)ny taxpayer may petition the board for a reduction in an assessment by filing an application pursuant to Section 1603" to remove the implication that the provisions of Section 1604, subdivision (c), are limited to applications appealing assessments on the regular roll filed pursuant to Section 1603.
- Modified the second sentence of subdivision (b)(1) of Section 1604 by adding "filed pursuant to Section 1603" to clarify that the remaining provisions in subdivision (b)(1) continue to apply to applications filed under Section 1603.
- Deleted the two references to Section 80, subdivision (a), in Section 1604(d)(1) and (d)(2), so that they would no longer create an ambiguity with subdivision (c).
- Deleted a date reference in Section 1604(c) that is now effectively obsolete for applications filed post 01/01/83.

In addition, for internal consistency with terms used throughout the text, the following clarifying amendments were made:

- Substitute "It" for the "The board;"
- Substitute "application" for "petition;"
- Substitute "county board" for "assessment appeals board;"
- Substitute "applicant' for "taxpayer;"
- Substitute "tax year or tax years" for "tax year;" and
- Substitute "opinion of value" for "opinion of market value."

COMMENTS

1. **Two Year Period to Hear Appeals Applies to Supplemental and Escape Assessments.** This bill makes the changes recommended by Eagle Lodge West participants as previously described in detail. These changes are intended to be nonsubstantive. The fundamental purpose is to clarify that the two year period that an assessment appeals board has to decide appeals before a property owner's opinion of value becomes controlling is applicable to supplemental and escape assessment appeals.
2. **Board Sponsored at Request of Interested Parties**. The Tax Section of the State Board has requested that the amendments agreed to by the working group be sponsored by the Board and enacted into law as part of the Board's annual property tax omnibus bill.

Appeal Representation Prohibitions –
Assessment Appeal Board Members & Hearing Officers
Revenue and Taxation Code Sections 1624.3 and 1636.2

LAW PRIOR TO AMENDMENT

Revenue and Taxation Code Section 1612.5 bars certain county officials and employees from representing, for compensation, an assessment appeal applicant in the county in which the official serves or the employee works. The provisions apply to assessment appeals board members and alternate members, assessment hearing officers, employees of the clerk of the board of supervisors, employees of the assessor's office, and members of the county counsel staff who either advise the assessment appeals board or who represent the assessor in assessment appeal proceedings.

This prohibition is *additionally* found in Section 1624.3 for assessment appeal board members and alternate members and in Section 1636.5 for assessment hearing officers.

AMENDMENT

This bill repeals Sections 1624.3 and Section 1636.2 which are duplicative of provisions found in Section 1612.5 which provides a comprehensive list of all persons barred from representing applicants for compensation.

BACKGROUND

Last year, legislation sponsored by the California Association of Clerks and Election Officials amended Section 1612.5 to create a comprehensive list of any person barred from representing an applicant for compensation -- AB 824 (Ch. 277, Stats. 2009 – Harkey). Section 1624.3, related to assessment appeals board members and alternate members, and Section 1636.2, related to assessment hearing officers, were not repealed at that time. Consequently, these sections of code are redundant and should be repealed.

COMMENT

This bill repeals redundant sections of code. Section 1612.5 provides a comprehensive list of all persons prohibited from representing persons in appeal applications for compensation in one section of law which serves to simplify the tax law. Thus, Section 1624.3 and Section 1636.2 should be repealed.

Assessment Appeal Hearing Officers – Conflict of Interest Safeguards
Revenue and Taxation Code Section 1636.5

LAW PRIOR TO AMENDMENT

Revenue and Taxation Code Section 1612.7 requires certain county officials and employees, including assessment appeal hearing officers, to immediately notify the clerk of the assessment appeals board when they file an assessment appeal application on their own behalf. It also requires these individuals to notify the clerk immediately upon his or her decision to represent his or her spouse, parent or child in an assessment appeal matter. As a conflict of interest safeguard, such appeals may not be heard by the regular assessment appeals board for the county. Instead, the appeals must be heard by a special assessment appeal board panel as provided by Section 1622.6.

