

ASSEMBLY BILL

No. 79

**Introduced by Assembly Member Duvall
(Principal coauthor: Assembly Member Miller)
(Coauthors: Assembly Members Anderson, DeVore, Hagman,
Harkey, Silva, and Tran)**

December 19, 2008

An act to amend Section 8686 of the Government Code, and to amend Sections 218, 17207, and 24347.5 of, and to add Sections 195.152, 195.153, and 195.154 to, the Revenue and Taxation Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 79, as introduced, Duvall. Disaster relief.

(1) Existing law authorizes a county board of supervisors to provide by ordinance for the reassessment of property that is damaged or destroyed, without fault on the part of the assessee, by a major misfortune or calamity, upon the application of the assessee or upon the action of the county assessor with the board's approval. With respect to certain counties that have adopted reassessment ordinances and have been declared by the Governor to be in a state of emergency as a result of certain events, existing law provides for state allocations of the estimated amounts of the reductions in property tax revenues resulting in certain fiscal years from reassessments under those ordinances. Existing law also continuously appropriates, without regard to fiscal years, moneys in the Special Fund for Economic Uncertainties for purposes of funding these state allocations.

This bill would provide for similar state allocations with respect to property tax revenue reductions resulting from a reassessment for damages incurred within the County of Orange, which was declared by the Governor to be in a state of emergency due to the wildfires that commenced in November 2008.

By requiring moneys continuously appropriated from the Special Fund for Economic Uncertainties to be allocated for the new purpose of reimbursing the County of Orange for these property tax revenue reductions, this bill would make an appropriation.

(2) The Natural Disaster Assistance Act provides for, among other things, specified allocations to local agencies with respect to natural disasters.

This bill would include within those provisions the disaster that occurred in the County of Orange as a result of the wildfires that occurred during November 2008, as provided.

(3) Existing property tax law provides, pursuant to a specified provision of the California Constitution, for a homeowners' property tax exemption in the amount of \$7,000 of the full value of a "dwelling," as defined.

This bill would also provide that any dwelling that qualified for the exemption prior to November 15, 2008, that was damaged or destroyed by the wildfires in the County of Orange, as declared by the Governor in November 2008, and that has not changed ownership since November 15, 2008, may not be denied the 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 wildfires.

The California Constitution requires the Legislature, in each fiscal year, to reimburse local governments for the revenue losses incurred by those governments in that fiscal year as a result of the homeowners' property tax exemption.

This bill would state the intent of the Legislature to make this required reimbursement in the annual Budget Act. By requiring local tax officials to implement new exemption criteria, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) The Personal Income Tax Law and the Corporation Tax Law provide for the carryover to specified taxable years of specified losses sustained as a result of certain disasters occurring in California in an area determined by the President of the United States to warrant specified federal assistance, or proclaimed by the Governor to be in a state of emergency.

This bill would extend these provisions to losses sustained in the County of Orange as a result of the wildfires that commenced in November 2008. This bill would authorize a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.

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

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 8686 of the Government Code is amended
- 2 to read:
- 3 8686. (a) For any eligible project, the state share shall amount
- 4 to no more than 75 percent of total state eligible costs.
- 5 (b) Notwithstanding subdivision (a), the state share shall be up
- 6 to 100 percent of total state eligible costs connected with the
- 7 following events:
- 8 (1) The October 17, 1989, Loma Prieta earthquake.
- 9 (2) The October 20, 1991, East Bay fire.
- 10 (3) The fires that occurred in southern California from October
- 11 1, 1993, to November 30, 1993, inclusive.
- 12 (4) The January 17, 1994, Northridge earthquake.
- 13 (5) Storms that occurred in California during the periods
- 14 commencing January 3, 1995, and February 13, 1995, as specified
- 15 in agreements between this state and the United States for federal
- 16 financial assistance.
- 17 (6) The storms that occurred in California in December of 1996
- 18 and early January of 1997, as specified in agreements between this
- 19 state and the United States for federal financial assistance.

1 (7) The winter storms and flooding that occurred from February
2 1, 1998, to April 30, 1998, inclusive, as specified in agreements
3 between this state and the United States for federal financial
4 assistance.

5 (8) The wildfires that occurred in southern California
6 commencing October 21, 2003, as specified in agreements between
7 this state and the United States for federal financial assistance.

8 (9) The December 22, 2003, San Simeon earthquake, as
9 specified in agreements between this state and the United States
10 for federal financial assistance.

11 (10) The severe storms, flooding, debris flows, and mudslides
12 that occurred during December 27, 2004, to January 11, 2005,
13 inclusive, in southern California, as specified in agreements
14 between this state and the United States for federal financial
15 assistance.

16 (11) The severe storms, flooding, landslides, and mud and debris
17 flows that occurred in southern California during the period from
18 February 16 to February 23, 2005, inclusive, as specified in
19 agreements between this state and the United States for federal
20 financial assistance.

21 (12) The severe storms, flooding, mudslides, and landslides that
22 occurred in northern California during the period from December
23 17, 2005, to January 3, 2006, inclusive, as specified in agreements
24 between this state and the United States for federal financial
25 assistance.

