

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Swanson Analyst: Brian Werking Bill Number: AB 764
 Related Bills: See Legislative History Telephone: 845-5103 Introduced Date: February 17, 2011
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Victim-Witness Assistance Fund

SUMMARY

This bill would allow taxpayers to make voluntary contributions to the Victim-Witness Assistance Fund (fund) on their state personal income tax returns (returns).

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

PURPOSE OF THE BILL

It appears the purpose of this bill is to help fund grants to community-based organizations that provide comprehensive and quality services to victims of sexual assault.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2012, and operative as of that date. If another fund is removed, the fund could first appear on the 2011 return filed on or after January 1, 2012.

POSITION

Pending.

ANALYSIS

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 return.

Board Position:	Department Director	Date
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	Selvi Stanislaus	03/25/11

With the following exceptions, VCFs remain on the return until they are either repealed or fail to meet their minimum contribution amount: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.

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 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 establish the Victim-Witness Assistance 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. 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 the FTB to revise the 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 2011 tax return filed on or after January 1, 2012.

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.

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.

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 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 require the Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the Victim-Witness Assistance 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 community-based organizations that provide sexual assault services programs.

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

IMPLEMENTATION CONSIDERATION

This bill would allow the Legislature to allocate funds directly to nongovernmental entities. Typically, voluntary contribution funds are allocated to a state agency for purposes of overseeing the expenditure of the funds. Without an allocation to a state agency, the funds could be prevented from reaching community-based organizations that provide sexual assault services programs. The author may wish to add language that would allocate the funds to a state agency that would be responsible for administering the funds to the community-based organizations.

LEGISLATIVE HISTORY

AB 233 (Hall, 2011/2012) would establish the California YMCA Youth and Government Fund as a voluntary contribution fund. This bill is currently in the Assembly Appropriations committee.

AB 564 (Smyth, 2011/2012) would establish the Municipal Spay-Neuter Fund as a Voluntary Contribution Fund designation. This bill is scheduled for hearing in the Assembly Revenue and Taxation committee on April 4, 2011.

AB 971 (Monning, 2011/2012) would extend the repeal date of the Sea Otter Fund designation from Jan 1, 2011 to January 1, 2016. This bill is scheduled for hearing in the Assembly Revenue and Taxation committee on April 4, 2011.

AB 190 (Negrete Mcleod, Stats. 2005, Ch. 160) established the California Sexual Violence Victim Services Fund. Similar to this bill, the California Sexual Violence Victim Services Fund was used to provide financial support for victim services and community education. Unlike this bill, the California Sexual Violence Victim Services Fund only provided support for California Coalition Against Sexual Assault rape crisis center programs. This act was repealed by its own terms on January 1, 2007.

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 is scheduled for hearing in the Senate Governance and Finance committee on March 23, 2011.

SB 583 (Vargas, 2011/2012) would re-establish the Amyotrophic Lateral Sclerosis (ALS)/Lou Gehrig's Disease Research as a voluntary contribution fund. This bill is scheduled for hearing in the Senate and Governance committee on April 27, 2011.

PROGRAM BACKGROUND

Fifteen voluntary contribution funds appear on the 2010 return. Total contributions to these funds have varied from approximately \$3.2 million in 1990/1991 to approximately \$5 million in 2009/2010.

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 allows taxpayers to designate personal funds to the Child Abuse Prevention Fund.

Massachusetts allows for taxpayer contribution designations on the personal income tax return; however, it does not provide a voluntary contribution comparable to the one discussed in this bill.

Michigan allows taxpayers to designate personal funds to the Children's Trust Fund.

Minnesota allows for taxpayer contribution designations on the personal income tax return; however, it does not provide a voluntary contribution comparable to the one discussed in this bill.

New York allows taxpayers to designate personal funds to the Missing and Exploited children Clearinghouse Fund.

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 764 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.

SUPPORT/OPPOSITION

Support: None provided by author

Opposition: None provided by author

ARGUMENTS

Pro: For many community-based organizations, funding has become a major concern. Many centers have had to develop contingency plans that vary from decreasing agency hours, having multiple waves of staff layoffs to the worst case scenario of closing their doors due to the lack of funding to provide services to victims of sexual assault. This bill would help fund grants to community-based organizations that provide comprehensive and quality services to victims of sexual assault.

Con: There are currently 14 other voluntary contribution funds that appear on the personal income tax return. Some taxpayers may argue that the consistent addition of new funds on the tax return makes the return a cumbersome document and changes the primary purpose of the tax return from reporting taxes to making charitable contributions. Taxpayers who are inclined to contribute to this cause can do so through other voluntary methods.

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