

ASSEMBLY BILL

No. 152

Introduced by Assembly Member Fuentes

January 18, 2011

An act to add Section 131057.5 to the Health and Safety Code, and to amend Section 18853 of, and to add Sections 17053.88 and 23688 to, the Revenue and Taxation Code, relating to food banks.

LEGISLATIVE COUNSEL'S DIGEST

AB 152, as introduced, Fuentes. Food banks: grants: voluntary contributions: income tax credits.

(1) Existing law establishes the scope of functions and responsibilities of the State Department of Public Health.

This bill would additionally require the State Department of Public Health to investigate and apply for federal funding opportunities regarding promoting healthy eating and preventing obesity, as specified, and, upon receipt of that funding, allow the department to award grants and provide in-kind support to nonprofit organizations that encourage specified healthy eating programs, as provided.

(2) The Personal Income Tax Law allows taxpayers, until January 1, 2014, to designate on their tax returns that a specified amount in excess of their tax liability be contributed to the Emergency Food Assistance Program Fund, to be allocated by the State Department of Social Services for direct services by the Emergency Food Assistance Program.

This bill would specify that emergency assistance food providers under the Emergency Food Assistance Program only use those contributions, as defined, received through the Emergency Food

Assistance Program Fund and other sources for the purchase, storage, and transportation of food grown and produced in California.

(3) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would, under both laws, for taxable years beginning on or after January 1, 2012, allow a credit in an amount equal to 10% of the cost to be included in inventory costs, as specified, with respect to the donation of agricultural products to food banks located in California.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) On December 16, 2010, the State Board of Food and
4 Agriculture released the strategic plan for the future of the state’s
5 agriculture and food system entitled “California Agricultural
6 Vision: Strategies for Sustainability,” which defines 12 key
7 strategies for California’s agriculture and food sector, including a
8 strategy to improve access to safe, healthy food for all Californians
9 in order to reduce hunger and malnutrition, chronic diseases and
10 health care costs associated with poor diets, and expand markets
11 for fruits, vegetables, grains, dairy, and meat grown and produced
12 in California.

13 (b) On December 3, 2010, the California Strategic Growth
14 Council accepted the first report of the Health in All Policies Task
15 Force, established by Executive Order S-04-10 of Governor Arnold
16 Schwarzenegger on February 23, 2010, which includes a goal that
17 every California resident has access to healthy, affordable food at
18 school, at work, and in his or her neighborhood.

19 (c) California has some of the most productive farmlands in the
20 world. California’s farmlands produce more than 350 commodities,
21 specialty crops, and other food items. These farmlands are essential
22 for providing a healthy food supply and guarantee a natural
23 resource for California’s future generations.

24 (d) According to a University of California at Los Angeles
25 survey of Californians’ health status, despite the state’s agricultural
26 abundance, more than 8 million people live in a household where
27 an adult cannot always afford enough food.

1 (e) Californians who experience hunger and food insecurity
2 suffer from poor physical and emotional health, as well as a
3 diminished capacity to learn and succeed in the workplace.

4 (f) Access to healthy food is a basic human right. Low
5 consumption and lack of access to healthy, affordable food may
6 result in higher levels of obesity and other diet-related diseases.

7 (g) One in every nine California children, one in three teens,
8 and over half of adults are overweight or obese. The obesity
9 epidemic affects virtually all age, income, educational, ethnic, and
10 disability groups in California, and rates are highest among
11 Californians of Latino, American-Indian, African-American, and
12 Pacific Islander descent, Californians from lower-income
13 households, and those with disabilities. More than 30 percent of
14 low-income California children and teens are overweight or obese.

15 (h) The growing epidemic of overweight individuals is due to
16 poor diet and physical inactivity, putting growing numbers of
17 Californians at risk for type 2 diabetes, hypertension, heart disease,
18 stroke, and cancer. Increased risk of chronic disease has been
19 attributed to low fruit and vegetable intake in the United States,
20 accounting for \$30 billion in associated health care costs in 2008
21 and 2009.

22 (i) According to the federal Centers for Disease Control and
23 Prevention, in 2009 less than 20 percent of young people and 23
24 percent of all American adults reported consuming the minimum
25 goal of 5 servings of fruits and vegetables each day.

26 (j) In California, partnerships between private and public entities,
27 among state and local government, local and regional businesses,
28 nonprofit organizations, health care institutions, food banks, and
29 other emergency food providers have helped to establish
30 community programs to combat obesity and related diseases,
31 increase access to healthy food, promote healthy eating, increase
32 consumption of fruits and vegetables, and encourage physical
33 activity.

