

SUMMARY ANALYSIS OF AMENDED BILL

Author: Wolk and Liu Analyst: Michelle Chan Bill Number: SB 1207
 Related Bills: See Prior Analysis Telephone: 845-6805 Amended Date: April 2, 2014
 Attorney: Bruce Langston Sponsor: _____

SUBJECT: Voluntary Contribution Designation Revision

SUMMARY

Under the Revenue and Taxation Code, this bill would modify the current voluntary contribution designation process by establishing the California Voluntary Contributions Program and authorizing the Office of the California Volunteers to administer the program.

This analysis only addresses the provisions of the bill that impact the department’s programs and operations.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The April 2, 2014, amendments added a co-author, removed several operative dates, added a repeal date, modified several definitions and made other substantive changes. In addition, the amendments resolved some, but not all, of the department’s implementation and technical considerations discussed in the department’s analysis of the bill as introduced on February 20, 2014. Additional technical considerations were identified.

As a result of the amendments, the “Effective/Operative Date,” “This Bill,” “Implementation Considerations,” and the “Technical Considerations” sections have been revised. The remainder of the department’s analysis of this bill as introduced on February 20, 2014 still applies. The “Fiscal Impact,” “Economic Impact,” and the “Policy Concerns” sections have been restated for convenience.

Summary of Suggested Amendments

Amendments have been suggested under the “Technical Consideration” discussion to correct referencing and typographical errors.

Board Position:	Legislative Director	Date
_____ S _____ NA <u> X </u> NP _____ SA _____ O _____ NAR _____ N _____ OUA	Gail Hall	04/07/14

EFFECTIVE/OPERATIVE DATE

The bill would be effective January 1, 2015. The provisions of this bill that establish the California Voluntary Contributions Program and the Office of California Volunteers would be operative on January 1, 2016. The provisions of this bill that impact the Franchise Tax Board's (FTB) operations would be operative January 1, 2017. The provisions establishing a California Voluntary Contribution Fund and establishing transfer of donations and reimbursement of the FTB's administrative costs would be operative January 1, 2017. An additional provision that would limit the FTB's reimbursement for administration of this bill to not more than five percent would be operative as of January 1, 2020.

ANALYSIS

THIS BILL

This bill would modify the existing voluntary contribution designation process by establishing the California Voluntary Contributions Program and authorizing the Office of California Volunteers to administer the program.

The Office of California Volunteers would be required to establish an application process for qualified applicants to receive contributions through the tax return. Specifically, the bill defines a "charitable organization" as an organization exempt from income tax as an organization described in Revenue and Taxation Code section 23701d and defines a "qualified applicant" as a charitable organization or a state or local agency that meets the following requirements:

- Was incorporated in California or qualified as a foreign corporation at least five years prior to the date of application.
- Has registered in this state with the Attorney General's Registry of Charitable Trusts for each of three years prior to the date of application and has met each of the requirements that apply to the applicant, under statute and as established by the Attorney General for the Registry of Charitable Trusts.
- Has submitted annual returns or statements with the FTB, pursuant to Revenue and Taxation Code section 23771, 23772, or 23774 for each of the three years prior to the date of application.
- Has average annual total revenues in excess of the minimum contribution level described in Section 18705¹ added by this bill, as calculated from each of the three years prior to the date of application, not including those contributions made by a designation in excess of the tax liability on an individual's tax return.

The FTB would be required to revise the tax return to include a space labeled "California Voluntary Contributions Program" for taxpayers to designate contributions to qualified applicants. The FTB would further be required to revise other related materials, including, but not limited to online materials, separate schedules, booklets or instructions in a manner necessary to inform individuals about the qualified applicants and how to make a designation on the personal income tax return.

¹ The minimum contribution amount for each approved qualified applicant is \$100,000.

Taxpayers would be allowed to designate their own funds (not tax liability) for contribution to a qualified applicant on their 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. An itemized deduction would be allowed for any contribution made to a qualified applicant.

The bill specifies 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 has been made. If no designee is specified or the specified designee is not a qualified applicant, a designated contribution amount would be transferred to the California Volunteers to further the purposes of this program. If a taxpayer designates a contribution to a qualified applicant whose eligibility for receiving voluntary contributions has been revoked, but was eligible to receive a voluntary contribution for the taxable year in which the designation was made, the contribution would be distributed to the qualified applicant.

If a taxpayer designates a contribution to more than one qualified applicant and the amount available for designation is not sufficient to satisfy the total amount designated, the contribution amount would be allocated among the designees on a pro rata basis.

