

ANALYSIS OF AMENDED BILL

Author: Wagner Analyst: Funmi Obatolu Bill Number: AB 2497
Related Bills: See Legislative History Telephone: 845-5845 Amended Date: March 15, 2016
Attorney: Bruce Langston Sponsor _____

SUBJECT: California Senior Citizen Advocacy Fund

SUMMARY

Under the Revenue and Taxation Code, this bill 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 analysis only addresses the provisions of the bill that impact the department's programs and operations.

RECOMMENDATION

No position.

Summary of Amendments

The March 15, 2016, amendments eliminated the provisions that would have made technical non-substantive changes to the Corporation Tax Law and added 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 rename the California Senior Legislature Fund to California Senior Citizen Advocacy Fund to more accurately portray the mission of the organization.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2017, and specifically operative for returns filed for taxable years beginning on or after January 1, 2016.

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 19 voluntary contribution 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 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 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. Additionally, each fund's minimum contribution amount is adjusted annually for inflation based on the percentage change in the California Consumer Price Index.

THIS BILL

This bill would repeal the California Senior Legislature Fund for taxable years beginning on or after January 1, 2016.

This bill would also establish a new voluntary contribution designation for the California Senior Citizen Advocacy 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. This designation would be required to be added to the 2016 tax return.

For the second taxable year that the California Senior Citizen Advocacy Fund is on the return, this bill would require the fund 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.

If the California Senior Citizen Advocacy 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, 2021, and would be repealed by its own terms as of December 1 of that year.

This bill would specify that 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.

This bill would require the Controller to transfer money designated by taxpayers for the California Senior Citizen Advocacy Fund from the Personal Income Tax Fund. Upon appropriation by the Legislature, monies would be transferred from the California Senior Citizen Advocacy 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.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

PROGRAM BACKGROUND/LEGISLATIVE HISTORY

The California Senior Legislature Fund first appeared on the 1983 return. In 1994, AB 3266 (Martinez, Chapter 31, Statutes of 1994) was enacted that changed the fund's name to the California Fund for Senior Citizens. SB 997 (Morrell, Chapter 248, statutes of 2014) repealed the California Fund for Senior Citizens and established the California Senior Legislature Fund. This bill would repeal the California Senior Legislature Fund and establish the California Senior Citizen Advocacy Fund.

This chart reflects annual contributions to these funds over the past four years:

2013 California Fund for Senior Citizens	2014 California Fund for Senior Citizens	2015 California Senior Legislature Fund	2016 CA Senior Legislature Fund/Contribution as of February 2016
\$234,247 ¹	\$229,522 ²	\$60,137 ³	\$8,693

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.

¹ 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.

² Ibid.

³ There was no \$250,000 contribution limit because this was the first year the California Senior Legislature Fund was established.

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.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This bill would not impact the state's income tax revenue.

Revenue Discussion

This bill would repeal the California Senior Legislature Fund and replace it with the California Senior Citizen Advocacy Fund. The revenue gain associated with the repeal of the California Senior Legislature Fund would be offset by the revenue loss associated with the creation of the California Senior Citizen Advocacy Fund.

SUPPORT/OPPOSITION⁴

Support: California Senior Legislature.

Opposition: None.

ARGUMENTS

Proponents: Some may argue that contributions made for this cause would provide substantial funding to help enhance the quality of life of California's seniors.

Opponents: Some may argue that taxpayers who are inclined to contribute to this cause can do so through other voluntary methods.

LEGISLATIVE STAFF CONTACT

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⁴ Per Author's Fact Sheet as Updated March 18, 2016.