

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2175

Introduced by Assembly ~~Member~~ Members Daly and Ting

February 20, 2014

An act to amend Section 20502 of, and to add Chapter 1.5 (commencing with Section 20565) to Part 10.5 of Division 2 of, the Revenue and Taxation Code, relating to ~~taxation~~: taxpayer assistance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2175, as amended, Daly. ~~Personal income tax credit: long-term care: Renter's Tax Assistance Act.~~

Within the Senior Citizens Property Tax Assistance and Postponement Law, the Gonsalves-Deukmejian-Petris Senior Citizens Property Tax Assistance Law provides for payment of assistance by the Franchise Tax Board to low-income and elderly or disabled claimants, whether those claimants own or rent their residences, in accordance with schedules that reduce the amount of assistance provided as the amount of a claimant's household income increases along a specified scale of household income amounts.

This bill would create the Renter's Tax Assistance Act within the Senior Citizens Property Tax Assistance and Postponement Law to provide for payment of assistance by the Franchise Tax Board to individuals who rent their residences and have gross household income that do not exceed \$42,588, in accordance with a schedule that reduces the amount of assistance provided as the amount of an individual's household income increases along a specified scale of household income amounts. This bill would require each individual applying for assistance to file a claim under penalty of perjury with the board on a form supplied

by the board, and would require the claim to include information in the form and manner prescribed by the board that establishes that the individual was eligible for assistance.

Existing law provides that a tax preparer who endorses or otherwise negotiates any warrants made with respect to assistance claimed under the Senior Citizens Property Tax Assistance and Postponement Law and issued is guilty of a misdemeanor.

This bill would expand the scope of that misdemeanor to include a tax preparer who endorses or otherwise negotiates any warrants made with respect to assistance claimed under the Renter’s Tax Assistance Act.

By expanding the crime of perjury and expanding the scope of the existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.~~

~~This bill would state that it is the intent of the Legislature to enact legislation that would allow for a credit in the amount of \$500 for costs paid or incurred for long-term care of a family member against the tax imposed by the Personal Income Tax Law.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 20502 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 20502. Unless the context otherwise requires, the definitions
- 4 given in this chapter shall govern construction of this part,
- 5 excluding Chapter 1.5 (commencing with Section 20565).
- 6 SEC. 2. Chapter 1.5 (commencing with Section 20565) is added
- 7 to Part 10.5 of Division 2 of the Revenue and Taxation Code, to
- 8 read:

1 *CHAPTER 1.5. RENTER’S TAX ASSISTANCE ACT*

2
3 *Article 1. General Provisions and Definitions*

4
5 20565. *This chapter shall be known, and may be cited, as the*
6 *Renter’s Tax Assistance Act.*

7 20565.5. *Unless the context otherwise requires, the definitions*
8 *given in this chapter shall govern construction of this chapter.*

9 20566. (a) *“Income” means adjusted gross income, as defined*
10 *in Section 17072, plus all of the following cash items:*

11 (1) *Public assistance and relief.*

12 (2) *Nontaxable amount of pensions and annuities.*

13 (3) *Social security benefits (except Medicare).*

14 (4) *Railroad retirement benefits.*

15 (5) *Unemployment insurance payments.*

16 (6) *Veterans’ benefits.*

17 (7) *Exempt interest received from any source.*

18 (8) *Gifts and inheritances in excess of three hundred dollars*
19 *(\$300), other than transfers between members of the household.*
20 *Gifts and inheritances include noncash items.*

21 (9) *Amounts contributed on behalf of the contributor to a*
22 *tax-sheltered retirement plan or deferred compensation plan.*

23 (10) *Temporary workers’ compensation payments.*

24 (11) *Sick leave payments.*

25 (12) *Nontaxable military compensation as defined in Section*
26 *112 of the Internal Revenue Code.*

27 (13) *Nontaxable scholarship and fellowship grants as defined*
28 *in Section 117 of the Internal Revenue Code.*

