SENATE BILL No. 241

Introduced by Senator Moorlach

February 11, 2019

An act to add Article 27 (commencing with Section 18919) to Chapter 3 of Part 10.2 of Division 2 of, and to repeal Sections 18804 and 18808 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 241, as amended, Moorlach. Personal Income Tax: California Voluntary Contribution Program.

Existing law authorizes taxpayers to designate amounts in excess of their personal income tax liability for the support of specified voluntary contribution funds. Existing law also contains administrative provisions generally applicable to a new or extended voluntary contribution. Existing law provides for various voluntary contribution funds to be listed on the personal income tax return, including the California Firefighters' Memorial Fund and the California Peace Officer Memorial Foundation Fund, which are both repealed on January 1, 2021, except as otherwise provided.

This bill would remove the repeal dates for the California Firefighters’ Memorial Fund and the California Peace Officer Memorial Foundation Fund, thereby allowing those voluntary contribution funds to be listed on the personal income tax return indefinitely.
This bill would modify the existing voluntary check-off system by establishing the California Voluntary Contribution Program, to be administered by the Franchise Tax Board, to expand the contribution options for a taxpayer beyond those currently available on the personal income tax return, to promote charitable giving and provide individual taxpayers’ voluntary contributions to qualified applicants. The bill would require the board to, among other things, develop the application for participation by specified charitable organizations, defined as qualified applicants, in the program and establish application and renewal fees. The bill would authorize the board to adopt specified policies and guidelines to regulate the number of qualified applicants participating in the program, to develop the program and sustain the integrity of its operations. The bill would authorize the board 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 board to revise the personal income tax form to allow an individual to make designations to qualified applicants.

Beginning January 1, 2021, the bill would allow an individual taxpayer to designate charitable contributions to one or more qualified applicants. The bill would require a qualified applicant wishing to receive contributions to submit an application to the program, including an application fee. The bill would require the board to approve an application if specified 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, which the bill would create. The bill would continuously appropriate moneys in the California Voluntary Contribution Fund to the board and the Controller for reimbursement of costs, as provided, and the balance from the California Voluntary Contribution Fund for distribution to each qualified applicant designated by an individual, a taxpayer, as specified. The bill, on or before September 1, 2026, and on and before September 1 of each year thereafter, would require the board to determine the top 7 grossing voluntary contribution designees based on the amount of voluntary contributions designated on the personal income tax return during the previous calendar year, and would require the board to revise the personal income tax form on or before January 1, 2027, and on and before January 1 of each year thereafter to allow for a designation by a taxpayer to any of the top 7 grossing voluntary contribution designees,
in addition to any voluntary contribution funds established by law and
designations made by a taxpayer allowed by this bill.

This bill would annually require the board 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 authorize the California State Auditor to conduct independent
financial audits of the program to ensure that the proper charitable
organizations receive the appropriate amounts designated for allocation
pursuant to the program.

State-mandated local program: no.

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

SECTION 1. (a) The Legislature finds and declares the
following:
(1) There are many worthy charitable causes in California that
may benefit from taxpayers’ voluntary charitable contributions on
the personal income tax return form, but taxpayers are currently
limited to making certain charitable contributions under the existing
tax check-off process.
(2) The state has a role in informing the public of the value and
need for charitable giving as a form of civil engagement in order
to support important social and community programs.
(3) It is beneficial for the state to make it easier for taxpayers
to support charitable organizations through voluntary contributions
on their personal income tax return forms, should taxpayers wish
do so.
(b) It is the intent of the Legislature to accomplish the following:
(1) Make it easier for taxpayers to select and support worthy
charitable organizations by revising the format of the personal
income tax return form to further this objective.
(2) Ensure that funds donated by taxpayers to charitable
organizations through their personal income tax return forms be
used by the designated charitable organization to further that
organization’s stated goals and mission.
(c) It is also the intent of the Legislature to retain all existing
funds currently on the personal income tax return until their repeal
dates, and, in legislation to be enacted at a later date, transition the
remaining funds to the California Voluntary Contribution Fund.
It is further the intent of the Legislature that the top three permanent funds—the California Firefighters’ Memorial Fund, the California Peace Officer Memorial Foundation Fund, and the California Seniors Special Fund—be retained as separate voluntary contribution fund options on the personal income tax return.

