

AMENDED IN SENATE MAY 27, 2008

AMENDED IN SENATE MAY 19, 2008

SENATE BILL

No. 1562

**Introduced by Senators Hollingsworth and Ducheny
(Coauthors: Senators Battin, Denham, and Dutton)**

(Coauthors: Assembly Members Anderson, Blakeslee, Horton, La Malfa,
and Maze)

February 22, 2008

~~An act to amend Section 211 of, and to add Chapter 7 (commencing with Section 199), Chapter 8 (commencing with Section 199.50), and Chapter 9 (commencing with Section 199.60) to Part 1 of Division 1 of, the Revenue and Taxation Code, relating to disaster relief, and declaring the urgency thereof, to take effect immediately. An act to amend Section 211 of the Revenue and Taxation Code, relating to disaster relief, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1562, as amended, Hollingsworth. Property taxation: exemption: fruit-bearing and nut-bearing trees: freeze, wildfire, and wind relief.

~~Existing law authorizes an owner of eligible property, as defined, to apply to a county that has enacted a specified ordinance and has been declared by the Governor to be in a state of emergency as a result of a specified disaster, to defer the payment of the next installment of property taxes on that property, as specified.~~

~~This bill would authorize the board of supervisors of counties that were the subject of the Governor's proclamations of a state of emergency for the severe freezing conditions that commenced on January 11, 2007, the board of supervisors of the counties that were the subject of the Governor's proclamations of a state of emergency for the wildfires that~~

~~commenced on October 21, 2007, and the board of supervisors of the county that was the subject of the Governor's proclamations of a state of emergency for the extremely strong and damaging winds that commenced on October 20, 2007, to enact a temporary ordinance to authorize a qualified taxpayer, as defined, to defer payment of that taxpayer's first installment of ad valorem property taxes, as specified, without penalty or interest, but only if the taxpayer files an application for the deferral, as specified. This bill would require that the ordinance require a qualified taxpayer to make the full payment of the amount deferred on or before a specified date.~~

The California Constitution exempts from property taxation fruit and nut trees until 4 years after the season in which they were planted in orchard form and grapevines until 3 years after the season in which they were planted in vineyard form. Existing statutory law implementing these exemptions specifies that any fruit-bearing or nut-bearing tree that was severely damaged during the exemption period by the December 1998 freeze so as to require pruning to the trunk or bud union to establish a new shoot as a replacement for the damaged tree or grapevine, is to be considered a new planting in orchard form.

This bill would modify this statutory provision to also apply to any fruit-bearing or nut-bearing tree that was similarly damaged by the extremely strong and damaging winds that commenced on October 20, 2007, and by the wildfires that commenced on October 21, 2007, that were the subject of the Governor's proclamations of a state of emergency.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Chapter 7 (commencing with Section 199) is~~
2 ~~added to Part 1 of Division 1 of the Revenue and Taxation Code,~~
3 ~~to read:~~

4
5 ~~CHAPTER 7. FREEZE RELIEF: PROPERTY TAX DEFERRED~~
6

7 ~~199. (a) Notwithstanding any other law, the board of~~
8 ~~supervisors of a county that was the subject of the Governor's~~
9 ~~proclamations of a state of emergency for the severe freezing~~
10 ~~conditions that commenced on January 11, 2007, may enact a~~
11 ~~temporary ordinance to authorize a qualified taxpayer to defer~~
12 ~~payment of that taxpayer's first installment of ad valorem property~~
13 ~~taxes due for the 2008-09 fiscal year, if all of the following~~
14 ~~conditions are met:~~

15 ~~(1) The ordinance requires that an application for a deferral be~~
16 ~~submitted by a qualified taxpayer on or before November 1, 2008.~~

17 ~~(2) The ordinance requires the qualified taxpayer to pay the~~
18 ~~entire amount of the deferred installment, without penalty or~~
19 ~~interest, on or before December 10, 2009.~~

20 ~~(b) For purposes of this section, "qualified taxpayer" means a~~
21 ~~person or entity that meets all of the following criteria:~~

22 ~~(1) The person or entity is engaged in an industry described in~~
23 ~~Codes 1111 to 1119, inclusive, of the North American Industry~~
24 ~~Classification System Manual published by the United States Office~~
25 ~~of Management and Budget, 2002 edition.~~

