

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: July 5, 2011  
POSITION: Oppose  
SPONSOR: County of Alameda; District Attorney of Alameda County

BILL NUMBER: AB 764  
AUTHOR: S. Swanson  
RELATED BILLS: AB 90

**BILL SUMMARY: Voluntary Contribution - Victims of Human Trafficking**

This bill would allow taxpayers to designate amounts in excess of their tax liability to a new Child Victims of Human Trafficking Fund by adding a voluntary contribution line to the personal income tax return. The contributions would be used to fund community-based organizations that serve child victims of human trafficking.

**FISCAL SUMMARY**

The Franchise Tax Board (FTB) estimated that personal income tax revenues would be reduced by approximately \$20,000 annually beginning in 2012-13 as a result of increased itemized deductions. This bill is not expected to significantly affect the operating costs for the FTB and the State Controller's Office.

**SUMMARY OF CHANGES**

Amendments to this bill since our analysis of the April 12, 2011 version include the following significant amendment which does not change our position:

- Changed the contribution fund from the Victim-Witness Assistance Fund to the Child Victims of Human Trafficking Fund, which would be newly established.

**COMMENTS**

The Department Finance opposes this bill because it would result in a \$20,000 annual General Fund revenue loss beginning in 2012-13.

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Analyst/Principal (0727) P. Ng	Date	Program Budget Manager Mark Hill	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

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**ANALYSIS**

## A. Programmatic Analysis

**Existing state law** permits taxpayers to make contributions of their own funds on their tax returns to fifteen voluntary contribution funds. Taxpayers simply check-off on their tax forms where they would like the money donated. Unlike the federal tax check-off, which directs a portion of the taxpayer's tax to the presidential election fund and does not affect the taxpayer's tax liability or refund amount, the state tax check-off is a donation of the taxpayer's own money that permits an itemized deduction in the following year for personal income tax purposes. Currently available "check-off" funds are listed below. Applicable sunset dates are noted in parenthesis.

1. Alzheimer's Disease/Related Disorders Fund (1/1/2015)
2. Arts Council Fund (1/1/2013)
3. California Breast Cancer Research Fund (1/1/2013)
4. California Cancer Center Research Fund (1/1/2013)
5. California Firefighters' Memorial Fund (1/1/2016)
6. California Fund for Senior Citizens (1/1/2015)
7. California Peace Officer Memorial Foundation Fund (1/1/2016)
8. California Police Activities League Fund (1/1/2013)
9. California Sea Otter Fund (1/1/2012)
10. California Seniors Special Fund (none)a/
11. California Veterans Homes Fund (1/1/2013)
12. Emergency Food for Families Fund (1/1/2014)
13. Rare and Endangered Species Preservation Fund (1/1/2013)
14. Safely Surrendered Baby Fund (1/1/2013)
15. State Children's Trust Fund for the Prevention of Child Abuse (1/1/2013)

a/ The California Seniors Special Fund check-off is permanent and taxpayers are allowed to donate all or part of their senior exemption credit.

**Current law** allows the Franchise Tax Board (FTB) to add contingent income tax check-offs to the return if there is room to do so, regardless of how many check-offs were removed from the return that year. When adding contingent check-offs to the return, the FTB follows a statutory ordering rule based on the date of enactment for voluntary contribution designations to be added to the tax form. The first check-off added is based on the earliest date of enactment or the lowest chapter number if enacted on the same date.

Generally, the check-offs are required to meet a minimum contribution test of \$250,000 on an annual basis. The intent of the \$250,000 minimum contribution requirement (except for California Fund for Senior Citizens, this amount is adjusted for inflation in subsequent tax years) is to ensure that check-off funds have sufficient public support to warrant continued placement on the tax return. The California Firefighters' Memorial Fund and the California Peace Officer Memorial Fund are required to meet the contribution test only when their respective repeal dates are deleted by another statute. Only the California Seniors Special Fund on the above list is not subject to the minimum contribution requirement.

**This bill** would establish the Child Victims of Human Trafficking Fund (Fund) and add it to the personal income tax (PIT) return as a voluntary contribution fund. Taxpayers would be able to designate a contribution in excess of the tax liability to the Fund on their PIT return in full dollar amounts of \$1 or more. Upon Legislative appropriation and after reimbursing the Franchise Tax Board and the State Controller's Office for their administrative costs, contributions to the Fund would

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be allocated to the California Emergency Management Agency to administer the proceeds granted to the community-based organizations that serve minor victims of human trafficking and meet the standards described in Section 13837 of the Penal Code.

**This bill** would require the Franchise Tax Board (FTB) to revise the tax return to include a check-off space for the Fund beginning with the first taxable year another voluntary contribution fund is removed, or as soon as space is available.

**This bill** would allow the voluntary contribution designation to remain on the tax return for up to five years unless a later enacted statute deletes or extends that date. Beginning with second tax year the Fund is on the return, this bill would require the Fund to meet the minimum contribution test of \$250,000 (adjusted for inflation in subsequent tax years) on an annual basis. Otherwise, the law authorizing designations to this fund would be repealed.

**This bill** would require FTB to do the following by September 1 of the second and each subsequent calendar year that this check-off appears on the tax return:

- Determine the minimum contribution amount required to be received during the next calendar year for the fund to remain on the return.
- Determine if the amount of contributions estimated to be received during the current calendar year will equal or exceed the minimum contribution amount required for that calendar year.

#### B. Fiscal Analysis

To the extent contributions would not be made to another charity in the absence of this voluntary contribution, this bill would increase itemized deductions and reduce revenues by a minor amount. The FTB estimates that personal income tax revenues would be reduced by approximately \$20,000 annually beginning in 2012-13 as a result of this bill.

Because the FTB and the State Controller's Office would be reimbursed for their administrative costs, this bill is not expected to significantly affect the operating costs of the FTB or the State Controller's Office. The California Emergency Management Agency's estimate of additional operating costs was not available at the time this analysis was prepared.

Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	FC	(Fiscal Impact by Fiscal Year)				Fund Code	
				(Dollars in Thousands)					
				2011-2012	FC	2012-2013	FC	2013-2014	
1147/Pers Inc Tax	RV	Yes		--	U	-\$20	U	-\$20	0001
1730/FTB	SO	No		----- No/Minor Fiscal Impact -----				0499	
0840/Controller	SO	No		----- No/Minor Fiscal Impact -----				0499	
0690/Cal EMA	SO	No		----- See Fiscal Analysis -----				0499	
<u>Fund Code</u>	<u>Title</u>								
0001	General Fund								
0499	Pending New Special Funds								