

AMENDED IN ASSEMBLY APRIL 22, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1049

Introduced by Assembly Member Torrico
(Coauthors: Assembly Members Beall, Caballero, Coto, DeVore,
Harkey, Ma, Nielsen, and Portantino)

February 27, 2009

An act to add Section 1255.9 to the Health and Safety Code, and to add and repeal Article 18 (commencing with Section 18887) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1049, as amended, Torrico. Personal income taxes: voluntary contributions: Safely Surrendered Baby Fund.

Existing law relating to the administration of personal income taxes authorizes individual taxpayers to contribute amounts in excess of their tax liability for the support of specified funds or accounts.

This bill would allow individual taxpayers to designate on their tax returns, that a specified amount in excess of their tax liability be transferred to the Safely Surrendered Baby Fund, which would be created by this bill.

This bill would provide that all moneys contributed to the fund, upon appropriation by the Legislature, be allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and to the State Department of Social Services for ~~various programs relating to the Safely Surrendered Baby Law, including the administrative costs~~

~~incurred by the department in the preparation of a report~~ *the distribution of grants for programs to increase public awareness and outreach regarding the Safely Surrendered Baby Law, as specified. The bill would require the department to prepare and submit an annual report to the Legislature regarding the Safely Surrendered Baby Law.*

This bill would provide that these voluntary contribution provisions are repealed on either January 1 of the 5th taxable year following the taxable year the fund first appears on the personal income tax return or on January 1 of an earlier calendar year, if the Franchise Tax Board estimates that the annual contribution amount will be less than \$250,000, or an adjusted amount, as specified, for subsequent taxable years.

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. Section 1255.9 is added to the Health and Safety
2 Code, to read:

3 1255.9. On and after ____, the State Department of Social
4 Services shall prepare and submit an annual report to the
5 Legislature regarding the impact of the Safely Surrendered Baby
6 Law. The report shall include, but is not limited to, the following:

7 (a) The number of infants both safely surrendered and
8 abandoned and the health condition of the infants.

9 (b) A compilation of information disclosed on the voluntary
10 questionnaire provided to those persons who safely surrender an
11 infant.

12 SEC. 2. Article 18 (commencing with Section 18887) is added
13 to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation
14 Code, to read:

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16 Article 18. Safely Surrendered Baby Fund

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18 18887. (a) Any individual may designate on the tax return that
19 a contribution in excess of the tax liability, if any, be made to the
20 Safely Surrendered Baby Fund, which is established by Section
21 18888.

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

1 (c) A designation under subdivision (a) shall be made for any
2 taxable year on the ~~initial~~ *original* return for that taxable year, and
3 once made shall be irrevocable. In the event that payment and
4 credits reported on the return, together with any other credits
5 associated with the individual's *tax* account, do not exceed the
6 individual's liability, the return shall be treated as though no
7 designation has been made.

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

13 (e) The Franchise Tax Board shall revise the form of the return
14 to include a space labeled "Safely Surrendered Baby Fund" to
15 allow for the designation permitted under subdivision (a). The
16 form shall also include in the instructions information that the
17 contribution may be in the amount of one dollar (\$1) or more and
18 that the contribution shall be used to fund outreach about, to expand
19 awareness of, and to ensure the enforcement of, the Safely
20 Surrendered Baby Law.

21 (f) Notwithstanding any other provision, a voluntary contribution
22 designation for the Safely Surrendered Baby Fund shall not be
23 added on the tax return until another voluntary contribution
24 designation is removed.

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

28 18888. There is hereby established in the State Treasury the
29 Safely Surrendered Baby Fund to receive contributions made
30 pursuant to Section 18887. The Franchise Tax Board shall notify
31 the Controller of both the amount of money paid by taxpayers in
32 excess of their tax liability and the amount of refund money that
33 taxpayers have designated pursuant to Section 18887 to be
34 transferred to the Safely Surrendered Baby Fund. The Controller
35 shall transfer from the Personal Income Tax Fund to the Safely
36 Surrendered Baby Fund an amount not in excess of the sum of the
37 amounts designated by individuals pursuant to Section 18887 for
38 payment into that fund.

1 18889. All money transferred to the Safely Surrendered Baby
2 Fund, upon appropriation by the Legislature, shall be allocated as
3 follows:

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

7 (b) To the State Department of Social Services for the following:

8 ~~(1) The distribution of grants for programs to increase public~~
9 awareness and outreach regarding the Safely Surrendered Baby
10 Law, including, but not limited to, public service announcements
11 in English and Spanish, safe surrender hotlines, a State Department
12 of Social Service Services Internet Web site with a comprehensive
13 list of safe-surrender sites, education, and training for communities
14 and schools.

15 ~~(2) Administrative costs incurred by the Office of Child Abuse~~
16 ~~Prevention in the enforcement of the Safely Surrendered Baby~~
17 ~~Law, including, but not limited to, any costs incurred in clarifying~~
18 ~~the circumstances under which safe-surrender sites and counties~~
19 ~~must protect the identifying information of the individual who~~
20 ~~surrenders an infant.~~

21 ~~(3) Administrative costs of the State Department of Social~~
22 ~~Services incurred pursuant to Section 1255.9 of the Health and~~
23 ~~Safety Code.~~

24 18890. (a) Except as otherwise provided in subdivision (b),
25 this article shall remain in effect only until January 1 of the fifth
26 taxable year following the first appearance of the Safely
27 Surrendered Baby Fund on the personal income tax return, and as
28 of that date is repealed, unless a later enacted statute, that is enacted
29 before the applicable date, deletes or extends that date.

30 (b) (1) By September 1 of the second calendar year and each
31 subsequent calendar year that the Safely Surrendered Baby Fund
32 appears on the tax return, the Franchise Tax Board shall do all of
33 the following:

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

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

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

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

14 (3) For purposes of this section, the minimum contribution
15 amount for a calendar year means two hundred fifty thousand
16 dollars (\$250,000) for the second calendar year after the first
17 appearance of the Safely Surrendered Baby Fund on the personal
18 income tax return or the adjusted minimum contribution amount
19 adjusted pursuant to subdivision (c).

20 (c) For each calendar year, beginning with the third calendar
21 year after the first appearance of the Safely Surrendered Baby
22 Fund on the personal income tax return, the Franchise Tax Board
23 shall adjust, on or before September 1 of that calendar year, the
24 minimum contribution amount specified in subdivision (b) as
25 follows:

26 (1) The minimum estimated contribution amount for the calendar
27 year shall be an amount equal to the product of the minimum
28 estimated contribution amount for the calendar year multiplied by
29 the inflation factor adjustment as specified in subparagraph (A) of
30 paragraph (2) of subdivision (h) of Section 17041, rounded off to
31 the nearest dollar.

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

37 (d) Notwithstanding the repeal of this article, any contribution
38 amounts designated pursuant to this article prior to its repeal shall

- 1 continue to be transferred and disbursed in accordance with this
- 2 article as in effect immediately prior to that repeal.

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