

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 306

Introduced by Senator Hertzberg

February 23, 2015

An act to amend Sections 11320.3, 11454.5, 18900, 18926, and 18926.5 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 306, as amended, 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. *Existing law also provides that a parent or caretaker relative shall not be eligible for CalWORKs aid when he or she has received aid for a cumulative total of 48 months. Existing law further provides that any month in which specified conditions exist shall not be counted toward that 48-month time limit.*

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. *The bill would also prohibit any month for which the National Bureau of Economic Research has made that declaration from being counted toward that 48-month time limit.*

(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~~ *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~~ *provision* 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

This 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 a county, if the county is not eligible for the waiver, to submit a CalFresh E&T plan for state and federal approval that meets specified standards and ensures a placement for all ABAWD's required to work and unable to secure employment. The bill would require that federal funds received to serve, through a CalFresh E&T program, ABAWDs who are subject to the time limitation be used to support the cost to the counties of providing these services using a formula established by the department in consultation with county human services agencies and the Food and Nutrition Service of the United States Department of Agriculture. The bill would require, if a

~~county is not eligible for the waiver and it sends~~ *also require those counties, if they send 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 person, to the maximum extent permitted by federal law, to seek and receive* assistance in securing employment or an exemption. By imposing these requirements on counties, this bill would impose a state-mandated local program. ~~The~~

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. authorize the department to implement the provisions of the bill by all-county letters or similar instructions and require the department to thereafter adopt regulations to implement its provisions by January 1, 2018.

(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 (e)~~, *subdivisions (b) and (c)*, or if otherwise exempt,
- 5 every individual, as a condition of eligibility for aid under this
- 6 chapter, shall participate in welfare-to-work activities under this
- 7 article.
- 8 (2) Individuals eligible under Section 11331.5 shall be required
- 9 to participate in the Cal-Learn Program under Article 3.5
- 10 (commencing with Section 11331) during the time that article is

1 operative, in lieu of the welfare-to-work requirements, and
2 subdivision (c) shall not apply to that individual.

3 (b) A recipient of aid under this chapter shall not be required
4 to participate in welfare-to-work activities during any month for
5 which the National Bureau of Economic Research has declared
6 the United States to be in an economic recession or economic
7 depression.

8 (c) The following individuals shall not be required to participate
9 for so long as the condition continues to exist:

10 (1) An individual under 16 years of age.

11 (2) (A) A child attending an elementary, secondary, vocational,
12 or technical school on a full-time basis.

13 (B) A person who is 16 or 17 years of age, or a person described
14 in subdivision (d) who loses this exemption, shall not requalify
15 for the exemption by attending school as a required activity under
16 this article.

17 (C) Notwithstanding subparagraph (B), a person who is 16 or
18 17 years of age who has obtained a high school diploma or its
19 equivalent and is enrolled or is planning to enroll in a
20 postsecondary education, vocational, or technical school training
21 program shall also not be required to participate for so long as the
22 condition continues to exist.

23 (D) For purposes of subparagraph (C), a person shall be deemed
24 to be planning to enroll in a postsecondary education, vocational,
25 or technical school training program if he or she, or his or her
26 parent, acting on his or her behalf, submits a written statement
27 expressing his or her intent to enroll in such a program for the
28 following term. The exemption from participation shall not
29 continue beyond the beginning of the term, unless verification of
30 enrollment is provided or obtained by the county.

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

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

38 (B) The individual is of advanced age.

39 (4) A nonparent caretaker relative who has primary
40 responsibility for providing care for a child and is either caring for

1 a child who is a dependent or ward of the court or caring for a
2 child in a case in which a county determines the child is at risk of
3 placement in foster care, and the county determines that the
4 caretaking responsibilities are beyond those considered normal
5 day-to-day parenting responsibilities such that they impair the
6 caretaker relative's ability to be regularly employed or to participate
7 in welfare-to-work activities.

8 (5) An individual whose presence in the home is required
9 because of illness or incapacity of another member of the household
10 and whose caretaking responsibilities impair the recipient's ability
11 to be regularly employed or to participate in welfare-to-work
12 activities.

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

15 (A) (i) The parent or other relative has primary responsibility
16 for personally providing care to a child six months of age or under,
17 except that, on a case-by-case basis, and based on criteria
18 developed by the county, this period may be reduced to the first
19 12 weeks after the birth or adoption of the child, or increased to
20 the first 12 months after the birth or adoption of the child. An
21 individual may be exempt only once under this clause.

