

Author: Low Analyst: Funmi Obatolu Bill Number: AB 280
Related Bills: See Legislative History Telephone: 845-5845 Introduced Date: February 2, 2017
Attorney: Bruce Langston Sponsor: _____

SUBJECT: Rape Kit Back Log Voluntary Tax Contribution Fund

SUMMARY

This bill would allow taxpayers to make voluntary contributions to the Rape Kit Back Log Voluntary Tax Contribution Fund on their state personal income tax returns.

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

RECOMMENDATION – NO POSITION

REASON FOR THE BILL

The reason for the bill is to provide funding to process the back log of untested rape kits.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2018, and operative as of that date. If enacted the Rape Kit Back Log Voluntary Tax Contribution 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With the following exceptions, funds remain on the return until they are either repealed or fail to meet their minimum contribution amount: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 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.

If the number of contingent voluntary contribution designations that are eligible to be added to the return is greater than the number of designations removed, the voluntary contribution designations may be queued and added to the return in the order of the date of enactment.

Beginning on January 1, 2017, the following general requirements apply to new or extended voluntary contribution funds:

- The words "voluntary tax contribution" must be included as part of the name of the fund.
- The administering agency's Internet Web site shall report the process for awarding money, the amount of money spent on administration, and an itemization of how program funds were awarded by the agency, including, but not limited to, information regarding recipients of funds. An "administering agency" would mean the state agency or other governmental entity, other than the FTB and the Controller, to which funds are allocated to accomplish the purposes of the voluntary contribution designation.
- In order to continue appearing on the tax return, a voluntary contribution fund must receive a minimum contribution of \$250,000 for the second calendar year after it first appears on the personal income tax return, and each calendar year thereafter.
- The voluntary tax contribution shall remain in effect only until January 1 of the seventh calendar year following the first appearance of the contribution on the personal income tax return, and is repealed as of December 1 of that year.

THIS BILL

This bill would establish the Rape Kit Back Log 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 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 Rape Kit Back Log 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 for processing rape kits.
- 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, as specified.

Beginning with the second calendar year the Rape Kit Back Log Voluntary Tax Contribution Fund is on the return, this bill would require contributions to the Rape Kit Back Log Voluntary Tax Contribution 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 Rape Kit Back Log Voluntary Tax Contribution Fund appears on the return whether contributions made under this bill would be less than \$250,000.

The law authorizing designations for the Rape Kit Back Log Voluntary Tax Contribution 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 Rape Kit Back Log Voluntary Tax Contribution Fund. Amounts transferred to the Rape Kit Back Log Voluntary Tax Contribution Fund 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 an unspecified entity for distribution of grants.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

This bill would require the Legislature to allocate funds directly to an unspecified entity. Typically voluntary contribution funds are allocated to a state agency for purposes of overseeing the expenditure of the funds. Absent an allocation to a state agency, the funds will be prevented from reaching the Rape Kit Back Log Voluntary Tax Contribution Fund. The author may wish to add language that would allocate the funds to an agency that would be responsible for administering the funds to the Rape Kit Back Log Voluntary Tax Contribution Fund.

TECHNICAL CONSIDERATIONS

On page 3, line 2, strikeout “rape kits” and insert “back-logged rape kits”.

On page 3, line 33, strikeout “rape kits” and insert “back-logged rape kits”.

LEGISLATIVE HISTORY

SB 1476 (Senate Governance & Finance., Chapter 597, Statutes of 2016) added general requirements for voluntary contribution funds that are created or extended on or after January 1, 2017.

OTHER STATES’ INFORMATION

The states surveyed include: *Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy and tax laws.

Illinois, Massachusetts, Michigan, Minnesota, and New York allow 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

The bill would not significantly impact the department’s costs.

ECONOMIC IMPACT

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 280 As Introduced February 2, 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 Rape Kit Back Log Voluntary Tax Contribution 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 providing funding to process rape back log kits would bring justice to victims and prevent predators from assaulting other people.

Opponents: Some may argue that additional funding is unnecessary because most untested rape kits are related to cases where the suspect is known or the accusations have been dismissed as unfounded.¹

POLICY CONCERNS

The bill lacks an annual indexing requirement. The absence of annual indexing of the minimum contribution amount would circumvent the existing legislative mechanism that allows the various funds to transition on and off the tax return.

LEGISLATIVE STAFF CONTACT

Funmi Obatolu
Legislative Analyst, FTB
(916) 845-5845
funmi.obatolu@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Diane Deatherage
Legislative Director, FTB
(916) 845-6333
diane.deatherage@ftb.ca.gov

¹ Kelman, Brett. "Untested rape kits: California would count backlog." The Desert Sun. March 10, 2016.