

# BILL ANALYSIS

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Department, Board, Or Commission	Author	Bill Number
<b>Franchise Tax Board</b>	<b>Mendoza</b>	<b>AB 2291</b>

## SUBJECT

Municipal Shelter Spay-Neuter Fund

## SUMMARY

This bill would establish and add the Municipal Shelter Spay-Neuter Fund to the personal income tax (PIT) return as a voluntary contribution.

## PURPOSE OF BILL

According to the author's staff, the intent of this bill is to provide a mechanism to make charitable contributions that would fund municipal shelter spay or neuter programs.

## EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2009, and would apply to tax returns filed on or after that date.

## ANALYSIS

### STATE LAW

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their PIT returns to any of the 11 voluntary contribution funds (VCFs) listed on the return. With the following exceptions, VCFs remain on the PIT return until they are either repealed or fail to meet their minimum contribution amount.

- Except for the California Seniors Special Fund, which has no sunset date, each VCF has a specific sunset date.
- Except for the California Seniors Special Fund, the California Firefighters Memorial Fund, and the California Peace Officer Foundation Memorial Fund, each VCF must meet an initial minimum contribution amount of \$250,000.
- Except for the California Fund for Senior Citizens, the required minimum contribution amount is adjusted annually for inflation for each VCF.

The annual inflation adjustment is based on the percentage change in the California Consumer Price Index. The Franchise Tax Board (FTB) is required to make the following two determinations for each VCF by September 1 of each calendar year:

1. The minimum contribution amount for the next calendar year for the VCF to remain on the PIT return for that calendar year, and
2. Whether estimated contributions to the VCF during the current calendar year will be less than the minimum contribution amount for that calendar year.

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FTB is also required to notify certain specified funds in writing of the minimum contribution amount required for the next calendar year.

If FTB estimates that a VCF will fail to meet or exceed the minimum contribution amount for a calendar year that VCF is repealed for taxable years beginning on or after January 1 of that calendar year.

General voluntary contribution provisions specify the following for all VCFs:

- Any contribution amounts designated prior to a fund's repeal must continue to be transferred and disbursed to that voluntary contribution fund.
- If the designee is unspecified, the contribution amount is transferred to the General Fund after reimbursing costs incurred by the FTB.
- If an individual designates contributions to more than one fund, and the actual amount available is less than the total amount contributed, the contribution would be allocated on a pro rata basis to the designated funds.

The general provisions also provide a formal queuing process for adding new contingent voluntary contribution funds to the tax return. New contingent funds are defined as funds that include language specifying that the fund may not be added to the return until another fund is removed. Upon enactment, new contingent funds are only added to the tax return when an existing fund is removed or when FTB determines space exists on the income tax return.

### THIS BILL

This bill would establish and add the Municipal Shelter Spay-Neuter Fund (Fund) to the PIT return as a voluntary contribution. Taxpayers would be able to designate their own funds, not tax liability, for contribution to the Fund on their PIT 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 original return for the taxable year and, once made, are irrevocable. A deduction, subject to the itemized deduction rules applicable to individuals, would be allowed for a contribution made pursuant to this bill.

Contributions to the Fund, which are allocated to the Department of Food and Agriculture, would be used to provide grants to municipal shelters for low cost or free spay-neuter services. This bill would define "municipal shelter" as a city or county animal control agency or shelter and provide rules for awarding grants to municipal shelters.

This bill would specify that if the taxpayer's payments and credits reported on the PIT return fail to exceed the tax liability, the designation on the return would be treated as if no designation has been made.

This bill contains language that would require FTB to revise the tax return to include a designation space for the Fund beginning with the first taxable year another voluntary contribution fund is removed, thereby making this fund a contingent voluntary contribution fund. It is assumed the Fund would be first placed on the PIT return for the 2008 taxable year. The remainder of the "This Bill" discussion reflects this assumption.

Beginning with contributions made in 2010, this bill would require the Fund to meet a minimum contribution amount for each calendar year. The "minimum contribution amount for a calendar year" is defined as \$250,000 for contributions made in 2010 or an amount adjusted for inflation for contributions made in subsequent years. The law authorizing designations to this fund would be repealed if contributions made under this bill fail to meet the minimum contribution amount.

If the Fund first appeared on the 2008 PIT return, it would remain on the PIT return until January 1, 2013, in this case the 2012 PIT return, unless a later enacted statute deletes or extends that date, and provided that it meets the annual minimum contribution requirement. This bill would require FTB to do the following by September 1 of each subsequent calendar year that the Fund appears on the tax return:

- Determine the minimum contribution amount required to be received during the next calendar year for the fund to remain on the return.
- Notify the Department of Food and Agriculture in writing of the minimum contribution amount required for the next calendar year.
- Determine if the amount of contributions estimated to be received during the current calendar year will equal or exceed the minimum contribution amount required for that calendar year.

FTB would be required to notify the State Controller of both the amount of money paid by taxpayers in excess of their tax liability and amount of refund money they have contributed to the Fund.

