

ASSEMBLY BILL

No. 1365

Introduced by Assembly Member Garcia

February 21, 2025

An act to amend Section 1947.3 of the Civil Code, to repeal and add Title 21.1 (commencing with Section 100100) of 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 services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1365, as introduced, Garcia. CalAccount Program.

Existing law requires the Treasurer to convene the CalAccount Blue Ribbon Commission and requires the commission, on or before July 1, 2024, to conduct a market analysis to determine if it is feasible to implement a CalAccount Program, which, if implemented, would have certain characteristics, including offering Californians access to a voluntary, zero-fee, zero-penalty, federally insured transaction account known as a CalAccount, and related payment services at no cost to accountholders.

This bill would repeal those provisions and would establish the CalAccount Program, which would provide every Californian with access to a voluntary, zero-fee, zero-penalty, federally insured transaction account and related payment services at no cost to accountholders. The bill would require the CalAccount Commission, which would continue in existence the former CalAccount Blue Ribbon Commission, to administer the program. The bill would require the commission to, among other things, enter into contracts with financial institutions to ensure access to ATM networkers and locations where accountholders can deposit funds. The bill would require the commission

to solicit proposals for and select a financial services network administrator and establish their duties and functions, and establish a mechanism by which an accountholder may deposit funds into or withdraw funds from a CalAccount account. The bill would allow for participation in the program by providers of in-home supportive services, subject to specified requirements. The bill would establish the CalAccount Fund in the State Treasury, and would make moneys in the fund available upon appropriation by the Legislature. The bill would require all employers and hiring entities to maintain a payroll direct deposit arrangement that enables voluntary worker participation in the program, and would require all employers and hiring entities to take specified actions in that regard, including coordinating their payroll process with the CalAccount Program to facilitate payment by direct deposit. The bill would require the commission to submit an annual report by August 1 to the Governor and the Legislature, among other entities, that contains specified information relating to the CalAccount Program. The bill would require the commission to market the program to the residents of the state if funds are available. The bill would require the Labor Commissioner to investigate complaints of employers or hiring entities failing to allow workers to participate in the CalAccount Program, and would impose a civil penalty for a violation. The bill would require those civil penalties to be deposited into the CalAccount Fund. The bill would require the commissioner to reimburse the Labor Commissioner for the costs of enforcement.

Existing law provides that if the state or a county makes or provides for a direct payment to a provider chosen by a recipient or to the recipient for the purchase of in-home supportive services, the department is required to perform or ensure the performance of all rights, duties, and obligations of the recipient related to those services as required for, among other things, unemployment compensation, workers' compensation, and retirement savings accounts.

This bill would also require the department under those circumstances to ensure the performance of all rights, duties, and obligations of the recipients related to those services required for payroll direct deposit arrangements offered pursuant to the CalAccount Program.

Existing law regulates the hiring of real property and imposes various requirements on landlords relating to the leasing of residential real property. Existing law requires a landlord or their agent to allow a tenant to pay rent and a security deposit by at least one form of payment that is neither cash nor an electronic funds transfer.

This bill would also require a landlord to allow a tenant to pay rent and a security deposit by an electronic funds transfer from a CalAccount.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) According to the Federal Deposit Insurance
2 Corporation, nearly one out of five California households is
3 unbanked or underbanked. Millions of people are locked out of
4 the banking system and unable to secure a bank account. Millions
5 more also still have to pay hundreds of dollars annually in check
6 cashing fees and money order fees for the simple right to use their
7 own money. Underbanked households are defined as those that
8 have a bank account, but have used alternative financial services
9 for transactions, including check cashing and money orders, and
10 for credit, including payday loans.

11 (b) Households without full access to affordable financial
12 services are headed disproportionately by women; Black, Latina,
13 and Asian and Pacific Islander households combined make up just
14 over one-half of California's households, but are nearly 75 percent
15 of California's unbanked or underbanked households. Nearly one
16 in three Black California households is unbanked or underbanked,
17 as are more than one in four Latina-Latino households. The share
18 of Black California households without a bank account has jumped
19 dramatically in the two years since the data was last collected.
20 More than 10 percent of Black California households are unbanked.
21 That compares to 6.4 percent as of the last survey in 2021.

22 (c) A significant portion of Californians, including individuals
23 who are experiencing homelessness or housing instability, certain
24 immigrant communities, and those who have been or are being
25 subjected to domestic violence, sexual assault, human trafficking,
26 or stalking, also have unique banking needs that have not been
27 adequately met by traditional financial services providers. These
28 Californians are often unbanked or underbanked, and face unique
29 barriers to financial access.

30 (d) The households most likely to be unbanked or underbanked
31 are also those that can least afford it. Households earning \$30,000
32 per year or less comprise nearly three in four unbanked households

1 in California, though representing less than 20 percent of all
2 households.

3 (e) The banking situation has deteriorated for young
4 Californians. The share of underbanked households headed by
5 individuals 25 to 34 years of age rose to nearly 18 percent, up from
6 just over 13 percent in 2021.

7 (f) Lacking access to traditional banking means not only that
8 these Californians pay more for basic financial services, but that
9 they are less able to save and to build credit.

10 (g) The CalAccount Blue Ribbon Commission, convened by
11 the State Treasurer's Office, recently published a market study
12 that found that a no-fee and no-minimum balance account option
13 is rare in California, with 95 percent of banks charging overdraft
14 fees.

15 (h) As the Legislature responds to increasingly frequent and
16 severe public health and climate-related disasters, there is a
17 pressing need to ensure that adequate financial infrastructure is in
18 place to reliably deliver financial assistance to every Californian,
19 regardless of banking status.

