

## ANALYSIS OF AMENDED BILL

### Franchise Tax Board

Author: La Malfa, et al. Analyst: Brian Werking Bill Number: SBX1 3  
Related Bills: See Legislative History Telephone: 845-5103 Amended Date: June 21, 2011  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** "Help Our State: Voluntary Contribution To The State Budget" Act/Allow Taxpayers To Voluntarily Pay Additional Taxes To Fund State Government

### SUMMARY

This bill would allow taxpayers to make voluntary contributions to the state's General Fund on their state personal income tax returns.

### RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

### Summary of Amendments

The June 21, 2011, amendments added language that would establish the "Help Our State Fund" as a voluntary contribution designation to the General Fund on the personal income tax return.

### PURPOSE OF THE BILL

It appears the purpose of this bill is to allow taxpayers to voluntarily contribute to the state's General Fund in order to reduce the budget deficit.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective 91 days after adjournment of the first 2011 Extraordinary Session. The provisions of this bill would be specifically operative for taxable years beginning on or after January 1, 2011.<sup>1</sup>

### 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.

<sup>1</sup> The first 2011 Extraordinary Session was convened December 6, 2010, and has not been adjourned.

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA        X   NP  
\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
\_\_\_\_\_ N      \_\_\_\_\_ OUA

Executive Officer

Date

Selvi Stanislaus

06/28/11

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With the following exceptions, VCFs remain on the return until they are either repealed or fail to meet their minimum contribution amount: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

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 designations<sup>2</sup> 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.

Current state and federal tax laws allow taxpayers to take an itemized deduction for a contribution to the state of California as a charitable contribution on their state and federal personal income tax returns for the year in which the contribution to California is made, subject to certain limitations.

### THIS BILL

This bill would allow taxpayers to designate their own funds (not tax liability) for contribution to General 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 "Help Our State" voluntary contribution designation for tax returns filed for taxable years beginning on or after January 1, 2011.

This bill would require the voluntary contribution designation to remain on the tax return for five years.

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<sup>2</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.

This bill would specify that if payments and credits reported on the return fail to exceed the taxpayer's liability, then the taxpayer's return shall be treated as if no designation has been made. If a taxpayer designates contributions 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 would be allocated among the designees on a pro rata basis.

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.

### IMPLEMENTATION CONSIDERATIONS

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

### TECHNICAL CONSIDERATIONS

On page 4, line 3, insert "beginning" after "years" and before "on".

On page 4, line 5, replace "all" with "allow".

### **LEGISLATIVE HISTORY**

AB 233 (Hall, 2011/2012) would establish the California YMCA Youth and Government Fund as a voluntary contribution fund. This bill is scheduled for hearing in the Senate Governance and Finance Committee on June 29, 2011.

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 Senate Governance and Finance Committee on June 29, 2011.

AB 764 (Swanson, 2011/2012) would establish the Victim-Witness Assistance Fund as a voluntary contribution fund. This bill is scheduled for hearing in the Senate Governance and Finance Committee on June 29, 2011.

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 is scheduled for hearing in the Senate Governance and Finance Committee on June 29, 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 is scheduled for hearing in the Assembly Revenue and Taxation Committee on June 27, 2011.

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 is in the Assembly Revenue and Taxation Committee, but has not yet been scheduled for hearing.

SB 803 (DeSaulnier, 2011/2012) would have established the California Youth Leadership Fund as a voluntary contribution fund. This bill failed passage out of the Senate Appropriations Committee.

SB 1288 (McClintock, et al., 2001/2002) would have allowed taxpayers to voluntarily pay additional taxes in excess of the taxes owed for the taxable year. This bill failed passage out of the, then named, Senate Committee on Revenue and Taxation.

## **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 laws of *Arizona, Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* were reviewed because their tax laws are similar to California's income tax laws.

*Arizona*, starting for the 2010 taxable year, allows personal income taxpayers to voluntarily contribute to the state's general fund by designating a voluntary contribution to the "I Didn't Pay Enough Fund" on their tax return. The voluntary tax contributions for the months of January, February, and March totaled \$11,435<sup>3</sup>.

*Massachusetts* allows personal income taxpayers to voluntarily assess themselves at a higher 5.85 percent tax rate instead of 5.3 percent on their tax return. For the 2009 taxable year \$69,000 was collected from voluntary tax contributions<sup>4</sup>

*Minnesota* taxpayers are unable to pay an additional tax on their tax returns, but the commissioner of finance is allowed to accept any gift, bequest, devise, or endowment for the benefit of the state.

Review of *Florida, Illinois, Michigan, and New York* income tax laws found no specified voluntary opportunities for taxpayers to contribute to state budgets.

## **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.

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<sup>3</sup> Arizona Department of Revenue, *March 2011 Tax Facts* (May 19, 2011) <<http://www.azdor.gov/Portals/0/TaxFacts/0311Taxfact.pdf>> [as of June 23, 2011].

<sup>4</sup> Moore, *Why the Tax-Me-More Lobby Doesn't Pay More in Taxes*, Wall Street Journal (May 7, 2011).

## **ECONOMIC IMPACT**

### Revenue Estimate

Estimated Revenue Impact of SBX1 3 For Taxable Years Beginning On or After January 1, 2011 Enactment Assumed After June 30, 2011		
2011-12	2012-13	2013-14
+\$5,000	+\$6,000	+\$6,000

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

### **SUPPORT/OPPOSITION<sup>5</sup>**

Support: None provided.

Opposition: none provided.

### **ARGUMENTS**

Pro: It could be argued that this bill would provide much needed additional revenue to the state government.

Con: It could be argued that this bill would provide little or no additional revenue to the state government.

### **LEGISLATIVE STAFF CONTACT**

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<sup>5</sup> As provided in the Senate Governance and Finance's analysis of the bill as introduced April 12, 2011, available at: [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0001-0050/sbx1\\_3\\_cfa\\_20110609\\_152007\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0001-0050/sbx1_3_cfa_20110609_152007_sen_comm.html).