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CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1177

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

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

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

February 18, 2021

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 accountholders. The act would require the board to design and implement the BankCal Program by, among other things, selecting a financial services network administrator and establishing the duties and functions of the financial services network administrator, including contracting with, managing, and coordinating the financial services vendors for the program, as prescribed. *The act would make the requirement of the board to design and implement the BankCal Program operative only if the Senate Committee on Banking and Financial Institutions and the Assembly Committee on Banking and Finance consider, and the Legislature approves by statute, the implementation of the program after the completion of the market analysis described below.* The act would make its provisions inoperative if the board determines, after making 3 solicitations to applicants, that no applicant meets the minimum capabilities of a financial services network administrator, as prescribed.

The act would require the board to, on or before July 1, 2023, conduct and deliver, as specified, a market analysis to determine both if the program can be implemented and if program revenue is more likely than not to be sufficient to pay for program costs within 6 years of the program's implementation.

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 and ~~would, except with respect to the voluntary contributions described below, would authorize moneys in the BankCal Fund to be used for startup and administrative costs to implement the program only if the board determines, pursuant to the market analysis described above, that program revenue is more likely than not to be sufficient to pay for program administrative costs within 6 years of the program's implementation, as prescribed. 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 and would require those voluntary contributions to be deposited into the fund.~~ *Legislature approves by statute, as specified, the implementation of the program.*

The act would require employers and hiring entities to have and maintain a payroll direct deposit arrangement 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

1 COVID-19 pandemic, the financial stability of the state's most
2 vulnerable residents has become a matter of particularly urgent
3 concern, not only to those individuals themselves but to the
4 economic health of the state as a whole.

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

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

31 (d) Limited access to affordable financial services is a problem
32 that disproportionately impacts low-income communities and
33 communities of color. In 2017, Californians earning less than \$15
34 per hour made up 80.7 percent of the unbanked in the state, and
35 Black and Hispanic Californians made up 78.3 percent. Nearly
36 half, 45.9 percent, of all Black-identifying households in California
37 and 41.1 percent of all Hispanic-identifying households were
38 unbanked or underbanked in 2017 compared to 15.5 percent of
39 white-identifying households. Forty-four percent of disabled
40 Californians in 2017 were also unbanked or underbanked.

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

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

9 1947.3. (a) (1) Except as provided in paragraph (2), a landlord
10 or a landlord's agent shall allow a tenant to pay rent and deposit
11 of security by at least one form of payment that is neither cash nor
12 electronic funds transfer.

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

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

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

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

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

10
11 I, [insert name of third party], state as follows:

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

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

16
17 _____
18 (signature of third party)

_____ (date)

19
20
21 (D) A landlord or landlord's agent may require a signed
22 acknowledgment for each rent payment made by the third party.
23 A landlord or landlord's agent and the third party may agree that
24 one acknowledgment shall be sufficient for when the third party
25 makes more than one rent payment during a period of time.

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

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

38 (5) A landlord or landlord's agent shall allow a tenant to pay
39 rent and deposit of security by an electronic funds transfer from a

1 BankCal account, as defined in Section 100100 of the Government
2 Code.

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

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

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

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

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

26
27 TITLE 21.1. CALIFORNIA PUBLIC BANKING OPTION
28 ACT
29

30 100100. For purposes of this title:

31 (a) "Accountholder" means an individual who has a BankCal
32 account.

33 (b) "BankCal account" means a federally insured transaction
34 account held as part of the program.

35 (c) "BankCal Program" or "program" means the program
36 established pursuant to this title through which an individual may
37 open a no-fee, no-penalty transaction account with an associated
38 debit card.

39 (d) "Board" means the California Public Banking Option Board
40 established pursuant to Section 100102.

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

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

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

11 (g) (1) “Employer” means a person engaged in a business,
12 industry, profession, trade, or other enterprise in the state, whether
13 or not for profit, excluding the federal government, that has more
14 than 25 employees.

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

20 (h) “Federally insured” means insured by the Federal Deposit
21 Insurance Corporation (FDIC) or the National Credit Union
22 Administration (NCUA).

23 (i) “Hiring entity” means a person engaged in a business,
24 industry, profession, trade, or other enterprise in the state, whether
25 or not for profit, excluding the federal government, that has
26 contracted with more than 25 independent contractors to perform
27 the same or similar labor or service.

28 (j) “Independent contractor” means an individual who renders
29 labor or service to a hiring entity for a specified recompense for a
30 specified result who is not an employee of that hiring entity.

