

SUMMARY ANALYSIS OF AMENDED BILL

Author: Wolk, et al. Analyst: Michelle Chan Bill Number: SB 1207
 Related Bills: See Prior Analysis Telephone: 845-6805 Amended Date: April 28, 2014
 Attorney: Bruce Langston Sponsor: _____

SUBJECT: Voluntary Contribution Designation Revision

SUMMARY

Under the Revenue and Taxation Code (R&TC), 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 28, 2014, amendments added a co-author, modified the definition of “qualified applicant” and made several non-substantive technical changes. The April 28, 2014, amendments resolved all of the technical considerations and one of the implementation concerns discussed in the department’s analysis of the bill as amended on April 2, 2014, and an additional implementation concern was identified.

As a result of the amendments, the “This Bill,” and the “Implementation Considerations” sections have been revised. The remainder of the department’s analysis of this bill as introduced on February 20, 2014, and amended on April 2, 2014, still applies. The “Fiscal Impact,” “Economic Impact,” and the “Policy Concerns” sections have been restated for convenience.

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.

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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 R&TC section 23701d and defines a “qualified applicant” as a state agency or local agency, or a charitable organization that meets the following requirements:

- 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 Franchise Tax Board (FTB), pursuant to R&TC 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, 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 allow for the designation of 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.

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.

The Office of California Volunteers would be required to determine if a qualified applicant is no longer eligible to receive voluntary contributions through the tax return, revoke the eligibility of the qualified applicant from the program, and notify the FTB of the revocation.

¹ R&TC 18705 as added by the bill would specify the minimum contribution amount for each approved qualified applicant is \$100,000.

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 repeal dates for the California Fund for Senior Citizens, California Firefighters' Memorial Fund, and the California Peace Officers' Memorial Foundation Fund would be by 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 allow for the designation of contributions to qualified applicants, 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 allow for a designation of contributions to qualified applicants, 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.

When a qualified applicant is no longer eligible to receive voluntary contributions through the tax return, the Office of California Volunteers would revoke the eligibility of the qualified applicant from the program and notify the FTB of the revocation. However, the bill fails to specify a timeframe for this notification of revocation status to the FTB. Additionally, it is unclear whether and how often the FTB would be required to revise the list of qualified applicants. The bill should be amended to provide greater clarity.

This bill states that the number of participating qualified applicants could be limited or regulated based on legislative appropriations and workforce capacity. 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 Office of 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 of California Volunteers. Absent specific authority to do so, the department would be prohibited from disclosing taxpayer information.

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 fails to specify the additional number of charitable organizations that would be added to the return, but research has shown there could be more than 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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