20 (i) It is the intent of the Legislature to establish the CalAccount
21 Program in the State Treasurer's Office, which will build on
22 successful state financial services programs to partner with a
23 commercial bank that will offer all Californians the option for a
24 fee-free, zero-penalty debit account and debit card account that
25 will offer new opportunities for depositing earnings and income
26 and will endeavor to meet the unique needs of Californians most
27 often left out of the banking system.

28 SEC. 2. Section 1947.3 of the Civil Code is amended to read:

29 1947.3. (a) (1) (A) Except as provided in paragraph (2), a
30 landlord or a landlord's agent shall allow a tenant to pay rent and
31 deposit of security by at least one form of payment that is neither
32 cash nor ~~an electronic funds transfer.~~ *transfer and shall also allow*
33 *a tenant to pay rent and deposit of security by an electronic funds*
34 *transfer from a CalAccount, as defined in Section 100100 of the*
35 *Government Code.*

36 (B) *A landlord's or landlord's agent's receipt of payment from*
37 *a CalAccount pursuant to this section shall not be considered a*
38 *waiver of any right the landlord or landlord's agent may otherwise*
39 *have to establish the base rent on, or to raise rent for, the rental*
40 *unit.*

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

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

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

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

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

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

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

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

3
4 _____
5 (signature of third party)

_____ (date)

6
7
8 (D) A landlord or landlord's agent may require a signed
9 acknowledgment for each rent payment made by the third party.
10 A landlord or landlord's agent and the third party may agree that
11 one acknowledgment shall be sufficient for when the third party
12 makes more than one rent payment during a period of time.

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

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

25 (b) A landlord or its agent shall not charge a tenant any fee for
26 payment by check for rent or security deposit as described in this
27 section.

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

31 (d) For purposes of this section, "electronic funds transfer"
32 means any transfer of funds, other than a transaction originated
33 by check, draft, or similar paper instrument, that is initiated through
34 an electronic terminal, telephonic instrument, computer, or
35 magnetic tape so as to order, instruct, or authorize a financial
36 institution to debit or credit an account. "Electronic funds transfer"
37 includes, but is not limited to, point-of-sale transfers, direct deposits
38 or withdrawals of funds, transfers initiated by telephone, transfers
39 via an automated clearinghouse, transfers initiated electronically

1 that deliver a paper instrument, and transfers authorized in advance
2 to recur at substantially regular intervals.

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

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

10 SEC. 3. Title 21.1 (commencing with Section 100100) of the
11 Government Code is repealed.

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

14
15 TITLE 21.1. CALACCOUNT PROGRAM

16
17 100100. As used in this title:

18 (a) "Accountholder" means an individual who has a CalAccount
19 account.

20 (b) "CalAccount" means a federally insured transaction account
21 held as part of the program.

22 (c) "CalAccount Program" or "program" means the program
23 established pursuant to this title through which an individual may
24 open a no-fee, no-penalty transaction account with an associated
25 debit card.

26 (d) "Commission" means the CalAccount Commission
27 established pursuant to Section 100102.

28 (e) "Domestic violence" has the same meaning as defined in
29 Section 6211 of the Family Code.

30 (f) "Electronic fund transfer" has the same meaning as defined
31 in Section 1693a of Title 15 of the United States Code.

32 (g) "Employee" means an individual who is employed by an
33 employer. "Employee" does not include an employee covered
34 under the federal Railway Labor Act (45 U.S.C. Sec. 151) or an
35 employee engaged in interstate commerce so as not to be subject
36 to the legislative powers of the state, except insofar as application
37 of this title is authorized under the United States Constitution or
38 laws of the United States.

39 (h) (1) "Employer" means a person engaged in a business,
40 industry, profession, trade, or other enterprise in the state, whether

1 or not for profit, excluding the federal government, that has more
2 than 10 employees. For the purposes of this provision, all
3 employees of either of the following shall be counted:

4 (A) Any employers that are affiliated with one another within
5 the definition of Section 150 of the Corporations Code.

6 (B) Any franchisee associated with a franchise of the same
7 franchisor, with those terms having the same meaning as the
8 definitions in Article 1 (commencing with Section 20000) of
9 Chapter 5.5 of Division 8 of the Business and Professions Code.

10 (2) Upon a positive determination pursuant to subdivision (a)
11 of Section 100113, “employer” includes an employer of a provider
12 of in-home supportive services regulated by Article 7 (commencing
13 with Section 12300) of Chapter 3 of Part 3 of Division 9 of the
14 Welfare and Institutions Code.

15 (i) “Federally insured” means insured by the Federal Deposit
16 Insurance Corporation or the National Credit Union Administration.

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

22 (k) “Independent contractor” means an individual who renders
23 labor or service to a hiring entity for a specified recompense for a
24 specified result who is not an employee of that hiring entity.

25 (l) “In-network partner” means a participating retail or financial
26 institution offering an ATM, bank, or credit union branch through
27 which accountholders can load or withdraw funds from their
28 CalAccount using a CalAccount debit card for no fee.

29 (m) “Local financial institution” has the same meaning as
30 defined in Section 57600.

31 (n) “Participating depository financial institution” means a
32 qualifying bank, credit union, or other financial institution, as
33 determined by the commission pursuant to subparagraph (C) of
34 paragraph (1) of subdivision (a) of Section 100106, participating
35 in the CalAccount Program by providing CalAccounts to
36 accountholders in concert with the financial services network
37 administrator, as described in subparagraph (A) of paragraph (2)
38 of subdivision (a) of Section 100106.

