

AMENDED IN SENATE AUGUST 14, 2014

AMENDED IN SENATE JUNE 4, 2014

AMENDED IN ASSEMBLY APRIL 2, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1765

**Introduced by Assembly Member Jones-Sawyer
(Coauthors: Assembly Members Gorell, Holden, Olsen, and Ting)
(Coauthor: Senator Cannella)**

February 14, 2014

An act to add and repeal Article 22 (commencing with Section 18900.20) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1765, as amended, Jones-Sawyer. Personal income taxes: voluntary contributions: Habitat for Humanity Fund.

The Personal Income Tax Law authorizes an individual to contribute amounts in excess of his or her tax liability for the support of specified funds.

This bill would additionally allow an individual to designate on his or her tax return that a specified amount in excess of his or her tax liability be transferred to the Habitat for Humanity Fund, which would be created by this bill. The bill would require the Franchise Tax Board, when another voluntary contribution designation is removed or space is available, whichever occurs first, to revise the tax return forms to provide for the designation created by this bill.

The bill would require moneys in the Habitat for Humanity Fund, upon appropriation by the Legislature, to be allocated to the Franchise

Tax Board~~and~~, the Controller, *and the Department of Housing and Community Development* for reimbursement of costs, as provided, and the balance to the Department of Housing and Community Development to distribute grants to Habitat for Humanity affiliates in California that meet certain requirements, including *having* a specified tax-exempt status. The bill would require the Department of Housing and Community Development to award grants through a competitive, project-specific grant process and be responsible for overseeing that grant program. The bill would prohibit a Habitat for Humanity affiliate from using a grant award for administrative expenses or for any purposes outside of California.

The bill would provide that these provisions would remain in effect only until January 1 of the 5th taxable year following the first appearance of the Habitat for Humanity Fund on the tax return or January 1, 2021, whichever occurs first, but would further provide for an earlier repeal if the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not equal or exceed the minimum contribution amount, as defined, for that calendar year, in which case these provisions would be repealed on December 1 of that year.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 22 (commencing with Section 18900.20)
 2 is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue
 3 and Taxation Code, to read:

4
 5 Article 22. Habitat for Humanity Fund
 6

7 18900.20. (a) An individual may designate on the tax return
 8 that a contribution in excess of the tax liability, if any, be made to
 9 the Habitat for Humanity Fund established by Section 18900.22.

10 (b) The contributions shall be in full dollar amounts and may
 11 be made individually by each signatory on a joint return.

12 (c) A designation under subdivision (a) shall be made for a
 13 taxable year on the original return for that taxable year, and once
 14 made shall be irrevocable. If payments and credits reported on the
 15 return, together with any other credits associated with the

1 individual's account, do not exceed the individual's tax liability,
2 the return shall be treated as though no designation has been made.
3 If a contribution is specified, but a designee is not specified, the
4 contribution shall be transferred to the General Fund after
5 reimbursement of the direct actual costs of the Franchise Tax Board
6 for the collection and administration of funds under this article.

7 (d) If an individual designates a contribution to more than one
8 account or fund listed on the tax return, and the amount available
9 is insufficient to satisfy the total amount designated, the
10 contribution shall be allocated among the designees on a pro rata
11 basis.

12 (e) The Franchise Tax Board shall revise the form of the return
13 to include a space labeled "Habitat for Humanity Fund" to allow
14 for the designation permitted under subdivision (a). The form shall
15 also include in the instructions information that the contribution
16 may be in the amount of one dollar (\$1) or more and that the
17 contribution shall be used to build affordable housing in California.

18 (f) Notwithstanding any other law, a voluntary contribution
19 designation for the Habitat for Humanity Fund shall not be added
20 on the tax return until another voluntary contribution designation
21 is removed or space is available, whichever occurs first.

22 (g) A deduction shall be allowed under Article 6 (commencing
23 with Section 17201) of Chapter 3 of Part 10 for a contribution
24 made pursuant to subdivision (a).

25 18900.22. There is hereby established in the State Treasury
26 the Habitat for Humanity Fund to receive contributions made
27 pursuant to Section 18900.20. The Franchise Tax Board shall notify
28 the Controller of both the amount of money paid by taxpayers in
29 excess of their tax liability and the amount of refund money that
30 taxpayers have designated pursuant to Section 18900.20 to be
31 transferred to the Habitat for Humanity Fund. The Controller shall
32 transfer from the Personal Income Tax Fund to the Habitat for
33 Humanity Fund an amount not in excess of the sum of the amounts
34 designated by individuals pursuant to Section 18900.20 for
35 payment into that fund.