26 (13) The severe storms and flooding that occurred in northern
27 and central California during the period from March 29, 2006, to
28 April 16, 2006, inclusive, as specified in agreements between this
29 state and the United States for federal financial assistance.

30 (14) *The Freeway Complex Fire, which occurred in the County*
31 *of Orange commencing on November 15, 2008, as specified in*
32 *agreements between this state and the United States for federal*
33 *financial assistance.*

34 (c) For any federally declared disaster subsequent to January 1,
35 1995, that the Legislature has designated in subdivision (b), the
36 state shall assume the increased share specified in subdivision (b)
37 in those cases where the Federal Emergency Management Agency
38 or another applicable federal agency has approved the federal share
39 of costs.

1 (d) The state shall make no allocation for any project application
2 resulting in a state share of less than two thousand five hundred
3 dollars (\$2,500) under this section.

4 SEC. 2. Section 195.152 is added to the Revenue and Taxation
5 Code, to read:

6 195.152. (a) By October 30, 2009, the auditor of the County
7 of Orange, which was the subject of the Governor's proclamation
8 of a state of emergency for wildfires that commenced on November
9 15, 2008, shall certify to the Director of Finance an estimate of
10 the total amount of the reduction in property tax revenues on both
11 the regular secured roll and the supplemental roll for the 2008–09
12 fiscal year resulting from the reassessment by the county assessor
13 pursuant to paragraph (1) of subdivision (a) of Section 170 of those
14 properties that are eligible properties as a result of those disasters,
15 except that the amount certified shall not include any estimated
16 property tax revenue reductions to school districts, other than basic
17 state aid school districts, and county offices of education.

18 (b) For purposes of this section, "basic state aid school district"
19 means any school district that does not receive a state
20 apportionment pursuant to subdivision (h) of Section 42238 of the
21 Education Code, but receives from the state only a basic
22 apportionment pursuant to Section 6 of Article IX of the California
23 Constitution.

24 SEC. 3. Section 195.153 is added to the Revenue and Taxation
25 Code, to read:

26 195.153. After the county auditor of the eligible county, as
27 described in Section 195.152, has made the applicable certification
28 to the Director of Finance pursuant to that section, the director
29 shall within 30 days after verification of the county auditor's
30 estimate, certify this amount to the Controller for allocation to the
31 county. Upon receipt of certification from the Director of Finance,
32 the Controller shall make the appropriate allocation to the county
33 within 10 working days.

34 SEC. 4. Section 195.154 is added to the Revenue and Taxation
35 Code, to read:

36 195.154. (a) On or before June 30, 2010, an eligible county,
37 as described in Section 195.152, shall compute and remit to the
38 Controller for deposit in the General Fund an amount equal to the
39 amount allocated to it by the Controller pursuant to Section
40 195.153, less the actual amount of its property tax revenue lost on

1 the regular secured and supplemental rolls with respect to those
2 eligible properties described in Section 195.152 as a result of the
3 reassessment of those properties pursuant to paragraph (1) of
4 subdivision (a) of Section 170, excluding any property tax revenue
5 lost by school districts, other than basic state aid school districts,
6 and county offices of education. If the actual amount of property
7 tax revenue lost by an eligible county in the immediately preceding
8 fiscal year, as described and limited in the preceding sentence,
9 exceeds the amount allocated by the Controller to that county
10 pursuant to Section 195.153, the Controller shall allocate the
11 amount of that excess to that eligible county.

12 (b) For purposes of this section, “basic state aid school district”
13 means any school district that does not receive a state
14 apportionment pursuant to subdivision (h) of Section 42238 of the
15 Education Code, but receives from the state only a basic
16 apportionment pursuant to Section 6 of Article IX of the California
17 Constitution.

18 SEC. 5. Section 218 of the Revenue and Taxation Code is
19 amended to read:

20 218. (a) The homeowners’ property tax exemption is in the
21 amount of the assessed value of the dwelling specified in this
22 section, as authorized by subdivision (k) of Section 3 of Article
23 XIII of the Constitution. That exemption shall be in the amount
24 of seven thousand dollars (\$7,000) of the full value of the dwelling.

25 (b) The exemption does not extend to property that is rented,
26 vacant, under construction on the lien date, or that is a vacation or
27 secondary home of the owner or owners, nor does it apply to
28 property on which an owner receives the veteran’s exemption.

29 (c) For purposes of this section, all of the following apply:

30 (1) “Owner” includes a person purchasing the dwelling under
31 a contract of sale or who holds shares or membership in a
32 cooperative housing corporation, which holding is a requisite to
33 the exclusive right of occupancy of a dwelling.

34 (2) (A) “Dwelling” means a building, structure, or other shelter
35 constituting a place of abode, whether real property or personal
36 property, and any land on which it may be situated. A two-dwelling
37 unit shall be considered as two separate single-family dwellings.

38 (B) “Dwelling” includes the following:

39 (i) A single-family dwelling occupied by an owner thereof as
40 his or her principal place of residence on the lien date.

1 (ii) A multiple-dwelling unit occupied by an owner thereof on
2 the lien date as his or her principal place of residence.

