

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Waldron Analyst: Funmi Obatolu Bill Number: AB 1031
Related Bills: See Legislative History Telephone: 845-5845 Introduced Date: February 16, 2017
Attorney: Bruce Langston Sponsor: _____

SUBJECT: Native California Wildlife Rehabilitation Fund

SUMMARY

This bill would allow taxpayers to make voluntary contributions to the Native California Wildlife Rehabilitation Fund on their state personal income tax returns.

RECOMMENDATION – NO POSITION

REASON FOR THE BILL

The reason for this bill is to provide funding for the care and rehabilitation of injured, sick, or orphaned wildlife and for conservation education.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2018, and operative as of that date. If enacted, the fund could first appear on the 2017 personal income tax return filed on or after January 1, 2018.

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 20 voluntary contribution funds (funds) listed on the 2016 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With the following exceptions, funds remain on the return until they are either repealed or fail to meet their minimum contribution amount: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).

The FTB is required to make the following two determinations for each fund subject to an annual adjustment 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.

Voluntary contribution funds created or extended on or after January 1, 2017, are subject to the following requirements¹:

- "Voluntary tax contribution" must be included in the name of the fund.
- In order to continue appearing on the tax return, a voluntary contribution fund must, beginning with the second calendar year that the fund appears on the tax return, annually receive a minimum contribution of \$250,000.
- Voluntary contribution fund statutes must include language limiting the fund's appearance on the return to no longer than eight years and automatically repealing the fund on December 1 of the eighth year of appearance.
- The administering agency, other than the FTB or the Controller, must report specified information regarding Fund monies on the agency's Web site.
- Contributions made to the voluntary contribution fund must be continuously appropriated from the fund to the administering agency to be used to accomplish the charitable purpose of the fund.

THIS BILL

This bill would establish the Native California Wildlife Rehabilitation Fund 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.

¹ Revenue and Taxation Code (R&TC) 18873

In addition, this bill would do the following:

- 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.
- Require the FTB to revise the return to include a designation space for the Native California Wildlife Rehabilitation Fund. 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 support: (1) the recovery and rehabilitation of injured, sick, or orphaned wildlife; and (2) conservation education. Allow a charitable contribution deduction on the state income tax return for the year in which a voluntary contribution to this fund is made.
- 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 of \$250,000.

For the second calendar year the Native California Wildlife Rehabilitation Fund is on the return, this bill would require contributions to the Native California Wildlife Rehabilitation 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 Native California Wildlife Rehabilitation Fund appears on the return whether contributions made under this bill would be less than \$250,000.

Beginning with the third calendar year after the fund appears on the return, the FTB would adjust the minimum contribution amount for the fund by September 1 of that year. The minimum contribution amount would adjust according to the CCPI.

The law authorizing designations for the Native California Wildlife Rehabilitation Fund would become 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 Native California Wildlife Rehabilitation Fund. Upon appropriation by the Legislature, all amounts transferred to the Native California Wildlife Rehabilitation Fund would be allocated in the following order:

- To the FTB and the Controller for reimbursement of costs incurred in administering the Fund.
- The balance to the State Department of Fish and Wildlife to award grants to nonprofit organizations as specified.

IMPLEMENTATION CONSIDERATIONS

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

LEGISLATIVE HISTORY

SB 1476 (Senate Gov. & Finance, Chapter 597, Statutes of 2016) requires voluntary contribution funds created or extended on or after January 1, 2017, to use a specified naming convention and include specified provisions.

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 contribute to the Wildlife Preservation Fund. *Massachusetts* allows taxpayers to contribute to the Endangered Wildlife Conservation Fund. *Michigan* allows taxpayers to contribute to the Animal Welfare Fund. *Minnesota* allows taxpayers to contribute to Nongame Wildlife Fund. *New York* allow taxpayers to contribute to the Return a Gift to Wildlife Fund.

FISCAL IMPACT

The 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 1031 As Introduced on February 16, 2017 Assumed Enactment After June 30, 2017		
2017-18	2018-19	2019-20
\$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 Native California Wildlife Rehabilitation Fund to the voluntary contribution funds listed on the state's personal income tax return. The estimate assumes that the fund will meet the minimum contribution each year as specified in the bill.

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 2018 when the 2017 return is filed. Subsequently, the deduction for such contributions would be claimed on the 2018 return filed by April 15, 2019; therefore, the revenue impact would not occur until fiscal year 2018-19.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may argue that contributions made to this fund would protect and preserve wildlife.

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

POLICY CONCERNS

The name of the fund and how the fund is appropriated is inconsistent with the general provision of R&TC section 18873 for new or extended funds.

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