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AMENDED IN SENATE AUGUST 12, 2013
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AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 985

Introduced by Assembly Member Cooley

February 22, 2013

~~An act to amend Sections 11363, 11386, and 11403.01 of the Welfare and Institutions Code, relating to public social services. An act to add Section 38575 to the Health and Safety Code, relating to greenhouse gases.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 985, as amended, Cooley. ~~Guardianship and adoption assistance. California Global Warming Solutions Act of 2006: market-based compliance mechanisms.~~

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective greenhouse gas emissions reductions. The act authorizes the state board to include the use of market-based compliance mechanisms.

This bill would require the state board, for any market-based compliance mechanism that the state board might adopt, to allow participating entities to freely sell or transfer greenhouse gas emissions allowances held in a holding account, as defined, or compliance account, as defined, except for allowances that have been expressly retired to meet a compliance obligation, as defined. The bill also would require the state board to require those participating entities to disclose only corporate associations, direct corporate associations, and indirect corporate associations with entities registered with the state board as part of a market-based compliance mechanism and to exclude legal services, as specified, obtained by a participating entity from being disclosed to the state board. The bill would exempt from the Administrative Procedure Act and the California Environmental Quality Act a regulation adopted by the state board pursuant to this act.

~~Existing law, through the Kinship Guardianship Assistance Payment Program (state-funded Kin-GAP), which is a part of the CalWORKs program, provides state-funded assistance on behalf of eligible children who are placed in the home of a relative caretaker. Under existing law, state-funded Kin-GAP aid is provided on behalf of any eligible youth under 21 years of age who meets specified requirements, including that his or her Kin-GAP payments began after his or her 16th birthday and he or she is completing secondary education or a program leading to an equivalent credential.~~

~~Existing law, through the Kinship Guardianship Assistance Payments for Children program (federally funded Kin-GAP), provides federally funded assistance on behalf of eligible children who are placed in the home of a relative caretaker. Under federal law, a child who is between 18 and 21 years of age is eligible for federally funded Kin-GAP assistance if he or she meets specified requirements, including that his or her federally funded Kin-GAP payments commenced after his or her 16th birthday. Existing law also allows a nonminor whose state or federally funded Kin-GAP payments began prior to his or her 16th birthday to continue to receive Kin-GAP aid after his or her 18th birthday if he or she meets specified criteria, including that the nonminor is attending high school or an equivalent program and is reasonably expected to graduate or complete that program before his or her 19th birthday.~~

~~This bill would instead authorize a nonminor whose state-funded Kin-GAP payments began prior to his or her 16th birthday to receive state-funded Kin-GAP benefits if he or she is 21 years of age or younger~~

~~and meets any of certain criteria, including, among others, that he or she attends a postsecondary institution of higher education or is employed at least 80 hours per month. The bill would also authorize a youth who has attained 18 or 19 years of age, as specified, while receiving federally funded Kin-GAP benefits and who is no longer eligible for those federally funded benefits to receive Kin-GAP payments under the state-funded program if the youth meets specified requirements. The bill would also require a county social worker, in redetermining the eligibility of a child receiving state or federally funded Kin-GAP, to determine whether the child has a mental or physical disability that warrants the continuation of assistance beyond the child's 18th birthday. By expanding eligibility for state-funded Kin-GAP and increasing county responsibilities in administering the program, this bill would impose a state-mandated local program.~~

~~Existing law continuously appropriates moneys from the General Fund to defray a portion of county aid grant costs under the CalWORKs program.~~

~~This bill would declare that no appropriation would be made for purposes of the bill.~~

~~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~~-no.

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

- 1 *SECTION 1. The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(a) The California Global Warming Solutions Act of 2006*
- 4 *(Division 25.5 (commencing with Section 38500) of the Health*
- 5 *and Safety Code) was adopted to create limitations on the carbon*
- 6 *emissions associated with the state's economy. Section 38560 of*
- 7 *the Health and Safety Code charges the State Air Resources Board*
- 8 *with the duty of adopting rules and regulations "to achieve the*

1 *maximum technologically feasible and cost-effective greenhouse*
2 *gas emissions reductions from sources or categories of sources.”*

3 *(b) One measure that the state board has implemented in*
4 *furtherance of the act is a market-based compliance mechanism.*

