

**ANALYSIS OF AMENDED BILL**

Author: Waldron, et al. Analyst: Funmi Obatolu Bill Number: AB 1031  
Related Bills: See Legislative History Telephone: 845-5845 Amended Date: August 24, 2017  
Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Rare and Endangered Species Preservation Voluntary Tax Contribution Program/Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund

**SUMMARY**

This bill would under the Personal Income Tax Law do the following:

**PROVISION NO. 1: Rare and Endangered Species Preservation Voluntary Tax Contribution Program**

This provision would extend the repeal date and modify the requirements of the Rare and Endangered Species Preservation Voluntary Tax Contribution Program.

**PROVISION NO. 2: Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund**

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

This analysis only addresses the provisions that impact the department’s programs and operations.

**RECOMMENDATION – NO POSITION**

**Summary of Amendments**

The August 24, 2017, amendments added a provision that would modify the Rare and Endangered Species Preservation Voluntary Contribution Program and made minor technical changes to the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund.

This analysis replaces the department’s analysis of the bill as amended on April 4, 2017.

**EFFECTIVE/OPERATIVE DATE**

The specific operative dates of the provisions are addressed separately below.

**ECONOMIC IMPACT – SUMMARY REVENUE TABLE**

	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>
<b>PROVISION NO. 1:</b> Rare and Endangered Species Preservation Voluntary Tax Contribution Program	n/a	- \$8,000	- \$8,000
<b>PROVISION NO. 2:</b> Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund	n/a	- \$8,000	- \$8,000
<b>TOTAL</b>		- \$16,000	- \$16,000

**FEDERAL/STATE LAW**

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 2016 state personal income tax return. Each fund provides for the reimbursement of the Franchise Tax Board's (FTB) and the State Controller's Office (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 returns for the year in which the contribution is made. These contributions may satisfy the requirements under federal law for a charitable contribution deduction.

Generally, funds remain on the tax return until repealed or the fund fails to meet its minimum contribution amount. The Rare and Endangered Species Preservation Voluntary Tax Contribution Program is currently set to be repealed on December 1, 2018, and is subject to a minimum contribution amount that is adjusted annually for inflation.

For funds that are subject to a minimum contribution requirement, the FTB is required to determine by September 1 of each year whether estimated contributions to the funds 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, the fund is repealed effective for taxable years beginning on or after January 1 of that calendar year.

Voluntary contribution funds created or extended on or after January 2, 2017, are subject to the following requirements:<sup>1</sup>

- “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 after the fund first 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.

### **PROVISION NO. 1: Rare and Endangered Species Preservation Voluntary Tax Contribution Program**

#### **REASON FOR THIS PROVISION**

The reason for this bill is to ensure that taxpayers are allowed to continue to contribute amounts in excess of their tax liability to support the recovery and rehabilitation of injured, sick, or orphaned native wildlife, and conservation education.

#### **OPERATIVE DATE**

This provision would be effective and operative January 1, 2018, and would allow the Rare and Endangered Species Preservation Voluntary Tax Contribution Program, as renamed, to remain on the personal income tax returns filed for taxable years 2017 through 2025.

#### **THIS PROVISION**

This provision would rename the Rare and Endangered Species Preservation Program as the Rare and Endangered Species Preservation Voluntary Tax Contribution Program and extend the sunset date from January 1, 2018, to December 1, 2025. In addition, this provision would replace the minimum contribution amount subject to indexing for inflation with the minimum contribution amount of \$250,000 as specified in the general provisions applicable to voluntary contributions.

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<sup>1</sup> Revenue and Taxation Code (R&TC) section 18873.

The provision would provide for continuous appropriation and allocation, as specified, of amounts in the Rare and Endangered Species Preservation Voluntary Tax Contribution Program.

### IMPLEMENTATION CONSIDERATIONS

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

### LEGISLATIVE HISTORY

AB 111 (Committee on Budget, Chapter 19, Statutes of 2017), set the 2017 calendar year minimum contribution amount at \$0 for voluntary contribution funds subject to a minimum contribution requirement for the year.

SB 1476 (Senate Governance and Finance, Chapter 597, Statutes of 2016) requires voluntary contribution funds created or extended on or after January 2, 2017, to use a specified naming convention and include specified provisions.

SB 164 (Simitian, Chapter 699, Statutes of 2011) extended the sunset date of the Rare and Endangered Species Preservation Program to January 1, 2018.

