



Office of the Mayor

CONSENT CALENDAR

May 25, 2021

To: Honorable Members of the City Council

From: Mayor Jesse Arreguin (Author), Councilmember Bartlett (Co-Sponsor),  
Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor)

Subject: Support of AB 1177 – California Public Banking Options Act

RECOMMENDATION

Adopt a Resolution in support of Assembly Bill 1177 and send a copy of the Resolution to Governor Newsom, Senator Skinner and Assemblymember Wicks.

BACKGROUND

A 2019 survey by the Federal Deposit Insurance Corp. found that 15% of Black households and 13% of Latino households in California lacked bank accounts, compared with less than 1.5% of white and Asian households. The survey showed similar disparities nationwide.<sup>1</sup> These households pay proportionately more to access the money that they earn, lack safe secure means to save, and have fewer opportunities to build credit. Moreover, unbanked and underbanked Californians lack access to basic financial services many take for granted, such as direct deposit of paychecks to automatic bill pay.

The California Banking Option Act, AB1177, - (Santiago, Carrillo, Chiu, Garcia, Kalra, Lee), or BankCal, provides all Californians access to zero-fee, zero-penalty financial services. BankCal creates a stable, affordable platform for basic banking that would eliminate the need for costly and exploitative alternatives, such as check cashing and pre-paid debit cards, in addition to expanding access to credit building tools for communities that have been historically shut out from basic financial services. All Californians would be eligible to opt-in to BankCal and participation is voluntary.

BankCal account holders could sign up for debit cards that would be accepted at designated banking partner ATMs. Account holders could authorize their employers to directly deposit their pay into their BankCal accounts or use the account to receive public benefits such as federal and state stimulus funds. A Board made up of experts in banking and financial inclusion oversees the administration of the BankCal platform, ensuring that the program and partner financial institutions are upholding BankCal's mission to provide tools for financial stability to California's most vulnerable residents.

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<sup>1</sup>[https://economicinclusion.gov/surveys/2019household/documents/yoy-analysis.html?where=State\\_Unbanked\\_California\\_2019\\_YOY\\_Analysis#](https://economicinclusion.gov/surveys/2019household/documents/yoy-analysis.html?where=State_Unbanked_California_2019_YOY_Analysis#)

Support of AB 1177 – California Public Banking Options Act  
CONSENT CALENDAR – May 25, 2021

FINANCIAL IMPLICATIONS

None

CONTACT PERSON

Mayor Jesse Arreguín            510-981-7100

Attachments:

1. Resolution
2. Text of AB 1177

RESOLUTION NO. ##,###-N.S.

IN SUPPORT OF AB 1177

WHEREAS nearly one (1) in four (4) Californians are unbanked, meaning they lack a bank account altogether, or are underbanked, meaning they have a bank account but still largely rely on alternative financial services such as payday lenders, prepaid debit cards, and pawn shops; and

WHEREAS unbanked or underbanked households pay proportionally more for their financial services, lack savings accounts, have fewer opportunities to build credit, and face increased rates of loan rejection; and

WHEREAS limited access to financial services is a problem that disproportionately impacts low-income communities and communities of color, with nearly half of Black and Latino California households being unbanked; and

WHEREAS workers who make just under \$15 an hour make up 80.7 percent of the unbanked persons in our state; and

WHEREAS BankCal builds on the success of California's other financial programs, CalSavers and CalKids, and would allow all Californians, no matter how much money they make or where they live, to create a BankCal account, use a BankCal debit card, access a vast network of ATMs, deposit funds, automate bill pay, and set up direct deposit with no fees or penalties; and

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby supports AB 1177.

BE IT FURTHER RESOLVED that copies of the Resolution be sent to Assemblymembers David Chiu and Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.