29 (14) *Nontaxable gain from the sale of a residence as defined in*
30 *Section 121 of the Internal Revenue Code.*

31 (15) *Life insurance proceeds to the extent that the proceeds*
32 *exceed the expenses incurred for the last illness and funeral of the*
33 *deceased spouse of the claimant. “Expenses incurred for the last*
34 *illness” includes unreimbursed expenses paid or incurred during*
35 *the income calendar year and any expenses paid or incurred*
36 *thereafter up until the date the claim is filed. For purposes of this*
37 *paragraph, funeral expenses shall not exceed five thousand dollars*
38 *(\$5,000).*

39 (16) *If an alternative minimum tax is required to be paid*
40 *pursuant to Chapter 2.1 (commencing with Section 17062) of Part*

1 10, the amount of alternative minimum taxable income (whether
2 or not cash) in excess of the regular taxable income.

3 (17) Annual winnings from the California Lottery in excess of
4 six hundred dollars (\$600) for the current year.

5 (b) For purposes of this chapter, total income shall be
6 determined for the calendar year (or approved fiscal year ending
7 within that calendar year) which ends within the fiscal year for
8 which assistance is claimed.

9 20567. "Household income" means all income received by all
10 persons of a household while members of that household. In the
11 case of a nonresident claimant, "household income" also includes
12 all income of the claimant during the year without regard to source.

13 20567.5. "Claimant" means an individual who was the renter
14 of a rented residence on or before the last day of the year
15 designated in subdivision (b) of Section 20566.

16 20568. (a) A claimant shall not lose his or her eligibility for
17 purposes of this chapter if he or she is temporarily confined to a
18 hospital or medical institution for medical reasons where the
19 residential dwelling was the principal place of residence of the
20 claimant immediately prior to such confinement.

21 (b) For purposes of this section, "medical institution" means
22 a facility operated by, or licensed by, the United States, one of the
23 several states, a political subdivision of a state, the State
24 Department of Public Health, or exempt from such licensure
25 pursuant to subdivision (a) of Section 1270 of the Health and Safety
26 Code.

27 20568.5. (a) "Rented residence" means premises rented and
28 occupied by the claimant as his or her principal place of residence
29 during the calendar year for which assistance is claimed. The term
30 "rented residence" shall not include:

31 (1) Premises which are exempt from property taxation, except
32 those premises on which the owner pays possessory interest taxes,
33 or makes payments in lieu of property taxes which are substantially
34 equivalent to property taxes paid on properties of comparable
35 market value.

36 (2) Premises which are not located in this state.

37 (b) For the purposes of this section, the term "premises" means
38 a house or a dwelling unit used to provide living accommodations
39 in a building or structure and the land incidental thereto, but does
40 not include land only, except in the case where the dwelling unit

1 *is a mobilehome subject to the license fee imposed by Part 5*
2 *(commencing with Section 10701). “Rented residence” includes*
3 *a dwelling unit which is a mobilehome subject to the license fee*
4 *imposed by Part 5 (commencing with Section 10701) owned by*
5 *the claimant and located on land which is owned or rented by that*
6 *claimant.*

7 20569. “Rent” means the amount paid at arms length solely
8 for the right of occupancy of a residence and utility payments
9 required to be paid by the rental agreement. At least fifty dollars
10 (\$50) per month must be paid by each renter claimant.

11 20569.5. When a “rented residence,” as defined in Section
12 20568.5, is rented and occupied by the claimant as his or her
13 principal place of residence for less than 12 months during the
14 calendar year for which assistance is claimed, the amount of
15 assistance as provided in Section 20572 shall be prorated pursuant
16 to rules provided by the Franchise Tax Board.

17 20570. (a) Assistance shall not be allowed under this chapter
18 if gross household income, after allowance for actual cash
19 expenditures that are reasonable, ordinary, and necessary to
20 realize income, exceeds forty-two thousand five hundred
21 eighty-eight dollars (\$42,588).

