

AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1207

Introduced by Senator Wolk
(Coauthor: Senator Liu)

February 20, 2014

An act to add *and repeal* Article 1 (commencing with Section 18701) ~~to~~ of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1207, as amended, Wolk. California Voluntary Contribution Program.

Under the existing Personal Income Tax Law, taxpayers are allowed to contribute amounts in excess of their tax liability for the support of specified funds. Existing law provides for various voluntary contribution check-off funds to be listed on the income tax return.

This bill would modify the existing voluntary check-off system by establishing the California Voluntary Contribution Program *to be administered by the office of California Volunteers* to expand the contribution options for a taxpayer. ~~Commencing January 1, 2016, the bill would establish the Office of California Volunteers to administer the program.~~ The bill would provide that the purpose of the program is to promote charitable giving and collect through the personal income tax return individual taxpayers' voluntary contributions to qualified applicants, defined to include any charitable organization or a state or local agency meeting certain requirements. Not later than January 1, 2017, the bill would require the office to, among other things, develop the application to participate in the program and establish application and renewal fees. The bill would authorize the office to adopt regulations

necessary to carry out these provisions and would make these regulations subject to the Administrative Procedure Act. The bill would require the Franchise Tax Board to revise the personal income tax form in a manner necessary to inform an individual about how to make a designation to any qualified applicant.

Commencing on January 1, 2017, this bill would allow an individual to designate a contribution to any qualified applicant. The bill would require an applicant wishing to receive contributions to submit an application to the program, including an application fee. The bill would require these contributions to be transferred from the Personal Income Tax Fund to the California Voluntary Contribution Fund, created by this bill. The bill would require moneys in the California Voluntary Contribution Fund, upon appropriation by the Legislature, to be allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and the balance to the ~~Office~~ *office* of California Volunteers for distribution to each qualified ~~application~~ *applicant* designated by an individual. The bill would establish a specified minimum contribution amount for each qualified applicant. The bill would prohibit a qualified applicant from receiving voluntary contributions if, among other things, the average amount of contributions received during certain calendar years did not equal the minimum contribution amount.

This bill would annually require the office to provide the Legislature with a report containing specified information on the program. The bill would also require this report to be made available to the public.

This bill would repeal these provisions on January 1, 2030, unless a later enacted statute deletes or extends that date.

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. (a) The Legislature finds and declares that the
2 state has a role in informing the public of the value and need for
3 community service, volunteerism, and charitable giving as a form
4 of civic engagement in order to support important social and
5 community programs. The Legislature further finds and declares
6 that there are many worthy charitable causes in California that
7 may benefit from taxpayers' voluntary charitable contributions on
8 the tax form, but are not able to do so under the existing tax

1 check-off process. Therefore, it is the intent of the Legislature to
2 promote civic engagement by establishing a program where
3 taxpayers have the opportunity to give to a wide range of charitable
4 causes on their tax return.

5 (b) It is the intent of the Legislature to retain all existing funds
6 currently on the tax return form until their repeal dates, and, in
7 legislation to be enacted at a later date, transition the remaining
8 funds to the California Voluntary Contributions Program by 2020.
9 ~~However, it is~~ *It is further* the intent of the Legislature that the
10 *duties of repeal for the* California Fund for Senior Citizens, the
11 California Firefighters' Memorial Fund, and the California Peace
12 Officer Memorial Foundation Fund ~~extend their repeal dates be~~
13 *extended* in legislation to be enacted at a later date.

14 SEC. 2. Article 1 (commencing with Section 18701) is added
15 to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation
16 Code, to read:

17

18 Article 1. California Voluntary Contribution Program

19

20 18701. For the purposes of this article, the following definitions
21 shall apply:

22 (a) ~~"Charitable"~~ *"Charitable organization"* means an organization
23 exempt from income tax as an organization described in Section
24 ~~13701d.~~ *23701d.*

25 (b) ~~"Local"~~ *"Local agency"* and *"state agency"* have the same
26 meanings as defined in Section 6252 of the Government Code.

