

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Smyth/Galgiani, et al.	AB 0564

SUBJECT

Municipal Shelter Spay-Neuter Fund

SUMMARY

This bill would re-establish the Municipal Shelter Spay-Neuter Fund on the personal income tax return as a voluntary contribution fund designation.

PURPOSE OF BILL

According to the author's office, the purpose of this bill is to increase funding for voluntary spay and neuter efforts.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2012, and operative as of that date. The Fund could first re-appear on the 2011 personal income tax return filed on or after January 1, 2012.

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 15 voluntary contribution funds (VCFs) listed on the 2010 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With the following exceptions, VCFs remain on the return until they are either repealed or fail to meet their minimum contribution amount: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, each of the remaining VCF minimum contribution amounts is adjusted annually for inflation.

Anne Maitland, FTB Contact Person (916) 845-6333 (Office)	Executive Officer Selvi Stanislaus	Date 09/01/11
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The annual inflation adjustment is based on the percentage change in the California Consumer Price Index. The Franchise Tax Board (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 the 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 re-establish the Municipal Shelter Spay-Neuter Fund (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 VCF is removed or if there is space on the tax return. This designation could be added to the 2011 tax return filed on or after January 1, 2012.

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 each subsequent calendar year after the first taxable year the Fund appears on the tax return that contributions made to the Fund would meet or exceed the \$250,000 minimum contribution (as indexed for inflation). The law authorizing designations for this Fund will be repealed if contributions made under this bill are estimated to be less than the minimum contribution amount.

This bill would allow the voluntary contribution designation to remain on the tax return for up to five years unless a later enacted statute deletes or extends that date.

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.

Beginning with the third calendar year after the Fund appears on the personal income tax return, the FTB shall adjust the minimum contribution amount for the Fund by September 1 of that year. The minimum contribution amount adjusts 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 will 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 Municipal Shelter Spay-Neuter 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. The remaining monies would be transferred to the Department of Food and Agriculture for distribution of grants to municipal shelters for the purposes of providing low cost or free spay-neuter services.

This bill would allow taxpayers to take an itemized deduction on their state tax returns for the year in which the voluntary contribution is made.

LEGISLATIVE HISTORY

AB 233 (Hall, 2011/2012) would establish the California YMCA Youth and Government Fund as a voluntary contribution fund. This bill is in the Senate Governance and Finance Committee.

AB 764 (Swanson, 2011/2012) would establish the Child Victims of Human Trafficking Fund as a voluntary contribution fund. This bill has been ordered to engrossing and enrolling.

AB 971 (Monning, 2011/2012) would extend the repeal date of the Sea Otter Fund designation from January 1, 2011, to January 1, 2016. This bill was presented to the Governor on August 26, 2011.

AB 2291 (Mendoza, Stats. 2008, Ch. 328) originally established the same Municipal Shelter Spay-Neuter Fund as proposed by this bill, and was repealed January 1, 2010, by its own terms because the fund did not meet or exceed the minimum contribution amount for the 2009 taxable year.

SB 164 (Simitian, 2011/2012) would extend the repeal date of both the State Children's Trust Fund and the Fish and Game Preservation Fund to January 1, 2018. This bill has been ordered to engrossing and enrolling.

SB 583 (Vargas, 2011/2012) would re-establish the Amyotrophic Lateral Sclerosis/Lou Gehrig's Disease Research Fund as a voluntary contribution fund, originally established by SB 1502 (Steinberg, Stats. 2008, Ch. 354). This bill has been ordered to engrossing and enrolling.

SB 803 (Vargas, 2011/2012) would establish the California Youth Leadership Fund. This bill is currently in the Senate Appropriations Committee.

SBX1 3 (La Malfa, 2011/2012) would establish the Help Our State Fund as a voluntary contribution fund. This bill is currently in the Assembly.

PROGRAM BACKGROUND

The Municipal Shelter Spay-Neuter Fund first appeared on the 2008 income tax return and last appeared on the 2009 income tax return because the FTB estimated that the Fund would not meet the required \$250,000 minimum contribution amount for the 2010 calendar year. By operation of law, the provision creating the Fund was repealed effective January 1, 2010, and the Fund was not included on the 2010 income tax return.

The annual contribution amount for calendar year 2009 was \$ 210,029, when there was no minimum contribution amount. The annual contribution amount for calendar year 2010 was \$194,462, when the minimum contribution amount was \$250,000.

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.

Michigan allows taxpayers to designate personal funds on their personal income tax returns to the Animal Welfare Fund.

Illinois, Massachusetts, Minnesota, and New York allow for taxpayer contribution designations on the personal income tax return; however, none of these states provide a voluntary contribution comparable to the one discussed in this bill.

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

Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 564 For Contributions Made On or After January 1, 2012 Enactment Assumed After June 30, 2011		
2011-12	2012-13	2013-14
N/A	-\$20,000	-\$20,000

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

APPOINTMENTS

None.

SUPPORT/OPPOSITION²

Support: Concerned Dog Owners of California (Co-sponsor); Humane Society of the United States (Co-sponsor); Laborers' International Union of North America Locals 777 and 792; 7th Generation Advisors

Opposition: None provided.

VOTES

Concurrence	08/31/11	Y: 76 N: 2
Senate Floor	08/29/11	Y: 31 N: 4
Assembly Floor	05/31/11	Y: 74 N: 2

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² As provided in the Senate Floor Analysis of the bill as amended June 30, 2011, at < http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0551-0600/ab_564_cfa_20110817_111934_sen_floor.html > [as of August 25, 2011].