

**ASSEMBLY BILL**

**No. 1613**

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**Introduced by Assembly Member Stone**

February 6, 2014

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An act to amend Section 11004 of the Welfare and Institutions Code, relating to CalWORKs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1613, as introduced, Stone. CalWORKs: benefits overpayment. Existing law establishes various social services programs that provide cash assistance and other benefits to qualified low-income families and individuals, including the California Work Opportunity and Responsibility to Kids (CalWORKs) program. Existing law requires applicants for, and recipients of, public social services programs to accurately report facts material to eligibility and grant payment determinations. Existing law authorizes current and future grants payable to an assistance unit to be reduced because of prior overpayments, and requires grant payments to be reduced by 5% of the maximum aid payment when the overpayment was caused by agency error. Existing law prohibits a county from attempting, if an individual is no longer receiving cash aid, to recover overpayments when the outstanding overpayments are less than \$35, and requires reasonable cost-effective efforts at collection to be implemented if the overpayment amounts owed are \$35 or more. Under existing law, however, a county is prohibited from establishing a CalWORKs overpayment based on any differences between the amount of income the county prospectively determined for the recipient and the income the recipient actually received, if the recipient's report was complete and accurate.

This bill would specify that these overpayment provisions apply only to grants of CalWORKs cash aid. The bill would instead require grant payments to be reduced by 5% of the monthly payment in cases where the overpayment was caused by agency error and the amount to be collected is greater than an established minimum cost-effectiveness threshold or if the recipient would not be able to claim an equitable estoppel defense. The bill would prohibit the attempt to recover overpayment if the costs of collecting the outstanding overpayments are expected to exceed the amount to be recovered by the county. The bill would require reasonable cost-effective efforts to be implemented in all cases of recovering overpayments and authorizes the State Department of Social Services to establish an annual minimum cost-effectiveness threshold for collecting overpayments of cash aid. By increasing the duties of county agencies, this bill would create a state-mandated local program.

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

This bill would instead provide that the continuous appropriation would not be made for purposes of implementing 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.

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

- 1 SECTION 1. Section 11004 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 11004. (a) The provisions of this code relative to ~~public social~~
- 4 ~~services for which state grants-in-aid are made to the counties~~ *cash*
- 5 *aid provided pursuant to Chapter 2 (commencing with Section*
- 6 *11200)* shall be administered fairly to the end that all persons who
- 7 are eligible and apply for ~~such public social services~~ *cash aid* shall
- 8 receive the assistance to which they are entitled promptly, with

1 due consideration for the needs of applicants and the safeguarding  
2 of public funds.

3 ~~(a) Any~~

4 ~~(b) An applicant for, or recipient or payee of, such public social~~  
5 ~~services cash aid provided pursuant to Chapter 2 (commencing~~  
6 ~~with Section 11200) shall be informed as to the provisions of~~  
7 ~~eligibility and his or her responsibility for reporting facts material~~  
8 ~~to a correct determination of eligibility and grant.~~

9 ~~(b) Any~~

10 ~~(c) An applicant for, or recipient or payee of, such public social~~  
11 ~~services cash aid provided pursuant to Chapter 2 (commencing~~  
12 ~~with Section 11200) shall be responsible for reporting accurately~~  
13 ~~and completely within his or her competence those facts required~~  
14 ~~of him or her pursuant to subdivision ~~(a)~~ (b) and to report promptly~~  
15 ~~any changes in those facts.~~

16 ~~(e)~~

17 ~~(d) Current and future grants payable to an assistance unit may~~  
18 ~~be reduced because of prior overpayments, unless the agency is~~  
19 ~~prohibited from requiring the collection of, or establishing, the~~  
20 ~~overpayment pursuant to subdivision (h) of this section or~~  
21 ~~subdivision (b) of Section 11004.1. In cases where the overpayment~~  
22 ~~was caused by agency error, and the amount to be recovered is~~  
23 ~~greater than the minimum cost-effectiveness threshold established~~  
24 ~~pursuant to subdivision (h) or if the recipient would not be able~~  
25 ~~to claim an equitable estoppel defense, grant payments shall be~~  
26 ~~reduced by 5 percent of the maximum aid monthly payment of the~~  
27 ~~assistance unit. Grant payments to be adjusted because of prior~~  
28 ~~overpayments because of for any other reason shall be reduced by~~  
29 ~~10 percent of the maximum aid payments for the assistance unit.~~  
30 ~~A recipient may have an overpayment adjustment in excess of the~~  
31 ~~amounts allowable under this section if the recipient requests it.~~

32 ~~(d) No~~

33 ~~(e) A determination of ineligibility shall not be made~~  
34 ~~retrospectively so as to result in an assessment of an overpayment~~  
35 ~~in circumstances where when there is a failure on the part of an~~  
36 ~~applicant or recipient to perform an act constituting a condition of~~  
37 ~~eligibility, if the failure is caused by an error made by a state~~  
38 ~~agency or a county welfare department, and if the amount of the~~  
39 ~~grant received by the applicant or recipient would not have been~~  
40 ~~different had the act been performed.~~

1     ~~(e)~~  
 2     (f) Prior to effectuating any reduction of current grants to recover  
 3 past overpayments, the recipient shall be advised of the proposed  
 4 reduction and of his or her entitlement to a hearing on the propriety  
 5 of the reduction.