AB 2783 (Strom-Martin, Chapter 594, Statutes of 2002) reestablished a voluntary contribution for the Rare and Endangered Species Preservation Program on the California personal income tax return.

### 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* allows taxpayers to contribute to the Return a Gift to Wildlife Fund.

### PROGRAM BACKGROUND

The Rare and Endangered Species Preservation Program was enacted in 1992 and first appeared on the 1992 tax return filed in 1993. This chart reflects annual contributions to the Rare and Endangered Species Preservation Fund over the past five years:

2013	2014	2015	2016	2017
\$476,933	\$451,177	\$453,071	\$480,283	\$264,469

**FISCAL IMPACT**

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

**ECONOMIC IMPACT**

**Revenue Estimate**

This provision would result in the following revenue loss:

Estimated Revenue Impact of AB 1031 PROVISION NO. 1: Rare and Endangered Species Preservation Voluntary Tax Contribution Program As Amended on August 24, 2017 Assumed Enactment By September 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 rename the Rare and Endangered Species Preservation Program as the Rare and Endangered Species Preservation Voluntary Tax Contribution Program and extend the sunset date to January 1, 2025. Designations to the fund can be made on the original tax return under Rare and Endangered Species Preservation Voluntary Tax Contribution Program. 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 extending the sunset date of the Rare and Endangered Species Preservation Voluntary Tax Contribution Program, as renamed, and specifying a minimum contribution amount of \$250,000 would provide a stable source of funding to support the recovery and rehabilitation of injured, sick, or orphaned native wildlife, and conservation education.

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

## **PROVISION NO 2: Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund**

### **Reason for this Provision**

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

### **OPERATIVE DATE**

This provision 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.

### **THIS PROVISION**

This provision would establish the Native California Wildlife Rehabilitation Voluntary Tax Contribution 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.

In addition, this provision 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 Voluntary Tax Contribution 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 the recovery and rehabilitation of injured, sick, or orphaned native wildlife.
- 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 seven years, subject to estimated contributions meeting or exceeding the minimum contribution amount of \$250,000.

If the estimated contributions are less than the \$250,000 minimum contribution amount, the law authorizing designations for the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund would become inoperative as of January 1 of that calendar year and repealed as of December 1 of that year.

The FTB would be required to notify the Controller of the amount to be transferred to the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund. Amounts transferred would be continuously appropriated and 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 (Fish and Wildlife) to award grants to nonprofit organizations and for reimbursement of Fish and Wildlife's administrative costs, as specified.

### **IMPLEMENTATION CONSIDERATIONS**

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

### **LEGISLATIVE HISTORY**

AB 111 (Committee on Budget, Chapter 19, Statutes of 2017), set the 2017 calendar year minimum contribution amount at \$0 for voluntary contribution funds subject to a minimum contribution requirement for the year.

SB 1476 (Senate Governance & Finance Committee, Chapter 597, Statutes of 2016) requires voluntary contribution funds created or extended on or after January 2, 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* allows 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 provision would result in the following revenue loss:

Estimated Revenue Impact of AB 1031 PROVISION NO. 2: Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund As Amended August 24, 2017 Assumed Enactment By September 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 Voluntary Contribution Tax 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<sup>2</sup>

Support: San Diego Humane Society (Sponsor); American Society for the Prevention of Cruelty to Animals; Animal Advocates; Animal Legal Defense Fund; Association for the Prevention of Cruelty to Animals; California Animal Control Directors Association; California Association of Zoos and Aquariums; California Council for Wildlife Rehabilitators; California Travel Association; Defenders of Wildlife; Eastern Sierra Wildlife Care; Fund for Animals Wildlife; Center; Eastern Sierra Wildlife Care; Haven Wild Care; Human Society of the United States, Injured & Orphaned Wildlife; International Bird Rescue; Napa Wildlife Rescue; Oakland Zoo; Project Coyote; Raptors Are The Solution; San Francisco SPCA; SeaWorld San Diego;

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<sup>2</sup> From Senate Governance and Finance Committee analysis dated June 6, 2017.



Sonoma County Wildlife Rescue; Tehama Wild Care; The Fund for Animals Wildlife Center; Wildlife Rehabilitation and Release; Wild Neighbors Database Project.

Opposition: None provided.

## **ARGUMENTS**

Proponents: Some may argue that contributions made to this fund would provide a stable source of funding to support the recovery and rehabilitation of injured, sick, or orphaned native wildlife, and conservation education.

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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