california legislature—2007–08 regular session

ASSEMBLY BILL No. 167

Introduced by Assembly Member Bass

January 22, 2007

An act to repeal Sections 11155.1, 11155.2, 11257.5, and 11260 of, and to repeal and add Section 11257 of, the Welfare and Institutions Code, relating to CalWORKs, and making an appropriation therefor.

legislative counsel's digest

AB 167, as introduced, Bass. CalWORKs eligibility: asset limits.

Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states, with California's version of this program being known as the California Work Opportunity and Responsibility to Kids (CalWORKs) program.

Existing law provides for the CalWORKs program, under which each county provides cash assistance and other benefits to qualified low-income families and individuals who meet specified eligibility criteria.

Existing law continually appropriates money from the General Fund to pay for a share of aid grant costs under the CalWORKs program.

Existing law imposes limits on the amount of income and personal and real property an individual or family may possess in order to be eligible for aid under the CalWORKs program.

This bill would prohibit eligibility for CalWORKs aid from being conditioned on the limitation of an individual's or a family's assets, as defined, and would delete existing asset limitations. By expanding CalWORKs eligibility, this bill would make an appropriation. Additionally, by increasing the duties of counties administering the

CalWORKs program, the 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), known as welfare reform, which created the Temporary Assistance to Needy Families (TANF) program. TANF gives states power to design their own programs, including establishing asset limits. The California Work Opportunity and Responsibility to Kids (CalWORKs) is California's program implementing federal welfare reform provisions.

(b) The structural components of the TANF program, as administered by CalWORKs, have proven to be immensely effective in preserving cash assistance for those in need. Federally mandated and state-enforced time limits and work requirements effectively deter anyone from applying for assistance without having exhausted all other resources. These structural realities, coupled with the social stigma associated with receiving public assistance, prevent anyone with financial resources from considering public assistance.

(c) In California, to qualify for public assistance under CalWORKs, impoverished family must demonstrate that they are both income- and asset-poor. Under current law, a low-income family will not qualify for assistance if the family has savings or other assets, excluding a home and specific vehicle allotment, exceeding the asset limit of $2,000.

(d) Asset limits seek to ensure that public assistance programs provide benefits only to those with too few resources to support themselves. However, asset limits can dissuade low-income families from saving because, in doing so, they risk losing their benefits. For families making the difficult transition from welfare to work, developing assets is critical to achieving true economic independence. In order to prevent a complete backslide to public assistance, low-income working families must begin to develop their own safety net through personal saving for use in the event of an unexpected income shock due to illness or temporary unemployment. As personal saving is essential to achieving self-sufficiency, which is the stated goal of the CalWORKs program, saving should be encouraged by welfare policy and social service agencies, rather than penalized.

(e) To be economically secure, families need both income and assets. Regular income helps families pay for their daily living expenses. In contrast, families need assets to weather financial hardships and get ahead. Assets provide a safety net for coping with unanticipated expenses and emergencies, such as unemployment, accidents, and illnesses, that could otherwise cause significant financial hardship. Assets also help families build wealth and plan for the future by, for example, saving for retirement or investing in their children's education.

(f) Several studies have documented the negative effect of asset limits on wealth accumulation among low-income households in a variety of public assistance programs. One study found that 49 percent of public assistance recipients indicated that they would save more if the government did not cut their benefits because of their savings.

(g) Many states are actively trying to stimulate savings by TANF recipients and other low-income people by addressing asset tests. The states of Ohio and Virginia have eliminated the asset test altogether. The state of Virginia decided to eliminate asset limits for their TANF program, in December 2003, by administrative action, with the goal of streamlining the eligibility process and cutting down on administrative costs. This decision has saved the state an estimated $400,000 annually, and to date, the state of Virginia has reported no "horror stories" of individuals with significant assets scamming the TANF program. In addition, in

1997, the state of Ohio eliminated its asset limit and has not experienced any spike in the rolls or reported fraud.

SEC. 2. Section 11155.1 of the Welfare and Institutions Code is repealed.

~~11155.1. (a) Notwithstanding Sections 11155 and 11257, the department shall seek any federal approvals necessary to conduct a demonstration program increasing the value of personal property that may be retained by a recipient of aid under Chapter 2 (commencing with Section 11200) to two thousand dollars ($2,000) and increasing the value of the exemption for an automobile to four thousand five hundred dollars ($4,500). The increased property limits shall not apply to applicants.~~

~~(b) This section shall be implemented only if the director executes a declaration, that shall be retained by the director, stating that federal approval for the implementation of this section has been obtained and specifying the duration of that approval.~~

SEC. 3. Section 11155.2 of the Welfare and Institutions Code is repealed.

~~11155.2. (a) In addition to the personal property permitted by this part, recipients of aid under CalWORKs shall be permitted to retain savings and interest thereon for specified purposes up to a maximum of five thousand dollars ($5,000) per family. Interest earned from these savings and deposited into a restricted account shall be considered exempt as income for purposes of determining eligibility for aid and grant amounts if the interest is retained in the account. If the interest is not deposited by the financial institution into the account, the interest shall be treated as a nonqualifying withdrawal of funds from the account as specified in subdivision (b). This section shall not apply to applicants. Funds may be used by the family for education or job training expenses for the accountholder or his or her dependents, for starting a business, or for the purchase of a home. Recipients who wish to retain savings for these purposes shall enter into a written agreement with the county to establish a separate account with a financial institution, with the account to be used solely for the purpose of accumulating funds for later withdrawal for a qualifying expenditure. A qualifying expenditure shall be defined by department regulations and shall be verified by the recipient. The recipient shall agree to provide periodic verification of account activity, as required by department regulations. The agreement~~

