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AMENDED IN ASSEMBLY JULY 2, 2014

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AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1207

**Introduced by Senator Wolk
(Coauthors: Senators Knight and Liu)**

February 20, 2014

An act to add and repeal Article 1 (commencing with Section 18701) 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~~ *law, individuals* 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 *personal* 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. 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 either to specified charities in a pool of up to 200 qualified applicants, defined to include any charitable organization meeting certain requirements or a state or local ~~agency~~ *agency*, or to make a general charitable gift *by donating to the Charitable Giving Fund*. 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 specified policies and guidelines to regulate the number of qualified applicants participating in the program. 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 designations to qualified applicants or to the Charitable Giving Fund.

Commencing on January 1, ~~2017~~, 2018, this bill would allow an individual taxpayer to designate a contribution to up to 5 qualified applicants or to the Charitable Giving Fund. 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 the office to approve an application if specified requirements, and other reasonable requirements, are met, thereby making a qualified applicant eligible to receive voluntary contributions. The bill would require these contributions to be transferred from the Personal Income Tax Fund to the California Voluntary Contribution Fund or to the Charitable Giving Fund, both of which are created by this bill. The bill would require moneys in the California Voluntary Contribution Fund and the Charitable Giving 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 from the California Voluntary Contribution Fund to the office of California Volunteers for distribution to each qualified applicant designated by an individual and the balance from the Charitable Giving Fund to the office for distribution as grants for charitable purposes, in accordance with policies and procedures established by the office. 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. The bill would also require the office to work in consultation with the Department of Finance to develop a strategy to propose to the Legislature for a continuous appropriation to distribute taxpayers' contributions to the designated qualified applicants.

This bill would repeal these provisions on January 1, 2023.

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

13 (b) It is the intent of the Legislature to retain all existing funds
14 currently on the tax return form until their repeal dates, and, in
15 legislation to be enacted at a later date, transition the remaining
16 funds to the California Voluntary ~~Contributions~~ *Contribution*
17 Program by 2020. It is further the intent of the Legislature that the
18 dates of repeal for the California Fund for Senior Citizens or its
19 successor, the California Firefighters' Memorial Fund, and the
20 California Peace Officer Memorial Foundation Fund be extended
21 in legislation to be enacted at a later date and that those funds be
22 retained as separate voluntary contribution designations on the
23 personal income tax return.

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

1 Article 1. California Voluntary Contribution Program

2
3 18701. For the purposes of this article, the following definitions
4 shall apply:

5 (a) “Charitable organization” means an organization exempt
6 from income tax as an organization described in Section 23701d.

7 (b) “Local agency” and “state agency” have the same meanings
8 as defined in Section 6252 of the Government Code.

9 (c) “Office” means the office of California Volunteers, as
10 established by Executive Order S-24-06, or its successor.

11 (d) “Program” means the California Voluntary Contribution
12 Program established by this article.

13 (e) “Qualified applicant” means either of the following:

14 (1) A charitable organization that meets all of the following
15 requirements:

16 (A) Has registered in this state with the Attorney General’s
17 Registry of Charitable Trusts for each of the three years prior to
18 the date of application and has met each of the requirements that
19 apply to the applicant, under statute and as established by the
20 Attorney General for the Registry of Charitable Trusts.

21 (B) Has submitted annual returns or statements with the
22 Franchise Tax Board, pursuant to Section 23771, 23772, or 23774
23 for each of the three years prior to the date of application.

24 (C) Has average annual total revenues in excess of the minimum
25 contribution amount described in Section 18705, as calculated
26 from each of the three years prior to the date of application, not
27 including those contributions made by a designation in excess of
28 the tax liability on an individual’s tax return.

29 (2) Is a local agency or state agency.

30 18702. (a) There is hereby established in state government the
31 California Voluntary Contribution Program.

32 (b) The purpose of the program is to promote charitable giving
33 and provide individual taxpayers’ voluntary contributions to
34 qualified applicants. The office shall be responsible for
35 administering the program.

36 (c) The number of qualified applicants that may participate in
37 the program each taxable year shall be no more than 200, less the
38 number of funds established pursuant to Chapter 3 (commencing
39 with Section ~~18711~~ 18701) of Part 10.2 of ~~Division 3~~. *Division*
40 2.

1 18703. (a) A qualified applicant that wishes to receive
2 voluntary contributions through the program shall submit an
3 application to the office by a date established by the office. The
4 application shall include all of the following:

5 (1) Evidence satisfactory to the office that the applicant is a
6 qualified applicant. All documents submitted to the office shall be
7 made public.

