

SENATE COMMITTEE ON GOVERNANCE & FINANCE

California's Tax Check-off Program: Room for Improvement?

December 9, 2015

Committee Background

The Legislature created California's voluntary contribution funds (VCFs) or tax "check-off" system in 1982 with a noble intention: to make it easier for Californians to donate to charitable causes by allowing them to simply check a box on their income tax forms. To date, California's tax check-off fund system has raised over \$102 million for various charitable causes, including social services, public health, and environmental protection.

Each year, this Committee considers several bills seeking to create new or extend existing tax check-offs, or adopt special legislation for a specific charity or program. But a review of many tax check-off funds suggests that a significant amount of taxpayers' donations are being spent on administration, not being spent at all, or worse yet, being reallocated to the General Fund.

Lack of operational capacity at some administering agencies can result in reduced funding to carry out the intended purpose of the tax check-off program. The current process by which tax check-off funds are collected and disbursed can result in delays in program administration and appropriation of funds. Some funds have even been abolished and the money has been transferred to the General Fund before being spent.

Last year, the Legislature considered Senate Bill 1207 (Wolk, 2014), which streamlined the current process, limited delays in program administration and appropriation of funds. The bill would have required charitable organizations to meet certain standards before they could qualify to participate in the state tax check-off program. Among other things, the bill have required prospective participants to: i) be registered with the Attorney General's Registry of Charitable Trusts; ii) submit tax returns or financial statements to the FTB; and iii) have achieved average annual revenues exceeding \$100,000 for the past three years prior to applying to be placed on the income tax form. SB 1207 (Wolk) was held on suspense in the Assembly Committee on Appropriations.

Questions remain about the best method to administer tax check-off funds and ensure the maximum amount of donations are spent directly on programs in a timely manner. What should the Legislature do to ensure that funds are spent on their intended purposes? Are there specific strategies that get funds to their recipients as quickly as possible? Are certain state departments better equipped to administer tax check-off funds? These are the types of questions this hearing is intended to address.

This paper provides background information for members of the Senate Committee on Governance and Finance for its hearing on December 9, 2015, “California’s Tax Check-off Program: Room for Improvement?” The hearing will focus on the current status of California’s tax check-off funds, and is intended to identify best practices and reforms needed to ensure that taxpayers’ voluntary contributions are being put toward charitable purposes in a transparent and timely fashion.

The hearing will address three main issues:

- The mechanics of the current tax check-off fund system.
- Obstacles to administering California’s current tax check-off funds efficiently and expeditiously.
- Best practices among administering agencies.

To provide a context for members of the Senate Committee on Governance and Finance, this paper:

- Examines the history and current fund balances of California’s tax check-off funds.
- Lays out the current tax check-off process.
- Suggest ways to improve California’s tax check-off system.

The Current Check-off Process

California’s tax “check-off” programs allow taxpayers to donate to charitable causes by checking a box on their income tax returns.¹ State law requires taxpayers to pay their tax bill for that year in full in addition to any voluntary contributions. Taxpayers can deduct check-off donations as charitable contributions from their state income taxes the following year.

California created its first state tax check-off in 1982, the California Election Campaign. Today taxpayers have 20 tax check-offs to choose from, supporting a range of causes, from cancer research to endangered species (see Appendix). In total, California’s tax check-offs typically collect \$4 to 5 million per year. To place a new tax check-off on the state income tax form, the Legislature must enact legislation. When a taxpayer contributes to an established tax check-off, the Franchise Tax Board (FTB) collects the contribution and distributes it to the State Controller by June 15th each year. Contributions made after June are not distributed to the State Controller’s Office until the following year. The State Controller then distributes the funds according to the enacting statute, which generally requires an appropriation by the Legislature. The administering agency generally must submit a budget change proposal (BCP) to the Department of Finance. Once the Department of Finance approves the BCP, the appropriation is placed into a bill to be

¹ State law technically refers to tax check-off funds as “voluntary contribution funds.”

approved by the Legislature. After the Governor's signs that bill, only then can the Controller transferred to the administering agency.

State law allows the FTB, the Controller, and the administering state agency to deduct a percentage of donations they collect to cover their respective administration costs. For some check-offs, taxpayers' contributions go directly to a state agency that administers a grant program. Other check-offs' authorizing statutes direct the administering agency to allocate donations to a private nonprofit organization, like the American Red Cross. Still other authorizing legislation requires the State Controller to send check-off funds directly to private organizations without passing through an administrative agency at all. For example, all funds from the California Firefighters' Memorial Fund go directly to the California Fire Foundation.