27 (c) ~~"Office"~~ *"Office"* means the ~~Office office~~ of California
28 Volunteers, *as established by Executive Order S-24-06, or its*
29 *successor.*

30 (d) ~~"Program"~~ *"Program"* means the California Voluntary
31 Contribution Program.

32 (e) ~~A "qualified"~~ *"Qualified applicant"* means a charitable
33 organization that meets the requirements of either ~~paragraph (1)~~
34 ~~or (2)~~ *of the following:*

35 (1) (A) Was incorporated in California *or qualified as a foreign*
36 *corporation* at least five years prior to the date of application.

37 (B) Has registered in this state with the Attorney General's
38 Registry of Charitable Trusts for each of the three years prior to
39 the date of application and has met each of the requirements that
40 apply to the applicant, under statute and as established by the

1 Attorney General ~~under the terms of the Attorney General's for~~
2 ~~the Registry of Charitable Trusts.~~

3 (C) Has submitted annual ~~tax-exempt filings returns or~~
4 ~~statements~~ with the Internal Revenue Service Franchise Tax Board,
5 pursuant to Section 23771, 23772, or 23773 for each of the three
6 years prior to the ~~data~~ date of application.

7 (D) Has average annual total revenues in excess of the minimum
8 contribution level described in Section 18705, as calculated from
9 each of the three years prior to the date of application, *not including*
10 *those contributions made by a designation in excess of the tax*
11 *liability on an individuals tax return.*

12 (2) Is a state or local agency.

13 ~~(f) This section shall become operative on January 1, 2016.~~

14 18702. (a) There is hereby established in state government the
15 California Voluntary Contribution Program ~~and the Office of~~
16 ~~California Volunteers.~~

17 (b) The purpose of the program is to promote charitable giving
18 and provide individual taxpayers' voluntary contributions to
19 qualified applicants. The office *or a successor agency*, shall be
20 responsible for administering the program.

21 ~~(e) This section shall become operative on January 1, 2016.~~

22 18703. (a) ~~An~~ *A qualified applicant who that* wishes to receive
23 voluntary contributions through the program shall submit an
24 application to the program ~~no later than April 1 of each calendar~~
25 ~~year.~~ *office by a date established by the office.* The application
26 shall include all of the following:

27 (1) Evidence satisfactory to the office that the applicant is a
28 qualified applicant ~~as defined in Section 18701.~~ All documents
29 submitted to the office shall be made public.

30 (2) An application fee, as established by the office pursuant to
31 Section ~~18701,~~ 18710 in an amount sufficient to cover the
32 reasonable ~~regulatory cost to the office for carrying out costs of~~
33 *administering* the application process.

34 (b) The office shall approve an application if the requirements
35 of subdivision (a) *and other reasonable requirements consistent*
36 *with this article* are met, thereby making a qualified applicant
37 eligible to receive voluntary contributions.

38 (c) This section shall become operative on January 1, 2017.

1 18704. A qualified applicant whose application is approved
2 by the office may continue to receive voluntary contributions each
3 year if the following requirements are met:

4 (a) Contributions received by the qualified applicant through
5 the program in the prior year meet or exceed the minimum
6 contribution level established for the program, as described in
7 Section 18705.

8 (b) The qualified applicant continues to meet the requirements
9 established for qualified applicants in *subdivision (e) of Section*
10 *18701*.

11 (c) The qualified applicant submits an application for renewal
12 and pays a renewal fee, as determined by the office pursuant to
13 Section 18710.

14 (d) This section shall become operative on January 1, 2017.

15 18705. (a) The minimum contribution amount for each
16 approved qualified applicant is one hundred thousand dollars
17 (\$100,000).

18 (b) Notwithstanding subdivision (a), the office shall adopt
19 regulations to adjust the minimum contribution requirement every
20 five calendar years, beginning with the third calendar year after
21 the first appearance of the “California Voluntary Contributions
22 Fund” on the personal income tax return.

