SB-587 California Sea Otter Voluntary Tax Contribution Fund. (2019-2020)

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Senate Bill No. 587

CHAPTER 229

An act to amend Sections 18754, 18754.1, 18754.2, and 18754.3 of, and to amend the heading of Article 5.6 (commencing with Section 18754) of Chapter 3 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor September 28, 2020. Filed with Secretary of State September 28, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 587, Monning. California Sea Otter Voluntary Tax Contribution Fund.

Existing law, until January 1, 2021, establishes the California Sea Otter Fund and allows individuals to designate on their personal income tax returns that a specified amount in excess of their tax liability be transferred to the fund. Existing law requires money in that fund, upon appropriation by the Legislature, to be allocated to the Department of Fish and Wildlife for the purposes of establishing a sea otter fund to be used for sea otter conservation, and to the State Coastal Conservancy for competitive grants and contracts for research, projects, and programs related to the Federal Sea Otter Recovery Plan or improving the nearshore ocean ecosystem.

Existing law requires any new or extended voluntary tax contribution to include the words “voluntary tax contribution” in the name of the fund, to require the administrative agency to include specified information about the fund on its internet website, and to continuously appropriate voluntary tax contributions made to the fund to the administrative agency. Existing law requires the minimum contribution amount to a new or extended voluntary tax contribution fund for the second calendar year after the first appearance of the fund on the tax refund form, and each calendar year thereafter, to be $250,000.

This bill would extend the operation of the above-described provisions relating to the California Sea Otter Fund to January 1, 2028, or until an earlier date if the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not equal or exceed $250,000. The bill would conform with those aforementioned requirements on new or extended voluntary tax contributions by making the money in the fund continuously appropriated, by renaming the fund the California Sea Otter Voluntary Tax Contribution Fund, and by requiring the Department of Fish and Wildlife and the State Coastal Conservancy to report on their internet websites information regarding the process for awarding money, the amount spent on administration, and an itemization of how program funds were awarded.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The heading of Article 5.6 (commencing with Section 18754) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code is amended to read:

Article 5.6. California Sea Otter Voluntary Tax Contribution Fund

SEC. 2. Section 18754 of the Revenue and Taxation Code is amended to read:

18754. (a) An individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Sea Otter Voluntary Tax Contribution Fund, established by Section 18754.1. That designation is to be used as a voluntary checkoff 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 shall be made for any 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. If no designee is specified, the contribution shall be transferred to the General Fund, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article.

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

(e) Except as provided by Section 18754.3, for the 2011 taxable year, the Franchise Tax Board shall revise the form of the tax return to include a space labeled the “California Sea Otter Fund” to allow for the designation provided, and for the 2020 taxable year, the Franchise Tax Board shall revise the form of the tax return to rename the fund the “California Sea Otter Voluntary Tax Contribution Fund.” The form shall include in the instruction information that the contribution may be in the amount of one dollar ($1) or more and that the contribution shall be used to support increased investigation, prevention, and enforcement actions to decrease sea otter mortality, and to provide for research and programs related to sea otters.

(f) 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).

SEC. 3. Section 18754.1 of the Revenue and Taxation Code is amended to read:

18754.1. There is in the State Treasury the California Sea Otter Fund to receive contributions made pursuant to Section 18754. Commencing January 1, 2021, the fund is hereby renamed the California Sea Otter Voluntary Tax Contribution Fund. All references in any provision of law, regulation, or contract to the California Sea Otter Fund shall be deemed to refer to the California Sea Otter Voluntary Tax Contribution Fund. 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 18754 to be transferred to the California Sea Otter Voluntary Tax Contribution Fund. The Controller shall transfer from the Personal Income Tax Fund to the California Sea Otter Voluntary Tax Contribution Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18754 for payment into that fund.

SEC. 4. Section 18754.2 of the Revenue and Taxation Code is amended to read:

18754.2. (a) All money transferred to the California Sea Otter Voluntary Tax Contribution Fund shall be continuously appropriated and 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) Fifty percent of the revenues remaining after allocation pursuant to paragraph (1), to the Department of Fish and Wildlife for the purposes of establishing a sea otter fund to be used for sea otter conservation, including, but not limited to, for increased investigation, prevention, and enforcement actions related to sea otter mortality, and for public outreach activities that encourage taxpayers to make contributions by voluntary checkoff on a tax return to the California Sea Otter Voluntary Tax Contribution Fund.

(3) Fifty percent of the revenues remaining after allocation pursuant to paragraph (1), to the State Coastal Conservancy for competitive grants and contracts to public agencies and nonprofit organizations for research, science, protection, projects, or programs related to the Federal Sea Otter Recovery Plan or improving the nearshore ocean ecosystem, including, but not limited to, program activities to reduce sea otter mortality, and for public outreach activities that encourage taxpayers to make contributions by voluntary checkoff on a tax return to the California Sea Otter Voluntary Tax Contribution Fund. The projects or programs may also address pathogens and water and wastewater treatment technologies.

(b) The State Coastal Conservancy shall solicit available federal, private, matching, and other dollars to maximize or leverage funds appropriated pursuant to paragraph (3) of subdivision (a) to provide the greatest benefit for sea otters.

(c) The State Coastal Conservancy may enter into interagency agreements with public agencies for purposes of paragraph (3) of subdivision (a).

(d) The Department of Fish and Wildlife and the State Coastal Conservancy shall each report on its internet website information regarding the process for awarding money, the amount spent on administration, and an itemization of how program funds were awarded.

SEC. 5. Section 18754.3 of the Revenue and Taxation Code is amended to read:

18754.3. (a) Except as otherwise provided in subdivision (b), this article shall remain in effect only until January 1, 2028, and as of that date, is repealed.

(b) (1) By September 1 of the second calendar year, and each calendar year thereafter, that the California Sea Otter Voluntary Tax Contribution Fund appears on a tax return, the Franchise Tax Board shall determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed two hundred fifty thousand dollars ($250,000). 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 the amount of contributions estimated to be received during a calendar year will not equal or exceed two hundred fifty thousand dollars ($250,000), 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.

(c) 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.