

**Introduced by Senator Hertzberg**February 23, 2015

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An act to amend Sections 11320.3, 18926, and 18926.5 of the Welfare and Institutions Code, relating to public social services.

## LEGISLATIVE COUNSEL'S DIGEST

SB 306, as introduced, Hertzberg. CalFresh: eligibility: work requirements.

(1) Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using federal Temporary Assistance to Needy Families block grant program, state, and county funds. Under existing law, with certain exceptions, every individual, as a condition of eligibility for aid under the CalWORKs program, is required to participate in welfare-to-work activities.

This bill would excuse all CalWORKs recipients from welfare-to-work participation during any month for which the National Bureau of Economic Research has declared the United States to be in an economic recession or economic depression.

(2) Existing federal law provides for the federal Supplemental Nutrition Assistance Program, known in California as CalFresh, under which counties distribute food assistance benefits to eligible individuals. Existing law authorizes counties to participate in the CalFresh Employment and Training Program (CalFresh E&T), established by federal law, and requires participating counties to screen CalFresh work registrants to determine whether they will participate in, or be deferred from, the CalFresh E&T program.

Existing federal law limits an able-bodied adult without dependents (ABAWD) participant to 3 months of CalFresh benefits in a 3-year period unless that participant has met specified work participation requirements. Existing law directs the State Department of Social Services to annually seek a federal waiver of this limitation, and provides that an eligible county is included in this waiver unless the county declines to participate in the waiver request. Existing law authorizes the department to implement this section by all-county letters or similar instructions.

This bill would require all counties to participate in the CalFresh E&T program, and would direct each county to provide a placement in the program for every ABAWD that requests one. The bill would provide that federal funds for serving all at-risk ABAWDs through a CalFresh E&T program be used to support the cost to the county of providing these services using a formula established by the department in consultation with the county and the Food and Nutrition Service of the United States Department of Agriculture. By requiring counties to provide these employment and training services, the bill would impose a state-mandated local program.

The bill would also require all eligible counties and subcounty areas to be included in the federal waiver of the ABAWD time limitation. The bill would require, if a county is not eligible for the waiver and it sends a notice of action to an applicant or participant subject to the ABAWD time limit, the county to include specified information to help the person seek assistance in securing employment or an exemption. By imposing these requirements on counties, this bill would impose a state-mandated local program. The bill would also require the department to issue annual guidance to these counties regarding federal exemptions and waivers, and would delete the authorization for the department to implement these provisions by all-county letters or similar instructions.

(3) 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.

(4) 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 11320.3 of the Welfare and Institutions  
2 Code is amended to read:  
3 11320.3. (a) (1) Except as provided in subdivision (b) *and*  
4 *subdivision (c)*, or if otherwise exempt, every individual, as a  
5 condition of eligibility for aid under this chapter, shall participate  
6 in welfare-to-work activities under this article.  
7 (2) Individuals eligible under Section 11331.5 shall be required  
8 to participate in the Cal-Learn Program under Article 3.5  
9 (commencing with Section 11331) during the time that article is  
10 operative, in lieu of the welfare-to-work requirements, and  
11 subdivision-~~(b)~~ (c) shall not apply to that individual.  
12 (b) *A recipient of aid under this chapter shall not be required*  
13 *to participate in welfare-to-work activities during any month for*  
14 *which the National Bureau of Economic Research has declared*  
15 *the United States to be in an economic recession or economic*  
16 *depression.*  
17 ~~(b)~~  
18 (c) The following individuals shall not be required to participate  
19 for so long as the condition continues to exist:  
20 (1) An individual under 16 years of age.  
21 (2) (A) A child attending an elementary, secondary, vocational,  
22 or technical school on a full-time basis.  
23 (B) A person who is 16 or 17 years of age, or a person described  
24 in subdivision (d) who loses this exemption, shall not requalify  
25 for the exemption by attending school as a required activity under  
26 this article.  
27 (C) Notwithstanding subparagraph (B), a person who is 16 or  
28 17 years of age who has obtained a high school diploma or its  
29 equivalent and is enrolled or is planning to enroll in a  
30 postsecondary education, vocational, or technical school training  
31 program shall also not be required to participate for so long as the  
32 condition continues to exist.