~~shall notify the recipient of the penalty for nonqualifying withdrawal of funds.~~

~~(b) Any nonqualifying withdrawal of funds from the account shall result in a calculation of a period of ineligibility for all persons in the assistance unit, to be determined by dividing the balance in the account immediately prior to the withdrawal by the minimum basic standard of adequate care for the members of the assistance unit, as set forth in Section 11452. The resulting whole number shall be the number of months of ineligibility. The period of ineligibility may be reduced when the minimum basic standard of adequate care of the assistance unit, including special needs, increases.~~

~~(c) If the California Savings and Asset Project is established pursuant to Chapter 17 (commencing with Section 50897) of Part 2 of Division 31 of the Health and Safety Code, then to the extent permitted by federal law, a recipient shall be eligible to receive matching funds derived from federal contributions for the purpose of establishing an individual account in an amount not to exceed three thousand dollars ($3,000) in addition to the amounts specified in subdivision (a) and a fiduciary organization may provide amounts in excess of the first three thousand dollars ($3,000) limitation if contributed solely through private sources.~~

SEC. 4. Section 11257 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 569 of the Statutes of 1984, is repealed.

~~11257. (a) No aid under this chapter shall be granted or paid for any child who has real or personal property, the combined market value reduced by any obligations or debts with respect to this property of which exceeds one thousand dollars ($1,000), or for any child or children in one family who have, or whose parents have, or the child or children and parents have, real and personal property the combined market value reduced by any obligations or debts with respect to this property which exceeds one thousand dollars ($1,000).~~

~~For purposes of this subdivision, real and personal property shall be considered both when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make that sum available for support and maintenance.~~

~~(b) Notwithstanding subdivision (a) above, an applicant or recipient may retain the following:~~

~~(1) Personal or real property owned by him or her, or in combination with any other person, without reference to its value, if it serves to provide the applicant or recipient with a home. If the basic home is a unit in a multiple dwelling, then only that unit shall be exempt.~~

~~For the purposes of paragraph (1), if an applicant has entered into a marital separation for the purpose of trial or legal separation or dissolution, real property which was the usual home of the applicant shall be exempt for three months following the end of the month in which aid begins. If the recipient was receiving aid when the marital separation occurred, the period of exemption shall be three months following the end of the month in which the separation occurs. To remain exempt following this three-month period, the home must be occupied by the recipient, or be unavailable for use, control, and possession due to legal proceedings affecting a property settlement or sale of the property.~~

~~(2) Personal property consisting of one automobile with maximum equity value as permitted by federal law.~~

~~(3) In addition to the foregoing, the director may at his or her discretion, and to the extent permitted by federal law, exempt other items of personal property not exempted under this section.~~

SEC. 5. Section 11257 of the Welfare and Institutions Code, as amended by Section 28 of Chapter 1022 of the Statutes of 2002, is repealed.

~~11257. (a) To the extent not inconsistent with Sections 11265.1, 11265.2, 11265.3, and 11004.1, no aid under this chapter shall be granted or paid for any child who has real or personal property, the combined market value reduced by any obligations or debts with respect to this property of which exceeds one thousand dollars ($1,000), or for any child or children in one family who have, or whose parents have, or the child or children and parents have, real and personal property the combined market value reduced by any obligations or debts with respect to this property which exceeds one thousand dollars ($1,000).~~

~~For purposes of this subdivision, real and personal property shall be considered both when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the~~

~~legal ability to make that sum available for support and maintenance.~~

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~~(2) Personal property consisting of one automobile with maximum equity value as permitted by federal law.~~

~~(3) In addition to the foregoing, the director may at his or her discretion, and to the extent permitted by federal law, exempt other items of personal property not exempted under this section.~~

SEC. 6. Section 11257 is added to the Welfare and Institutions Code, to read:

11257. (a) Notwithstanding any other provision of law, in order to encourage personal savings as a bridge from government dependency to self-sufficiency, and to create an incentive to saving, there shall be no limitation on the assets of an individual or a family as a condition of eligibility for aid under this chapter, to the extent permitted under federal law.

(b) For the purposes of this section, the term “assets” includes investments that appreciate over time, including, but not limited to, investments that can be converted into cash, such as savings, equities, 401(k) accounts, and individual retirement accounts. Assets also include personal or real property that holds monetary value, such as a house, an automobile, or a small business.

SEC. 7. Section 11257.5 of the Welfare and Institutions Code is repealed.

~~11257.5. Notwithstanding the property limitations in subdivision (a) of Section 11257, a family may retain, for nine months, real property if the family is making a good faith effort to sell the real property. However, any aid payable to the family for the nine-month period shall be conditioned upon the sale. At the time of the sale any aid payments made during the nine-month period shall be considered overpayments to the extent they would not have been made had the sale occurred at the beginning of the nine-month period. Notwithstanding Section 11004 overpayments shall be recouped from the proceeds of the sale. If the real property has not been sold at the end of the nine-month period, the family shall be ineligible for aid if the combined net value of the real and personal property owned by the family exceeds the one thousand dollar ($1,000) limitation in Section 11257.~~

~~Notwithstanding Section 11007 as a condition to the granting of aid pursuant to this section, the family shall grant the county a lien upon the real property as security for the aid to be paid. The lien shall be used to recoup any overpayments incurred pursuant to this section. Notwithstanding any other provision of law, the lien shall not be enforceable by the sale of the secured property by the county. The lien of the county shall be paid upon the sale of the property.~~

~~The department shall define good faith effort in regulation.~~

SEC. 8. Section 11260 of the Welfare and Institutions Code is repealed.

~~11260. A child's share of any estate, which share has not been distributed and of which he has no present economic use, does not constitute property for the purpose of this chapter.~~

SEC. 9. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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