

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Waldron, et al.	AB 1031

SUBJECT: Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund

SUMMARY

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

REASON FOR THE BILL

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

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 19 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With the following exceptions, funds remain on the return until they are either repealed or fail to meet their minimum contribution amount: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 a minimum contribution amount requirement 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.

Recently enacted law, AB 111 (Chapter 19, Statutes of 2017), set the minimum contribution amount for the 2017 calendar year, with regard to voluntary contribution funds subject to a minimum contribution requirement for the year, as \$0.

- Voluntary contribution funds created or extended on or after January 2, 2017, are subject to the following requirements:¹
- "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 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.

¹ Revenue and Taxation Code section 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 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.

Fish and Wildlife would be required to comply with specified Internet Web site reporting requirements.

LEGISLATIVE HISTORY

SB 1476 (Senate Gov. & 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.

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 bill would result in the following revenue loss:

Estimated Revenue Impact of AB 1031 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 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.

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

APPOINTMENTS

None.

SUPPORT/OPPOSITION²

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

Opposition: None provided.

VOTES

	Date	Yes	No
Concurrence	09/11/17	78	0
Senate Floor	09/06/17	40	0
Assembly Floor	05/18/17	69	0

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² Senate Governance and Finance Committee analysis dated June 6, 2017.