1 (D) For purposes of subparagraph (C), a person shall be deemed  
2 to be planning to enroll in a postsecondary education, vocational,  
3 or technical school training program if he or she, or his or her  
4 parent, acting on his or her behalf, submits a written statement  
5 expressing his or her intent to enroll in such a program for the  
6 following term. The exemption from participation shall not  
7 continue beyond the beginning of the term, unless verification of  
8 enrollment is provided or obtained by the county.

9 (3) An individual who meets either of the following conditions:

10 (A) The individual is disabled as determined by a doctor's  
11 verification that the disability is expected to last at least 30 days  
12 and that it significantly impairs the recipient's ability to be  
13 regularly employed or participate in welfare-to-work activities,  
14 provided that the individual is actively seeking appropriate medical  
15 treatment.

16 (B) The individual is of advanced age.

17 (4) A nonparent caretaker relative who has primary  
18 responsibility for providing care for a child and is either caring for  
19 a child who is a dependent or ward of the court or caring for a  
20 child in a case in which a county determines the child is at risk of  
21 placement in foster care, and the county determines that the  
22 caretaking responsibilities are beyond those considered normal  
23 day-to-day parenting responsibilities such that they impair the  
24 caretaker relative's ability to be regularly employed or to participate  
25 in welfare-to-work activities.

26 (5) An individual whose presence in the home is required  
27 because of illness or incapacity of another member of the household  
28 and whose caretaking responsibilities impair the recipient's ability  
29 to be regularly employed or to participate in welfare-to-work  
30 activities.

31 (6) A parent or other relative who meets the criteria in  
32 subparagraph (A) or (B).

33 (A) (i) The parent or other relative has primary responsibility  
34 for personally providing care to a child six months of age or under,  
35 except that, on a case-by-case basis, and based on criteria  
36 developed by the county, this period may be reduced to the first  
37 12 weeks after the birth or adoption of the child, or increased to  
38 the first 12 months after the birth or adoption of the child. An  
39 individual may be exempt only once under this clause.

1 (ii) An individual who received an exemption pursuant to clause  
2 (i) shall be exempt for a period of 12 weeks, upon the birth or  
3 adoption of any subsequent children, except that this period may  
4 be extended on a case-by-case basis to six months, based on criteria  
5 developed by the county.

6 (iii) In making the determination to extend the period of  
7 exception under clause (i) or (ii), the following may be considered:

- 8 (I) The availability of child care.
- 9 (II) Local labor market conditions.
- 10 (III) Other factors determined by the county.

11 (iv) Effective January 1, 2013, the parent or other relative has  
12 primary responsibility for personally providing care to one child  
13 from birth to 23 months, inclusive. The exemption provided for  
14 under this clause shall be available in addition to any other  
15 exemption provided for under this subparagraph. An individual  
16 may be exempt only once under this clause.

17 (B) In a family eligible for aid under this chapter due to the  
18 unemployment of the principal wage earner, the exemption criteria  
19 contained in subparagraph (A) shall be applied to only one parent.

20 (7) A parent or other relative who has primary responsibility  
21 for personally providing care to one child who is from 12 to 23  
22 months of age, inclusive, or two or more children who are under  
23 six years of age.

24 (8) A woman who is pregnant and for whom it has been  
25 medically verified that the pregnancy impairs her ability to be  
26 regularly employed or participate in welfare-to-work activities or  
27 the county has determined that, at that time, participation will not  
28 readily lead to employment or that a training activity is not  
29 appropriate. If a pregnant woman is unable to secure this medical  
30 verification, but is otherwise eligible for an exemption from  
31 welfare-to-work requirements under this section, including good  
32 cause for temporary illness related to the pregnancy, she shall be  
33 exempt from participation.

34 (e)

35 (d) Any individual not required to participate may choose to  
36 participate voluntarily under this article, and end that participation  
37 at any time without loss of eligibility for aid under this chapter, if  
38 his or her status has not changed in a way that would require  
39 participation.

