

[Senate Bill 1304](#) (Huff)

Date: 08/15/16

Program: Property Taxes

Sponsor: Author

Revenue and Taxation Code Section 170

Effective: Immediately upon chaptering

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Summary: Related to disaster-related property tax relief, explicitly includes property value loss related to environmental contamination due to a major event resulting in a governor-issued proclamation and authorizes potential relief to property owners impacted by the Porter Ranch neighborhood methane gas leak that occurred from 2015 to 2016.

Summary of Amendments: The amendments since the previous analysis state that this bill does not impact non-property tax matters related to the leak.

Purpose: To authorize property tax relief for those impacted by the Porter Ranch gas leak in Los Angeles and for individuals who may require property tax relief due to similar situations in the future.

Fiscal Impact Summary: Insignificant.

Existing Law: Disaster Relief. The law¹ allows a county board of supervisors to enact an ordinance to provide property tax relief to property owners following a "disaster" (i.e., a misfortune or calamity) if the property owner's property is damaged or destroyed, and the property owner is not at fault. Currently, all counties, except Fresno County, have enacted a disaster relief ordinance. A county's disaster relief ordinance may apply to both a "major" event impacting a widespread area or region resulting in a governor-issued proclamation, such as a wildfire, and a site-specific event, like a single home fire. In the case of a major event, property tax law uses the terminology "an area or region subsequently proclaimed by the Governor to be in a state of disaster."

This disaster relief law permits the county assessor to immediately reassess the property to recognize the property's market value loss following the event. To qualify, the property value loss must be at least \$10,000. When the relief can be granted, the assessor reduces the property's assessed value in proportion to the property's market value loss immediately after the event. Then the county calculates a pro-rata tax reduction for the remainder of the fiscal year. The affected property retains the reduced assessment, until the property is restored, repaired, or reconstructed. The law permits annual increases to reflect partial repair, reconstruction, or restoration.

Applications. Generally, property owners can file an application to request reassessment within 12 months of the event. In some cases, the assessor can initiate the reassessment without requiring the property owner to file an application.²

Governor State of Emergency Proclamations. The Government Code³ authorizes the governor to proclaim a state of emergency under specified circumstances, including:

- "State of war emergency" means the condition which exists immediately, with or without a proclamation thereof by the governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.
- "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme

¹ [Article XIII Section 15](#) of the California Constitution and Revenue and Taxation Code [Section 170](#). All sections refer to the Revenue and Taxation Code unless otherwise specified.

² RTC Section 170(a) and (l). Also, assessors can mail applications to property owners to prompt the owners to file a claim for reassessment under Section 170 (d)(1).

³ Government Code Sections 8625 and 8558.

peril to the safety of persons and property within the state.

- "Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city.

Proposed Law: Related to a major misfortune or calamity that results in a governor-issued proclamation, this bill:

- **State of Emergency.** Amends the terminology in property tax law that refers to governor-issued proclamations to instead read "an area or region subsequently proclaimed by the Governor to be in a state of emergency or disaster" to be consistent with the Government Code terminology.
- **Damage Definition.** Expressly provides that "damage" includes market value loss related to the property's environmental contamination caused by the major event resulting in a governor-issued state of emergency proclamation.
- **Value Restoration.** Provides that on the third lien date following the calamity, if partial reconstruction, restoration, or repair is not progressing in a timely fashion, the property's assessed value will be determined in accordance with Section 51(a). This is the property's current market value in its damaged condition or the Proposition 13 factored base year value, whichever is less.

Porter Ranch Methane Gas Leak. This bill also specifies that the proposed modifications of law apply retroactively with respect to properties located in the Porter Ranch neighborhood of the City and County of Los Angeles affected by the methane [gas leak](#) in that area in 2015 and 2016. Additionally, this bill allows these affected property owners to file claims requesting reassessment within 12 months of this bill's enactment.

Enactment. This bill is effective immediately upon enactment.

In General: Property tax law provides a variety of property tax relief to disaster victims. These laws address both the short and long term consequences of the disaster. In the short term, the law allows property tax liability to be redetermined to reflect the damage to the property. Additionally, some taxpayers may defer their next property tax installment payment. In the long term, the law allows property owners to rebuild or repair damaged properties without incurring any increase in property tax liability. Alternatively, property owners may relocate without an adverse property tax impact. The table below lists these disaster relief provisions.

DISASTER RELIEF-- IMMEDIATE RELIEF

Section	Property Type	Type of Relief Available	Type of Disaster
170	All property types	Reassessment (resulting in refund of property taxes paid or adjusted bill)	Any disaster or calamity
194 194.1	Real property and manufactured homes	Property tax deferral – next installment.* <i>*Unless there is a mortgage-related impound account.</i>	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

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

DISASTER RELIEF— RECOVERY

Section	Property Type	Type of Relief Available	Type of Disaster
51	Real property only	<ul style="list-style-type: none"> • Base year value reduction to reflect removal (tear down). • Lien Date Value Test. Lesser of factored base year value or market value. • Assessed value adjustments related to Section 170. 	Any disaster or calamity
70	Real property only	New construction exclusion: replacement	Any disaster or calamity
69	All property types	Base year value transfer within the same county	Governor-proclaimed
69.3	Principal place of residence	Base year value transfer to select other counties ⁴	Governor-proclaimed
69.5	Principal place of residence - over 55 or physically disabled	Base year value transfer within the same county or to select other counties	Any disaster or calamity
172 & 172.1	Manufactured home	Base year value transfer	Governor-proclaimed
5825	Manufactured home	New construction exclusion; Base year value transfer	Any disaster or calamity

