

Introduced by Assembly ~~Member Santiago~~ Members *Santiago, Carrillo, Chiu, Eduardo Garcia, Gipson, Lorena Gonzalez, Kalra, Lee, Ting, and Wicks*
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February 18, 2021

~~An act to amend Section 16500 of the Government Code, relating to state government.~~ *An act to amend Section 1947.3 of the Civil Code, to add Title 21.1 (commencing with Section 100100) to the Government Code, to add Section 90.4 to the Labor Code, and to amend Section 12302.2 of the Welfare and Institutions Code, relating to financial institutions.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1177, as amended, Santiago. ~~Deposit: state funds: eligible bank.~~ *California Public Banking Option Act.*

(1) Existing law, the CalSavers Retirement Savings Trust Act, creates in state government the CalSavers Retirement Savings Board and requires the board to, among other things, design and implement the CalSavers Retirement Savings Program.

This bill, the California Public Banking Option Act, would, among other things, establish in state government the Public Banking Option Board consisting of nine members, including the Treasurer or the Treasurer's designee and would require the board to administer the BankCal Program, which the act would create for the purpose of protecting consumers who lack access to traditional banking services from predatory, discriminatory, and costly alternatives, by offering access to voluntary, zero-fee, zero-penalty, federally insured transaction account and debit card services at no cost to account holders. The act would require the board to design and implement the BankCal Program by, among other things, selecting a program administrator, which may consist of one or more contractors or program staff or a combination thereof, and establishing the duties and functions of the program administrator, as prescribed, including a duty to administer the program as a fiduciary for account holders.

The act would also establish the BankCal Fund in the State Treasury. The act would make moneys in the fund available upon appropriation by the Legislature for the purposes of the act. The act would authorize the board to seek and accept voluntary contributions, in cash or in kind, from private donors solely for the purpose of paying for the costs of implementing the program under this title and would require those voluntary contributions to be deposited into the fund.

The act would require employers and hiring entities to have and maintain a payroll direct deposit arrangement to allow worker participation in the BankCal program. The act would define "employer" to mean a person, including a state or local government or agency, engaged in a business, industry, profession, trade, or other enterprise in the state, whether or not for profit, excluding the federal government, that has at least five employees. By imposing the mandate to maintain a payroll direct deposit arrangement on a local government or

agency, this bill would impose a state-mandated local program. The act would require the board to enforce the provisions of the act with respect to employers and hiring entities in coordination with the Labor Commissioner, as specified, and would make an employer or hiring entity that, without good cause, fails to allow its workers to participate in the BankCal Program liable for a civil penalty, as prescribed.

(2) Existing law authorizes a landlord or a landlord's agent to demand or require cash as the exclusive form of payment of rent or deposit of security if the tenant has previously attempted to pay the landlord or landlord's agent with a check drawn on insufficient funds or the tenant has instructed the drawee to stop payment on a check, draft, or order for the payment of money, as specified.

The act would, as an exception to that authorization, require a landlord or landlord's agent to allow a tenant to pay rent and deposit of security by an electronic funds transfer from a BankCal account.

(3) 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 the statutory provisions noted above.

~~Existing law requires the Treasurer, if possible, to deposit all money in the State Treasury or under the control of the Treasurer into an eligible bank. Existing law defines an "eligible bank" as, among other things, a state or national bank located in this state, selected by the Treasurer for the safekeeping of money belonging to, or in the custody of, the state, that has received an overall rating of not less than "satisfactory" in its most recent evaluation by the appropriate federal financial supervisory agency of the bank's record of meeting the credit needs of the state's communities.~~

~~This bill would make nonsubstantive changes to the definition of an eligible bank.~~

Digest Key

Vote: majority Appropriation: no Fiscal Committee: ~~no~~yes Local Program: ~~no~~yes

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *This act shall be known, and may be cited, as the California Public Banking Option Act.*

SEC. 2. *The Legislature finds and declares all of the following:*

(a) *With unemployment rates soaring, homelessness rising, and an unprecedented wave of evictions looming as a result of the COVID-19 pandemic, the financial stability of the state's most vulnerable residents has become a matter of particularly urgent concern, not only to those individuals themselves but to the economic health of the state as a whole.*

(b) *Access to basic financial services, including demand deposit (checking) and savings accounts, is a critical component of financial stability. Yet one in four California households, and nearly one in two Black and Hispanic California households, is currently unbanked or underbanked. These households either lack a bank*

account altogether or have a bank account but still largely rely on alternative financial services, including nonbank check cashers, payday lenders, prepaid debit cards, and pawn shops, which are services that are often predatory, discriminatory, and costly, leading to compounding fees and debts.

(c) Unbanked and underbanked households pay proportionally more for their financial services, lack secure means of saving, have fewer opportunities to build credit, and are rejected for loans at far higher rates. Basic financial transactions, including the payment of rent, utilities, and other recurring bills or charitable contributions, are a particularly formidable challenge for households lacking access to important tools, including automated bill pay, or whose monthly income fluctuates too much to make automated processes viable. Because they have fewer options when their money runs short, unbanked households face a far more destructive cycle of punitive action when they default on their recurring bills, which leads to compounding interest and further debt. For all these reasons, exclusion from traditional financial services significantly increases the risk of poverty and homelessness and places an unnecessary burden on the entire economy.