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

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

- 29 (I) The availability of child care.
- 30 (II) Local labor market conditions.
- 31 (III) Other factors determined by the county.

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

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

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

5 (8) A woman who is pregnant and for whom it has been
6 medically verified that the pregnancy impairs her ability to be
7 regularly employed or participate in welfare-to-work activities or
8 the county has determined that, at that time, participation will not
9 readily lead to employment or that a training activity is not
10 appropriate. If a pregnant woman is unable to secure this medical
11 verification, but is otherwise eligible for an exemption from
12 welfare-to-work requirements under this section, including good
13 cause for temporary illness related to the pregnancy, she shall be
14 exempt from participation.

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

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

29 (2) Section 11325.25 shall apply to a custodial parent who is
30 18 or 19 years of age and who is required to participate under this
31 article.

32 (f) Notwithstanding paragraph (1) of subdivision (e), the county
33 may determine that participation in education activities for the
34 purpose of earning a high school diploma or equivalent is
35 inappropriate for an ~~18 or 19 year old~~ *18- or 19-year-old* custodial
36 parent only if that parent is reassigned pursuant to an evaluation
37 under Section 11325.25, or, at appraisal is already in an educational
38 or vocational training program that is approvable as a self-initiated
39 program as specified in Section 11325.23. If that determination is
40 made, the parent shall be allowed to continue participation in the

1 self-initiated program subject to Section 11325.23. During the time
2 that Article 3.5 (commencing with Section 11331) is operative,
3 this subdivision shall only apply to a custodial parent who is 19
4 years of age.

5 (g) A recipient shall be excused from participation for good
6 cause when the county has determined there is a condition or other
7 circumstance that temporarily prevents or significantly impairs
8 the recipient's ability to be regularly employed or to participate in
9 welfare-to-work activities. The county welfare department shall
10 review the good cause determination for its continuing
11 appropriateness in accordance with the projected length of the
12 condition, or circumstance, but not less than every three months.
13 The recipient shall cooperate with the county welfare department
14 and provide information, including written documentation, as
15 required to complete the review. Conditions that may be considered
16 good cause include, but are not limited to, the following:

17 (1) Lack of necessary supportive services.

18 (2) In accordance with Article 7.5 (commencing with Section
19 11495), the applicant or recipient is a victim of domestic violence,
20 but only if participation under this article is detrimental to or
21 unfairly penalizes that individual or his or her family.

22 (3) Licensed or license-exempt child care for a child 10 years
23 of age or younger is not reasonably available during the
24 individual's hours of training or employment including commuting
25 time, or arrangements for child care have broken down or have
26 been interrupted, or child care is needed for a child who meets the
27 criteria of subparagraph (C) of paragraph (1) of subdivision (a) of
28 Section 11323.2, but who is not included in the assistance unit.
29 For purposes of this paragraph, "reasonable availability" means
30 child care that is commonly available in the recipient's community
31 to a person who is not receiving aid and that is in conformity with
32 the requirements of Public Law 104-193. The choices of child care
33 shall meet either licensing requirements or the requirements of
34 Section 11324. This good cause criterion shall include the
35 unavailability of suitable special needs child care for children with
36 identified special needs, including, but not limited to, disabilities
37 or chronic illnesses.

38 (h) (1) Paragraph (7) of subdivision (c) shall be implemented
39 notwithstanding Sections 11322.4, 11322.7, 11325.6, and 11327,
40 and shall become inoperative on January 1, 2013.

1 (2) The State Department of Social Services, in consultation
2 with the County Welfare Directors Association of California, and
3 advocates, shall develop a process to assist clients with
4 reengagement in welfare-to-work activities, pursuant to subdivision
5 (i). Reengagement activities may include notifying clients of the
6 expiration of exemptions, reassessments, and identifying necessary
7 supportive services.

8 (i) (1) A recipient who was not required to participate in
9 welfare-to-work activities on December 31, 2012, because, in
10 accordance with paragraph (7) of subdivision (c), he or she is a
11 parent or other relative who has primary responsibility for
12 personally providing care to one child who is from 12 to 23 months
13 of age, inclusive, or two or more children who are under six years
14 of age shall not be required to participate until the county welfare
15 department reengages the recipient in welfare-to-work activities.