39 (o) “Payroll direct deposit arrangement” means an arrangement
40 by which a worker may authorize payment of wages or other

1 moneys due the worker by an employer or hiring entity, or any
2 portion thereof, to be directly deposited by electronic fund transfer
3 into the worker's CalAccount.

4 (p) "Person" means an individual, sole proprietorship,
5 partnership, joint venture, association, trust, estate, business trust,
6 corporation, joint stock company, limited liability company,
7 unincorporated association, state or local government or agency,
8 instrumentality, or political subdivision thereof, or any similar
9 entity or organization.

10 (q) "Preauthorized electronic fund transfer" means an electronic
11 fund transfer authorized in advance to recur at substantially regular
12 intervals.

13 (r) "Program fund" means the CalAccount Fund established
14 pursuant to Section 100108.

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

19 (t) "Stalking" has the same meaning as defined in Section 646.9
20 of the Penal Code.

21 (u) "Transaction account" means a demand deposit account,
22 share draft account, or similar account.

23 (v) "Worker" means an employee or an independent contractor.

24 (w) "Worker participant" means a worker who is an
25 accountholder.

26 100102. (a) The CalAccount Blue Ribbon Commission
27 established pursuant to Chapter 451 of the Statutes of 2021 shall
28 continue in existence as the CalAccount Commission and shall do
29 the following:

30 (1) Assume the responsibility and duty to meet the requirements
31 of this title and all applicable state and federal laws and regulations.

32 (2) Establish, oversee, and manage the CalAccount Program.

33 (3) Serve the interests of program accountholders and those
34 seeking to access financial services and debt management tools
35 through the program.

36 (4) Serve the public interest and pursue partnerships and credit
37 unions and other local financial institutions.

38 (5) Ensure the operational well-being and fiscal solvency of the
39 program.

1 (b) The commission shall be composed of all of the following
2 members:

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

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

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

9 (4) A public banking advocate appointed by the Senate
10 Committee on Rules.

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

13 (6) A consumer representative or advocate with expertise in
14 banking access and financial empowerment, including within
15 historically unbanked and underbanked communities, appointed
16 by the Speaker of the Assembly.

17 (7) An employee representative appointed by the Governor.

18 (8) An individual with expertise in banking or consumer
19 financial services affiliated with an academic institution appointed
20 by the Governor.

21 (9) An individual, appointed by the Governor, with banking
22 expertise.

23 (c) The members of the commission shall serve at the pleasure
24 of their appointing authority.

25 (d) The Treasurer shall serve as the chair of the commission.

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

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

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

35 (g) (1) Except for the members described in paragraphs (3) and
36 (9) of subdivision (a), a commission member, or Treasurer's staff
37 working with the commission, while serving in that capacity shall
38 not have a direct or indirect investment or ownership interest in
39 or be employed by, a consultant to, a member of the board of
40 directors of, affiliated with, or otherwise a representative of a

1 private bank or financial services institution unless that position
2 is an unpaid volunteer position.

3 (2) The restrictions in paragraph (1) do not include ownership
4 of a share of a diversified mutual fund or exchange-traded fund
5 that holds shares of a private bank or financial services institution.

6 100103. (a) The CalAccount Program is hereby established,
7 to be administered by the commission, for the purpose of increasing
8 access to traditional banking services, as specified in Section
9 100104.

10 (b) The program shall be designed to protect consumers who
11 lack access to traditional banking services from predatory,
12 discriminatory, and costly alternatives, and shall do both the
13 following:

14 (1) Provide every Californian with access to a voluntary,
15 zero-fee, zero-penalty, federally insured transaction account and
16 related payment services, at no cost to accountholders, including
17 robust and geographically diverse mechanisms for accessing
18 account funds and account management tools that facilitate the
19 automation of basic financial transactions designed to serve the
20 needs of individuals with low or fluctuating income.

21 (2) Require employers to facilitate program sign up for
22 employees, utilize CalAccount mechanisms for communication
23 between employers and the program, and respect and comply with
24 employees' direct deposit elections with respect to CalAccount.

25 (c) The commission shall establish a set of program goals. The
26 commission and State Treasurer's Office shall balance any tensions
27 between the core policy goals of the program as set forth in
28 paragraph (1) of subdivision (b) with practical considerations as
29 they arise. Program goals shall include:

30 (1) Providing accountholders maximum access to funds,
31 including robust and geographically diverse mechanisms for
32 accessing account funds.

33 (2) Maximizing accessibility of the program by facilitating the
34 opening of a CalAccount by individuals, including those with the
35 following characteristics:

36 (A) Are under 18 years of age, including individuals who are
37 at least 14 years of age without a cosigner or guarantor on the
38 account, consistent with all applicable laws.

39 (B) Are unhoused or otherwise do not have permanent housing.

1 (C) Lack federal or state government-issued photographic
2 identification, but have other documents, including, but not limited
3 to, a foreign or domestic passport with photograph, consular
4 identification, student identification, municipal identification, a
5 work authorization card, government-issued correspondence, utility
6 bills, digital identification, or biometric identification, provided
7 that those documents are sufficient to satisfy federal Know Your
8 Customer requirements.

9 (D) Have been, or are currently being, subjected to domestic
10 violence, sexual assault, human trafficking, or stalking.

11 (3) Minimizing unfair account denials and providing an
12 accessible process to appeal rejections.

13 (4) Minimizing costs to merchants accepting CalAccount for
14 payments.

15 (5) Maximizing consumer protections for automated payments
16 and automatic disbursement rules.

17 (6) Effective marketing and outreach to maximize program
18 signups.

19 (7) Incorporating best practices to protect the safety, privacy,
20 and assets of, and ensure access to, the program for individuals
21 who have been subjected to or are currently being subjected to
22 domestic violence and sexual assault, stalking, and human
23 trafficking from financial abuse, including coercive control.