26 ~~(2) As a result of the severe freezing conditions that commenced~~
27 ~~on January 11, 2007, the person or entity suffered a revenue loss~~
28 ~~of 60 percent or more of the projected income of the person or~~
29 ~~entity for the 2007 calendar year.~~

30 ~~(c) A person or entity seeking a deferral under this section shall~~
31 ~~apply to the assessor, estimate the percentage revenue loss, and~~
32 ~~provide documentation in the deferral application including, but~~
33 ~~not limited to, crop insurance data, shipping statements from~~
34 ~~packing houses, or copies of applications submitted to~~
35 ~~governmental entities documenting disaster losses, to verify that~~
36 ~~the revenue loss of the person or entity was equal to or exceeding~~
37 ~~60 percent. The assessor may request additional information~~
38 ~~necessary to verify the revenue loss of the person or entity.~~

1 SEC. 2. Chapter 8 (commencing with Section 199.50) is added
2 to Part 1 of Division 1 of the Revenue and Taxation Code, to read:

3
4 CHAPTER 8. WILDFIRE RELIEF: PROPERTY TAX DEFERRED

5
6 199.50. (a) ~~Notwithstanding any other law, the board of~~
7 ~~supervisors of the Counties of Los Angeles, Orange, Riverside,~~
8 ~~San Bernardino, San Diego, Santa Barbara, and Ventura, which~~
9 ~~were the subject of the Governor's proclamations of a state of~~
10 ~~emergency for the wildfires that commenced on October 21, 2007,~~
11 ~~may enact a temporary ordinance to authorize a qualified taxpayer~~
12 ~~to defer payment of that taxpayer's first installment of ad valorem~~
13 ~~property taxes due for the 2008-09 fiscal year, if all of the~~
14 ~~following conditions are met:~~

15 (1) ~~The ordinance requires that an application for a deferral be~~
16 ~~submitted by a qualified taxpayer on or before November 1, 2008.~~

17 (2) ~~The ordinance requires the qualified taxpayer to pay the~~
18 ~~entire amount of the deferred installment, without penalty or~~
19 ~~interest, on or before December 10, 2009.~~

20 (b) ~~For purposes of this section, "qualified taxpayer" means a~~
21 ~~person or entity that meets all of the following criteria:~~

22 (1) ~~The person or entity is engaged in an industry described in~~
23 ~~Codes 1111 to 1119, inclusive, of the North American Industry~~
24 ~~Classification System Manual published by the United States Office~~
25 ~~of Management and Budget, 2002 edition.~~

26 (2) ~~As a result of the wildfires that commenced on October 21,~~
27 ~~2007, the person or entity suffered a revenue loss of 60 percent or~~
28 ~~more of the projected income of the person or entity for the 2008~~
29 ~~calendar year.~~

30 (c) ~~A person or entity seeking a deferral under this section shall~~
31 ~~apply to the assessor, estimate the percentage revenue loss, and~~
32 ~~provide documentation in the deferral application including, but~~
33 ~~not limited to, crop insurance data, shipping statements from~~
34 ~~packing houses, or copies of applications submitted to~~
35 ~~governmental entities documenting disaster losses, to verify that~~
36 ~~the revenue loss of the person or entity was equal to or exceeding~~
37 ~~60 percent. The assessor may request additional information~~
38 ~~necessary to verify the revenue loss of the person or entity.~~

39 SEC. 3. Chapter 9 (commencing with Section 199.60) is added
40 to Part 1 of Division 1 of the Revenue and Taxation Code, to read:

~~CHAPTER 9. WIND RELIEF: PROPERTY TAX DEFERRED~~

~~199.60. (a) Notwithstanding any other law, the board of supervisors of the County of Riverside, which was the subject of the Governor’s proclamations of a state of emergency for the extremely strong and damaging winds that commenced on October 20, 2007, may enact a temporary ordinance to authorize a qualified taxpayer to defer payment of that taxpayer’s first installment of ad valorem property taxes due for the 2008–09 fiscal year, if all of the following conditions are met:~~

~~(1) The ordinance requires that an application for a deferral be submitted by a qualified taxpayer on or before November 1, 2008.~~