23 (c) This section shall become operative on January 1, 2017.

24 18706. (a) A qualified applicant may no longer receive
25 voluntary contributions if either of the following apply:

26 (1) The average amount of contributions received during three
27 calendar years did not equal the minimum contribution
28 requirement, as described in Section 18705.

29 (2) The designee no longer meets the definition of a “qualified
30 applicant” pursuant to *subdivision (e) of Section 18701*.

31 (b) When a qualified applicant is no longer eligible to receive
32 voluntary charitable contributions pursuant to this article, the office
33 shall immediately revoke the eligibility of the qualified applicant
34 from the program.

35 (c) A qualified applicant whose eligibility is revoked from
36 participation in the program may reapply to the program no sooner
37 than five years after the eligibility was revoked.

38 (d) This section shall become operative on January 1, 2017.

39 18707. (a) An individual may designate on the personal income
40 tax return that a contribution in excess of the tax liability, if any,

1 be made to a specific qualified applicant whose application has
2 been approved pursuant to Section 18703. The contribution shall
3 be deposited in the California Voluntary Contribution Fund
4 established by Section 18708. That designation is to be used as a
5 voluntary contribution on the tax return.

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

8 (c) A designation under subdivision (a) shall be made for any
9 taxable year on the original return for that taxable year, and once
10 made shall be irrevocable. If payments and credits reported on the
11 return, together with any other credits associated with the
12 individual's account, do not exceed the individual's liability, the
13 return shall be treated as though no designation has been made.

14 (d) The Franchise Tax Board, in consultation with the office,
15 shall revise the tax form of the return to include a space labeled
16 "California Voluntary Contributions Program," to allow for the
17 designation permitted under subdivision (a). The form shall also
18 include in the instructions information that the contribution may
19 be in the amount of one dollar (\$1) or more and that the
20 contribution shall be used to support the qualified applicant
21 specified by the taxpayer.

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

25 (f) This section shall become operative on January 1, 2017.

26 18708. (a) There is hereby established in the State Treasury
27 the California Voluntary Contribution Fund to receive contributions
28 from ~~voluntary taxpayer~~ contributions made pursuant to Section
29 18707.

30 (b) The Franchise Tax Board shall notify the Controller of both
31 the amount of money paid by individuals in excess of their tax
32 liability and the amount of refund money which individuals have
33 designated pursuant to Section 18707 to be transferred to the
34 California Voluntary Contribution Fund. The Controller shall
35 transfer from the Personal Income Tax Fund to the California
36 Voluntary Contribution Fund an amount not in excess of the sum
37 of the amounts designated by individuals pursuant to Section 18707
38 for payment into that fund.

39 (c) This section shall become operative on January 1, 2017.

1 18709. (a) All money transferred to the California Voluntary
2 Contribution Fund, upon appropriation by the Legislature, shall
3 be allocated as follows:

4 (1) To the Franchise Tax Board, the Controller, and the office
5 for reimbursement of all costs incurred in connection with their
6 duties under this article.

7 (2) To the office for distribution to each qualified applicant
8 designated by a taxpayer.

9 (b) On and after January 1, ~~2018~~, 2020, no more than 5 percent
10 of money from the fund, exclusive of fee revenues, shall be used
11 for administrative purposes.

12 (c) All moneys may be carried over from the year in which they
13 were received and encumbered in any following year.