31 (k) “In-network partner” means a participating retail or financial
32 institution offering an ATM, bank, or credit union branch through
33 which accountholders can load or withdraw funds from their
34 BankCal account using a BankCal debit card for no fee.

35 (l) “Local financial institution” has the same meaning as defined
36 in Section 57600.

37 (m) “Participating depository financial institution” means a
38 qualifying bank, credit union, or other financial institution, as
39 determined by the board pursuant to paragraph (4) of subdivision
40 (a) of Section 100106, participating in the BankCal Program by

1 providing BankCal accounts to accountholders in concert with the
2 financial services network administrator, as described in
3 subparagraph (A) of paragraph (3) of subdivision (a) of Section
4 100106.

5 (n) "Payroll direct deposit arrangement" means an arrangement
6 by which a worker may authorize payment of wages or other money
7 due the worker by an employer or hiring entity, or any portion
8 thereof, to be directly deposited by electronic fund transfer into
9 the worker's BankCal account.

10 (o) "Person" means an individual, sole proprietorship,
11 partnership, joint venture, association, trust, estate, business trust,
12 corporation, joint stock company, limited liability company,
13 unincorporated association, state or local government or agency,
14 instrumentality, or political subdivision thereof, or any similar
15 entity or organization.

16 (p) "Preauthorized electronic fund transfer" means an electronic
17 fund transfer authorized in advance to recur at substantially regular
18 intervals.

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

21 (r) "Public bank" has the same meaning as defined in Section
22 57600.

23 (s) "Registered payee" means a person who has registered with
24 the program to accept receipt of preauthorized electronic fund
25 transfers from accountholders by agreeing to specific conditions
26 to be established by the board.

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

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

30 (v) "Worker participant" means a worker who is an
31 accountholder.

32 100102. (a) The Public Banking Option Board is hereby
33 established in state government.

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

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

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

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

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

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

7 (6) ~~A small business representative~~ *An individual with expertise*
8 *in banking or consumer financial services affiliated with an*
9 *academic institution* appointed by the Governor.

10 (7) *An individual with banking expertise who is an advocate*
11 *for, or representative of, a mission-aligned banking institution, a*
12 *community development financial institution, or a community*
13 *development credit union* appointed by the Governor.

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

16 (9) A consumer representative or advocate with expertise in
17 banking access and financial—~~empowerment~~ *empowerment,*
18 *including within historically unbanked and underbanked*
19 *communities,* appointed by the Speaker of the Assembly.

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

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

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

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

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

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

38 (h) The board and program administrator shall have the
39 responsibility and duty to meet the requirements of this title and
40 all applicable state and federal laws and regulations, to serve the

1 interests of program accountholders and those seeking to access
2 financial services and debt management tools through the program,
3 to serve the public interest and pursue partnerships with credit
4 unions and other local financial institutions and public banks, and
5 to ensure the operational well-being and fiscal solvency of the
6 program.

7 100104. There is hereby created the BankCal Program, to be
8 administered by the board for the purpose of protecting consumers
9 who lack access to traditional banking services from predatory,
10 discriminatory, and costly alternatives, by offering access to
11 voluntary, zero-fee, zero-penalty, federally insured transaction
12 account and debit card services at no cost to accountholders.

13 100106. (a) The board shall design and implement the BankCal
14 Program. In designing and implementing the program, the board
15 shall do all of the following:

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

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

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

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

33 (B) Create and manage an internet website that will serve as a
34 primary source of information about the program, the financial
35 services offered through the program, and the program network
36 through which accountholders can load or withdraw funds from
37 their BankCal account using a BankCal debit card for no fee.

38 (C) Create and manage a secure web-based portal and mobile
39 application through which individuals can enroll in the program
40 and entities can become registered payees and through which

1 accountholders can access and manage their BankCal accounts,
2 including their direct deposit, preauthorized electronic fund
3 transfers to registered payees, and automatic disbursement rule
4 elections.

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

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

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

25 (G) Facilitate enrollment of accountholders in the program
26 through coordination with government and nonprofit partners.

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

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

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

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

11 (B) Add additional participating depository financial institutions
12 meeting the requirements established by the board, including
13 especially qualifying credit unions and other local financial
14 institutions and public banks, as program scope and scale permits,
15 in accordance with the board's specifications as set forth in the
16 contract between the board and the financial services network
17 administrator.