AMENDED IN ASSEMBLY APRIL 21, 2021

AMENDED IN ASSEMBLY MARCH 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1177**

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**Introduced by Assembly Members Santiago, Carrillo, Chiu,  
Eduardo Garcia, Gipson, Lorena Gonzalez, Kalra, Lee, Ting,  
and Wicks**

**(Coauthors: Assembly Members Bonta, Friedman, Jones-Sawyer,  
and Luz Rivas)**

(Coauthors: Senators Durazo, Gonzalez, Hueso, and Wiener)

February 18, 2021

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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. 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~~: *accountholders*. 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~~: *accountholders*.

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~~ *that enables voluntary* 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.

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

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

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

10 (b) Access to basic financial services, including demand deposit  
11 (checking) and savings accounts, is a critical component of  
12 financial stability. Yet one in four California households, and  
13 nearly one in two Black and Hispanic California households, is  
14 currently unbanked or underbanked. These households either lack  
15 a bank account altogether or have a bank account but still largely  
16 rely on alternative financial services, including nonbank check  
17 cashers, payday lenders, prepaid debit cards, and pawn shops,  
18 which are services that are often predatory, discriminatory, and  
19 costly, leading to compounding fees and debts.

20 (c) Unbanked and underbanked households pay proportionally  
21 more for their financial services, lack secure means of saving, have  
22 fewer opportunities to build credit, and are rejected for loans at  
23 far higher rates. Basic financial transactions, including the payment  
24 of rent, utilities, and other recurring bills or charitable  
25 contributions, are a particularly formidable challenge for

1 households lacking access to important tools, including automated  
2 bill pay, or whose monthly income fluctuates too much to make  
3 automated processes viable. Because they have fewer options when  
4 their money runs short, unbanked households face a far more  
5 destructive cycle of punitive action when they default on their  
6 recurring bills, which leads to compounding interest and further  
7 debt. For all these reasons, exclusion from traditional financial  
8 services significantly increases the risk of poverty and  
9 homelessness and places an unnecessary burden on the entire  
10 economy.

11 (d) Limited access to *affordable* financial services is a problem  
12 that disproportionately impacts low-income communities and  
13 communities of color. *In 2017*, Californians earning less than \$15  
14 per hour ~~make~~ *made* up 80.7 percent of the unbanked in the state,  
15 and Black and Hispanic Californians ~~make~~ *made* up ~~78.4~~ 78.3  
16 percent. Nearly half, 45.9 percent, of all Black-identifying  
17 households in California and 41.1 percent of all  
18 Hispanic-identifying households ~~are~~ *were* unbanked or  
19 underbanked *in 2017* compared to 15.5 percent of white-identifying  
20 households. Forty-four percent of disabled Californians ~~are~~ *in 2017*  
21 *were* also unbanked or underbanked.

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

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

30 1947.3. (a) (1) Except as provided in paragraph (2), a landlord  
31 or a landlord's agent shall allow a tenant to pay rent and deposit  
32 of security by at least one form of payment that is neither cash nor  
33 electronic funds transfer.

34 (2) Except as provided in paragraph (5), a landlord or a  
35 landlord's agent may demand or require cash as the exclusive form  
36 of payment of rent or deposit of security if the tenant has previously  
37 attempted to pay the landlord or landlord's agent with a check  
38 drawn on insufficient funds or the tenant has instructed the drawee  
39 to stop payment on a check, draft, or order for the payment of  
40 money. The landlord may demand or require cash as the exclusive

1 form of payment only for a period not exceeding three months  
 2 following an attempt to pay with a check on insufficient funds or  
 3 following a tenant's instruction to stop payment. If the landlord  
 4 chooses to demand or require cash payment under these  
 5 circumstances, the landlord shall give the tenant a written notice  
 6 stating that the payment instrument was dishonored and informing  
 7 the tenant that the tenant shall pay in cash for a period determined  
 8 by the landlord, not to exceed three months, and attach a copy of  
 9 the dishonored instrument to the notice. The notice shall comply  
 10 with Section 827 if demanding or requiring payment in cash  
 11 constitutes a change in the terms of the lease.

