

AMENDED IN SENATE JUNE 15, 2014

AMENDED IN ASSEMBLY MAY 7, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1613

Introduced by Assembly Member Stone
(Coauthor: Senator Liu)

February 6, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1613, as amended, 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 for which state grants-in-aid are made to counties 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 or 10% of the maximum aid payment when the overpayment was for any other reason. Existing law prohibits a county from attempting, if an individual is no longer receiving CalWORKs benefits, 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. Existing law provides that no civil or criminal action may be commenced against a person based on alleged unlawful application for or receipt of public social services if the case record of the person has been destroyed after the required retention period.

This bill would authorize the State Department of Social Services to establish a minimum cost-effectiveness threshold, as specified, for collecting an overpayment established under CalWORKs that is greater than \$125, and would require counties to implement the new threshold if one is established by the department pursuant to these provisions. The bill would require current and future grant payments be reduced by 5% of the monthly payment when the overpayment is because of agency error or 10% of the monthly payment when the overpayment was for any other reason. The bill would prohibit a county from establishing an overpayment if the costs of collecting the outstanding payments are expected to exceed the average amounts to be recovered by the county, or the amount of the overpayment is less than \$125, or the minimum cost-effectiveness threshold, whichever is greater. The bill would prohibit a county from attempting to recover CalWORKs overpayments if an individual is no longer receiving CalWORKs benefits and the outstanding overpayments are less than \$125, or the minimum cost-effectiveness threshold, whichever is greater. The bill would also prohibit a civil, administrative, or criminal action against a person based on alleged unlawful or erroneous application for or receipt of public social services if the case record of the person has been destroyed after the required retention period. *The bill would require the department to issue an all-county letter or similar instructions by April 1, 2015, and to adopt regulations to implement the provisions of the bill by July 1, 2016.* 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 shall
5 be administered fairly to the end that all persons who are eligible
6 and apply for such public social services shall receive the assistance
7 to which they are entitled promptly, with due consideration for the
8 needs of applicants and the safeguarding of public funds.

9 (b) Any applicant for, or recipient or payee of, such public social
10 services shall be informed as to the provisions of eligibility and
11 his or her responsibility for reporting facts material to a correct
12 determination of eligibility and grant.

13 (c) Any applicant for, or recipient or payee of, such public social
14 services shall be responsible for reporting accurately and
15 completely within his or her competence those facts required of
16 him or her pursuant to subdivision (b) and to report promptly any
17 changes in those facts.

18 (d) (1) Current and future grants payable to an assistance unit
19 may be reduced because of prior overpayments. In cases where
20 the overpayment was caused by agency error, grant payments shall
21 be reduced by 5 percent of the monthly payment of the assistance
22 unit. Grant payments to be adjusted because of prior overpayments
23 because of any other reason shall be reduced by 10 percent of the
24 monthly payment for the assistance unit. A recipient may have an
25 overpayment adjustment in excess of the amounts allowable under
26 this section if the recipient requests it.

27 (2) A county shall not establish an overpayment if at least one
28 of the following conditions is met:

1 (A) The costs of collecting the outstanding overpayments are
2 expected to exceed the average amounts to be recovered by the
3 county.

4 (B) The amount of the overpayment is less than one hundred
5 twenty-five dollars (\$125) or the minimum cost-effectiveness
6 threshold established by the department pursuant to subdivision
7 (n), whichever is greater.

8 (e) No determination of ineligibility shall be made
9 retrospectively so as to result in an assessment of an overpayment
10 in circumstances where there is a failure on the part of an applicant
11 or recipient to perform an act constituting a condition of eligibility,
12 if the failure is caused by an error made by a state agency or a
13 county welfare department, and if the amount of the grant received
14 by the applicant or recipient would not have been different had
15 the act been performed.

16 (f) Prior to effectuating any reduction of current grants to recover
17 past overpayments, the recipient shall be advised of the proposed
18 reduction and of his or her entitlement to a hearing on the propriety
19 of the reduction.

20 (g) If the department determines after a hearing that an
21 overpayment has occurred, the county providing the public social
22 services shall seek to recover in accordance with subdivision (d)
23 the full amount of the overpayment to the assistance unit, including
24 any amount paid while the hearing process was pending. This
25 adjustment shall be permitted concurrently with any suit for
26 restitution, and recovery of overpayment by adjustment shall reduce
27 by the amount of the recovery the extent of liability for restitution.

28 (h) If the individual is no longer receiving aid under Chapter 2
29 (commencing with Section 11200), recovery of overpayments
30 received under that chapter shall not be attempted where the
31 outstanding overpayments are less than one hundred twenty-five
32 dollars (\$125) or the minimum cost-effectiveness threshold
33 established by the department pursuant to subdivision (n),
34 whichever is greater. If the overpayment amounts owed exceed
35 one hundred twenty-five dollars (\$125) or the minimum
36 cost-effectiveness threshold established by the department pursuant
37 to subdivision (n), if that amount is greater, reasonable
38 cost-effective efforts at collection shall be implemented.
39 Reasonable efforts shall include notification of the amount of the
40 overpayment and that repayment is required. The department shall

1 define reasonable cost-effective collection methods. In cases
2 involving fraud, every effort shall be made to collect the
3 overpayments regardless of the amount.

4 (i) If the individual responsible for the overpayment to the
5 assistance unit is no longer eligible for public social services or if
6 he or she becomes a member of another assistance unit, recoupment
7 of overpayments shall be made against the individual or his or her
8 present assistance unit, or both.

9 (j) Where an overpayment has been made to an assistance unit
10 that is no longer receiving public social services, recovery shall
11 be made by appropriate action under state law against the income
12 or resources of the individual responsible for the overpayment or
13 against the family.

14 (k) No civil, administrative, or criminal action may be
15 commenced against any person based on alleged unlawful or
16 erroneous application for or receipt of public social services, if the
17 case record of that person has been destroyed after the expiration
18 of the three-year retention period pursuant to Section 10851.

19 (l) (1) When an underpayment or denial of public social service
20 occurs and as a result the applicant or recipient does not receive
21 the amount to which he or she is entitled, the county shall provide
22 public social services equal to the full amount of the underpayment
23 unless prohibited by federal law. In cases that have both an
24 underpayment and an overpayment, the underpayment shall be
25 offset against the overpayment prior to correcting any remaining
26 underpayment.

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

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

38 (n) The department may establish a minimum cost-effectiveness
39 threshold consistent with Part 225 of Title 2 of the Code of Federal
40 Regulations for collecting an overpayment established under

1 Chapter 2 (commencing with Section 11200) that is greater than
2 one hundred twenty-five dollars (\$125). If the department
3 establishes such a threshold, each county shall implement the new
4 threshold.

5 *SEC. 2. (a) Notwithstanding the Administrative Procedure*
6 *Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of*
7 *Division 3 of Title 2 of the Government Code), the State*
8 *Department of Social Services shall implement this act through*
9 *an all-county letter or similar instructions from the director no*
10 *later than April 1, 2015.*

11 *(b) The department shall adopt regulations as necessary to*
12 *implement this act no later than July 1, 2016.*

13 ~~SEC. 2.~~

14 *SEC. 3.* No appropriation pursuant to Section 15200 of the
15 Welfare and Institutions Code shall be made for purposes of this
16 act.

17 ~~SEC. 3.~~

18 *SEC. 4.* If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.