

Date of Hearing: June 30, 2021

**ASSEMBLY COMMITTEE ON HUMAN SERVICES**

Lisa Calderon, Chair

SB 497 (Limón) – As Amended June 21, 2021

**SENATE VOTE:** 40-0

**SUBJECT:** Qualifying accounts for direct deposit of publicly administered funds

**SUMMARY:** Amends the definition of qualifying accounts regarding the accounts eligible to public assistance funds, including unemployment payments, child support payments, among others, and requires disability payments to be provided through either direct deposit or qualified accounts, as specified. Specifically, **this bill**:

- 1) Amends the definition of "qualifying account" to mean the following:
  - a) A demand deposit or savings account at an insured depository financial institution that is offered directly by the insured depository financial institution on its internet website or throughout its branches, and that is in the name of the person entitled to the receipt of public assistance payments, as specified,
  - b) A prepaid account, or a demand deposit or savings account offered by, or through, an entity other than an insured depository financial institution that meets all of the following requirements:
    - i) The account is held at an insured depository financial institution,
    - ii) The account is set up to meet the requirements for direct or passthrough deposit or share insurance payable to the person entitled to the receipt of funds by the Federal Deposit Insurance Corporation, as specified,
    - iii) The account is not attached to a credit or overdraft feature that is automatically repaid from the account unless the credit or overdraft feature has no fee, charge, or cost, whether direct, required, voluntary, or involuntary, or the credit or overdraft feature complies with the requirements for credit offered in connection with a prepaid account under federal regulations, as specified, and,
    - iv) The account complies with all of the requirements and provides the account holder with all of the consumer protections applicable to an account under the Federal Electronic Funds Transfer Act (EFTA).
  - c) A person or entity that is not an insured depository financial institution that offers, maintains, or manages an account that does not comply with the provisions of this bill must not solicit, accept, or facilitate the direct deposit of public assistance payments to the account, as specified.
- 2) Amends the definition of insured depository financial institution to mean a state or national bank, a state or federal savings and loan association, a mutual savings bank, or a state or federal credit union that holds deposits insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

- 3) Deletes provisions referencing "issuer," "prepaid card account."
- 4) Defines "prepaid account" as the term is defined in regulations under the EFTA.
- 5) Requires the Employment Development Department (EDD) to provide a person entitled to receive disability benefits or family temporary disability insurance benefits with the option to receive payments by direct deposit into a qualifying account of the recipient's choice, in addition to other alternative disbursement payment methods, as specified.
- 6) Makes technical changes.

**EXISTING LAW:**

- 1) Establishes the federal EFTA for the purpose of providing a basic framework of the rights, liabilities, and responsibilities of participants in electronic fund and remittance transfer systems. (15 U.S. Code Section 1693 et seq.)
- 2) Requires that if child support payments are deposited directly into an account of the recipient's choice, the funds only be deposited into a "qualifying account," as defined, as authorized under the EFTA. (Family Code Section [FAM] 17325)
- 3) Requires direct deposit of public assistance benefits, when a direct deposit is requested by a recipient, to only be made to the recipient's "qualifying account" at a financial institution, as defined. (Welfare and Institutions Code Section [WIC] 11006.2)
- 4) Requires that unemployment compensation benefit payments only be deposited into an account that meets the requirements of a qualifying account for deposit of public assistance payments, as specified, when a recipient requests a direct deposit of unemployment compensation benefits. (Unemployment Insurance Code Section [UIC] 1339.1)
- 5) Requires that EDD pay disability benefits through public employment offices or other agencies approved by the director. (UIC 2701)
- 6) Defines "financial institution" as a state or national bank, a state or federal savings and loan association, a mutual savings bank, or a state or federal credit union. (FAM 17325(c)(1), UIC 1339.1(c)(1), WIC 11006.2(c)(1))
- 7) Defines "issuer" as a person or entity that issues a prepaid card. (FAM 17325(c)(2), UIC 1339.1(c)(2), WIC 11006.2(c)(2))
- 8) Defines "payroll card account" as it is described in EFTA regulations. (FAM 17325(c)(3), UIC 1339.1(c)(3), WIC 11006.2(c)(3))
- 9) Defines "prepaid card" or "prepaid card account" as either of the following:
  - i) A card, code, or other means of access to funds of a recipient that is usable at multiple, unaffiliated merchants for goods or services or usable at automated teller machines; or,
  - ii) As defined in the regulations adopted under the EFTA regarding the general use of reloadable cards. (FAM 17325(c)(4), UIC 1339.1(c)(4), WIC 11006.2(c)(4))