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

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

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

25 (C) The landlord or landlord's agent may, but is not required  
 26 to, provide a form acknowledgment to be used by third parties, as  
 27 provided for in subparagraph (A), provided however that a landlord  
 28 shall accept as sufficient for compliance with subparagraph (A)  
 29 an acknowledgment in substantially the following form:  
 30

31 I, [insert name of third party], state as follows:  
 32 I am not currently a tenant of the premises located at [insert  
 33 address of premises].

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

36  
 37  
 38 \_\_\_\_\_ (signature of third party)                      \_\_\_\_\_ (date)  
 39  
 40



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

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

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

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

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

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

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

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

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

5

6 TITLE 21.1. CALIFORNIA PUBLIC BANKING OPTION

7

ACT

8

9 100100. For purposes of this title:

10 (a) ~~“Account holder”~~ “*Accountholder*” means an individual  
11 who has a BankCal account.

12 (b) “BankCal account” means a federally insured transaction  
13 account held ~~within~~ *as part of* the program.

14 (c) “BankCal Program” or “program” means the program  
15 established pursuant to this title through which an individual may  
16 open a no-fee, no-penalty transaction account with an associated  
17 debit card.

18 (d) “Board” means the California Public Banking Option Board  
19 established pursuant to Section 100102.

20 (e) “Electronic fund transfer” has the same meaning as defined  
21 in Section 1693a of Title 15 of the United States Code.

22 (f) (1) “Employee” means an individual who is employed by  
23 an employer.

24 (2) “Employee” does not include an employee covered under  
25 the federal Railway Labor Act (45 U.S.C. Sec. 151) or an employee  
26 engaged in interstate commerce so as not to be subject to the  
27 legislative powers of the state, except insofar as application of this  
28 title is authorized under the United States Constitution or laws of  
29 the United States.

30 (g) (1) “Employer” means a person engaged in a business,  
31 industry, profession, trade, or other enterprise in the state, whether  
32 or not for profit, excluding the federal government, that has at least  
33 five employees.

34 (2) Upon a positive determination pursuant to paragraph (4) of  
35 subdivision (b) of Section 100106, “employer” includes an  
36 employer of a provider of in-home supportive services regulated  
37 by Article 7 (commencing with Section 12300) of Chapter 3 of  
38 Part 3 of Division 9 of the Welfare and Institutions Code.

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1 (h) "Federally insured" means insured by the Federal Deposit  
 2 Insurance Corporation (FDIC) or the National Credit Union  
 3 Administration (NCUA).

4 (i) "Hiring entity" means a person engaged in a business,  
 5 industry, profession, trade, or other enterprise in the state, whether  
 6 or not for profit, excluding the federal government, that has  
 7 contracted with at least five independent contractors to perform  
 8 the same or similar labor or service.

9 (j) "Independent contractor" means an individual who renders  
 10 labor or service to a hiring entity for a specified recompense for a  
 11 specified result who is not an employee of that hiring entity.

12 (k) "*In-network partner*" means a participating retail or  
 13 financial institution offering an ATM, bank, or credit union branch  
 14 through which accountholders can load or withdraw funds from  
 15 their BankCal account using a BankCal debit card for no fee.

16 ~~(k)~~

17 (l) "Local financial institution" has the same meaning as defined  
 18 in Section 57600.

19 ~~(l)~~

20 (m) "Participating depository financial institution" means a  
 21 qualifying bank, credit union, or other financial institution, as  
 22 determined by the board pursuant to paragraph (4) of subdivision  
 23 (a) of Section 100106, participating in the BankCal program by  
 24 providing BankCal accounts to ~~account holders~~ *accountholders*  
 25 in concert with the financial services network administrator, as  
 26 described in *subparagraph (A) of paragraph (3) of subdivision (a)*  
 27 of Section 100106.

28 ~~(m)~~

29 (n) "Payroll direct deposit arrangement" means an arrangement  
 30 by which a worker may authorize payment of wages or other money  
 31 due the worker by an employer or hiring entity, or any portion  
 32 thereof, to be directly deposited by electronic fund transfer into  
 33 the worker's ~~account at the financial institution of the worker's~~  
 34 ~~choosing~~ *BankCal account*.

