ASSEMBLY BILL No. 1782

Introduced by Assembly Member Harkey

February 9, 2010

An act to amend Section 16418 of the Government Code, to amend Section 218 of, and to add Chapter 7 (commencing with Section 199) to Part 1 of Division 1 of, the Revenue and Taxation Code, relating to disaster relief, and making an appropriation therefor.

legislative counsel's digest

AB 1782, as introduced, Harkey. 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 state allocations for specified disaster relief purposes.

This bill would authorize an eligible county, as defined, to apply for state allocations to offset property tax revenue reductions resulting from the reassessment of property that was damaged in a Governor-declared emergency. This bill would make an appropriation by continuously appropriating moneys in the Special Fund for Economic Uncertainties for this purpose.

(2) 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 provide that any dwelling that qualified for the exemption and that was damaged or destroyed by a natural disaster in a designated area declared by the Governor to be in a state of emergency during a specified period of time may not be denied the exemption solely on the basis that, as a result of that disaster, the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

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.

(3) By requiring local tax officials to implement new criteria under the homeowners' exemption, 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.

Vote: ⅔. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Section 16418 of the Government Code is amended to read:

16418. (a) The Special Fund for Economic Uncertainties is hereby created in the State Treasury and is continuously appropriated for the purposes of this section. The contingency reserve for economic uncertainties established within the General

Fund by Section 12.3 of the Budget Act of 1980 is hereby discontinued, and any balance in that reserve shall be transferred to the Special Fund for Economic Uncertainties. This special fund represents a reserve fund within the meaning of Section 5 of Article XIII B of the California Constitution. Notwithstanding Sections 16310 and 16314, the Controller may transfer as necessary from the Special Fund for Economic Uncertainties or from the special accounts in the General Fund to the General Fund amounts that are needed to meet cash needs of the General Fund. The Controller shall return all of the moneys so transferred without payment of interest as soon as there are sufficient moneys in the General Fund.

(b) The Controller shall transfer from the Special Fund for Economic Uncertainties to the unappropriated balance of the General Fund an amount necessary to eliminate any General Fund deficit as of the end of each fiscal year, commencing as of June 30, 1985. The amount of transfer for each fiscal year shall be determined on the basis of the State of California Preliminary Annual Report—Accrual Basis, for that fiscal year. Any subsequent adjustments shall be determined jointly by the Controller and the Director of Finance.

(c) Notwithstanding Section 13340, moneys in the Special Fund for Economic Uncertainties are hereby continuously appropriated without regard to fiscal years to the Director of Finance for the purpose of allocating funds for disaster relief pursuant to Chapter 5 (commencing with Section 194) and Chapter 6 (commencing with Section 197) of Part 1 of Division 1 of the Revenue and Taxation Code, *and for making allocations to counties pursuant to Chapter 7 (commencing with Section 199) of Part 1 of Division 1 of the Revenue and Taxation Code*. However, any allocation made by the director pursuant to this subdivision shall not be made sooner than 30 days after notification in writing of the necessity therefor ~~is~~ provided to the Joint Legislative Budget Committee.

(d) For budgeting and accounting purposes, any appropriations heretofore or hereafter made specifically from the Special Fund for Economic Uncertainties, other than appropriations contained in this section, shall be deemed an appropriation from the General Fund. For year-end reporting purposes, the Controller shall add the balance in the Special Fund for Economic Uncertainties to the balance in the General Fund so as to show the total moneys then available for General Fund purposes.

(e) (1) Notwithstanding Section 13340, there is hereby appropriated from the General Fund, without regard to fiscal years, for transfer by the Controller to the Special Fund for Economic Uncertainties as of the end of each fiscal year the unencumbered balance in the General Fund.

(2) If, at the end of any fiscal year in which it has been determined that there are revenues in excess of the amount that may be appropriated, as defined in subdivision (a) of Section 2 of Article XIII B of the California Constitution, the transfer pursuant to paragraph (1) shall be reduced by the amount of these excess revenues. The estimates of the transfer shall be made jointly by the Department of Finance and the Legislative Analyst's Office.