This bill would also establish the California Voluntary Contribution Fund within the State Treasury to receive all contributions made by taxpayers to the California Voluntary Contributions Program.

The FTB would be required to notify the Controller of both the amount of money paid by individuals in excess of their tax liability and the amount of refund money which individuals have designated to be transferred to the California Voluntary Contribution Fund. The Controller would transfer from the Personal Income Tax Fund to the California Voluntary Contribution Fund an amount not in excess of the sum of the amounts designated by individuals.

Upon appropriation by the Legislature, all money transferred to the California Voluntary Contributions Program would be allocated to the FTB and the Controller for reimbursement of administrative costs and the balance to the Office of the California Volunteers for distribution to each qualified applicant designated by a taxpayer. On or after January 1, 2020, no more than five percent of money from the fund, exclusive of fee revenues, could be used for administrative purposes.

This bill expresses intent to retain all existing funds currently on the personal income tax return until their repeal dates, and in legislation to be enacted at a later date, transition the remaining funds to the California Voluntary Contributions Program by 2020. In addition, it is the intent of the Legislature that the California Fund for Senior Citizens, California Firefighters' Memorial Fund, and the California Peace Officers' Memorial Foundation Fund extend their repeal dates in legislation to be enacted at a later date.

This program would be repealed by its own terms as of January 1, 2030, unless a later enacted statute, that is enacted before January 1, 2030, deletes or extends that date.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

This bill contains conflicting subdivisions. Section 18707(d), would require the FTB to revise the tax form to include a space labeled "California Voluntary Contributions Program," while section 18710(d) would require the FTB to revise the tax form to allow an individual to designate a contribution to any one of the qualified applicants. The bill should be amended to eliminate the internal inconsistency in accordance with the author's intent.

In the case where the bill would require the FTB to revise the form to add one designation space labeled "California Voluntary Contributions Program," the bill further states that if a taxpayer designates a contribution to more than one qualified applicant and the amount available for designation is not sufficient to satisfy the total amount designated, the contribution amount would be allocated among the designees on a pro rata basis. It is unclear how the taxpayer could designate to more than one qualified applicant or how the pro-ration among all designees would occur.

This bill states that if the Office of California Volunteers determines that a qualified applicant has failed to meet the minimum requirements to remain a qualified applicant, eligibility to receive designations through the tax return would be immediately revoked. The bill fails to require any notification of a revocation of status to the FTB. Further, the FTB would be unable to make continuous revisions to the qualified applicant list in instructions and other printed materials to accommodate this provision.

This bill states that the number of participating qualified applicants could be limited by capacity and appropriation. However, it is unclear what this limitation means. Depending upon the number of qualified applicants, this bill could significantly increase the size of the tax booklet and would cause the department to incur significant costs for programming, printing, handling, and processing.

The California Volunteers is a state office that manages programs and initiatives aimed at increasing the number of Californians engaged in service and volunteering. It is unclear whether current law grants adequate authority to the Office of California Volunteers to administer the provisions of this bill or such authority would be granted by this bill. Further, it is unclear what authority the FTB would have to share taxpayer designations and contribution amounts with the Office. Absent specific authority to do so, the department would be prohibited from disclosing taxpayer information.

TECHNICAL CONSIDERATIONS

On page 4, line 5, the reference “23773”, should be corrected to read “23774”.

On page 4, line 11, strikeout “individuals” and insert “individual’s”.

On page 6, line 28, strikeout “from ---- contributions”.

On page 7, line 15, strikeout “designer” and insert “designee”.

On page 8, line 18, strikeout “form”.

FISCAL IMPACT

Until the implementation concerns are resolved, the department is unable to determine the costs to administer this bill, but anticipate the costs to be significant.

ECONOMIC IMPACT

Revenue Estimate

This bill does not specify the additional number of charitable organizations that would be added to the return, but research has shown there could be over 100,000 active 23701d organizations.

Staff estimates a revenue loss of \$60,000 for every \$1 million of increased charitable contributions.

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

POLICY CONCERNS

Because the California Fund for Senior Citizens, California Firefighters’ Memorial Fund, and the California Peace Officers’ Memorial Foundation Fund would remain on the tax return, it is possible that these funds may get the majority of the contributions. It may appear that there is unequal treatment of the individual funds or qualified organizations.

Taxpayers that file electronically and currently make voluntary contribution designations could consider reviewing a schedule, website or booklet of qualified applicants too burdensome and may discontinue making contributions via the tax return.

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