24 (d) The commission and State Treasurer's Office may design
25 and implement optional program components throughout the life
26 of the program that may include the following:

27 (1) International remittances.

28 (2) Program facilitation of the voluntary sharing of financial
29 transaction information such as voluntary credit reporting to assist
30 accountholders in building credit or otherwise establish a record
31 of reliable financial transaction history.

32 (3) Referrals of accountholders to responsible banking services
33 not provided through CalAccount, such as consumer lending. In
34 identifying responsible banking services, the commission shall
35 give priority to local financial institutions and public banks as
36 defined in Section 57600. Referrals shall meet the standards set
37 forth by the commission pursuant to paragraph (15) of subdivision
38 (a) of Section 100106, and shall ensure that participating financial
39 service providers meet any participation requirements set forth by
40 the commission and are in compliance with federal and state law.

1 Requirements set forth by the commission may include
2 participation in a no-fee ATM network for accountholders.

3 (4) Programs and processes to provide additional support for
4 accountholders who may be at high risk of financial abuse,
5 including to support accountholders subjected to domestic violence,
6 sexual assault, stalking, and human trafficking. Those programs
7 or processes may include training for in-network partners,
8 participating depository financial institutions, and any other
9 financial services vendors program staff regarding financial abuse.

10 (e) The program shall be designed as a viable option for the
11 payment of public benefits to individuals and shall meet the
12 following requirements:

13 (1) Have the capacity to issue payment cards that are linked to
14 funds redeemable through the program, such as a reloadable debit
15 card that meets the no fees and no penalties requirements of this
16 program.

17 (2) Work with governmental agencies to accommodate direct
18 deposits from public payers.

19 (3) Be able to answer requests for proposals issued by public
20 agencies for the payment of public benefits, and answer those
21 requests for proposals that it is well situated to fulfill.

22 (4) Where possible, coordinate with agencies to provide
23 necessary, fee-free financial services, such as facilitating
24 unemployment insurance payments made through the Employment
25 Development Department.

26 (f) Implementation of the program shall take place in two stages:
27 the startup and administration phase and the implementation phase.

28 (g) Decisions of the commission shall be made by a majority
29 vote.

30 100104. (a) The commission shall design and implement the
31 CalAccount Program as set forth in Sections 100105 and 100106.

32 (b) The commission shall oversee the CalAccount Program and
33 have the authority to elect to delegate some oversight duties to the
34 State Treasurer's Office as appropriate.

35 (c) The commission shall balance any tensions between the core
36 policy goals of the program with practical considerations as they
37 arise.

38 (d) In addition to the powers and authority granted pursuant to
39 this section, the commission shall have the powers and authority
40 to do all of the following:

1 (1) Make and enter into contracts necessary for the
2 administration of the CalAccount Program and engage personnel,
3 including consultants, actuaries, managers, counsel, and auditors,
4 as necessary for the purpose of rendering professional, managerial,
5 and technical assistance and advice.

6 (2) Adopt a corporate seal and change and amend it from time
7 to time.

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

12 (4) Make provisions for the payment of costs of administration
13 and operation of the program.

14 (5) Employ staff.

15 (6) Retain and contract with other public agencies, financial
16 institutions, with priority given to local financial institutions, as
17 defined in Section 57600, other financial and service providers,
18 consultants, actuaries, counsel, auditors, third-party administrators,
19 and other professionals as necessary.

20 (7) Procure insurance indemnifying each member of the
21 commission from personal loss or liability resulting from a
22 member's action or inaction as a member of the commission.

23 (8) Collaborate and cooperate with other public entities, financial
24 institutions, service providers, labor unions, and business, financial,
25 trade, community-based, advocacy, and other organizations to the
26 extent necessary or desirable for the effective and efficient design,
27 implementation, and administration of the program and to
28 maximize outreach to potential accountholders and support for
29 accountholder literacy and empowerment.

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

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

36 (11) Engage in outreach to potential accountholders.

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

1 100105. (a) The startup and administration phase shall include
2 all steps necessary to lay the groundwork for successful
3 implementation of the CalAccount Program.

4 (b) During the startup and administration phase, the commission
5 shall do all of the following:

6 (1) Determine the key steps necessary for successful
7 implementation of the program.

8 (2) (A) Appoint an executive director, who shall not be a
9 member of the commission and who shall serve at the pleasure of
10 the commission, as well as appropriate staff within the State
11 Treasurer's Office who, along with the executive director, shall
12 administer the CalAccount Program.

13 (B) Determine the duties and powers of the executive director,
14 including the processes by which the executive director may enter
15 into contracts on behalf of the commission or conduct business
16 necessary for the efficient operation of the commission, and, as
17 appropriate, the duties of other staff.

18 (C) Set the executive director's compensation.

19 (3) Work with the State Treasurer's Office to provide oversight
20 to the executive director and staff as the executive director and
21 staff determine the necessary steps for successful implementation
22 of the CalAccount Program.

23 (c) The commission may develop committees of the commission
24 to collaborate with staff and the executive director to facilitate
25 communication between the commission and executive director
26 and ensure commission oversight over the executive director.

27 (d) Steps that shall be taken by the executive director and staff
28 during this phase, in consultation with and with the approval of
29 the commission, include, but are not limited to, the following:

30 (1) Completing any technical and legal work related to program
31 rollout.

32 (2) Answering program design and timing questions.

33 (3) Arranging for the development of any technical support
34 needed prior to contracting with a financial services network
35 administrator.

