

## BILL ANALYSIS

|                                  |        |               |
|----------------------------------|--------|---------------|
| Department, Board, Or Commission | Author | Bill Number   |
| <b>Franchise Tax Board</b>       | Pan    | <b>AB 511</b> |

### SUBJECT

American Red Cross, California Chapters Fund

### SUMMARY

Under the Revenue and Taxation Code, this bill would establish the American Red Cross, California Chapters voluntary contribution Fund (Fund) and allow a taxpayer to make a voluntary contribution to the Fund on the state personal income tax return.

### REASON FOR THE BILL

The reason for this bill is to encourage contributions toward the Fund to support lifesaving services and programs throughout California.

### EFFECTIVE/OPERATIVE DATE

This bill would become effective and operative January 1, 2014. If another fund is removed or if space is available, the fund could first appear on the 2013 personal income tax return filed on or after January 1, 2014.

### ANALYSIS

#### FEDERAL/STATE LAW

Current federal tax law provides a 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 funds (not tax liability) on their tax returns to any of the 18 voluntary contribution funds (VCFs) listed on the 2012 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With the following exceptions, VCFs remain on the return until they are either repealed or fail to meet their minimum contribution amount: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, the California Peace Officer Memorial Foundation Fund, the California YMCA Youth and Government Fund, the California Youth Leadership Fund, the State Parks Protection Fund, and the School Supplies for Homeless Children 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.

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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 designations<sup>1</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. If the FTB determines that space is available on the personal income tax 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.

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

### THIS BILL

This bill would establish the 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 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 VCF is removed or as soon as space is available. This designation could be added to the 2013 return filed on or after January 1, 2014.

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 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 would be less than the minimum contribution amount.

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<sup>1</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 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 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 Fund. Upon appropriation by the Legislature, monies would be transferred from the 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 Office of Emergency Services to oversee the allocation of monies to the American Red Cross, California Chapters for planning and implementing programs for disaster relief in California.

All undisbursed Fund contributions appropriated to the Office of Emergency Services may be carried over from the year of contribution.

## **LEGISLATIVE HISTORY**

AB 247 (Wagner, 2013/2014) would extend the repeal date of the California Fund for Senior Citizens until December 1, 2020. AB 247 is currently in the Senate.

AB 394 (Yamada and Grove, 2013/2014) would extend the repeal date of the California Alzheimer's Disease and Related Disorders Research Fund from January 1, 2015, to December 1, 2020. AB 394 was enrolled on August 26, 2013.

AB 754 (Muratsuchi, 2013/2014) would allow taxpayers to make voluntary contributions to the Protect Our Coast and Oceans Fund on their state personal income tax returns. AB 754 was enrolled on August 26, 2013.

AB 1286 (Skinner, 2013/2014) would temporarily suspend the annual adjustment of the minimum contribution amount requirement for the California Breast Cancer Research Fund. AB 1286 was enrolled on August 19, 2013.

SB 116 (Liu, 2013/2014) would eliminate the minimum contribution requirement and the repeal date for the voluntary contribution Emergency Food for Families Fund. SB 116 was enrolled on August 22, 2013.

SB 571 (Liu, 2013/2014) would allow taxpayers to make voluntary contributions to the Keep Arts in Schools Fund on their state personal income tax returns. SB 571 is currently in the Assembly.

**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 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 511<br>Enactment Assumed After June 30, 2013 |            |            |
|---|------------|------------|
| 2013-14   | 2014-15    | 2015-16    |
| \$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.

**APPOINTMENTS**

None.

**SUPPORT/OPPOSITION<sup>2</sup>**

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<sup>2</sup> As noted in the Senate Floor AB 511 bill analysis dated August 14, 2013.

Support: California Association of Nonprofits, California Chapters of the American Red Cross (sponsor), and California Fire Chiefs Association.

Opposition: Department of Finance.

**VOTES**

|                |          |       |      |
|----------------|----------|-------|------|
| Concurrence    | 08/30/13 | Y: 78 | N: 0 |
| Assembly Floor | 04/25/13 | Y: 76 | N: 0 |
| Senate Floor   | 08/26/13 | Y: 39 | N: 0 |

**LEGISLATIVE STAFF CONTACT**

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