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

Chapter 7. Emergency Property Tax Reassessment Reimbursement

199. For purposes of this chapter, all of the following apply:

(a) "Basic state aid school district" means any school district that does not receive a state apportionment pursuant to subdivision (h) of Section 42238 of the Education Code, but receives from the state only a basic apportionment pursuant to Section 6 of Article IX of the California Constitution.

(b) "Certification date" shall be established by the Director of Finance as a reasonable amount of time after the Governor-declared state of emergency by which a county auditor may reasonably certify the estimate described in subdivision (a) of Section 199.1.

(c) "Eligible county" has the same meaning as specified in subdivision (a) of Section 194.

(d) "Reimbursement date" shall be established by the Controller as a reasonable amount of time after the allocation described in subdivision (b) of Section 199.1 by which a county may reasonably compute the amounts described in subdivision (c) of Section 199.1.

199.1. (a) On or before the certification date, the auditor of an eligible county, which was the subject of the Governor's proclamation of a state of emergency, shall certify to the Director of Finance an estimate of the total amount of the reduction in property tax revenues on both the regular secured roll and the supplemental rolls for the designated period of time in which an emergency was declared, resulting from the reassessment by the county assessor pursuant to paragraph (1) of subdivision (a) of Section 170 of those properties that are eligible properties as a result of that disaster, except that the amount certified shall not include any estimated property tax revenue reductions to school districts, other than basic state aid school districts, and county offices of education.

(b) After the auditor of the eligible county has made the certification described in subdivision (a), the Director of Finance shall, within 30 days after verification of the county auditor's estimate, certify this amount to the Controller for allocation to the county. Upon receipt of certification from the Director of Finance, the Controller shall make the appropriate allocation to the county within 10 working days.

(c) On or before the reimbursement date, an eligible county shall compute and remit to the Controller for deposit in the General Fund an amount equal to the amount allocated to it by the Controller pursuant to subdivision (b), less the actual amount of its property tax revenue lost on the regular secured and supplemental rolls with respect to those eligible properties described in subdivision (a) as a result of the reassessment of those properties pursuant to paragraph (1) of subdivision (a) of Section 170, excluding any property tax revenue lost by school districts, other than basic state aid school districts, and county offices of education. If the actual amount of property tax revenue lost by the eligible county in the immediately preceding fiscal year, as described and limited in the preceding sentence, exceeds the amount allocated by the Controller to that county pursuant to subdivision (b), the Controller shall allocate the amount of that excess to that county.

SEC. 3. Section 218 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

(B) "Dwelling" includes the following:

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

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

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

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

(d) Any dwelling that qualified for an exemption under this section prior to October 20, 1991, that was damaged or destroyed by fire in a disaster, as declared by the Governor, occurring on or after October 20, 1991, and before November 1, 1991, and that has not changed ownership since October 20, 1991, 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.

(e) Any dwelling that qualified for an exemption under this section prior to October 15, 2003, that was damaged or destroyed by fire or earthquake in a disaster, as declared by the Governor, during October, November, or December 2003, and that has not changed ownership since October 15, 2003, 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.

(f) Any dwelling that qualified for an exemption under this section prior to June 3, 2004, that was damaged or destroyed by flood in a disaster, as declared by the Governor, during June 2004, and that has not changed ownership since June 3, 2004, 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.

(g) Any dwelling that qualified for an exemption under this section prior to August 11, 2004, that was damaged or destroyed by the wildfires and any other related casualty that occurred in Shasta County in a disaster, as declared by the Governor, during August 2004, and that has not changed ownership since August 11, 2004, 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.

(h) Any dwelling that qualified for an exemption under this section prior to December 28, 2004, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor, during December 2004, January 2005, February 2005, March 2005, or June 2005, and that has not changed ownership since December 28, 2004, 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 floods, mudslides, the accumulation of debris, or washed-out or damaged roads.

(i) Any dwelling that qualified for an exemption under this section prior to December 19, 2005, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor in January 2006, April 2006, May 2006, or June 2006, and that has not changed ownership since December 19, 2005, 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 floods, mudslides, the accumulation of debris, or washed-out or damaged roads.