(d) Limited access to financial services is a problem that disproportionately impacts low-income communities and communities of color. Californians earning less than \$15 per hour make up 80.7 percent of the unbanked in the state, and Black and Hispanic Californians make up 78.4 percent. Nearly half, 45.9 percent, of all Black-identifying households in California and 41.1 percent of all Hispanic-identifying households are unbanked or underbanked compared to 15.5 percent of white-identifying households. Forty-four percent of disabled Californians are also unbanked or underbanked.

(e) Providing Californians with a zero-fee, zero-penalty public option for basic financial services would empower Californians by providing a stable, affordable financial platform for all Californians, especially this underserved population, and would eliminate the need for exploitative alternatives to traditional banking and reduce their risk of falling into catastrophic debt traps and downward spirals.

SEC. 3. *Section 1947.3 of the Civil Code is amended to read:*

1947.3. (a) (1) Except as provided in paragraph (2), a landlord or a landlord's agent shall allow a tenant to pay rent and deposit of security by at least one form of payment that is neither cash nor electronic funds transfer.

(2) ~~A~~ *Except as provided in paragraph (5),* a landlord or a landlord's agent may demand or require cash as the exclusive form of payment of rent or deposit of security if the tenant has previously attempted to pay the landlord or landlord's agent with a check drawn on insufficient funds or the tenant has instructed the drawee to stop payment on a check, draft, or order for the payment of money. The landlord may demand or require cash as the exclusive form of payment only for a period not exceeding three months following an attempt to pay with a check on insufficient funds or following a tenant's instruction to stop payment. If the landlord chooses to demand or require cash payment under these circumstances, the landlord shall give the tenant a written notice stating that the payment instrument was dishonored and informing the tenant that the tenant shall pay in cash for a period determined by the landlord, not to exceed three months, and attach a copy of the dishonored instrument to the notice. The notice shall comply with Section 827 if demanding or requiring payment in cash constitutes a change in the terms of the lease.

(3) Subject to the limitations below, a landlord or a landlord's agent shall allow a tenant to pay rent through a third party.

(A) A landlord or landlord's agent is not required to accept the rent payment tendered by a third party unless the third party has provided to the landlord or landlord's agent a signed acknowledgment stating that they are not currently a tenant of the premises for which the rent payment is being made and that acceptance of the rent payment does not create a new tenancy with the third party.

(B) Failure by a third party to provide the signed acknowledgment to the landlord or landlord's agent shall void the obligation of a landlord or landlord's agent to accept a tenant's rent tendered by a third party.

(C) The landlord or landlord's agent may, but is not required to, provide a form acknowledgment to be used by third parties, as provided for in subparagraph (A), provided however that a landlord shall accept as sufficient for compliance with subparagraph (A) an acknowledgment in substantially the following form:

I, [insert name of third party], state as follows:

I am not currently a tenant of the premises located at [insert address of premises].

I acknowledge that acceptance of the rent payment I am offering for the premises does not create a new tenancy.

(signature of third party) _____ (date)

(D) A landlord or landlord's agent may require a signed acknowledgment for each rent payment made by the third party. A landlord or landlord's agent and the third party may agree that one acknowledgment shall be sufficient for when the third party makes more than one rent payment during a period of time.

(E) Nothing in this paragraph shall be construed to require a landlord or landlord's agent to enter into a contract in connection with a federal, state, or local housing assistance program, including, but not limited to, the federal housing assistance voucher programs under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f).

(4) Paragraphs (2) and (3) do not enlarge or diminish a landlord's or landlord's agent's legal right to terminate a tenancy. Nothing in paragraph (3) is intended to extend the due date for any rent payment or require a landlord or landlord's agent to accept tender of rent beyond the expiration of the period stated in paragraph (2) of Section 1161 of the Code of Civil Procedure.

(5) A landlord or landlord's agent shall allow a tenant to pay rent and deposit of security by an electronic funds transfer from a BankCal account, as defined in Section 100100 of the Government Code.

(b) For the purposes of this section, the issuance of a money order or a cashier's check is direct evidence only that the instrument was issued.

(c) For purposes of this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. "Electronic funds transfer" includes, but is not limited to, point-of-sale transfers, direct deposits or withdrawals of funds, transfers initiated by telephone, transfers via an automated clearinghouse, transfers initiated electronically that deliver a paper instrument, and transfers authorized in advance to recur at substantially regular intervals.

(d) Nothing in this section shall be construed to prohibit the tenant and landlord or agent to mutually agree that rent payments may be made in cash or by electronic funds transfer, so long as another form of payment is also authorized, subject to the requirements of subdivision (a).

(e) A waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

SEC. 4. Title 21.1 (commencing with Section 100100) is added to the Government Code, to read:

TITLE 21.1. California Public Banking Option Act

100100. For purposes of this title:

(a) "Account holder" means an individual who has a BankCal account.

