

Date of Hearing: April 23, 2025

ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

Liz Ortega, Chair

AB 1365 (Garcia) – As Introduced February 21, 2025

**SUBJECT:** CalAccount Program

*Note: Because this bill was also analyzed by the Assembly Banking and Finance Committee, this analysis will focus on the labor provisions of the bill.*

**As proposed to be amended**

**SUMMARY:** Establishes the CalAccount Program (program) for the purpose of increasing access to traditional banking services and requires employers and hiring entities to maintain a payroll direct deposit arrangement that enables voluntary worker participation in the program. Specifically, **this bill:**

- 1) Defines “employee” to mean an individual who is employed by an employer. “Employee” does not include an employee covered under the federal Railway Labor Act (45 U.S.C. Sec. 151) or an employee engaged in interstate commerce so as not to be subject to the legislative powers of the state, except insofar as application of this title is authorized under the United States Constitution or laws of the United States.
- 2) Defines “employer” to mean a person engaged in a business, industry, profession, trade, or other enterprise in the state, whether or not for profit, excluding the federal government, that has more than 10 employees, and as specified.
- 3) Defines “hiring entity” to mean a person engaged in a business, industry, profession, trade, or other enterprise in the state, whether or not for profit, excluding the federal government, that has contracted with more than 25 independent contractors to perform the same or similar labor or service.
- 4) Establishes the program, to be administered by the CalAccount Blue Ribbon Commission (commission), for the purpose of increasing access to traditional banking services.
- 5) Requires employers to facilitate program sign up for employees and respect and comply with employees’ direct deposit elections with respect to the program.
- 6) Requires the commission to allow for participation in the program by providers of in-home supportive services (IHSS), if the commission determines, and the Director of Social Services and the Director of Finance certify, in writing, all of the following:
  - a) The participation meets all state and federal legal requirements.
  - b) The appropriate employer of record has been identified for the purpose of satisfying all of the program’s employer requirements.
  - c) The payroll deduction, as described, can be implemented at reasonable costs.

- d) The participation does not create a financial liability for the state or employer of record.
- 7) States that the Department of Social Services shall ensure the performance of all rights, duties, and obligations of the IHSS recipient relating to IHSS services as required for purposes of payroll direct deposit arrangements offered pursuant to the program.
- 8) Requires the commission to consult with employer representatives and employee representatives to create an administrative structure that facilitates employee participation while addressing employer needs, including, but not limited to, clearly defining employers' duties pursuant to 10)-12) below.
- 9) Requires the commission to meet the following education-related objectives:
  - a) Ensure the inclusion of comprehensive worker education and outreach in the program, including through collaboration with state and local governmental agencies, community-based and nonprofit organizations, foundations, vendors, and other entities deemed appropriate to develop and secure ongoing resources for education and outreach that reflect the cultures and languages of the state's diverse workforce population.
  - b) Ensure the inclusion in the program of comprehensive employer education and outreach developed in consultation with employer representatives and employee representatives.
- 10) Requires employers and hiring entities to maintain a payroll direct deposit arrangement that enables voluntary worker participation in the program.
- 11) Requires employers and hiring entities to, consistent with all applicable regulations issued by the commission, do all of the following:
  - a) Coordinate their payroll process with the program to facilitate accurate and seamless payment by direct deposit in accordance with the authorization of each worker participant using the tools provided by the program.
  - b) Cooperate with the commission in providing all requested information available to the employer or hiring entity necessary for the opening and administration of a worker's CalAccount account.
  - c) Upon request of the administrator, provide additional forms or notifications to a worker within seven calendar days.
- 12) Prohibits employers and hiring entities from discharging, disciplining, threatening to discharge or discipline, or in any other manner retaliating or taking an adverse action against a worker or applicant because of the individual's participation or manner of participation in the program.
- 13) Requires, if the Department of Finance determines there are sufficient funds available in the CalAccount Fund, or if an annual Budget Act appropriation is made in amounts sufficient to allow the commission to implement, or both, the commission to develop a process for small employers to request financial and administrative implementation assistance. Small

employers for the purposes of this provision only are defined as businesses with less than or equal to 100 employees.

- 14) Requires the commission to refer to the Labor Commissioner (LC) for enforcement a complaint it makes or receives pursuant to 15) below that an employer or hiring entity has failed to allow its workers to participate in the program, as specified.
- 15) Requires, upon receipt of a complaint or referral from the commission, the LC to investigate and determine whether an employer or hiring entity has failed to allow its workers to participate in the program or otherwise violated the employer obligations in 10)-12) above.
- 16) Provides that an employer or hiring entity who violates 5) or 10)-12) above, or any rules or regulations established by the commission pursuant to those provisions shall be subject to a civil penalty of two hundred fifty dollars (\$250) per worker per violation in an initial citation and one thousand dollars (\$1,000) per worker for each violation in a subsequent citation for a violation of 10)-12) above. These penalties are in addition to any other penalty provided by law.
  - a) The LC shall take into consideration whether the violation was inadvertent. The LC may decide not to penalize an employer or hiring entity for a first violation if that violation was due to a clerical error or inadvertent mistake.
- 17) Permits the LC to issue a citation if the LC determines that an employer or hiring entity violated 10)-12) above. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statutory provision alleged to have been violated, and shall advise the employer or hiring entity of its right to request a hearing.
- 18) States that an employer or hiring entity may contest a citation or a proposed assessment of a civil penalty by requesting an informal hearing with the LC.
- 19) Requires civil penalties collected pursuant to 16) above to be deposited into the CalAccount Fund.