22 (b) With respect to assistance that is provided by the Franchise
23 Tax Board pursuant to this chapter for the 2015 calendar year
24 and each calendar year thereafter, the gross household income
25 figure that applies to assistance provided by the Franchise Tax
26 Board during that period shall be the gross household income
27 figure that applied to assistance provided by the Franchise Tax
28 Board in the same period in the immediately preceding year,
29 multiplied by an inflation adjustment factor calculated as follows:

30 (1) On or before February 1 of each year, the Department of
31 Industrial Relations shall transmit to the Franchise Tax Board the
32 percentage change in the California Consumer Price Index for all
33 items from June of the second preceding calendar year to June of
34 the immediately preceding calendar year.

35 (2) The Franchise Tax Board shall add 100 percent to the
36 percentage change figure that is furnished pursuant to paragraph
37 (1) and divide the result by 100.

38 (3) The Franchise Tax Board shall multiply the gross household
39 income figure that applies in the immediately preceding year by

1 *the inflation adjustment factor determined in paragraph (2), and*
 2 *round off the resulting product to the nearest one dollar (\$1).*

3
 4 *Article 2. Computations*
 5

6 *20571. Subject to the limitations provided in this chapter a*
 7 *claimant may, to the extent provided in Section 20572, file with*
 8 *the Franchise Tax Board, pursuant to Article 3 (commencing with*
 9 *Section 20575), a claim for assistance from the State of California*
 10 *of a sum equal to the percentage of the applicable statutory*
 11 *property tax equivalent under Section 20572.*

12 *20571.5. (a) The Franchise Tax Board shall provide assistance*
 13 *to the claimant based on the percentage of the statutory property*
 14 *tax equivalent pursuant to Section 20572.*

15 *(b) (1) When two or more individuals pay rent for the same*
 16 *premises and each individual meets the qualifications for a*
 17 *renter-claimant, each qualified individual shall be entitled to*
 18 *assistance under this chapter.*

19 *(2) For the purposes of this subdivision, a husband and wife*
 20 *residing in the same premises shall be presumed to be one renter.*

21 *(c) The right to file a claim shall be personal to the claimant*
 22 *and shall not survive his death; however, when a claimant dies*
 23 *after having filed a timely claim, the amount thereof may be*
 24 *disbursed to the surviving spouse and, if no surviving spouse, to*
 25 *any other member of the household who is a qualified claimant.*
 26 *If there is no surviving spouse or otherwise qualified claimant, the*
 27 *claim shall be disbursed to any other member of the household.*
 28 *In the event two or more individuals qualify for payment as either*
 29 *an otherwise qualified claimant or a member of the household,*
 30 *they may determine which of them will be paid. If they are unable*
 31 *to agree, the matter shall be referred to the Franchise Tax Board*
 32 *and its decision shall be final.*

33 *20572. (a) (1) The amount of assistance for a claimant renting*
 34 *his or her residence shall be based on the claimant's household*
 35 *income for the time period set forth in Section 20566.*

36 *(2) For claims filed with respect to the 2015 calendar year, and*
 37 *each calendar year thereafter, the percentage of assistance for*
 38 *which each claimant renting his or her residence shall be eligible*
 39 *shall be based on the following scale:*

	<i>If the total household income (as defined in this chapter) is:</i>	<i>The statutory property tax equivalent is:</i>	<i>The percentage of the statutory property tax equivalent used to provide assistance is:</i>
1			
2			
3			
4			
5			
6	\$0 to 11,490	\$250	139%
7	11,490.01 to 12,337	250	136
8	12,337.01 to 12,925	250	133
9	12,925.01 to 13,513	250	131
10	13,513.01 to 14,101	250	128
11	14,101.01 to 14,688	250	125
12	14,688.01 to 15,275	250	122
13	15,275.01 to 15,863	250	119
14	15,863.01 to 16,451	250	116
15	16,451.01 to 17,038	250	113
16	17,038.01 to 17,626	250	110
17	17,626.01 to 18,213	250	106
18	18,213.01 to 42,588	250	100