Commentary:

1. **The August 15, 2016 amendments** state that these property tax provisions (1) do not change existing law related to claims or defenses associated with property value diminution and (2) do not establish a presumption that property was "damaged or destroyed" or "contaminated" for purposes of any civil action related to the methane gas leak. **The June 23, 2016 amendments** modified Section 170(g) to provide that on the third lien date following the calamity, if reconstruction, restoration, or repair does not progress in a timely fashion, the assessed value of property is to be determined pursuant to Section 51(a). This requires the assessment of property at (1) its current market value taking into account reductions due to damage or destruction or (2) its Proposition 13 factored base year value, whichever is less. This amendment addressed the possible long term consequences of environmental contamination, as discussed in Comment 7. **The June 8, 2016 amendments** added co-authors and made minor punctuation changes.
2. **Governor proclaimed a state of emergency.** Governor Brown [proclaimed](#) a state of emergency on January 6, 2016 for Los Angeles County due to a natural gas leak discovered at a well within the Aliso Canyon Natural Gas Storage Facility that commenced October 23, 2015. In January 2016, Southern California Gas Company's attempts to stop the leak had not yet been successful. The proclamation, in part, reads:

NOW, THEREFORE, given the prolonged and continuing duration of this natural gas leak and the request by residents and local officials for a declaration of emergency, I, EDMUND G. BROWN JR., Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, HEREBY PROCLAIM A STATE OF EMERGENCY to exist in Los Angeles County due to this natural gas leak.
3. **Major misfortunes and calamities.** This bill modifies Section 170 to add the phrase "state of emergency" consistent with the manner in which governors issue proclamations in accordance with the Government Code. This adds clarity to the property tax law. The text of the proclamation itself

⁴ Contra Costa, Modoc, San Francisco, Solano, Sutter, Los Angeles, Orange, Santa Clara, Sonoma, Ventura.

may or may not state “existence of conditions of disaster.” Nonetheless, the governor does not proclaim a “state of disaster.” The governor proclaims a “state of emergency.” In the aftermath of a major event, inconsistent terminology with the governor’s actual action causes confusion in administering Section 170’s provisions. Amending the property tax law terminology to instead read “an area or region subsequently proclaimed by the governor to be in a state of emergency or disaster” to be consistent with the Government Code and the governor’s action will clarify this ongoing confusion.

4. **Midyear financial relief for out of the ordinary events.** The law is intended to apply to a disaster, misfortune, or calamity that is out of the ordinary. The law’s purpose is to afford financial relief to the owners of property damaged or destroyed by an unforeseeable occurrence beyond their control.
5. **Market value loss.** To allow Section 170 disaster relief reassessment, the market value loss related to any event, including major events, must be at least \$10,000. At this time, the [market value loss](#) related to the methane gas leak is unclear. Currently, real estate disclosures for homes being offered for sale in the area are now disclosing the property’s proximity to the gas field and that the recent gas leak spanned many months. Homes are still being air tested and the gas company has stated it would hire a private contractor overseen by the Los Angeles County Department of Public Health to test homes for trapped methane and mercaptans that some residents state are causing continued health impacts. Many residents relocated during the gas leak and according to news reports, 3,800 families have not returned to their homes and remain in temporary accommodations.
6. **On-going air monitoring and public health.** The Governor’s Office of Emergency Services has a website dedicated to the [Aliso Canyon Natural Gas Leak](#).
7. **Environmental contamination.** This bill expressly provides that “damage” includes market value loss related to a property’s environmental contamination caused by the major event that gave rise to a governor state of emergency proclamation. This provision is not limited in scope to the recent gas leak. The primary function of Section 170 is to enable mid-fiscal year adjustments in the immediate aftermath of a misfortune or calamity and outline the administrative mechanism for doing so. Section 170 predates Proposition 13 “base year value” assessments, which complicates providing disaster tax relief when assessed values depart from market values. To provide relief, the law allows assessors to reduce base year values by the percentage difference in market value from immediately before to immediately after the event. For example, if the market value loss is 70%, the factored base year value would be reduced by 70%. Section 170 is intended to apply in the short term. For example: (1) current fiscal-year taxes will be reduced for the portion of the fiscal year remaining after the event and (2) in the following fiscal year, the property will be fully repaired or will be in the process of being repaired, restored, or reconstructed and the assessed value will be adjusted to reflect the complete repair or partial repair. However, in the case of environmental contamination, such as an oil or chemical spill, restoring the property could take decades. As such, this bill amends Section 170(g) to explicitly address the short-term applicability of Section 170. Specifically, on the third lien date following the calamity, if reconstruction, restoration, or repair is not progressing in a timely fashion, the property’s assessed value would be determined pursuant to Section 51(a). This provision of law specifies that property be assessed at the lower of (1) its current market value in its damaged condition or (2) its factored base year value. The phrase “not progressing in a timely fashion” provides assessors flexibility to consider issues that hamper the rebuilding, such as local governments’ refusal to issue building permits in the damaged region until it is safe and appropriate. Section 170(g)(3)(B) which limits a return to Section 51(a) to a property destroyed or damaged in regions that the governor declared to be in a state of emergency was added to prevent the bill from being keyed as a fiscal measure.
8. **Added time to file applications.** To give property owners sufficient time to request a possible reassessment, this bill allows applications to be filed within 12 months of enactment. The leak began in October 2015, and some homeowners have not yet returned to their homes.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE’s formal position.

Costs: This measure does not impact the BOE's budget.

Revenue Impact: Los Angeles County reports that the gas leak impact on property value did not cause a significant decline in property value. As such, the revenue impact will be insignificant.