3 (iii) A condominium occupied by an owner thereof as his or her
4 principal place of residence on the lien date.

5 (iv) Premises occupied by the owner of shares or a membership
6 interest in a cooperative housing corporation, as defined in
7 subdivision (i) of Section 61, as his or her principal place of
8 residence on the lien date. Each exemption allowed pursuant to
9 this subdivision shall be deducted from the total assessed valuation
10 of the cooperative housing corporation. The exemption shall be
11 taken into account in apportioning property taxes among owners
12 of share or membership interests in the cooperative housing
13 corporations so as to benefit those owners who qualify for the
14 exemption.

15 (d) Any dwelling that qualified for an exemption under this
16 section prior to October 20, 1991, that was damaged or destroyed
17 by fire in a disaster, as declared by the Governor, occurring on or
18 after October 20, 1991, and before November 1, 1991, and that
19 has not changed ownership since October 20, 1991, shall not be
20 disqualified as a “dwelling” or be denied an exemption under this
21 section solely on the basis that the dwelling was temporarily
22 damaged or destroyed or was being reconstructed by the owner.

23 (e) Any dwelling that qualified for an exemption under this
24 section prior to October 15, 2003, that was damaged or destroyed
25 by fire or earthquake in a disaster, as declared by the Governor,
26 during October, November, or December 2003, and that has not
27 changed ownership since October 15, 2003, shall not be
28 disqualified as a “dwelling” or be denied an exemption under this
29 section solely on the basis that the dwelling was temporarily
30 damaged or destroyed or was being reconstructed by the owner.

31 (f) Any dwelling that qualified for an exemption under this
32 section prior to June 3, 2004, that was damaged or destroyed by
33 flood in a disaster, as declared by the Governor, during June 2004,
34 and that has not changed ownership since June 3, 2004, shall not
35 be disqualified as a “dwelling” or be denied an exemption under
36 this section solely on the basis that the dwelling was temporarily
37 damaged or destroyed or was being reconstructed by the owner.

38 (g) Any dwelling that qualified for an exemption under this
39 section prior to August 11, 2004, that was damaged or destroyed
40 by the wildfires and any other related casualty that occurred in

1 Shasta County in a disaster, as declared by the Governor, during
2 August 2004, and that has not changed ownership since August
3 11, 2004, shall not be disqualified as a “dwelling” or be denied an
4 exemption under this section solely on the basis that the dwelling
5 was temporarily damaged or destroyed or was being reconstructed
6 by the owner.

7 (h) Any dwelling that qualified for an exemption under this
8 section prior to December 28, 2004, that was damaged or destroyed
9 by severe rainstorms, floods, mudslides, or the accumulation of
10 debris in a disaster, as declared by the Governor, during December
11 2004, January 2005, February 2005, March 2005, or June 2005,
12 and that has not changed ownership since December 28, 2004,
13 shall not be disqualified as a “dwelling” or be denied an exemption
14 under this section solely on the basis that the dwelling was
15 temporarily damaged or destroyed or was being reconstructed by
16 the owner, or was temporarily uninhabited as a result of restricted
17 access to the property due to floods, mudslides, the accumulation
18 of debris, or washed-out or damaged roads.

19 (i) Any dwelling that qualified for an exemption under this
20 section prior to December 19, 2005, that was damaged or destroyed
21 by severe rainstorms, floods, mudslides, or the accumulation of
22 debris in a disaster, as declared by the Governor in January 2006,
23 April 2006, May 2006, or June 2006, and that has not changed
24 ownership since December 19, 2005, shall not be disqualified as
25 a “dwelling” or be denied an exemption under this section solely
26 on the basis that the dwelling was temporarily damaged or
27 destroyed or was being reconstructed by the owner, or was
28 temporarily uninhabited as a result of restricted access to the
29 property due to floods, mudslides, the accumulation of debris, or
30 washed-out or damaged roads.

31 (j) Any dwelling that qualified for an exemption under this
32 section prior to July 9, 2006, that was damaged or destroyed by
33 the wildfires and any other related casualty that occurred in the
34 County of San Bernardino, as declared by the Governor in July
35 2006, and that has not changed ownership since July 9, 2006, shall
36 not be disqualified as a “dwelling” or be denied an exemption
37 under this section solely on the basis that the dwelling was
38 temporarily damaged or destroyed or was being reconstructed by
39 the owner, or was temporarily uninhabited as a result of restricted
40 access to the property due to the wildfires.

(k) Any dwelling that qualified for an exemption under this section prior to the commencement dates of the wildfires listed in the Governor's proclamations of 2006 that was damaged or destroyed by the wildfires and any other related casualty that occurred in the Counties of Riverside and Ventura, and that has not changed ownership since the commencement dates of these disasters as listed in the Governor's proclamations of 2006 shall not be disqualified as a "dwelling" or be denied an exemption under this section 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 wildfires.

(l) Any dwelling that qualified for an exemption under this section prior to January 11, 2007, that was damaged or destroyed by severe freezing conditions, commencing January 11, 2007, and any other related casualty that occurred 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 a disaster as declared by the Governor, and that has not changed ownership since January 11, 2007, shall not be disqualified as a "dwelling" or be denied an exemption under this section 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 severe freezing conditions.

