

## **BILL ANALYSIS**

|                                  |                      |                |
|----------------------------------|----------------------|----------------|
| Department, Board, Or Commission | Author               | Bill Number    |
| <b>Franchise Tax Board</b>       | <b>Baker, et al.</b> | <b>AB 1399</b> |

### **SUBJECT**

California Domestic Violence Victims Fund

### **SUMMARY**

Under the Personal Income Tax Law (PITL), this bill would establish the California Domestic Violence Victims Fund (Domestic Violence Victims Fund) and allow a taxpayer to make a voluntary contribution to the Domestic Violence Victims Fund 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 the bill is to provide funding to domestic violence programs.

### **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 Domestic Violence Victims 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With the following exceptions, funds remain on the return until they are either repealed or fail to meet their minimum contribution amount: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 Domestic Violence Victims 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. Further, contributions for which no designation is specified would be transferred to the general fund, and if an individual designates a contribution to more than one account or fund and the amount available is insufficient to satisfy the total amount designated, the contribution would be allocated among the designees on a pro rata basis.

This bill would require the FTB to revise the return to include a designation space for the Domestic Violence Victims 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 further the services that California's domestic violence programs provide for victims of domestic violence.

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 Domestic Violence Victims Fund is on the return, this bill would require contributions to the Domestic Violence Victims 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 Domestic Violence Victims 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 Domestic Violence Victims 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 Domestic Violence Victims Fund. Upon appropriation by the Legislature, all amounts transferred to the Domestic Violence Victims Fund would be allocated in the following order:

- To the FTB and the State Controller for reimbursement of costs incurred in administering the Prevention Fund.
- To the Office of Emergency Services for the distribution of funds to domestic violence programs in California that are in active status, as reflected on the Business Search page of the Secretary of State's Internet Web site, and that are exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code.

**LEGISLATIVE HISTORY**

AB 924 (Cooley, Chapter 275, Statutes of 2015) reenacted the voluntary contribution to the State Children’s Trust Fund for the Prevention of Child Abuse.

**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 this bill would allow.

**FISCAL IMPACT**

This bill would not impact the department’s costs.

**ECONOMIC IMPACT**

This bill would result in the following revenue loss:

| Estimated Revenue Impact of AB 1399<br>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 California Domestic Violence Victims Fund to the voluntary contribution funds listed on the state’s personal income tax return.

This estimate assumes that \$250,000 in donations would be made each year and approximately 56 percent of taxpayers who contribute to voluntary contribution funds would itemize their deductions. It is estimated the average tax rate for these itemizing taxpayers is six percent, resulting in an estimated revenue loss of approximately \$8,000 annually (\$250,000 x 56% x 6%).

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

**APPOINTMENTS**

None.

**SUPPORT/OPPOSITION<sup>1</sup>**

Support: Alliance for Community Transformations; California Partnership to End Domestic Violence; Center for Community Solutions; Center for Domestic Peace; Contra Costa County Board of Supervisors; Contra Costa District Attorney’s Office; Fiona Ma, State Board of Equalization Chairwoman; Safe Alternatives to Violent Environments-SAVE.

Opposition: California Department of Finance.

**VOTES**

|                | Date     | Yes | No |
|----------------|----------|-----|----|
| Assembly Floor | 08/22/16 | 78  | 0  |
| Senate Floor   | 08/15/16 | 37  | 0  |

**LEGISLATIVE STAFF CONTACT**

**Contact**

**Work**

Marybel Batjer, Agency Secretary, GovOps

916-651-9024

Khaim Morton, Legislative Deputy, GovOps

916-651-9100

Selvi Stanislaus, Executive Officer, FTB

916-845-4543

Gail Hall, Legislative Director, FTB

916-845-6333

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<sup>1</sup> As noted on Senate Committee on Governance and Finance Analysis dated June 3, 2016.