

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Jones-Sawyer, et al.	AB 1765

SUBJECT

Habitat For Humanity Fund

SUMMARY

This bill would allow a taxpayer to make a voluntary contribution to the Habitat for Humanity Fund on the state personal income tax return.

REASON FOR THE BILL

The reason for this bill is to provide additional funding to Habitat for Humanity in support of building affordable housing in California.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative on January 1, 2015. If another fund is removed, the Habitat for Humanity Fund could first appear on the 2014 return filed on or after January 1, 2015.

FEDERAL/STATE LAW

Current federal tax law provides a true check-off to direct \$3 of a taxpayer's tax liability to the Presidential Election 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 monies (not tax liability) on their tax returns to any of the 20 voluntary contribution funds listed on the 2013 state personal income tax return (return). Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the Controller's actual costs to administer the fund.

Taxpayers contributing to the funds are specifically allowed to deduct those contributions on their state income tax return for the year in which the contribution is made. These contributions may satisfy the requirements under federal law for a charitable contribution deduction.

With the following exceptions, funds remain on the return until they are either repealed or fail to meet their minimum contribution amount:

- The California Seniors Special Fund has no sunset date.
- The California Seniors Special Fund, the California Firefighters Memorial Fund, and the California Peace Officer Memorial Foundation Fund have no annual minimum contribution amount.

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Additionally, with the exception of the three funds listed above, each fund's minimum contribution amount is adjusted annually for inflation based on the percentage change in the California Consumer Price Index. The California Breast Cancer Research Fund's annual adjustment is suspended for calendar years 2014 and 2015.¹

The FTB is required to make the following two determinations for each fund by September 1 of each calendar year:

1. The minimum contribution amount required for the fund to remain on the return for the following calendar year, and
2. Whether estimated contributions to the fund will be less than the minimum contribution amount for that calendar year.

If the FTB estimates that contributions to a fund will fail to meet or exceed the minimum contribution amount for a calendar year, that fund is repealed effective January 1 of that calendar year.

Current state law provides that if the number of contingent voluntary contribution designations² 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. If the FTB determines that space is available on the return to accommodate additional voluntary contribution designations, the FTB may add one or more voluntary contribution designations to the return, regardless of the number of designations removed.

THIS BILL

This bill would establish a voluntary contribution designation for the Habitat for Humanity Fund and would allow taxpayers to designate their own monies (not tax liability) for contribution to this fund on their returns in full dollar amounts of \$1 or more. Each signatory on a joint return may make 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 Habitat for Humanity Fund beginning with the first taxable year that another voluntary contribution fund is removed or space is available, whichever occurs first. If this bill is enacted, this fund could be added to the 2014 tax return filed on or after January 1, 2015.

For the second taxable year that the Habitat for Humanity 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 any calendar year after the first taxable year whether the contributions made under this bill would be less than \$250,000 (as indexed for inflation).

¹ AB 1286 (Skinner, Chaptered 664, Statutes of 2013).

² 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 by September 1, of that year. The law authorizing designations would be inoperative on or after January 1 of that calendar year and repealed on December 1 of that calendar year if the estimated contributions are less than the minimum contribution amount.

This bill would allow the Habitat for Humanity Fund voluntary contribution designation to remain on the return for five years, or January 2021, whichever occurs first, and would be repealed as of December 1 of that year.

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 would be treated as if no designation had 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 by taxpayers for the Habitat for Humanity Fund from the Personal Income Tax Fund. Upon appropriation by the Legislature, monies would be transferred from the Habitat for Humanity Fund to the State Controller's Office, the FTB, and the Department of Housing and Community Development for reimbursement of the associated administrative costs. The remaining monies would be transferred to the Department of Housing and Community Development that would oversee a grant program for Habitat for Humanity affiliates.

OTHER STATES' INFORMATION

The states surveyed include *Florida, 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.

Florida does not have a personal income tax but allows contribution designations on the state's motor vehicle registration and renewal forms.

Illinois, Massachusetts, Michigan, 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 not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 1765 Assumed Enactment After June 30, 2014		
2014-15	2015-16	2016-17
\$0	- \$10,000	- \$10,000

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

Revenue Discussion

For purposes of this estimate, it is assumed that the \$250,000 minimum contribution will be received each year. Additionally, it is estimated that two-thirds of the taxpayers that contribute to the fund will itemize. Using an average tax rate of six percent, it is estimated that this bill would result in a revenue loss of approximately \$10,000 annually ($\$250,000 \times .667 \times 6\%$).

Contributions would be made on the 2014 tax return filed in 2015. Subsequently, the deduction for those contributions would be claimed on the 2015 tax return filed in 2016. As a result, the revenue impact would not occur until fiscal year 2015-16.

APPOINTMENTS

None.

SUPPORT/OPPOSITION³

Support: Habitat for Humanity California (source); Jerome E. Horton, Chair, Board of Equalization; Habitat for Humanity East Bay/Silicon Valley; Habitat for Humanity Fresno County; Habitat for Humanity of Coachella Valley; Habitat for Humanity of Orange County; Habitat for Humanity of Southern Santa Barbara County; Habitat for Humanity of Tulare County; Habitat for Humanity of Tulare County; Habitat for Humanity Riverside; Habitat for Humanity Santa Cruz County; Pomona Valley Habitat for Humanity; San Gabriel Valley Habitat for Humanity.

Opposition: None on file.

³ As noted in the Senate Floor analysis dated August 17, 2014.

VOTES

	Date	Yes	No
Concurrence	08/21/14	76	0
Assembly Floor	04/24/14	74	0
Senate Floor	08/19/14	33	0

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