(m) Any dwelling that qualified for an exemption under this section prior to June 24, 2007, that was damaged or destroyed by the wildfires and any other related casualty that occurred as a result of this disaster in the County of El Dorado, as declared by the Governor in June 2007, and that has not changed ownership since June 24, 2007, shall not be disqualified as a "dwelling" or be denied an exemption under this section 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 wildfires.

(n) Any dwelling that qualified for an exemption under this section prior to July 4, 2007, that was damaged or destroyed by the Zaca Fire and any other related casualty that occurred as a result of this disaster in the Counties of Santa Barbara and Ventura,

1 as declared by the Governor in August 2007, and that has not
2 changed ownership since July 4, 2007, may not be denied an
3 exemption solely on the basis that the dwelling was temporarily
4 damaged or destroyed or was being reconstructed by the owner,
5 or was temporarily uninhabited as a result of restricted access to
6 the property due to the Zaca Fire.

7 (o) Any dwelling that qualified for an exemption under this
8 section prior to July 6, 2007, that was damaged or destroyed by
9 the wildfires and any other related casualty that occurred as a result
10 of this disaster in the County of Inyo, as declared by the Governor
11 in July 2007, and that has not changed ownership since July 6,
12 2007, may not be denied an exemption solely on the basis that the
13 dwelling was temporarily damaged or destroyed or was being
14 reconstructed by the owner, or was temporarily uninhabited as a
15 result of restricted access to the property due to the wildfires.

16 (p) Any dwelling that qualified for an exemption under this
17 section prior to the commencement dates of the wildfires listed in
18 the Governor's disaster proclamations of September 15, 2007, and
19 October 21, 2007, that was damaged or destroyed by the wildfires
20 and any other related casualty that occurred in the Counties of Los
21 Angeles, Orange, Riverside, San Bernardino, San Diego, Santa
22 Barbara, and Ventura, and that has not changed ownership since
23 the commencement dates of these disasters as listed in the
24 proclamations shall not be disqualified as a "dwelling" or be denied
25 an exemption under this section solely on the basis that the
26 dwelling was temporarily damaged or destroyed or was being
27 reconstructed by the owner, or was temporarily uninhabited as a
28 result of restricted access to the property due to the wildfires.

29 (q) Any dwelling that qualified for an exemption under this
30 section prior to October 20, 2007, that was damaged or destroyed
31 by the extremely strong and damaging winds and any other related
32 casualty that occurred as a result of this disaster in the County of
33 Riverside, as declared by the Governor in November 2007, and
34 that has not changed ownership since October 20, 2007, shall not
35 be disqualified as a "dwelling" or be denied an exemption under
36 this section solely on the basis that the dwelling was temporarily
37 damaged or destroyed or was being reconstructed by the owner,
38 or was temporarily uninhabited as a result of restricted access to
39 the property due to the extremely strong and damaging winds.

1 (r) Any dwelling that qualified for an exemption under this
2 section prior to the commencement dates of the wildfires listed in
3 the Governor's disaster proclamations of May, June, or July 2008,
4 that was damaged or destroyed by the wildfires and any other
5 related casualty that occurred in the Counties of Butte, Kern,
6 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
7 Shasta, and Trinity and that has not changed ownership since the
8 commencement dates of these disasters as listed in the
9 proclamations shall not be disqualified as a "dwelling" or be denied
10 an exemption under this section solely on the basis that the
11 dwelling was temporarily damaged or destroyed or was being
12 reconstructed by the owner, or was temporarily uninhabited as a
13 result of restricted access to the property due to the wildfires.

14 (s) Any dwelling that qualified for an exemption under this
15 section prior to July 1, 2008, that was damaged or destroyed by
16 the wildfires and any other related casualty that occurred as a result
17 of this disaster in the County of Santa Barbara, as declared by the
18 Governor in July 2008, and that has not changed ownership since
19 July 1, 2008, may not be denied an exemption solely on the basis
20 that the dwelling was temporarily damaged or destroyed or was
21 being reconstructed by the owner, or was temporarily uninhabited
22 as a result of restricted access to the property due to the wildfires.

23 (t) Any dwelling that qualified for an exemption under this
24 section prior to July 12, 2008, that was damaged or destroyed by
25 severe rainstorms, floods, landslides, or the accumulation of debris
26 in a disaster, as declared by the Governor, in July 2008, and that
27 has not changed ownership since July 12, 2008, shall not be
28 disqualified as a "dwelling" or be denied an exemption under this
29 section solely on the basis that the dwelling was temporarily
30 damaged or destroyed or was being reconstructed by the owner,
31 or was temporarily uninhabited as a result of restricted access to
32 the property due to floods, landslides, the accumulation of debris,
33 or washed-out or damaged roads.

