

# ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Vargas Analyst: Rachel Coco Bill Number: AB 1416

Related Bills: See Legislative History Telephone: 845-4328 Amended Date: April 29, 2003

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** California State Freedom Endowment Fund

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED \_\_\_\_\_ STILL APPLIES.

OTHER - See comments below.

## SUMMARY

This bill would:

- create the California State Freedom Endowment within the Department of Veteran's Affairs, and
- establish the California State Freedom Endowment Fund for taxpayer contribution designations on personal income tax returns.

This analysis will only discuss the provision that would establish the fund for taxpayer contribution designations.

## SUMMARY OF AMENDMENTS

The April 29, 2003, amendments removed the language that would have made nonsubstantive changes to the Government Code. The amendments also added language to create the California State Freedom Endowment and establish the California State Freedom Endowment Fund for taxpayer contribution designations on the tax return.

This is the department's first analysis of this bill.

## PURPOSE OF THE BILL

According to the legislative intent statement in this bill, the purpose of this bill is to provide funding for educational and health care expenses for dependents of veterans.

Board Position:

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_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Gerald H. Goldberg

5/21/03

## **EFFECTIVE/OPERATIVE DATE**

This bill would become effective January 1, 2004, and would apply to tax returns filed on or after that date.

## **POSITION**

Pending.

### **Summary of Suggested Amendments**

Amendments are provided to correct two technical errors.

## **ANALYSIS**

### FEDERAL/STATE LAW

Current federal tax law provides a true checkoff to direct \$3 of a taxpayer's tax liability to the presidential election fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their tax returns to the 11 voluntary contribution funds listed on the state tax return. Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the Controller's actual costs to administer the fund.

Except for the California Seniors Special Fund, which has no sunset date, the voluntary contribution funds have various sunset dates. Attachment I shows the specific sunset dates for each voluntary contribution fund and indicates that all funds, except the California Seniors Special Fund, must meet a minimum contribution test (as indexed, if required) to remain on the return. Attachment II is a chart indicating the number and dollar amount of contributions to the funds for multiple fiscal years.

### THIS BILL

This bill would establish the California Freedom Endowment Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their tax returns in full dollar amounts of \$1 or more. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

For the second taxable year the fund is on the return, this bill would require the fund to meet the \$250,000 minimum contribution test. If FTB estimates by September 1 of any calendar year after the first taxable year the fund appears on tax returns that contributions made under this bill will be less than \$250,000 (as indexed), the law authorizing designations for this fund on a return and establishing the fund would be repealed.

This bill would allow the voluntary contribution designation to remain on the tax return for five years unless a later enacted statute deletes or extends that date.

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, then the taxpayer's return shall be treated as if no designation has been made. If no designee is specified, a designated contribution amount would be transferred to the General Fund.

This bill would require the Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the California State Freedom Endowment Fund. Upon appropriation by the Legislature, the moneys from this fund must be allocated to: 1) FTB and the Controller for reimbursement of costs incurred in administering this fund, and 2) the Department of Veteran's Affairs for allocation to the California State Freedom Endowment for the payment of educational and health care expenses of dependents of veterans.

### IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

### TECHNICAL CONSIDERATIONS

This bill specifies that the moneys collected from the California State Freedom Endowment Fund shall be allocated to the Department of Veteran's Affairs for distribution to the California State Freedom Endowment Fund.

In addition, there is a spelling error.

Amendments have been provided to address these considerations.

### **PROGRAM BACKGROUND**

Eleven voluntary contribution funds appeared on the 2002 California personal income tax returns. Total contributions to these funds have varied from approximately \$3.4 million in 1989/1990 to approximately \$3.9 in 2001/2002. The number of individuals contributing (first tabulated in 1993) remains fairly constant at approximately 140,000, or slightly less than 1% of all taxpayers.

### **OTHER STATES' INFORMATION**

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

*Illinois, Massachusetts, Michigan, Minnesota, and New York* allow for taxpayer contribution designations on the personal income tax returns.

*Florida* does not have a personal income tax but allows contribution designations on the state's motor vehicle registration and renewal forms.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

### Revenue Estimate

The revenue losses from this bill would be negligible.

Any possible changes in employment, personal income, or gross state product that might result from this bill are not taken into account.

### Revenue Discussion

According to departmental data, the total amount of existing voluntary contributions to all funds was nearly \$4 million for fiscal year 2001/02 with an average of \$280,000 per individual designated fund.

Assuming contributions equal or exceed the minimum \$250,000 required to remain on the tax return and all contributors itemize deductions, the annual revenue loss would be on the order of \$15,000. This estimate was calculated by applying an average marginal tax rate of 6%. This revenue loss would occur the year following the fund designation being placed on the tax return.

## **ARGUMENTS/POLICY CONCERNS**

The placement of voluntary contributions on the tax return limits the amount of space available for tax-related items. The inclusion of non-tax related information could ultimately cause the tax form to become three pages, which is unprecedented among other states and the IRS. A three-page return also would cause the department to incur significant costs for printing, handling, and storage. To reduce the possibility of a three-page return the author may wish to add language specifying that this contribution designation shall not be added to the return until another is removed.

## **LEGISLATIVE STAFF CONTACT**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 1416  
As Amended April 29, 2003

AMENDMENT 1

On page 4, line 38, strikeout "heath" and insert  
"health"

AMENDMENT 2

On page 5, line 21, strikeout "Fund"