

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Price Analyst: Matthew Cooling Bill Number: SB 1076
Related Bills: See Legislative History Telephone: 845-5983 Introduced Date: February 17, 2010
Attorney: Patrick Kusiak Sponsor:

SUBJECT: Voluntary Contribution Fund Designation/Arts Council Fund

SUMMARY

This bill would allow taxpayers to make voluntary contributions to the Arts Council Fund on their state personal income tax returns.

PURPOSE OF THE BILL

It would appear that the purpose of this bill is to provide an additional source of funding to promote the arts within California.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative beginning on or after January 1, 2011. As such, the fund could first appear on 2010 personal income tax returns filed on or after January 1, 2011.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal tax law provides a check off 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. Generally, the initial minimum contribution amount is \$250,000, which is indexed annually for each fund.

Table with Board Position (S, NA, NP, SA, O, NAR, N, OUA, X, PENDING) and Department Director/Date (Selvi Stanislaus, 03/19/10)

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 Arts Council 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 personal income tax return for the taxable year and, once made, are irrevocable.

This bill would require the FTB to revise the personal income tax return to include a designation space for the fund beginning with the first taxable year that another voluntary contribution fund is removed. This designation could be added to the 2010 tax return filed on or after January 1, 2011.

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 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 would 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 would 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, the 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 (also known as 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 Arts Council Fund. Upon appropriation by the Legislature, money would be transferred from this fund to the State Controller's Office and the FTB for reimbursement of the costs associated with administering this 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

The department has identified the following implementation concern. Department staff is available to work with the author's office to resolve this and other concerns that may be identified.

This bill would provide a funding mechanism for the Arts Council by adding a voluntary contribution designation to the personal income tax return. This bill fails to provide a procedure to release the fund to the council or its designee, and as such, the funds would perpetually remain in the Arts Council Fund within the State Treasury. It is recommended that the author amend the bill to provide the allocation provisions for the Arts Council to receive the benefit of the fund.

LEGISLATIVE HISTORY

AB 292 (Yamada, Stats. 2009, Ch. 232) extended the expiration date of the Alzheimer's Disease and Related Disorders Research Fund from January 1, 2010, to January 1, 2015.

AB 563 (Cook, Stats. 2009, Ch. 451) made changes to the California Military Family Relief Fund related to the allocation of the funds and revised the minimum contribution amount required to remain on the personal income tax return.

AB 658 (Hayashi, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute to the California Police Activities League (CALPAL) Fund for each of the local CALPAL chapters. This bill has been referred to the Senate Revenue and Taxation committee.

AB 1049 (Torricono, 2009/2010) would have allowed taxpayers to make voluntary contributions to the Safely Surrendered Baby Fund on their state personal income tax returns. This bill was vetoed by Governor Schwarzenegger on October 12, 2009. Please see Appendix A for the veto message.

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 in the Senate Veterans Affairs Committee.

AB 1983 (Torricono, 2009/2010) would allow taxpayers to make voluntary contributions to the Safely Surrendered Baby Fund on their state personal income tax returns. This bill is pending assignment to a committee in the Assembly.

SB 91 (Correa, Stats. 2009, Ch. 29) extends the expiration date of the California Fund for Senior Citizens from January 1, 2010, to January 1, 2015.

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.

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.

Illinois, Massachusetts, Michigan, Minnesota, and New York allow for taxpayer contribution designations on the personal income tax returns; however, none of these states provide a voluntary contribution comparable to the one discussed in 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 SB 1076 Effective On or After January 1, 2011 Enactment Assumed After June 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%).

LEGISLATIVE STAFF CONTACT

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Appendix A

BILL NUMBER: AB 1049
VETOED DATE: 10/12/2009

To the Members of the California State Assembly:

I am returning Assembly Bill 1049 without my signature.

I have reviewed the merits of this bill. After careful and deliberative consideration, I do not believe it is necessary to sign this bill at this time.

Sincerely,

Arnold Schwarzenegger