

**ASSEMBLY BILL**

**No. 1614**

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**Introduced by Assembly Member Stone**

February 6, 2014

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An act to amend Section 123302 of the Health and Safety Code, and to amend Section 10072 of, and to add Section 10072.3 to, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1614, as introduced, Stone. Electronic benefits transfer cards.

(1) Existing law provides for financial and food assistance benefits to needy Californians including, among other programs, the California Work Opportunity and Responsibility to Kids (CalWORKs) program and CalFresh, under which each county provides for financial and food assistance benefits to qualified individuals who meet specified eligibility criteria.

Existing law, administered by the State Department of Social Services, provides for the establishment of a statewide electronic benefits transfer (EBT) system for the purpose of providing those financial and food assistance benefits. Existing law authorizes a county to deliver CalFresh benefits and, upon election by the county, CalWORKs benefits through the use of an EBT system. Existing law requires, among other things, that the system have a 24-hour per day toll-free telephone hotline for the reporting of lost or stolen cards that will provide recipients with information on how to have the card and personal identification card number replaced.

This bill would require the 24-hour toll-free telephone hotline to provide recipients, at no additional cost, the above-described information and access to a complete transaction history detail for use by the

recipient for financial management and dispute resolution. This bill would require the system to have an Internet Web site for the reporting of lost or stolen cards, as specified.

This bill would also require, no later than January 1, 2016, that the EBT system be designed to inform recipients that access to electronic benefits is temporarily unavailable if the system does not function or is expected not to function for more than a one-hour period between 6:00 a.m. and midnight during any 24-hour period.

(2) Existing law, except as specified, authorizes a recipient to be charged a fee, not to exceed the amount allowable by applicable state and federal law and customarily charged to other customers, for cash withdrawal transactions that exceed 4 per month.

This bill would require the EBT system to be designed to ensure that recipients of benefits under the CalWORKs program have access to using or withdrawing benefits with minimal fees or charges, including an opportunity to access benefits with no fee or charges. This bill would also create the Electronic Benefits Transfer System Consumer Access Fund for the receipt of moneys collected by the department for the contractual violations of EBT system vendors or subcontractors. The bill would allocate moneys in this fund, upon appropriation by the Legislature, to the department for a specified purpose.

(3) Existing law requires that EBT system consumers be informed regarding how to use the EBT card and how to protect the card from misuse.

This bill would also require a consumer to be informed of where they can use their EBT cards to withdraw benefits without incurring a fee, charge, or surcharge. This bill would also require the county to inform an applicant for benefits under the CalWORKs program of, among other things, the methods of electronic delivery of benefits available and any applicable fees, charges, or surcharges associated with each method of electronic delivery.

This bill would also make a conforming change.

By increasing the duties of counties in administering public social services programs, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 123302 of the Health and Safety Code  
2 is amended to read:

3 123302. (a) (1) Notwithstanding any other ~~provision of~~ law,  
4 the department may design, implement, and fund an electronic  
5 benefits transfer (EBT) system for the California Special  
6 Supplemental Food Program for Women, Infants, and Children.  
7 Sections 10066, 10067, and 10068 of, and subdivision ~~(j)~~ (l) of  
8 Section 10072 of, the Welfare and Institutions Code, shall apply  
9 to the administration of this section.

10 (2) The department ~~may~~ shall not implement any EBT system  
11 authorized by this section until the department completes a  
12 feasibility study, and funding for the system is provided in the  
13 annual Budget Act.

14 (b) The department shall seek the advice of the Electronic  
15 Benefits Transfer Committee, created by Section 10067 of the  
16 Welfare and Institutions Code, in implementing this section, and  
17 shall obtain the approval of the United States Department of  
18 Agriculture, which is the federal governing agency, prior to the  
19 establishment of any EBT system.

20 (c) The department shall develop a plan to determine the  
21 feasibility of implementing an EBT system for the California  
22 Special Supplemental Food Program for Women, Infants, and  
23 Children by January 1, 2003, and shall report its findings to the  
24 Legislature by July 1, 2003.

25 SEC. 2. Section 10072 of the Welfare and Institutions Code is  
26 amended to read:

27 10072. The electronic benefits transfer system required by this  
28 chapter shall be designed to do, but not be limited to, all of the  
29 following:

30 (a) To the extent permitted by federal law and the rules of the  
31 program providing the benefits, recipients who are required to  
32 receive their benefits using an electronic benefits transfer system  
33 shall be permitted to gain access to the benefits in any part of the

1 state where electronic benefits transfers are accepted. All electronic  
2 benefits transfer systems in this state shall be designed to allow  
3 recipients to gain access to their benefits by using every other  
4 electronic benefits transfer system.