- (b) *“BankCal account” means a federally insured transaction account held within the program.*
- (c) *“BankCal Program” or “program” means the program established pursuant to this title through which an individual may open a no-fee, no-penalty transaction account with an associated debit card.*
- (d) *“Board” means the California Public Banking Option Board established pursuant to Section 100102.*
- (e) *“Electronic fund transfer” has the same meaning as defined in Section 1693a of Title 15 of the United States Code.*
- (f) (1) *“Employee” means an individual who is employed by an employer.*
- (2) *“Employee” does not include an employee covered under the federal Railway Labor Act (45 U.S.C. Sec. 151) or an employee engaged in interstate commerce so as not to be subject to the legislative powers of the state, except insofar as application of this title is authorized under the United States Constitution or laws of the United States.*
- (g) (1) *“Employer” means a person engaged in a business, industry, profession, trade, or other enterprise in the state, whether or not for profit, excluding the federal government, that has at least five employees.*
- (2) *Upon a positive determination pursuant to paragraph (4) of subdivision (b) of Section 100106, “employer” includes an employer of a provider of in-home supportive services regulated by Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code.*
- (h) *“Federally insured” means insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA).*
- (i) *“Hiring entity” means a person engaged in a business, industry, profession, trade, or other enterprise in the state, whether or not for profit, excluding the federal government, that has contracted with at least five independent contractors to perform the same or similar labor or service.*
- (j) *“Independent contractor” means an individual who renders labor or service to a hiring entity for a specified recompense for a specified result who is not an employee of that hiring entity.*
- (k) *“Local financial institution” has the same meaning as defined in Section 57600.*
- (l) *“Participating financial institution” means a qualifying bank, credit union, or other financial institution, as determined by the board pursuant to paragraph (4) of subdivision (a) of Section 100106, participating in the BankCal program by providing BankCal accounts to account holders in concert with the financial services network administrator, as described in paragraph (3) of subdivision (a) of Section 100106.*
- (m) *“Payroll direct deposit arrangement” means an arrangement by which a worker may authorize payment of wages or other money due the worker by an employer or hiring entity, or any portion thereof, to be directly deposited by electronic fund transfer into the worker’s account at the financial institution of the worker’s choosing.*
- (n) *“Person” means an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, joint stock company, limited liability company, unincorporated association, state or local government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.*
- (o) *“Preauthorized electronic fund transfer” means an electronic fund transfer authorized in advance to recur at substantially regular intervals.*
- (p) *“Program fund” means the BankCal Fund established pursuant to Section 100110.*

(q) "Public bank" has the same meaning as defined in Section 57600.

(r) "Registered payee" means a person who has registered with the program to accept receipt of preauthorized electronic fund transfers from account holders by agreeing to specific conditions to be established by the board.

(s) "Transaction account" means a demand deposit account, share draft account, or similar account.

(t) "Worker" means an employee or an independent contractor.

(u) "Worker participant" means a worker who is an account holder.

100102. (a) The Public Banking Option Board is hereby established in state government.

(b) The board shall consist of nine members pursuant to the following:

(1) The Treasurer or the Treasurer's designee.

(2) The Commissioner of the Department of Financial Protection and Innovation or that person's designee.

(3) An individual with banking expertise, particularly expertise in transaction accounts and debit cards, appointed by the Senate Committee on Rules.

(4) An individual with expertise in economic and racial justice and cultural competence appointed by the Speaker of the Assembly.

(5) An employee representative appointed by the Governor.

(6) A small business representative appointed by the Governor.

(7) An advocate for, or representative of, a mission-aligned banking institution, a community development financial institution, or a community development credit union appointed by the Governor.

(8) A public banking advocate appointed by the Senate Committee on Rules.

(9) A consumer representative or advocate with expertise in banking access and financial empowerment appointed by the Speaker of the Assembly.

(c) Members of the board appointed by the Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall serve at the pleasure of the appointing authority.

(d) The board shall elect a chairperson on an annual basis.

(e) In making appointments to the board, the appointing authorities shall take into consideration the cultural, ethnic, and geographical diversity of the state so that the board's composition reflects the communities of California.

(f) (1) Except as provided in paragraph (2), members of the board shall serve without compensation.

(2) Members of the board shall be reimbursed for necessary travel expenses incurred in connection with their board duties.

(g) A board member, staff of the board, or publicly employed program staff, while serving in those positions, shall not be employed by, a consultant to, a member of the board of directors of, affiliated with, or otherwise a representative of a private bank or financial services institution unless that position is an unpaid volunteer position.

(h) The board and program administrator shall have the responsibility and duty to meet the requirements of this title and all applicable state and federal laws and regulations, to serve the interests of program account holders and those seeking to access financial services and debt management tools through the program, to serve the public interest and pursue partnerships with credit unions and other local financial institutions and public banks, and to ensure the operational well-being and fiscal solvency of the program.

100104. There is hereby created the BankCal Program, to be administered by the board for the purpose of protecting consumers who lack access to traditional banking services from predatory, discriminatory, and costly alternatives, by offering access to voluntary, zero-fee, zero-penalty, federally insured transaction account and debit card services at no cost to account holders.

