

AMENDED IN ASSEMBLY APRIL 3, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1614

Introduced by Assembly Member Stone

February 6, 2014

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 amended, 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. to allow an authorized representative or head of household to access or request the transaction history detail, as specified. This bill would require the system to have an Internet Web site for the reporting of lost or stolen cards, as specified. that will provide the same information and allow the same access.~~

The bill would require a county human services agency to make available to an authorized representative or head of household all electronic benefit transaction history details that are available to the county human services agency within 10 business days after a request has been received.

~~This bill would also require, no later than January 1, 2016, require that the EBT system be designed to inform recipients that access to electronic benefits is temporarily unavailable if when 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 Protection, Financial Empowerment, and Cash Access Fund for the receipt of moneys ~~collected by the department for the contractual violations of EBT system vendors or subcontractors. from federal, state, and private funds.~~ The bill would allocate moneys in this fund, upon appropriation by the Legislature, to the department for ~~a specified purpose. purposes.~~

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

10 (2) The department 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

1 Children by January 1, 2003, and shall report its findings to the
2 Legislature by July 1, 2003.

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

5 10072. The electronic benefits transfer system required by this
6 chapter shall be designed to do, but not be limited to, all of the
7 following:

8 (a) To the extent permitted by federal law and the rules of the
9 program providing the benefits, recipients who are required to
10 receive their benefits using an electronic benefits transfer system
11 shall be permitted to gain access to the benefits in any part of the
12 state where electronic benefits transfers are accepted. All electronic
13 benefits transfer systems in this state shall be designed to allow
14 recipients to gain access to their benefits by using every other
15 electronic benefits transfer system.

16 (b) To the maximum extent feasible, electronic benefits transfer
17 systems shall be designed to be compatible with the electronic
18 benefits transfer systems in other states.

19 (c) All reasonable measures shall be taken in order to ensure
20 that recipients have access to electronically issued benefits through
21 systems such as automated teller machines, point-of-sale devices,
22 or other devices that accept electronic benefits transfer transactions.
23 Benefits provided under Chapter 2 (commencing with Section
24 11200) of Part 3 shall be staggered over a period of three calendar
25 days, unless a county requests a waiver from the department and
26 the waiver is approved, or in cases of hardship pursuant to
27 subdivision (o).

28 (d) The system shall provide for reasonable access to benefits
29 to recipients who demonstrate an inability to use an electronic
30 benefits transfer card or other aspect of the system because of
31 disability, language, lack of access, or other barrier. These
32 alternative methods shall conform to the requirements of the
33 Americans with Disabilities Act (42 U.S.C. Sec. 12101, et seq.),
34 including reasonable accommodations for recipients who, because
35 of physical or mental disabilities, are unable to operate or otherwise
36 make effective use of the electronic benefits transfer system.

37 (e) The system shall permit a recipient the option to choose a
38 personal identification number, also known as a "PIN" number,
39 to assist the recipient to remember his or her number in order to
40 allow access to benefits. Whenever an institution, authorized

1 representative, or other third party not part of the recipient
2 household or assistance unit has been issued an electronic benefits
3 transfer card, either in lieu of, or in addition to, the recipient, the
4 third party shall have a separate card and personal identification
5 number. At the option of the recipient, he or she may designate
6 whether restrictions apply to the third party's access to the
7 recipient's benefits. At the option of the recipient head of
8 household or assistance unit, the county shall provide one electronic
9 benefits transfer card to each adult member to enable them to
10 access benefits.

11 (f) The system shall have a 24-hour per day toll-free telephone
12 hotline for the reporting of lost or stolen cards that will provide
13 recipients, at no additional cost to the recipient, with information
14 on how to have the card and personal identification number
15 replaced, and ~~with access to a complete transaction history detail~~
16 ~~for use by the recipient for financial management and dispute~~
17 ~~resolution.~~ *that will allow an authorized representative or head*
18 *of household to access, over the telephone, the transaction history*
19 *detail for at least the last 10 transactions and to request that the*
20 *transaction history detail for at least the past two months be sent*
21 *by mail.*

22 (g) The system shall have an Internet Web site ~~for the reporting~~
23 ~~of lost or stolen cards~~ that will provide recipients, at no additional
24 cost to the recipient, with information on how to have the card and
25 personal identification number replaced, and ~~with access to a~~
26 ~~complete transaction history detail for use by the recipient for~~
27 ~~financial management and dispute resolution.~~ *that will allow an*
28 *authorized representative or head of household to access the*
29 *transaction history detail for at least the last 10 transactions over*
30 *the telephone and to request that the transaction history detail for*
31 *at least the past two months be sent by mail.*

32 (h) *In addition to the ability to receive transaction history detail*
33 *pursuant to subdivisions (f) and (g), a county human services*
34 *agency shall make available to an authorized representative or*
35 *head of household, at no additional cost to the authorized*
36 *representative or head of household, all electronic benefit*
37 *transaction history details that are available to the county human*
38 *services agency within 10 business days after a request has been*
39 *received by the agency.*

40 (h)

1 (i) (1) A recipient shall not incur any loss of electronic benefits
2 after reporting that his or her electronic benefits transfer card or
3 personal identification number has been lost or stolen. The system
4 shall provide for the prompt replacement of lost or stolen electronic
5 benefits transfer cards and personal identification numbers.
6 Electronic benefits for which the case was determined eligible and
7 that were not withdrawn by transactions using an authorized
8 personal identification number for the account shall also be
9 promptly replaced.