6     ~~(f)~~  
 7     (g) If the department determines after a hearing that an  
 8 overpayment has occurred, the county providing the ~~public social~~  
 9 ~~services cash aid pursuant to Chapter 2 (commencing with Section~~  
 10 ~~11200)~~ shall seek to recover in accordance with subdivision ~~(e)~~  
 11 ~~(d)~~ the full amount of the overpayment to the assistance unit,  
 12 including any amount paid while the hearing process was pending.  
 13 ~~Such~~ This adjustment shall be permitted concurrently with any  
 14 suit for restitution, and recovery of overpayment by adjustment  
 15 shall reduce by the amount of ~~such~~ the recovery the extent of  
 16 liability for restitution.

17     ~~(g)~~ If  
 18     (h) Regardless of whether the individual is ~~no longer~~ currently  
 19 receiving aid under Chapter 2 (commencing with Section 11200),  
 20 recovery of overpayments received under that chapter shall not be  
 21 attempted ~~where the~~ if the cost of collecting the outstanding  
 22 overpayments are less than thirty-five dollars (\$35). Where the  
 23 overpayment amounts owed are thirty-five dollars (\$35) or more,  
 24 expected to exceed the amount to be recovered by the county,  
 25 unless otherwise required in this section. In all cases, reasonable  
 26 cost-effective efforts at collection shall be implemented.  
 27 Reasonable efforts shall include notification of the amount of the  
 28 overpayment and that repayment is required. The department shall  
 29 define reasonable cost-effective collection ~~methods;~~ methods, and  
 30 may establish an annual minimum cost-effectiveness threshold for  
 31 collecting overpayments of cash aid. In cases involving fraud,  
 32 every effort shall be made to collect the overpayments regardless  
 33 of the amount.

34     ~~(h)~~  
 35     (i) If the individual responsible for the overpayment to the  
 36 assistance unit is no longer eligible for ~~public social services cash~~  
 37 ~~aid provided pursuant to Chapter 2 (commencing with Section~~  
 38 ~~11200)~~, or if he or she becomes a member of another assistance  
 39 unit, recoupment of overpayments shall be made against the  
 40 individual or his or her present assistance unit, or both.

1 ~~(i) Where~~

2 (j) When an overpayment has been made to an assistance unit  
3 ~~which that~~ is no longer receiving ~~public social services, cash aid~~  
4 ~~provided pursuant to Chapter 2 (commencing with Section 11200),~~  
5 recovery shall be made by appropriate action under state law  
6 against the income or resources of the individual responsible for  
7 the overpayment or against the family.

8 ~~(j)~~

9 (k) No civil or criminal action may be commenced against any  
10 person based on alleged unlawful application for or receipt of  
11 ~~public social services, where cash aid provided pursuant to Chapter~~  
12 ~~2 (commencing with Section 11200), if the case record of such that~~  
13 person has been destroyed after the expiration of the ~~four-year~~  
14 ~~three-year~~ retention period ~~pursuant to specified in~~ Section 10851.

15 ~~(k)~~

16 (l) (1) When an underpayment or denial of ~~public social service~~  
17 ~~cash aid provided pursuant to Chapter 2 (commencing with Section~~  
18 ~~11200)~~ occurs and as a result the applicant or recipient does not  
19 receive the amount to which he or she is entitled, the county shall  
20 provide ~~public social services cash aid~~ equal to the full amount of  
21 the underpayment unless prohibited by federal law. In cases that  
22 have both an underpayment and an overpayment, the underpayment  
23 shall be offset against the overpayment prior to correcting any  
24 remaining underpayment.

25 ~~Any~~

26 (2) Any corrective payments made pursuant to this subdivision  
27 shall be disregarded in determining the income of the family and  
28 shall be disregarded in determining the resources of the family in  
29 the month the corrective payment is made and in the following  
30 month.

31 ~~(l)~~

32 (m) This subdivision shall be applicable only to applicants,  
33 recipients and payees under Chapter 2 (commencing with Section  
34 11200) ~~of Part 3 of Division 9~~. Any suits to recover overpayments  
35 described in subdivision ~~(f)~~ (g) shall be brought on behalf of the  
36 county by the county counsel unless the board of supervisors  
37 delegates ~~such this~~ duty to the district attorney by ordinance or  
38 resolution.

1 SEC. 2. No appropriation pursuant to Section 15200 of the  
2 Welfare and Institutions Code shall be made for purposes of this  
3 act.

4 SEC. 3. If the Commission on State Mandates determines that  
5 this act contains costs mandated by the state, reimbursement to  
6 local agencies and school districts for those costs shall be made  
7 pursuant to Part 7 (commencing with Section 17500) of Division  
8 4 of Title 2 of the Government Code.

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