35 ~~(n)~~

36 (o) "Person" means an individual, sole proprietorship,  
 37 partnership, joint venture, association, trust, estate, business trust,  
 38 corporation, joint stock company, limited liability company,  
 39 unincorporated association, state or local government or agency,

1 instrumentality, or political subdivision thereof, or any similar  
2 entity or organization.

3 ~~(o)~~

4 (p) "Preauthorized electronic fund transfer" means an electronic  
5 fund transfer authorized in advance to recur at substantially regular  
6 intervals.

7 ~~(p)~~

8 (q) "Program fund" means the BankCal Fund established  
9 pursuant to Section 100110.

10 ~~(q)~~

11 (r) "Public bank" has the same meaning as defined in Section  
12 57600.

13 ~~(r)~~

14 (s) "Registered payee" means a person who has registered with  
15 the program to accept receipt of preauthorized electronic fund  
16 transfers from ~~account holders~~ *accountholders* by agreeing to  
17 specific conditions to be established by the board.

18 ~~(s)~~

19 (t) "Transaction account" means a demand deposit account,  
20 share draft account, or similar account.

21 ~~(t)~~

22 (u) "Worker" means an employee or an independent contractor.

23 ~~(u)~~

24 (v) "Worker participant" means a worker who is an account  
25 holder.

26 100102. (a) The Public Banking Option Board is hereby  
27 established in state government.

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

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

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

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

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

38 (5) An employee representative appointed by the Governor.

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

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

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

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

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

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

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

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

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

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

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

37 100104. There is hereby created the BankCal Program, to be  
38 administered by the board for the purpose of protecting consumers  
39 who lack access to traditional banking services from predatory,  
40 discriminatory, and costly alternatives, by offering access to

1 voluntary, zero-fee, zero-penalty, federally insured transaction  
2 account and debit card services at no cost to ~~account holders.~~  
3 *accountholders.*

4 100106. (a) The board shall design and implement the BankCal  
5 Program. In designing and implementing the program, the board  
6 shall do all of the following:

7 (1) (A) Appoint an executive director, who shall not be a  
8 member of the board and who shall serve at the pleasure of the  
9 board. The board shall determine the duties of the executive  
10 director ~~and other staff, as appropriate, and, as appropriate, the~~  
11 *duties of other staff, who shall be employees of the Treasurer,* and  
12 set the executive director's compensation.

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

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

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

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

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

38 (D) Create and manage an application programming interface  
39 (API) or web-based portal that enables employers and hiring  
40 entities to remit each worker participant's elected direct deposit

1 payroll contribution to the worker's BankCal account in accordance  
2 with the worker's election.

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

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

18 (G) Facilitate enrollment of ~~account holders~~ *accountholders* in  
19 the program through coordination with government and nonprofit  
20 partners.

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

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

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

39 (A) Contract with, manage, and coordinate the financial services  
40 vendors for the program, which shall provide ~~account holders~~

1 *accontholders* access to their BankCal account through a major  
2 card network and services provided in concert with at least one  
3 qualifying participating *depository* financial institution that meets  
4 the requirements established by the board pursuant to paragraph  
5 (4).

6 (B) Add additional participating *depository* financial institutions  
7 meeting the requirements established by the board, including  
8 especially qualifying credit unions and other local financial  
9 institutions and public banks, as program scope and scale permits,  
10 in accordance with the board's ~~contractual specifications~~  
11 *specifications as set forth in the contract between the board and*  
12 *the financial services network administrator*.

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

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

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

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

34 (G) Ensure that a change in participating *depository* financial  
35 institution or other program vendor does not disrupt existing  
36 ~~account holders'~~ *accontholders'* BankCal accounts or account  
37 management elections.