#### **EXISTING LAW:**

- 1) Establishes the Division of Labor Standards Enforcement (DLSE), under the direction of the LC, within the Department of Industrial Relations (DIR) and sets forth its powers and duties regarding the enforcement of labor laws. Labor Code § 79 et seq.
- 2) Requires, on or before September 1, 2022, the Treasurer to convene the commission. The Treasurer shall serve as the chair of the commission. Gov. Code §100102 (a) and (c).
- 3) Requires, on or before July 1, 2024, the commission to conduct and deliver a market analysis to determine if it is feasible to implement a “CalAccount Program,” which, if implemented, would have, among other things, the following characteristics:
  - a) Would be a program established by the state for the purpose of protecting consumers who lack access to traditional banking services from predatory, discriminatory, and costly alternatives, which offers 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.

- b) Would require the board of the CalAccount Program (board) to establish the mechanisms by which an accountholder may deposit funds into a CalAccount for no fee, which mechanisms shall include, but not be limited to, electronic fund transfers arranged through an employer's or hiring entity's payroll direct deposit arrangement and cash loading through in-network partners.
  - c) Would require the board to establish the process through which an accountholder may elect to have a portion, up to the entirety, of the accountholder's paycheck or earnings due for labor or services performed directly deposited by electronic fund transfer into the accountholder's CalAccount.
  - d) Would require the board to establish the process through which employers and hiring entities shall be required to remit through a payroll direct deposit arrangement each worker's elected payroll contribution to the worker's CalAccount in accordance with the worker's election.
  - e) Would require an employer with more than 25 employees and a hiring entity with more than 25 independent contractors performing the same or similar labor or service, excluding the federal government, to do all of the following:
    - i) Have and maintain a payroll direct deposit arrangement that enables voluntary worker participation in the program.
    - ii) Deposit all wages and other payments due a worker that the worker has authorized to be directly deposited by electronic fund transfer into the worker's CalAccount in accordance with the worker's authorization.
    - iii) Coordinate its payroll process with the program administrator's application program interface to facilitate accurate and seamless payment by direct deposit in accordance with the authorization of each worker participant.
    - iv) Cooperate with the program administrator in providing all requested information available to the employer or hiring entity necessary for the opening and administration of a worker's CalAccount.
    - v) Upon request of the administrator, provide additional forms or notifications to a worker.
    - vi) Refrain from discharging, disciplining, threatening to discharge or discipline, or in any other manner retaliating or taking an adverse action against a worker or applicant because of the individual's participation or manner of participation in the program.
- Gov. Code §100104 (a)(1)-(a)(1)(A),(D-F),(O).

**FISCAL EFFECT:** Unknown

**COMMENTS:** The exclusionary practices and lack of affordability associated with traditional banking are well studied. On a national level, the “current banking system bars the most vulnerable Americans from full economic participation and penalizes poverty for those who do manage to participate. Some 15 million families have little formal access to banking, and 5 percent of American households are unbanked entirely... In many cases, families simply can’t afford to open and maintain accounts. Non-sufficient funds (NSF) and overdraft fees tend to affect users with the lowest balances and thereby target the individuals least likely to be able to pay them, if not prevent them from banking entirely.<sup>1</sup>” Additionally, numerous reports have shown a disturbing correlation between race and access to banking services. According to a 2014 study<sup>2</sup> by the Pew Charitable Trusts on overdraft fees, “traditional banks operating in predominantly Black neighborhoods tend to have higher initial opening deposits and minimum balances, adding a layer of racialized discrimination to the exclusionary practices of contemporary financial institutions.” AB 1365 would take aim at these fees and inequitable practices by offering free bank accounts to thousands of unbanked and underbanked individuals.

The establishment of no-fee bank accounts could be particularly helpful to the over 500,000 IHSS workers who care for the low-income elderly population and persons with disabilities. Starting in 2022, this workforce was mandated to be paid by direct deposit or a pay card. For those who had to open a traditional bank account, having the CalAccount option would be a significant improvement.

According to the author, “With the cost of living skyrocketing and Californians struggling to afford basic groceries, every dollar a family can save counts. Sixty percent of households earn less than \$30,000 a year and do not have access to a bank account, due to pricey overdraft fees and minimum balance requirements. Lacking access to traditional banking not only means that you pay more for basic financial service, but that you are also less able to save, build credit, receive fee-free government assistance and exit poverty. AB 1365 removes banking barriers by establishing the CalAccount Program – offering a zero-fee, zero-penalty, and no-minimum debit account, ensuring that everyone has access to a bank account, while maximizing their income and savings.”