100106. (a) The board shall design and implement the BankCal Program. In designing and implementing the program, the board shall do all of the following:

(1) (A) Appoint an executive director, who shall not be a member of the board and who shall serve at the pleasure of the board. The board shall determine the duties of the executive director and other staff, as appropriate, and set the executive director's compensation.

(B) The board may authorize the executive director to enter into contracts on behalf of the board or conduct business necessary for the efficient operation of the board.

(2) Select a program administrator, which may consist of one or more contractors or program staff or a combination thereof, and establish the duties and functions of the program administrator, which shall be in furtherance of the program and shall include all of the following:

(A) Administer the program as a fiduciary for account holders in accordance with all applicable laws and regulations, including all regulations issued by the board.

(B) Create and manage an internet website that will serve as a primary source of information about the program, the financial services offered through the program, and the program's financial services network of participating ATMs, bank or credit union branches, and other in-network partners through which account holders can load or withdraw funds from their BankCal account using a BankCal debit card for no fee.

(C) Create and manage a secure web-based portal and mobile application through which individuals can enroll in the program and entities can become registered payees and through which account holders can access and manage their BankCal accounts, including their direct deposit, preauthorized electronic fund transfers to registered payees, and automatic disbursement rule elections.

(D) Create and manage an application programming interface (API) or web-based portal that enables employers and hiring entities to remit each worker participant's elected direct deposit payroll contribution to the worker's BankCal account in accordance with the worker's election.

(E) Facilitate and manage data exchange with the financial services network administrator, pursuant to paragraph (3), ensuring that account management elections, including direct deposit, preauthorized electronic fund transfers to registered payees, and automatic disbursement rule elections, made by account holders through the program administrator's online web portal or mobile application are communicated to and executed by the financial services network administrator.

(F) Ensure that account holders' existing accounts and account management elections, including direct deposit, preauthorized electronic fund transfers to registered payees, and automatic disbursement rule elections, are not disrupted by a change in financial services network administrator or by a change in participating financial institutions or other program vendors.

(G) Facilitate enrollment of account holders in the program through coordination with government and nonprofit partners.

(H) Facilitate and manage connectivity with other state and local government programs providing individuals with financial accounts to enable program account holders to transfer funds between their BankCal account and their other state-managed or locally managed accounts, as authorized by the board and in accordance with all applicable laws and regulations.

(I) Facilitate and manage connectivity with other state and local government agencies and entities to enable and streamline remittance of local, state, and federal benefit and public assistance payments and other disbursements to account holders entitled to those payments and who authorize those payments to be directly deposited by electronic fund transfer into their BankCal account, as authorized by the board and in accordance with all applicable laws and regulations.

(3) Select a financial services network administrator and establish the duties and functions of the financial services network administrator, which shall be in furtherance of the program and shall include all of the following:

(A) Contract with, manage, and coordinate the financial services vendors for the program, which shall provide account holders access to their BankCal account through a major card network and services provided in concert with at least one qualifying participating financial institution that meets the requirements established by the board pursuant to paragraph (4).

(B) Add additional participating financial institutions meeting the requirements established by the board, including especially qualifying credit unions and other local financial institutions and public banks, as program scope and scale permits, in accordance with the board's contractual specifications.

(C) Issue to each account holder a secure debit card, which shall utilize current security and antifraud technology consistent with industry standards, associated with the account holder's BankCal account.

(D) Build a robust and geographically expansive financial services network of participating ATMs, bank or credit union branches, and other in-network partners through which account holders can load or withdraw funds from their BankCal account using a BankCal debit card for no fee, minimize or eliminate out-of-network fees for account holders, and ensure that account holders are not charged out-of-network fees that are not reasonable and actually incurred by the program vendor.

(E) Ensure that all no-fee, no-penalty requirements of the program are met.

(F) Coordinate data exchange with the program administrator and implement all account management elections, including receipt of direct deposit payments, preauthorized electronic fund transfers to registered payees, and automatic disbursement rule elections, made by account holders through the program administrator's online web portal or mobile application.

(G) Ensure that a change in participating financial institution or other program vendor does not disrupt existing account holders' BankCal accounts or account management elections.

(4) Establish the criteria and terms and conditions for becoming a participating financial institution in the program, which shall be designed to ensure program stability, reliability, and integrity. The criteria and terms and conditions shall be designed to ensure that participating financial institutions satisfy all of the following criteria:

(A) Have an established record of ethical and responsible banking practices and adherence to all applicable local, state, and federal laws and regulations.

(B) Meet all technical requirements of the financial services network administrator.

(C) Agree to comply with all applicable laws and regulations, including all regulations issued by the board governing the program, and any contractual requirements established by the board.

(5) Ensure that the program administrator and financial services network administrator satisfactorily perform all duties and functions.

(6) Ensure that account holders' existing accounts and account management elections, including direct deposit, preauthorized electronic fund transfers to registered payees, and automatic disbursement rule elections, are not disrupted by a change in network administrator, financial services network administrator, or participating financial institutions or other program vendors.

