

Senate Bill No. 1391

Passed the Senate August 27, 2012

Secretary of the Senate

Passed the Assembly August 23, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1391, 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, and operating an early fraud detection and prevention program in accordance with existing law, 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, consistent with federal law, for recovering CalFresh overissuances, including requiring benefits to be reduced when an overissuance is caused by intentional program violation or fraud, inadvertent household error, or when caused by administrative error, under certain circumstances. This bill would authorize the State Department of Social Services to establish a minimum cost-effective threshold for collecting CalFresh overissuances, as specified. The bill would prohibit collection of an overissuance from being attempted, in connection with a household that is no longer receiving CalFresh benefits, when the overissuance is caused by administrative error and is less than \$125, or a threshold established by the state pursuant to a specified provision, whichever is greater. This bill would require collection of an overissuance to be attempted, in connection with a household that is no longer receiving CalFresh benefits, when the overissuance is caused by inadvertent household error and is

\$35 or more. The bill would extend the authority to implement, as specified, these provisions and related provisions until January 1, 2014.

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.

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

SECTION 1. (a) The Legislature finds and declares that CalFresh shall be administered fairly, so that all applicants and recipients receive the assistance to which they are entitled in a timely manner, with due consideration for the needs of the applicants and recipients.

(b) It is the intent of the Legislature to reduce the cost of CalFresh administration through the establishment of a cost-effective structure to address overpayments, and to protect the rights of all applicants and recipients. It is further the intent of the Legislature that nothing in this act shall overturn or otherwise eliminate any existing right or protection to which an applicant or recipient is entitled under existing state law or regulation.

SEC. 2. Section 18927 is added to the Welfare and Institutions Code, to read:

18927. (a) Current and future CalFresh benefits shall be reduced in accordance with subdivisions (c) and (d) to recover an overissuance caused by intentional program violation, as defined in subdivision (c) of Section 273.16 of Title 7 of the Code of Federal Regulations, or fraud, or inadvertent household error.

(b) Current and future CalFresh benefits shall be reduced in accordance with subdivisions (c) and (d) to recover an overissuance caused by administrative error if required by federal law or if the overissuance exceeds one hundred twenty-five dollars (\$125) or

the threshold established pursuant to subdivision (h), whichever is greater.

(c) A household's CalFresh benefits shall not be reduced to recover an overissuance as required or authorized by subdivision (a) or (b) unless the household receives adequate and timely notice of the overissuance, including, but not limited to, the budget worksheet that includes the amount and calculation of the overissuance and the reason for the overissuance.

(d) (1) In recovering an overissuance caused by administrative error, a recipient household's monthly CalFresh benefits shall not be reduced by more than 5 percent of the household's monthly CalFresh benefits or ten dollars (\$10), whichever is greater, unless the recipient elects for the benefits to be reduced at a higher rate.

(2) In recovering an overissuance caused by inadvertent household error, a recipient household's monthly CalFresh benefits shall not be reduced by more than 10 percent of the household's monthly CalFresh benefits or ten dollars (\$10), whichever is greater.

(3) In recovering an overissuance caused by intentional program violation, as defined in subdivision (c) of Section 273.16 of Title 7 of the Code of Federal Regulations, or fraud, a recipient household's monthly CalFresh benefits shall be reduced by 20 percent of the household's monthly CalFresh benefit or twenty dollars (\$20), whichever is greater.

(e) If a household is no longer receiving CalFresh benefits, a CalFresh overissuance caused by administrative error shall not be established, and collection shall not be attempted, if the overissuance is less than one hundred twenty-five dollars (\$125) or the threshold established pursuant to subdivision (h), whichever is greater.

(f) If a household is no longer receiving CalFresh benefits, collection shall be attempted if the overissuance is caused by inadvertent household error and the overissuance is thirty-five dollars (\$35) or more. All overissuances caused by intentional program violation, as defined in subdivision (c) of Section 273.16 of Title 7 of the Code of Federal Regulations, or fraud shall be collected as required by federal law.

(g) When an overissuance collection is attempted, reasonable cost-effective methods of collection shall be implemented. The department shall define reasonable cost-effective collection

methods, which shall include adequate and timely notice of the overissuance, including, but not limited to, all of the following:

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

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

(3) Information about how to appeal the overissuance.

(4) Instructions for timely commencement of repayment.

(5) Consequences of delinquent payment.

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

(i) Nothing in this section shall prevent a county from writing off or terminating an overissuance claim when it meets the provisions of paragraph (8) of subdivision (e) of Section 273.18 of Title 7 of the Code of Federal Regulations.

(j) Nothing in this section shall prevent a county or the state from collecting all overissuances that are identified during a quality control review, as required by Section 275.12 of Title 7 of the Code of Federal Regulations.

(k) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement this section through all-county letters or similar instructions from the director no later than January 1, 2014, to allow for automation updates required by this section to be made in coordination with other scheduled updates.

SEC. 3. 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.

Approved _____, 2012

Governor