

# ANALYSIS OF AMENDED BILL

Author: Williams & Allen Analyst: Narinder Dosanjh Bill Number: AB 485  
 See Legislative  
 Related Bills: History Telephone: 845-5275 Amended Date: March 26, 2015  
 Attorney: Bruce Langston Sponsor \_\_\_\_\_

<b>SUBJECT:</b>	Prevention of Animal Homelessness & Cruelty Fund
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**SUMMARY**

Under the Personal Income Tax Law (PITL), this bill would establish the Prevention of Animal Homelessness and Cruelty Fund (Prevention Fund) and allow a taxpayer to make a voluntary contribution to the Prevention Fund on the state personal income tax return.

This analysis only addresses the provisions of the bill that impact the department’s programs and operations.

**RECOMMENDATION**

No position.

**Summary of Amendments**

The March 26, 2015, amendments eliminated provisions that would have made nonsubstantive changes to the Revenue and Taxation Code and added the provisions discussed in this analysis. This is the department’s first analysis of the bill.

**Summary of Suggested Amendments**

Amendments have been suggested to make minor technical corrections.

**REASON FOR THE BILL**

The reason for this bill is to provide funding to programs designed to prevent and eliminate animal homelessness and cruelty.

**EFFECTIVE/OPERATIVE DATE**

This bill would be effective on January 1, 2016, and operative as of that date. If another fund is removed or if space is available, the Prevention Fund could first appear on the 2015 return filed on or after January 1, 2016.

Board Position:	Executive Officer	Date
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## 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 18 voluntary contribution funds (funds) listed on the 2014 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.

Additionally, with the exception of the three 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 (also known as CCPI). The California Breast Cancer Research Fund's annual adjustment is suspended for calendar years 2014 and 2015.<sup>1</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>1</sup> AB 1286 (Skinner, Chapter 664, Statutes of 2013).

Current state law specifies the following general provisions applicable to the administration of the voluntary contribution funds:<sup>2</sup>

- A contribution made during the year a fund is repealed, would be treated based on the law in effect immediately prior to its repeal.
- If no designee for a contribution is specified, the contribution amount would be transferred to the General Fund.
- If the available amount is less than the total amount designated to more than one account or fund, the available amount would be allocated on a pro rata basis.
- If the number of contingent voluntary contribution designations<sup>3</sup> that are eligible to be added to the return is greater than the number of designations removed, the voluntary contribution designations may be queued and added to the return in the order of the date of enactment.
- If the FTB determines that space is available on the return, the FTB may add one or more voluntary contribution designations to the return, regardless of the number of designations removed.

### **THIS BILL**

This bill would establish the Prevention Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to this 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 bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, the taxpayer's return would be treated as if no designation had been made. Further, contributions for which no designation is specified would be transferred to the general fund, and should available amounts exceed the designated contributions to more than one fund, the available amount would be allocated on a pro rata basis (see Technical Considerations Section, Amendments 1 and 2).

This bill would require the FTB to revise the return to include a designation space for the Prevention Fund after another voluntary contribution fund is removed or as soon as space is available. This designation could be added to the 2015 tax return filed on or after January 1, 2016. In addition, this bill would require the return's instructions to include information that the contribution may be in the amount of one dollar or more and that the contribution would be used to fund all of the following:

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<sup>2</sup> Revenue and Taxation Code section 18871.

<sup>3</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.

- Programs designed to prevent and eliminate cat and dog homelessness.
- Research that explores novel approaches to preventing and eliminating pet homelessness.
- Prevention, investigations, and prosecution of animal cruelty and neglect.

This bill would allow a charitable contribution deduction on the state income tax return for the year in which a voluntary contribution to this fund is made.

This bill would allow the voluntary contribution designation to remain on the tax return for up to five years, subject to estimated contributions meeting or exceeding the minimum contribution amount, as specified.

For the second calendar year the Prevention Fund is on the return, this bill would require contributions to the Prevention Fund to meet the \$250,000 minimum contribution amount. The FTB would be required to estimate by September 1 of each calendar year after the first calendar year the Prevention Fund appears on the return whether contributions made under this bill would be less than \$250,000 (as indexed for inflation).

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

The law authorizing designations for the Prevention Fund would be inoperative as of January 1 of that calendar year and repealed as of December 1st of that year if the estimated contributions are less than the minimum contribution amount.

