DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: July 3, 2007
POSITION: Neutral, note concerns

BILL NUMBER: SB 114
AUTHOR: D. Florez
RELATED BILLS: Chapter 1034, Statutes of 1991; Chapter 291, Statutes of 1999; SB 148 (Hollingsworth); AB 297 (Maze)

BILL SUMMARY: Disaster Relief

This bill, an urgency measure, would reimburse local entities in 18 counties for property tax revenue loss caused by the freeze that occurred in January 2007. This bill also would allow homeowners whose homes were damaged or destroyed by the freeze to remain eligible for the homeowners' property tax exemption. In addition, the bill would allow taxpayers disaster loss carry-forward treatment for losses sustained in the January 2007 freeze. This bill adds double joining language that would avoid chaptering out problems with disaster relief bills SB 38 and AB 62.

FISCAL SUMMARY

The agricultural property tax revenue loss associated with the freeze will likely be negligible. The immature trees and vines that suffered the vast majority of the freeze damage are exempt from property taxation, since they do not produce sellable agricultural products.

The Department of Finance concurs with the Board of Equalization's (BOE) estimate that, since the freeze occurred after the January 1 lien date, it is likely that any associated structural damage will be repaired by the next lien date of January 1, 2008, and consequently will not affect assessed values or property tax revenues. Furthermore, we note the freeze likely caused minimal structural damage.

The BOE indicates it would incur minor administrative costs associated with this bill.

The Franchise Tax Board (FTB) estimates the disaster loss carry-forward provision would result in a personal income tax revenue loss of approximately $250,000 in 2006-07, and a revenue gain of less than $180,000 between 2007-08 and 2008-09. This provision would apply only to non-crop property such as pipes and farm machinery. Since crops have no income basis, any related property losses cannot be written off for income tax purposes. The 2007-08 and 2008-09 revenue gain accrues because eligible taxpayers would be taking their deductions in 2006-07, instead of waiting until a later date.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the March 7, 2007 version include the following amendment that does not change our position:

- Added double joining language to avoid chaptering out problems with disaster relief bills SB 38 and AB 62.

Analyst/Principal	Date	Program Budget Manager	Date
(0761) C. Hill		Mark Hill	

Department Deputy Director | Date

Governor's Office: By: Date: Position Approved_______
Position Disapproved

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COMMENTS

Finance notes the following concerns regarding this bill:

- The portion relating to structural property damage will likely be inapplicable since the freeze caused little structural damage, and since that damage will likely be repaired by the next lien date. The portion relating to agricultural property damage is largely inapplicable since most of the trees and vines damaged by the freeze are immature, and therefore exempt from property taxation.

- The disaster loss carry-forward provision allowing taxpayers to adjust their 2006 returns would generate an income tax revenue loss of approximately $250,000 that will accrue to 2006-07.

ANALYSIS

A. Programmatic Analysis

Under current law, a county board of supervisors may adopt an ordinance authorizing an assessee to apply for the reassessment of property damaged by misfortune or disaster. If the reassessment results from damage sustained in a Governor-declared disaster, the assessee may apply to the county for deferral of the next installment of property taxes that is due following the date of the disaster. The county may apply to the state for a "bridge loan" to cover its cash flow loss during the period of deferment. Those loans must be repaid by the county in full.

In recent years, special provisions have been enacted in response to floods, earthquakes, and fires, under which counties were required to pay back only that portion of the loan that exceeded their actual property tax losses attributable to the damages. In effect, the state has held local governments harmless against disaster-related property tax losses for the fiscal year of the disaster.

This bill would require the state to backfill property tax revenue losses to local governmental entities in the counties of El Dorado, Fresno Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, Tulare, Ventura, and Yuba as a result of the freeze that occurred in January 2007.

Discussion: Property damage due to the freeze is primarily agricultural property damage. While growing crops are exempt from property tax, the trees and vines themselves are subject to property tax once they reach maturity. Since the immature trees and vines that suffered the vast majority of the freeze damage are exempt from property taxation, Finance estimates this provision will have a minimal fiscal impact.