10 (2) A recipient shall not incur any loss of cash benefits that are
11 taken by an unauthorized withdrawal, removal, or use of benefits
12 that does not occur by the use of a physical EBT card issued to the
13 recipient or authorized third party to directly access the benefits.
14 Benefits taken as described in this paragraph shall be promptly
15 replaced in accordance with the protocol established by the
16 department pursuant to paragraph (3).

17 (3) The State Department of Social Services shall establish a
18 protocol for recipients to report electronic theft of cash benefits
19 that minimizes the burden on recipients, ensures prompt
20 replacement of benefits in order to minimize the harm to recipients,
21 and ensures program integrity. This protocol may include the
22 automatic replacement of benefits without the need for recipient
23 reporting and verification.

24 (i)

25 (j) Electronic benefits transfer system consumers shall be
26 informed on how to use electronic benefits transfer cards, how to
27 protect their cards from misuse, and where consumers can use their
28 cards to withdraw benefits without incurring a fee, charge, or
29 surcharge.

30 ~~(j) No later than January 1, 2016, the~~

31 (k) ~~The~~ electronic benefits transfer system shall be designed to
32 ~~inform recipients, by telephone and at no additional cost to the~~
33 ~~recipient, that access to electronic benefits is temporarily~~
34 ~~unavailable if recipients when~~ the electronic benefits transfer
35 system does not function or is expected not to function for more
36 than a one-hour period between 6:00 a.m. and midnight during
37 any 24-hour period. This ~~communication~~ *information* shall be
38 made *available* in the recipient's preferred language if the
39 electronic benefits transfer system vendor contract provides for
40 services in that language.

1 ~~(k)~~

2 (l) Procedures shall be developed for error resolution.

3 ~~(t)~~

4 (m) No fee shall be charged by the state, a county, or an
5 electronic benefits processor certified by the state to retailers
6 participating in the electronic benefits transfer system.

7 ~~(m)~~

8 (n) Except for CalFresh transactions, a recipient may be charged
9 a fee, not to exceed the amount allowed by applicable state and
10 federal law and customarily charged to other customers, for cash
11 withdrawal transactions that exceed four per month.

12 ~~(n)~~

13 (o) The electronic benefits transfer system shall be designed to
14 ensure that recipients of benefits under Chapter 2 (commencing
15 with Section 11200) of Part 3 have access to using or withdrawing
16 benefits with minimal fees or charges, including an opportunity
17 to access benefits with no fee or charges.

18 ~~(o)~~

19 (p) A county shall exempt an individual from the three-day
20 staggering requirement under subdivision (c) on a case-by-case
21 basis for hardship. Hardship includes, but is not limited to, the
22 incurrence of late charges on an individual's housing payments.

23 ~~(p)~~

24 (q) A county shall inform an applicant for benefits under Chapter
25 2 (commencing with Section 11200) of Part 3 of all of the
26 following:

27 (1) The methods of electronic delivery of benefits available,
28 including distribution of benefits through the electronic benefits
29 transfer system or direct deposit pursuant to Section 11006.2, the
30 applicable fees, charges, or surcharges associated with each method
31 of electronic delivery, consumer and privacy protections,
32 protections from garnishment, and liability for theft.

33 (2) That a recipient may authorize any available method of
34 electronic delivery of benefits and instructions regarding how the
35 recipient may select or change his or her preferred method of
36 electronic delivery of benefits and that the recipient shall be given
37 the opportunity to select the method prior to the first payment.

38 (3) That a recipient may be entitled to an alternative method of
39 delivery if the recipient demonstrates an inability to use an
40 electronic benefits transfer card or other aspect of the system

1 because of disability, language, lack of access, or other barrier
2 pursuant to subdivision (d) and instructions regarding how to
3 determine whether the recipient qualifies for an alternative method
4 of delivery.

5 (4) That a recipient may be entitled to an exemption from the
6 three-day staggering requirement under subdivision (c) on a
7 case-by-case basis for hardship pursuant to subdivision (o) and
8 instructions regarding how to determine whether the recipient
9 qualifies for the exemption.

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

12 10072.3. (a) There is hereby created in the State Treasury the
13 Electronic Benefits Transfer System Consumer *Protection,*
14 *Financial Empowerment, and Cash Access Fund.* The fund ~~shall~~
15 ~~consist of moneys collected by the State Department of Social~~
16 ~~Services for the contractual violations of electronic benefits transfer~~
17 ~~system vendors or subcontractors~~ *may consist of federal, state,*
18 *and private funds.*

19 (b) Notwithstanding any other law, moneys in the fund, upon
20 appropriation by the Legislature, shall be allocated to the
21 department for the purpose of ensuring that recipients of benefits
22 under Chapter 2 (commencing with Section 11200) of Part 3 ~~have~~
23 ~~are educated about their consumer rights and financial~~
24 ~~management tools and services, and how to access to using or~~
25 ~~withdrawing their benefits with minimal fees or charges, including~~
26 an opportunity to access benefits with no fee or charges.

27 (c) *Moneys in the fund may be used by the department or*
28 *allocated to county human services agencies or other public*
29 *entities, as determined by the department, in consultation with*
30 *county human services agencies and advocates for low-income*
31 *consumers.*

32 (d) *Activities funded by the fund that meet the goals of the*
33 *CalWORKs program, particularly by helping parents successfully*
34 *prepare for employment, shall be applied to the federal work*
35 *participation hours required by Section 11322.8 if the department*
36 *receives a waiver of compliance with Section 602 of Title 42 of*
37 *the United States Code from the United States Department of*
38 *Health and Human Services or otherwise determines that activities*
39 *meet the requirements set forth under federal law without a waiver.*

1 SEC. 4. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

O