5 (b) To the maximum extent feasible, electronic benefits transfer  
6 systems shall be designed to be compatible with the electronic  
7 benefits transfer systems in other states.

8 (c) All reasonable measures shall be taken in order to ensure  
9 that recipients have access to electronically issued benefits through  
10 systems such as automated teller machines, point-of-sale devices,  
11 or other devices that accept electronic benefits transfer transactions.  
12 Benefits provided under Chapter 2 (commencing with Section  
13 11200) of Part 3 shall be staggered over a period of three calendar  
14 days, unless a county requests a waiver from the department and  
15 the waiver is approved, or in cases of hardship pursuant to  
16 subdivision ~~(f)~~ (o).

17 (d) The system shall provide for reasonable access to benefits  
18 to recipients who demonstrate an inability to use an electronic  
19 benefits transfer card or other aspect of the system because of  
20 disability, language, lack of access, or other barrier. These  
21 alternative methods shall conform to the requirements of the  
22 Americans with Disabilities Act (42 U.S.C. Sec. 12101, et seq.),  
23 including reasonable accommodations for recipients who, because  
24 of physical or mental disabilities, are unable to operate or otherwise  
25 make effective use of the electronic benefits transfer system.

26 (e) The system shall permit a recipient the option to choose a  
27 personal identification number, also known as a “PIN” number,  
28 to assist the recipient to remember his or her number in order to  
29 allow access to benefits. Whenever an institution, authorized  
30 representative, or other third party not part of the recipient  
31 household or assistance unit has been issued an electronic benefits  
32 transfer card, either in lieu of, or in addition to, the recipient, the  
33 third party shall have a separate card and personal identification  
34 number. At the option of the recipient, he or she may designate  
35 whether restrictions apply to the third party’s access to the  
36 recipient’s benefits. At the option of the recipient head of  
37 household or assistance unit, the county shall provide one electronic  
38 benefits transfer card to each adult member to enable them to  
39 access benefits.

1 (f) The system shall have a 24-hour per day toll-free telephone  
2 hotline for the reporting of lost or stolen cards ~~and~~ that will provide  
3 recipients, *at no additional cost to the recipient*, with information  
4 on how to have the card and personal identification number  
5 replaced, *and with access to a complete transaction history detail*  
6 *for use by the recipient for financial management and dispute*  
7 *resolution.*

8 (g) *The system shall have an Internet Web site for the reporting*  
9 *of lost or stolen cards that will provide recipients, at no additional*  
10 *cost to the recipient, with information on how to have the card*  
11 *and personal identification number replaced, and with access to*  
12 *a complete transaction history detail for use by the recipient for*  
13 *financial management and dispute resolution.*

14 ~~(g)~~

15 (h) (1) A recipient shall not incur any loss of electronic benefits  
16 after reporting that his or her electronic benefits transfer card or  
17 personal identification number has been lost or stolen. The system  
18 shall provide for the prompt replacement of lost or stolen electronic  
19 benefits transfer cards and personal identification numbers.  
20 Electronic benefits for which the case was determined eligible and  
21 that were not withdrawn by transactions using an authorized  
22 personal identification number for the account shall also be  
23 promptly replaced.

24 (2) A recipient shall not incur any loss of cash benefits that are  
25 taken by an unauthorized withdrawal, removal, or use of benefits  
26 that does not occur by the use of a physical EBT card issued to the  
27 recipient or authorized third party to directly access the benefits.  
28 Benefits taken as described in this paragraph shall be promptly  
29 replaced in accordance with the protocol established by the  
30 department pursuant to paragraph (3).

31 (3) The State Department of Social Services shall establish a  
32 protocol for recipients to report electronic theft of cash benefits  
33 that minimizes the burden on recipients, ensures prompt  
34 replacement of benefits in order to minimize the harm to recipients,  
35 and ensures program integrity. This protocol may include the  
36 automatic replacement of benefits without the need for recipient  
37 reporting and verification.

38 ~~(h)~~

39 (i) Electronic benefits transfer system consumers shall be  
40 informed on how to use electronic benefits transfer cards ~~and~~, how

1 to protect ~~them~~ *their cards* from misuse, and where consumers  
 2 can use their cards to withdraw benefits without incurring a fee,  
 3 charge, or surcharge.

