

# ANALYSIS OF AMENDED BILL

Author: Morrell, et al. Analyst: Narinder Dosanjh Bill Number: SB 997  
 See Legislative  
 Related Bills: History Telephone: 845-5275 Amended Date: June 16, 2014  
 Attorney: Bruce Langston Sponsor \_\_\_\_\_

**SUBJECT:** California Senior Legislature Fund

## SUMMARY

Under the Revenue and Taxation Code, this bill would repeal the California Fund for Senior Citizens and create a new designation that would allow a taxpayer to make a voluntary contribution to the California Senior Legislature Fund on the state personal income tax return.

## RECOMMENDATION

No position.

## Summary of Amendments

The June 16, 2014, amendments removed provisions that would have eliminated the minimum contribution amount requirement for the California Fund for Senior Citizens and replaced them with language to repeal this fund in its entirety. In addition, the amendments added language that would establish the California Senior Legislature Fund voluntary contribution and added coauthors. This analysis replaces the department’s analysis of the bill as amended on April 17, 2014.

## REASON FOR THE BILL

The reason for this bill is to establish the California Senior Legislature Fund to provide additional funding and to support its ongoing activities on behalf of older persons.

## EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2015, and operative for returns filed for taxable years beginning on or after January 1, 2014.

## 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 return for the year in which the contribution is made. These contributions may satisfy the requirements under federal law for a charitable contribution deduction.

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.

Additionally, 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>.

### **THIS BILL**

This bill would repeal the California Fund for Senior Citizens for taxable years beginning January 1, 2014.

This bill would also establish a new voluntary contribution designation for the California Senior Legislature 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. This designation would be required to be added to the 2014 tax return.

For the second taxable year that the California Senior Legislature 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 each calendar year after the first taxable year whether the contributions made to the fund 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 by September 1, of that year. The law authorizing designations would be inoperative on or after January 1 of that calendar year and repealed on December 1 of that calendar year if the estimated contributions are less than the minimum contribution amount.

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

If the California Senior Legislature Fund continues to meet the minimum contribution amount, it would remain on the return for five years, through the taxable year beginning before January 1, 2019, and would be repealed by its own terms 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 would be treated as if no designation had been made.

If a taxpayer designates a contribution to more than one account or fund and the amount available for designation is insufficient to satisfy the total amount designated, the contribution amount would be allocated among the designees on a pro rata basis.

This bill would require the Controller to transfer money designated by taxpayers for the California Senior Legislature Fund from the Personal Income Tax Fund. Upon appropriation by the Legislature, monies would be transferred from the California Senior Legislature 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 California Senior Legislature for purpose of funding the activities on behalf of older persons pursuant to the purview of the Joint rules Committee in a manner consistent with the bylaws of the California Senior Legislature.

### **IMPLEMENTATION CONSIDERATIONS**

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

### **LEGISLATIVE HISTORY**

AB 3266 (Martinez, Chapter 31, statutes of 1994) changed the name of the California Senior Legislature Fund to the California Fund for Senior Citizens and added a minimum contribution amount of \$250,000.

### **PROGRAM BACKGROUND**

The California Senior Legislature Fund first appeared on the 1983 return. In 1994, legislation was enacted that changed the fund's name to the California Fund for Senior Citizens. The fund is subject to a fixed \$250,000 minimum contribution requirement and is currently set to repeal on January 1, 2020. This chart reflects annual contributions to date:

<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
\$308,763	\$272,742	\$234,247 <sup>2</sup>	\$185,800 <sup>3</sup>

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<sup>2</sup> Although the fund failed to meet its minimum contribution amount, it remained on the return because the FTB estimated that the fund would reach the \$250,000 minimum contribution requirement prior to the end of the 2013 calendar year.

<sup>3</sup> As of May, 2014.

## **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**

This bill would not impact the state's income tax revenue.

## **SUPPORT/OPPOSITION<sup>4</sup>**

Support: Area 4 Agency on Aging, California Council of the Blind, California Fund for Senior Citizens, California Senior Legislature; California Retired Teachers Association; California State Retirees; Elder Financial Protection Network; Vicent & Jeanne Agor; Garilee Cave, Senior Assembly Member; Charlotte A. Dorsey; Marcia Gould, Mariposa County Board of Supervisors, Senior Assembly Member; Ken Hengst, Senior Assembly Member; Rick Kaplowitz; Linda Matulich, Amador County Commission on Aging; Wesley K. Mukoyama; Gloria Plasencia, Senior Senator; Jean Robinson, Executive Director Fresno-Madera Area Agency on Aging; Retired Public Employees Association (RPEA), Rabon Saip, Member Sonoma County Area Agency on Aging Advisory Council; Jane R. Schwickerath, Board member of the Senior Council of Santa Cruz and San Benito Counties; Richard Shontz, Senior Assembly Member; Bruce S Steir; Leo Sullivan, Senior Assembly Member; UDW/AFSCME Local, Susan V. Walker, Senior Assembly Member; Alexis Wisser, Senior Senator; William J. Witt.

Opposition: None provided.

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<sup>4</sup> As noted in the Author's Fact Sheet dated June 12, 2014.

## **ARGUMENTS**

Proponents: Some may argue that contributions made for this cause would provide substantial funding to help enhance the quality of life of California's seniors.

Opponents: Some may argue that taxpayers who are inclined to contribute to this cause can do so through other voluntary methods and the consistent addition of new funds on the tax return makes the return a cumbersome document.

## **LEGISLATIVE STAFF CONTACT**

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