



## Bill Analysis

Author: Caballero

Sponsor:

Bill Number: SB 347

Related Bills: See Legislative  
History

Introduced: February 9, 2021

### SUBJECT

The California Tree Fund Voluntary Tax Contribution

### SUMMARY

This bill would, under the Administration of Franchise and Income Tax Laws (AFITL), create the California Tree Fund, and would allow a taxpayer to make a voluntary contribution to the California Tree Fund on their state personal income tax return.

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

### RECOMMENDATION

No position

### SUMMARY OF AMENDMENTS

Not applicable.

### REASON FOR THE BILL

The reason for this bill is to provide a reliable source of funding for urban tree programs. This bill would focus on bringing trees to communities that are disadvantaged or lack government infrastructure needed to enter into and support urban tree planting and care agreements.

### ANALYSIS

This bill would, under the AFITL, establish the California Tree Fund and would allow taxpayers to designate 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 contribution individually. The designations for any taxable year must be made on the original return for the taxable year and, once made, are irrevocable.

In addition, this bill would do the following:

- Specifies 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.
- Requires the Franchise Tax Board (FTB) to revise the form of the return to include a designation space for the fund for taxable years beginning on or after January 1, 2021. 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 fund the following:
  1. Department of Forestry and Fire Protection's urban forestry management activities and projects.
  2. The Strategic Growth Council Transformative Climate Communities urban greening and green infrastructure projects.
- Allows the voluntary contribution designation to remain on the tax return until January 1, 2028, subject to the annual estimated contribution meeting or exceeding \$250,000.
- Requires the FTB, to estimate by September 1 of each calendar year after the first calendar year that the fund appears on the return whether the voluntary contributions made under this bill would be less than \$250,000.

The law authorizing designations for the 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 \$250,000.

The FTB would be required to notify the Controller of the amount to be transferred to the California Tree Fund. Amounts transferred to the California Tree Fund would be continuously appropriated and allocated as follows:

- To the FTB and the Controller for reimbursement of all costs incurred in connection with their duties.
- 50 percent of the remaining funds after FTB and the Controller are reimbursed to the Department of Forestry and Fire Protection.
- 50 percent of the remaining funds after FTB and the Controller are reimbursed to the Strategic Growth Council.

This bill further states that the FTB shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated to be transferred to the California Tree Fund. The Controller shall then transfer from the Personal Income Tax Fund to the California Tree Fund the sum of the amounts designated by individuals into that fund. A deduction is allowed, under the Personal Income Tax Law, for any contribution made to the California Tree Fund.

*Effective/Operative Date*

This bill would be effective on January 1, 2022, and operative as of that date. The California Tree Fund would first appear on the 2021 tax return filed on or after January 1, 2022.

*Federal/State Law*

*Federal Law*

No provision comparable to state law.

*State Law*

Current state tax law allows taxpayers to make monetary contributions to any of the 19 voluntary contribution funds listed on the 2020 personal income tax return.

Taxpayers contributing to any of the funds are specifically allowed to deduct those contributions on their state income tax return for the year in which the contribution is made.

Generally, funds remain on the return until they are either repealed by operation of law, or fail to meet a minimum contribution amount.

The FTB is generally required to make the following determinations for voluntary contribution funds by September 1 of each calendar year, beginning on the second calendar year the fund appears on the tax return:

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 the minimum contribution amount for a calendar year, that fund is repealed effective January 1 of that calendar year.

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 specific data related to the usage of the amounts received via voluntary contribution.
- A voluntary contribution fund must receive a minimum contribution of \$250,000 for the second calendar year after it first appears on the tax return, and each calendar year thereafter, to remain on the tax return.
- A voluntary tax contribution would remain in effect only until January 1 of the seventh calendar year following the first appearance of the contribution on the tax return, and be repealed as of December 1 of that year.

### *Implementation Considerations*

The department has identified the following implementation considerations, and is available to work with the author's office to resolve these and other considerations that may be identified.

The bill provides how the California Tree Fund would be appropriated, however this appropriation could exceed 100 percent of the total funding. First, the appropriations go to the FTB and the Controller for reimbursement of all costs. The bill then states that "Fifty percent of the funds" would go to Department of Forestry and Fire Protection, and "Fifty percent of the funds" would go to Strategic Growth Council. For clarity, it is recommended that the bill be amended to specify that 50 percent of the funds "remaining after all reimbursed costs" would go to Department of Forestry and Fire Protection, and the remaining 50 percent would go to the Strategic Growth Council.

Implementing this bill would require some changes to existing tax forms and instructions and information systems.

### *Technical Considerations*

Due to Section 18873 of the Revenue and Taxation Code (RTC) requiring new voluntary tax contributions to include the words "voluntary tax contribution" in the name of the fund, the author may want to include "notwithstanding Section 18873 of the RTC" in this bill, or add "voluntary tax contribution" to the name of the funds.

### *Policy Considerations*

None noted.

**LEGISLATIVE HISTORY**

AB 984 (Lackey, Chapter 445, Statutes of 2019). Created the Suicide Prevention Voluntary Tax Contribution Fund.

AB 2944 (Jones-Sawyer, Chapter 441, Statutes of 2018). Created the Schools Not Prisons Voluntary Tax Contribution Fund.

AB 280 (Low, Chapter 698, Statutes of 2017). Created the Rape Kit Backlog Voluntary Tax Contribution Fund.

AB 1031 (Waldron, Chapter 504, Statutes of 2017). Created the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund.

**FISCAL IMPACT**

This 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 SB347 as Introduced February 9, 2021  
Assumed Enactment after June 30, 2021

(\$ in Dollars)

Fiscal Year	Revenue
2021-2022	\$0
2022-2023	-\$5,000
2023-2024	-\$5,000

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

*Revenue Discussion*

This bill would add the California Tree Fund Voluntary Contribution Account to the voluntary contributions listed on the state's personal income tax return. The estimate assumes taxpayers would be able to make voluntary contributions via their tax return in 2022. It is assumed that this fund would receive \$250,000 in contributions each year.

Approximately 35 percent of taxpayers who contribute to voluntary contribution funds itemize their deductions. It is estimated that the average tax rate for these taxpayers is 6 percent, resulting in an estimated revenue loss of approximately \$5,000 annually per fund. Contributions would be made when taxpayers file their 2021 return in April of 2022. Subsequently, the deduction for the contribution would be claimed on the 2022 return filed by April 15, 2023; therefore, the revenue impact would not occur until fiscal year 2022-2023.

The tax year estimates are converted to fiscal year estimates, and then rounded to arrive at the amounts reflected in the above table.

**LEGAL IMPACT**

None noted.

**APPOINTMENTS**

None noted.

**SUPPORT/OPPOSITION**

To be determined.

**ARGUMENTS**

To be determined.

**LEGISLATIVE CONTACT**

[FTBLegislativeServices@ftb.ca.gov](mailto:FTBLegislativeServices@ftb.ca.gov)