

Assembly Bill No. 563

Passed the Assembly September 11, 2009

Chief Clerk of the Assembly

Passed the Senate September 8, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 18707 and 18709 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 563, Cook. Personal income taxes: contributions: California Military Family Relief Fund.

The Personal Income Tax Law allows taxpayers, until January 1, 2015, to designate on their tax returns that a specified amount in excess of their tax liability be contributed to the California Military Family Relief Fund to provide financial aid grants to eligible reserve members of the Armed Forces of the United States who are California residents and requires all moneys transferred to the fund, upon appropriation by the Legislature, to be allocated as specified. Existing law provides that these provisions shall remain in effect until a specified date or until the Franchise Tax Board estimates that the contributions made on returns filed in that calendar year will be less than \$250,000 or an adjusted amount.

This bill would require moneys transferred to the fund, upon appropriation by the Legislature and after allocations to the Franchise Tax Board and the Controller, to be allocated to the state Military Department for the establishment of financial aid grants provided to California National Guard members and reserve members of the Armed Forces of the United States, as specified. This bill would revise the requirements in determining the minimum contribution amount, for calendar year 2009, to allow for a minimum contribution amount of \$250,000, without adjustment, and would resume the adjustment of the minimum contribution amount beginning in the 2010 calendar year. This bill would additionally make findings with regard to the public purpose served by the bill.

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

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

SECTION 1. Section 18707 of the Revenue and Taxation Code is amended to read:

18707. All moneys transferred to the California Military Family Relief Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties pursuant to this article.

(b) (1) To the state Military Department for the establishment of financial aid grants to California National Guard members and reserve members of the Armed Forces of the United States who are California residents, and who have been called to active duty. The state Military Department shall establish eligibility criteria for the grants.

(2) It is the intent of the Legislature that every qualified California National Guard or reserve member, regardless of branch, in need of emergency assistance be able to receive a grant.

(3) In addition to criteria established by the state Military Department pursuant to paragraph (1), the California National Guard members and reserve members of the Armed Forces of the United States who are California residents shall show proof of all of the following to be eligible to receive a grant:

(A) Membership in the California National Guard or a reserve component of the Armed Forces of the United States.

(B) Residency in California.

(C) Deployment to active duty for at least 60 consecutive days.

(D) One of the following:

(i) The military salary of the member, combined with any ongoing partial receipt of civilian salary, has decreased by 10 percent or more from the member's civilian salary, or the household income of the member's family has decreased by 10 percent or more from the member's household income prior to deployment.

(ii) The member, within six months of returning from active duty, has experienced a 10-percent loss, or greater, in income, compared to predeployment income, as a direct result of deployment.

(iii) The member was injured while serving on active duty and has been discharged from federal active duty and is actively seeking assistance through the United States Department of Veterans' Affairs with regard to disability compensation benefits or treatment, or both. Application for a cash grant under this section shall be submitted within 18 months of being released from federal military active duty, along with written substantiation demonstrating that the member's current financial hardship is a direct result of a military deployment and an injury sustained during the deployment.

(4) Grants awarded pursuant to this article may only be used for any of the following: food, housing, child care, utilities, medical services, medical prescriptions, insurance, and vehicle-related payments.

(5) California National Guard members and reserve members of the Armed Forces of the United States who are California residents shall not be eligible to receive a grant if the member receives a punitive discharge or an administrative discharge with service characterized as under other than honorable conditions.

(6) Reserve members of the Armed Forces of the United States who are awarded grants pursuant to this article may be required to receive counseling, within a specified time period, as a condition of the grants.

SEC. 2. Section 18709 of the Revenue and Taxation Code is amended to read:

18709. (a) This article shall, subject to subdivision (b), remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

(b) (1) By September 1, 2006, and by September 1 of each subsequent calendar year that the California Military Family Relief Fund appears on a 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 Adjutant General 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 contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section:

(A) Except as provided in subparagraph (B), the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000) for the 2006 calendar year or the minimum contribution amount adjusted pursuant to subdivision (c).

(B) For calendar year 2009, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000).

(c) For each calendar year, beginning with calendar year 2007, other than calendar year 2009, 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) (A) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(B) Notwithstanding subparagraph (A), the minimum contribution amount for calendar year 2010, shall be two hundred eighty-three thousand six hundred twenty-eight dollars (\$283,628) multiplied by the inflation factor adjustment as specified in 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 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.

(e) (1) Notwithstanding the amendments made to this section by Chapter 645 of the Statutes of 2006, if, by September 1, 2006, the Franchise Tax Board determines that the amount of contributions estimated to be received during the 2006 calendar year will not be at least two hundred fifty thousand dollars (\$250,000), this article is repealed with respect to returns filed for taxable years beginning on or after January 1, 2006.

(2) The amendments made by the act adding this paragraph shall apply with respect to contributions received during the 2009 calendar year.

SEC. 3. The Legislature finds and declares that a statewide public purpose is served in applying the lowered minimum contribution threshold beginning January 1, 2009, because the population of the state as a whole benefits from the availability of the financial aid grants received by California National Guard members and reserve members of the Armed Forces of the United States who are California residents.

SEC. 4. 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 provide immediate financial aid grants to California National Guard members and reserve members of the Armed Forces of the United States who are California residents, it is necessary that this act take effect immediately.

Approved _____, 2009

Governor