40 (d)

1 (e) (1) Notwithstanding subdivision (a), a custodial parent who  
2 is under 20 years of age and who has not earned a high school  
3 diploma or its equivalent, and who is not exempt or whose only  
4 basis for exemption is paragraph (1), (2), (5), (6), (7), or (8) of  
5 subdivision ~~(b)~~; (c), shall be required to participate solely for the  
6 purpose of earning a high school diploma or its equivalent. During  
7 the time that Article 3.5 (commencing with Section 11331) is  
8 operative, this subdivision shall only apply to a custodial parent  
9 who is 19 years of age.

10 (2) Section 11325.25 shall apply to a custodial parent who is  
11 18 or 19 years of age and who is required to participate under this  
12 article.

13 ~~(e)~~

14 (f) Notwithstanding paragraph (1) of subdivision ~~(d)~~; (e), the  
15 county may determine that participation in education activities for  
16 the purpose of earning a high school diploma or equivalent is  
17 inappropriate for an 18 or 19 year old custodial parent only if that  
18 parent is reassigned pursuant to an evaluation under Section  
19 11325.25, or, at appraisal is already in an educational or vocational  
20 training program that is approvable as a self-initiated program as  
21 specified in Section 11325.23. If that determination is made, the  
22 parent shall be allowed to continue participation in the self-initiated  
23 program subject to Section 11325.23. During the time that Article  
24 3.5 (commencing with Section 11331) is operative, this subdivision  
25 shall only apply to a custodial parent who is 19 years of age.

26 ~~(f)~~

27 (g) A recipient shall be excused from participation for good  
28 cause when the county has determined there is a condition or other  
29 circumstance that temporarily prevents or significantly impairs  
30 the recipient's ability to be regularly employed or to participate in  
31 welfare-to-work activities. The county welfare department shall  
32 review the good cause determination for its continuing  
33 appropriateness in accordance with the projected length of the  
34 condition, or circumstance, but not less than every three months.  
35 The recipient shall cooperate with the county welfare department  
36 and provide information, including written documentation, as  
37 required to complete the review. Conditions that may be considered  
38 good cause include, but are not limited to, the following:

39 (1) Lack of necessary supportive services.

1 (2) In accordance with Article 7.5 (commencing with Section  
2 11495), the applicant or recipient is a victim of domestic violence,  
3 but only if participation under this article is detrimental to or  
4 unfairly penalizes that individual or his or her family.

5 (3) Licensed or license-exempt child care for a child 10 years  
6 of age or younger is not reasonably available during the  
7 individual’s hours of training or employment including commuting  
8 time, or arrangements for child care have broken down or have  
9 been interrupted, or child care is needed for a child who meets the  
10 criteria of subparagraph (C) of paragraph (1) of subdivision (a) of  
11 Section 11323.2, but who is not included in the assistance unit.  
12 For purposes of this paragraph, “reasonable availability” means  
13 child care that is commonly available in the recipient’s community  
14 to a person who is not receiving aid and that is in conformity with  
15 the requirements of Public Law 104-193. The choices of child care  
16 shall meet either licensing requirements or the requirements of  
17 Section 11324. This good cause criterion shall include the  
18 unavailability of suitable special needs child care for children with  
19 identified special needs, including, but not limited to, disabilities  
20 or chronic illnesses.

21 ~~(g)~~

22 *(h)* (1) Paragraph (7) of subdivision ~~(b)~~ *(c)* shall be implemented  
23 notwithstanding Sections 11322.4, 11322.7, 11325.6, and 11327,  
24 and shall become inoperative on January 1, 2013.

25 (2) The State Department of Social Services, in consultation  
26 with the County Welfare Directors Association of California, and  
27 advocates, shall develop a process to assist clients with  
28 reengagement in welfare-to-work activities, pursuant to subdivision  
29 ~~(h)~~ *(i)*. Reengagement activities may include notifying clients of  
30 the expiration of exemptions, reassessments, and identifying  
31 necessary supportive services.

32 ~~(h)~~

33 *(i)* (1) A recipient who was not required to participate in  
34 welfare-to-work activities on December 31, 2012, because, in  
35 accordance with paragraph (7) of subdivision ~~(b)~~ *(c)*, he or she is  
36 a parent or other relative who has primary responsibility for  
37 personally providing care to one child who is from 12 to 23 months  
38 of age, inclusive, or two or more children who are under six years  
39 of age shall not be required to participate until the county welfare  
40 department reengages the recipient in welfare-to-work activities.