SEC. 2. Section 18804 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 18808 of the Revenue and Taxation Code is repealed.

SEC. 4. Article 27 (commencing with Section 18919) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 27. California Voluntary Contribution Program

18919. For the purposes of this article, the following definitions shall apply:

(a) “Board” means the Franchise Tax Board.

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

(c) “Qualified applicant” means a charitable organization that has average total revenues gross receipts of one hundred thousand dollars ($100,000) or more, as calculated from each of the three years prior to the date of application, and has done either of the following:

(1) Registered in this state with the Attorney General’s Registry of Charitable Trusts for each of the three years prior to the date of application and has met each of the requirements that apply to the applicant, under statute and as established by the Attorney General for the Registry of Charitable Trusts.

(2) Submitted annual returns or statements with the Franchise Tax Board, pursuant to Section 23771, 23772, or 23774 for each of the three years prior to the date of application.

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

18920. (a) There is hereby established in state government the California Voluntary Contribution Program.

(b) The purpose of the program is to promote charitable giving and provide individual taxpayers’ voluntary contributions to qualified applicants.
The board shall be responsible for administering the program. 18921. (a) A qualified applicant that wishes to receive voluntary contributions through the program shall submit an application to the board by a date established by the board. The application shall include all of the following:

(1) The bank account information of the charitable organization, including a copy of the organization’s tax identification number required to open the bank account.

(2) Other evidence satisfactory to the board that the applicant is a qualified applicant.

(3) An application fee, as established by the board, in an amount not to exceed the reasonable regulatory costs of administering the application process.

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

(c) A qualified applicant whose application is approved by the board may continue to receive voluntary contributions if both of the following requirements are met:

(1) The qualified applicant continues to meet the requirements established by the board for qualified applicants.

(2) The qualified applicant submits an application for renewal and pays a renewal fee, as determined by the board.

(d) If a qualified applicant is no longer eligible to receive voluntary charitable contributions pursuant to this article, the board shall revoke the eligibility of the qualified applicant.

(e) A qualified applicant whose eligibility is revoked from participation in the program may reapply to the program for subsequent years after one year has passed from the date upon which the qualified applicant’s eligibility has been revoked.

18922. (a) On and after January 1, 2021, an individual may designate on the personal income tax return that a contribution in excess of their tax liability, if any, be made as follows:

(1) To one or more qualified applicants in contribution amounts specified by the individual.

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

(b) 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. If payments and credits reported on the
return, together with any other credits associated with the
individual’s account, do not exceed the individual’s liability, the
return shall be treated as though no designation has been made.
(c) The board shall revise the tax form of the return 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 support a designated qualified
applicant, as specified by the taxpayer.
(d) 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).
18923. (a) There is hereby established in the State Treasury
the California Voluntary Contribution Fund to receive contributions
designated to qualified applicants pursuant to this article.
(b) The board shall notify the Controller of the amount of money
paid by individuals in excess of their tax liability and the amount
of refund money that individuals have designated to be transferred
to the California Voluntary Contribution Fund. The Controller
shall transfer from the Personal Income Tax Fund to the California
Voluntary Contribution Fund an amount not in excess of the sum
of the amounts designated by individuals to qualified applicants
pursuant to this article for payment into that fund.
18924. (a) Notwithstanding Section 13340 of the Government
Code, all money transferred to the California Voluntary
Contribution Fund shall be continuously appropriated and allocated
as follows:
(1) To the board and the Controller for reimbursement of all
reasonable costs incurred in connection with their duties under
this article.
(2) From the board for distribution to each qualified applicant
designated by a taxpayer.
(b) All moneys may be carried over from the year in which they
were received and encumbered in any following year.
(c) In the event that no designee is specified or the specified
designee is not a qualified applicant, the contribution shall, after
reimbursement of the direct actual costs of the board for the
collection and administration of funds under this article, be
transferred to the board to further the purposes of this article.
(d) In the event an individual designates a contribution to a qualified applicant whose eligibility for receiving voluntary contributions has been revoked, but that was eligible to receive a voluntary contribution for the taxable year in which the designation was made, the contribution shall be distributed to the qualified applicant.

