

## **BILL ANALYSIS**

<b>Department, Board, Or Commission</b>	<b>Author</b>	<b>Bill Number</b>
<b>Franchise Tax Board</b>	<b>Newman, et al.</b>	<b>SB 503</b>

**SUBJECT:** Keep Arts in Schools Voluntary Tax Contribution Fund/Protect Our Coast and Oceans Voluntary Tax Contribution Fund

### **SUMMARY**

Under the Personal Income Tax Law, this bill would rename and extend the sunset date for the Keep Arts in Schools and Protect Our Coast and Oceans Funds, and modify provisions of the renamed funds.

### **REASON FOR THE BILL**

The reason for this bill is to update the provisions of the Keep Arts in Schools Fund and the Protect Our Coast and Oceans Fund to conform to existing requirements and ensure that taxpayers are allowed to continue to contribute amounts in excess of their tax liability to promote artistic awareness and protect California's coast and oceans.

### **EFFECTIVE/OPERATIVE DATE**

This bill would be effective and operative January 1, 2018, and would allow the Keep Arts in Schools Voluntary Tax Contribution Fund and the Protect Our Coast and Oceans Voluntary Tax Contribution Fund, to remain on the personal income tax returns filed for taxable years 2017 through 2025.

### **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Generally, funds remain on the tax return until repealed or the fund fails to meet its minimum contribution amount. The Keep Arts in Schools Fund and Protect Our Coast and Oceans Fund are currently set to be repealed on December 1, 2019, and are subject to a minimum contribution amount that is adjusted annually for inflation.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.

Recently enacted law, AB 111, set the minimum contribution amount for the 2017 calendar year to zero with regard to voluntary contribution funds subject to a minimum contribution requirement for the 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.

## **THIS BILL**

This bill would rename: (1) the “Keep Arts in Schools Fund” as the “Keep Arts in Schools Voluntary Tax Contribution Fund,” and (2) the “Protect Our Coast and Oceans Fund” as the “Protect Our Coast and Oceans Voluntary Tax Contribution Fund,” and extend the sunset date for these funds from January 1, 2018, to December 1, 2025. In addition, this bill would reset to \$250,000 the minimum contribution requirement for these two funds and remove the annual inflation adjustment requirement.

This bill would provide for continuous appropriation and allocation, as specified, of amounts in the Keep Arts in Schools Voluntary Tax Contribution Fund and the Protect Our Coast and Oceans Voluntary Tax Contribution Fund.

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<sup>1</sup> Revenue and Taxation Code section 18873.

## LEGISLATIVE HISTORY

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

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.

AB 754 (Muratsuchi, Chapter 323, Statutes of 2013) established the Protect Our Coast and Oceans voluntary contribution fund. The Protect Our Coast and Oceans voluntary contribution fund first appeared on the 2013 return.

SB 571 (Liu, et al., Chapter 430, Statutes of 2013) established the Keep Arts in Schools voluntary contribution Fund. 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 and the Protect Our Coast and Oceans funds first appeared on the 2013 return and received the following total annual contributions:

	2014	2015	2016 <sup>2</sup>
Keep Arts in Schools Fund	\$256,421	\$263,880	\$270,138
Protect Our Coast and Oceans Fund	\$241,040	\$279,771	\$321,130

## 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.

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<sup>2</sup> Minimum contribution amount was \$253,250.

*Illinois, Massachusetts, Michigan, and Minnesota* allow for taxpayer contribution designations on the tax return; however, none of these states provide a voluntary contribution comparable to the ones discussed in this analysis.

*New York* allows taxpayers to contribute to the Return a Gift to Wildlife fund to benefit New York's fish, wildlife and marine resources.

## **FISCAL IMPACT**

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

## **ECONOMIC IMPACT**

This bill would result in the following revenue losses:

Estimated Revenue Impact of SB 503 Assumed Enactment By September 30, 2017			
Fund Name	2017-18	2018-19	2019-20
Keep Arts in Schools Voluntary Tax Contribution Fund	\$0	- \$8,000	- \$8,000
Protect Our Coast and Oceans Voluntary Tax Contribution Fund	\$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 extend the repeal date for the renamed Keep Arts in Schools Voluntary Tax Contribution and Protect Our Coast and Oceans Voluntary Tax Contribution Fund. The minimum contribution amount for these funds would be \$250,000 each calendar year and would not be subject to inflation adjustments. This estimate assumes that the funds would meet the minimum contribution each year.

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 \$8,000 annually.

## **APPOINTMENTS**

None.

**SUPPORT/OPPOSITION<sup>3</sup>**

Support: California Arts Advocates, California Arts Council, California Association of Food Banks.

Opposition: None provided.

**VOTES**

	<b>Date</b>	<b>Yes</b>	<b>No</b>
Concurrence	09/15/17	38	0
Assembly Floor	09/14/17	78	0
Senate Floor	05/30/17	40	0

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<sup>3</sup> From Senate Governance and Finance Committee analysis dated May, 15, 2017.