34 (u) Any dwelling that qualified for an exemption under this
35 section prior to May 22, 2008, that was damaged or destroyed by
36 the wildfires and any other related casualty that occurred as a result
37 of this disaster in the County of Humboldt, as declared by the
38 Governor in August 2008, and that has not changed ownership
39 since May 22, 2008, may not be denied an exemption solely on
40 the basis that the dwelling was temporarily damaged or destroyed

1 or was being reconstructed by the owner, or was temporarily
2 uninhabited as a result of restricted access to the property due to
3 the wildfires.

4 *(v) Any dwelling that qualified for an exemption under this*
5 *section prior to November 15, 2008, that was damaged or*
6 *destroyed by the wildfires and any other related casualty that*
7 *occurred as a result of this disaster in the County of Orange, as*
8 *declared by the Governor in November 2008, and that has not*
9 *changed ownership since November 15, 2008, shall not be*
10 *disqualified as a “dwelling” or be denied an exemption under this*
11 *section solely on the basis that the dwelling was temporarily*
12 *damaged or destroyed or was being reconstructed by the owner,*
13 *or was temporarily uninhabited as a result of restricted access to*
14 *the property due to the wildfires.*

15 ~~(v)~~

16 (w) The exemption provided for in subdivision (k) of Section
17 3 of Article XIII of the Constitution shall first be applied to the
18 building, structure, or other shelter and the excess, if any, shall be
19 applied to any land on which it may be located.

20 SEC. 6. Section 17207 of the Revenue and Taxation Code is
21 amended to read:

22 17207. (a) An excess disaster loss, as defined in subdivision
23 (c), shall be carried to other taxable years as provided in
24 subdivision (b), with respect to losses resulting from any of the
25 following disasters:

26 (1) Forest fire or any other related casualty occurring in 1985
27 in California.

28 (2) Storm, flooding, or any other related casualty occurring in
29 1986 in California.

30 (3) Any loss sustained during 1987 as a result of a forest fire or
31 any other related casualty.

32 (4) Earthquake, aftershock, or any other related casualty
33 occurring in 1987 in California.

34 (5) Earthquake, aftershock, or any other related casualty
35 occurring in 1989 in California.

36 (6) Any loss sustained during 1990 as a result of fire or any
37 other related casualty in California.

38 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
39 of 1991, or any other related casualty.

1 (8) Any loss sustained as a result of storm, flooding, or any
2 other related casualty occurring in February 1992 in California.

3 (9) Earthquake, aftershock, or any other related casualty
4 occurring in April 1992 in the County of Humboldt.

5 (10) Riots, arson, or any other related casualty occurring in
6 April or May 1992 in California.

7 (11) Any loss sustained as a result of the earthquakes that
8 occurred in the County of San Bernardino in June and July of 1992,
9 or any other related casualty.

10 (12) Any loss sustained as a result of the Fountain Fire that
11 occurred in the County of Shasta, or as a result of either of the
12 fires in the Counties of Calaveras and Trinity that occurred in
13 August 1992, or any other related casualty.

14 (13) Any loss sustained as a result of storm, flooding, or any
15 other related casualty that occurred in the Counties of Alpine,
16 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
17 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
18 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
19 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
20 Fillmore in January 1993.

21 (14) Any loss sustained as a result of a fire that occurred in the
22 Counties of Los Angeles, Orange, Riverside, San Bernardino, San
23 Diego, and Ventura, during October or November of 1993, or any
24 other related casualty.

25 (15) Any loss sustained as a result of the earthquake, aftershocks,
26 or any other related casualty that occurred in the Counties of Los
27 Angeles, Orange, and Ventura on or after January 17, 1994.

28 (16) Any loss sustained as a result of a fire that occurred in the
29 County of San Luis Obispo during August of 1994, or any other
30 related casualty.

31 (17) Any loss sustained as a result of the storms or flooding
32 occurring in 1995, or any other related casualty, sustained in any
33 county of this state subject to a disaster declaration with respect
34 to the storms and flooding.

35 (18) Any loss sustained as a result of the storms or flooding
36 occurring in December 1996 or January 1997, or any related
37 casualty, sustained in any county of this state subject to a disaster
38 declaration with respect to the storms or flooding.

39 (19) Any loss sustained as a result of the storms or flooding
40 occurring in February 1998, or any related casualty, sustained in

1 any county of this state subject to a disaster declaration with respect
2 to the storms or flooding.

3 (20) Any loss sustained as a result of a freeze occurring in the
4 winter of 1998–99, or any related casualty, sustained in any county
5 of this state subject to a disaster declaration with respect to the
6 freeze.

7 (21) Any loss sustained as a result of an earthquake occurring
8 in September 2000, that was included in the Governor’s
9 proclamation of a state of emergency for the County of Napa.

10 (22) Any loss sustained as a result of the Middle River levee
11 break in San Joaquin County occurring in June 2004.

12 (23) Any losses sustained as a result of the fires that occurred
13 in the Counties of Los Angeles, Riverside, San Bernardino, San
14 Diego, and Ventura in October and November 2003, or as a result
15 of floods, mudflows, and debris flows, directly related to fires.

16 (24) Any losses sustained in the Counties of Santa Barbara and
17 San Luis Obispo as a result of the San Simeon earthquake,
18 aftershocks, and any other related casualties.

