

Senate Bill No. 761

CHAPTER 365

An act to amend Sections 18897 and 18898 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2014. Filed with
Secretary of State September 16, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 761, DeSaulnier. Personal income taxes: voluntary contributions: School Supplies for Homeless Children 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, including the School Supplies for Homeless Children Fund. Existing law requires the moneys deposited in the School Supplies for Homeless Children Fund to be allocated, upon appropriation by the Legislature, to the State Department of Education for the sole purpose of assisting pupils in California pursuant to the federal McKinney-Vento Homeless Assistance Act by providing school supplies and health-related products to homeless children through competitive grant programs, as provided.

This bill would instead require the same moneys, upon appropriation by the Legislature, to be allocated to the State Department of Social Services for distribution to a nonprofit organization, exempt from taxation, for the sole purpose of assisting pupils in California pursuant to the federal McKinney-Vento Homeless Assistance Act by providing grants of school supplies and health-related products to partnering local education agencies, as provided.

This bill would also allow those moneys to be used for local assistance expenditures. By authorizing a new purpose for those special funds, the bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. Section 18897 of the Revenue and Taxation Code is amended to read:

18897. All moneys transferred to the School Supplies for Homeless Children Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board, the State Department of Social Services, and the Controller for reimbursement of all costs incurred by the Franchise Tax Board, the Controller, and the State Department of Social Services in connection with their duties under this article.

(b) To the State Department of Social Services as follows:

(1) For the 2014–15 fiscal year, the Controller shall transfer the funds appropriated to the State Department of Education for this purpose from Budget Items 6110-001-8075 and 6110-101-8075 to the State Department of Social Services. Funds transferred may be used for state operations or local assistance expenditures and for distribution to a nonprofit organization exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code for the sole purpose of assisting pupils in California on a statewide basis pursuant to the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.) by providing school supplies and health-related products to partnering local education agencies for distribution to homeless children, as defined by the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a). The nonprofit organization shall provide a minimum 100 percent match for all funds received from the School Supplies for Homeless Children Fund. If the nonprofit organization provides in-kind materials towards the 100 percent match, then the value of the in-kind materials contributing to a 100 percent match shall be verified by the donor donating the in-kind materials and cannot exceed the market value of the materials if sold at retail. The State Department of Social Services shall enter into a subvention services agreement with the nonprofit organization.

(2) The State Department of Social Services' first designation of a nonprofit organization shall be valid until January 1, 2017. On that date, and every three calendar years thereafter, while this section is operative and in effect, the State Department of Social Services shall designate the same or a different nonprofit organization pursuant to this section. The State Department of Social Services may revoke the designation if the nonprofit organization fails to comply with the provisions of this article. If a designation is revoked, the State Department of Social Services shall designate a new nonprofit organization within three calendar months or as soon as administratively feasible.

(3) Funds shall be distributed by the State Department of Social Services only after evidence is presented to the State Department of Social Services that demonstrates that the local education agencies or domestic violence shelters have received the materials described in paragraph (1).

(c) (1) Funds distributed to the nonprofit organization pursuant to this section shall be used only for costs incurred to procure, assemble, and ship school supplies and health-related products. Funds made available pursuant to this section shall not be used for administrative purposes, to reimburse costs associated with administering grants of school supplies and health-related products to local education agencies or domestic violence shelters, or for any purpose relating to the operation of the nonprofit organization.

(2) The nonprofit organization may provide school supplies and health-related products to children living in domestic violence shelters.

(d) The State Department of Social Services shall verify that the designated nonprofit organization procured school supplies and health-related products and provided matching funds or in-kind materials as described in this section.

SEC. 2. Section 18898 of the Revenue and Taxation Code is amended to read:

18898. (a) Except as otherwise provided in subdivision (b), this article shall remain in effect only until January 1 of the fifth taxable year following the first appearance of the School Supplies for Homeless Children Fund on the personal income tax return, and is repealed as of December 1 of that year.

(b) (1) By September 1 of the second calendar year and each subsequent calendar year that the School Supplies for Homeless Children Fund appears on the tax return, the Franchise Tax Board shall do all of the following:

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

(B) Provide written notification to the State Department of Social Services of the amount determined in subparagraph (A).

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

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

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000) for the second calendar year after the first appearance of the School Supplies for Homeless Children Fund on the personal income tax return or the adjusted minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with the third calendar year after the first appearance of the School Supplies for Homeless Children Fund on the personal income tax return, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated

contribution amount for the calendar year multiplied by the inflation factor adjustment as specified in subparagraph (A) of paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

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

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

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that proceeds from the School Supplies for Homeless Children Fund start being administered this year by the State Department of Social Services so that homeless children may receive school supplies as soon as possible, it is necessary that this act take effect immediately.