(7) Design and establish the process by which an individual may open a BankCal account pursuant to all of the following:

(A) The process shall be designed to maximize program participation and shall facilitate the opening of a BankCal account by individuals who may not have government-issued photo identification.

(B) The board shall facilitate the opening of a BankCal account by anyone who seeks to participate in the program by taking all appropriate steps to collaborate and cooperate with other state and local government agencies and programs, including to the extent necessary to verify the individual's identity consistent with the law.

(C) The board may design and establish rules governing the enrollment and participation in the program of individuals who are under eighteen years of age consistent with all applicable laws.

(8) Design and establish the process through which an individual may access and manage their BankCal account, including, but not limited to, through a convenient and easily accessible online web portal and through a mobile application.

(9) Design and establish the mechanisms by which an account holder may deposit funds into a BankCal account pursuant to all of the following:

(A) The mechanisms shall include, but not be limited to, electronic fund transfers arranged through an employer's or hiring entity's payroll direct deposit arrangement and cash loading through participating ATMs and bank or credit union branches of designated financial institution partners to be established by the financial services network administrator. The board shall ensure that no fee is imposed on account holders for these services.

(B) The board may negotiate with the network administrator, the financial services network administrator, and other financial services partners for additional financial capabilities of a BankCal account, including, but not limited to, mobile check deposit, cash loading through participating merchants, and electronic fund transfers from linked or nonlinked accounts. The board shall seek to minimize or eliminate the fees imposed on account holders for additional services and shall ensure that a fee is not imposed on account holders for additional services that is not reasonable and actually incurred by the financial services network administrator or program vendor.

(10) Design and establish the process through which an account holder may elect to have a portion, up to the entirety, of their paycheck or earnings due for labor or services performed directly deposited by electronic fund transfer into their BankCal account utilizing an operational model that limits interaction between an employer and an employee and between a hiring entity and an independent contractor to the extent feasible.

(11) Design and establish the process through which employers and hiring entities shall be required to remit through a payroll direct deposit arrangement each worker's elected payroll contribution to the worker's BankCal account in accordance with the worker's election.

(12) Design and establish mechanisms by which account holders can withdraw funds from their BankCal account using a BankCal debit card pursuant to all of the following:

(A) The mechanisms shall include, but not be limited to, withdrawals through point-of-sale purchases using a BankCal debit card and through cash withdrawals at a robust and geographically expansive network, the scope of which the board shall seek to maximize, of participating ATMs and bank or credit union branches of designated financial institution partners to be established by the financial services network administrator. The board shall ensure that a fee is not imposed on account holders for these services.

(B) The board shall design and implement the program in such a way that swipe fees imposed on merchants associated with point-of-sale purchases using a BankCal debit card are not passed on to the account holder.

(C) The board may negotiate with the network administrator, the financial services network administrator, and other financial services partners for additional financial capabilities of a BankCal account, including, but not limited to, cash withdrawal from out-of-network ATMs and bank or credit union branches. The board shall seek to minimize or eliminate the fees imposed on account holders for additional services and shall ensure that a fee is not imposed on account holders for additional services that is not reasonable and actually incurred by the financial services network administrator or program vendor.

(13) Design and establish a process, available to all account holders for no fee, through which an account holder may arrange for payment to a registered payee using a preauthorized electronic fund transfer from a BankCal account.

(14) Design and establish the process and terms and conditions for becoming a registered payee pursuant to both of the following:

(A) Before becoming a registered payee, the payee shall be required to agree to specified terms and conditions to be established by the board in exchange for the benefits of transparency and accountability afforded by participation in an automated payment system.

(B) The board shall establish the terms and conditions to which registered payees shall agree, which may vary depending on the type of payee, and which shall be designed to incentivize account holders' preauthorized electronic fund transfers to registered payees and application of voluntary automatic disbursement rules by limiting the late payment fees and penalties that registered payees can impose on account holders who pay them using preauthorized electronic fund transfers from their BankCal account.

(15) Design and establish voluntary automatic disbursement rules to assist account holders in managing automated payments to registered payees based on the availability of funds in the account holder's account, which account holders may voluntarily elect to apply or to stop applying to their BankCal account at any time. The voluntary automatic disbursement rules shall be designed to maximize consumer protection and may include, but not be limited to, rules governing the prioritization and timing of payments, rules limiting payments to a percentage of funds available in the BankCal account, and rules limiting disbursement to designated registered payees only upon satisfaction of specified conditions of the BankCal account.

(16) Study the feasibility of, and design and implement, additional services and benefits that the board deems beneficial to account holders that maximize the purposes of the program, including, but not limited to, all of the following:

(A) Financial literacy and debt management education, resources, and training.

(B) Credit reporting services.

(C) A rent payment portal.

(D) International remittances.

(E) A consumer lending certification program and referral service subject to both of the following requirements:

(i) The board shall determine the criteria for certification of lenders of consumer credit so as to maximize consumer protection and to protect account holders from unfair and deceptive practices by lenders, including, but not limited to, practices that steer consumers into unnecessary, more costly, or higher risk products that do not match their financial needs.

(ii) Referral fees paid by certified lenders shall be deposited in the program fund as program revenue.