1 (2) For purposes of this subdivision, reengagement in  
 2 welfare-to-work activities shall include the development of a  
 3 welfare-to-work plan in accordance with Section 11325.21 and  
 4 the provision of necessary supportive services pursuant to Section  
 5 11323.2.

6 (3) County welfare departments shall reengage all recipients  
 7 described in paragraph (1) by January 1, 2015, unless the recipient  
 8 is otherwise eligible for an exemption under subdivision ~~(b)~~; (c).

9 (4) A recipient reengaged in accordance with this subdivision  
 10 who has received assistance under this chapter, or from any state  
 11 pursuant to the Temporary Assistance for Needy Families program  
 12 (Part A (commencing with Section 401) of Title IV of the federal  
 13 Social Security Act (42 U.S.C. Sec. 601 et seq.)), may continue  
 14 in a welfare-to-work plan that meets the requirements of Section  
 15 11322.6 for a cumulative period of 24 months commencing the  
 16 first day of the first month after he or she is reengaged, unless or  
 17 until he or she exceeds the 48-month time limitation described in  
 18 Section 11454.

19 (5) All months of assistance described in paragraph (4) prior to  
 20 the reengagement of the recipient shall not be applied to the  
 21 24-month limitation described in paragraph (1) of subdivision (a)  
 22 of Section 11322.85.

23 SEC. 2. Section 18926 of the Welfare and Institutions Code is  
 24 amended to read:

25 18926. (a) ~~To the extent permitted by federal law, It is the~~  
 26 *intent of the Legislature to maximize participation in the CalFresh*  
 27 *program to the extent permitted by federal law. To accomplish*  
 28 *this intent, the department shall annually seek for all qualifying*  
 29 *areas of the state a federal waiver, to the extent permitted by*  
 30 *federal law, of the existing federal Supplemental Nutrition*  
 31 *Assistance Program limitation that stipulates that an able-bodied*  
 32 *adult without dependents (ABAWD) participant is limited to three*  
 33 *months of CalFresh benefits in a three-year period unless that*  
 34 *participant has met the work participation requirement.*

35 (b) All eligible counties *and subcounty areas* shall be included  
 36 in and bound by ~~this waiver unless a county declines to participate~~  
 37 ~~in the waiver request. If a county declines, the county shall submit~~  
 38 ~~documentation from the board of supervisors of that county to that~~  
 39 ~~effect the waiver.~~ *the waiver.*

1 ~~(e) Notwithstanding the rulemaking provisions of the~~  
2 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~  
3 ~~Section 11340) of Part 1 of Division 2 of the Government Code)~~  
4 ~~the department may implement this section by all-county letters~~  
5 ~~or similar instructions.~~

6 *(c) If a county is not eligible for the waiver described in this*  
7 *section, all of the following shall occur:*

8 *(1) The department shall issue annual guidance to the county*  
9 *regarding the maximization of all federal exemptions and waivers*  
10 *to the three-month time limit applied to ABAWDs, including the*  
11 *exemptions described in Section 273.24(g) of Title 7 of the Code*  
12 *of Federal Regulations.*

13 *(2) The county shall provide placements in the CalFresh*  
14 *Employment and Training program established pursuant to Section*  
15 *18926.5 for all ABAWDs required to work and unable to secure*  
16 *employment. Federal funds for serving all at-risk ABAWDs through*  
17 *a CalFresh Employment and Training program shall be used to*  
18 *support the cost to the county of providing these services using a*  
19 *formula established by the department in consultation with the*  
20 *county and the Food and Nutrition Service of the United States*  
21 *Department of Agriculture.*

22 *(3) A county issuing a notice of action to an applicant or*  
23 *participant subject to the ABAWD time limit shall include*  
24 *information to help the person seek assistance in securing*  
25 *employment or in securing an exemption to the time limit,*  
26 *including, but not limited to, the name, address, telephone number,*  
27 *and Internet address of a local legal services office and a statewide*  
28 *welfare rights organization.*

29 SEC. 3. Section 18926.5 of the Welfare and Institutions Code  
30 is amended to read:

31 18926.5. (a) For the purposes of this chapter, “CalFresh  
32 Employment and Training program” or “CalFresh E&T” means  
33 the program established under Section 6(d)(4)(B) of the federal  
34 Food and Nutrition Act of 2008 (7 U.S.C. Sec. 2015), Section  
35 273.7 of Title 7 of the Code of Federal Regulations, and associated  
36 administrative notices published by the United States Department  
37 of Agriculture with the purpose of assisting members of CalFresh  
38 households in gaining skills, training, work, or experience that will  
39 increase their ability to obtain regular employment.