36 (4) Developing requests for proposals for a financial services
37 network administrator and any additional partners whose services
38 are deemed necessary for the implementation of the CalAccount
39 Program.

1 (5) Developing a scoring rubric approved by the commission
2 for evaluating responses to requests for proposals that ensures that
3 the response's ability to achieve program goals is weighed heavily
4 among selection criteria and that gives priority to responses that
5 will contribute to the building of financial literacy and the
6 availability and provision of responsible banking services,
7 including by local financial institutions as defined in Section 57600.

8 (6) Hiring, contracting, or preparing to contract for any and all
9 technical support services necessary for the ultimate rollout of the
10 program.

11 (7) Developing plans for outreach and marketing, including the
12 development of marketing materials.

13 (8) Entering into contractual relationships with public, nonprofit,
14 and labor organizations, and any appropriate for-profit corporations,
15 to facilitate marketing and sign up.

16 (9) Entering into contractual relationships with financial
17 institutions to ensure access to ATM networks and locations where
18 accountholders can deposit funds.

19 (10) Collaborating and cooperating with other California
20 agencies and programs, including local governments and agencies
21 at their discretion, private financial institutions, service providers,
22 and business, financial, trade, membership, and other organizations
23 to the extent necessary or desirable for the effective and efficient
24 design, implementation, and administration of the program and to
25 maximize outreach to potential accountholders and employers.

26 (11) Determining the feasibility and timing of implementation
27 of additional optional program features, including setting a timeline
28 for periodic review and reevaluation of program features following
29 general program implementation.

30 (e) In the case of any disagreements between the commission
31 and the executive director or staff regarding appropriate steps or
32 timing, the commission shall be the final decisionmaker.

33 (f) The executive director and staff shall ensure that the
34 commission and the public have adequate and meaningful
35 opportunities to provide input throughout this phase.

36 (g) The executive director, in consultation with the commission,
37 may create a working group or groups of stakeholders to provide
38 input and advice during this startup and administration phase and
39 the following implementation phase of the CalAccount Program.

1 (h) Work initiated during this phase may continue as needed
2 during the implementation phase and thereafter in order to develop
3 an effective program.

4 100106. (a) The CalAccount Commission shall implement the
5 CalAccount Program. Steps the commission shall take during this
6 phase include, but are not limited to, the following:

7 (1) Solicit proposals for and select a financial services network
8 administrator.

9 (A) The contract selection process shall prioritize the selection
10 of a proposal that is best able to meet the goals of the program set
11 forth in Section 100103, not simply the lowest cost option.

12 (B) The financial services network administrator and any
13 banking partners who are parties to the financial services network
14 administrator's proposal shall be reviewed by the commission for
15 their history of responsible banking practices, with input requested
16 from the Department of Financial Protection and Innovation.

17 (C) The commission shall consider whether the financial services
18 network administrator and any banking partners who are parties
19 to the network administrator's proposal have the following
20 characteristics:

21 (i) Have an established record of ethical and responsible banking
22 practices and adherence to all applicable local, state, and federal
23 laws and regulations, including safety and soundness standards,
24 responsible practices with respect to racial equity, and a history
25 of serving low-income, racially diverse, and multilingual
26 communities.

27 (ii) Meet all technical requirements of the financial services
28 network administrator.

29 (iii) Agree to comply with all applicable laws and regulations,
30 including all regulations, policies, and directives issued by the
31 commission governing the program, and any contractual
32 requirements established by the commission.

33 (D) The request for proposals and contract for the network
34 administrator shall specify that additions or other changes to any
35 banking partners shall be subject to approval by the commission.

36 (E) The request for proposals shall be issued by January 1, 2027.

37 (2) Establish the duties and functions of the financial services
38 network administrator, which shall be in furtherance of the program
39 goals established by the commission pursuant to subdivision (c)

1 of Section 100103, shall be consistent with the program elements
2 set forth in Section 100103, and may include any of the following:

3 (A) Contract with, manage, and coordinate the financial services
4 vendors for the program, which shall provide accountholders access
5 to their CalAccount account and services provided in concert with
6 at least one qualifying participating depository financial institution
7 that has the characteristics identified in subparagraph (C) of
8 paragraph (1).

9 (B) Add additional participating depository financial institutions
10 with the characteristics identified in subparagraph (C) of paragraph
11 (1), subject to the commission's approval, especially including
12 qualifying credit unions and other local financial institutions, as
13 program scope and scale permits, in accordance with the
14 commission's specifications as set forth in the contract between
15 the commission and the financial services network administrator.

16 (C) Issue to each accountholder a secure debit card, or other
17 secure means of access to their CalAccount account that uses
18 security and antifraud technology consistent with industry standards
19 and best practices. The commission shall also ensure that access
20 is facilitated for those with unstable housing situations or who face
21 barriers to financial access, such as individuals who lack stable
22 housing, lack federal or state-issued photographic identification,
23 and those who are currently being subjected to or have been
24 subjected to domestic violence, sexual assault, human trafficking,
25 or stalking. Standards that may be employed to protect security
26 and facilitate access may include a mechanism via which
27 accountholders may deactivate their current debit card and obtain
28 a replacement debit card for no fee.

29 (D) Provide a robust and geographically expansive financial
30 services network of partners through which accountholders can
31 load or withdraw funds from their CalAccount account using a
32 CalAccount debit card, or other secure means of access to their
33 CalAccount account, including ATMs, bank or credit union
34 branches, and other in-network partners, at no cost to
35 accountholders.

36 (E) Provide the necessary technical and regulatory redundancies
37 to minimize disruption of service.