Most tax check-offs stay on the income tax return until they are automatically repealed on a certain date under state law (known as a "sunset date"). Check-offs that fail to generate a minimum contribution amount— usually \$250,000, beginning in the fund's second year—are also automatically repealed.² The Legislature adjusts the minimum contribution amounts for most check-offs every year for inflation.

When a tax check-off is repealed or fails to meet the minimum contribution limit, the check-off fund is abolished. This means unused funds revert to the General Fund at the direction of the Department of Finance. Before the Department of Finance abolishes a tax check-off fund, it sends a letter to the Joint Legislative Budget Committee informing the Committee of all funds slated to be abolished. At that time, the Joint Legislative Budget Committee has the opportunity to object to the check-off fund's abolishment. The letter from the Department of Finance does not specify the type of fund being abolished; the letter only lists names of funds. Thus, it is unclear from the face of the letter if an abolished fund is a privately-funded taxpayer check-off and other government funds.

The authority to revert money from abolished tax check-off funds to the General Fund is authorized by Government Code Sections 16346 and 13306 (b). Specifically, the Department of Finance, with the concurrence of the Controller, may abolish funds inactive for a period of four years. The Department of Finance must provide written notification to the Joint Legislative Budget Committee prior to abolishment. Also, unless a successor fund has been specified, money from an abolished fund reverts to the General Fund.

Legislative Solutions

The Legislature could take several measures to improve the administration of California's tax check-off funds, ensure timely use of funds, and continue to encourage charitable giving:

² As of this writing, three check-offs do not have a minimum contribution requirement: the California Firefighters' Memorial Foundation Fund, California Peace Officer Memorial Foundation Fund, and California Seniors Special Fund.

1. **Impose reporting requirements.** Data on how much money each administering agency has received from the State Controller and how that money has been spent is difficult to find. The Committee may wish to consider requesting each administering agency to report annually to the Legislature on its receipt and use of tax check-off funds, including the process for awarding the money and any administration costs deducted from the funds.
2. **Streamline the process for charitable organizations and donors.** Currently, money collected by FTB is transferred every June 15 to the State Controller. This means that in the first year of collection, only six months' worth of monies collected is transferred to the State Controller. In the following years, money is transferred based on the fiscal year, causing funds from two separate calendar years to be transferred at the same time. For funds to be transferred from the State Controller to the administering agency, they generally must have the funds appropriated by the Legislature. This results in the administering agency submitting a BCP with the Department of Finance. If the administering agency misses its chance, they must wait until the following year to have the funds appropriated. This process can result in delays in program administration and appropriation of funds. To address this issue, the Committee may wish to consider recommending tax check-off legislation adopt the best practices of departments that have been able to get money allocated in less than one year.
3. **Ensure that tax check-off funds are used to fund programs, not administration.** Administering agencies that do not have the infrastructure in place to implement a tax check-off program must spend a significant percentage of tax check-off funds to hire new staff. This results in reduced funding to carry out the intended purpose of the tax check-off program. The Committee may wish to consider requesting authors of tax check-off legislation to ensure that the administering agency is able to absorb the administrative costs of implementing a tax check-off program by requiring new tax check-off legislation to select administering agencies already equipped to administer the program.
4. **Prevent taxpayer donations from ending up in state coffers.** When administering agencies fail to spend tax check-off funds four years after the fund is no longer on the income tax form, the money reverts back to the General Fund and the fund is abolished. To provide better oversight of this decision, the Committee may wish to consider recommending tax check-off funds include "voluntary contribution fund" in their names so that the Legislature, Department of Finance, and the Joint Legislative Budget Committee are aware when a tax check-off fund is slated for abolishment and reversion to the General Fund. The Committee may also wish to consider creating a separate abolishment and reversion process for tax check-off funds.

Overview of Hearing

The hearing will consist of three panels plus public comment.

I. Current tax check-off process: administrative overview of fund collection.

The first panel will discuss the collection process for tax-check-offs, as well as the fund transfers and abolishment processes.

Gail Hall, *Director, Legislative Services Bureau, Franchise Tax Board.*

Evan Goldberg, *Deputy Controller, Legislative Affairs, State Controller's Office.*

II. Model funds: best practices.

The second panel will discuss best practices for administering tax check-off programs and how to maximize tax check-off funds.