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

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

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

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

38 (G) Ensure that a change in participating depository financial
39 institution or other program vendor does not disrupt existing

1 accountholders' BankCal accounts or account management
2 elections.

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

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

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

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

18 (5) Ensure that the program administrator and financial services
19 network administrator satisfactorily perform all duties and
20 functions and do not market commercial products to BankCal
21 accountholders absent the board's prior express, written
22 authorization.

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

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

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

36 (B) The board shall facilitate the opening of a BankCal account
37 by anyone who seeks to participate in the program by taking all
38 appropriate steps to collaborate and cooperate with other state and
39 local government agencies and programs, including to the extent

1 necessary to verify the individual's identity consistent with the
2 law.

3 (C) The board may design and establish rules governing the
4 enrollment and participation in the program of individuals who
5 are under 18 years of age, including rules governing the opening
6 of a BankCal account by a person who is at least 14 years of age
7 without a cosignor or guarantor on the account, consistent with all
8 applicable laws.

9 (D) The board shall design and establish rules governing the
10 enrollment and participation in the program of individuals who do
11 not have permanent housing.

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

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

19 (A) The mechanisms shall include, but not be limited to,
20 electronic fund transfers arranged through an employer's or hiring
21 entity's payroll direct deposit arrangement and cash loading
22 through in-network partners to be established by the financial
23 services network administrator. The board shall ensure that no fee
24 is imposed on accountholders for these services.

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

37 (10) Design and establish the process through which an
38 accountholder may elect to have a portion, up to the entirety, of
39 their paycheck or earnings due for labor or services performed
40 directly deposited by electronic fund transfer into their BankCal

1 account utilizing an operational model that limits interaction
2 between an employer and an employee and between a hiring entity
3 and an independent contractor to the extent feasible.

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

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

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

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

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

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

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

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

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

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

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

36 (17) Take all appropriate steps to collaborate and cooperate with
37 the CalSavers Retirement Savings Board, the Scholarshare
38 Investment Board, the California ABLE Act Board, and the board
39 of any other state program establishing or administering a program
40 providing for financial accounts for individuals in the state, to the

1 extent necessary or desirable for the effective and efficient design,
2 implementation, and administration of these programs and to
3 maximize the purposes of these programs and the ability of
4 participants in these programs to benefit therefrom.

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

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

17 (1) The board shall cause the BankCal Program or arrangements
18 established under the program to be designed, established, and
19 operated in a manner that maximizes participation and ease of use
20 for accountholders.

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

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

31 (B) In selecting a financial services network administrator, the
32 board shall give due consideration to a bidder's proposal for
33 expanding program enrollment and sustaining the program at a
34 scope and scale sufficient to achieve a financially self-sustaining
35 program that is cost neutral for the state.

36 (4) The board shall include in the program a provider of in-home
37 supportive services, as regulated by Article 7 (commencing with
38 Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare
39 and Institutions Code, if the board determines, and the Director of

1 Social Services and the Director of Finance certify, in writing, all
2 of the following:

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

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

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

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

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

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

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

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

29 (9) The board shall structure the program so as to ensure the
30 state is prohibited from incurring liabilities associated with
31 administering the program and that the state has no liability for
32 the program or for the actions of any program contractor or
33 subcontractor.

34 *(c) This section shall become operative only if the Senate*
35 *Committee on Banking and Financial Institutions and the Assembly*
36 *Committee on Banking and Finance consider, and the Legislature*
37 *approves by statute, the implementation of the program after the*
38 *completion of the market analysis required by Section 100109.*

1 100108. In addition to the powers and authority granted
2 pursuant to Section 100106, the board shall have the powers and
3 authority to do all of the following:

4 (a) Sue and be sued.

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

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

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

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

18 (f) Employ staff.

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

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

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

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

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

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

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

6 100109. (a) (1) The board shall, on or before July 1, 2023,
7 conduct and deliver, pursuant to subdivision (c), a market analysis
8 to determine, pursuant to subdivision (d), both of the following:

9 (A) If the program can be implemented.

10 (B) If program revenue is more likely than not to be sufficient
11 to pay for program costs within six years of the program's
12 implementation.

13 (2) The board shall contract with one or more independent
14 entities with the appropriate expertise to conduct the market
15 analysis described in paragraph (1).

16 (b) The market analysis shall consider all of the following
17 factors:

18 (1) The number of potential accountholders.

19 (2) The availability of qualified participating financial
20 institutions.

21 (3) Potential accountholders' comfort with various banking
22 products.