~~(2) The ordinance requires the qualified taxpayer to pay the entire amount of the deferred installment, without penalty or interest, on or before December 10, 2009.~~

~~(b) For purposes of this section, “qualified taxpayer” means a person or entity that meets all of the following criteria:~~

~~(1) The person or entity is engaged in an industry described in Codes 1111 to 1119, inclusive, of the North American Industry Classification System Manual published by the United States Office of Management and Budget, 2002 edition.~~

~~(2) As a result of the extremely strong and damaging winds that commenced on October 20, 2007, the person or entity suffered a revenue loss of 60 percent or more of the projected income of the person or entity for the 2008 calendar year.~~

~~(c) A person or entity seeking a deferral under this section shall apply to the assessor, estimate the percentage revenue loss, and provide documentation in the deferral application including, but not limited to, crop insurance data, shipping statements from packing houses, or copies of applications submitted to governmental entities documenting disaster losses, to verify that the revenue loss of the person or entity was equal to or exceeding 60 percent. The assessor may request additional information necessary to verify the revenue loss of the person or entity.~~

~~SEC. 4.~~

~~SECTION 1. Section 211 of the Revenue and Taxation Code is amended to read:~~

~~211. (a) (1) The exemption of fruit- and nut-bearing trees until four years after the season in which they were planted in orchard form and grapevines until three years after the season in~~

1 which they were planted in vineyard form is as specified in
2 subdivision (i) of Section 3 of Article XIII of the California
3 Constitution.

4 (2) For purposes of exemption pursuant to this subdivision, any
5 fruit- or nut-bearing tree, or any grapevine, severely damaged
6 during the exemption period by the December 1990 freeze so as
7 to require pruning to the trunk or bud union to establish a new
8 shoot as a replacement for the damaged tree or grapevine, shall be
9 considered a new planting in orchard or vineyard form.

10 (3) For purposes of exemption pursuant to this subdivision, any
11 fruit- or nut-bearing tree severely damaged during the exemption
12 period by the December 1998 freeze or the January 2007 freeze
13 so as to require pruning to the trunk or bud union to establish a
14 new shoot as a replacement for the damaged tree shall be
15 considered a new planting in orchard form.

16 (4) For purposes of exemption pursuant to this subdivision, any
17 fruit- or nut-bearing tree severely damaged during the exemption
18 period by the extremely strong and damaging winds that
19 commenced on October 20, 2007, that were the subject of the
20 Governor’s proclamations of a state of emergency so as to require
21 pruning to the trunk or bud union to establish a new shoot as a
22 replacement for the damaged tree shall be considered a new
23 planting in orchard form.

24 (5) For purposes of exemption pursuant to this subdivision, any
25 fruit- or nut-bearing tree severely damaged during the exemption
26 period by the wildfires that commenced on October 21, 2007, that
27 were the subject of the Governor’s proclamations of a state of
28 emergency so as to require pruning to the trunk or bud union to
29 establish a new shoot as a replacement for the damaged tree shall
30 be considered a new planting in orchard form.

31 (b) The exemption of timber is as specified in subdivision (j)
32 of Section 3 of Article XIII of the California Constitution and
33 Section 436.

34 ~~SEC. 5.~~

35 *SEC. 2.* Notwithstanding Section 2229 of the Revenue and
36 Taxation Code, no appropriation is made by this act and the state
37 shall not reimburse any local agency for any property tax revenues
38 lost by it pursuant to this act.

39 ~~SEC. 6.~~ This act is an urgency statute necessary for the
40 immediate preservation of the public peace, health, or safety within

1 ~~the meaning of Article IV of the Constitution and shall go into~~
2 ~~immediate effect. The facts constituting the necessity are:~~

3 ~~In order to provide tax relief to assist those whose property was~~
4 ~~damaged by the freeze that commenced on January 11, 2007, the~~
5 ~~extremely strong and damaging winds that commenced on October~~
6 ~~20, 2007, and the wildfires that commenced on October 21, 2007,~~
7 ~~as soon as possible, it is necessary that this act take effect~~
8 ~~immediately.~~

9 *SEC. 3. This act provides for a tax levy within the meaning of*
10 *Article IV of the Constitution and shall go into immediate effect.*

O