

**Introduced by Senator Liu**February 24, 2012

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An act to add Sections 18927 and 18927.1 to the Welfare and Institutions Code, relating to CalFresh.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1391, as introduced, Liu. CalFresh benefits: overissuance.

Existing federal law provides for the Supplemental Nutrition Assistance Program (SNAP), known in California as CalFresh, under which supplemental nutrition assistance benefits allocated to the state by the federal government are distributed to eligible individuals by each county. Existing federal law provides for the collection of fraudulent and nonfraudulent overissuances of SNAP benefits, and authorizes the United States Secretary of Agriculture to delegate this power to the appropriate state agencies. Under existing law, a county administering CalFresh is required to make a referral for fraud investigation when reasonable grounds for fraud exist, including when an overpayment or overissuance of benefits, or both, may result from an applicant's failure to report information pertinent to eligibility or benefits.

This bill would establish procedures for recovering CalFresh overissuances, including requiring benefits to be reduced only when an overissuance is caused by intentional program violation or fraud, or when otherwise required by federal law. This bill would authorize the State Department of Social Services to establish a minimum cost-effective threshold for collecting CalFresh overissuances, as specified. This bill would prohibit an overissuance caused by administrative error from being established with respect to a household receiving CalFresh benefits, except as specified. The bill would prohibit collection of an overissuance from being attempted, in connection with

an individual who is no longer receiving CalFresh benefits, when the overissuance is less than \$125, or a greater threshold established by the state pursuant to a specified provision, whichever is greater.

Because counties administer the CalFresh program, by requiring that counties perform new duties, 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, 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: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

- 1 SECTION 1. Section 18927 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 18927. (a) The Legislature finds and declares that CalFresh
- 4 shall be administered fairly, so that all applicants receive the
- 5 assistance to which they are entitled in a timely manner, with due
- 6 consideration for the needs of applicants.
- 7 (b) Current and future benefits shall be reduced only when prior
- 8 overissuances are caused by intentional program violation or fraud.
- 9 (c) Current and future benefits may be reduced because of prior
- 10 overissuances caused by administrative error, if required by federal
- 11 law.
- 12 (d) A household’s benefits shall not be reduced to recover an
- 13 overissuance as required or authorized by subdivision (b) or (c)
- 14 unless the household receives adequate and timely notice of the
- 15 overissuance, including, but not limited to, the budget worksheet
- 16 that includes the amount and calculation of the overissuance and
- 17 the reason for the overissuance.
- 18 (e) In recovering an overissuance, a recipient household’s
- 19 monthly benefits shall not be reduced by more than 5 percent or
- 20 ten dollars (\$10), whichever is less, unless the recipient elects for
- 21 the benefits to be reduced at a higher rate.

1 (f) If an individual is no longer receiving CalFresh benefits, no  
2 CalFresh overissuance caused by administrative error shall be  
3 established, or collection attempted, when the overissuance is less  
4 than one hundred twenty-five dollars (\$125) or the threshold  
5 established pursuant to subdivision (a) of Section 18927.1,  
6 whichever is greater. Where the overissuance collection is  
7 attempted, reasonable cost-effective methods of collection shall  
8 be implemented. The department shall define reasonable  
9 cost-effective collection methods, which shall include adequate  
10 and timely notice of the overissuance, including, but not limited  
11 to, all of the following:

12 (1) The amount and calculation of, and reason for, the  
13 overissuance.

14 (2) A statement of the monetary threshold described in this  
15 subdivision.

16 (3) Information about how to appeal the overissuance.

17 (4) Instructions for timely commencement of repayment.

18 (5) Consequences of delinquent payment.

19 SEC. 2. Section 18927.1 is added to the Welfare and  
20 Institutions Code, to read:

21 18927.1. (a) The department may establish a minimum  
22 cost-effective threshold for collecting CalFresh overissuances. If  
23 the department determines that the minimum cost-effective  
24 threshold is greater than one hundred twenty-five dollars (\$125),  
25 this threshold shall be included in the state's CalFresh plan  
26 submitted annually for federal approval.

27 (b) Except when required by federal law, no CalFresh  
28 overissuance caused by administrative error shall be established  
29 or collected from a household that is receiving benefits.

30 (c) Notwithstanding the rulemaking provisions of the  
31 Administrative Procedure Act (Chapter 3.5 (commencing with  
32 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
33 Code), the department may implement this section through an  
34 all-county letter or similar instructions from the director no later  
35 than January 1, 2013.

36 SEC. 3. No appropriation pursuant to Section 15200 of the  
37 Welfare and Institutions Code shall be made for purposes of this  
38 act.

39 SEC. 4. If the Commission on State Mandates determines that  
40 this act contains costs mandated by the state, reimbursement to

- 1 local agencies and school districts for those costs shall be made
- 2 pursuant to Part 7 (commencing with Section 17500) of Division
- 3 4 of Title 2 of the Government Code.

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