This requirement is *additionally* found in Section 1636.5 with respect to assessment hearing officers.

AMENDMENT

This bill repeals Sections 1636.5 which is duplicative of provisions found in Section 1612.7 which provides a comprehensive list of all persons required to notify the clerk when an appeal is filed as well as provide for a special appeals panel.

BACKGROUND

Last year, legislation sponsored by the California Association of Clerks and Election Officials amended Section 1612.7 to create a comprehensive list of all persons subject to the notification provisions to the clerk of the appeals board and all appeals required to be heard by a special appeals panel – AB 824 (Ch. 477, Stats. 2009, Harkey). Section 1636.5, related to assessment hearing officers, was not repealed at that time. Consequently, this section of code is redundant and should be repealed.

COMMENT

This bill repeals a redundant section of code. Section 1612.7 provides a comprehensive list of all persons required to notify the clerk of the appeals board in one section of law. A single location in the tax code serves to simplify the tax law. Thus, Section 1636.5 should be repealed.

Roll Corrections – Statute of Limitations
Revenue and Taxation Code Section 4831

LAW PRIOR TO AMENDMENT

Revenue and Taxation Code 4831 provides that the assessor may initiate certain corrections to the assessment roll that he or she prepared after it has been delivered to the auditor. Generally, after the roll has been turned over to the auditor, incorrect entries may be corrected within four years of making the assessment. However, if an error is discovered as a result of an audit of the taxpayer's books and records, the error may be corrected within six months after completion of the audit. Section 4831 expressly excludes from correction any error that involves the exercise of value judgment, unless the error relates to the failure to reflect a decline in market value for the prior year (i.e., a one year grace period to process Proposition 8 reductions). Section 4831 also expressly excludes from the four year time limit escape assessments caused by the assessee's failure to report required information.

AMENDMENT

This bill recasts the provisions of Section 4831 for clarity.

BACKGROUND

As previously noted, the Tax Section of the California State Bar annually sponsors an informal working meeting for tax administrators and tax professionals to discuss issues affecting California tax administration in an objective environment. The meeting is referred to as "Eagle Lodge West."

One property tax issue discussed at the meeting was that Section 4831 was confusing and difficult to read in its current form. The group drafted the following clarifying, non-substantive amendments to improve Section 4831:

- Restates subdivision (a) for clarity; and
- Substitutes "assessor value judgment" for "a value" and substitutes "shall only be" for "shall be" in subdivision (b).

COMMENTS

1. **Statute of Limitations on Making Roll Corrections.** This bill makes the changes to Section 4831 recommended by Eagle Lodge West participants as described previously. These changes are intended to be nonsubstantive. The fundamental purpose is to recast Section 4831 to make its provisions more clear for the reader.
2. **Board Sponsored at Request of Interested Parties**. The Tax Section of the State Board has requested that the amendments agreed to by the working group be sponsored by the Board and enacted into law as part of the Board's annual property tax omnibus bill.

Property Tax Refunds– Cross Reference Error
Revenue and Taxation Code Section 5096

LAW PRIOR TO AMENDMENT

Section 5096 outlines the parameters under which property taxes may be refunded. One provision concerns what happens when the property taxes paid exceeded the equalized value of the property under Section 1613. This means that when the assessed value of the property is reduced in an assessment appeal, a property tax refund will be issued.

Senate Bill 1063 (Stats. 2003, Ch. 199), in effect January 1, 2004, repealed Section 1613 and its provisions were amended into Section 1610.8. Thus, the cross reference in Section 5096 to Section 1613 is no longer correct.

AMENDMENT

This bill amends Section 5096 to correct the statutory cross reference to Section 1610.8.

COMMENT

This is routine technical maintenance of the code.