5 *(c) For a market-based compliance mechanism to operate*
6 *effectively and allow entities covered by the market-based*
7 *compliance mechanism the efficiency and flexibility to achieve*
8 *emissions reductions at the lowest possible cost, the market for*
9 *emissions allowances must promote liquidity while also preventing*
10 *market manipulation.*

11 *(d) As part of the market-based compliance mechanism, the*
12 *state board has adopted a holding limit, placing a limitation on*
13 *the total number of allowances that any entity participating in the*
14 *program can hold at one time, subject to certain exceptions. The*
15 *current holding limit could adversely affect the liquidity and*
16 *efficiency of the emissions allowance market in that the holding*
17 *limit functions to require some entities covered by the market-based*
18 *compliance mechanism to surrender instruments for compliance*
19 *prior to established regulatory compliance deadlines, creating*
20 *artificial scarcity in the market.*

21 *(e) Revising the holding limit to permit entities covered by the*
22 *market-based compliance mechanism to freely transfer allowances*
23 *from a compliance and holding account to meet their obligations*
24 *under the market-based compliance mechanism will promote*
25 *market efficiency and fairness while maintaining the state board’s*
26 *ability to preserve market integrity and prevent market*
27 *manipulation.*

28 *(f) The state board also requires disclosure of a participating*
29 *entity’s affiliation with other entities. As currently structured, the*
30 *state board requires that participating entities to disclose all of*
31 *their corporate associates, as defined by the state board, regardless*
32 *of whether those corporate associates are enrolled in the*
33 *market-based compliance mechanism. The Legislature finds that*
34 *this expanded requirement is overly broad, unduly burdensome,*
35 *and not reasonably necessary to ensure the integrity of the market*
36 *for emissions allowances.*

37 *(g) The state board also requires disclosure of consultants or*
38 *advisors, as defined by the state board. The Legislature finds that*
39 *all entities in the state have a right to consult outside legal counsel*
40 *confidentially, and any requirements to disclose this consultation*

1 *may put the confidentiality of that consultation at risk and will not*
2 *promote the purpose of the act or the market-based compliance*
3 *mechanism.*

4 *SEC. 2. Section 38575 is added to the Health and Safety Code,*
5 *to read:*

6 *38575. (a) Any market-based compliance mechanism that the*
7 *state board might adopt pursuant to this part shall provide for all*
8 *of the following:*

9 *(1) (A) Participating entities may freely sell or transfer*
10 *greenhouse gas emissions allowances held in a holding account*
11 *or compliance account, except for allowances that have been*
12 *expressly retired to meet a compliance obligation. This paragraph*
13 *also applies to allowances held jointly by a group of entities with*
14 *a direct corporate association.*

15 *(B) For purposes of this paragraph, the following terms have*
16 *the following meanings:*

17 *(i) "Compliance account" means an account created by the*
18 *state board for an entity participating in a market-based*
19 *compliance mechanism and that has a compliance obligation, to*
20 *which the entity transfers allowances and offsets to meet its*
21 *compliance obligations.*

22 *(ii) "Compliance obligation" means the quantity of verified*
23 *reported greenhouse gas emissions or assigned greenhouse gas*
24 *emissions for which an entity participating in a market-based*
25 *compliance mechanism is required to submit compliance*
26 *instruments to the state board.*

27 *(iii) "Holding account" means an account created for each*
28 *entity participating in a market-based compliance mechanism, or*
29 *a voluntarily associated entity, to hold allowances or offsets.*

30 *(iv) "Offset" means a greenhouse gas emissions reduction or*
31 *greenhouse gas emissions removal enhancement verified by the*
32 *state board that may be used by an entity participating in a*
33 *market-based compliance mechanism to satisfy a compliance*
34 *obligation.*

35 *(2) Participating entities shall disclose only corporate*
36 *associations, direct corporate associations, and indirect corporate*
37 *associations with entities registered with the state board as part*
38 *of a market-based compliance mechanism.*

1 (3) *Participating entities shall not disclose legal services, or*
 2 *the names of any persons providing legal services, obtained by*
 3 *participating entities.*

4 (b) *No later than June 30, 2015, the state board shall*
 5 *promulgate a regulation conforming to the requirements of this*
 6 *section. A regulation adopted pursuant to this section shall be*
 7 *exempt from the Administrative Procedure Act (Chapter 3.5*
 8 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
 9 *2 of the Government Code) and the California Environmental*
 10 *Quality Act (Division 13 (commencing with Section 21000) of the*
 11 *Public Resources Code).*