19 (25) Any losses sustained as a result of the wildfires that
20 occurred in Shasta County, commencing August 11, 2004, and
21 any other related casualty.

22 (26) Any loss sustained in the Counties of Kern, Los Angeles,
23 Orange, Riverside, San Bernardino, San Diego, Santa Barbara,
24 and Ventura as a result of the severe rainstorms, related flooding
25 and slides, and any other related casualties, that occurred in
26 December 2004, January 2005, February 2005, March 2005, or
27 June 2005.

28 (27) Any loss sustained in the Counties of Alameda, Alpine,
29 Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El
30 Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin,
31 Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer,
32 Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo,
33 Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
34 Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of
35 the severe rainstorms, related flooding and slides, and any other
36 related casualties, that occurred in December 2005, January 2006,
37 March 2006, or April 2006.

38 (28) Any loss sustained in the County of San Bernardino as a
39 result of the wildfires that occurred in July 2006.

1 (29) Any loss sustained in the Counties of Riverside and Ventura
2 as a result of wildfires that occurred during the 2006 calendar year.

3 (30) Any loss sustained in the Counties of El Dorado, Fresno,
4 Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San
5 Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa
6 Clara, Stanislaus, Tulare, Ventura, and Yuba that were the subject
7 of the Governor's proclamations of a state of emergency for the
8 severe freezing conditions that occurred in January 2007.

9 (31) Any loss sustained in the County of El Dorado as a result
10 of wildfires that occurred in June 2007.

11 (32) Any loss sustained in the Counties of Santa Barbara and
12 Ventura as a result of the Zaca Fire that occurred during the 2007
13 calendar year.

14 (33) Any loss sustained in the County of Inyo as a result of
15 wildfires that commenced in July 2007.

16 (34) Any loss sustained in the Counties of Los Angeles, Orange,
17 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura
18 as a result of wildfires that occurred during the 2007 calendar year
19 that were the subject of the Governor's disaster proclamations of
20 September 15, 2007, and October 21, 2007.

21 (35) Any loss sustained in the County of Riverside as a result
22 of extremely strong and damaging winds that occurred in October
23 2007.

24 (36) Any loss sustained in the Counties of Butte, Kern,
25 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
26 Shasta, and Trinity as a result of wildfires that occurred in May or
27 June 2008 that were the subject of the Governor's proclamations
28 of a state of emergency.

29 (37) Any loss sustained in the County of Santa Barbara as a
30 result of wildfires that occurred in July 2008.

31 (38) Any loss sustained in the County of Inyo as a result of the
32 severe rainstorms, related flooding and landslides, and any other
33 related casualties, that occurred in July 2008.

34 (39) Any loss sustained in the County of Humboldt as a result
35 of wildfires that commenced in May 2008.

36 (40) *Any loss sustained in the County of Orange as a result of*
37 *wildfires that commenced in November 2008.*

38 (b) (1) In the case of any loss allowed under Section 165(c) of
39 the Internal Revenue Code, relating to limitation of losses of
40 individuals, any excess disaster loss shall be carried forward to

1 each of the five taxable years following the taxable year for which
2 the loss is claimed. However, if there is any excess disaster loss
3 remaining after the five-year period, then the applicable percentage,
4 as set forth in paragraph (1) of subdivision (b) of Section 17276,
5 of that excess disaster loss shall be carried forward to each of the
6 next 10 taxable years.

7 (2) The entire amount of any excess disaster loss as defined in
8 subdivision (c) shall be carried to the earliest of the taxable years
9 to which, by reason of subdivision (b), the loss may be carried.
10 The portion of the loss which shall be carried to each of the other
11 taxable years shall be the excess, if any, of the amount of excess
12 disaster loss over the sum of the adjusted taxable income for each
13 of the prior taxable years to which that excess disaster loss is
14 carried.

15 (c) "Excess disaster loss" means a disaster loss computed
16 pursuant to Section 165 of the Internal Revenue Code which
17 exceeds the adjusted taxable income of the year of loss or, if the
18 election under Section 165(i) of the Internal Revenue Code is
19 made, the adjusted taxable income of the year preceding the loss.

20 (d) The provisions of this section and Section 165(i) of the
21 Internal Revenue Code shall be applicable to any of the losses
22 listed in subdivision (a) sustained in any county or city in this state
23 which was proclaimed by the Governor to be in a state of disaster.

24 (e) Losses allowable under this section may not be taken into
25 account in computing a net operating loss deduction under Section
26 172 of the Internal Revenue Code.

27 (f) For purposes of this section, "adjusted taxable income" shall
28 be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

29 (g) For losses described in paragraphs (15) to ~~(39)~~ (40),
30 inclusive, of subdivision (a), the election under Section 165(i) of
31 the Internal Revenue Code may be made on a return or amended
32 return filed on or before the due date of the return (determined
33 with regard to extension) for the taxable year in which the disaster
34 occurred.

35 SEC. 7. Section 24347.5 of the Revenue and Taxation Code
36 is amended to read:

37 24347.5. (a) An excess disaster loss, as defined in subdivision
38 (c), shall be carried to other taxable years as provided in
39 subdivision (b), with respect to losses resulting from any of the
40 following disasters:

1 (1) Forest fire or any other related casualty occurring in 1985
2 in California.

