

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Torrico Analyst: Matthew Cooling Bill Number: AB 1049
See Legislative
Related Bills: History Telephone: 845-5983 Amended Date: April 2, 2009
Attorney: Patrick Kusiak Sponsor:

SUBJECT: Safely Surrendered Baby Fund

SUMMARY

This bill would allow taxpayers to make voluntary contributions to the Safely Surrendered Baby Fund on their state personal income tax returns.

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

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to allow taxpayers to make donations to supplement funding for public awareness of and training classes for safely surrendering newborn babies.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative beginning on or after January 1, 2010.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal tax law provides a 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 personal income tax returns to the 15 voluntary contribution funds (VCFs) 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. The initial minimum contribution amount is \$250,000, which is indexed annually for each fund.

Board Position:	Department Director	Date
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Current state law provides that if the number of contingent voluntary contribution designations¹ that are eligible to be added to the return is greater than the number of designations removed, then the voluntary contribution designations will be queued and added to the return in order of the date of enactment.

THIS BILL

This bill would establish the Safely Surrendered Baby 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.

This bill would require FTB to revise the personal income tax return to include a designation space for the fund beginning with the first taxable year another voluntary contribution fund is removed.

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. FTB is 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). The law authorizing designations for this fund would be repealed if contributions made under this bill will be less than the minimum contribution amount.

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.

Beginning with the third calendar year after the fund appears on the personal income tax return, FTB would adjust the minimum contribution amount for the fund by September 1, of that year. The minimum contribution amount would adjust according to the California Consumer Price Index (CCPI), as specified.

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 Safely Surrendered Baby Fund.

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.

IMPLEMENTATION CONSIDERATIONS

Because this bill contains language that would allow the department to add the Safely Surrendered Baby Fund when space is available on the return, implementing this bill would not impact the department's programs and operations.

TECHNICAL CONSIDERATIONS

Amendments 1 and 2 have been provided to clarify the language of the bill related to income tax returns and tax liabilities.

LEGISLATIVE HISTORY

AB 292 (Yamada, 2009/2010) would extend the expiration date of the Alzheimer's Disease and Related Disorders Research Fund from January 1, 2010, to January 1, 2015. This bill is currently set for hearing in the Assembly 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. This bill is currently set for hearing in the Assembly Veterans Affairs Committee.

SB 91 (Correa, 2009/2010) would extend the expiration date of the California Fund for Senior Citizens from January 1, 2010, to January 1, 2015. This bill is currently set for hearing in the Senate Revenue and Taxation Committee.

SB 516 (DeSaulnier, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute personal funds to the California Fund for Youth. This bill is currently set for hearing in the Senate Revenue and Taxation Committee.

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.

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

None of these states provide a voluntary contribution comparable to the one proposed by this bill.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 1049 Effective On or After January 1, 2010 Enactment Assumed After June 30, 2009		
2009-10	2010-11	2011-12
No Impact	-\$15,000	-\$15,000

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 Safely Surrendered Baby Fund, and the subsequent claim of those contributions as itemized deductions.

For this estimate, the following assumptions are made:

1. The Fund would be added to the 2009 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.

This analysis assumes this fund would be officially designated for returns starting with the 2009 tax year, contributions would be claimed when the return is filed in the following year, and the minimum level of contributions (\$250,000) would be achieved each year.

If an itemized deduction is claimed for every dollar contributed to the fund and affected taxpayers have an average marginal tax rate of 6.25%, the estimated revenue loss of this bill would be approximately \$15,000 annually ($\$250,000 \times 6.25\% = \$15,625$).

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1049
As Amended April 2, 2009

AMENDMENT 1

On page 3, line 2, strikeout "initial" and insert:

original

AMENDMENT 2

On page 3, line 6, before "liability" insert:

tax