38 (F) Coordinate data exchange with the executive director and
39 staff and implement all account management elections, including
40 receipt of direct deposit payments, preauthorized electronic fund

1 transfers to registered payees, and automatic disbursement rule
2 elections, made by accountholders through the program's online
3 web portal or mobile application.

4 (3) Establish processes to ensure that any change impacting the
5 ability of a participating depository financial institution or other
6 program vendor to participate in the program does not disrupt
7 existing accountholders' access to CalAccount accounts or account
8 management elections.

9 (4) Create and manage an internet website that shall serve as a
10 primary source of information about the program, the financial
11 services offered through the program, and the program network
12 through which accountholders can load or withdraw funds from
13 their CalAccount account using a CalAccount debit card for no
14 fee, and is available in multiple languages reflecting the state's
15 diverse population.

16 (5) Provide a secure web-based portal and mobile application
17 through which individuals can enroll in the program and entities
18 can become registered payees and through which accountholders
19 can access and manage their CalAccounts, including their direct
20 deposit, preauthorized electronic fund transfers to registered payees,
21 and automatic disbursement rule elections. The web-based portal
22 and mobile application shall be available in multiple languages
23 reflecting the state's diverse population.

24 (6) Establish the mechanisms by which an accountholder may
25 deposit funds into or withdraw funds from a CalAccount account
26 pursuant to all of the following:

27 (A) The mechanisms for deposit of funds shall include, but not
28 be limited to, electronic fund transfers arranged through an
29 employer's or hiring entity's payroll direct deposit arrangement
30 and cash loading through in-network partners to be established by
31 the financial services network administrator.

32 (B) The mechanisms for withdrawal of funds shall include, but
33 not be limited to, withdrawals through point-of-sale purchases
34 using a CalAccount debit card and through cash withdrawals at a
35 robust and geographically expansive network, the scope of which
36 the commission shall seek to maximize, of participating ATMs,
37 bank or credit union branches, and other in-network partners of
38 designated financial institution partners to be established by the
39 financial services network administrator.

1 (C) The commission shall ensure that the executive director,
2 the financial services network administrator, and participating
3 depository financial institutions do not charge or collect any fees
4 from an accountholder related to the use of a CalAccount debit
5 card or the establishment and maintenance of a CalAccount
6 account, including for the deposit and withdrawal services set forth
7 in subparagraphs (A) and (B).

8 (D) The executive director, at the commission's direction, may
9 negotiate with the financial services network administrator and
10 other financial services partners for additional financial capabilities
11 of a CalAccount account relating to deposit or withdrawal of funds,
12 including, but not limited to, mobile check deposit, cash loading
13 through out-of-network partners, electronic fund transfers from
14 linked or nonlinked accounts, and cash withdrawal from
15 out-of-network ATMs and bank or credit union branches and
16 international remittances, provided that the financial services
17 network administrator and other financial services partners may
18 not impose any fees upon accountholders for those services.

19 (E) The executive director, at the commission's direction, shall
20 seek to minimize or eliminate any fees imposed on accountholders
21 by out-of-network entities for services to CalAccount
22 accountholders, and shall ensure that any such fee is reasonable
23 and actually incurred by the entity imposing the fee.

24 (7) Establish the process through which an accountholder may
25 elect to have a portion, up to the entirety, of their paycheck or
26 earnings due for labor or services performed directly deposited by
27 electronic fund transfer into their CalAccount account utilizing an
28 operational model that limits interaction between an employer and
29 an employee and between a hiring entity and an independent
30 contractor to the extent feasible.

31 (8) Establish the process through which employers and hiring
32 entities shall be required to remit through a payroll direct deposit
33 arrangement each worker's elected payroll contribution to the
34 worker's CalAccount account in accordance with the worker's
35 election.

36 (9) Establish a process, available to all accountholders for no
37 fee, through which an accountholder may arrange for payment to
38 a registered payee using a preauthorized electronic fund transfer
39 from a CalAccount account.

1 (10) Establish enhanced security and privacy measures that are
2 available on an opt-in basis for all accounts, but that may not be
3 suitable for every accountholder. In particular, these measures
4 shall be designed to account for the unique privacy and accessibility
5 needs of vulnerable communities, including those with unstable
6 housing or those who have been subjected to or are currently being
7 subjected to domestic violence, sexual assault, stalking, and human
8 trafficking, or otherwise face barriers to consistent and unimpeded
9 access to their accounts, and establish best practices to meet those
10 unique needs. Those practices may include the following:

11 (A) A convenient mechanism for an accountholder to review
12 and, if necessary, update the accountholder's contact information
13 and preferred contact method. Any such mechanism, if
14 implemented, shall be designed to minimize fraud risk and maintain
15 the security and accessibility of each accountholder's account.

16 (B) A secure and formal process to designate a verified
17 third-party address as a mailing address, including, but not limited
18 to, the address of a trusted and verified individual identified by
19 the accountholder, a vetted address confidentiality program, or a
20 vetted community-based assistance program. Any process
21 developed pursuant to this subdivision shall consider both the
22 privacy and security needs of users, and the need to prevent fraud
23 and the exploitation of vulnerable accountholders.

24 (C) Additional geolocational protections against fraudulent
25 account activity, including the option for the accountholder to flag
26 regions from which transactions shall be denied or other protections
27 utilizing geolocation data, provided, however, that the collection
28 and use of that geolocation data shall only take place with the
29 express consent of the accountholder.

30 (11) Establish the process and terms and conditions for
31 becoming a registered payee pursuant to both of the following:

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

37 (B) The commission shall establish the terms and conditions to
38 which registered payees shall agree, which may vary depending
39 on the type of payee, and which shall be designed to incentivize
40 accountholders' preauthorized electronic fund transfers to

1 registered payees and application of voluntary automatic
2 disbursement rules by limiting the late payment fees and penalties
3 that registered payees may impose on accountholders who pay
4 them using preauthorized electronic fund transfers from their
5 CalAccount account.