**FISCAL EFFECT:** According to the Senate Appropriations Committee on May 10, 2021, this bill has:

- 1) Unknown total costs ranging in the tens to hundreds of millions of dollars for the EDD to develop a direct deposit option to supplement its existing direct deposit feature offered by the EDD Debit Card for its Unemployment and Disability Insurance programs. While the bill requires this new direct deposit option specific to EDD's Disability Insurance program, EDD notes that it would also extend this option to Unemployment Insurance claimants. The fiscal impact provided by EDD reflects a direct deposit for both of these benefit programs.
- 2) Minor fiscal impacts to the Department of Social Services - County Welfare Department and the Department of Child Support Services as these entities currently provide direct deposit options to the assistance programs they administer.
- 3) No anticipated fiscal impact to the Department of Financial Protection and Innovation.
- 4) Unknown potential state reimbursable costs to the extent that county offices providing public assistance payments and benefits under the programs included in the bill would have increased responsibilities or would need to change administrative processes to expand direct deposit options to specified qualified accounts. However, to the extent that county office are already providing direct deposit options for public assistance payments in line with the revised definition of qualified accounts in the bill, costs may be minor.

**COMMENTS:**

***Payments to Qualified Accounts:*** Public benefit payments in California are distributed in various ways, depending on the type of program the recipient is enrolled in. The most common forms of distribution include prepaid cards and direct deposits into personal accounts. A recipient of these funds may only choose the option of direct deposit if their personal account meets the specific standards in code for a qualifying account. The protections currently in place were established to ensure public benefit funds would directly reach the recipient. Requirements include deposit insurance, compliance with rules under the EFTA, and other consumer protection regulations. Of the four types of payments covered by this bill, only some child support payments are currently transferred via direct deposit to a recipient's personal account. Unemployment benefits, disability benefits, and public assistance funds are currently administered through prepaid cards that comply with existing laws. In the case of unemployment and disability benefits, however, EDD may soon provide an option for a beneficiary to receive their payments via direct deposit to their bank account. This bill will protect those funds from being subject to deceptive overdraft fees if such an option is provided.

***Coronavirus Pandemic:*** In March of 2020, Governor Gavin Newsom declared a statewide state of emergency in response to the global COVID-19 pandemic. With over 500,000 deaths resulting from coronavirus across our country, the impact of this virus has touched almost every aspect of everyday life. We have watched as the effects of COVID-19 have added strain on California's public programs, healthcare system, and the financial security of many. The rise in business closures and layoffs left many struggling, with unemployment payments covering the most basic needs. This recent rise in EDD payments brought more attention to loopholes in current law that sometimes keep the entirety of public assistance funds from reaching individuals. As vaccines

continue to be distributed throughout the country and COVID-19 pandemic related restrictions are lifted, the recovery to pre-pandemic unemployment rates continues slowly.

**Need for this bill:** This bill amends the definition of qualified accounts that are eligible to receive various forms of public assistance. In addition to making changes to the provisions regarding the types of accounts that can be used to receive these funds, this bill also requires EDD to provide an option for direct deposit into qualifying accounts for various disability payments. By making these changes to current provisions regulating the types of accounts eligible to receive public assistance funds, individuals who rely on these payments could be protected against losing portions of their money through overdraft or account charges.

According to the author, "[This bill] will prevent nonbank prepaid card companies from evading California and federal laws by relabeling their 'prepaid cards' as 'debit cards' in order to charge overdraft fees on consumers receiving public assistance. This bill closes an important loophole that will protect vulnerable families, ensure state funds are used appropriately and efficiently, and make it clear that public assistance should not be subject to overdraft fees."

**Double referral:** This bill is set to be heard by the Assembly Banking and Finance Committee on June 29, 2021.

#### **RELATED AND PRIOR LEGISLATION:**

**AB 8 (Smith) of 2021**, would give recipients of unemployment benefits the right to choose whether to have the unemployment compensation benefit payments directly deposited into a qualifying account or applied to a prepaid debit card. AB 8 was referred to the Assembly Insurance Committee but was not set to be heard.

**AB 74 (Gonzalez) of 2021**, would provide for direct deposit option for unemployment benefits and state disability payments. AB 74 is set to be heard by the Senate Energy, Utilities and Communications Committee on July 12, 2021.

**AB 1519 (Judiciary Committee) Chapter 416, Statutes of 2015**, established protections for accounts eligible to receive direct deposit of child support payments collected and distributed by the state.

**AB 2252 (Pérez) Chapter 180, Statutes of 2014**, established protections for accounts eligible to receive direct deposit of child support payments collected and distributed by the state.

**AB 1280 (Perez) Chapter 557, Statutes of 2013**, established protections for recipients of cash assistance and unemployed workers from fees that drain funds by setting requirements for qualifying accounts to be eligible to receive direct deposit of unemployment compensation.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Reinvestment Coalition  
Californians for Economic Justice  
CAMEO - California Association for Micro Enterprise Opportunity  
Center for Responsible Lending

Child Support Directors Association of California  
Consumer Federation of California  
Dolores Huerta Foundation  
Hope for All: Helping Others Prosper Economically  
Housing and Economic Rights Advocates  
National Consumer Law Center  
Public Counsel

**Opposition**

None on file

**Analysis Prepared by:** Emmalynn Mathis / HUM. S. / (916) 319-2089