

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Huffman, et al. Analyst: Brian Werking Bill Number: AB 1589

Related Bills: None Telephone: 845-5103 Amended Date: July 6, 2012

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

**SUBJECT:** Parks Pass Purchase On The Individual Tax Return/Charitable Contribution For Contribution In Excess Of Purchase

### SUMMARY

This bill would do the following:

- Allow individual taxpayers to contribute to the State Parks Protection Fund (Fund) on the tax return, and
- Entitle individual taxpayers to an annual California park day use access pass (Parks Pass) if their contribution is in an amount equal to or greater than the price of a Parks Pass, as determined by the Department of Parks and Recreation (DPR).

This bill would also make changes to the Public Resources Code relating to state parks. These changes do not affect the department and are not discussed in this analysis.

### RECOMMENDATION

No position.

### Summary of Amendments

The July 6, 2012, amendments would recast the provisions related to the Fund and the purchase of a Parks Pass on the individual tax return. Specifically, the Fund designation on the individual tax return would be treated as a voluntary contribution that would allow an individual to purchase a parks pass on the return.

### REASON FOR THE BILL

The purpose of the bill is to provide new revenue for the parks system through the offering of Parks Pass on personal income tax returns as part of the long-term goal of adequately funding and maintaining California's state parks system.

### EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective upon enactment. The State Parks Protection Fund would first appear on the 2012 personal income tax return.

Board Position:

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\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
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Executive Officer

Date

Selvi Stanislaus

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## **ANALYSIS**

### FEDERAL/STATE LAW

Current federal tax law provides a 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.

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their tax returns to any of the 18 voluntary contribution funds (VCFs) listed on the 2011 return.

Current state law provides that if the number of contingent voluntary contribution designations<sup>1</sup> that are eligible to be added to the 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.

Taxpayers that are individuals are allowed to take an itemized deduction on their federal and state income tax returns for contributions to the State. The deductible amount of the contribution is the amount that exceeds the value of the benefit received. The deduction may be taken for the year in which a charitable contribution is made to the State.

Federal and state law does not allow an individual to purchase a Parks Pass or any other item on an individual's tax return.

### THIS BILL

This bill would establish the State Parks Protection Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their returns in full dollar amounts of \$1 or more. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

A taxpayer that makes a contribution that equals or exceeds the price of a Parks Pass would be entitled to receive a Parks Pass from the Department of Parks and Recreation (DPR). The Parks Pass would provide the individual with unlimited day use access to California state parks, and shall be valid for one year beginning on the date of issuance.

The price of the Parks Pass would be determined by the DPR annually, and reported to the Franchise Tax Board (FTB) to be included in the individual personal income tax forms and instruction booklets.

This bill would require the FTB to revise the return to include a designation space for the Fund beginning with the 2012 tax return filed on or after January 1, 2013.

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<sup>1</sup> 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.

The FTB would be required to provide the DPR necessary information, including the names and addresses of individual taxpayers who contributed to the Fund on their returns, so that the DPR may contact purchasers and implement a procedure to distribute Parks Passes.

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 each 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.

Beginning with the third calendar year after the fund appears on the 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 the CCPI).

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 specify that if an individual designates a contribution to more than one account or fund listed on the tax return, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designated accounts on a pro rata basis.

This bill would require the Controller to transfer money designated for this Fund by taxpayers from the Personal Income Tax Fund to the State Parks Protection Fund. Upon appropriation by the Legislature, monies 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. The remaining monies would be allocated to the DPR.

### IMPLEMENTATION CONSIDERATIONS

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

### **OTHER STATES' INFORMATION**

*Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* laws do not allow a taxpayer to purchase items on his or her tax return. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

*Maine* allows taxpayers to designate to purchase a parks pass on a separate schedule on their individual tax returns.

## FISCAL IMPACT

Staff estimates costs of approximately \$50,000 in fiscal year 2012/2013 for making changes to existing tax forms, instructions and information systems, and the development of a report for the DPR. The FTB would be reimbursed from the Fund for these costs.

## ECONOMIC IMPACT

### Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 1589 Creating a California State Park Protection Fund For Contributions Made On or After January 1, 2013 Enactment Assumed After June 30, 2012		
2012-13	2013-14	2014-15
-\$0	-\$20,000	-\$20,000

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

## SUPPORT/OPPOSITION<sup>2</sup>

Support: Born Free USA, California Hotel and Lodging Association, California League of Conservation Voters, California Outdoor Recreation Partners, California State Parks Foundation, California Travel Association, County of Mendocino, County of Santa Cruz, Board of Supervisor Member Neal Coonerty, Family Winemakers of California, Golden Gate Audubon Society, Green California, Humane Society of the United States, League of California Cities, Paw Pac, Sierra Club California, State Controller John Chiang, State Park Partners Coalition, and Trust for Public Land.

Opposition: None provided.

## ARGUMENTS

Proponents: Some proponents may say that this bill would provide additional funding for state parks during a time in which DPR has been required to close, partially close, or reduce services at selected parks to achieve required budget reductions.

Opponents: Some opponents may say that allowing for the purchase of a Parks Pass on the tax return will confuse taxpayers.

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<sup>2</sup> As provided in the Senate Governance and Finance Committee's analysis of the bill as amended May 25, 2012, at [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1551-1600/ab\\_1589\\_cfa\\_20120628\\_165018\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1551-1600/ab_1589_cfa_20120628_165018_sen_comm.html) [as of July 11, 2012].

## **POLICY CONCERNS**

Allowing an individual to purchase something from a state agency on the personal income tax return is unprecedented. This bill could establish a new standard for the inclusion of a variety of other non-tax related items on the tax return, thereby complicating tax administration for non-tax reasons.

## **LEGISLATIVE STAFF CONTACT**

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