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AB-1983 Income taxes: voluntary contributions: Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund. (2023-2024)

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Assembly Bill No. 1983

CHAPTER 234

An act to add and repeal Article 23.5 (commencing with Section 18901.9) 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 14, 2024. Filed with Secretary of State September 14, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1983, Maienschein. Income taxes: voluntary contributions: Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund.

Existing law establishes the Pet Lover's Fund in the Specialized License Plate Fund and requires the Department of Food and Agriculture to grant moneys in the Pet Lover's Fund to eligible veterinary facilities, as defined, that offer low-cost or no-cost animal sterilization services pursuant to a specified process.

Existing law authorizes an individual to contribute amounts in excess of their tax liability for the support of specified funds. Existing law also sets forth administrative provisions applicable to voluntary contributions.

Prior existing law established the Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund for purposes of receiving voluntary contributions made by individuals from amounts in excess of their tax liability.

This bill would require that all moneys in that prior fund continue to be transferred and disbursed in accordance with prior applicable law, as those read immediately prior to their repeal.

This bill would additionally allow an individual to designate on their tax return that a specified amount in excess of their tax liability be transferred to the Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund, which would be created by this bill. The bill would prohibit a voluntary contribution designation for the Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund from being added on the tax return until another voluntary contribution designation is removed or a space is available.

This bill would require moneys in the Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund to be continuously appropriated and to be allocated to the Franchise Tax Board and the Controller for reimbursement of costs and the balance to the Department of Food and Agriculture for administrative costs and public awareness activities, as described, and the distribution of funds through the above-described grant program funded by the Pet Lover's Fund. By continuously appropriating these funds, the bill would make an appropriation.

This bill would provide that these provisions would remain operative only until January 1 of the 7th calendar year following the first appearance of the Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund on the tax return, but would further provide for an earlier repeal if the Franchise Tax Board determines that the amount of contributions estimated to be

received during the 2nd and later calendar years after its first appearance on a return will not at least equal the minimum contribution amount, in which case these provisions would be repealed on December 1 of that year. The bill would require, notwithstanding the repeal of the bill's provisions, that any contribution amounts designated prior to the repeal of the bill's provisions be transferred and disbursed in accordance with those provisions, as specified.

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

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

SECTION 1. Article 23.5 (commencing with Section 18901.9) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 23.5. Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund

18901.9. (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 Voluntary Tax Contribution Fund established by Section 18901.9.1. 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 Voluntary Tax Contribution 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 programs designed to prevent and eliminate cat and dog homelessness, including spay and neuter programs.

(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).

18901.9.1. (a) There is hereby established in the State Treasury the Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund to receive contributions made pursuant to Section 18901.9.

(b) 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 18901.9 to be transferred to the Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund.

(c) The Controller shall transfer from the Personal Income Tax Fund to the Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund an amount not in excess of the sum of amounts designated by individuals pursuant to Section 18901.9 for payment into that fund.

(d) Notwithstanding any law and the repeal of this article, all moneys in the prior Prevention of Animal Homelessness and Cruelty Voluntary Contribution Fund, as established by Chapter 557 of the Statutes of 2015, shall continue to be transferred and disbursed in accordance with prior Article 23 (commencing with Section 18901), as that article read immediately prior to its repeal.

18901.9.2. (a) Notwithstanding Section 13340 of the Government Code, all moneys transferred to the Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund shall be continuously appropriated and 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 5 percent of the funds allocated to the department may be used for administration of the grant program.

(C) (i) The remaining funds shall be used to provide grants through the grant program funded by the Pet Lover's Fund, as described in subdivisions (c) and (e) of Section 5168 of the Vehicle Code.

(ii) Funds described in clause (i) shall not be subject to any allocation described in subdivision (d) of Section 5168 of the Vehicle Code.

(b) The Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund moneys shall not be used to supplant state General Fund moneys for any purpose.

(c) The Department of Food and Agriculture shall report on its internet website information provided by its grantees, if any, regarding the process for awarding money, the amount of money spent on administration, and an itemization of how program funds were awarded.

18901.9.3. (a) Except as otherwise provided in subdivision (b), this article shall remain operative only until January 1 of the seventh calendar year following the first appearance of the Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund on the tax return, 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 Voluntary Tax Contribution Fund appears on the 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 the minimum contribution amount for the calendar year. 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).

(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.