

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Block Analyst: Matthew Cooling Bill Number: AB 1008

Related Bills: See Legislative History Telephone: 845-5983 Amended Date: May 10, 2010

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: California National Guard Education Assistance Fund

SUMMARY

This bill would allow taxpayers to make voluntary contributions to the California National Guard Education Assistance Fund on their state personal income tax returns.

SUMMARY OF AMENDMENTS

The May 10, 2010, amendments removed revisions to the Education Code and added provisions to the Revenue and Taxation Code establishing California National Guard Education Assistance Fund on the Personal Income Tax return.

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

PURPOSE OF THE BILL

It appears that the purpose of this bill is to provide an additional funding source for members of the California National Guard (Guard) to reduce the economic burden for Guard members seeking higher education.

EFFECTIVE/OPERATIVE DATE

Assuming enactment in 2010, this bill would be effective on January 1, 2011, and operative as of that date. As such, this fund could first appear on the 2010 personal income tax return filed in 2011.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal tax law provides a true check off to direct \$3 of a taxpayer's tax liability to the Presidential Campaign Fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

Board Position:

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Department Director

Date

Selvi Stanislaus

05/20/10

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their personal income tax returns to any of the 15 voluntary contribution funds (VCF) listed on the 2009 state personal income tax return (return).

With the following exceptions, VCFs remain on the return until they are either repealed or fail to meet their minimum contribution amount: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 Memorial Foundation Fund, each VCF must meet an initial minimum contribution amount of \$250,000.
- Except for the California Fund for Senior Citizens and the California Military Family Relief Fund, each of the remaining VCF minimum contribution amounts is adjusted annually for inflation.

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

1. The minimum contribution amount required for the VCF to remain on the return for the following calendar year, and
2. Whether estimated contributions to the VCF will be less than the minimum contribution amount for that 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 effective January 1 of that calendar year.

Current state law provides that if the number of contingent voluntary contribution designations¹ that are eligible to be added to the personal income tax return is greater than the number of designations removed, then the voluntary contribution designations may be queued and added to the return in order of the date of enactment.

THIS BILL

This bill would establish the California National Guard Education Assistance Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their personal income 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.

¹ A contingent voluntary contribution designation is a voluntary contribution designation that contains specific language stating that it may not be added to the return until another voluntary contribution designation is removed from the return.

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. The FTB would be required to estimate 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 for inflation beginning the third calendar year). The law authorizing designations for this fund would be repealed if contributions made under this bill would be less than the minimum contribution amount.

This bill would require the California National Guard Education Assistance Fund designation to be added to a queue as a contingent VCF designation, as specified in current state law. This bill would allow the voluntary contribution designation to remain on the personal income 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 National Guard Education Assistance Fund.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

LEGISLATIVE HISTORY

AB 658 (Hayashi, et al., 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute to the California Police Activities League Fund. AB 658 is currently waiting to be heard in the Senate Revenue and Taxation Committee.

AB 1088 (Fletcher, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute to the Morale, Welfare, and Recreation Fund for each of the veterans' homes, as provided. AB 1088 is waiting to be heard in the Senate Revenue and Taxation Committee.

AB 1983 (Torrico, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute to the Safely Surrender Babies Fund. AB 1983 has been referred to the Senate Rules Committee.

AB 2017 (Hall, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute to the YMCA Youth and Government Fund. AB 2017 is waiting to be heard in the Assembly Appropriations Committee.

SB 516 (DeSaulnier, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute to the California Fund for Youth. This bill has been held in the Assembly Revenue and Taxation Committee.

SB 1076 (Price, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute to the Arts Council Fund. SB 1076 has been sent to third reading on the Senate Floor.

SB 1152 (Kehoe, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute to the California Blood Banks Designated Area Emergency Operations Fund. SB 1152 has been referred to the Senate Revenue and Taxation Committee.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws do not provide a voluntary contribution fund comparable to the one proposed by this bill. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 1008 Effective On or After January 1, 2011 Assumed Enactment September 30, 2010		
2009-10	2010-11	2011-12
No Impact	No Impact	-\$15,000

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

If an itemized deduction is claimed for every dollar contributed to the fund and affected taxpayers have an average marginal tax rate of 6 percent, the estimated revenue loss of this bill would be approximately \$15,000 annually (\$250,000 x 6%).

POLICY CONCERNS

This bill provides a sunset date on January 1, 2020, or ten years from the date it first appears on the personal income tax return. Generally, VCF designations have a five-year sunset date to allow a frequent review of the effectiveness of the VCF by the Legislature.

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