34 (k) It is in the interest of the state to support programs that
35 promote increased access to healthy food and increased
36 consumption of California-grown fresh fruits and vegetables, whole
37 grains, and low-fat dairy in order to improve child and adult
38 nutrition, promote a strong, healthy workforce, and strengthen
39 local and regional farm economies.

1 (l) With the significant fiscal challenges in California, it is
2 further in the interest of the state to maximize the availability of
3 federal funding in California in order to support programs and
4 activities that prevent obesity and hunger and increase access to
5 healthy food and consumption of healthy food.

6 (m) It is further in the interest of the state to encourage and
7 facilitate partnerships between public and private entities to
8 promote a comprehensive approach to nutrition and wellness,
9 including activities that reduce obesity and related diseases,
10 encourage physical activity, and provide nutrition education in
11 order to ensure that all Californians have access to healthy food
12 and can choose a healthy diet.

13 SEC. 2. Section 131057.5 is added to the Health and Safety
14 Code, to read:

15 131057.5. (a) The State Department of Public Health shall
16 investigate and apply for federal funding opportunities regarding
17 promoting healthy eating and preventing obesity, including those
18 available under the Food, Conservation, and Energy Act of 2008
19 (Public Law 110-234), the American Recovery and Reinvestment
20 Act of 2009 (Public Law 111-5), the federal Patient Protection and
21 Affordable Care Act (Public Law 111-148), and the Healthy,
22 Hunger-Free Kids Act of 2010 (Public Law 111-296).

23 (b) Upon receipt of federal funding regarding promoting healthy
24 eating and preventing obesity, the State Department of Public
25 Health may, in its sole discretion, award grants and provide in-kind
26 support to nonprofit organizations that the department deems
27 eligible to encourage the sale and consumption of fresh fruits and
28 vegetables, implement programs and initiatives that prevent obesity
29 and hunger, and promote healthy eating and access to nutritious
30 food in underserved and urban and rural communities. The award
31 of these grants shall be exempt from the State Contract Act (Part
32 2 (commencing with Section 10100)) of Division 2 of the Public
33 Contract Code.

34 SEC. 3. Section 17053.88 is added to the Revenue and Taxation
35 Code, to read:

36 17053.88. (a) In the case of a taxpayer who donates agricultural
37 products to a food bank located in California under Chapter 5
38 (commencing with Section 58501) of Part 1 of Division 21 of the
39 Food and Agricultural Code, for taxable years beginning on or
40 after January 1, 2012, there shall be allowed as a credit against the

1 “net tax” (as defined by Section 17039), an amount equal to 10
2 percent of the cost included in inventory costs under Section 263A
3 of the Internal Revenue Code, or that would be required to be
4 included in inventory costs under Section 263A of the Internal
5 Revenue Code but for the exception for farming businesses
6 contained in Section 263A(d) of the Internal Revenue Code, with
7 respect to those agricultural products.

8 (b) A married couple or domestic partners may receive only
9 one credit under this section. If the spouses or domestic partners
10 file separate returns, the credit may be taken by either or equally
11 divided between them. With the exception of spouses or domestic
12 partners, if two or more taxpayers share in the expenses eligible
13 for the credit provided by this section, each taxpayer shall be
14 eligible to receive the tax credit in proportion to his or her
15 respective share of the expense paid or incurred. In the case of a
16 partnership, the tax credit may be divided between the partners
17 pursuant to a written partnership agreement in accordance with
18 Chapter 10 (commencing with Section 17851), which includes
19 Section 704 of the Internal Revenue Code concerning substantial
20 economic effect, relating to a partner’s distributive share.

21 (c) If the credit allowed by this section is claimed by the
22 taxpayer, any deduction otherwise allowed under this part for that
23 amount of the cost paid or incurred by the taxpayer that is eligible
24 for the credit shall be reduced by the amount of the credit provided
25 in subdivision (a).

26 (d) Upon receipt of the donated agricultural product, the
27 nonprofit organization shall provide a certificate to the donor. The
28 certificate shall contain a statement signed and dated by a person
29 authorized by that organization that the product is donated under
30 Chapter 5 (commencing with Section 58501) of Part 1 of Division
31 21 of the Food and Agricultural Code. The certificate shall also
32 contain the type and quantity of product donated, the name of
33 donor or donors, and the name and address of the donee. Upon the
34 request of the Franchise Tax Board, the taxpayer shall provide a
35 copy of the certification to the Franchise Tax Board.