14 (d) In the event that no designee is specified *or the specified*
15 *designer is not a qualified applicant*, the contribution shall, after
16 reimbursement of the direct actual costs of the Franchise Tax Board
17 for the collection and administration of funds under this article,
18 be transferred to the ~~General Fund~~. *office to further the purposes*
19 *of this article.*

20 (e) In the event an individual designates a contribution to a
21 qualified applicant whose eligibility for receiving voluntary
22 contributions has been revoked, ~~the moneys shall be held for up~~
23 ~~to five years and may be distributed to the designee only if and~~
24 ~~when the designee becomes a qualified applicant once again. If~~
25 ~~the designee fails to become a qualified applicant within five years~~
26 ~~after their eligibility is revoked, the funds shall be transferred to~~
27 ~~the General Fund. but that was eligible to receive a voluntary~~
28 *contribution for the taxable year in which the designation was*
29 *made, the contribution shall be distributed to the qualified*
30 *applicant.*

31 (f) In the event an individual designates a contribution to more
32 than one qualified applicant listed on the tax return, and the amount
33 available is insufficient to satisfy the total amount designated, the
34 contribution shall be allocated among the designees on a pro rata
35 basis.

36 (g) This section shall become operative on January 1, 2017.

37 18710. (a) The office shall, not later than January 1, 2017, do
38 all of the following:

1 (1) Develop the application and related materials to be
2 completed by applicants to participate in the program, including
3 the types of proof necessary to comply with the program.

4 (2) By regulation, establish reasonable and necessary application
5 and renewal fees in an amount not to exceed the reasonable
6 ~~regulatory cost~~ *costs* of administering the application and renewal
7 process.

8 (3) Develop procedures and adopt regulations to inform
9 taxpayers on how to contribute directly to a charitable organization
10 or state or local agency if that charitable organization or state or
11 local agency is not eligible to receive contributions ~~since~~ *because*
12 it did not meet the required minimum contribution amount.

13 (4) *In consultation with other agencies that regulate charitable*
14 *organizations, develop policies and procedures to ensure that*
15 *qualified applicants are in compliance with applicable statutes*
16 *affecting those charitable organizations.*

17 (5) *Develop a plan to transition the remaining funds on the tax*
18 *return form to the program. That plan should be submitted to the*
19 *relevant committees of the Legislature by January 1, 2020.*

20 (b) The office may do the following:

21 (1) Form an advisory body or related bodies as deemed
22 necessary.

23 (2) Contract with other agencies, public or private, as deemed
24 necessary in pursuit of the duties described in this act.

25 (3) Adopt regulations necessary for the administration of this
26 article.

27 (4) *For each of the five years following the first appearance of*
28 *the “California Voluntary Contribution Fund” on the personal*
29 *income tax return, establish policies that limit the number of*
30 *participating qualified applicants based on capacity and*
31 *appropriation.*

32 (c) (1) The office shall annually provide to the Legislature, and
33 make publicly available, a report on the program, including goals,
34 a baseline, metrics and targets to track, over time, the effectiveness
35 of efforts to encourage charitable giving. The annual report shall
36 include information on total contributions received, administrative
37 and related costs, and total contribution distributed to qualified
38 applicants.

1 (2) (A) A report to the Legislature pursuant to this section shall
2 be submitted in compliance with Section 9795 of the Government
3 Code.

4 (B) This subdivision shall become inoperative on January 1,
5 2020, pursuant to Section 10231.5 of the Government Code.

6 (d) Not later than January 1, 2017, the Franchise Tax Board
7 shall revise the tax form and any other related materials, including
8 online materials, in order to allow an individual to designate a
9 contribution to any one of the qualified applicants approved
10 pursuant to Section 18703. These forms and materials may include,
11 but not be limited to, a separate schedule, booklet, or any other
12 material necessary to inform an individual about qualified
13 applicants and how to make a designation on the personal income
14 tax return.

15 ~~(e) This section shall become operative on January 1, 2016.~~

16 18711. ~~(a)~~ Any regulation adopted pursuant to this article shall
17 be adopted pursuant to the Administrative Procedure Act (Chapter
18 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
19 Title 2 of the Government Code).

20 ~~(b) This section shall become operative on January 1, 2016.~~

21 18712. *This article shall remain in effect only until January 1,*
22 *2030, and as of that date is repealed, unless a later enacted statute,*
23 *that is enacted before January 1, 2030, deletes or extends that*
24 *date.*