16 (2) For purposes of this subdivision, reengagement in
17 welfare-to-work activities shall include the development of a
18 welfare-to-work plan in accordance with Section 11325.21 and
19 the provision of necessary supportive services pursuant to Section
20 11323.2.

21 (3) County welfare departments shall reengage all recipients
22 described in paragraph (1) by January 1, 2015, unless the recipient
23 is otherwise eligible for an exemption under subdivision (c).

24 (4) A recipient reengaged in accordance with this subdivision
25 who has received assistance under this chapter, or from any state
26 pursuant to the Temporary Assistance for Needy Families program
27 (Part A (commencing with Section 401) of Title IV of the federal
28 Social Security Act (42 U.S.C. Sec. 601 et seq.)), may continue
29 in a welfare-to-work plan that meets the requirements of Section
30 11322.6 for a cumulative period of 24 months commencing the
31 first day of the first month after he or she is reengaged, unless or
32 until he or she exceeds the 48-month time limitation described in
33 Section 11454.

34 (5) All months of assistance described in paragraph (4) prior to
35 the reengagement of the recipient shall not be applied to the
36 24-month limitation described in paragraph (1) of subdivision (a)
37 of Section 11322.85.

38 *SEC. 2. Section 11454.5 of the Welfare and Institutions Code*
39 *is amended to read:*

1 11454.5. (a) Any month in which the following conditions
2 exist shall not be counted as a month of receipt of aid for the
3 purposes of subdivision (a) of, and paragraph (1) of subdivision
4 (b) of, Section 11454:

5 (1) The recipient is exempt from participation under Article 3.2
6 (commencing with Section 11320) due to disability, or advanced
7 age in accordance with paragraph (3) of subdivision (b) of Section
8 11320.3, or due to caretaking responsibilities that impair the
9 recipient's ability to be regularly employed, in accordance with
10 paragraph (5) of subdivision (b) of Section 11320.3.

11 (2) The recipient is eligible for, participating in, or exempt from,
12 the Cal-Learn Program provided for pursuant to Article 3.5
13 (commencing with Section 11331), for any period during which
14 the Cal-Learn Program is operative, is participating in another teen
15 parent program approved by the department, or, on or after January
16 1, 2012, is a nonminor dependent under the supervision of the
17 county welfare or probation department who is placed in an
18 approved relative's home and is eligible for aid under this section
19 because he or she satisfies the conditions described in Section
20 11403.

21 (3) The cost of the cash aid provided to the recipient for the
22 month is fully reimbursed by child support, whether collected in
23 that month or any subsequent month.

24 (4) The family is a former recipient of cash aid under this chapter
25 and currently receives only child care, case management, or
26 supportive services pursuant to Section 11323.2 or Article 15.5
27 (commencing with Section 8350) of Chapter 2 of Part 6 of the
28 Education Code.

29 (5) To the extent provided by federal law, the recipient lived in
30 Indian country, as defined by federal law, or an Alaskan native
31 village in which at least 50 percent of the adults living in the Indian
32 country or in the village are not employed.

33 (6) The recipient was exempt from participation under paragraph
34 (7) of subdivision (b) of Section 11320.3 and has not been
35 reengaged in accordance with subdivision (h) of Section 11320.3.

36 (7) The recipient is exempt from participating in welfare-to-work
37 activities because he or she has primary responsibility for
38 personally providing care to a child 24 months of age or younger,
39 pursuant to clause (iv) of subparagraph (A) of paragraph (6) of
40 subdivision (b) of Section 11320.3.

1 (8) *The National Bureau of Economic Research has declared*
2 *the United States to be in an economic recession or economic*
3 *depression.*

4 (b) In cases where a lump-sum diversion payment is provided
5 in lieu of cash aid under Section 11266.5, the month in which the
6 payment is made or the months calculated pursuant to subdivision
7 (f) of Section 11266.5 shall count against the limits specified in
8 Section 11454.

9 (c) This section shall become operative on January 1, 2013.

