Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Stone	Analyst:	Funmi Obatolu	Bill Number:	SB 1416
Related Bills:	See Legislative History	Telephone:	845-5845	Amended Date:	March 28, 2016
		Attorney:	Bruce Langston	Sponsor	

SUBJECT: Revive the Salton Sea Fund

SUMMARY

Under the Personal Income Tax Law, this bill would establish the Revive the Salton Sea Fund and allow a taxpayer to make a voluntary contribution on the state personal income tax return.

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

RECOMMENDATION

No position.

Summary of Amendments

The March 28, 2016, amendments removed provisions that would have created "The Salton Sea Restoration Act" and added the provisions discussed in this analysis.

This is the department's first analysis of the bill.

REASON FOR THE BILL

The reason for this bill is to provide funding for the restoration and maintenance of the Salton Sea.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2017, and operative as of that date. The Revive the Salton Sea Fund would first appear on the 2016 return filed on or after January 1, 2017.

FEDERAL/STATE LAW

Current federal tax law provides a check-off to direct $3 of a taxpayer's tax liability to the presidential election 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 19 voluntary Contribution funds (funds) listed on the 2015 state personal income tax return. Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the State Controller's Office (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 contributions are 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With the following exceptions, funds remain on the return until they are either repealed or fail to meet their minimum contribution amount: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 (also known as "CCPI"). In addition, the California Breast Cancer Research Fund's annual adjustment was suspended for calendar years 2014 and 2015.

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 specifies the following general provisions applicable to the administration of the voluntary contribution funds:

- A contribution made during the year a fund is repealed, would be treated based on the law in effect immediately prior to its repeal.
- If no designee for a contribution is specified, the contribution amount would be transferred to the General Fund.
- If the available amount is less than the total amount designated to more than one account or fund, the available amount would be allocated on a pro-rata basis.
- If the number of contingent voluntary contribution designations that are eligible to be added to the return is greater than the number of designations removed, the voluntary contribution designations may be queued and added to the return in the order of the date of enactment.

- If the FTB determines that space is available on the return, 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 Revive the Salton Sea Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to this fund on their personal income 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 initial return for the taxable year and, once made, are irrevocable.

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, the taxpayer's return would be treated as if no designation had been made.

This bill would require the FTB to revise the return to include a designation space for the Revive the Salton Sea Fund. In addition, this bill would require the return's instructions to include information that the contribution may be in the amount of $1 or more and that the contribution would be used to fund all of the following:

- Programs to create statewide public awareness and grassroots support for the restoration of the Salton Sea.
- Programs to engage the public through promotion and education about the Salton Sea.
- Current and future projects identified as necessary for restoration and maintenance of the Salton Sea, including projects identified by the Salton Sea Authority.

This bill would allow a charitable contribution deduction on the state income tax return for the year in which a voluntary contribution to this fund is made.

The FTB would be required to notify the Controller of the amount to be transferred to the Revive the Salton Sea Fund. Upon appropriation by the Legislature, all amounts transferred to the fund would be allocated in the following order:

- To the FTB and the Controller for reimbursement of costs incurred in administering the Fund.
- To Revive the Salton Sea, a California Corporation, in active status and exempt from federal income taxation under Internal Revenue Code section 501(c)(3), to be used to fund activities necessary for the restoration and maintenance of the Salton Sea.

The bill would specify that no money in the Revive the Salton Sea Fund would be used to supplant State General Fund money.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

AB 1399 (Baker, 2015/2016) would allow taxpayers to make voluntary contributions to the California Domestic Violence Fund on their state personal income tax return. This bill is currently in the Senate Governance and Finance Committee.

AB 1789 (Santiago, 2015/2016) would allow taxpayers to make voluntary contributions to the School Supplies for Homeless Children Fund on their state personal income tax return. This bill is currently in the Assembly Appropriations Committee.

AB 2371 (Frazier, 2015/2016) would allow taxpayers to make voluntary contributions to the Special Olympic Fund on their state personal income tax return. This bill is currently in the Assembly Appropriations Committee.

AB 2430 (Gaines, 2015/2016) would allow taxpayers to make voluntary contributions to the Juvenile Diabetes Research Fund on their state personal income tax return. This bill is currently in the Assembly Revenue and Taxation Committee.

AB 2497 (Wagner, 2015/2016) would repeal the California Senior Legislature Fund and create a new designation that would allow a taxpayer to make a voluntary contribution to the California Senior Citizen Advocacy Fund on the state personal income tax return. This bill is currently in the Committee on Aging and Long-Term Care.

SB 1476 (Senate Governance and Finance, 2015/2016) would require legislation that creates a voluntary contribution to include specific criteria. The provisions would specifically apply to voluntary contribution funds enacted or extended on or after January 1, 2017. This bill is currently in the Senate Governance and Finance Committee.

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 allows taxpayers to designate personal funds to the Wildlife Preservation Fund on the state personal income tax return.

Massachusetts allows taxpayers to designate personal funds to the Endangered Wildlife Conservation Fund on the state personal income tax return.

Minnesota allows taxpayers to designate personal funds to the Nongame Wildlife Fund on the state income tax return.

Michigan State laws lack a voluntary contribution fund similar to the voluntary contribution fund this bill would allow.

New York allows taxpayers to designate personal funds to the Gift to Wildlife Fund on the state personal income tax return.

FISCAL IMPACT

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

ECONOMIC IMPACT

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 1416 As Amended March 28, 2016 Assumed Enactment After June 30, 2016		
2016-17	2017-18	2018-19
$0	- $8,000	- $8,000

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

This bill would add the Revive the Salton Sea Fund to the voluntary contribution funds listed on the state's personal income tax return.

Because the required minimum contribution amount was not specified, the estimate assumes the fund would receive $250,000 in contributions each year and approximately 56 percent of taxpayers who contribute to voluntary contribution funds itemize their deductions. It is estimated the average tax rate for these taxpayers is six percent, resulting in an estimated revenue loss of approximately $8,000 annually.

Contributions would be made in 2017 when the 2016 return is filed. Subsequently, the deduction for such contributions would be claimed on the 2017 return filed by April 15, 2018; therefore, the revenue impact would not occur until fiscal year 2017-18.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may argue that contributions made for this cause would provide funds necessary for the restoration and maintenance of the Salton Sea.

Opponents: Some may argue that taxpayers who are inclined to contribute to this cause would do so absent a tax incentive.

POLICY CONCERNS

This bill lacks a repeal date and a specified minimum contribution amount. For consistency with other voluntary contribution funds, this bill should be amended to specify a repeal date and a required minimum contribution amount.

A distribution from the Controller's office directly to a non-profit organization is unprecedented. For consistency among the voluntary contribution funds, this bill should be amended to specify that the monies for the fund would be allocated to a state agency or governmental entity for distribution to the non-profit organization.

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