4 (j) *No later than January 1, 2016, the electronic benefits transfer*  
 5 *system shall be designed to inform recipients, by telephone and at*  
 6 *no additional cost to the recipient, that access to electronic benefits*  
 7 *is temporarily unavailable if the electronic benefits transfer system*  
 8 *does not function or is expected not to function for more than a*  
 9 *one-hour period between 6:00 a.m. and midnight during any*  
 10 *24-hour period. This communication shall be made in the*  
 11 *recipient’s preferred language if the electronic benefits transfer*  
 12 *system vendor contract provides for services in that language.*

13 ~~(i)~~

14 (k) Procedures shall be developed for error resolution.

15 ~~(j)~~

16 (l) No fee shall be charged by the state, a county, or an electronic  
 17 benefits processor certified by the state to retailers participating  
 18 in the electronic benefits transfer system.

19 ~~(k)~~

20 (m) Except for CalFresh transactions, a recipient may be charged  
 21 a fee, not to exceed the amount allowed by applicable state and  
 22 federal law and customarily charged to other customers, for cash  
 23 withdrawal transactions that exceed four per month.

24 (n) *The electronic benefits transfer system shall be designed to*  
 25 *ensure that recipients of benefits under Chapter 2 (commencing*  
 26 *with Section 11200) of Part 3 have access to using or withdrawing*  
 27 *benefits with minimal fees or charges, including an opportunity*  
 28 *to access benefits with no fee or charges.*

29 ~~(l)~~

30 (o) A county shall exempt an individual from the three-day  
 31 staggering requirement under subdivision (c) on a case-by-case  
 32 basis for hardship. Hardship includes, but is not limited to, the  
 33 incurrence of late charges on an individual’s housing payments.

34 (p) *A county shall inform an applicant for benefits under*  
 35 *Chapter 2 (commencing with Section 11200) of Part 3 of all of the*  
 36 *following:*

37 (1) *The methods of electronic delivery of benefits available,*  
 38 *including distribution of benefits through the electronic benefits*  
 39 *transfer system or direct deposit pursuant to Section 11006.2, the*  
 40 *applicable fees, charges, or surcharges associated with each*

1 *method of electronic delivery, consumer and privacy protections,*  
2 *protections from garnishment, and liability for theft.*

3 *(2) That a recipient may authorize any available method of*  
4 *electronic delivery of benefits and instructions regarding how the*  
5 *recipient may select or change his or her preferred method of*  
6 *electronic delivery of benefits and that the recipient shall be given*  
7 *the opportunity to select the method prior to the first payment.*

8 *(3) That a recipient may be entitled to an alternative method of*  
9 *delivery if the recipient demonstrates an inability to use an*  
10 *electronic benefits transfer card or other aspect of the system*  
11 *because of disability, language, lack of access, or other barrier*  
12 *pursuant to subdivision (d) and instructions regarding how to*  
13 *determine whether the recipient qualifies for an alterative method*  
14 *of delivery.*

15 *(4) That a recipient may be entitled to an exemption from the*  
16 *three-day staggering requirement under subdivision (c) on a*  
17 *case-by-case basis for hardship pursuant to subdivision (o) and*  
18 *instructions regarding how to determine whether the recipient*  
19 *qualifies for the exemption.*

20 SEC. 3. Section 10072.3 is added to the Welfare and  
21 Institutions Code, to read:

22 10072.3. (a) There is hereby created in the State Treasury the  
23 Electronic Benefits Transfer System Consumer Access Fund. The  
24 fund shall consist of moneys collected by the State Department of  
25 Social Services for the contractual violations of electronic benefits  
26 transfer system vendors or subcontractors.

27 (b) Notwithstanding any other law, moneys in the fund, upon  
28 appropriation by the Legislature, shall be allocated to the  
29 department for the purpose of ensuring that recipients of benefits  
30 under Chapter 2 (commencing with Section 11200) of Part 3 have  
31 access to using or withdrawing benefits with minimal fees or  
32 charges, including an opportunity to access benefits with no fee  
33 or charges.

34 SEC. 4. If the Commission on State Mandates determines that  
35 this act contains costs mandated by the state, reimbursement to  
36 local agencies and school districts for those costs shall be made  
37 pursuant to Part 7 (commencing with Section 17500) of Division  
38 4 of Title 2 of the Government Code.

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