1 (b) (1) ~~A~~ Each county that elects to shall participate in the  
2 CalFresh Employment and Training (CalFresh E&T) program, as  
3 authorized by the federal Food and Nutrition Act of 2008 (7 U.S.C.  
4 Sec. 2015), and shall screen CalFresh work registrants to determine  
5 whether they will participate in, or be deferred from, the CalFresh  
6 E&T program. If deferred, a CalFresh work registrant may request  
7 to enroll in the CalFresh E&T program as a voluntary participant.  
8 An individual shall be deferred from a mandatory placement in  
9 the CalFresh E&T program if he or she satisfies any of the criteria  
10 in Sections 273.7 and 273.24 of Title 7 of the Code of Federal  
11 Regulations, if he or she resides in a federally determined work  
12 surplus area, or if he or she is a veteran who has been honorably  
13 discharged from the United States Armed Forces.

14 (2) For purposes of this section, “deferred” has the same  
15 meaning as exempt.

16 (c) (1) A county that elects to participate in the CalFresh E&T  
17 program shall be required to demonstrate in its CalFresh E&T plan  
18 how it is effectively using CalFresh E&T funds for each of the  
19 components that the county offers, including, but not limited to,  
20 any of the following:

21 (A) Self-initiated workfare.

22 (B) Work experience or training.

23 (C) Education.

24 (D) Job search.

25 (E) The support services or client reimbursements needed to  
26 participate in subparagraphs (A) to (D), inclusive, as allowed by  
27 federal law and guidance.

28 (2) Nothing in this section shall be construed to require a county  
29 to offer a particular component as a part of its CalFresh E&T plan.

30 (d) *If an able-bodied adult without dependents (ABAWD) who*  
31 *is subject to the three-month time limit set forth in Section 273.24*  
32 *of Title 7 of the Code of Federal Regulations requests placement*  
33 *in the CalFresh E&T program, the county shall provide a*  
34 *placement for the person.*

35 ~~(d)~~

36 (e) Nothing in this section shall limit a county’s ability to  
37 condition the receipt of nonmedical benefits under Section 17000  
38 on an individual’s participation in an employment and training or  
39 workfare program of the county’s choice, even if that program is

1 financed in whole or in part with CalFresh E&T funds or match  
2 funds.

3 (e)

4 (f) Nothing in this section shall restrict the use of federal funds  
5 for the financing of CalFresh E&T programs.

6 (f)

7 (g) Nothing in this section shall be construed to require a county  
8 to provide for workers' compensation coverage for a CalFresh  
9 E&T participant. Notwithstanding Division 4 (commencing with  
10 Section 3200) of the Labor Code, a CalFresh E&T participant shall  
11 not be an employee for the purposes of workers' compensation  
12 coverage and a county shall have no duty to provide workers'  
13 compensation coverage for a CalFresh E&T participant.

14 ~~(g) Notwithstanding the rulemaking provisions of the~~  
15 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~  
16 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~  
17 ~~Code), the department may implement this section by all-county~~  
18 ~~letters or similar instructions. Thereafter, the department shall~~  
19 ~~adopt regulations to implement this section by October 1, 2013.~~

20 SEC. 4. No appropriation pursuant to Section 15200 of the  
21 Welfare and Institutions Code shall be made for purposes of  
22 implementing this act.

23 SEC. 5. If the Commission on State Mandates determines that  
24 this act contains costs mandated by the state, reimbursement to  
25 local agencies and school districts for those costs shall be made  
26 pursuant to Part 7 (commencing with Section 17500) of Division  
27 4 of Title 2 of the Government Code.