6 (12) Establish voluntary automatic disbursement rules to assist
7 accountholders in managing automated payments to registered
8 payees based on the availability of funds in the accountholder's
9 account, which accountholders may voluntarily elect to apply or
10 to stop applying to their CalAccount account at any time. The
11 voluntary automatic disbursement rules shall be designed to
12 maximize consumer protection and may include, but not be limited
13 to, rules governing the prioritization and timing of payments, rules
14 limiting payments to a percentage of funds available in the
15 CalAccount account, and rules limiting disbursement to designated
16 registered payees only upon satisfaction of specified conditions
17 of the CalAccount account.

18 (13) Take all appropriate steps to manage the relationship
19 between the CalAccount Program and other state and local
20 government programs, including, but not limited to, measures to
21 accomplish the following:

22 (A) Enable accountholders to transfer funds between CalAccount
23 and other state or locally managed accounts for the receipt of public
24 benefits.

25 (B) Collaborate and cooperate with the State Department of
26 Social Services, Office of Systems Integration, Employment
27 Development Department, and other governmental agencies,
28 including, but not limited to, agencies responsible for the
29 distribution of emergency relief payments, to improve and
30 streamline operations for the distribution of local, state, and federal
31 benefit and public assistance payments and other disbursements
32 by enabling accountholders to authorize payments to be directly
33 deposited by electronic fund transfer into their CalAccount account,
34 as applicable, to the extent permitted by law.

35 (C) Collaborate and cooperate with the CalSavers Retirement
36 Savings Board, the Scholarshare Investment Board, the California
37 ABLE Act Board, and the board of any other state program
38 administering a program providing for financial accounts for
39 individuals in the state, to the extent necessary or desirable for the
40 effective and efficient design, implementation, and administration

1 of these programs and to maximize the purposes of these programs
2 and the ability of participants in these programs to benefit
3 therefrom.

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

12 (15) Establish standards to ensure that any commercial product
13 marketed to CalAccount accountholders is affordable, secure, and
14 financially responsible, and to ensure that the executive director
15 and financial services network administrator satisfactorily perform
16 all duties and functions and do not market commercial products
17 to CalAccount accountholders absent the commission's prior
18 express, written authorization pursuant to those standards. These
19 standards may include participation in a no-fee ATM network for
20 accountholders

21 (b) Work performed during this phase may continue as needed
22 for the life of the program to ensure program elements can be
23 updated and that the program will remain effective.

24 100107. In addition to the powers and duties set forth in
25 Sections 100104 to 110106, inclusive, the commission shall do
26 the following:

27 (a) Allow for participation in the program by providers of
28 in-home supportive services, as regulated by Article 7
29 (commencing with Section 12300) of Chapter 3 of Part 3 of
30 Division 9 of the Welfare and Institutions Code, if the commission
31 determines, and the Director of Social Services and the Director
32 of Finance certify, in writing, all of the following:

33 (1) The participation meets all state and federal legal
34 requirements.

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

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

1 (4) The participation does not create a financial liability for the
2 state or employer of record.

3 (b) Determine necessary costs associated with outreach,
4 customer service, enforcement, staffing and consultant costs, and
5 all other costs necessary to administer the program.

6 (c) Implement outreach and customer service supports for the
7 program, as well as any other program supports the commission
8 deems necessary to administer the program.

9 (d) Consult with employer representatives and employee
10 representatives to create an administrative structure that facilitates
11 employee participation while addressing employer needs, including,
12 but not limited to, clearly defining employers' duties pursuant to
13 Section 100109.

14 (e) Ensure the inclusion of comprehensive worker education
15 and outreach in the program, including through collaboration with
16 state and local governmental agencies, community-based and
17 nonprofit organizations, foundations, vendors, and other entities
18 deemed appropriate to develop and secure ongoing resources for
19 education and outreach that reflect the cultures and languages of
20 the state's diverse workforce population. In selecting entities for
21 that collaboration, the commission shall prioritize entities with
22 experience providing services in multiple languages and
23 demonstrating prior effectiveness in outreach to racially diverse
24 populations.

25 (f) Ensure the inclusion in the program of comprehensive
26 employer education and outreach developed in consultation with
27 employer representatives and employee representatives.

28 (g) Structure the program so as to ensure the state is prohibited
29 from incurring liabilities associated with administering the program
30 and that the state has no liability for the program or for the actions
31 of any program contractor or subcontractor.

32 (h) Prior to opening the California CalAccount Program for
33 public participation, if there are sufficient funds available, or if an
34 annual Budget Act appropriation is made in amounts sufficient to
35 allow the board to implement, or both, the board shall establish
36 either or both of the following:

37 (1) A process to determine geographic limitations and other
38 obstacles to accountholders using only in-network ATMs, and a
39 proposal for the CalAccount Program to cover reasonable

1 out-of-network ATM fees in collaboration with the Legislature
2 that includes funding those costs.

3 (2) A process to minimize the cost of international remittances
4 for accountholders that includes fiscal participation from the State
5 of California and other interested governmental and
6 nongovernmental entities.

7 100108. The CalAccount Fund is hereby created in the State
8 Treasury. Moneys the fund shall be available upon appropriation
9 by the Legislature for purposes of this title.

10 100109. (a) Employers and hiring entities shall maintain a
11 payroll direct deposit arrangement that enables voluntary worker
12 participation in the program.