TABLE OF SECTIONS AFFECTED

SECTIONS		BILL NUMBER	CHAPTER NUMBER	SUBJECT
Revenue & Taxation Code				
§61	Amend	SB 1494	Ch. 654	Change in Ownership - Leaseholds
§63.1	Amend	SB 1494	Ch. 654	Parent-Child Exclusion - Trustees
§69	Amend	AB 157	Ch. 341	Base Year Value Transfer - Disasters
§69.5	Amend	SB 1494	Ch. 654	Base Year Value Transfer - Trusts
§75.31	Amend	SB 1493	Ch. 185	Supplemental Assessment Notice:E-mail
§100	Amend	AB 308	Ch. 433	State Assessee Revenue Allocation
§100.95	Amend	AB 308	Ch. 433	State Assessee Revenue Allocation
§107.4	Amend	SB 1250	Ch. 327	Possessory Interests: Military Housing
§155.20	Amend	SB 1493	Ch. 185	Low Value Ordinance
§§195.164 – 195.166	Add	AB 1690	Ch. 449	Disaster Relief Funding
§§195.167 – 195.169	Add	AB 1662	Ch. 447	Disaster Relief Funding
§§195.170 – 195.172	Add	AB 2136	Ch. 461	Disaster Relief Funding
§§195.176 – 195.178	Add	ABx6 11	Ch. 2	Disaster Relief Funding
§218	Amend	SB 1494	Ch. 654	Homeowners' Exemption - Disaster
§218.2	Add	AB 1690	Ch. 449	Homeowners' Exemption - Disaster
§218.3	Add	AB 2136	Ch. 461	Homeowners' Exemption - Disaster
§218.4	Add	AB 1662	Ch. 447	Homeowners' Exemption - Disaster
§218.6	Add	ABx6 11	Ch. 2	Homeowners' Exemption - Disaster
§276.1	Amend	AB 2314	Ch. 150	Disabled Veterans' Exemption

TABLE OF SECTIONS AFFECTED

SECTIONS		BILL NUMBER	CHAPTER NUMBER	SUBJECT
§401.10	Amend	SB 1494	Ch. 654	Intercounty Pipeline Rights-of-Way
§401.17	Amend	AB 384	Ch. 228	Certificated Aircraft
§441	Amend	AB 384	Ch. 228	Business Property Statement – Commercial Air Carriers
§465	Amend	SB 1493	Ch. 185	Record Retention and Destruction
§619	Amend	SB 1493	Ch. 185	Annual Value Notices: E-mail
§621	Amend	SB 1493	Ch. 185	Annual Value Notices: Website Posting
§755	Amend	AB 308	Ch. 433	State Assessee Revenue Allocation
§756	Amend	AB 308	Ch. 433	State Assessee Revenue Allocation
§1153.5	Amend	AB 384	Ch. 228	Commercial Air Carriers
§1604	Amend	SB 1494	Ch. 654	Taxpayers' Opinion of Value
§1624.3	Repeal	SB 1494	Ch. 654	Assessment Appeal Members - Conflict of Interest
§1636.2	Repeal	SB 1494	Ch. 6454	Assessment Appeal Members - Conflict of Interest
§1636.5	Repeal	SB 1494	Ch. 654	Hearing Officers - Conflict of Interest
§4831	Amend	SB 1494	Ch. 654	Roll Corrections
Private Railroad Car Tax				
§11534	Add	SB 858	Ch. 721	Collection Cost Recovery Fee
Timber Yield Tax				
§38577	Add	SB 858	Ch. 721	Collection Cost Recovery Fee

TABLE OF SECTIONS AFFECTED

SECTIONS		BILL NUMBER	CHAPTER NUMBER	SUBJECT
Government Code				
§16142	Amend	SB 863	Ch. 722	Williamson Act
§16142.1	Amend	SB 863	Ch. 722	Williamson Act
§16148	Amend	SB 863	Ch. 722	Williamson Act
§51244	Amend	SB 863	Ch. 722	Williamson Act
§51244.3	Add & Repeal	SB 863	Ch. 722	Williamson Act
Uncodified Language				
Uncodified	Add	AB 1341	Ch. 442	Possessory Interests: Long Beach Court House