(17) Develop and negotiate a fair and equitable program fee and program revenue sharing structure with the program administrator and financial services network administrator in furtherance of attaining a financially self-sustaining program. The board shall annually reevaluate and, if appropriate, renegotiate a program fee and program revenue sharing agreement based on program scope and scale.

(18) Take all appropriate steps to collaborate and cooperate with the CalSavers Retirement Savings Board, the Scholarshare Investment Board, the California ABLE Act Board, and the board of any other state program establishing or administering a program providing for financial accounts for individuals in the state, to the extent necessary or desirable for the effective and efficient design, implementation, and administration of these programs and to maximize the purposes of these programs and the ability of participants in these programs to benefit therefrom.

(19) Take all appropriate steps to collaborate and cooperate with the State Department of Social Services, Office of Systems Integration, Employment Development Department, and other applicable government agencies, including, but not limited to, agencies responsible for distribution of emergency relief payments, to improve and streamline operations for the distribution of local, state, and federal benefit and public assistance payments and other disbursements by enabling account holders to authorize payments to be directly deposited by electronic fund transfer into their BankCal account, as applicable, to the extent permitted by law.

(b) The board shall consider and utilize all of the following parameters in designing the program:

(1) The board shall cause the BankCal program or arrangements established under the program to be designed, established, and operated in a manner that maximizes participation and ease of use for account holders.

(2) The board shall structure and design the BankCal program in a manner that encourages partnership rather than competition with credit unions and other local financial institutions and public banks to the extent financially and administratively feasible and appropriate.

(3) The board shall not contract for the performance of program administrator or network administrator duties with an entity that, during the preceding three years, has been found to be in violation two or more times of any applicable law or regulation governing financial institutions or consumer protection.

(4) The board shall include in the program a provider of in-home supportive services, as regulated by Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, if the board determines, and the Director of Social Services and the Director of Finance certify, in writing, all of the following:

(A) The inclusion meets all state and federal legal requirements.

(B) The appropriate employer of record has been identified for the purpose of satisfying all the program's employer requirements.

(C) The payroll deduction described in Section 12302.2 of the Welfare and Institutions Code can be implemented at reasonable costs.

(D) The inclusion does not create a financial liability for the state or employer of record.

(5) The board shall determine necessary costs associated with outreach, customer service, enforcement, staffing and consultant costs, and all other costs necessary to administer the program.

(6) The board shall consult with employer representatives and employee representatives to create an administrative structure that facilitates employee participation while addressing employer needs, including, but not limited to, clearly defining employers' duties pursuant to Section 100112.

(7) The board shall include comprehensive worker education and outreach in the program, and the board may collaborate with state and local government agencies, community-based and nonprofit organizations, foundations, vendors, and other entities deemed appropriate to develop and secure ongoing resources for education and outreach that reflect the cultures and languages of the state's diverse workforce population.

(8) The board shall include comprehensive employer education and outreach in the program developed in consultation with employer representatives and employee representatives.

100108. In addition to the powers and authority granted pursuant to Section 100106, the board shall have the powers and authority to do all of the following:

(a) Sue and be sued.

(b) Make and enter into contracts necessary for the administration of the BankCal Program and engage personnel, including consultants, actuaries, managers, counsel, and auditors as necessary for the purpose of rendering professional, managerial, and technical assistance and advice.

(c) Adopt a corporate seal and change and amend it from time to time.

(d) Accept, for deposit to the program fund, any grant, gift, legislative appropriation, or other moneys from the state, a unit of federal, state, or local government, or any other person, firm, partnership, or corporation.

(e) Make provisions for the payment of costs of administration and operation of the program.

(f) Employ staff.

(g) Retain and contract with other public agencies, local financial institutions, public banks, private financial institutions, other financial and service providers, consultants, actuaries, counsel, auditors, third-party administrators, and other professionals as necessary.

(h) Procure insurance indemnifying each member of the board from personal loss or liability resulting from a member's action or inaction as a member of the board.

(i) Collaborate and cooperate with local financial institutions, public banks, private financial institutions, service providers, and business, financial, trade, membership, and other organizations to the extent necessary or desirable for the effective and efficient design, implementation, and administration of the program and to maximize outreach to potential account holders.

(j) Collaborate with, and evaluate the role of, licensed agents and financial advisors in assisting and providing guidance for eligible workers.

(k) Cause expenses incurred to initiate, implement, maintain, and administer the program to be paid from the program fund or arrangements established under the program.

(l) Facilitate compliance by the program or arrangements established under the program with all applicable requirements for the program under federal and state law.

(m) Exercise any and all other powers as appropriate for the effectuation of the purposes, objectives, and provisions of this title.

100110. (a) The BankCal Fund is hereby created in the State Treasury.

(b) The moneys in the BankCal Fund shall be available, upon appropriation, for purposes of this title.

(c) Funding for startup and administrative costs may be appropriated from the General Fund in the annual Budget Act for the first six years of the program or until program revenue is sufficient to sustain program administrative costs, whichever occurs first. Necessary administrative costs in future years shall be paid out of the program fund.

