

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Morrell, et al.	SB 997

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.

REASON FOR THE BILL

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

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2015, and specifically operative 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.

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 that is subject to a minimum contribution requirement 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.

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Date
08/13/14

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contributions to a fund will fail to meet or exceed the minimum contribution amount for a calendar year, that fund is repealed effective January 1 of that calendar year.

Generally, each fund's minimum contribution amount is subject to an annual adjustment for inflation. The adjustment is 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 2015.¹

THIS BILL

This bill provides that the California Fund for Senior Citizens would remain in effect only for taxable years beginning before January 1, 2014, and as of December 1, 2014, would be repealed.

For taxable years beginning on or after 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. 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.

The bill would specifically require the FTB to revise the form of the return to include a space labeled "California Senior Legislature Fund." In addition, the FTB would be required to include in the instructions information that the contribution may be in the amount of \$1 or more and that the contribution would be used to conduct the sessions of the California Senior Legislature and to support its ongoing activities on behalf of older persons.

For the second taxable year that the California Senior Legislature Fund is on the return, this fund would be required 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.

¹ 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 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.

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, which 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 ²	\$185,800 ³

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.

² 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.

³ As of May, 2014.

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.

Revenue Discussion

This bill repeals the California Fund for Senior Citizens and replaces it with the California Senior Legislature Fund. The revenue gain associated with the repeal of the California Fund for Senior Citizens would be offset by the revenue loss associated with the creation of the California Senior Legislature Fund.

APPOINTMENTS

None.

SUPPORT/OPPOSITION⁴

Support: California Senior Legislature (Sponsor), California State Retirees, Elder Financial Protection Network, Retired Public Employees Association, Solano County Senior Coalition, 17 individuals.

Opposition: None provided.

VOTES

	Date	Yes	No
Assembly Floor	08/07/14	78	0
Senate Floor	08/11/14	36	0

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⁴ As noted in the Assembly Revenue and Taxation Committee Analysis dated June 12, 2014.