12 ~~SECTION 1. Section 11363 of the Welfare and Institutions~~
 13 ~~Code is amended to read:~~

14 ~~11363. (a) Aid in the form of state-funded Kin-GAP shall be~~
 15 ~~provided under this article on behalf of any child under 18 years~~
 16 ~~of age and to any eligible youth under 21 years of age as provided~~
 17 ~~in Section 11403, who satisfies all of the following conditions:~~

18 ~~(1) Has been adjudged a dependent child of the juvenile court~~
 19 ~~pursuant to Section 300 or a ward of the juvenile court pursuant~~
 20 ~~to Section 601 or 602.~~

21 ~~(2) Has been residing for at least six consecutive months in the~~
 22 ~~approved home of the prospective relative guardian while under~~
 23 ~~the jurisdiction of the juvenile court or a voluntary placement~~
 24 ~~agreement.~~

25 ~~(3) Has had a kinship guardianship established pursuant to~~
 26 ~~Section 360 or 366.26.~~

27 ~~(4) Has had his or her dependency jurisdiction terminated after~~
 28 ~~January 1, 2000, pursuant to Section 366.3, or his or her wardship~~
 29 ~~terminated pursuant to subdivision (d) of Section 728, concurrently~~
 30 ~~or subsequently to the establishment of the kinship guardianship.~~

31 ~~(b) If the conditions specified in subdivision (a) are met and,~~
 32 ~~subsequent to the termination of dependency jurisdiction, any~~
 33 ~~parent or person having an interest files with the juvenile court a~~
 34 ~~petition pursuant to Section 388 to change, modify, or set aside an~~
 35 ~~order of the court, Kin-GAP payments shall continue unless and~~
 36 ~~until the juvenile court, after holding a hearing, orders the child~~
 37 ~~removed from the home of the guardian, terminates the~~
 38 ~~guardianship, or maintains dependency jurisdiction after the court~~
 39 ~~concludes the hearing on the petition filed under Section 388.~~

1 ~~(e) A child or nonminor former dependent or ward shall be~~
2 ~~eligible for Kin-GAP payments if he or she meets one of the~~
3 ~~following age criteria:~~
4 ~~(1) He or she is under 18 years of age.~~
5 ~~(2) He or she is under 21 years of age and has a physical or~~
6 ~~mental disability that warrants the continuation of assistance.~~
7 ~~(3) He or she satisfies the conditions described in either~~
8 ~~paragraph (1) or (2) of subdivision (d).~~
9 ~~(d) (1) Kin-GAP payments shall continue for youths who have~~
10 ~~attained 18 years of age and are under 21 years of age, if the~~
11 ~~relative guardian continues to be responsible for the support of the~~
12 ~~youth and the youth meets one or more of the conditions specified~~
13 ~~in paragraphs (1) to (5), inclusive, of subdivision (b) of Section~~
14 ~~11403.~~
15 ~~(2) A youth who has attained 18 years of age while receiving~~
16 ~~federally funded Kin-GAP benefits pursuant to Article 4.7~~
17 ~~(commencing with Section 11385), but is no longer eligible for~~
18 ~~benefits under that program, shall be eligible for benefits under~~
19 ~~this section until the youth attains 21 years of age if all of the~~
20 ~~following conditions are met:~~
21 ~~(A) The youth's relationship to the kinship guardian is defined~~
22 ~~in paragraph (1) of subdivision (e) of Section 11391.~~
23 ~~(B) The youth was under 16 years of age at the commencement~~
24 ~~of the Kin-GAP payments under Article 4.7 (commencing with~~
25 ~~Section 11385) and does not have a mental or physical disability~~
26 ~~that warrants the continuation of assistance.~~
27 ~~(C) The guardian continues to be responsible for the support of~~
28 ~~the youth.~~
29 ~~(D) The youth meets one or more of the conditions of eligibility~~
30 ~~described in paragraphs (1) to (5), inclusive, of subdivision (b) of~~
31 ~~Section 11403.~~
32 ~~(e) Termination of the guardianship with a kinship guardian~~
33 ~~shall terminate eligibility for Kin-GAP unless the conditions in~~
34 ~~Section 11403 apply; provided, however, that if an alternate~~
35 ~~guardian or coguardian is appointed pursuant to Section 366.3 who~~
36 ~~is also a kinship guardian, the alternate or coguardian shall be~~
37 ~~entitled to receive Kin-GAP on behalf of the child pursuant to this~~
38 ~~article. A new period of six months of placement with the alternate~~
39 ~~guardian or coguardian shall not be required if that alternate~~

1 guardian or co-guardian has been assessed pursuant to Sections
2 361.3 and 361.4 and the court terminates dependency jurisdiction.