(d) The board may seek and may accept voluntary contributions, in cash or in kind, from private donors solely for the purpose of paying for the costs of implementing the program under this title. Voluntary contributions shall be deposited into the BankCal Fund.

100112. (a) Employers and hiring entities shall have and maintain a payroll direct deposit arrangement to allow worker participation in the program.

(b) All wages and other payments due a worker that the worker has authorized to be directly deposited by electronic fund transfer into the worker's BankCal account shall be deposited accordingly.

(c) Employers and hiring entities shall, consistent with all applicable regulations issued by the board, do all of the following:

(1) Coordinate their payroll process with the program administrator's application program interface to facilitate accurate and seamless payment by direct deposit in accordance with the authorization of each worker participant.

(2) Cooperate with the program administrator in providing all requested information available to the employer or hiring entity necessary for the opening and administration of a worker's BankCal account.

(3) Upon request of the administrator, provide additional forms or notifications to a worker.

(d) Employers and hiring entities shall not require, endorse, encourage, prohibit, restrict, or discourage worker participation in the program.

(e) Employers and hiring entities shall not discharge, discipline, threaten to discharge or discipline, or in any other manner retaliate or take an adverse action against a worker or applicant because of the individual's participation or manner of participation in the BankCal program.

(f) A person that is not subject to the requirements of this title may voluntarily maintain a payroll direct deposit arrangement to allow worker participation in the program.

100114. (a) Employers and hiring entities shall not be held liable for a worker's decision to participate in, or opt out of, the program or for the financial activities of workers whose assets are deposited in the program.

(b) Employers and hiring entities shall not have civil liability, and a cause of action shall not arise against an employer or hiring entity, for acting pursuant to the regulations prescribed by the board defining the roles and responsibilities of employers and hiring entities in providing a payroll direct deposit arrangement to allow worker participation in the program.

100116. (a) The board shall enforce the provisions of this title with respect to employers and hiring entities in coordination with the Labor Commissioner pursuant to Section 90.4 of the Labor Code.

(b) The board shall refer to the Labor Commissioner a complaint it makes or receives that an employer or hiring entity has failed to allow its workers to participate in the BankCal Program pursuant to this title or otherwise violated its duties under Section 100112.

(c) The board shall reimburse the Labor Commissioner for the costs incurred by the Labor Commissioner in enforcing this title.

100118. This title does not preclude or reduce a judgment debtor's right to an exemption from enforcement of a money judgment provided by state or federal law. Moneys exempt from enforcement of a money judgment remain exempt if they have been deposited into the individual's BankCal account.

100120. (a) Notwithstanding Section 10231.5, the board shall submit an annual report by August 1 to the Governor, the Controller, the California State Auditor, and the Legislature, pursuant to Section 9795.

(b) The report required by this section shall, in a deidentified and aggregated form, include, but not be limited to, all of the following information:

(1) The number of accounts opened and closed in the program during the reporting period, by city and county.

(2) The number of employers and hiring entities with workers who received payment to their BankCal account through the employer or hiring entity's payroll direct deposit arrangement during the reporting period, by industry, city, and county.

(3) The number of registered payees who received payment from a BankCal account during the reporting period, by payee category, city, and county.

(4) Aggregate account holder demographics, including, but not limited to, gender, age, race, ethnicity, primary language, annual income, and job industry.

(5) Any other information the board determines to be relevant to an assessment of the program.

100122. (a) The board shall aggressively market the program to the residents of the state to the extent funds are available to do so.

(b) The board shall include in its marketing efforts information designed to include financial literacy education and resources and to educate citizens about the benefits of financial management and planning.

(c) The board shall also develop a mechanism to keep account holders motivated about their current and future financial health.

100124. (a) The board shall adopt regulations as it deems necessary to implement and effectuate the purposes of this title.

(b) The board may adopt regulations to implement this title as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, notwithstanding subdivision (e) of Section 11346.1 of the Government Code. Any regulation adopted pursuant to this section shall not remain in effect more than 180 days unless the board complies with 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), as required by subdivision (e) of Section 11346.1 of the Government Code.

100126. (a) A public bank may participate in the BankCal program as a participating financial institution.

(b) Financial services provided by a public bank in its capacity as a participating financial institution in the BankCal program does not constitute retail activities within the meaning of Section 57604.

(c) This section is declaratory of existing law and shall not be construed or interpreted as creating new law or as modifying or changing existing law.

100128. This title does not authorize the state to loan public money.

100130. This title shall be construed liberally in order to effectuate its legislative intent. The purposes of this title and all of its provisions with respect to the powers granted shall be broadly interpreted to effectuate that intent and purposes and not as to any limitation of powers.

SEC. 5. *Section 90.4 is added to the Labor Code, to read:*

90.4. (a) For purposes of this section:

(1) "BankCal Program" has the same meaning as defined in Section 100100 of the Government Code.

(2) "Employer" has the same meaning as defined in Section 100100 of the Government Code.

(3) "Hiring entity" has the same meaning as defined in Section 100100 of the Government Code.

(4) "Public Banking Option Board" means the California Public Banking Option Board, as defined in Section 100100 of the Government Code.

