Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Price	Analyst:	Brian Werking	Bill Number:	AB 1659
Related Bills:	See Legislative History	Telephone:	845-5103	Amended Date:	September 1, 2012
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Arts Council Fund / Postpone Minimum Contribution Requirement One Year

SUMMARY

For purposes of the Arts Council Fund (the Fund) designation, this bill would postpone the imposition of the minimum contribution requirement for one year.

RECOMMENDATION

No position.

Summary of Amendments

The September 1, 2012, amendments removed the provisions of the bill, related to the Public Employment Relations Board, and replaced them with provisions that would postpone the imposition of the minimum contribution requirement until the 2013 calendar year. This is the department's first analysis of the bill.

REASON FOR THE BILL

The reason for this bill is to ensure that taxpayers may continue to contribute to the Fund on their income tax returns, and provide much needed support for the arts in the state of California.

EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective and operative immediately upon enactment.

ANALYSIS

STATE LAW

Current state tax law allows individual taxpayers to make contributions of their own funds (not tax liability) on their tax returns to the Fund. The Fund first appeared on the 2010 tax return.

Beginning with the 2012 calendar year, the Fund is required to meet the minimum contribution requirement, which is $250,000 for the 2012 calendar year.

Board Position:			Executive Officer	Date
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The minimum contribution requirement is adjusted for inflation each year the Fund appears on the tax return, beginning with the 2013 calendar year.

By September 1 of each calendar year that the Fund appears on the tax return, the Franchise Tax Board (FTB) is required to estimate if the Fund's contributions for the calendar year will be less than the minimum contribution amount. The law authorizing designations for the Fund will be inoperative if the estimated contributions are less than the minimum contribution amount for that year.

The FTB has determined that the amount of contributions estimated to be received for the Fund during the 2012 calendar year will not satisfy the minimum contribution requirement for the calendar year and, as a result, the Fund is rendered inoperative for taxable years beginning on or after January 1, 2012.

PROGRAM BACKGROUND

The Fund received $164,298 in contributions for the 2011 calendar year. The Fund has received $148,511 in contributions for the period from January 1, 2012 through August 31, 2012. This is $6,962 less than the contributions received over the same period of time last year.

<u>THIS BILL</u>

This bill would exempt the Fund from the minimum contribution requirement for the 2012 calendar year. The minimum contribution requirement would instead, first be imposed for the 2013 calendar year. The minimum contribution requirement would be adjusted for inflation each year the Fund appears on the tax return, beginning with the 2014 calendar year.

This bill would also impose a December 1 statutory repeal date for the year in which the bill becomes inoperative.

<u>IMPLEMENTATION CONSIDERATIONS</u>

Implementing this bill would not significantly impact the department's programs or operations.

LEGISLATIVE HISTORY

California Firefighters' Memorial Fund

AB 1523 (Areias, Ch. 1223, Stats. 1993) established the California Firefighters' Memorial Fund, with a January 1, 1999, sunset date, and a $250,000 minimum contribution requirement for each calendar year, beginning with the 1994 calendar year.

AB 2976 (Solis Ch. 1244, Stats. 1994) postponed the imposition of the minimum contribution requirement for California Firefighters' Memorial Fund for one year, until the 1995 calendar year.

SB 209 (Solis, Ch. 206, Stats. 1995) conditioned the minimum contribution requirement for the California Firefighters' Memorial Fund on the repeal of the sunset date for the fund. If the sunset date for the fund is ever repealed, the fund would then be required to meet the minimum contribution amount in order to remain on the personal income tax return.

SB 532 (Solis, Ch. 596, Stats. 1997) extended the sunset date of the fund until January 1, 2001, and replaced the conditional minimum contribution amount that could be required for taxable years beginning in 1999, to $100,000 and for taxable years beginning in 2000 to $250,000.

SB 246 (Solis, Ch. 988, Stats. 1999), among other things, extended the sunset date of the fund until January 1, 2006.

AB 483 (Nunez, Ch. 161, Stats. 2005), among other things, extended the sunset date of the fund until January 1, 2011

AB 1812 (Arambula, Ch. 160, Stats. 2008), among other things, extended the sunset date of the fund until January 1, 2016.

California Seniors Special Fund

SB 2085 (Roberti, Ch. 1451, Stats. 1990) established the California Seniors Special Fund that allows individuals to contribute to the fund equal to the amount of the senior exemption credit. This fund does not have a sunset date or a minimum contribution requirement.

California Peace Officer Memorial Foundation Fund

SB 1230 (Burton, Ch. 215, Stats. 1999) established the California Peace Officer Memorial Foundation Fund, with a January 1, 2006, sunset date, and a $250,000 minimum contribution requirement for each calendar year, beginning with the 2000 calendar year.

SB 2175 (Burton, Ch. 854, Stats. 2000) conditioned the minimum contribution requirement for the California Peace Officer Memorial Foundation Fund on the repeal of the sunset date for the fund. If the sunset date for the fund is ever repealed, the fund would then be required to meet the minimum contribution amount in order to remain on the personal income tax return.

AB 483 (Nunez, Ch. 161, Stats. 2005), among other things, extended the sunset date of the fund until January 1, 2011.

AB 1812 (Arambula, Ch. 160, Stats. 2008), among other things, extended the sunset date of the fund until January 1, 2016.

OTHER STATES' INFORMATION

The states surveyed include: *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.

Illinois ceases to include a voluntary contribution designation on the voluntary contribution fund schedule if a fund fails to receive at least $100,000 in contributions by October 1, of each year.

Michigan ceases to include a voluntary contribution designation on the voluntary contribution fund schedule if a contribution fund fails to receive at least $50,000 in contributions in any tax year for two consecutive tax years.

Massachusetts, *Minnesota*, and *New York,* do not require that voluntary contribution designations receive a minimum contribution amount to continue to be included on the tax return or tax schedule.

FISCAL IMPACT

This bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update without cost to the department.

ECONOMIC IMPACT

<u>Revenue Estimate</u>

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 1659 For Contributions Made On or After January 1, 2013 Enactment Assumed After June 30, 2012		
2012-13	2013-14	2014-15
N/A	-$20,000	-$20,000

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

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some proponents would argue that keeping the Arts Council Fund on the tax return for the 2013 calendar year will provide significant financial support for the arts in communities throughout California.

Opponents: Some opponents would argue that the Arts Council Fund should be removed from the tax return if it fails to meet the minimum contribution requirement, to allow the opportunity for other charitable organizations to be placed on the tax return.

POLICY CONCERNS

This bill would exempt the Fund from the minimum contribution requirement for the 2012 calendar year and would impose the requirement in the 2013 calendar year. Generally, each VCF in its second year on the tax return must meet an initial minimum contribution requirement of $250,000.

Delaying the imposition of the minimum contribution requirement causes inequity between this fund and other recently-enacted funds, and creates a precedent that dilutes the efficacy of the minimum contribution requirement.

LEGISLATIVE STAFF CONTACT

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