3 (f) ~~At the time of redetermination of eligibility closest to the~~
4 ~~child’s 18th birthday, the county social worker shall determine~~
5 ~~whether the child has a mental or physical disability that warrants~~
6 ~~continuation of assistance pursuant to paragraph (2) of subdivision~~
7 ~~(e).~~

8 SEC. 2. Section 11386 of the Welfare and Institutions Code is
9 amended to read:

10 11386. Aid shall be provided under this article on behalf of a
11 child under 18 years of age, and to any eligible youth under 19
12 years of age, as provided in Section 11403, under all of the
13 following conditions:

14 (a) The child satisfies both of the following requirements:

15 (1) He or she has been removed from his or her home pursuant
16 to a voluntary placement agreement, or as a result of judicial
17 determination, including being adjudged a dependent child of the
18 court, pursuant to Section 300, or a ward of the court, pursuant to
19 Section 601 or 602, to the effect that continuation in the home
20 would be contrary to the welfare of the child.

21 (2) He or she has been eligible for federal foster care
22 maintenance payments under Article 5 (commencing with Section
23 11400) while residing for at least six consecutive months in the
24 approved home of the prospective relative guardian while under
25 the jurisdiction of the juvenile court or a voluntary placement
26 agreement.

27 (b) Being returned to the parental home or adopted are not
28 appropriate permanency options for the child.

29 (c) The child demonstrates a strong attachment to the relative
30 guardian, and the relative guardian has a strong commitment to
31 caring permanently for the child and, with respect to the child who
32 has attained 12 years of age, the child has been consulted regarding
33 the kinship guardianship arrangement.

34 (d) The child has had a kinship guardianship established
35 pursuant to Section 360 or 366.26.

36 (e) The child has had his or her dependency jurisdiction
37 terminated pursuant to Section 366.3, or his or her wardship
38 terminated pursuant to subdivision (d) of Section 728, concurrently
39 or subsequently to the establishment of the kinship guardianship.

1 ~~(f) If the conditions specified in subdivisions (a) through (e),~~
2 ~~inclusive, are met and, subsequent to the termination of dependency~~
3 ~~jurisdiction, any parent or person having an interest files with the~~
4 ~~juvenile court a petition pursuant to Section 388 to change, modify,~~
5 ~~or set aside an order of the court, Kin-GAP payments shall continue~~
6 ~~unless and until the juvenile court orders the child removed from~~
7 ~~the home of the guardian, terminates the guardianship, or maintains~~
8 ~~dependency jurisdiction after the court concludes the hearing on~~
9 ~~the petition filed under Section 388.~~

10 ~~(g) A child or nonminor former dependent or ward shall be~~
11 ~~eligible for Kin-GAP payments if he or she meets one of the~~
12 ~~following age criteria:~~

13 ~~(1) He or she is under 18 years of age.~~

14 ~~(2) He or she is under 21 years of age and has a physical or~~
15 ~~mental disability that warrants the continuation of assistance.~~

16 ~~(3) He or she satisfies the conditions described in subdivision~~
17 ~~(h):~~

18 ~~(4) He or she satisfies the conditions of Section 11403.01.~~

19 ~~(h) Effective January 1, 2012, Kin-GAP payments shall continue~~
20 ~~for youths who have attained 18 years of age and are under 19~~
21 ~~years of age, if they reached 16 years of age before the Kin-GAP~~
22 ~~negotiated agreement payments commenced, and as described in~~
23 ~~Section 10103.5. Effective January 1, 2013, Kin-GAP payments~~
24 ~~shall continue for youths who have attained 18 years of age and~~
25 ~~are under 20 years of age, if they reached 16 years of age before~~
26 ~~the Kin-GAP negotiated agreement payments commenced, and as~~
27 ~~described in Section 10103.5. Effective January 1, 2014, Kin-GAP~~
28 ~~payments shall continue for youths who have attained 18 years of~~
29 ~~age and are under 21 years of age, if they reached 16 years of age~~
30 ~~before the Kin-GAP negotiated agreement payments commenced.~~
31 ~~To be eligible for continued payments, the youth shall satisfy one~~
32 ~~or more of the conditions specified in paragraphs (1) to (5),~~
33 ~~inclusive, of subdivision (b) of Section 11403.~~

