

Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author: Newman & Portantino Analyst: Funmi Obatolu Bill Number: SB 503
Related Bills: See Legislative History Telephone: 845-5845 Amended Date: May 9, 2017
Attorney: Bruce Langston Sponsor: _____

SUBJECT: Keep Arts in Schools Voluntary Tax Contribution Fund/Suspend Minimum Contribution Requirement for All Voluntary Contributions for 2017 Calendar Year

SUMMARY

This bill would do the following:

PROVISION NO. 1: Keep Arts in Schools Voluntary Tax Contribution Fund

Under the Personal Income Tax Law (PITL), this provision would rename the Keep Arts in Schools Fund as the Keep Arts in Schools Voluntary Tax Contribution Fund and would extend the repeal date of the fund.

PROVISION NO. 2: Suspend Minimum Contribution Amount Requirement for 2017 Calendar Year

This provision would suspend the minimum contribution amount requirement for 2017 calendar year, for all voluntary tax contribution funds required to meet a minimum contribution amount in order for that fund to continue to appear on the return for the 2017 taxable year.

RECOMMENDATION – NO POSITION

SUMMARY OF AMENDMENTS

The May 9, 2017, amendments added urgency language and a provision that would suspend the voluntary tax contribution funds from the minimum contribution requirement for the 2017 calendar year.

This analysis replaces the department's analysis of the bill as amended on March 20, 2017.

EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective and operative immediately upon enactment. The specific operative dates of the provisions vary and are addressed separately below.

ECONOMIC IMPACT – SUMMARY REVENUE TABLE

	2017-18	2018-19	2019-20
PROVISION NO. 1: Keep Arts in Schools Voluntary Tax Contribution Fund	n/a	- \$9,000	- \$9,000
PROVISION NO. 2: Suspend Minimum Contribution Amount Requirement for 2017 Calendar Year	n/a	- \$110,000	- \$110,000
TOTAL	n/a	-\$119,000	-\$119,000

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 Keep Arts in Schools Fund is currently set to be repealed on December 1, 2019, and is subject to a minimum contribution amount that is adjusted annually for inflation.

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 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 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: Keep Arts in Schools Voluntary Tax Contribution Fund

REASON FOR THE PROVISION

The reason for this provision is to encourage additional contributions to the California Arts Council, which encourages artistic awareness, promotes the employment of artists, and assists

¹ Revenue and Taxation Code (R&TC) section 18873.

independent local groups in developing their own art programs through prizes and direct grants awarded to individuals and organizations.

OPERATIVE DATE

This provision would be operative immediately and would allow the Fund to remain on tax returns filed through the 2024 taxable year if the minimum contribution amount is met.

THIS PROVISION

This provision would rename the Keep Arts in Schools Fund as the Keep Arts in Schools Voluntary Tax Contribution Fund and extend the sunset date for the renamed Keep Arts in Schools Voluntary Tax Fund from December 1, 2018, to December 1, 2025.²

IMPLEMENTATION CONSIDERATIONS

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

LEGISLATIVE HISTORY

SB 1476 (Senate Governance and Finance Committee, Chapter 597, Statutes of 2016) added general requirements applicable to voluntary contribution funds added or extended on or after January 2, 2017.

SB 571 (Liu, et al., Chapter 430, Statutes of 2013) established the Keep Arts in Schools Fund voluntary contribution. The Keep Arts in Schools Fund first appeared on the 2013 return.

SB 1076 (Price, Chapter 319, Statutes of 2010) established the Arts Council Fund that appeared on the 2010 and 2011 returns as a voluntary contribution designation.

PROGRAM BACKGROUND

The Arts Council Fund, the predecessor to the Keep Arts in Schools Fund, first appeared on the 2010 return and last appeared on the 2011 return because it failed to meet the minimum contribution amount for the 2012 calendar year.