36 (e) In the case where the credit allowed by this section exceeds
37 the “net tax,” the excess may be carried over to reduce the “net
38 tax” in the following year, and for the six succeeding years if
39 necessary, until the credit has been exhausted.

1 (f) To the extent that data are available, the Franchise Tax Board
 2 shall report annually to the Legislature regarding the utilization of
 3 the credit authorized by this section.

4 (g) (1) A report to be submitted pursuant to subdivision (f) shall
 5 be submitted in compliance with Section 9795 of the Government
 6 Code.

7 (2) The requirement for submitting a report imposed under
 8 subdivision (f) is inoperative on January 1, 2016, pursuant to
 9 Section 10231.5 of the Government Code.

10 SEC. 4. Section 18853 of the Revenue and Taxation Code is
 11 amended to read:

12 18853. All money transferred to the Emergency Food
 13 Assistance Program Fund, upon appropriation by the Legislature,
 14 shall be allocated as follows:

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

18 (b) (1) To the State Department of Social Services for allocation
 19 to the Emergency Food Assistance Program. Funds shall be
 20 allocated for direct services provided by the Emergency Food
 21 Assistance Program and may not be used for the department’s
 22 administrative costs. *Funds received by emergency food assistance*
 23 *providers derived from contributions made on or after January 1,*
 24 *2012, shall be used for the purchase, storage, and transportation*
 25 *of food grown and produced in California.*

26 (2) *For purpose of this subdivision, “contributions” means*
 27 *voluntary contributions made pursuant to this article, state support,*
 28 *and federal grants.*

29 SEC. 5. Section 23688 is added to the Revenue and Taxation
 30 Code, to read:

31 23688. (a) In the case of a taxpayer who donates agricultural
 32 products to a food bank located in California under Chapter 5
 33 (commencing with Section 58501) of Part 1 of Division 21 of the
 34 Food and Agricultural Code, for taxable years beginning on or
 35 after January 1, 2012, there shall be allowed as a credit against the
 36 “tax” (as defined by Section 23036), an amount equal to 10 percent
 37 of the cost included in inventory costs under Section 263A of the
 38 Internal Revenue Code, or that would be required to be included
 39 in inventory costs under Section 263A of the Internal Revenue
 40 Code, but for the exception for farming businesses contained in

1 Section 263A(d) of the Internal Revenue Code, with respect to
2 those agricultural products.

3 (b) If two or more taxpayers share in the expenses eligible for
4 the credit provided by this section, each taxpayer shall be eligible
5 to receive the tax credit in proportion to its respective share of the
6 expense paid or incurred. In the case of a partnership, the tax credit
7 may be divided between the partners pursuant to a written
8 partnership agreement in accordance with Chapter 10 (commencing
9 with Section 17851), which includes Section 704 of the Internal
10 Revenue Code concerning substantial economic effect, relating to
11 a partner's distributive share.

12 (c) If the credit allowed by this section is claimed by the
13 taxpayer, any deduction otherwise allowed under this part for that
14 amount of the cost paid or incurred by the taxpayer that is eligible
15 for the credit shall be reduced by the amount of the credit provided
16 in subdivision (a).

17 (d) Upon receipt of the donated agricultural product, the
18 nonprofit organization shall provide a certificate to the donor. The
19 certificate shall contain a statement signed and dated by a person
20 authorized by that organization that the product is donated under
21 Chapter 5 (commencing with Section 58501) of Part 1 of Division
22 21 of the Food and Agriculture Code. The certificate shall also
23 contain the type and quantity of product donated, the name of
24 donor or donors, and the name and address of the donee. Upon the
25 request of the Franchise Tax Board, the taxpayer shall provide a
26 copy of the certification to the Franchise Tax Board.

27 (e) In the case where the credit allowed by this section exceeds
28 the "tax," the excess may be carried over to reduce the "tax" in
29 the following year, and for the six succeeding years if necessary,
30 until the credit has been exhausted.

31 (f) To the extent that data are available, the Franchise Tax Board
32 shall report annually to the Legislature regarding the utilization of
33 the credit authorized by this section.

34 (g) (1) A report to be submitted pursuant to subdivision (f) shall
35 be submitted in compliance with Section 9795 of the Government
36 Code.

1 (2) The requirement for submitting a report imposed under
2 subdivision (f) is inoperative on January 1, 2016, pursuant to
3 Section 10231.5 of the Government Code.

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