38 (4) Establish the criteria and terms and conditions for becoming  
39 a participating *depository* financial institution in the program,  
40 which shall be designed to ensure program stability, reliability,



1 and integrity. The criteria and terms and conditions shall be  
2 designed to ensure that participating *depository* financial  
3 institutions satisfy all of the following criteria:

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

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

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

13 (5) Ensure that the program administrator and financial services  
14 network administrator satisfactorily perform all duties and  
15 ~~functions~~. *functions and do not market commercial products to*  
16 *BankCal accountholders absent the board's prior express, written*  
17 *authorization.*

18 (6) Ensure that ~~account holders~~<sup>2</sup> *accountholders'* existing  
19 accounts and account management elections, including direct  
20 deposit, preauthorized electronic fund transfers to registered payees,  
21 and automatic disbursement rule elections, are not disrupted by a  
22 change in ~~network program~~ administrator, financial services  
23 network administrator, or participating *depository* financial  
24 institutions or other program vendors.

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

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

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

37 (C) The board may design and establish rules governing the  
38 enrollment and participation in the program of individuals who  
39 are under ~~eighteen~~ 18 years of ~~age~~ *age, including rules governing*  
40 *the opening of a BankCal account by a person who is at least 14*

1 *years of age without a cosignor or guarantor on the account,*  
2 *consistent with all applicable laws.*

3 *(D) The board shall design and establish rules governing the*  
4 *enrollment and participation in the program of individuals who*  
5 *do not have permanent housing.*

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

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

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

21 (B) ~~The board~~ *executive director, at the board's direction,* may  
22 negotiate with the ~~network program~~ administrator, the financial  
23 services network administrator, and other financial services partners  
24 for additional financial capabilities of a BankCal ~~account,~~ *account*  
25 *relating to deposit of funds,* including, but not limited to, mobile  
26 check deposit, cash loading through ~~participating merchants,~~  
27 *out-of-network partners,* and electronic fund transfers from linked  
28 or nonlinked accounts. The board shall seek to minimize or  
29 eliminate the fees imposed on ~~account holders~~ *acountholders* for  
30 additional services and shall ensure that a fee is not imposed on  
31 ~~account holders~~ *acountholders* for additional services that is not  
32 reasonable and actually incurred by the financial services network  
33 administrator or program vendor.

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

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

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

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

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

23 (C) The ~~board~~ *executive director, at the board's direction*, may  
24 negotiate with the ~~network~~ *program* administrator, the financial  
25 services network administrator, and other financial services partners  
26 for additional financial capabilities of a BankCal ~~account~~, *account*  
27 *relating to withdrawal of funds*, including, but not limited to, cash  
28 withdrawal from out-of-network ATMs and bank or credit union  
29 branches. The board shall seek to minimize or eliminate the fees  
30 imposed on ~~account holders~~ *accontholders* for additional services  
31 and shall ensure that a fee is not imposed on ~~account holders~~  
32 *accontholders* for additional services that is not reasonable and  
33 actually incurred by the financial services network administrator  
34 or program vendor.

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

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

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

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

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

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

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

33 (B) Credit reporting services.

34 (C) A rent payment portal.

35 (D) International remittances.

36 (E) A consumer lending certification program and referral  
37 service subject to ~~both~~ *all* of the following requirements:

38 (i) The board shall determine the criteria for certification of  
39 lenders of consumer credit so as to maximize consumer protection  
40 and to protect ~~account holders~~ *accountholders* from unfair and

1 deceptive practices by lenders, including, but not limited to,  
2 practices that steer consumers into unnecessary, more costly, or  
3 higher risk products that do not match their financial needs.

