

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Swanson	AB 0764

SUBJECT

Child Victims Of Human Trafficking Fund

SUMMARY

This bill would allow taxpayers to make voluntary contributions to the Child Victims of Human Trafficking Fund (Fund) on their state personal income tax returns (returns).

PURPOSE OF BILL

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

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2012, and operative as of that date. The Fund could first 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 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With the following exceptions, VCFs remain on the return until they are either repealed or fail to meet their minimum contribution amount: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 09/02/11
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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 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 Child Victims of Human Trafficking 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 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 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.

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 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 Child Victims of Human Trafficking 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 California Emergency Management Agency to administer the proceeds granted to community-based organizations that meet specified standards and agree to use the funds to provide services to minors, who are victims of human trafficking.

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.

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 564 (Smyth, 2011/2012) would re-establish the Municipal Shelter Spay-Neuter Fund as a voluntary contribution fund, originally established by AB 2291 (Mendoza, Stats. 2008, Ch. 328). 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.

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

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 and *Minnesota* allow for taxpayer contribution designations on their personal income tax returns; however, they do 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.

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.

APPOINTMENTS

None.

SUPPORT/OPPOSITION²

Support: County of Alameda (co-source); District Attorney of Alameda County (co-source); Alameda County Board of Supervisors; American Federation of State, County, and Municipal Employees; AFL-CIO; Berkeley City Council, California Catholic Conference;

Opposition: None provided.

VOTES

Concurrence	08/31/11	Y: 79 N: 0
Senate Floor	08/29/11	Y: 37 N: 1
Assembly Floor	06/01/11	Y: 74 N: 2

LEGISLATIVE STAFF CONTACT

Contact	Work
Anna Caballero, Agency Secretary, SCSA	916-653-3358
Christine J. Lally, Deputy Secretary, Legislative Affairs, SCSA	916-653-2656
Selvi Stanislaus, Department Director	916-845-4543
Patrice Gau-Johnson, Asst. Legislative Director	916-845-5521

² As provided in the Senate Floor Analysis of the bill as amended July, 5, 2011, at <http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0751-0800/ab_764_cfa_20110817_112442_sen_floor.html> [as of August 25, 2011].