

## BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number/Version Date
<b>Franchise Tax Board</b>	<b>DeSaulnier &amp; Bocanegra</b>	<b>SB 782</b>

### SUBJECT

California Sexual Violence Victim Services Fund

### SUMMARY

Under the Revenue and Taxation Code, this bill would reestablish the California Sexual Violence Victim Services Fund (Victim Services Fund) voluntary contribution and allow taxpayers to make contributions on their state personal income tax returns.

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

### REASON FOR THE BILL

The reason for this bill is to provide additional funding for the California Coalition Against Sexual Assault (California Coalition) to support the services of California's rape crisis centers for victims of rape and sexual assault.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative on January 1, 2015. If another fund is removed or if space is available, the Victim Services Fund could first appear on the 2014 return filed on or after January 1, 2015.

### 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 20 voluntary contribution funds listed on the 2013 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.

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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.

With the following exceptions, Funds remain on the return until they are either repealed or fail to meet their minimum contribution amount: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 has no sunset date.
- The California Seniors Special Fund, the California Firefighters Memorial Fund, and the California Peace Officer Memorial Foundation Fund have no annual minimum contribution amount.

Additionally, with the exception of the three funds listed above, each Fund's minimum contribution amount is adjusted annually for inflation based on the percentage change in the California Consumer Price Index. The California Breast Cancer Research Fund's annual adjustment is suspended for calendar years 2014 and 2015<sup>1</sup>.

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 designations<sup>2</sup> 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 reestablish the Victim Services Fund and would allow taxpayers to designate their own monies (not tax liability) for contribution to this 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.

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<sup>1</sup> AB 1286 (Skinner, Chaptered 664, Statutes of 2013).

<sup>2</sup> 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 Victim Services Fund beginning with the first taxable year that another voluntary contribution fund is removed or as soon as space is available. If this bill is enacted, this fund could be added to the 2014 tax return filed on or after January 1, 2015.

For the second taxable year the Victim Services 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 this 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 this fund appears on the return, the FTB would adjust the minimum contribution amount 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 are less than the minimum contribution amount.

This bill would allow the voluntary contribution designation to remain on the return for five years following its first appearance, and would be repealed as of December 1 of that year.

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 Victim Services 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 associated administrative costs. The remaining monies would be transferred to the Office of Emergency Services for the distribution of grants to rape crisis centers in California that are in active status and exempt from federal income tax.

## **LEGISLATIVE HISTORY**

AB 1844 (Fletcher, Chaptered 219, Statutes of 2010) removed the repeal date for the Victim Services Fund and made changes to the Penal Code related to treatment of sex offenders. Despite the removal of the repeal date, the fund last appeared on the 2006 return because contributions failed to meet the \$250,000 minimum threshold.

AB 190 (McLeod, Chaptered 160, Statutes of 2005) established the California Sexual Violence Victim Services Fund that appeared on the 2005 and 2006 returns as a voluntary contribution designation.

## **PROGRAM BACKGROUND**

The Victim Services Fund first appeared on the 2005 return and last appeared on the 2006 return because contributions to the fund fell below the required \$250,000 minimum contribution amount for the 2007 calendar year. By operation of law, the provision that created the fund was repealed effective January 1, 2007, and the fund was removed from the 2007 income tax return.

During the time the Victim Services Fund appeared on the return it received \$199,900 in 2006 and \$184,980 in 2007.

**OTHER STATES' INFORMATION**

The states surveyed include *Florida, 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.

*Florida* does not have a personal income tax but allows contribution designations on the state's motor vehicle registration and renewal forms.

*Illinois, Massachusetts, Michigan, Minnesota* and *New York* allow for taxpayer contribution designations on the personal income tax return; 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 782 Enactment Assumed After June 30, 2014		
2014-15	2015-16	2016-17
\$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.

Revenue Discussion

For purposes of this estimate, it is assumed that \$250,000 in contributions would be received each year. Further, it is estimated that two-thirds of the taxpayers that contribute to the fund will itemize. Using an average tax rate of six percent, it is estimated that this bill would result in a revenue loss of approximately \$10,000 annually ( $\$250,000 \times .667 \times 6\%$ ).

Contributions would be made on the 2014 tax return that is filed in 2015. Subsequently, the deduction for those contributions would be claimed on the 2015 return filed in 2016. As a result, the revenue impact would not occur until fiscal year 2015-16.

**APPOINTMENTS**

None.

**SUPPORT/OPPOSITION<sup>3</sup>**

Support: California Coalition Against Sexual Assault (source), Board of Equalization Chairman, Jerome Horton, Crime Victims United of California.

Opposition: None provided.

**VOTES**

	<b>Date</b>	<b>Yes</b>	<b>No</b>
Concurrence	08/20/14	34	0
Assembly Floor	08/19/14	78	0
Senate Floor	01/23/14	33	0

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<sup>3</sup> As noted in the Senate Floor Analysis dated August 19, 2014.