3 (2) Storm, flooding, or any other related casualty occurring in
4 1986 in California.

5 (3) Any loss sustained during 1987 as a result of a forest fire or
6 any other related casualty.

7 (4) Earthquake, aftershock, or any other related casualty
8 occurring in October 1987 in California.

9 (5) Earthquake, aftershock, or any other related casualty
10 occurring in October 1989 in California.

11 (6) Any loss sustained during 1990 as a result of fire or any
12 other related casualty in California.

13 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
14 of 1991, or any other related casualty.

15 (8) Any loss sustained as a result of storm, flooding, or any
16 other related casualty occurring in February 1992 in California.

17 (9) Earthquake, aftershock, or any other related casualty
18 occurring in April 1992 in the County of Humboldt.

19 (10) Riots, arson, or any other related casualty occurring in
20 April or May 1992 in California.

21 (11) Any loss sustained as a result of the earthquakes or any
22 other related casualty that occurred in the County of San
23 Bernardino in June and July of 1992.

24 (12) Any loss sustained as a result of the Fountain Fire that
25 occurred in the County of Shasta, or as a result of either of the
26 fires in the Counties of Calaveras and Trinity that occurred in
27 August 1992, or any other related casualty.

28 (13) Any loss sustained as a result of storm, flooding, or any
29 other related casualty that occurred in the Counties of Alpine,
30 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
31 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
32 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
33 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
34 Fillmore in January 1993.

35 (14) Any loss sustained as a result of a fire that occurred in the
36 Counties of Los Angeles, Orange, Riverside, San Bernardino, San
37 Diego, and Ventura, during October or November of 1993, or any
38 other related casualty.

1 (15) Any loss sustained as a result of the earthquake, aftershocks,
2 or any other related casualty that occurred in the Counties of Los
3 Angeles, Orange, and Ventura on or after January 17, 1994.

4 (16) Any loss sustained as a result of a fire that occurred in the
5 County of San Luis Obispo during August of 1994, or any other
6 related casualty.

7 (17) Any loss sustained as a result of the storms or flooding
8 occurring in 1995, or any other related casualty, sustained in any
9 county of this state subject to a disaster declaration with respect
10 to the storms and flooding.

11 (18) Any loss sustained as a result of the storms or flooding
12 occurring in December 1996 or January 1997, or any related
13 casualty, sustained in any county of this state subject to a disaster
14 declaration with respect to the storms or flooding.

15 (19) Any loss sustained as a result of the storms or flooding
16 occurring in February 1998, or any related casualty, sustained in
17 any county of this state subject to a disaster declaration with respect
18 to the storms or flooding.

19 (20) Any loss sustained as a result of a freeze occurring in the
20 winter of 1998–99, or any related casualty, sustained in any county
21 of this state subject to a disaster declaration with respect to the
22 freeze.

23 (21) Any loss sustained as a result of an earthquake occurring
24 in September 2000, that was included in the Governor's
25 proclamation of a state of emergency for the County of Napa.

26 (22) Any loss sustained as a result of the Middle River levee
27 break in San Joaquin County occurring in June 2004.

28 (23) Any losses sustained as a result of the fires that occurred
29 in the Counties of Los Angeles, Riverside, San Bernardino, San
30 Diego, and Ventura in October and November 2003, or as a result
31 of floods, mudflows, and debris flows, directly related to fires.

32 (24) Any losses sustained in the Counties of Santa Barbara and
33 San Luis Obispo as a result of the San Simeon earthquake,
34 aftershocks, and any other related casualties.

35 (25) Any losses sustained as a result of the wildfires that
36 occurred in Shasta County, commencing August 11, 2004, and
37 any other related casualty.

38 (26) Any loss sustained in the Counties of Kern, Los Angeles,
39 Orange, Riverside, San Bernardino, San Diego, Santa Barbara,
40 and Ventura as a result of the severe rainstorms, related flooding

1 and slides, and any other related casualties, that occurred in
2 December 2004, January 2005, February 2005, March 2005, or
3 June 2005.

4 (27) Any loss sustained in the Counties of Alameda, Alpine,
5 Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El
6 Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin,
7 Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer,
8 Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo,
9 Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
10 Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of
11 the severe rainstorms, related flooding and slides, and any other
12 related casualties, that occurred in December 2005, January 2006,
13 March 2006, or April 2006.

14 (28) Any loss sustained in the County of San Bernardino as a
15 result of the wildfires that occurred in July 2006.

16 (29) Any loss sustained in the Counties of Riverside and Ventura
17 as a result of wildfires that occurred during the 2006 calendar year.

18 (30) Any loss sustained in the Counties of El Dorado, Fresno,
19 Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San
20 Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa
21 Clara, Stanislaus, Tulare, Ventura, and Yuba that were the subject
22 of the Governor's proclamations of a state of emergency for the
23 severe freezing conditions that occurred in January 2007.

24 (31) Any loss sustained in the County of El Dorado as a result
25 of wildfires that occurred in June 2007.