(e) In the event an individual designates a contribution to more than one qualified applicant 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.

(f) This section shall become operative on January 1, 2021.

18925. (a) The board shall do all of the following:

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

2. Create an individual identification number for each qualified applicant for purposes of the program.

3. Create a searchable internet website, accessible to the public, that includes the individual identification numbers of each qualified applicant.

4. Regularly maintain and update the internet website so that taxpayers wishing to donate a portion or all of their income tax refund may easily search for and locate a qualified applicant’s information.

5. By regulation, establish reasonable and necessary application and renewal fees in an amount not to exceed the reasonable costs of administering the application and renewal process.

6. Revise the personal income tax return form to create a new field to allow taxpayers receiving a tax refund to enter in one or more qualified applicant’s identification number and a new field for the donation amount. The new field shall not displace the current voluntary contribution funds on the tax return form, and instead shall supplement the existing funds in order to provide taxpayers with more contribution choices.

7. (A) On or before September 1, 2026, and on and before September 1 of each year thereafter, determine the top seven grossing voluntary contribution designees based on the amount of voluntary contributions designated on the personal income tax return during the previous calendar year.
(B) Revise the personal income tax form on or before January 1, 2027, and on and before January 1 of each year thereafter to allow for a designation by a taxpayer to any of the top seven grossing voluntary contribution funds, in addition to any voluntary contribution funds established by this part and any designation made by a taxpayer allowed by Section 18922. These top seven grossing voluntary contribution designees shall be listed on the personal income tax form below any voluntary contribution funds established by this part.

(b) The board may do the following:
(1) Form an advisory body or related bodies as deemed necessary.
(2) Contract with other agencies, public or private, as deemed necessary in pursuit of the duties described in this article.
(3) Adopt regulations necessary for the administration of this article.
(4) In order to develop the program and sustain the integrity of its operations, the board may adopt policies and guidelines.
(c) (1) The board shall annually provide to the Legislature, and make publicly available, a report on the program, including goals, a baseline, metrics and targets to track, over time, the effectiveness of efforts to encourage charitable giving. The annual report shall include information on total contributions received, administrative and related costs, and total contribution distributed to qualified applicants.
(2) (A) A report to the Legislature pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.
(B) This subdivision shall be become inoperative on January 1, 2025, pursuant to Section 10231.5 of the Government Code.
(d) The board shall revise any necessary materials related to the tax return form, including online materials, in order to allow an individual to designate a contribution to one or more qualified applicants. These forms and materials may include, but are not limited to, a separate schedule, booklet, or any other material necessary to inform an individual about qualified applicants and how to make a designation on the personal income tax return.

(a) The California State Auditor may conduct independent financial audits of the program to ensure that the proper charitable organizations are receiving the appropriate
amounts designated for allocation to these organizations pursuant
to the program.

(b) Based on an independent audit conducted pursuant to
subdivision (a), the California State Auditor shall prepare a report
detailing the review and include any recommendations for
improvements. The report shall be made available to the public.

18927. Any regulation adopted pursuant to this article shall be
adopted pursuant to the Administrative Procedure Act (Chapter
3.5 (commencing with Section 11340) of Part 1 of Division 3 of
Title 2 of the Government Code).