

BILL ANALYSIS

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|----------------------------------|----------------------|----------------|
| Department, Board, Or Commission | Author | Bill Number |
| Franchise Tax Board | Stone, et al. | SB 1416 |

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.

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 could first appear on the 2016 return filed on or after January 1, 2017.

FEDERAL/STATE LAW

Current federal tax law provides taxpayers a check off option 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With the following exceptions, funds remain on the return until they are either repealed or fail to meet their minimum contribution amount: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").

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 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.

The FTB would revise the return to include a designation space for the Revive the Salton Sea Fund after another voluntary contribution fund is removed or as soon as space is available. This designation could be added to the 2016 tax return filed on or after January 1, 2017. 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 voluntary contribution designation would be allowed to remain on the tax return for up to five years, subject to estimated contributions meeting or exceeding the minimum contribution amount, as specified.

For the second calendar year the Revive the Salton Sea Fund is on the return, this bill would require contributions to the Revive the Salton Sea Fund to meet the \$250,000 minimum contribution amount. The FTB would be required to estimate by September 1 of each calendar year after the first calendar year the Revive the Salton Sea Fund appears on the return whether 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 be required to adjust the minimum contribution amount by September 1 of that calendar year. The minimum contribution amount would be adjusted according to the change in the CCPI.

The law authorizing designations for the Revive the Salton Sea Fund would be inoperative as of January 1 of that calendar year and repealed as of December 1 of that year if the estimated contributions are less than the minimum contribution amount.

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 Revive the Salton Sea Fund.
- To the Natural Resources Agency for distribution of competitive grants to provide funds to or supplement funding of state, county, and local agencies, and nonprofit organizations, and to be used to fund activities necessary for the restoration and maintenance of the Salton Sea, and, for the development of a mechanism to provide ongoing public awareness of and promote additional charitable contributions to the Natural Resources Agency, as specified.

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

LEGISLATIVE HISTORY

AB 1399 (Baker, 2015/2016) would establish the California Domestic Violence Fund and allow a taxpayer to make a voluntary contribution on the state personal income tax return. This bill is currently pending on the Senate floor.

AB 1789 (Santiago, 2015/2016) would extend the effective and repeal dates for the School Supplies for Homeless Children Fund. This bill is currently pending on the Senate floor.

AB 2371 (Frazier, 2015/2016) would establish the Special Olympics Fund and allow a taxpayer to make a voluntary contribution on their state personal income tax return. This bill is currently pending on the Senate floor.

AB 2430 (Gaines, 2015/2016) would establish the Type 1 Diabetes Research Fund and allow a taxpayer to make a voluntary contribution on their state personal income tax return. This bill is currently pending on the Senate floor.

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 Senate Appropriations Committee.

SB 1476 (Committee on 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 pending on the Assembly floor.

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.

Michigan law lacks a voluntary contribution fund similar to the voluntary contribution fund this bill would allow.

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

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

FISCAL IMPACT

The Revive the Salton Sea Fund would reimburse all costs incurred by the FTB, therefore, this bill would not impact the department’s costs.

ECONOMIC IMPACT

This bill would result in the following revenue loss:

| Estimated Revenue Impact of SB 1416 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. The estimate assumes the fund would meet the estimated minimum contribution each year.

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.

APPOINTMENTS

None.

SUPPORT/OPPOSITION¹

Support: None provided.

Opposition: None provided.

VOTES

| | Date | Yes | No |
|----------------|-------------|------------|-----------|
| Concurrence | 08/16/16 | 37 | 0 |
| Assembly Floor | 08/11/16 | 78 | 0 |
| Senate Floor | 05/27/16 | 37 | 0 |

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¹ Senate Floor Analysis dated May 25, 2016.