23 (4) How individuals without federal or state photo identification
24 can participate.

25 (5) Potential program revenue streams.

26 (6) The presence of private sector or nonprofit competitors to
27 the program.

28 (7) State fiscal risk from the program during economic
29 downturns or economic shocks.

30 (8) Any other factor the board deems relevant to making the
31 determination required by subdivision (a).

32 (c) The board shall deliver, and upon request present, the market
33 analysis to the Chair of the Senate Committee on Banking and
34 Financial Institutions and the Chair of the Assembly Committee
35 on Banking and Finance.

36 (d) Subject to approval of the Legislature by statute and
37 consideration by the Senate Committee on Banking and Financial
38 Institutions and the Assembly Committee on Banking and Finance,
39 the board shall make a determination whether the program can be
40 implemented and if program revenue is more likely than not to be

1 sufficient to pay for program costs within six years of the
2 program's implementation.

3 100110. (a) The BankCal Fund is hereby created in the State
4 Treasury.

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

7 (c) (1) (A) Before the delivery of the market analysis required
8 by Section 100109, moneys in the BankCal Fund shall not be used
9 for startup and administrative costs to implement Section 100106.

10 (B) *Before the delivery of the market analysis required by*
11 *Section 100109, moneys in the BankCal Fund may be used to*
12 *establish the board for the purposes of designing and*
13 *commissioning that market analysis.*

14 (2) After delivery of the market analysis required by Section
15 100109, moneys in the BankCal Fund may be used for startup and
16 administrative costs to implement Section 100106 only if the
17 Legislature approves by statute, pursuant to *subdivision (d) of*
18 *Section 100109, the board's determination that the program can*
19 *be implemented and that program revenue is more likely than not*
20 *to be sufficient to pay for program administrative costs within six*
21 *years of the program's implementation. implementation of the*
22 *program.*

23 ~~(3) This subdivision does not apply to moneys that are voluntary~~
24 ~~contributions deposited in the BankCal Fund pursuant to~~
25 ~~subdivision (d).~~

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

30 100111. (a) The board shall solicit proposals from applicants
31 for the purpose of selecting a financial services network
32 administrator that meets all of the following minimum criteria:

33 (1) The applicant has demonstrated the capability to carry out
34 the activities required of a financial services network administrator
35 by this title.

36 (2) The applicant provides relevant information for what the
37 board determines are reasonable upper and lower bound estimates
38 on how the program can achieve cost neutrality.

39 (3) The applicant provides specific milestones to assess whether
40 marginal revenues, marginal costs, fixed costs, and program

1 participation indicate that program revenues will sustain program
2 activities.

3 (4) The applicant has an established record of ethical and
4 responsible practices and adherence to applicable local, state, and
5 federal law.

6 (b) If the board determines that no applicant meets the minimum
7 capabilities of a financial services network administrator, the board
8 shall issue a new solicitation pursuant to subdivision (a).

9 (c) If the board determines that no applicant meets the minimum
10 capabilities of a financial services network administrator after
11 making three separate solicitations pursuant to this section, this
12 title shall become inoperative on December 31 of the year in which
13 that determination is made.

14 100112. (a) Employers and hiring entities shall have and
15 maintain a payroll direct deposit arrangement that enables voluntary
16 worker participation in the program.

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

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

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

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

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

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

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

1 100114. (a) Employers and hiring entities shall not be held
2 liable for a worker's decision to participate in, or opt out of, the
3 program or for the financial activities of workers whose assets are
4 deposited in the program.

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

11 100116. (a) The board shall enforce the provisions of this title
12 with respect to employers and hiring entities in coordination with
13 the Labor Commissioner pursuant to Section 90.4 of the Labor
14 Code.

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

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

21 100118. This title does not preclude or reduce a judgment
22 debtor's right to an exemption from enforcement of a money
23 judgment provided by state or federal law. Moneys exempt from
24 enforcement of a money judgment remain exempt if they have
25 been deposited into the individual's BankCal account.

26 100120. (a) Notwithstanding Section 10231.5, the board shall
27 submit an annual report by August 1 to the Governor, the
28 Controller, the California State Auditor, and the Legislature,
29 pursuant to Section 9795.

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

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

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

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

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

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

9 100122. (a) The board shall market the program to the residents
10 of the state to the extent funds are available to do so.

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

15 (c) The board shall also develop a mechanism to keep
16 accountholders motivated about their current and future financial
17 health.

