

Assembly Bill No. 754

CHAPTER 323

An act to add and repeal Article 5.1 (commencing with Section 18745) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 20, 2013. Filed with
Secretary of State September 20, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 754, Muratsuchi. Income taxes: voluntary contributions: California Beach and Coastal Enhancement Account.

The Personal Income Tax Law authorizes individuals to contribute amounts in excess of their tax liability for the support of specified funds. Existing law creates the California Beach and Coastal Enhancement Account in the California Environmental License Plate Fund.

This bill would authorize individuals to designate on their tax returns, under the designation titled "Protect Our Coast and Oceans Fund," that a contribution in excess of their tax liability be made to the California Beach and Coastal Enhancement Account. This bill would require that all moneys contributed to the account pursuant to these provisions, upon appropriation by the Legislature, be allocated to the Franchise Tax Board and the Controller for reimbursement and to the California Coastal Commission for grants and programs that preserve, protect, or enhance coastal resources and promote coastal and marine educational activities for underserved communities.

This bill would provide that these voluntary contribution provisions are inoperative and repealed, respectively, on the earlier of January 1 of the 5th taxable year following the taxable year the account first appears on the tax return and December 1 of that year; or for taxable years beginning on or after January 1 of the calendar year in which the Franchise Tax Board estimates by September 1 that the contributions made on returns filed in that calendar year will be less than \$250,000, or an adjusted amount for subsequent taxable years, and on December 1 of that calendar year.

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

SECTION 1. Article 5.1 (commencing with Section 18745) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 5.1. California Beach and Coastal Enhancement Account

18745. (a) An individual may designate on the tax return, under the space titled “Protect Our Coast and Oceans Fund,” that a contribution in excess of tax liability, if any, be made to the California Beach and Coastal Enhancement Account established by paragraph (1) of subdivision (c) of Section 5067 of the Vehicle Code.

(b) A contribution shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation made under subdivision (a) shall be made for any taxable year on the original return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the individual’s account, do not exceed the individual’s tax liability, if any, the return shall be treated as though no designation had been made. In the event that no designee is specified, the contribution shall, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article, be transferred to the General Fund.

(d) If an individual designates a contribution to more than one account or fund listed on the tax return, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designated accounts on a pro rata basis.

(e) The Franchise Tax Board shall revise the form of the return to include a space labeled the “Protect Our Coast and Oceans Fund” 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 for grants and programs that preserve, protect, or enhance coastal resources and promote coastal and marine educational activities for underserved communities.

(f) Notwithstanding any other law, a voluntary contribution designation for the Protect Our Coast and Oceans Fund shall not be added on the tax return until another voluntary contribution designation is removed or as soon as space is available.

(g) 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).

18746. The Franchise Tax Board shall notify the Controller of both the amount of money paid by individuals in excess of their tax liability and the amount of refund money that individuals have designated pursuant to Section 18745 to be transferred to the California Beach and Coastal Enhancement Account. The Controller shall transfer from the Personal Income Tax Fund to the California Beach and Coastal Enhancement Account an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18745 for payment into that account.

18747. All money designated under the Protect Our Coast and Oceans Fund space on a tax return and transferred to the California Beach and

Coastal Enhancement Account, pursuant to Section 18745, upon appropriation by the Legislature, shall be allocated as follows:

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

(b) (1) To the California Coastal Commission to support eligible programs awarded grants under the selection criteria established by the California Coastal Commission for the Whale Tail Grants Program, and for direct program-related expenses.

(2) All moneys allocated pursuant to paragraph (1) may be carried over from the year in which they were received.

18748. (a) Except as otherwise provided in subdivision (b), this article shall remain in effect only until January 1 of the fifth taxable year following the first appearance of the Protect Our Coast and Oceans Fund on the personal income tax return, and is repealed as of December 1 of that year.

(b) (1) By September 1 of the second calendar year and each subsequent calendar year that the Protect Our Coast and Oceans Fund appears on the tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the account to appear on the tax return for the taxable year that includes that next calendar year and provide written notification to the California Coastal Commission of the amount determined.

(B) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of the contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is inoperative with respect to taxable years beginning on or after January 1 of that calendar year, and shall be repealed on December 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000) for the second calendar year after the first appearance of the Protect Our Coast and Oceans Fund on the personal income tax return or the minimum contribution amount as adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with the third calendar year after the first appearance of the Protect Our Coast and Oceans Fund on the personal income tax return, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the

prior calendar year multiplied by the inflation factor adjustment as specified in subparagraph (A) of paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index for all items received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.