The Keep Arts in Schools fund first appeared on the 2013 return and received the following total annual contributions:

2014	2015	2016 ³
\$256,421	\$263,880	\$270,138

² The operative and repeal dates assumes the fund meets the annual minimum contribution.

³ Minimum contribution amount was \$258,568.

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, business entity types, and tax laws.

Illinois, Massachusetts, Michigan, Minnesota and New York allow for taxpayer contribution designations on the returns; however, none of these states provide a voluntary contribution comparable to the one discussed in this provision.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This provision would result in the following revenue losses:

Estimated Revenue Impact of SB 503 PROVISION NO 1: Keep Arts in Schools Voluntary Tax Contribution Fund As Amended May 9, 2017 Assumed Enactment After June 30, 2017		
2017-18	2018-19	2019-20
n/a	-\$9,000	-\$9,000

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

Revenue Discussion

This provision would extend the repeal date for the Keep Arts in Schools Voluntary Tax Contribution Fund listed on the state's personal income tax return. The estimate assumes that the funds will meet the minimum contribution each year. The minimum contribution amount for the Keep Arts in Schools Fund is \$258,568 in 2017.

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.

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 \$9,000 annually.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may argue that extending assistance to the Arts Council with supplemental contributions would increase arts education programming and support for arts programs in rural and underserved urban areas.

Opponents: Some may argue that taxpayers who are inclined to contribute to this cause can do so through other voluntary methods and the consistent addition of funds on the tax return increases the perception of the tax return as a more cumbersome document

PROVISION NO. 2: Suspend Minimum Contribution Amount Requirement for 2017 Calendar Year

REASON FOR THIS PROVISION

The reason for this provision is to preserve voluntary contribution funds that are at risk of being repealed and allow them to continue to provide funding for critical resources to various charitable causes to benefit the public.

OPERATIVE DATE

As an urgency measure, this provision would be effective and operative immediately upon enactment.

THIS PROVISION

This provision would suspend the minimum contribution amount requirement for any voluntary tax contribution fund appearing on the return for the 2016 taxable year that has a minimum contribution amount requirement for the 2017 calendar year, in order to continue to appear on the return for the 2017 taxable year.

The minimum contribution amount to be received during the 2018 calendar year for a fund to appear on the tax return for the 2018 taxable year shall be the amount previously determined by September 1, 2016, for the 2017 calendar year.

This provision would not apply to a voluntary contribution fund that is otherwise subject to repeal without regard to satisfying a minimum contribution amount requirement.

LEGISLATIVE HISTORY

Research of California legislation found no proposed or enacted legislation similar to this provision.

PROGRAM BACKGROUND

As a result of a tax software vendor programming change, the FTB identified a significant decline in the amounts contributed to voluntary contribution funds included on this year's tax return. As such, based on the amounts received to date, it is expected that most of the funds will fail to meet their required minimum contribution amount.

IMPLEMENTATION CONSIDERATIONS

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

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This provision would result in the following revenue losses:

Estimated Revenue Impact of SB 503 PROVISION NO. 2: Suspend Minimum Contribution Amount Requirement for 2017 Calendar Year As Amended May 9, 2017 Assumed Enactment After June 30, 2017		
2017-18	2018-19	2019-20
n/a	- \$110,000	- \$110,000

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

Revenue Discussion

This provision would reduce the minimum contribution amount for all voluntary contributions to zero for the 2017 calendar year. The department estimates that absent this bill, approximately 10 funds would be removed from the voluntary contribution list for the 2018 calendar year. The continuation of these funds would result in contributions being 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.

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. The estimated revenue loss associated with the continuation of these funds would be approximately \$110,000 annually.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may argue that suspending the minimum contribution amount requirement for calendar year 2017 would preserve voluntary contribution funds that are at risk of being repealed and allow them to continue to provide critical resources to various charitable causes to benefit the public.

Opponents: Some may argue that taxpayers who are inclined to contribute to a charitable cause can do so through other voluntary methods.

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