19
20 (b) *With respect to assistance that is provided by the Franchise*
21 *Tax Board pursuant to this chapter for the 2016 calendar year*
22 *and each year thereafter, the household income figures that apply*
23 *to assistance provided by the Franchise Tax Board during that*
24 *period shall be the household income figures that applied to*
25 *assistance provided by the Franchise Tax Board in the same period*
26 *in the immediately preceding year, multiplied by an inflation factor*
27 *calculated as follows:*

28 (1) *On or before February 1 of each year, the Department of*
29 *Industrial Relations shall transmit to the Franchise Tax Board the*
30 *percentage change in the California Consumer Price Index for all*
31 *items from June of the second preceding calendar year to June of*
32 *the immediately preceding calendar year.*

33 (2) *The Franchise Tax Board shall add 100 percent to the*
34 *percentage change figure that is furnished pursuant to paragraph*
35 *(1) and divide the result by 100.*

36 (3) *The Franchise Tax Board shall multiply the immediately*
37 *preceding household income figure by the inflation adjustment*
38 *factor determined in paragraph (2), and round off the resulting*
39 *product to the nearest one dollar (\$1).*

Article 3. Claims

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 3 20575. (a) Each individual applying for assistance under
 4 Article 2 (commencing with Section 20571) shall file a claim under
 5 penalty of perjury with the Franchise Tax Board on a form supplied
 6 by the board. The claim shall include information in the form and
 7 manner prescribed by the Franchise Tax Board that establishes
 8 that the individual was a claimant, as defined in Section 20567.5,
 9 eligible for assistance under this chapter.

10 (b) If a claimant submits a claim that satisfies the requirements
 11 of this section, the Franchise Tax Board shall compute the amount
 12 of assistance and authorize payment. The amount of any assistance
 13 otherwise payable under this chapter may be applied by the
 14 Franchise Tax Board against any liability due from the claimant,
 15 or the claimant’s spouse if a joint return is filed, under any law
 16 administered by the Franchise Tax Board.

17 (c) The Franchise Tax Board is authorized to prescribe, by
 18 regulation, the information necessary to constitute a valid claim
 19 under this section.

20 20576. (a) The claim on which the assistance is based shall
 21 be filed after June 30 of the fiscal year for which assistance is
 22 claimed but on or before October 15 of the fiscal year succeeding
 23 the fiscal year for which assistance is claimed. The Franchise Tax
 24 Board may thereafter accept claims through June 30 of the fiscal
 25 year succeeding the fiscal year for which assistance is claimed.

26 (b) The state shall assist the claimant after July 15 and before
 27 November 15 of the calendar year in which the claim is filed,
 28 except that if the claim is defective, assistance shall be made as
 29 promptly as is practicable after the claim has been perfected.

30 (c) A claimant who, because of a medical incapacity, is
 31 prevented from filing a timely claim, may file a claim within six
 32 months after the end of his or her medical incapacity or three years
 33 succeeding the end of the fiscal year for which assistance is
 34 claimed, whichever date is earlier.

35 SEC. 3. No reimbursement is required by this act pursuant to
 36 Section 6 of Article XIII B of the California Constitution because
 37 the only costs that may be incurred by a local agency or school
 38 district will be incurred because this act creates a new crime or
 39 infraction, eliminates a crime or infraction, or changes the penalty
 40 for a crime or infraction, within the meaning of Section 17556 of

1 *the Government Code, or changes the definition of a crime within*
2 *the meaning of Section 6 of Article XIII B of the California*
3 *Constitution.*

4 ~~SECTION 1. It is the intent of the Legislature to enact~~
5 ~~legislation that would allow for a credit in the amount of \$500 for~~
6 ~~costs paid or incurred for long-term care of a family member~~
7 ~~against the tax imposed by the Personal Income Tax Law.~~

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