26 (32) Any loss sustained in the Counties of Santa Barbara and
27 Ventura as a result of the Zaca Fire that occurred during the 2007
28 calendar year.

29 (33) Any loss sustained in the County of Inyo as a result of
30 wildfires that commenced in July 2007.

31 (34) Any loss sustained in the Counties of Los Angeles, Orange,
32 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura
33 as a result of wildfires that occurred during the 2007 calendar year
34 that were the subject of the Governor's disaster proclamations of
35 September 15, 2007, and October 21, 2007.

36 (35) Any loss sustained in the County of Riverside as a result
37 of extremely strong and damaging winds that occurred in October
38 2007.

39 (36) Any loss sustained in the Counties of Butte, Kern,
40 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,

1 Shasta, and Trinity as a result of wildfires that occurred in May or
2 June 2008 that were the subject of the Governor's proclamations
3 of a state of emergency.

4 (37) Any loss sustained in the County of Santa Barbara as a
5 result of wildfires that occurred in July 2008.

6 (38) Any loss sustained in the County of Inyo as a result of the
7 severe rainstorms, related flooding and landslides, and any other
8 related casualties, that occurred in July 2008.

9 (39) Any loss sustained in the County of Humboldt as a result
10 of wildfires that commenced in May 2008.

11 (40) *Any loss sustained in the County of Orange as a result of*
12 *wildfires that commenced in November 2008.*

13 (b) (1) In the case of any loss allowed under Section 165 of the
14 Internal Revenue Code, relating to losses, any excess disaster loss
15 shall be carried forward to each of the five taxable years following
16 the taxable year for which the loss is claimed. However, if there
17 is any excess disaster loss remaining after the five-year period,
18 then the applicable percentage, as set forth in paragraph (1) of
19 subdivision (b) of Section 24416, of that excess disaster loss shall
20 be carried forward to each of the next 10 taxable years.

21 (2) The entire amount of any excess disaster loss as defined in
22 subdivision (c) shall be carried to the earliest of the taxable years
23 to which, by reason of subdivision (b), the loss may be carried.
24 The portion of the loss which shall be carried to each of the other
25 taxable years shall be the excess, if any, of the amount of excess
26 disaster loss over the sum of the net income for each of the prior
27 taxable years to which that excess disaster loss is carried.

28 (c) "Excess disaster loss" means a disaster loss computed
29 pursuant to Section 165 of the Internal Revenue Code, which
30 exceeds the net income of the year of loss or, if the election under
31 Section 165(i) of the Internal Revenue Code is made, the net
32 income of the year preceding the loss.

33 (d) The provisions of this section and Section 165(i) of the
34 Internal Revenue Code shall be applicable to any of the losses
35 listed in subdivision (a) sustained in any county or city in this state
36 which was proclaimed by the Governor to be in a state of disaster.

37 (e) Any corporation subject to the provisions of Section 25101
38 or 25101.15 that has disaster losses pursuant to this section, shall
39 determine the excess disaster loss to be carried to other taxable

1 years under the principles specified in Section 25108 relating to
2 net operating losses.

3 (f) Losses allowable under this section may not be taken into
4 account in computing a net operating loss deduction under Section
5 172 of the Internal Revenue Code.

6 (g) For losses described in paragraphs (15) to ~~(39)~~ (40),
7 inclusive, of subdivision (a), the election under Section 165(i) of
8 the Internal Revenue Code may be made on a return or amended
9 return filed on or before the due date of the return (determined
10 with regard to extension) for the taxable year in which the disaster
11 occurred.

12 SEC. 8. It is the intent of the Legislature to provide in the
13 annual Budget Act those additional reimbursements to local
14 governments that, as a result of Section 5 of this act, are required
15 by Section 25 of Article XIII of the California Constitution.

16 SEC. 9. The Legislature finds and declares that this act fulfills
17 a statewide public purpose because of all of the following:

18 (a) The Governor of California has officially proclaimed a state
19 of emergency declaring that the wildfires that occurred within the
20 County of Orange, commencing in November 2008, constitute
21 conditions of extreme peril to public health and safety to persons
22 and property within that county, thus qualifying affected persons
23 for various forms of governmental assistance and relief.

24 (b) This act is consistent with, and supplements, the proclaimed
25 disaster assistance and relief by providing necessary fiscal
26 assistance and tax relief to affected jurisdictions and persons to
27 allow them to maintain essential basic services and repair damage
28 to, and restore, their homes and businesses.

29 SEC. 10. If the Commission on State Mandates determines
30 that this act contains costs mandated by the state, reimbursement
31 to local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.

34 SEC. 11. This act is an urgency statute necessary for the
35 immediate preservation of the public peace, health, or safety within
36 the meaning of Article IV of the Constitution and shall go into
37 immediate effect. The facts constituting the necessity are:

38 In order to timely provide essential relief to those persons and
39 jurisdictions that have suffered damage or loss as a result of the
40 wildfires that occurred within the County of Orange, commencing

1 in November 2008, that were the subject of the Governor's
2 proclamation of a state of emergency, it is necessary that this act
3 take effect immediately.

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