Under current law, the California Constitution exempts the first $7,000 of the full value of a property from property tax, if that property is occupied by the owner as his or her principal residence. This provision is commonly referred to as the "homeowners' exemption." If the property is no longer owner-occupied or if it becomes vacant or is under construction on the lien date of January 1, then the property is not eligible for the property tax exemption for the upcoming tax year. The state is required to reimburse local governments for property tax revenue losses as a result of the homeowners' property tax exemption.

This bill would allow homeowners in the above named counties to continue to be eligible for the homeowners' property tax exemption if they were qualified before January 11, 2007 and their homes were damaged or destroyed in the declared state of emergency by the Governor in January 2007.

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Since the damaging freeze occurred soon after the lien date of January 1, it is likely that most of the damage will be repaired by the next lien date of January 1, 2008. This, coupled with the fact that few if any homes suffered significant structural damage due to the freeze, leads Finance to conclude this provision will have a minimal fiscal impact.

Current law provides for the treatment of two types of losses, which are casualty losses and disaster losses. A casualty loss occurs when property is destroyed as a result of a sudden, unexpected, or unusual cause such as a fire, storm, or flood. A disaster loss occurs when property is destroyed as the result of a natural event proclaimed a disaster by the President of the United States, or in California, counties or cities proclaimed to be in a state of disaster by the Governor.

Under state law, uninsured casualty losses are deductible to the extent that each loss exceeds $100 and the total loss exceeds 10 percent of the taxpayer's adjusted gross income (AGI). The itemized deduction may be taken in the year the casualty loss occurred. Taxpayers who have incurred a disaster loss may claim the loss in the year preceding the loss. As with casualty losses, the deduction for non-business disaster losses is subject to the $100 loss floor and the 10 percent of AGI limitations.

Both casualty and disaster losses may result in a net operating loss (NOL) for the taxpayer. Subject to legislative approval, 100 percent of NOLs incurred on or after January 1, 2004 may be carried forward for 15 years, and therefore offset a taxpayer's tax liability.

This bill provides legislative approval for taxpayers who incurred losses due to the January 2007 freeze to carry those losses forward for 15 years, subject to the 10 percent of AGI limitation.

This bill adds double joining language that would avoid chaptering out problems with disaster relief bills SB 38 and AB 62.

B. Fiscal Analysis

The agricultural property tax revenue loss associated with the freeze will likely be negligible. The immature trees and vines that suffered the vast majority of the freeze damage are exempt from property taxation, since they do not produce sellable agricultural products.

Finance concurs with the BOE's estimate that, since the freeze occurred after the January 1 lien date, it is likely that any associated structural damage will be repaired by the next lien date of January 1, 2008, and consequently will not affect assessed values or property tax revenues. Furthermore, we note the freeze likely caused minimal structural damage.

The BOE indicates it would incur minor administrative costs associated with this bill.

The FTB estimates the disaster loss carry-forward provision would result in a personal income tax revenue loss of approximately $250,000 that will accrue to 2006-07, and a revenue gain of less than $180,000 between 2007-08 and 2008-09. This provision would apply only to non-crop property such as pipes and farm machinery. Since crops have no income basis, any related property losses cannot be written off for income tax purposes. The 2007-08 and 2008-09 revenue gain accrues because eligible taxpayers would be taking their deductions in 2006-07, instead of waiting until a later date.

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Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	FC	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) 2007-2008	FC	2008-2009	FC	2009-2010	Fund Code
0860/Equalization	SO	No		------------------- No/Minor Fiscal Impact -------------------					0001
1730/FTB	SO	No		------------------- No/Minor Fiscal Impact -------------------					0001
9210/LocGovtFin	LA	No		------------------- No/Minor Fiscal Impact -------------------					0001
9100/Tax Relief	LA	No		------------------- No/Minor Fiscal Impact -------------------					0001
1147/Pers Inc Tax	RV	No	U	$90	U	$90		--	0001