Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Cooley	Analyst:	Narinder Dosanjh	Bill Number:	AB 924
Related Bills:	See Legislative History	Telephone:	845-5275	Amended Date:	March 26, 2015
		Attorney:	Bruce Langston	Sponsor	

SUBJECT:	State Children's Trust Fund for the Prevention of Child Abuse

SUMMARY

Under the Personal Income Tax Law, this bill would reenact the voluntary contribution to the State Children's Trust Fund for the Prevention of Child Abuse (State Children's Trust Fund) on the state personal income tax return.

RECOMMENDATION

No position.

Summary of Amendments

The March 26, 2015, amendments removed intent language and replaced it with the provisions discussed in this analysis.

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

Summary of Suggested Amendments

Amendments have been suggested to make minor technical corrections.

REASON FOR THE BILL

The reason for the bill is to support child abuse and neglect prevention programs.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2016, and would allow the State Child's Trust Fund as a voluntary contribution item on personal income tax returns filed for taxable years beginning on or after January 1, 2015.

FEDERAL/STATE LAW

Current federal tax law provides a checkoff 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.

Board Position:						Executive Officer	Date
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Current state tax law allows taxpayers to make contributions of their own monies (not tax liability) on their tax returns to any of the 18 voluntary contribution funds listed on the 2014 state personal income tax return (return). Each fund provides for the reimbursement of the Franchise Tax Board's (FTB) 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With the following exceptions, funds remain on the return until they are either repealed or fail to meet their minimum contribution amount: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. The California Breast Cancer Research Fund's annual adjustment is suspended for calendar years 2014 and 2015.[1]

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:[2]

- 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.

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[1] AB 1286 (Skinner, Chapter 664, Statutes of 2013).
[2] Revenue and Taxation Code section 18871.

- 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[3] that are eligible to be added to the return is greater than the number of designations removed, then the voluntary contribution designations may be queued and added to the return in 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 a voluntary contribution designation for the State Children's Trust Fund as the first designation that appears on the personal income tax return and would allow taxpayers to designate their own funds (not tax liability) for contribution to the 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.

The State Children's Trust Fund voluntary contribution designation would have no minimum contribution requirement and would remain on the return in perpetuity.

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. Additionally, if a taxpayer designates a contribution to more than one fund and the amount available for the contribution is insufficient, the contribution would be allocated on a pro-rata basis (see Technical Considerations – Amendment 1).

The FTB would be required to revise return forms to include a designation space for the State Children's Trust Fund as the first voluntary contribution option on the personal income tax return.

The form would include in the instructions information that the contribution may be in the amount of $1 or more and that the contribution would be used to support child abuse prevention programs with demonstrated success, public education efforts to change adult behaviors and educate parents, innovative research to identify best practices and the replication of those practices to prevent child abuse and neglect.

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.

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[3] A contingent voluntary contribution designation is a voluntary contribution designation that contains specific language stating that it may not be added to the return until another voluntary contribution designation is removed from the return.

The FTB would be required to notify the Controller of the amount to be transferred to the State Children's Trust Fund. Upon appropriation by the Legislature, all money transferred to the State Children's Trust Fund would be required to be allocated in the following order:

- To the FTB and the Controller for reimbursement of all costs incurred in administering the State Children's Trust Fund.
- The remainder to the State Department of Social Services for programs and education to help prevent child abuse and neglect.

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.

TECHNICAL CONSIDERATIONS

Amendment 1 would remove language that is unnecessary since existing state law provides this general rule.

Amendments 2, 3, and 4 are provided to renumber the subdivisions.

LEGISLATIVE HISTORY

AB 485 (Williams & Allen, 2015/2016) would establish the Prevention of Animal Homelessness and Cruelty Fund. AB 485 is pending hearing before the Assembly Revenue and Taxation Committee.

AB 976 (Steinorth, 2015/2016) would, among other things, establish the Pet Adoption Fund and allow voluntary contributions to that fund. AB 976 is pending hearing before the Assembly Revenue and Taxation Committee.

SB 17 (Monning, 2015/2016) would extend the repeal date of the Sea Otter Fund designation from January 1, 2016, to January 1, 2021. SB 17 passed out of the Senate Committee on Governance and Finance on April 8, 2015.

SB 164 (Simitian, Chapter 699, Statutes of 2011), extended the State Children's Trust Fund repeal date from January 1, 2013, to January 1, 2018, subject to meeting the annual minimum contribution requirement.

SB 898 (Simitian, Chapter 665, Statutes of 2007) extended the State Children's Trust Fund repeal date from January 1, 2008, to January 1, 2013.

PROGRAM BACKGROUND

Since 2007, the fund has received the following annual contributions:

2007	2008	2009	2010	2011	2012	2013	2014
$499,827	$528,609	$528,298	$448,081	$409,043	$376,243	$305,438	$303,159

The State Children's Trust Fund last appeared on the 2014 tax return as contributions in 2014 were below the minimum contribution requirement of $324,972.

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 Child Abuse Prevention Fund on the state personal income tax return.

Michigan allows taxpayers to designate personal funds to the Children's Trust Fund to Prevent Child Abuse in *Michigan* on the state personal income tax return.

Massachusetts, Minnesota, and New York allow taxpayers to designate personal funds to contribution funds; however, none of the funds are comparable to the fund proposed by this bill.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in a revenue loss of $8,000 for every $250,000 of charitable contributions made to the State Children's Trust Fund for the Prevention of Child Abuse by taxpayers who itemize.

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

Revenue Discussion:

Approximately 56 percent of taxpayers who contribute to voluntary contribution funds would 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 ($250,000 x 56% x 6%).

Contributions would be made in 2016 when the 2015 return is filed. Subsequently, the deduction for such contributions would be claimed on the 2016 return filed by April 15, 2017; therefore, the revenue impact would not occur until fiscal year 2016-17.

SUPPORT/OPPOSITION

Support: Child Abuse Prevention Center (Sponsor), California Family Resource Association.

Opposition: None on File.

ARGUMENTS

Proponents: Some may argue that contributions made for this cause would provide substantial funding to improve the current and future well-being of children.

Opponents: Some may argue that taxpayers who are inclined to assist children would do so absent a tax incentive and the consistent addition of new funds on the tax return makes the return a cumbersome document.

POLICY CONCERNS

This bill would require the FTB to place the State Children's Trust Fund first on the tax form. Voluntary contribution funds generally are added to the tax return in the order of the date of enactment. Consequently, placement of this fund above previously enacted funds is inconsistent with current practice and could be confusing.

This bill lacks a sunset date and provisions subjecting this voluntary contribution to a minimum contribution requirement. Sunset dates and annual minimum contribution requirements generally are provided to allow periodic review of the effectiveness of voluntary contributions by the Legislature.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 924
AS AMENDED March 26, 2015

AMENDMENT 1

On page 2, strikeout lines 20 to 24 inclusive.

AMENDMENT 2

On page 2, line 25, strikeout "(e)" and insert:

(d)

AMENDMENT 3

On page 3, line 3, strikeout "(f)" and insert:

(e)

AMENDMENT 4

On page 3, line 7, strikeout "(g)" and insert:

(f)