8 (2) An application fee, as established by the office pursuant to
9 Section 18710 in an amount sufficient to cover the reasonable costs
10 of administering the application process.

11 (b) The office shall approve an application if the requirements
12 of subdivision (a) and other reasonable requirements consistent
13 with this article are met, thereby making a qualified applicant
14 eligible to receive voluntary contributions.

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

16 18704. A qualified applicant whose application is approved
17 by the office may continue to receive voluntary contributions if
18 the following requirements are met:

19 ~~(a) Contributions received by the qualified applicant through
20 the program in the prior year meet or exceed the minimum
21 contribution amount established for the program, as described in
22 Section 18705. The average amount of contributions received
23 during three calendar years equals or exceeds the minimum
24 contribution requirement amount established for the program, as
25 described in Section 18705.~~

26 (b) The qualified applicant continues to meet the requirements
27 established for qualified applicants in subdivision (e) of Section
28 18701.

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

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

33 18705. (a) The minimum contribution amount for each
34 approved qualified applicant is one hundred thousand dollars
35 (\$100,000).

36 (b) Notwithstanding subdivision (a), the office may adopt
37 regulations to adjust the minimum contribution amount beginning
38 on January 1, 2020.

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

1 18706. (a) A qualified applicant may no longer receive
2 voluntary contributions if either of the following apply:

3 (1) The average amount of contributions received during three
4 calendar years did not equal the minimum contribution amount,
5 as described in Section 18705.

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

8 (b) When a qualified applicant is no longer eligible to receive
9 voluntary charitable contributions pursuant to this article, the office
10 shall revoke the eligibility of the qualified applicant from the
11 program and notify the Franchise Tax Board of the revocation by
12 a date specified by that board.

13 (c) A qualified applicant whose eligibility is revoked may
14 participate in the program for the subsequent calendar year if the
15 Franchise Tax Board is unable to revise the tax form and related
16 materials for that year.

17 (d) A qualified applicant whose eligibility is revoked from
18 participation in the program may reapply to the program no sooner
19 than three years after the eligibility was revoked.

20 (e) This section shall become operative on January 1, 2017.

21 18707. (a) ~~An~~ *On and after January 1, 2018, an individual*
22 may designate on the personal income tax return that a contribution
23 in excess of the tax liability, if any, be made as follows:

24 (1) To up to five specific qualified applicants whose applications
25 have been approved pursuant to Section 18703.

26 (2) To the Charitable Giving Fund pursuant to Section 18708.

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

29 (c) A designation under subdivision (a) shall be made for any
30 taxable year on the original return for that taxable year, and once
31 made shall be irrevocable. If payments and credits reported on the
32 return, together with any other credits associated with the
33 individual’s account, do not exceed the individual’s liability, the
34 return shall be treated as though no designation has been made.

35 (d) The Franchise Tax Board, in consultation with the office,
36 shall revise the tax form of the return to allow for the designation
37 permitted under subdivision (a). The form shall also include in the
38 instructions information that the contribution may be in the amount
39 of one dollar (\$1) or more and that the contribution shall be used

1 to support a designated qualified applicant or applicants or the
2 Charitable Giving Fund, as specified by the taxpayer.

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

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

7 18708. (a) (1) There is hereby established in the State Treasury
8 the California Voluntary Contribution Fund to receive contributions
9 to qualified applicants made pursuant to Section 18707.

10 (2) (A) There is hereby established in the State Treasury the
11 Charitable Giving Fund to receive contributions made pursuant to
12 Section 18707.

13 (B) The office shall administer the Charitable Giving Fund and
14 develop policies and procedures, including, but not limited to, a
15 competitive grant process, to distribute the funds to charitable
16 organizations.

17 (b) The Franchise Tax Board shall notify the Controller *and the*
18 *office of California Volunteers* of both the amount of money paid
19 by individuals in excess of their tax liability and the amount of
20 refund money that individuals have designated pursuant to Section
21 18707 to be transferred to the California Voluntary Contribution
22 Fund and the Charitable Giving Fund. The Controller shall transfer
23 from the Personal Income Tax Fund to the California Voluntary
24 Contribution Fund an amount not in excess of the sum of the
25 amounts designated by individuals to qualified applicants pursuant
26 to Section 18707 for payment into that fund and shall transfer to
27 the Charitable Giving Fund an amount not in excess of the sum of
28 the amounts designated by individuals for that fund.