The author further states that, “60% of households in California earn \$30,000 a year or less. More than 30% of Black and Latino households struggle to receive minimal banking services or have been locked out completely. More than 40% of Californians with a disability have reported to struggle to secure minimal banking services. Households without full access to affordable financial services are disproportionately headed by women. AB 1365 provides these households with access to an affordable bank account, that doesn’t have any fees or penalties, ensuring everyone has the opportunity to maximize their savings.”

### **Arguments in Support**

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<sup>1</sup> Stoller, Sarah and Chavez, Raul, “Eliminating Barriers to Bank Accounts: How CalAccount Can Ensure Financial Inclusion and Serve as a Model for Public Banking,” Roosevelt Institute, March 11, 2025, citing Divito, Emily, “The Business of Bank Fees: How Public Alternatives Can Ensure Equitable Economic Participation,” Roosevelt Institute, June 5, 2024.

<sup>2</sup> [https://www.pewtrusts.org/-/media/assets/2014/06/26/safe\\_checking\\_overdraft\\_survey\\_report.pdf](https://www.pewtrusts.org/-/media/assets/2014/06/26/safe_checking_overdraft_survey_report.pdf).

Indivisible California Statestrong is in support and states, “Currently, 1 out of 6 California households, representing over 6 million people, remain unbanked or underbanked, resorting to expensive, risky alternatives such as check-cashing, money orders, and prepaid cards. These communities spend billions annually on these services, exacerbating financial instability, particularly among marginalized groups.

RAND’s 2024 market analysis shows this crisis: 95% of banks charge overdraft fees, with monthly fees averaging \$8 and overdraft fees frequently exceeding \$25. RAND further notes severe racial and socioeconomic disparities, with Black, Latina, Asian, and Pacific Islander households comprising nearly 75% of California's unbanked and underbanked, despite representing just over half of the state's households. Immigrant communities and survivors of gender-based violence also face significant barriers accessing safe and affordable financial services. Households earning less than \$30,000 annually represent three-quarters of California's unbanked population.

AB 1365 directly tackles these inequities by establishing zero-fee, federally insured transaction accounts featuring debit cards, direct deposit, automatic bill pay, and credit-building tools. RAND estimates the CalAccount Program could save underbanked households upwards of \$1,000 annually and generate an economic stimulus impact of approximately \$45 million in its first year alone.”

### **Arguments in Opposition**

The California Bankers Association, the California Apartment Association, the California Credit Union League, the California Community Banking Network, and the Card Coalition, are opposed to the bill and state, “AB 1365 places new mandates on nearly every employer, business and landlord. Under AB 1365 every employer with more than 10 employees would be required to offer direct deposit to a CalAccount. Every “hiring entity” with more than 25 independent contractors must offer payment through a CalAccount. And every landlord regardless of size must accept rent payments from a CalAccount. These new mandates affect nearly every business and landlord in California.

[The] feasibility study relies on hundreds of thousands of already banked consumers moving to CalAccounts. Only 30 percent of the expected CalAccount consumers would be unbanked. (Annex II, page 14). Buried deep in Annex II, the enrollment estimates rely on CalAccount enrolling both “unbanked” households and “underbanked” households. “Underbanked” households already have a bank account but also rely on alternative financial services. In short, the entire financial premise of the feasibility study would require moving 467,000 to 631,000 households out of their existing credit union or bank and into CalAccount to generate sufficient enrollment.”

### **Prior Legislation**

AB 1177 (Santiago) Chapter 451, Statutes of 2021 requires the Treasurer to convene, on or before September 1, 2022, the commission to be composed of certain members, including the Treasurer or the Treasurer’s designee. The bill also requires the commission to, on or before July 1, 2024, conduct, by contracting with one or more entities with appropriate expertise, and deliver, as prescribed, a market analysis to determine if it is feasible to implement a “CalAccount Program.”

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Asian, Inc.  
Bay Area-system Change Not Climate Change  
California Public Banking Alliance  
Clear Beliefs Institute  
Community Financial Resources  
Congregations Organized for Prophetic Engagement  
Consumer Federation of California  
Economic Security California Action  
End Poverty in California  
End Poverty in California Action Aka Epic Action, a Project of Tides Advocacy  
Freefrom  
Friends of the Earth U.S.  
Golden State Opportunity  
Human Agenda  
Inclusive Action for the City  
Individuals  
Indivisible CA Statestrong  
Inland Empire Prism Collective  
Media Alliance  
Microenterprise Collaborative of Inland Southern California  
National Consumer Law Center  
National Employment Law Project  
Rise Economy  
SEIU California  
Sonoma County Climate Activist Network  
Thai Community Development Center  
The Academy of Financial Education

**Oppose**

California Apartment Association  
California Bankers Association  
California Community Banking Network  
California Credit Union League  
Card Coalition

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