18 100124. (a) The board shall adopt regulations as it deems
19 necessary to implement and effectuate the purposes of this title.

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

34 100126. (a) A public bank may participate in the BankCal
35 Program as a participating depository financial institution.

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

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

4 100128. This title does not authorize the state to loan public
5 money.

6 100130. This title shall be construed liberally in order to
7 effectuate its legislative intent. The purposes of this title and all
8 of its provisions with respect to the powers granted shall be broadly
9 interpreted to effectuate that intent and purposes and not as to any
10 limitation of powers.

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

12 90.4. (a) For purposes of this section:

13 (1) “BankCal Program” has the same meaning as defined in
14 Section 100100 of the Government Code.

15 (2) “Employer” has the same meaning as defined in Section
16 100100 of the Government Code.

17 (3) “Hiring entity” has the same meaning as defined in Section
18 100100 of the Government Code.

19 (4) “Public Banking Option Board” means the California Public
20 Banking Option Board, as defined in Section 100100 of the
21 Government Code.

22 (5) “Worker” has the same meaning as defined in Section
23 100100 of the Government Code.

24 (b) The Labor Commissioner shall have the power and duties
25 necessary to administer the enforcement of employer and hiring
26 entity compliance with Title 21.1 (commencing with Section
27 100100) of the Government Code.

28 (c) (1) Upon receipt of a complaint or referral from the Public
29 Banking Option Board, the Labor Commissioner shall investigate
30 and determine whether there is reasonable cause to believe that an
31 employer or hiring entity has failed to allow its workers to
32 participate in the BankCal Program or otherwise violated Section
33 100112 of the Government Code.

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

37 (3) (A) An employer or hiring entity that, without good cause,
38 fails to cure an alleged violation of Section 100112 of the
39 Government Code within 90 days of receiving the notice required

1 by paragraph (2) shall be liable for a civil penalty of two hundred
2 fifty dollars (\$250) per worker.

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

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

9 12302.2. (a) (1) If the state or a county makes or provides for
10 direct payment to a provider chosen by a recipient or to the
11 recipient for the purchase of in-home supportive services, the
12 department shall perform or ensure the performance of all rights,
13 duties, and obligations of the recipient relating to those services
14 as required for purposes of payroll direct deposit arrangements
15 offered pursuant to the BankCal Program (Title 21.1 (commencing
16 with Section 100100) of the Government Code), unemployment
17 compensation, unemployment compensation disability benefits,
18 workers' compensation, retirement savings accounts, including
19 payroll deduction IRA arrangements offered pursuant to the
20 CalSavers Retirement Savings Program (Title 21 (commencing
21 with Section 100000) of the Government Code), federal and state
22 income tax, and federal old-age, survivors, and disability insurance
23 benefits. Those rights, duties, and obligations include, but are not
24 limited to, registration and obtaining employer account numbers,
25 providing information, notices, and reports, making applications
26 and returns, and withholding in trust from the payments made to
27 or on behalf of a recipient amounts to be withheld from the wages
28 of the provider by the recipient as an employer, including the sales
29 tax extended to support services by Article 4 (commencing with
30 Section 6150) of Chapter 2 of Part 1 of Division 2 of the Revenue
31 and Taxation Code, and transmitting those amounts along with
32 amounts required for all contributions, premiums, and taxes payable
33 by the recipient as the employer to the appropriate person or state
34 or federal agency. The department may ensure the performance
35 of any or all of these rights, duties, and obligations by contract
36 with any person, or any public or private agency.

37 (2) Contributions, premiums, and taxes shall be paid or
38 transmitted on the recipient's behalf as the employer for any period
39 commencing on or after January 1, 1978, except that contributions,
40 premiums, and taxes for federal and state income taxes and federal

1 old-age, survivors, and disability insurance contributions shall be
2 paid or transmitted pursuant to this section commencing with the
3 first full month that begins 90 days after the effective date of this
4 section.

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

24 (b) If the state makes or provides for direct payment to a
25 provider chosen by a recipient, the Controller shall make any
26 deductions from the wages of in-home supportive services
27 personnel that are authorized by Sections 1152 and 1153 of the
28 Government Code, as limited by Section 3515.6 of the Government
29 Code, and for the sales tax extended to support services by Article
30 4 (commencing with Section 6150) of Chapter 2 of Part 1 of
31 Division 2 of the Revenue and Taxation Code.

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

39 SEC. 7. If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

1 local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

O