36 18900.24. All money transferred to the Habitat for Humanity
37 Fund, upon appropriation by the Legislature, shall be allocated as
38 follows:

39 (a) To the Franchise Tax Board ~~and~~, the Controller, *and the*
40 *Department of Housing and Community Development* for

1 reimbursement of all costs incurred by the Franchise Tax Board
 2 ~~and~~, the Controller, *and the Department of Housing and*
 3 *Community Development* in connection with their duties under
 4 this article.

5 (b) The Department of Housing and Community Development
 6 for distribution of grants to Habitat for Humanity affiliates in
 7 California that are in active status, as described on the Business
 8 Search page of the Secretary of State’s Internet Web site, and that
 9 are exempt from federal income taxation as an organization
 10 described in Section 501(c)(3) of the Internal Revenue Code. The
 11 Department of Housing and Community Development shall award
 12 grants through a competitive, project-specific grant process and
 13 be responsible for overseeing that grant program. A Habitat for
 14 Humanity affiliate shall not use a grant award for administrative
 15 expenses or for any purposes outside of California.

16 18900.26. (a) Except as otherwise provided in subdivision (b),
 17 this article shall remain in effect only until January 1 of the fifth
 18 taxable year following the first appearance of the Habitat for
 19 Humanity Fund on the personal income tax return, or January 1,
 20 2021, whichever occurs first, and is repealed as of December 1 of
 21 that year.

22 (b) (1) By September 1 of the second calendar year and each
 23 subsequent calendar year that the Habitat for Humanity Fund
 24 appears on the tax return, the Franchise Tax Board shall do all of
 25 the following:

26 (A) Determine the minimum contribution amount required to
 27 be received during the next calendar year for the fund to appear
 28 on the tax return for the taxable year that includes that next calendar
 29 year.

30 (B) Provide written notification to the Controller and the
 31 Department of Housing and Community Development of the
 32 amount determined in subparagraph (A).

33 (C) Determine whether the amount of contributions estimated
 34 to be received during the calendar year will equal or exceed the
 35 minimum contribution amount determined by the Franchise Tax
 36 Board for the calendar year pursuant to subparagraph (A). The
 37 Franchise Tax Board shall estimate the amount of contributions
 38 to be received by using the actual amounts received and an estimate
 39 of the contributions that will be received by the end of that calendar
 40 year.

1 (2) If the Franchise Tax Board determines that the amount of
2 the contributions estimated to be received during a calendar year
3 will not at least equal the minimum contribution amount for the
4 calendar year, this article shall be inoperative with respect to
5 taxable years beginning on or after January 1 of that calendar year
6 and shall be repealed on December 1 of that year.

7 (3) For purposes of this section, the minimum contribution
8 amount for a calendar year means two hundred fifty thousand
9 dollars (\$250,000) for the second calendar year after the first
10 appearance of the Habitat for Humanity Fund on the personal
11 income tax return or the minimum contribution amount as adjusted
12 pursuant to subdivision (c).

13 (c) For each calendar year, beginning with the third calendar
14 year after the first appearance of the Habitat for Humanity Fund
15 on the personal income tax return, the Franchise Tax Board shall
16 adjust, on or before September 1 of that calendar year, the
17 minimum contribution amount specified in subdivision (b) as
18 follows:

19 (1) The minimum contribution amount for the calendar year
20 shall be an amount equal to the product of the minimum
21 contribution amount for the prior calendar year multiplied by the
22 inflation factor adjustment as specified in subparagraph (A) of
23 paragraph (2) of subdivision (h) of Section 17041, rounded off to
24 the nearest dollar.

25 (2) The inflation factor adjustment used for the calendar year
26 shall be based on the figures for the percentage change in the
27 California Consumer Price Index for all items received on or before
28 August 1 of the calendar year pursuant to paragraph (1) of
29 subdivision (h) of Section 17041.

30 (d) Notwithstanding the repeal of this article, any contribution
31 amounts designated pursuant to this article prior to its repeal shall
32 continue to be transferred and disbursed in accordance with this
33 article as in effect immediately prior to that repeal.

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