

ANALYSIS OF AMENDED BILL

Author: Frazier Analyst: Funmi Obatolu Bill Number: AB 2371
See Legislative
Related Bills: History Telephone: 845-5845 Amended Date March 18, 2016
Attorney: Bruce Langston Sponsor _____

SUBJECT: Special Olympics Fund

SUMMARY

Under the Personal Income Tax Law, this bill would establish the Special Olympics 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 18, 2016, amendments eliminated the provision that would have made non-substantive changes to how voluntary contribution funds are added to the tax return and added the provisions discussed in this analysis.

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

Summary of Suggested Amendments

Amendments have been suggested to remove language that is unnecessary because existing state law provides a general rule.

REASON FOR THE BILL

The reason for this bill is to provide funding for Special Olympics to provide athletic opportunities to children and adults with intellectual disabilities.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2017, and operative as of that date. If another fund is removed or if space is available, the Special Olympics Fund could 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 (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 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With the following exceptions, funds remain on the return until they are either repealed or fail to meet their minimum contribution amount: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 (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 Special Olympics 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 Special Olympics Fund after another voluntary contribution fund is removed or as soon as space is available. In addition, this bill would require the return's instructions to include information that the contribution may be in the amount of one dollar or more and that the contribution would be used to conduct the activities of the Special Olympics Fund.

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.

This bill would allow the voluntary contribution designation 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 Special Olympics Fund is on the return, this bill would require contributions to the Special Olympics 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 Special Olympics 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 adjust the minimum contribution amount by September 1 of that calendar year. The minimum contribution amount would adjust according to the CCPI.

The law authorizing designations for the Special Olympics Fund would be inoperative as of January 1 of that calendar year and repealed as of December 1st 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 Special Olympics Fund. Upon appropriation by the Legislature, all amounts transferred to the Special Olympics Fund would be allocated in the following order:

- To the FTB and the State Controller for reimbursement of costs incurred in administering the Fund.
- To the Special Olympics Northern California and Special Olympic Southern California for the purposes of supporting children and adults with intellectual disabilities.

Any contribution amounts designated prior to its repeal would continue to be transferred and disbursed as in effect immediately prior to that repeal. (See Technical Considerations Section)

IMPLEMENTATION CONSIDERATIONS

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

TECHNICAL CONSIDERATIONS

On page 4, ~~strikeout~~ lines 36 to 39, inclusive. This language is unnecessary as existing state law provides general rules for the treatment of contribution amounts designated where the Fund is subsequently repealed.

LEGISLATIVE HISTORY

AB 1399 (Baker, 2015/2016) would allow taxpayers to make voluntary contributions to the California Domestic Violence Fund (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 Revenue and Taxation 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 Assembly Revenue and Taxation Committee.

SB 1446 (Stone, 2015/2016) would allow taxpayers to make voluntary contributions to the Revive the Salton Sea Fund on their state personal income tax return. This bill is currently in the Senate Public Safety 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 Illinois Special Olympics and Special Children's Charities Fund on the state personal income tax return.

Michigan allows taxpayers to designate personal funds to the Michigan Special Olympics Fund on the state personal income tax return.

Massachusetts, Minnesota, and New York state laws lack a voluntary contribution fund similar to the voluntary contribution fund this bill would allow.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 2731 Assumed Enactment After June 30, 2016 (\$ in Dollars)		
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 Special Olympics Fund to the voluntary contribution funds listed on the state's personal income tax return.

The estimate assumes that \$250,000 in donations will be made 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/OPPOSITION¹

Support: Special Olympic Northern California; Special Olympic Southern California.

Opposition: None provided.

ARGUMENTS

Proponents: Some may argue that contributions made for this cause would provide athletic opportunities to children and adults with intellectual disabilities, instilling the confidence they need to succeed in life.

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

LEGISLATIVE STAFF CONTACT

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¹ Per Author's Fact Sheet.