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

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

20 (1) Coordinate their payroll process with the CalAccount
21 Program to facilitate accurate and seamless payment by direct
22 deposit in accordance with the authorization of each worker
23 participant using the tools provided by the program.

24 (2) Cooperate with the commission in providing all requested
25 information available to the employer or hiring entity necessary
26 for the opening and administration of a worker's CalAccount
27 account.

28 (3) Upon request of the administrator, provide additional forms
29 or notifications to a worker within seven calendar days.

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

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

38 (f) Either to the extent that program funds are available or to
39 the extent that if an annual Budget Act appropriation is made in
40 amounts sufficient to allow the board to implement, or both, the

1 board shall develop a process for small employers to request
2 financial and administrative implementation assistance. Small
3 employers for the purposes of this provision only are defined as
4 businesses with less than or equal to 100 employees.

5 100110. (a) The commission shall refer to the Labor
6 Commissioner for enforcement pursuant to Section 90.4 of the
7 Labor Code a complaint it makes or receives that an employer or
8 hiring entity has failed to allow its workers to participate in the
9 CalAccount Program pursuant to this title or otherwise violated
10 its duties under Section 100108.

11 (b) The commission shall reimburse the Labor Commissioner
12 for the costs incurred by the Labor Commissioner in enforcing this
13 title.

14 100111. This title does not preclude or reduce a judgment
15 debtor's right to an exemption from enforcement of a money
16 judgment provided by state or federal law. Moneys exempt from
17 enforcement of a money judgment remain exempt if they have
18 been deposited into the individual's CalAccount account.

19 100112. (a) Notwithstanding Section 10231.5, the commission
20 shall submit an annual report by August 1 to the Governor, the
21 Controller, the California State Auditor, and the Legislature,
22 pursuant to Section 9795.

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

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

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

32 (3) Aggregate accountholder demographics, including, but not
33 limited to, county, gender, age, race, ethnicity, primary language,
34 annual income, and job industry.

35 (4) A statement regarding risk management and oversight of
36 the program.

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

1 100113. (a) The commission shall market the program to the
2 residents of the state to the extent funds are available for this
3 purpose.

4 (b) The commission may include the following in its marketing
5 efforts:

6 (1) Information designed to include financial literacy education
7 and resources and to educate citizens about the benefits of financial
8 management and planning.

9 (2) Information designed to include education regarding
10 financial abuse and to educate citizens about the resources available
11 to victims of financial abuse, which may include resources created
12 by governmental agencies, nonprofit organizations, and community
13 groups.

14 100114. (a) The commission shall adopt regulations as it deems
15 necessary to implement this title.

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

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

31 90.4. (a) For purposes of this section:

32 (1) "CalAccount Commission" means the CalAccount
33 Commission, as defined in Section 100100 of the Government
34 Code.

35 (2) "CalAccount Program" has the same meaning as defined in
36 Section 100100 of the Government Code.

37 (3) "Employer" has the same meaning as defined in Section
38 100100 of the Government Code.

39 (4) "Hiring entity" has the same meaning as defined in Section
40 100100 of the Government Code.

1 (5) “Worker” has the same meaning as defined in Section
2 100100 of the Government Code.

3 (b) The Labor Commissioner shall have the power and duties
4 necessary to administer the enforcement of employer and hiring
5 entity compliance with Title 21.1 (commencing with Section
6 100100) of the Government Code.

7 (c) (1) Upon receipt of a complaint or referral from the
8 CalAccount Commission, the Labor Commissioner shall investigate
9 and determine whether an employer or hiring entity has failed to
10 allow its workers to participate in the CalAccount Program or
11 otherwise violated Section 100109 of the Government Code.

12 (2) (A) An employer or hiring entity who violates a provision
13 of paragraph (2) of subdivision (b) of Section 100103, Section
14 100109 of the Government Code, or any rules or regulations
15 established by the commission pursuant to those provisions shall
16 be subject to a civil penalty of two hundred fifty dollars (\$250)
17 per worker per violation in an initial citation and one thousand
18 dollars (\$1,000) per worker for each violation in a subsequent
19 citation for a violation of Section 100109 of the Government Code.

20 (B) The civil penalties provided for in this paragraph are in
21 addition to any other penalty provided by law.

22 (3) If, upon investigation, the Labor Commissioner determines
23 that an employer or hiring entity has violated a provision of Section
24 100109 of the Government Code, the Labor Commissioner may
25 issue a citation to the employer or hiring entity in violation. The
26 citation may be served personally, in the same manner as provided
27 for service of a summons, as described in Chapter 4 (commencing
28 with Section 413.10) of Title 5 of Part 2 of the Code of Civil
29 Procedure, by certified mail with return receipt requested, or by
30 registered mail in accordance with subdivision (c) of Section 11505
31 of the Government Code. Each citation shall be in writing and
32 shall describe the nature of the violation, including reference to
33 the statutory provision alleged to have been violated, and shall
34 advise the employer or hiring entity of its right to request a hearing
35 pursuant to Section 226.5.

36 (4) Section 226.5 shall apply to a citation or the proposed
37 assessment of a civil penalty issued by the Labor Commissioner
38 pursuant to this section.

39 (d) In enforcing this section, the Labor Commissioner shall take
40 into consideration whether the violation was inadvertent. The Labor

1 Commissioner may decide, at that person's discretion, not to
2 penalize an employer or hiring entity for a first violation if that
3 violation was due to a clerical error or inadvertent mistake.

4 (e) Civil penalties collected pursuant to this section shall be
5 deposited into the CalAccount Fund established by Section 100108
6 of the Government Code.

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

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

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

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

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

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

- 1 Section 12306, the state shall provide funding for the purposes of
- 2 this section.

O