

BILL ANALYSIS

Department, Board, Or Commission Franchise Tax Board	Author Williams & Allen	Bill Number AB 485
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SUBJECT

Prevention of Animal Homelessness & Cruelty Fund

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.

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. The Prevention Fund could first appear on the 2015 return filed on or after January 1, 2016.

STATE LAW

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.

Generally funds remain on the return until they are either repealed or fail to meet their minimum contribution amount.

Gail Hall, FTB Contact Person
(916) 845-6333 (Office)

Executive Officer
Selvi Stanislaus

Date
9/14/15

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contributions to a fund will fail to meet or exceed the minimum contribution amount for a calendar year; that fund is repealed effective January 1 of that calendar year.

THIS BILL

This bill would establish the Prevention Fund and would allow taxpayers to designate their own monies (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.

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:

- 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 California Consumer Price Index.

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, county, or city and 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, a society for the prevention of cruelty to animals affiliate, or a humane society affiliate for the purpose of supporting programs designed to prevent and eliminate animal homelessness and cruelty.

LEGISLATIVE HISTORY

AB 924 (Cooley, Chapter 275, Statutes of 2015) reenacted the voluntary contribution to the State Children's Trust Fund for the Prevention of Child Abuse.

SB 17 (Monning, Chapter 136, Statutes of 2015) extended the repeal date of the Sea Otter Fund designation from January 1, 2016, to January 1, 2021.

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 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 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 would 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.

APPOINTMENTS

None.

SUPPORT/OPPOSITION¹

Support: American Society for the Prevention of Cruelty to Animals; Humane Society of the United States; State Humane Association of California.

Opposition: California Department of Finance.

¹ As noted in the Senate Floor analysis, dated September 9, 2015.

VOTES

	Date	Yes	No
Concurrence	09/10/15	80	0
Senate Floor	09/09/15	39	0
Assembly Floor	05/07/15	77	0

LEGISLATIVE STAFF CONTACT**Contact****Work**

Marybel Batjer, Agency Secretary, GovOps

916-651-9024

Jennifer Osborn, Deputy Secretary, Fiscal Policy and Administration, GovOps

916-651-9100

Selvi Stanislaus, Executive Officer, FTB

916-845-4543

Gail Hall, Legislative Director, FTB

916-845-6333