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

30 18709. (a) All money transferred to the California Voluntary
31 Contribution Fund and the Charitable Giving Fund, upon
32 appropriation by the Legislature, shall be allocated as follows:

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

36 (2) From the California Voluntary Contribution Fund, to the
37 office for distribution to each qualified applicant designated by a
38 taxpayer.

1 (3) From the Charitable Giving Fund, to the office for
2 distribution according to the regulations established for
3 distributions from the fund.

4 (b) On and after January 1, 2020, no more than 5 percent of
5 money from the funds, exclusive of fee revenues, shall be used for
6 administrative purposes.

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

9 (d) In the event that no designee is specified or the specified
10 designee is not a qualified applicant, the contribution shall, after
11 reimbursement of the direct actual costs of the Franchise Tax Board
12 for the collection and administration of funds under this article,
13 be transferred to the office to further the purposes of this article.

14 (e) In the event an individual designates a contribution to a
15 qualified applicant whose eligibility for receiving voluntary
16 contributions has been revoked, but that was eligible to receive a
17 voluntary contribution for the taxable year in which the designation
18 was made, the contribution shall be distributed to the qualified
19 applicant.

20 (f) In the event an individual designates a contribution to more
21 than one qualified applicant listed on the tax return, and the amount
22 available is insufficient to satisfy the total amount designated, the
23 contribution shall be allocated among the designees on a pro rata
24 basis.

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

26 18710. (a) The office ~~shall, not later than January 1, 2017,~~
27 *shall* do all of the following:

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

31 (2) By regulation, establish reasonable and necessary application
32 and renewal fees in an amount not to exceed the reasonable costs
33 of administering the application and renewal process.

34 (3) Develop procedures and adopt regulations to inform
35 taxpayers on how to contribute directly to a charitable organization
36 or state or local agency if that charitable organization or state or
37 local agency is not eligible to receive contributions because it did
38 not meet the required minimum contribution amount.

39 (4) In consultation with other agencies that regulate charitable
40 organizations, develop policies and procedures to ensure that

1 qualified applicants are in compliance with applicable statutes
2 affecting those charitable organizations.

3 (5) Develop a plan to transition the remaining funds on the tax
4 return to the program. That plan ~~should~~ *shall* be submitted to the
5 relevant committees of the Legislature by January 1, 2020.

6 (6) Work in consultation with the Department of Finance to
7 develop a strategy to propose to the Legislature for a continuous
8 appropriation to distribute taxpayers' contributions to the
9 designated qualified applicants.

10 (b) The office may do the following:

11 (1) Form an advisory body or related bodies as deemed
12 necessary.

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

15 (3) Adopt regulations necessary for the administration of this
16 article.

17 (4) In order to develop the program and sustain the integrity of
18 its operations, the office may adopt policies and guidelines that
19 may include, but not be limited to, application cut-off dates, a
20 first-come-first-served system, or a lottery to limit the number of
21 qualified applicants within the number specified in subdivision (c)
22 of Section 18702 participating in the program based on legislative
23 appropriations and workforce capacity.

24 (c) (1) The office shall annually provide to the Legislature, and
25 make publicly available, a report on the program, including goals,
26 a baseline, metrics and targets to track, over time, the effectiveness
27 of efforts to encourage charitable giving. The annual report shall
28 include information on total contributions received, administrative
29 and related costs, and total contribution distributed to qualified
30 applicants.

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

34 (B) This subdivision shall become inoperative on January 1,
35 2020, pursuant to Section 10231.5 of the Government Code.

36 (d) The Franchise Tax Board shall revise the tax form and any
37 other related materials, including online materials, in order to allow
38 an individual to designate ~~a contribution to any one of the~~ *one or*
39 *more contributions to* qualified applicants approved pursuant to
40 ~~Section 18703 and to the Charitable Giving Fund. 18703, and~~

1 *subject to Section 18707.* These forms and materials may include,
2 but not be limited to, a separate schedule, booklet, or any other
3 material necessary to inform an individual about qualified
4 applicants and how to make a designation on the personal income
5 tax return.

6 ~~18711.~~

7 *18710.2.* Any regulation adopted pursuant to this article shall
8 be adopted pursuant to the Administrative Procedure Act (Chapter
9 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
10 Title 2 of the Government Code).

11 ~~18712.~~

12 *18710.4.* This article shall remain in effect only until January
13 1, 2023, and as of that date is repealed, unless a later enacted
14 statute, that is enacted before January 1, 2023, deletes or extends
15 that date.