4 *(ii) The board shall determine the criteria for the certification*  
5 *of lenders of consumer credit so as to provide consumers lending*  
6 *options that include credit unions and other local financial*  
7 *institutions.*

8 *(iii) The board's certification criteria shall also take into*  
9 *account the lender's status as an in-network partner.*

10 ~~(ii)~~

11 *(iv) Referral fees paid by certified lenders shall be deposited in*  
12 *the program fund as program revenue.*

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

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

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

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

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

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

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

17 (B) *In selecting a financial services network administrator, the*  
18 *board shall give due consideration to a bidder's proposal for*  
19 *expanding program enrollment and sustaining the program at a*  
20 *scope and scale sufficient to achieve a financially self-sustaining*  
21 *program that is cost neutral for the state.*

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

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

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

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

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

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

39 (6) The board shall consult with employer representatives and  
40 employee representatives to create an administrative structure that

1 facilitates employee participation while addressing employer needs,  
2 including, but not limited to, clearly defining employers' duties  
3 pursuant to Section 100112.

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

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

14 (9) *The board shall structure the program so as to ensure the*  
15 *state is prohibited from incurring liabilities associated with*  
16 *administering the program and that the state has no liability for*  
17 *the program or for the actions of any program contractor or*  
18 *subcontractor.*

19 100108. In addition to the powers and authority granted  
20 pursuant to Section 100106, the board shall have the powers and  
21 authority to do all of the following:

22 (a) Sue and be sued.

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

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

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

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

36 (f) Employ staff.

37 (g) Retain and contract with other public agencies, local financial  
38 institutions, public banks, private financial institutions, other  
39 financial and service providers, consultants, actuaries, counsel,

1 auditors, third-party administrators, and other professionals as  
2 necessary.

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

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

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

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

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

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

23 100110. (a) The BankCal Fund is hereby created in the State  
24 Treasury.

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

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

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

37 100112. (a) Employers and hiring entities shall have and  
38 maintain a payroll direct deposit arrangement ~~to allow~~ *that enables*  
39 *voluntary* worker participation in the program.



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

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

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

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

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

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

19 ~~(e)~~

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

25 ~~(f)~~

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

29 100114. (a) Employers and hiring entities shall not be held  
30 liable for a worker's decision to participate in, or opt out of, the  
31 program or for the financial activities of workers whose assets are  
32 deposited in the program.

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

39 100116. (a) The board shall enforce the provisions of this title  
40 with respect to employers and hiring entities in coordination with

1 the Labor Commissioner pursuant to Section 90.4 of the Labor  
2 Code.

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

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

9 100118. This title does not preclude or reduce a judgment  
10 debtor's right to an exemption from enforcement of a money  
11 judgment provided by state or federal law. Moneys exempt from  
12 enforcement of a money judgment remain exempt if they have  
13 been deposited into the individual's BankCal account.

14 100120. (a) Notwithstanding Section 10231.5, the board shall  
15 submit an annual report by August 1 to the Governor, the  
16 Controller, the California State Auditor, and the Legislature,  
17 pursuant to Section 9795.

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

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

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

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

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

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

36 100122. (a) The board shall ~~aggressively~~ market the program  
37 to the residents of the state to the extent funds are available to do  
38 so.

39 (b) The board shall include in its marketing efforts information  
40 designed to include financial literacy education and resources and

1 to educate citizens about the benefits of financial management and  
2 planning.

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

5 100124. (a) The board shall adopt regulations as it deems  
6 necessary to implement and effectuate the purposes of this title.

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

21 100126. (a) A public bank may participate in the BankCal  
22 program as a participating *depository* financial institution.

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

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

30 100128. This title does not authorize the state to loan public  
31 money.

32 100130. This title shall be construed liberally in order to  
33 effectuate its legislative intent. The purposes of this title and all  
34 of its provisions with respect to the powers granted shall be broadly  
35 interpreted to effectuate that intent and purposes and not as to any  
36 limitation of powers.

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

38 90.4. (a) For purposes of this section:

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

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

3 (3) "Hiring entity" has the same meaning as defined in Section  
4 100100 of the Government Code.

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

8 (5) "Worker" has the same meaning as defined in Section  
9 100100 of the Government Code.

10 (b) The Labor Commissioner shall have the power and duties  
11 necessary to administer the enforcement of employer and hiring  
12 entity compliance with Title 21.1 (commencing with Section  
13 100100) of the Government Code.