The FTB would be required to notify the Controller of the amount to be transferred to the Prevention Fund. Upon appropriation by the Legislature, all amounts transferred to the Prevention Fund would be allocated in the following order:

- To the FTB and the State Controller for reimbursement of costs incurred in administering the Prevention Fund.
- To the Department of Food and Agriculture for distribution of grants to a city or county animal control agency or a shelter that is current on its reporting requirements to the State Department of Public Health, Veterinary Public Health Section.

Any contribution amounts designated prior to its repeal would continue to be transferred and disbursed as in effect immediately prior to that repeal. (see Technical Considerations Section, Amendment 5)

## **IMPLEMENTATION CONSIDERATIONS**

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

## **TECHNICAL CONSIDERATIONS**

Amendments 1, 2, and 5 would remove language that is unnecessary since existing state law provides these general rules.

Amendments 3 and 4 are provided to renumber the subdivisions.

## **LEGISLATIVE HISTORY**

AB 924 (Cooley, 2015/2016) would reenact the voluntary contribution to the State Children's Trust Fund for the Prevention of Child Abuse. AB 924 is pending hearing before the Assembly Revenue and Taxation Committee.

AB 976 (Steinorth, 2015/2016) would, among other things, establish the Pet Adoption Fund and allow voluntary contributions to that fund. AB 976 is pending hearing before the Assembly Revenue and Taxation Committee.

SB 17 (Monning, 2015/2016) would extend the repeal date of the Sea Otter Fund designation from January 1, 2016, to January 1, 2021. SB 17 passed out of the Senate Committee on Governance and Finance on April 8, 2015.

AB 233 (Smyth, 2009/2010), would have established the Pet Adoption Fund as a Voluntary Contribution Fund. AB 233 failed passage from the Assembly Appropriations Committee.

## **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.

*Massachusetts* allows taxpayers a voluntary contribution in any amount to the Homeless Animal Prevention and Care Fund designation on the personal income tax return.

*Illinois, 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 this bill would allow.

## **FISCAL IMPACT**

This bill would not impact the department's costs.

## **ECONOMIC IMPACT**

### **Revenue Estimate**

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 485 As Amended March 26, 2015 Assumed Enactment After June 30, 2015		
2015-16	2016-17	2017-18
\$0	- \$8,000	- \$8,000

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

### **Revenue Discussion**

This bill would add the Prevention of Animal Homelessness and Cruelty Fund to the voluntary contribution funds listed on the state's personal income tax return. The estimate assumes that the fund will meet the minimum contribution each year as specified in the bill.

Approximately 56 percent of taxpayers who contribute to voluntary contribution funds would itemize their deductions. It is estimated the average tax rate for these taxpayers is 6 percent, resulting in an estimated revenue loss of approximately \$8,000 annually ( $\$250,000 \times 56\% \times 6\%$ ).

Contributions would be made in 2016 when the 2015 return is filed. Subsequently, the deduction for such contributions would be claimed on the 2016 return filed by April 15, 2017; therefore, the revenue impact would not occur until fiscal year 2016-17.

## **SUPPORT/OPPOSITION**

Support: State Humane Association of California (sponsor), Humane Society of the United States.

Opposition: None on file.

## **ARGUMENTS**

Proponents: Some may argue that contributions made for this cause would provide substantial funding to help relieve financial pressure on municipal animal shelters.

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

**LEGISLATIVE STAFF CONTACT**

Narinder Dosanjh  
Legislative Analyst, FTB  
(916) 845-5275  
[narinder.dosanjh@ftb.ca.gov](mailto:narinder.dosanjh@ftb.ca.gov)

Jame Eiserman  
Revenue Manager, FTB  
(916) 845-7484  
[jame.eiserman@ftb.ca.gov](mailto:jame.eiserman@ftb.ca.gov)

Gail Hall  
Legislative Director, FTB  
(916) 845-6333  
[gail.hall@ftb.ca.gov](mailto:gail.hall@ftb.ca.gov)

Analyst	Narinder Dosanjh
Telephone #	(916) 845-5275
Attorney	Bruce Langston

FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 485  
AS AMENDED MARCH 26, 2015

AMENDMENT 1

On page 3, line 1, strikeout "If a contribution".

AMENDMENT 2

On page 3, strikeout lines 2 to 10 inclusive.

AMENDMENT 3

On page 3, line 11, strikeout "(e)" and insert:

(d)

AMENDMENT 4

On page 3, line 26, strikeout "(f)" and insert:

(e)

AMENDMENT 5

On page 6, strikeout lines 1 to 4 inclusive.