

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Liu and Gatto	SB 571

SUBJECT

Keep Arts in Schools Fund

SUMMARY

Under the Revenue and Taxation Code, this bill would establish the Keep Arts in Schools Fund (Fund) voluntary contribution and allow taxpayers to make contributions on their state personal income tax return.

REASON FOR THE BILL

The reason for the bill is to encourage additional contributions to the California Arts Council; that encourages artistic awareness, promotes the employment of artists, and assists independent local groups in developing their own art programs through prizes and direct grants awarded to individuals and organizations.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative on January 1, 2014. 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 true 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 listed on the 2012 state personal income tax return (return). Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the Controller's actual costs to administer the fund.

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

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With the following exceptions, funds remain on the return until they are either repealed or fail to meet their minimum contribution amount: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 fund has a specific sunset date.
- Except for the California Seniors Special Fund, 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 fund must meet an initial minimum contribution amount of \$250,000.
- Except for the California Fund for Senior Citizens, each of the remaining funds minimum contribution amounts is adjusted annually for inflation.

The annual inflation adjustment is based on the percentage change in the California Consumer Price Index. The 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 January 1 of that calendar year.

Current state law provides that if the number of contingent voluntary contribution designations¹ 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.

THIS BILL

This bill would establish the Fund and would allow taxpayers to designate their own monies (not tax liability) for contribution to the Fund 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.

¹ 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 require the FTB to revise the return to include a designation space for the Fund beginning with the first taxable year that another voluntary contribution fund is removed or as soon as space is available. This designation could be added to the 2013 tax 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 the return 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 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 this 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 transferred to the Arts Council to support grants for individuals or groups that administer specified arts programs.

LEGISLATIVE HISTORY

SB 1076 (Price, Chaptered 319, Statutes of 2010) established the Arts Council Fund that appeared on the 2010 and 2011 returns as a voluntary contribution designation.

PROGRAM BACKGROUND

The Arts Council Fund, the predecessor to the Fund, first appeared on the 2010 return. The Arts Council Fund last appeared on the 2011 return because the FTB estimated that contributions to the Arts Council Fund would fall below the required \$250,000 minimum contribution amount for the 2012 calendar year. By operation of law, the provision creating the Arts Council Fund was repealed effective January 1, 2012, and the fund was removed from the 2012 income tax return.

During the time the Arts Council Fund appeared on the return it received \$164,298 in 2011 and \$165,647 in 2012.

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 for taxpayer contribution designations on the returns; however, none of these states provide a voluntary contribution comparable to the one discussed in this bill.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of SB 571 Enactment Assumed After June 30, 2013			
2013-14	2014-15	2015-16	2016-17
\$0	- \$10,000	- \$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/OPPOSITION²

Support: American Federation of State, County, and Municipal Employees, AFL-CIO, and California Alliance for Arts Education.

Opposition: None on file.

² As noted in the Assembly Committee on Revenue and Taxation analysis of SB 571 dated June 21, 2013.

VOTES

Concurrence	09/04/13	Y: 35	N: 2
Assembly Floor	09/03/13	Y: 74	N: 1
Senate Floor	05/28/13	Y: 35	N: 2

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