14 (c) (1) Upon receipt of a complaint or referral from the Public  
15 Banking Option Board, the Labor Commissioner shall investigate  
16 and determine whether there is reasonable cause to believe that an  
17 employer or hiring entity has failed to allow its workers to  
18 participate in the BankCal Program or otherwise violated Section  
19 100112 of the Government Code.

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

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

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

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

36 12302.2. (a) (1) If the state or a county makes or provides for  
37 direct payment to a provider chosen by a recipient or to the  
38 recipient for the purchase of in-home supportive services, the  
39 department shall perform or ensure the performance of all rights,  
40 duties, and obligations of the recipient relating to those services

1 as required for purposes of payroll direct deposit arrangements  
2 offered pursuant to the BankCal Program (Title 21.1 (commencing  
3 with Section 100100) of the Government Code), unemployment  
4 compensation, unemployment compensation disability benefits,  
5 workers' compensation, retirement savings accounts, including  
6 payroll deduction IRA arrangements offered pursuant to the  
7 CalSavers Retirement Savings Program (Title 21 (commencing  
8 with Section 100000) of the Government Code), federal and state  
9 income tax, and federal old-age, survivors, and disability insurance  
10 benefits. Those rights, duties, and obligations include, but are not  
11 limited to, registration and obtaining employer account numbers,  
12 providing information, notices, and reports, making applications  
13 and returns, and withholding in trust from the payments made to  
14 or on behalf of a recipient amounts to be withheld from the wages  
15 of the provider by the recipient as an employer, including the sales  
16 tax extended to support services by Article 4 (commencing with  
17 Section 6150) of Chapter 2 of Part 1 of Division 2 of the Revenue  
18 and Taxation Code, and transmitting those amounts along with  
19 amounts required for all contributions, premiums, and taxes payable  
20 by the recipient as the employer to the appropriate person or state  
21 or federal agency. The department may ensure the performance  
22 of any or all of these rights, duties, and obligations by contract  
23 with any person, or any public or private agency.

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

32 (3) Contributions, premiums, and taxes paid or transmitted on  
33 the recipient's behalf for unemployment compensation, workers'  
34 compensation, and the employer's share of federal old-age,  
35 survivors, and disability insurance benefits shall be payable in  
36 addition to the maximum monthly amount established pursuant to  
37 Section 12303.5 or subdivision (a) of Section 12304 or other  
38 amount payable to or on behalf of a recipient. Contributions,  
39 premiums, or taxes resulting from liability incurred by the recipient  
40 as employer for unemployment compensation, workers'

1 compensation, and federal old-age, survivors, and disability  
2 insurance benefits with respect to any period commencing on or  
3 after January 1, 1978, and ending on or before the effective date  
4 of this section shall also be payable in addition to the maximum  
5 monthly amount established pursuant to Section 12303.5 or  
6 subdivision (a) of Section 12304 or other amount payable to or on  
7 behalf of the recipient. Nothing in this section shall be construed  
8 to permit any interference with the recipient's right to select the  
9 provider of services or to authorize a charge for administrative  
10 costs against any amount payable to or on behalf of a recipient.

11 (b) If the state makes or provides for direct payment to a  
12 provider chosen by a recipient, the Controller shall make any  
13 deductions from the wages of in-home supportive services  
14 personnel that are authorized by Sections 1152 and 1153 of the  
15 Government Code, as limited by Section 3515.6 of the Government  
16 Code, and for the sales tax extended to support services by Article  
17 4 (commencing with Section 6150) of Chapter 2 of Part 1 of  
18 Division 2 of the Revenue and Taxation Code.

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

26 SEC. 7. If the Commission on State Mandates determines that  
27 this act contains costs mandated by the state, reimbursement to  
28 local agencies and school districts for those costs shall be made  
29 pursuant to Part 7 (commencing with Section 17500) of Division  
30 4 of Title 2 of the Government Code.

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