(j) Any dwelling that qualified for an exemption under this section prior to July 9, 2006, that was damaged or destroyed by the wildfires and any other related casualty that occurred in the County of San Bernardino, as declared by the Governor in July 2006, and that has not changed ownership since July 9, 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.

(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, as declared by the Governor in August 2007, and that has not changed ownership since July 4, 2007, may not be denied an 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 Zaca Fire.

(o) Any dwelling that qualified for an exemption under this section prior to July 6, 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 Inyo, as declared by the Governor in July 2007, and that has not changed ownership since July 6, 2007, may not be denied an 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 wildfires.

(p) Any dwelling that qualified for an exemption under this section prior to the commencement dates of the wildfires listed in the Governor's disaster proclamations of September 15, 2007, and October 21, 2007, that was damaged or destroyed by the wildfires and any other related casualty that occurred in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura, and that has not changed ownership since the commencement dates of these disasters as listed in the proclamations 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.

(q) Any dwelling that qualified for an exemption under this section prior to October 20, 2007, that was damaged or destroyed by the extremely strong and damaging winds and any other related casualty that occurred as a result of this disaster in the County of Riverside, as declared by the Governor in November 2007, and that has not changed ownership since October 20, 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 extremely strong and damaging winds.

(r) Any dwelling that qualified for an exemption under this section prior to the commencement dates of the wildfires listed in the Governor's disaster proclamations of May, June, or July 2008, that was damaged or destroyed by the wildfires and any other related casualty that occurred in the Counties of Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz, Shasta, and Trinity and that has not changed ownership since the commencement dates of these disasters as listed in the proclamations 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.

(s) Any dwelling that qualified for an exemption under this section prior to July 1, 2008, 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 Santa Barbara, as declared by the Governor in July 2008, and that has not changed ownership since July 1, 2008, may not be denied an 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 wildfires.

(t) Any dwelling that qualified for an exemption under this section prior to July 12, 2008, that was damaged or destroyed by severe rainstorms, floods, landslides, or the accumulation of debris in a disaster, as declared by the Governor, in July 2008, and that has not changed ownership since July 12, 2008, 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 floods, landslides, the accumulation of debris, or washed-out or damaged roads.

(u) Any dwelling that qualified for an exemption under this section prior to May 22, 2008, 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 Humboldt, as declared by the Governor in August 2008, and that has not changed ownership since May 22, 2008, may not be denied an 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 wildfires.

(v) Any dwelling that qualified for an exemption under this section prior to the commencement dates of the wildfires that were the subject of the Governor’s disaster proclamations of October 13, 2008, and November 15, 2008, that was damaged or destroyed by the wildfires and any other related casualty that occurred in the Counties of Los Angeles and Ventura and that has not changed ownership since the commencement dates of these wildfires, 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.

(w) Any dwelling that qualified for an exemption under this section prior to November 13, 2008, 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 Santa Barbara, as declared by the Governor in November 2008, and that has not changed ownership since November 13, 2008, 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.

(x) Any dwelling that qualified for an exemption under this section prior to the commencement dates of the wildfires listed in the Governor's disaster proclamations of November 15, 2008, and November 17, 2008, that was damaged or destroyed by the wildfires and any other related casualty that occurred as a result of this disaster in the Counties of Orange, Riverside, and San Bernardino, as declared by the Governor in November 2008, and that has not changed ownership since the commencement dates of these disasters as listed in the proclamations, 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.

(y) Any dwelling that qualified for an exemption under this section prior to May 5, 2009, 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 Santa Barbara, as declared by the Governor in May 2009, and that has not changed ownership since May 5, 2009, 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.

(z) A dwelling that qualified for an exemption under this section and that was damaged or destroyed by a natural disaster in a designated area declared by the Governor to be in a state of emergency during a specified period of time, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that, as a result of that disaster, the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

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

SEC. 4. It is the intent of the Legislature to provide in the annual Budget Act those additional reimbursements to local governments that may, as a result of Section 3 of this act, be required by Section 25 of Article XIII of the California Constitution.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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