California State
Board of Equalization

Legislative Bill Analysis

Assembly Bill 556 (Gallagher)
Date: March 29, 2023 (Amended)
Program: Property Taxes
Revenue and Taxation Code section 69
Effective: Immediately

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Summary: This bill amends Revenue and Taxation Code (RTC) section 69 to allow victims of the 2018 Camp Fire an additional three years to apply the base year value of a property that was substantially damaged or destroyed to a replacement property.

Fiscal Impact Summary: AB 556 would reduce annual property tax revenues by a maximum of $26.6 million. This is under the assumption that every property owner with a property damaged or destroyed in the fires would need an additional three years and that the owner of every damaged property would purchase a replacement property instead of rebuilding improvements on the existing property.

Existing Law: For property tax purposes, the law requires County Assessors to reassess real property from its Proposition 13 protected value ("base year value") to its current market value whenever a change in ownership occurs or upon completion of new construction[1]. Exceptions to this reassessment requirement have been enacted, including two base year value transfers for property owners whose property has been damaged or destroyed in a disaster for which the Governor proclaimed a state of emergency. Related to this bill, Revenue and Taxation Code (RTC) section 69 provides tax relief to persons who own property substantially damaged or destroyed in a Governor-proclaimed disaster. Among the various requirements and conditions, the base year value of the damaged property may be transferred to a comparable property located within the same county and purchased or newly constructed within five years of the disaster's occurrence.

Although AB 556 isn’t proposing to amend RTC 70.5, it provides for the reconstruction of a damaged or destroyed property on the same location.

Proposed Law: This bill would extend the 5-year period described above by three years if a property was substantially damaged or destroyed by the 2018 Camp Fire on or after November 1, 2018, but on or before November 20, 2018, for those who elect to purchase a comparable replacement property within the same county.

General: California's system of property taxation under Article XIII A of the California Constitution (Proposition 13) values the property at its 1975 fair market value, with annual increases after that limited to the amount of inflation or 2 percent, whichever is less, until the property changes ownership or new construction occurs. Once a reassessable event occurs (i.e., a change in ownership or new construction), the property’s value for tax purposes is redetermined based on its current market value. The value initially established, or redetermined where appropriate, is called the "base year value."

[1] Article XIII A, section 2 of the California Constitution

Because real estate values generally appreciate at a rate greater than 2 percent per year, when an event triggers a reassessment of property to its current market value, the reassessed value (i.e., its new base year value) will likely be substantially higher.

California property tax law provides for various situations where the base year value of a property is either: (1) retained, notwithstanding that new construction has taken place or that the property has changed ownership, or (2) transferred to another property, notwithstanding that the property has changed ownership. These special situations are provided pursuant to various constitutional amendments modifying the original Proposition 13 framework and serve to avoid the otherwise required reassessment of a property to its current market value.

RTC section 69 provides that persons who own property substantially damaged or destroyed in a Governor-proclaimed disaster may transfer the base year value of that property to a property acquired or newly constructed as a replacement if it is acquired within five years after the disaster[2]. "Substantially damaged" means physical damage amounting to more than 50 percent of its current market value immediately before the damage. Base year value transfers are available for all property types, with the limitation that the original property and the replacement property must be of the same property *type*: residential, commercial, agricultural, or industrial. The replacement property is "comparable" if it is similar in size, utility, and function to the destroyed property and if the market value of the acquired property does not exceed 120 percent of the fair market value of the replaced property in its pre-damaged condition. Property owners may, nevertheless, still receive disaster relief in cases where the value of the replacement property exceeds the 120 percent limitation. The amount over this threshold is assessed at full market value and added to the transferred base year value.

Governor State of Emergency Proclamations. The Government Code[3] authorizes the Governor to proclaim a state of emergency under specified circumstances, including:

- "State of war emergency" means the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.
- "State of emergency" means the duly proclaimed existence of disaster conditions or extreme peril to the safety of persons and property within the state.
- "Local emergency" means the duly proclaimed existence of disaster or extreme peril to the safety of persons and property within the territorial limits of a county, city, and county, or city.

Background: In 1993, Assembly Bill (AB) 1824 (Stats. 1993, ch. 1053) extended the timeframe for RTC section 69 base year value transfers from two years to three years for all disasters occurring on or after October 20, 1991, the date of the Oakland Hills fire. In 1997, Senate Bill (SB) 594 (Stats. 1997, ch. 941) provided a special five-year timeframe for any victim of the 1994 Northridge earthquake. In 2006, AB 1890 (Stats. 2006, ch. 317) extended the timeframe for RTC section 69 base year value transfers from three years to five years for all disasters occurring after July 1, 2013, when several devastating fires swept through Southern California.

[2] Proposition 50 of 1986 authorized this base year value transfer provision.
[3] Government Code (GC) sections 8558 and 8625.

AB 2013 (Stats. 2020, ch. 124) provided RTC section 70.5, allowing similar benefits to RTC section 69 for those electing to reconstruct similar improvements on an existing property instead of purchasing a replacement property.

AB 1500 (Irwin) is a proposed bill to amend RTC section 70.5 to allow victims of both the Camp Fire and the Woolsey Fire an additional three years to receive a base year value transfer for comparable reconstructed improvements to a destroyed or damaged property.

Commentary:

1. **Fiscal Year 2018-2019. Amends RTC Section 69 Exclusively.** This bill only amends RTC section 69 and applies only to those purchasing replacement property. It does not extend RTC section 70.5 base year value transfers to those electing to reconstruct improvements on a currently owned property. The author may consider increasing the time allowed to reconstruct on the existing site under RTC 70.5.

Costs: The administrative costs related to this bill would be a one-time cost of approximately $28,000 and ongoing costs of approximately $6,000 per year. These costs would be incurred by BOE for a Letter to Assessors, updating materials, and legal reviews.

Revenue Impact: According to the National Low Income Housing Coalition, an estimated 14,000 homes were destroyed in the 2018 Camp Fire. The average assessed value of a home in Butte County in 2018 receiving the homeowners' exemption was $215,288. The California Association of Realtors February 2023 median home price in the county is $405,000. Therefore, where the transfer is granted, the estimated assessed value difference per home is $189,712 ($405,000- $215,288). The 1% property tax rate amounts to $1,897 per home (1% × $189,712).

Based on the assumption that all of the estimated 14,000 homeowners would need additional time to purchase a comparable replacement property within the same county, the estimated annual revenue loss is $26.6 million (14,000 homes × $1,897).

Qualifying Remarks:

When preparing the revenue analysis, the staff had no data on the number of homeowners needing the additional three years to purchase a comparable property within the same county. The above analysis assumes that all homeowners affected would seek an additional three years. Hence this may be viewed as the maximum annual revenue loss.

An additional assumption in the revenue estimate is that all property owners with damaged or destroyed property would purchase a replacement property instead of rebuilding improvements on the existing property.

It should also be noted that if passed, related legislation (AB 1500) would reduce this estimate as some may choose to reconstruct the damaged property.

This revenue estimate does not account for any changes in economic activity that may or may not result from the enactment of the proposed law.