This bill would require the State Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the Municipal Shelter Spay-Neuter Fund. Upon appropriation by the Legislature, the monies from this fund would be allocated as follows:

1. FTB and the Controller for reimbursement of costs incurred in administering the fund.
2. The Department of Food and Agriculture for allocation of grants to eligible municipal shelters.

## **LEGISLATIVE HISTORY**

SB 1502 (Steinberg, 2008) would add the Amyotrophic Lateral Sclerosis (ALS) Research Fund to the personal income tax (PIT) return as a voluntary contribution fund. SB 1502 was referred to the Senate for concurrence.

AB 1812 (Arambula, Ch. 160, Stats. 2008) extends the repeal date on the California Firefighters Memorial Fund and the California Peace Officer Memorial Fund.

AB 1935 (Fuller, 2008) would add the California Ovarian Cancer Research Fund for taxpayers to designate a contribution on the PIT return. AB 1935 was sent to enrollment August 7, 2008.

AB 2291 (Mendoza, 2008) would add the Low Cost Spay-Neuter Fund for taxpayers to designate a contribution on the PIT return. AB 2291 was sent to enrollment on August 19, 2008.

AB 2518 (Torrice, 2008) would add the Northern California Cancer Research Fund for taxpayers to designate a contribution on the PIT return. AB 2518 is pending a Senate floor vote.

SB 1249 (Alquist, Stats. 2006, Ch. 645) added general provisions for all existing VCFs by changing the application of the minimum contribution amounts for specified funds and the related requirements for FTB to calculate the required minimum contribution amounts and notify fund sponsors of such amounts.

SB 1162 (Machado, Stats. 2004, Ch 546) established the California Military Family Relief Fund for taxpayer contribution designation on the personal income tax return.

## **PROGRAM BACKGROUND**

Eleven voluntary contribution funds appeared on the 2007 California personal income tax returns. Total contributions to these funds have varied from approximately \$3.4 million for the 1989 taxable year to approximately \$4.2 million<sup>1</sup> for the 2006 taxable year.

## **OTHER STATES' INFORMATION**

*Illinois, Massachusetts, Michigan, Minnesota, and New York* allow for taxpayers to designate charitable contributions on the PIT return. None of these states allow for a Low Cost Spay/Neuter Fund voluntary contribution designation.

*Illinois, Massachusetts, and New York* provide license plates that can be purchased with the proceeds going to spay and neuter programs and humane society organizations.

The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

## **FISCAL IMPACT**

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

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<sup>1</sup> Amount contributed through December 27, 2007.

**ECONOMIC IMPACT**

Based on data and assumptions discussed below, the PIT revenue loss from this bill would be as follows:

Estimated Revenue Impact of AB 2291 Effective On or After January 1, 2009 Enactment Assumed After June 30, 2008			
Fiscal Year	2008-09	2009-10	2010-11
Revenue Loss	N/A	-\$150,000	-\$150,000

Estimates assume the fund is officially designated for returns starting with the 2008 tax year and the minimum level of contributions (\$250,000) is achieved each year. This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue impact of this bill would be determined by the amount of contributions to the Municipal Shelter Spay-Neuter Fund and the subsequent itemized deduction of such charitable contribution.

For this estimate, the following assumptions are made:

1. The Fund would be added to the 2008 return,
2. The minimum contribution amount (\$250,000) would be achieved each year, and
3. An itemized deduction would be allowed and claimed for each contribution.

By applying an average marginal tax rate of 6%, the estimated revenue loss of this bill would be \$15,000 annually ( $\$250,000 \times 6\% = \$15,000$ ). Because contributions reported on the 2008 tax return are actually made during the 2009 calendar year, the revenue impact would not occur until fiscal year 2009-10.

**Appointments**

None

**Support/Opposition**

According to the Senate Revenue and Taxation Committee analysis of the bill as amended June 18, 2008, the following support and opposition is noted:

Support: California Federation for Animal Legislation  
 California Outdoor Heritage Alliance  
 South Bay Collie Fanciers, Inc.

United Animal Nations  
Pembroke Welsh Corgi Club of Southern California  
Golden Gate Pembroke Welsh Corgi Fanciers, Inc.  
Working Riensenschnauzer Federation  
Atherton Acres  
San Lorenzo Dog Training Club, Inc.  
Animal Switchboard  
American Society for the Prevention of Cruelty to Animals  
American Kennel Club  
California Animal Association  
Northern California Pug Club  
Irish Terrier Club of America  
Yorkshire Terrier Club of Los Angeles  
Cairn Terrier Club of Northern California  
NORCAL Golden Retriever Club  
Redwood Belgian Tervuren Fanciers  
Portuguese Water Dog Club of Northern California  
California Outdoor Heritage Alliance  
California Animal Association

Opposition: Animal Issues Movement  
PetPAC

## **VOTES**

Assembly Floor – Ayes: 64, Noes: 10

Senate Floor – Ayes: 29, Noes: 9

Concurrence – Ayes: 65, Noes: 9

## **LEGISLATIVE STAFF CONTACT**

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