

# SUMMARY ANALYSIS OF AMENDED BILL

Author: Wolk, et al. Analyst: Narinder Dosanjh Bill Number: SB 1207  
 Related Bills: See Prior Analysis Telephone: 845-5275 Amended Date: May 27, 2014  
 Attorney: Bruce Langston Sponsor \_\_\_\_\_

<b>SUBJECT:</b>	Voluntary Contribution Designation Revision
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## 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 May 27, 2014, amendments would do the following:

- Cap the number of qualified applicants that may participate in the program each year to no more than 200.
- Cap the number of qualified applicants to which a taxpayer can designate contributions to no more than five.
- Create the Charitable Giving Fund, for taxpayers who would like to make a contribution on the tax return but do not have a specific charity in mind.
- Revise the program’s repeal date from January 1, 2030, to January 1, 2023.
- Make other nonsubstantive, technical changes.

These amendments resolved all the technical considerations and several but not all, of the implementation considerations discussed in the department’s analysis of the bill as amended on April 28, 2014. Additionally, new technical considerations have been identified. As a result of the amendments, the “Effective/Operative Date,” “This Bill,” “Implementation Considerations,” “Technical Considerations,” “Fiscal Impact,” and the “Economic Impact” sections have been revised. In addition, the “Support/Opposition” section has been updated. The remainder of the department’s analysis of this bill as introduced on February 20, 2014, still applies. The “Policy Concerns” section has been restated for convenience.

Board Position:	Legislative Director	Date
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## Summary of Suggested Amendments

Amendments have been suggested under the “Technical Considerations” discussion to correct referencing errors.

## EFFECTIVE/OPERATIVE DATE

The bill would be effective January 1, 2015. The bill’s provisions establishing the California Voluntary Contributions Program would be operative on January 1, 2015. The provisions impacting the Franchise Tax Board’s (FTB) operations would be operative January 1, 2017. The provisions establishing the California Voluntary Contribution Fund and the Charitable Giving Fund; and establishing transfer of donations and reimbursement of the FTB’s administrative costs would be operative January 1, 2017.

## 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. The number of qualified applicants that may participate in the program each taxable year would be limited to 200, reduced by the number of funds authorized under other provisions of law.

A “qualified applicant” would be defined as a state agency or local agency, or a charitable organization<sup>1</sup> 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 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 amount described in Section 18705,<sup>2</sup> 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.

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<sup>1</sup> The bill defines “charitable organization” as an organization exempt from income tax as an organization described in Section 23701d.

<sup>2</sup> R&TC 18705 as added by the bill would specify the minimum contribution amount for each approved qualified applicant is \$100,000.

The FTB, in consultation with the Office of California Volunteers, would be required to revise the tax return to allow for the designation of contributions to up to five qualified applicants or to the Charitable Giving Fund, established within the State Treasury to receive contributions and to distribute the funds to charitable organizations. 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 either: 1) up to five specific qualified applicants or 2) to a general charity fund, the Charitable Giving Fund, 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 original 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 by a date specified by the FTB.

A qualified applicant whose eligibility is revoked may participate in the program for the subsequent calendar year if the FTB is unable to revise the tax return and other related materials for that year.

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 and the Charitable Giving 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 that individuals have designated to be transferred to the California Voluntary Contribution Fund and the Charitable Giving 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 to qualified applicants, and to the Charitable Giving Fund an amount not in excess of the sum of the amounts designated by individuals for that fund.

Upon appropriation by the Legislature, all money transferred to the California Voluntary Contribution Fund and the Charitable Giving Fund would be allocated as follows:

1. To the FTB, the Controller, and the Office of California Volunteers for reimbursement of administrative costs.
2. From the California Voluntary Contribution Fund to the Office of California Volunteers for distribution to each qualified applicant designated by a taxpayer.
3. From the Charitable Giving Fund to the Office of California Volunteers for distribution according to the regulations established for distributions from the fund.

On or after January 1, 2020, no more than five percent of money from the funds, exclusive of fee revenues, could be used for administrative purposes.

This bill expresses the 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 intended that the California Fund for Senior Citizens, California Firefighters' Memorial Fund, and the California Peace Officers' Memorial Foundation Fund repeal dates would be extended in legislation to be enacted at a later date.

This program would be repealed by its own terms as of January 1, 2023, unless a later enacted statute, that is enacted before January 1, 2023, 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.

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.

## **TECHNICAL CONSIDERATIONS**

Line 35 of page 4, should be amended for clarification and to correct incorrect references. Line 35 of page 4 should read "with Section 18701) of Part 10.2 of Division 2, other than the funds established pursuant to this article."

## **FISCAL IMPACT**

The department's cost to implement this program and to allow the FTB to track contributions to up to 200 qualified applicants would be approximately \$600,000 in budget year 2016/2017 for programming changes made to information technology systems and changes to the tax return forms with \$88,000 in annual on-going costs thereafter.

## **ECONOMIC IMPACT**

Staff estimates a revenue loss of approximately \$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.

## **SUPPORT/OPPOSITION**

Support: Accion Latina, ALS (Amyotrophic Lateral Sclerosis) Association Golden West Chapter, American Lung Association in California, California Association of Nonprofits, California Taxpayers Association, Lupus Foundation of America, March of Dimes California Chapter.

Opposition: American Cancer Society Cancer Action Network, CAL FIRE Local 2881, California Association of Food Banks, California Professional Firefighters, Peace Officers Research Association of California.

## **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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