

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Muratsuchi	AB 754

SUBJECT

Protect Our Coast and Oceans Fund/Voluntary Contribution Fund

SUMMARY

Under the Revenue and Taxation Code, this bill would establish the Protect Our Coast and Oceans Fund designation on the personal income tax return and allow a taxpayer to make a voluntary contribution.

REASON FOR THE BILL

The reason for this bill is to generate additional funding for grants and programs that preserve, protect, or enhance coastal resources and promote coastal and marine educational activities for underserved communities via voluntary contributions.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2014, and operative as of that date. If another fund is removed or if space is available, the fund could first appear on the 2013 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 monies (not tax liability) on their tax returns to any of the 18 voluntary contribution funds (funds) listed on the 2012 state personal income tax return (return).

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

Gail Hall, FTB Contact Person (916) 845-6333 (Office)	Executive Officer Selvi Stanislaus	Date 8/28/13
--	---------------------------------------	-----------------

With the following exceptions, funds remain on the return until they are either repealed or fail to meet their minimum contribution amount.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 is not subject to a repeal date.
- Seven¹ of the 18 funds listed on the return are not subject to the initial minimum contribution amount of \$250,000; including the California Firefighters Memorial Fund, the California Peace Officer Memorial Foundation Fund, and the California Seniors Special Fund that are not subject to the minimum contribution requirement.
- The California Fund for Senior Citizens is not subject to adjust 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 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 for taxable years beginning on or after 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.

Under current law the FTB may design tax returns to provide for the designation of contributions to specified funds on a separate schedule which shall be attached to the return.

¹ The California Firefighters Memorial Fund, the California Peace Officer Memorial Foundation Fund, the California Seniors Special 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.

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.

THIS BILL

This bill would allow taxpayers to designate their own monies (not tax liability) under the designation name Protect Our Coast and Oceans Fund (Fund) for contribution to the California Beach and Coastal Enhancement Account, as established under the Vehicle Code, 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 fund 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 any calendar year after the first taxable year the Fund appears on tax returns that contributions made under this bill would be less than \$250,000 (as indexed for inflation). 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 law authorizing designations for this Fund would be inoperative on or after January 1 of that calendar year and repealed on December 1 of that calendar year if the Fund's estimated contributions would be less than the minimum contribution amount.

This bill would allow the voluntary contribution designation to remain on the return for five years unless a later enacted statute deletes or extends that date.

This bill would require the FTB to notify the State Controller of the amount of money to be transferred to the Fund.

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 the Fund by taxpayers from the Personal Income Tax Fund to the California Beach and Coastal Enhancement Account. Upon appropriation by the Legislature, monies would be transferred from this account to the State Controller's Office and the FTB for reimbursement of the costs associated with administering this Fund. The remaining monies would be transferred to support eligible programs awarded under the selection criteria established by the California Coastal Commission for the Whale Tail Grants Program, and its direct, program-related expenses.

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 511 (Pan, 2013/2014) would allow taxpayers to make voluntary contributions to the American Red Cross Fund on their state returns. AB 511 is currently in the Assembly for concurrence.

AB 1286 (Skinner, 2013/2014) would 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 extend the repeal date of the Emergency Food for Families Fund from January 1, 2014, to January 1, 2019. SB 116 was enrolled on August 22, 2013.

SB 571 (Price, 2013/2014) would allow taxpayers to make voluntary contributions to the Arts for Kids Fund on their state returns. SB 571 is currently in the Assembly.

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, Massachusetts, Michigan, Minnesota, and New York allow taxpayer contribution designations on the 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

Estimated Revenue Impact of AB 754 Enactment Assumed After June 30, 2013		
2013-14	2014-15	2015-16
\$0	- \$10,000	- \$10,000

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

APPOINTMENTS

None.

SUPPORT/OPPOSITION³

Support: Boys & Girls Clubs of Greater Oxnard and Port Hueneme, Conservation Corps, Monterey Bay Aquarium.

Opposition: Department of Finance.

VOTES

Assembly Floor 05/23/13 Y: 70 N: 2
 Senate Floor 08/26/13 Y: 33 N: 3

LEGISLATIVE STAFF CONTACT

Contact	Work
Marybel Batjer, Agency Secretary, CalGovOps	916-651-9011
Reginald Fair, Agency Legislative Director	916-653-2656
Selvi Stanislaus, Department Director	916-845-4543
Gail Hall, Legislative Director	916-845-6333

³ As noted in the Senate Floor analysis of Assembly Bill 754 dated August 14, 2013.