34 ~~(i) Termination of the guardianship with a kinship guardian~~
35 ~~shall terminate eligibility for Kin-GAP, unless the conditions of~~
36 ~~Section 11403 apply, provided, however, that if an alternate~~
37 ~~guardian or coguardian is appointed pursuant to Section 366.3 who~~
38 ~~is also a kinship guardian, the alternate or coguardian shall be~~
39 ~~entitled to receive Kin-GAP on behalf of the child pursuant to this~~
40 ~~article. A new period of six months of placement with the alternate~~

1 guardian or coguardian shall not be required if that alternate
2 guardian or coguardian has been assessed pursuant to Sections
3 361.3 and 361.4 and the court terminates dependency jurisdiction,
4 subject to federal approval of amendments to the state plan.

5 (j) At the time of redetermination of eligibility closest to the
6 child's 18th birthday, the county social worker shall determine
7 whether the child has a mental or physical disability that warrants
8 continuation of assistance pursuant to paragraph (2) of subdivision
9 (g).

10 SEC. 3. Section 11403.01 of the Welfare and Institutions Code
11 is amended to read:

12 11403.01. (a) A nonminor who is receiving Kin-GAP benefits
13 under Article 4.7 (commencing with Section 11385) and whose
14 Kin-GAP payments began prior to his or her 16th birthday, and
15 who is attending high school or the equivalent level of vocational
16 or technical training on a full-time basis, or is in the process of
17 pursuing a high school equivalency certificate, prior to his or her
18 18th birthday, may continue to receive aid under that article
19 following his or her 18th birthday so long as the nonminor
20 continues to receive assistance and support from the relative with
21 whom he or she was placed, remains otherwise eligible for
22 Kin-GAP payments, and continues to attend high school or the
23 equivalent level of vocational or technical training on a full-time
24 basis, or continues to pursue a high school equivalency certificate,
25 and the nonminor may reasonably be expected to complete the
26 educational or training program or to receive a high school
27 equivalency certificate before his or her 19th birthday. Aid shall
28 be provided to an individual pursuant to this section provided that
29 both the individual and the agency responsible for the related
30 guardianship placement have signed a mutual agreement, if the
31 individual is capable of making an informed agreement,
32 documenting the continued need for out-of-home placement.

33 (b) After the nonminor completes the educational or training
34 program or receives a high school equivalency certificate or attains
35 19 years of age, whichever occurs first, the nonminor shall be
36 eligible to receive Kin-GAP benefits pursuant to Article 4.5
37 (commencing with Section 11360) until the nonminor attains 21
38 years of age if all the following conditions are met:

39 (1) The nonminor's relationship to the kinship guardian is
40 defined in paragraph (1) of subdivision (c) of Section 11391.

1 ~~(B) The nonminor was under 16 years of age when the Kin-GAP~~
2 ~~negotiated agreement payments commenced and does not have a~~
3 ~~mental or physical disability that warrants the continuation of~~
4 ~~assistance.~~

5 ~~(C) The guardian continues to be responsible for the support of~~
6 ~~the nonminor.~~

7 ~~(D) The nonminor meets one or more of the conditions of~~
8 ~~eligibility described in paragraphs (1) to (5), inclusive, of~~
9 ~~subdivision (b) of Section 11403.~~

10 ~~SEC. 4. No appropriation pursuant to Section 15200 of the~~
11 ~~Welfare and Institutions Code shall be made for the purposes of~~
12 ~~this act.~~

13 ~~SEC. 5. If the Commission on State Mandates determines that~~
14 ~~this act contains costs mandated by the state, reimbursement to~~
15 ~~local agencies and school districts for those costs shall be made~~
16 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
17 ~~4 of Title 2 of the Government Code.~~