

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Dickinson Analyst: Narinder Dosanjh Bill Number: AB 2326  
Related Bills: See Legislative History Telephone: 845-5275 Introduced Date: February 21, 2014  
Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Pet Adoption Costs Deduction/Pet Adoption Costs Voluntary Contribution Fund

### SUMMARY

Under the Personal Income Tax Law (PITL), this bill would do the following:

#### Provision 1:

- Allow an income tax deduction for the costs paid or incurred for the adoption of a pet from a qualified animal rescue organization, and

#### Provision 2:

- Allow a taxpayer to make a voluntary contribution to the Pet Adoption Costs Fund (Pet Adoption Fund) on the state personal income tax return.

These provisions are discussed separately in this analysis.

This bill would also establish a grant program that would be administered by the Department of Food and Agriculture and would require the State Department of Public Health to provide information to the Department. This analysis only addresses the provisions of the bill that impact the department's programs and operations.

### RECOMMENDATION

No position.

### REASON FOR THE BILL

The reason for this bill is to provide tax incentives to encourage adoption of shelter or rescue animals to reduce animal overpopulation.

#### Provision 1: Pet Adoption Deduction

### EFFECTIVE/OPERATIVE DATE

This provision would be effective January 1, 2015, and specifically operative for taxable years beginning on or after January 1, 2015, and before January 1, 2020.

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## **ANALYSIS**

### **FEDERAL/STATE LAW**

Existing federal and state laws allow for the deduction of certain expenses when calculating adjusted gross income, such as moving expenses and interest on education loans, certain ordinary and necessary trade and business expenses, losses from the sale or exchange of certain property, contributions for pension, profit-sharing and annuity plans of self employed individuals, retirement savings, and alimony. Thus, all taxpayers with this type of expense receive the benefit of the deduction, regardless of whether the taxpayer itemized deductions or uses the standard deduction. These are known as “above-the-line” deductions.

Neither federal or state law allow a deduction similar to the one that would be provided by this bill.

### **THIS PROVISION**

Under the PITL this provision would for taxable years beginning on or after January 1, 2015, and before January 1, 2020, allow a taxpayer to deduct the qualified costs, as defined, paid or incurred during the taxable year to adopt a pet from a qualified animal rescue organization, as defined. The deduction would be limited to \$100 per taxable year.

This provision would define the following terms and phrases:

- “Pet” means an animal adopted from a qualified animal rescue organization that is not used by the taxpayer in a trade or business or for the production of income.
- “Qualified animal rescue organization” means a public animal control agency or shelter, a humane society shelter, or rescue group.
- “Qualified costs” means amounts paid or incurred to a qualified animal rescue organization to adopt a pet, not to exceed one hundred dollars (\$100).
- “Rescue group” means an organization exempt from federal income taxation under Internal Revenue Code (IRC) section 501(c)(3) whose primary purpose is to place dogs, cats, or other animals removed from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane society, or that have been surrendered or relinquished to the rescue group by the previous owner.

This provision would be repealed by its own terms as of December 1, 2020.

### **IMPLEMENTATION CONSIDERATIONS**

The department has identified the following implementation concern. Department staff is available to work with the author’s office to resolve this and other concerns that may be identified.

This provision would create a tax deduction for costs related to pet adoption. As written, the language fails to indicate whether the deduction should be allowed “above-the-line”<sup>1</sup> or “below-the-line.”<sup>2</sup> To eliminate confusion, the bill should be amended to specify how the deduction should be treated.

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<sup>1</sup> Deduction would reduce income to derive California adjusted gross income.

<sup>2</sup> Deduction would reduce California adjusted gross income to derive taxable income.

## LEGISLATIVE HISTORY

AB 233 (Smyth, 2009/2010), would have allowed taxpayers a miscellaneous itemized deduction, up to \$100 per taxable year, for the qualified costs paid or incurred for the adoption of pets from a qualified animal rescue organization and would have established the Pet Adoption Cost Deduction Fund. AB 233 failed passage from the Assembly Appropriations Committee.

## OTHER STATES' INFORMATION

Review of *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* laws found no comparable deduction for pet adoption. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

## FISCAL IMPACT

If the bill is amended to resolve the implementation consideration addressed in this analysis, the department's costs are expected to be minor.

## ECONOMIC IMPACT

### Revenue Estimate

Estimated Revenue Impact of AB 2326 Provision 1-Pet Adoption Deduction As Introduced January 21, 2014 For Taxable Years Beginning On or After January 1, 2015 Assumed Enactment After June 30, 2014 (\$ in Millions)		
2015-2016	2016-2017	2017-2018
- \$2.8	- \$3.0	- \$3.1

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

### **Provision 2: Pet Adoption Cost Deduction Voluntary Contribution Fund**

## EFFECTIVE/OPERATIVE DATE

This provision would be effective and operative on January 1, 2015. The Pet Adoption Cost Deduction Fund (Pet Adoption Fund) could first appear on the 2014 return filed on or after January 1, 2015. This provision would be repealed if it fails to meet the minimum contribution amount in any calendar year.

