

Assembly Bill No. 485

CHAPTER 557

An act to add and repeal Article 23 (commencing with Section 18901) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 7, 2015. Filed with
Secretary of State October 7, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 485, Williams. Personal income taxes: voluntary contributions: Prevention of Animal Homelessness and Cruelty Fund.

Existing law allows an individual taxpayer to contribute amounts in excess of his or her personal income tax liability for the support of specified funds.

This bill would allow an individual to designate on his or her tax return that a specified amount in excess of his or her tax liability be transferred to the Prevention of Animal Homelessness and Cruelty Fund, which would be created by this bill. The bill would require the Franchise Tax Board to revise the tax return form to include a space for the designation of contributions to the fund when another voluntary designation is removed from the form or there is space, whichever occurs first.

This bill would require money contributed to the fund, upon appropriation by the Legislature, to be allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and to the Department of Food and Agriculture for the development of a mechanism to provide ongoing public awareness through activities that will promote the charitable tax deduction for the fund and seek continued contributions and the distribution of grants on a competitive basis to, among others, a city, county, or city and county animal control agency or shelter, as specified, for the purpose of supporting spay and neuter activities by that entity to prevent and eliminate cat and dog homelessness.

The bill would provide that these provisions would remain in effect only until January 1 of the 5th taxable year following the first appearance of the Prevention of Animal Homelessness and Cruelty Fund on the tax return, or January 1, 2022, whichever occurs first, but would further provide for an earlier repeal if the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount, as defined, for that calendar year, in which case these provisions would be repealed on December 1 of that year.

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

SECTION 1. Article 23 (commencing with Section 18901) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 23. Prevention of Animal Homelessness and Cruelty Fund

18901. (a) An individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Prevention of Animal Homelessness and Cruelty Fund established by Section 18901.1. That designation is to be used as a voluntary contribution on the tax return.

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

(c) A designation under subdivision (a) shall be made for a taxable year on the original return for that taxable year and once made is irrevocable. If payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made.

(d) When another voluntary contribution designation is removed from the tax return, or as soon as space is available, whichever occurs first, the Franchise Tax Board shall revise the form of the return to include a space labeled the "Prevention of Animal Homelessness and Cruelty Fund" to allow for the designation permitted. 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 to fund all of the following:

- (1) Programs designed to prevent and eliminate cat and dog homelessness.
- (2) Prevention, investigation, and prosecution of animal cruelty and neglect.

(e) 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).

18901.1. There is hereby established in the State Treasury the Prevention of Animal Homelessness and Cruelty Fund to receive contributions made pursuant to Section 18901. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated pursuant to Section 18901 to be transferred to the Prevention of Animal Homelessness and Cruelty Fund. The Controller shall transfer from the Personal Income Tax Fund to the Prevention of Animal Homelessness and Cruelty Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18901 for payment into that fund.

18901.2. (a) All money transferred to the Prevention of Animal Homelessness and Cruelty Fund, upon appropriation by the Legislature, shall be allocated as follows:

(1) 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.

(2) To the Department of Food and Agriculture for allocation as follows:

(A) Up to 5 percent of the funds allocated to the department shall be used by the department for the development of a mechanism to provide ongoing public awareness through activities that will promote the charitable tax deduction for the fund and seek continued contributions. These activities may include convening a philanthropic roundtable, developing literature for use by the city, county, or city and county animal control agency or shelter that is current on its reporting requirements to the State Department of Public Health, Veterinary Public Health Section, a society for the prevention of cruelty to animals affiliate, or a humane society affiliate for dissemination, and whatever other activities are deemed necessary and appropriate to promote the fund.

(B) Up to two hundred fifty thousand dollars (\$250,000) shall be distributed to, and used by, a city, county, or city and county animal control agency or shelter that is current on its reporting requirements to the State Department of Public Health, Veterinary Public Health Section for the sole purpose of supporting spay and neuter activities by that entity to prevent and eliminate cat and dog homelessness.

(C) The remaining moneys, if any, shall be used by programs designed to prevent and eliminate cat and dog homelessness or programs for the prevention, investigation, and prosecution of animal cruelty and neglect. The grants are to be distributed to a city, county, or city and county animal control agency or shelter that is current on its reporting requirements to the State Department of Public Health, Veterinary Public Health Section, a society for the prevention of cruelty to animals affiliate, or a humane society affiliate. A society for the prevention of cruelty to animals affiliate or a humane society affiliate shall be a California corporation, duly incorporated in the state of California, in active status, as described on the business search page of the Secretary of State's Internet Web site, and exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code.

(b) The Department of Food and Agriculture shall award grants through a competitive, project-specific grant process and shall be responsible for overseeing that grant program. A grantee shall not use a grant award for administrative expenses or for any purposes outside of California.

(c) The Department of Food and Agriculture may consult with the State Department of Public Health to develop the grant process and the oversight of the grant program.

(d) No Prevention of Animal Homelessness and Cruelty Fund money shall be used to supplant state General Fund money for any purpose.

18901.3. (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 Prevention of Animal Homelessness and Cruelty

Fund on the tax return, or January 1, 2022, whichever occurs first, and is repealed as of December 1 of that year.

(b) (1) By September 1 of the second calendar year and by September 1 of each subsequent calendar year that the Prevention of Animal Homelessness and Cruelty 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 fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the Department of Food and Agriculture of the amount determined in subparagraph (A).

(C) 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 shall be 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 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 Prevention of Animal Homelessness and Cruelty Fund on the personal income tax return or the adjusted minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with the third calendar year after the first appearance of the Prevention of Animal Homelessness and Cruelty Fund on the tax return, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated 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 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 received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.