



Bill Analysis

Author: Eggman

Sponsor:

Bill Number: SB 326

Related Bills: See Legislative
History

Amended: July 13, 2023

SUBJECT

Behavioral Health Services Act

SUMMARY

Pending approval by voters in the March 5, 2024, primary election, this bill would, under the Revenue and Taxation Code (RTC), repeal the Mental Health Services (MHS) Fund and replace it with the Behavioral Health Services (BHS) Fund.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The July 13, 2023, amendments added an urgency clause providing that the act would be effective immediately upon enactment.

This analysis only addresses the provisions that would impact the Franchise Tax Board (FTB).

REASON FOR THE BILL

The reason for this bill is to create the BHS Fund.

ANALYSIS

If approved by the voters at the March 5, 2024, primary election, this bill would, under the RTC, add a repeal date of January 1, 2025, to the current MHS Fund and replace it with the BHS Fund, which would become operative January 1, 2025. This bill would require the estimated revenue from the additional Mental Health Services Tax to be deposited in the BHS subject to that annual adjustment.

Under the RTC, the BHS Fund would for each fiscal year, require the Controller to make monthly deposits into the BHS Fund in an amount equal to the applicable percentage of "net personal income tax receipts."

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“Net personal income tax receipts” refers to amounts received by the FTB and the Employment Development Department under the Personal Income Tax Law, as reported by the FTB to the Department of Finance (DOF) pursuant to law, regulation, procedure, and practice in effect on the effective date of the act establishing the section.

Starting March 1, 2006, and each March 1st thereafter, DOF, in consultation with the FTB, has been and would be required to determine the annual adjustment amount for the following fiscal year.

The “annual adjustment amount” for a fiscal year is the outcome of subtracting the “revenue adjustment amount” from the “tax liability adjustment amount.”

Tax Liability Adjustment Amount

The “tax liability adjustment amount” for a tax year is equal to the outcome of subtracting the “estimated tax liability increase from the additional tax” for the applicable tax year from the amount of the “actual tax liability increase from the additional tax” imposed under RTC section 17043 for the applicable tax year.

- The “actual tax liability increase from the additional tax” means the increase in tax liability resulting from the tax of 1% imposed under Section 17043 as shown on original returns filed by October 15 of the year after the close of the applicable tax year.
- “Applicable tax year” means the 12-calendar month taxable year beginning on January 1 of the year that is two years before the beginning of the fiscal year for which an annual adjustment amount is calculated.
- The “estimated tax liability increase from the additional tax” for each tax year equals the annual growth rate of 7% multiplied by the “estimated tax liability increase from additional tax” of the immediately preceding tax year.

Revenue Adjustment Amount

The “revenue adjustment amount” is equal to the outcome of subtracting the “estimated revenue from the additional tax” for the applicable fiscal year, from the actual amount transferred for the applicable fiscal year.

- The “estimated revenue from the additional tax” for each applicable fiscal year equals the annual growth rate of 7% multiplied by the “estimated revenue from the additional tax” of the immediately preceding applicable fiscal year.
- “Applicable fiscal year” means the fiscal year that is two years before the fiscal year for which an annual adjustment amount is calculated.

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DOF would be required to notify the Legislature and the Controller of the results of the determination of the annual adjustment amount for the following fiscal year no later than 10 business days after the determinations are final.

If the annual adjustment amount for a fiscal year is a positive number, the Controller would be required to transfer that amount from the General Fund to the BHS Fund on July 1 of that fiscal year.

If the annual adjustment amount for a fiscal year is a negative number, the Controller would be required to suspend monthly transfers to the BHS Fund for that fiscal year until the total amount of suspended deposits for that fiscal year equals the amount of the negative annual adjustment amount for that fiscal year.

If on the date this section becomes operative, there are moneys remaining in the MHS Fund, those moneys would be transferred to the BHS Fund. Any amount that is owed or encumbered at the time of transfer would be used in the manner required by the Mental Health Services Act (MHSA). Any funds not owed or encumbered by the MHSA may be used in the same manner as any other moneys in the BHS Fund.

This provision would become operative on January 1, 2025, only if amendments to the MHSA are approved by the voters at the March 5, 2024, statewide primary election.

Effective/Operative Date

As an urgency measure, this bill would be effective immediately upon enactment, except for the provisions of this bill that would become effective January 1, 2025, upon voter approval in the March 5, 2024, statewide primary election. The BHS Fund provisions would become operative on January 1, 2025, if amendments to the MHSA are approved by the voters at the March 5, 2024, statewide primary election. If approved, the provision that established the MHS Fund would be repealed as of January 1, 2025.

Federal/State Law

Federal Law

No comparable provision in federal law.

State Law

Current state law provides that individual and fiduciary taxpayers with taxable income greater than \$1 million pay an additional 1% tax on their taxable income in excess of \$1 million. Estimated revenue is calculated and deposited into the MHS Fund. The MHSA was created to fund mental health care programs for tax years beginning on or after January 1, 2005.

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Implementation Considerations

None noted.

Technical Considerations

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

For consistency of terminology, in Section 19602.5(c), replace "No later than March 1, 2006..." with "No later than March 1, 2025...".

This bill includes two effective dates: Section 110 of the Bill provides an urgency clause and Section 108 provides a January 1, 2025, effective date, subject to voter approval. For clarity, the author may want to amend Section 108 to clarify which sections would be effective on January 1, 2025, subject to voter approval.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

No legislation similar to this bill has been identified.

PROGRAM BACKGROUND

Proposition 63, approved by voters in the November 2004 General Election, enacted the MHSA, which imposes a 1% tax on taxable incomes in excess of \$1 million for taxable years beginning on or after January 1, 2005, to provide a dedicated funding source for the expansion of mental health treatment options for children, adults, and seniors.

FISCAL IMPACT

Staff estimates that FTB's costs to implement this bill would be approximately \$310,000 only for fiscal year 2024-2025.

ECONOMIC IMPACT

Revenue Estimate

This bill, as amended July 13, 2023, does not change the computation of franchise income or tax.

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LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

None included.

ARGUMENTS

Opponents

Per the Senate Floor Analysis dated May 20, 2023, the following arguments in opposition were received. The Depression and Bipolar Support Alliance argues that while the bill would make findings that it clarifies procedures and terms of the MHSA, this in fact substantially amends, degrades, and begins the dismantling of the MHSA.

LEGISLATIVE CONTACT

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