## **ANALYSIS**

### FEDERAL/STATE LAW

Current federal tax law provides a checkoff to direct \$3 of a taxpayer's tax liability to the presidential election fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows taxpayers to make contributions of their own monies (not tax liability) on their tax returns to any of the 20 voluntary contribution funds listed on the 2013 state personal income tax return (return). Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the Controller's actual costs to administer the fund.

Taxpayers contributing to the funds are specifically allowed to deduct those contributions on their state income tax return for the year in which the contribution is made. These contributions may satisfy the requirements under federal law for a charitable contribution deduction.

With the following exceptions, funds remain on the return until they are either repealed or fail to meet their minimum contribution amount:

- The California Seniors Special Fund has no sunset date.
- The California Seniors Special Fund, the California Firefighters Memorial Fund, and the California Peace Officer Memorial Foundation Fund have no annual minimum contribution amount.
- The California Fund for Senior Citizens' minimum contribution amount is fixed at \$250,000.

Additionally, with the exception of the four funds listed above, each fund's minimum contribution amount is adjusted annually for inflation based on the percentage change in the California Consumer Price Index (Index). The California Breast Cancer Research Fund's annual adjustment is suspended for calendar years 2014 and 2015.<sup>3</sup>

The FTB is required to make the following two determinations for each fund by September 1 of each calendar year:

1. The minimum contribution amount required for the fund to remain on the return for the following calendar year, and
2. Whether estimated contributions to the fund will be less than the minimum contribution amount for that calendar year.

If the FTB estimates that contributions to a fund will fail to meet or exceed the minimum contribution amount for a calendar year; that fund is repealed effective January 1 of that calendar year.

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<sup>3</sup> AB 1286 (Skinner, Chaptered 664, Statutes of 2013).

Current state law provides that if the number of contingent voluntary contribution designations<sup>4</sup> that are eligible to be added to the return is greater than the number of designations removed, then the voluntary contribution designations may be queued and added to the return in order of the date of enactment. If the FTB determines that space is available on the return to accommodate additional voluntary contribution designations, the FTB may add one or more voluntary contribution designations to the return, regardless of the number of designations removed.

### THIS PROVISION

This provision would establish the Pet Adoption Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their personal income tax returns in full dollar amounts of \$1 or more. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

This provision would require the FTB to revise the return to include a designation space for the Pet Adoption Fund beginning with the first taxable year that another voluntary contribution fund is removed or as soon as space is available. This designation could be added to the 2014 tax return filed on or after January 1, 2015.

For the second taxable year the fund is on the return, this provision would require the fund to meet the \$250,000 minimum contribution test. The FTB would be required to estimate by September 1 of any calendar year after the first taxable year the fund appears on tax returns that contributions made under this provision will be less than \$250,000 (as indexed for inflation). The law authorizing designations for this fund would be repealed if the estimated contributions are less than the minimum contribution amount.

Beginning with the third calendar year after the fund appears on the personal income tax return, the FTB would adjust the minimum contribution amount for the fund by September 1, of that year. The minimum contribution amount would adjust according to the Index.

This provision would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, then the taxpayer's return would be treated as if no designation had been made. If no designee is specified, a designated contribution amount would be transferred to the General Fund.

This provision would require all money transferred to the Pet Adoption Fund to be allocated upon appropriation by the Legislature in the following order:

- To the FTB and the State Controller for reimbursement of costs incurred in administering the Pet Adoption Fund.
- To the General Fund for reimbursement of the loss attributable to the Pet Adoption Deduction.
- To the Department of Food and Agriculture for disbursement in the form of grants to eligible municipal shelters to provide food and shelter to abandoned and impounded animals.

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<sup>4</sup> A contingent voluntary contribution designation is a voluntary contribution designation that contains specific language stating that it may not be added to the return until another voluntary contribution designation is removed from the return.

This provision would allow the voluntary contribution designation to remain on the tax return for five years unless a later enacted statute deletes or extends that date.

**IMPLEMENTATION CONSIDERATIONS**

Implementing this provision would not significantly impact the department's programs and operations.

**OTHER STATES' INFORMATION**

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

*Florida* does not have a personal income tax but allows contribution designations on the state's motor vehicle registration and renewal forms.

*Illinois, Massachusetts, Michigan, Minnesota* and *New York* allow for taxpayer contribution designations on the personal income tax return; however, none of these states provide a voluntary contribution comparable to the one discussed in this bill.

**FISCAL IMPACT**

This provision would not impact the department's costs.

**ECONOMIC IMPACT**

Revenue Estimate

Provision 2-Pet Adoption Fund Estimated Revenue Impact of AB 2326 As Introduced January 21, 2014 For Taxable Years Beginning On or After January 1, 2015 Assumed Enactment After June 30, 2014		
2015-2016	2016-2017	2017-2018
- \$10,000	- \$10,000	- \$10,000

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

**SUPPORT/OPPOSITION**

Support: None on file.

Opposition: None on file.

## **ARGUMENTS**

Proponents: Some may say that this bill could encourage individuals and families to donate to and adopt pets from local shelters, thereby helping to relieve the pressure on these facilities.

Opponents: Some may argue that taxpayers who are inclined to adopt pets or contribute to a pet adoption cause would do so absent a tax incentive and the consistent addition of new funds on the tax return makes the return a cumbersome document.

## **LEGISLATIVE STAFF CONTACT**

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