10 *SEC. 3. Section 18900 of the Welfare and Institutions Code is*
11 *amended to read:*

12 18900. Finding that hunger, undernutrition, and malnutrition
13 are present and continuing problems faced by low-income
14 California households, and further finding that the federal
15 Supplemental Nutrition Assistance Program (Chapter 51
16 (commencing with Section 2011), Title 7, United States Code)
17 offers significant health-vital benefits, the purpose of this chapter
18 is to establish a statewide program to enable recipients of aid under
19 Part 3 (commencing with Section 11000) or Part 5 (commencing
20 with Section 17000) of this division and other low-income
21 households to receive benefits under the federal Supplemental
22 Nutrition Assistance Program. *It is the intent of the Legislature*
23 *that the CalFresh program be administered in a way that*
24 *maximizes eligibility and participation in the program, to the extent*
25 *permitted by federal law.*

26 ~~SEC. 2:~~

27 *SEC. 4. Section 18926 of the Welfare and Institutions Code is*
28 *amended to read:*

29 18926. (a) ~~It is the intent of the Legislature to~~ *Consistent with*
30 *Section 18900, the department shall maximize participation in the*
31 *CalFresh program to the extent permitted by federal law. To*
32 *accomplish this intent, the department shall annually seek for all*
33 *qualifying areas of the state a federal waiver, to the extent permitted*
34 *by federal law, of the existing federal Supplemental Nutrition*
35 *Assistance Program limitation that stipulates that an able-bodied*
36 *adult without dependents (ABAWD) participant is limited to three*
37 *months of CalFresh benefits in a three-year period unless that*
38 *participant has met the work participation requirement.*

39 (b) All eligible counties and subcounty areas shall be included
40 in and bound by the waiver.

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

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

8 (2) The county shall ~~provide placements in the~~ *submit a CalFresh*
9 *Employment and Training program plan for state and federal*
10 *approval, that meets the standards established pursuant to in*
11 *Section 18926.5 and ensures a placement for all ABAWDs*
12 *required to work and unable to secure employment. Federal funds*
13 *for serving all at-risk ABAWDs through a CalFresh Employment*
14 *and Training program received to serve, through a CalFresh*
15 *Employment and Training program, ABAWDs who are subject to*
16 *the time limit described in subdivision (a)* shall be used to support
17 the cost to ~~the county~~ *counties* of providing these services using
18 a formula established by the department in consultation with ~~the~~
19 *county human services agencies* and the Food and Nutrition Service
20 of the United States Department of Agriculture.

21 (3) A county issuing a notice of action to an applicant or
22 participant subject to the ABAWD time limit shall include
23 information to help the ~~person seek~~ *person, to the maximum extent*
24 *permitted by federal law, seek and receive* 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.~~

30 *SEC. 5.* Section 18926.5 of the Welfare and Institutions Code
31 is amended to read:

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

1 (b) (1) Each county ~~shall~~ *that elects to 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 or that is required to submit a CalFresh E&T plan~~
5 *pursuant to paragraph (3) of subdivision (c) of Section 18926,*
6 shall screen CalFresh work registrants to determine whether they
7 will participate in, or be deferred from, the CalFresh E&T program.
8 If deferred, a CalFresh work registrant may request to enroll in the
9 CalFresh E&T program as a voluntary participant. An individual
10 shall be deferred from a mandatory placement in the CalFresh
11 E&T program if he or she satisfies any of the criteria in Sections
12 273.7 and 273.24 of Title 7 of the Code of Federal Regulations, if
13 he or she resides in a federally determined work surplus area, or
14 if he or she is a veteran who has been honorably discharged from
15 the United States Armed Forces.

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

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

23 (A) Self-initiated workfare.

24 (B) Work experience or training.

25 (C) Education.

26 (D) Job search.

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

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

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

37 (e) Nothing in this section shall limit a county’s ability to
38 condition the receipt of nonmedical benefits under Section 17000
39 on an individual’s participation in an employment and training or
40 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 (f) Nothing in this section shall restrict the use of federal funds
4 for the financing of CalFresh E&T programs.

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

12 *SEC. 6. Notwithstanding the rulemaking provisions of the*
13 *Administrative Procedure Act (Chapter 3.5 (commencing with*
14 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
15 *Code), the department may implement this act by all-county letters*
16 *or similar instructions. Thereafter, the department shall adopt*
17 *regulations to implement this act by January 1, 2018.*

18 ~~SEC. 4.~~

19 *SEC. 7.* No appropriation pursuant to Section 15200 of the
20 Welfare and Institutions Code shall be made for purposes of
21 implementing this act.

22 ~~SEC. 5.~~

23 *SEC. 8.* 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.