AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

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, Fletcher, *Fuentes,* Gilmore, *Harkey,* Jeffries, ~~Harkey,~~ *Krekorian,* Ma, Nielsen, Portantino, ~~and Solorio~~ *Solorio, and Swanson*)

February 27, 2009

An act 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 the distribution of grants for programs to increase public awareness and outreach regarding the Safely Surrendered Baby Law, as specified.

This bill would provide that these voluntary contribution provisions are repealed on either January 1 of the 5th taxable year following the taxable year the fund first appears on the personal income tax return or on January 1 of an earlier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:

SECTION 1. Article 18 (commencing with Section 18887) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 18. Safely Surrendered Baby Fund

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

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

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

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

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

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

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

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

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

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

(b) To the State Department of Social Services for distribution of grants for programs to increase public awareness and outreach regarding the Safely Surrendered Baby Law, including, but not limited to, public service announcements in English and Spanish, safe surrender hotlines, a State Department of Social Services Internet Web site with a comprehensive list of safe-surrender sites, education, and training for communities and schools.

18890. (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 Safely Surrendered Baby Fund on the personal income tax return, and as of that date is repealed, unless a later enacted statute, that is enacted before the applicable date, deletes or extends that date.

(b) (1) By September 1 of the second calendar year and each subsequent calendar year that the Safely Surrendered Baby 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 is repealed with respect to taxable years beginning on or after January 1 of that calendar 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 Safely Surrendered Baby 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 Safely Surrendered Baby 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.

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