Marion H. E. Kavanaugh-Lynch, M.D., M.P.H., *Director, UC Breast Cancer Check-off Program.*

Hedi Jalon, *Executive Director, Firefighters Memorial Fund.*

III. Room for improvement: current challenges to administering funds.

The third panel will explain how tax check-off donations have fallen through the cracks, what can be done to prevent the loss of these funds, and obstacles posed by the tax check-off bureaucracy.

Alan Lum, *Deputy Director, Administration Division, California Department of Public Health.*

Greg Oliva, MPH, *Assistant Deputy Director, Center for Chronic Disease Prevention and Health Promotion, California Department of Public Health.*

Monique Ramos, *Director, Government Affairs Division, California Department of Education.*

Benito Delgado-Olson, *Executive Director, K to College.*

Appendix: Current and Expired Tax Check-offs

Current Tax Check-Offs

Voluntary Contribution Fund	2015 Contributions To Date	Managing Department/Agency	June 2014 Account Balance
Alzheimer's Disease/Related Disorders Fund	\$490,035	Department of Public Health	\$1,792,000
American Red Cross, California Chapter	\$183,935	Office of Emergency Services	\$174,000
CA Breast Cancer Research Fund	\$422,415	University of California	\$819,000
CA Cancer Research Fund	\$454,957	University of California	\$1,042,000
CA Firefighters' Memorial Fund	\$153,135	California Fire Foundation	\$21,000
CA Peace Officer Memorial Foundation Fund	\$142,262	California Highway Patrol	\$122,000
CA Sea Otter Fund	\$308,560	California Department of Fish and Wildlife	\$743,000
CA Seniors Special Fund	\$78,629	California Commission on Aging	\$135,000
Child Victims of Human Trafficking Fund	\$310,274	California Emergency Management Agency	\$451,000
Emergency Food for Families Fund	\$439,327	Department of Social Services	Unknown
Keep Arts in Schools Fund	\$251,113	Arts Council	\$237,000
Protect Our Coast and Oceans Fund	\$266,448	California Coastal Commission	\$173,000
Rare & Endangered Species Preservation Program	\$430,918	California Department of Fish and Wildlife	Unknown
School Supplies for Homeless Children Fund	\$387,378	Department of Social Services	\$635,000
State Parks Protection Fund/Parks Pass Purchase	\$362,638	Department of Parks and Recreation	\$637,000
CA Senior Legislature Fund	\$57,220	California Senior Legislature	Initial Tax Return 2014
CA Sexual Violence Victim Services Fund	\$213,305	Office of Emergency Services	Initial Tax Return 2014
Habitat For Humanity Fund	\$170,737	Department of Housing and Community Development	Initial Tax Return 2014

Expired Tax Check-Offs With Unspent Funds

Voluntary Contribution Fund	2014 Unspent Funds	Managing Department/Agency
ALS/Lou Gehrig's Disease Research Fund	\$66,000	Department of Public Health
Arts Council Fund	\$2,000	Arts Council
CA Colorectal Cancer Prevention Fund	\$235,000	Department of Public Health
CA Fund for Senior Citizens	\$480,000	California Senior Legislature
CA Military Family Relief Fund	\$1.174 million	California National Guard
CA Missions Foundation Fund	\$4,000	Department of Parks and Recreation
CA Police Activities League (CALPAL) Fund	\$11,000	Local CALPALs
CA Veterans Homes Fund	\$97,000	Department of Veterans Affairs
CA YMCA Youth and Government Fund	\$121,000	Department of Education
CA Youth Leadership Fund	\$88,000	Department of Education
Municipal Shelter Spay-Neuter Fund	\$291,000	Department of Food and Agriculture
Safely Surrendered Baby Fund	\$232,000	Department of Social Services
State Children's Trust for the Prevention of Child Abuse Fund	\$3.066 million	Department of Social Services

Expired Tax Check-Offs With a Zero Balance

- Asthma and Lung Disease Research Fund
- Birth Defects Research Fund
- CA Election Campaign Fund
- CA Lung Disease and Asthma Research Fund
- CA Mexican American Veterans' Memorial Fund
- CA Military Museum Fund
- CA Olympic Training Fund
- CA Ovarian Cancer Research Fund
- CA Prostate Cancer Research Fund
- CA Public School Library Protection Fund
- CA Sexual Violence Victim Services Fund
- D.A.R.E. California Fund (Drug Abuse Resistance Education)
- Lupus Foundation of America Fund, California Chapter
- Municipal Shelter Spay-Neuter Fund
- National World War II Veterans' Memorial Trust Fund
- Veteran's Memorial Account
- Veterans' Quality of Life Fund