

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: July 15, 2009
POSITION: Neutral, note concerns

BILL NUMBER: SB 323
AUTHOR: J. Oropeza

BILL SUMMARY: Tax Return Deposits to Scholarshare 529's

This bill would require: 1) the Franchise Tax Board (FTB) to revise the California tax return form to specify that taxpayers can deposit their tax refund directly into the qualified tuition program (QTP) administered by Scholarshare Investment Board (SIB); 2) the FTB to allocate, on a pro rata basis, the amount a taxpayer designates to a voluntary contribution and to a QTP if the designated amount exceeds the tax refund, and 3) the SIB to reimburse the FTB up to \$475,000 Scholarshare Administrative Fund for the costs to implement this bill. The requirements of this bill would sunset on December 31, 2014.

FISCAL SUMMARY

The bill would result in minimal, if any, administrative costs for the SIB; however, the SIB would be required to reimburse the FTB for administrative costs up to \$475,000 Scholarshare Administrative Fund. The FTB states that implementing this bill would cost \$373,000 in one-time costs to update forms, instructions, and electronic applications as well as programming costs to transfer funds. The FTB also states a need for 3.6 one-year limited-term positions to implement the bill. The FTB also states that the bill would cost \$51,000 annually to administer the program.

COMMENTS

The Department of Finance is neutral on this bill, but notes the following concerns:

- While it is not specifically delineated, the existing tax return form provided by FTB already allows taxpayers to designate a direct deposit into a QTP; therefore, the bill may be unnecessary.
The bill specifies that a total of \$475,000 Scholarshare Administrative Fund is available for the FTB to implement and administer the program until December 2014, or five years assuming the program was implemented for the tax years 2010 through 2014. However, the FTB's cost estimate of \$373,000 one-time and \$51,000 annual thereafter would expend the available funding in three years. Therefore, the identified funding is not consistent with the duration of the Program.
The 2009-10 Budget Act provided \$1.1 million Scholarshare Administrative Fund and 3.0 positions to create the Scholarshare Outreach and Public Education (SCOPE) Program to promote the SIB college saving plans. Given the current tax return form already allows taxpayers to directly deposit their refund into a QTP, the SCOPE Program may be a better vehicle for informing taxpayers of the opportunity to directly deposit their tax refund into a QTP.
Given that existing QTP deposits have significantly declined due to the recent market turmoil, it may be more prudent to focus on reducing administrative costs and the corresponding administrative fee instead of creating new administrative costs.

Analyst/Principal Date Program Budget Manager Date
(0332) E. Hanson Jeannie Oropeza

Department Deputy Director Date

Governor's Office: By: Date: Position Approved
Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

J. Oropeza

July 15, 2009

SB 323

**ANALYSIS****A. Programmatic Analysis**

Current federal law provides tax-exempt status to "qualified tuition programs" (QTPs). QTPs are programs established and maintained by a state, an agency, or an eligible educational institution to encourage saving for future education expenses of a designated beneficiary. Distributions and earnings from a QTP are not taxable, except to the extent the distributions exceed qualified higher education expenses.

California law conforms to federal law as it relates to tax-exempt QTPs. Specifically, the state law authorizes the Golden State Scholarshare Trust Act and establishes authority for California's qualified state tuition plan. There is no limitation on who may make a contribution to a Golden State Scholarshare Trust Account or where a designated beneficiary must incur qualified higher education expenses.

This bill directs the Franchise Tax Board (FTB) to revise the tax return form to include a space for the designation of a direct deposit into a QTP. While the current tax return form distributed by FTB allows a taxpayer to make such a deposit, it does not display a separate direct deposit line solely for this purpose.

Currently, if a taxpayer designates voluntary contributions to listed charities that exceed the tax refund, the FTB will refund the entire amount due. This bill would specify that if the tax refund is not sufficient for the amount designated for specified charities and the QTP, the FTB will allocate the refund on a proportional basis among the designees.

The bill would also require the SIB to reimburse the FTB from the Scholarshare Administrative Fund. Revenues for this fund are received as transfers from the Scholarshare Program Trust Fund, and are administrative fees that SIB receives from current SIB QTP participants. The administrative fee is 0.10% of the net assets in the SIB QTP portfolio. The SIB states that this rate is competitive with other state 529 plans and is subject to negotiation with the program manager, currently Fidelity Investments. This fee has never increased since its inception, and is not anticipated to increase as a result of this bill.

**B. Fiscal Analysis**

The bill would result in minimal, if any, administrative costs for the SIB; however, the SIB would be required to reimburse the FTB for administrative costs up to \$475,000 Scholarshare Administrative Fund. The FTB states that implementing this bill would cost \$373,000 in one-time costs to update forms, instructions, and electronic applications as well as programming costs to transfer funds. The FTB also states a need for 3.6 one-year limited-term positions to implement the bill. The FTB also states that the bill would cost \$51,000 annually to administer the program.

**BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)**

**AUTHOR**

**AMENDMENT DATE**

**BILL NUMBER**

J. Oropeza

July 15, 2009

SB 323

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP							
	RV	98	FC	2009-2010	FC	2010-2011	FC	2011-2012	
0954/Scholarshare	SO	No		--	C	\$373	C	\$51	0564
<u>Fund Code</u>	<u>Title</u>								
0564	Scholarshare Administrative Fund								