(5) "Worker" has the same meaning as defined in Section 100100 of the Government Code.

(b) The Labor Commissioner shall have the power and duties necessary to administer the enforcement of employer and hiring entity compliance with Title 21.1 (commencing with Section 100100) of the Government Code.

(c) (1) Upon receipt of a complaint or referral from the Public Banking Option Board, the Labor Commissioner shall investigate and determine whether there is reasonable cause to believe that an employer or hiring entity has failed to allow its workers to participate in the BankCal Program or otherwise violated Section 100112 of the Government Code.

(2) Upon a finding of reasonable cause pursuant to paragraph (1), the Labor Commissioner shall serve a notice on the employer or hiring entity of its noncompliance.

(3) (A) An employer or hiring entity that, without good cause, fails to allow, within 90 days of receiving the notice required by paragraph (2), its workers to participate in the BankCal Program pursuant to Section 100112 of the Government Code shall be liable for a civil penalty of two hundred fifty dollars (\$250) per worker.

(B) An employer or hiring entity found to be in noncompliance on or after 180 days from receiving the notice required by paragraph (2) shall be liable for an additional civil penalty of five hundred dollars (\$500) per worker.

SEC. 6. *Section 12302.2 of the Welfare and Institutions Code is amended to read:*

*12302.2. (a) (1) If the state or a county makes or provides for direct payment to a provider chosen by a recipient or to the recipient for the purchase of in-home supportive services, the department shall perform or ensure the performance of all rights, duties, and obligations of the recipient relating to those services as required for purposes of *payroll direct deposit arrangements offered pursuant to the BankCal Program (Title 21.1 (commencing with Section 100100) of the Government Code)*, unemployment compensation, unemployment compensation disability benefits, workers' compensation, retirement savings accounts, including payroll deduction IRA arrangements offered pursuant to the CalSavers Retirement Savings Program (Title 21 (commencing with Section 100000) of the Government Code), federal and state income tax, and federal old-age, survivors, and disability insurance benefits. Those rights, duties, and obligations include, but are not limited to, registration and obtaining employer account numbers, providing information, notices, and reports, making applications and returns, and withholding in trust from the payments made to or on behalf of a recipient amounts to be withheld from the wages of the provider by the recipient as an employer, including the sales tax extended to support services by Article 4 (commencing with Section 6150) of Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation Code, and transmitting those amounts along with amounts required for all contributions,*

premiums, and taxes payable by the recipient as the employer to the appropriate person or state or federal agency. The department may ensure the performance of any or all of these rights, duties, and obligations by contract with any person, or any public or private agency.

(2) Contributions, premiums, and taxes shall be paid or transmitted on the recipient's behalf as the employer for any period commencing on or after January 1, 1978, except that contributions, premiums, and taxes for federal and state income taxes and federal old-age, survivors, and disability insurance contributions shall be paid or transmitted pursuant to this section commencing with the first full month that begins 90 days after the effective date of this section.

(3) Contributions, premiums, and taxes paid or transmitted on the recipient's behalf for unemployment compensation, workers' compensation, and the employer's share of federal old-age, survivors, and disability insurance benefits shall be payable in addition to the maximum monthly amount established pursuant to Section 12303.5 or subdivision (a) of Section 12304 or other amount payable to or on behalf of a recipient. Contributions, premiums, or taxes resulting from liability incurred by the recipient as employer for unemployment compensation, workers' compensation, and federal old-age, survivors, and disability insurance benefits with respect to any period commencing on or after January 1, 1978, and ending on or before the effective date of this section shall also be payable in addition to the maximum monthly amount established pursuant to Section 12303.5 or subdivision (a) of Section 12304 or other amount payable to or on behalf of the recipient. Nothing in this section shall be construed to permit any interference with the recipient's right to select the provider of services or to authorize a charge for administrative costs against any amount payable to or on behalf of a recipient.

(b) If the state makes or provides for direct payment to a provider chosen by a recipient, the Controller shall make any deductions from the wages of in-home supportive services personnel that are authorized by Sections 1152 and 1153 of the Government Code, as limited by Section 3515.6 of the Government Code, and for the sales tax extended to support services by Article 4 (commencing with Section 6150) of Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation Code.

(c) Funding for the costs of administering this section and for contributions, premiums, and taxes paid or transmitted on the recipient's behalf as an employer pursuant to this section shall qualify, where possible, for the maximum federal reimbursement. To the extent that federal funds are inadequate, notwithstanding Section 12306, the state shall provide funding for the purposes of this section.

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

~~SECTION 1. Section 16500 of the Government Code is amended to read:~~

~~16500. As used in this chapter, "eligible bank" means a state or national bank located in this state, selected by the Treasurer for the safekeeping of money belonging to, or in the custody of, the state, that has received an overall rating of not less than "satisfactory" in its most recent evaluation by the appropriate federal financial supervisory agency of the bank's record of meeting the credit needs of the state's communities, including low- and moderate-income neighborhoods, pursuant to Section 2906 of Title 12 of the United States Code. An eligible bank is eligible to receive deposits only to the extent that it furnishes the security required by this chapter.~~