

## FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1. Further, Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6. To determine the Office of Administrative Law five day comment period check <http://www.oal.ca.gov/> often.

## DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. The Legislature enacted provisions of Senate Bill (SB) 72 (Chapter 8, Statutes of 2011) on March 24, 2011. These emergency regulations change the California Work Opportunity and Responsibility to Kids (CalWORKs) subsidized employment program created under Assembly Bill (AB) 98 (Chapter 589, Statutes of 2007).

SB 72 expands the eligible population for AB 98 wage subsidies, increases the duration of qualifying job placements, and increases the maximum amount that the California Department of Social Services (CDSS) will provide counties outside of the Single Allocation. This expansion was made possible by designing the program to be cost neutral to the state budget: the subsidy calculation is designed so that the cost of the subsidy is offset by a matching reduction to participating families' grants.

SB 72 impacts AB 98 by revising Welfare and Institutions Code Section 11322.63 and creating Welfare and Institutions Code Section 11323.25. The revisions to Section 11322.63 are critical to allow counties to provide AB 98 subsidized employment to individuals who have exceeded CalWORKs time limits and to individuals who continue to participate in the AB 98 program after their families have become ineligible for CalWORKs due to the AB 98 income. Welfare and Institutions Code Section 11323.25 is required for counties to continue to provide AB 98 welfare-to-work services to former participants who became ineligible for CalWORKs because they became employed under Welfare and Institutions Code Section 11322.63.

The Legislature enacted the provisions of AB 106 (Chapter 32, Statutes of 2011) on June 29, 2011 to be effective July 1, 2011. Section 43 of AB 106 amended Section 7 of SB 72 to amend Welfare and Institutions Code 11320.15: job retention services for CalWORKs adults who have reached the CalWORKs time limit. The primary purpose of this amendment is to allow AB 98 participants who have reached the CalWORKs 48-month time limit to participate in AB 98 subsidized employment as described in Welfare and Institutions Code Section 11322.63 instead of community service. The amended language

of AB 106 for Welfare and Institutions Code Section 11320.15 also indicates that the CalWORKs time limit is 48 months, as enacted by SB 72, effective July 1, 2011.

2. Delay in the implementation of these regulations would conflict with the statutory directive found in SB 72, Section 42 that emergency regulations be adopted:
  - (a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes to Sections 11265.2, 11266.5, **11320.15**, 11320.3, **11322.63**, **11323.25**, 11450, 11450.02, 11450.025, 11451.5, 11454, 11454.5, 12309.1, and 17021 of the Welfare and Institutions Code, as contained in this act, through all-county letters or similar instructions from the department until regulations are adopted. The department shall adopt emergency regulations implementing these provisions no later than July 1, 2012. The department may readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted under this section.
3. Therefore, in order to preserve the public peace, health, safety, and general welfare of the State of California, these regulations are to be adopted on an emergency basis.

#### INFORMATIVE DIGEST

SB 72 AB 106 amended the CalWORKs WTW Program. The CalWORKs WTW program is the employment and training component of CalWORKs, California's version of the federal Temporary Assistance for Needy Families (TANF) Program.

Federal welfare reform enacted the TANF program through the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996, limiting federally funded cash aid to a family with an adult to a total of five years. The intent of the WTW program is to provide employment and training services to the maximum possible number of the adult CalWORKs population to aid them in achieving economic self-sufficiency within this time frame.

Subsidized employment is a WTW activity, and one category of subsidized employment is provided through the AB 98 subsidized employment program. AB 98 was originally implemented on January 1, 2008 and then suspended in 2009 due to the availability of subsidized employment funding from the TANF Emergency Contingency Fund (ECF) under the American Recovery and Reinvestment Act of 2009. At the conclusion of the TANF ECF program, AB 98 subsidized employment was re-implemented effective October 1, 2010. Effective March 24, 2011, SB 72 expanded the AB 98 subsidized employment program in order to encourage counties to establish or expand AB 98 subsidized employment programs to assist CalWORKs families with the goal of self-sufficiency.

The Legislature designed the AB 98 subsidized employment program to be cost neutral to the state budget by redirecting existing resources without increasing funding. The cost neutrality of the program is intended to be achieved by offsetting the cost of the state's contribution toward AB 98 wage subsidies outside of the single allocation, with grant savings achieved as a result of the subsidized employment income.

Following the implementation of the SB 72 changes to AB 98 subsidized employment, the eligible populations for the AB 98 subsidized employment program are current CalWORKs recipients, individuals who cure their sanctions through participation in the AB 98 program, and individuals who have exceeded CalWORKs time limits and receive Safety Net benefits for their eligible children. Current recipients and Safety Net individuals may continue in an AB 98 program if their families become ineligible for CalWORKs due to AB 98 income. Safety Net participants in the AB 98 program can continue to participate in AB 98 subsidized employment instead of participating in community service to receive job retention services.

AB 98 wage subsidies are limited to six months for each participant upon entry into the AB 98 program, unless the county determines a longer subsidy will benefit the employer and the participant, in which case AB 98 wage subsidies can be available up to a total of 12 months. Individuals who apply for CalWORKs after leaving aid due to AB 98 income shall be considered current recipients for determining CalWORKs financial eligibility and work requirements if the individual applies within three calendar months of the subsidized employment ending.

AB 106 changes the 60-month time limit for CalWORKs cash aid to 48 months. Additionally, AB 106 expands WTW job retention services for CalWORKs individuals who exceed the 48-month time limit and are receiving Safety Net cash-aid benefits for their eligible children. Safety net individuals may enter or continue participation in AB 98 subsidized employment instead of participating in community service.

Additionally, the proposed regulations will make other technical, conforming changes, such as adding and renumbering of sections and amending cross references as necessary.

The Department finds that these proposed regulations are compatible and consistent with the intent of the Legislature in adopting SB 72 and AB 106, as well as with existing state regulations.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: Results in a net state fund savings of \$773,000 in FY 2011-12 and \$1,384,000 annually. These savings are already reflected in the 2012 May Revision of the FY 2012-13 Governor's Budget. In total, this policy is assumed to be cost neutral as these grant savings offset the services costs of providing the AB 98 employment subsidy.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: Savings of approximately \$360,000 in FY 2011-12 and \$645,000 annually. These savings are already reflected in the 2012 May Revision of the FY 2012-13 Governor's Budget. In total, this policy is assumed to be cost neutral as these grant savings offset the services costs of providing the AB 98 employment subsidy.

4. Federal Funding to State Agencies: Services costs are offset by grant savings, resulting in a net cost in federal funding of \$1,133,000 in FY 2011-12 and \$2,029,000 annually. These costs are already reflected in the 2012 May Revision of the FY 2012-13 Governor's Budget. This policy is assumed to be cost neutral as the total costs of providing the AB 98 employment subsidy are fully offset by total grant savings.

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies or on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because these regulations do not mandate that local agencies implement the AB 98 subsidized employment program or welfare-to-work services for CalWORKs recipients who exceed the 48-month time limit. Any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Sections 10553 and 10554 of the Welfare and Institutions Code. Subject regulations implement and make specific Sections 11320.15, 11322.63, and 11323.25, Welfare and Institutions Code [SB 72 (Chapter 8, Statutes of 2011) and AB 106 (Chapter 32, Statutes of 2011)].