

Date of Hearing: March 14, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Corey A. Jackson, Chair

AB 605 (Arambula) – As Introduced February 9, 2023

SUBJECT: California Fruit and Vegetable Supplemental Benefits Expansion Program

SUMMARY: Establishes the “California Fruit and Vegetable Supplemental Benefit Expansion Program” and creates the “Electronic Benefits Transfer (EBT) Expansion Fund” in the State Treasury; requires the California Department of Social Services (CDSS) to enroll authorized retailers to enable them to provide supplemental benefits to CalFresh recipients who purchase fresh fruits and vegetables, as specified. Specifically, **this bill:**

- 1) Makes Legislative findings and declarations related to food insecurity in California.
- 2) Establishes the “California Fruit and Vegetable Supplemental Benefits Expansion Program” and requires CDSS to enroll authorized retailers.
- 3) Defines the following:
 - a) "Authorized retailer" as any retail establishment that is authorized to accept CalFresh, including, but not limited to, grocery stores, corner stores, farmers' markets, farm stands, and mobile markets.
 - b) "Direct farm-to-consumer-outlet" to mean a certified farmers' market, farmers, community-supported agriculture (CSA), mobile markets, and farm stands that source directly from farmers. Further, includes an approved third-party EBT operator at any of the previously listed locations.
 - c) "Fresh fruit and vegetables" as a variety of whole or cut fruits and vegetables without added sugars, fats, oils, or salt and that has not been processed with heat, dye, canning, or freezing.
 - d) "Supplemental benefits" as additional funds delivered to a CalFresh recipient's EBT card upon purchase of California-grown fresh fruits and vegetables using CalFresh benefits and redeemed only for purchases allowed under the CalFresh program at an authorized retailer.
- 4) Establishes the “California Fruit and Vegetable EBT Expansion Fund” within the State Treasury, consisting of state, federal, public, and private funding sources.
- 5) Requires CDSS to enroll authorized retailers into the California Fruit and Vegetable Supplemental Benefit Expansion Program upon the deposit of sufficient money into the program fund within the State Treasury.
- 6) Establishes the “California Fruit and Vegetable Supplemental Benefits Expansion Program”.

- 7) Requires CDSS, in consultation with the California Department of Food and Agriculture (CDFA), to develop and adopt guidelines for enrolling authorized retailers, including the following:
 - a) A competitive application process for authorized retailers, as described in 8) -10) below;
 - b) An application process that may be competitive at the department's discretion for additional authorized retailers, as specified; and,
 - c) At least two rounds of application solicitation.
- 8) Requires CDSS to enroll authorized retailers that reflect a diversity of sizes and types, including grocery stores and direct farm-to-consumer authorized retailers consistent with the following:
 - a) Requires that the department prioritize enrolling retailers to demonstrate that their participation will expand the geographic availability of supplemental benefits to communities and counties where benefits are currently unavailable.
 - b) Provides for authorized retailers that have more than 50 retail locations in California or that redeem more than \$50 million in CalFresh benefits annually across all locations, that both of the following must apply:
 - i) Of any appropriation by the Legislature, CDSS must initially allocate no more than \$40 million for authorized retailers; and,
 - ii) CDSS must provide grants to authorized retailers, as specified, to offset the cost of technological upgrades required to offer supplemental benefits.
 - c) Provides for authorized retailers that have 50 or fewer retail locations in California that redeem \$50 million or less in CalFresh benefits annually across all retail locations under common ownership in California, that both of the following must apply:
 - i) Of any appropriation by the Legislature for the purposes of this article, the department shall initially allocate no more than \$40 million dollars for authorized retailers.
 - ii) Requires CDSS to provide, no more than \$1 million, in grants to offset costs of technological upgrades; and prioritize grantees with a large market share and those in a region of California with a high proportion of CalFresh beneficiaries and no other authorized retailers offering supplemental benefits to receive technological upgrade funding.
 - d) Provides that a direct farmer-to-consumer outlet may only be eligible for enrollment if it sells fresh fruits and vegetables and receive no more than \$60 million.
- 9) Requires CDSS to ensure that authorized retailers enrolled as a result of the first application solicitation, are distributing supplemental benefits no later than April 1, 2024.
- 10) Permits reallocation of funds to authorized retailers by CDSS, as specified.

- 11) Requires that CDSS provide supplemental benefits using the EBT system supplemental benefits mechanism to ensure all of the following;
 - a) Supplemental benefits can be transferrable across any authorized retailer;
 - b) Supplemental benefits can be accrued, tracked, and redeemed by CalFresh recipients in a seamless, integrated process through the EBT system;
 - c) Supplemental benefits can only be accrued by CalFresh recipients through the purchase of California-grown fresh fruits and vegetables from an authorized retailer;
 - d) Supplemental benefits can only be redeemed to make eligible purchases under the CalFresh program from an authorized retailer;
 - e) The supplemental benefits mechanism complies with all applicable state and federal laws governing procedures to ensure privacy and confidentiality;
 - f) Authorized retailers that use EBT-only point-of-sale terminals, such as farmers' markets, and those that use integrated point-of-sale terminals, such as grocery stores, shall be able to integrate the new supplemental benefits mechanism into their existing systems, including the free state-issued hardware provided to certified farmers' markets and farmers;
 - g) The supplemental benefits mechanism provides a CalFresh benefits to supplemental benefits match ratio of at least 1:1;
 - h) A CalFresh household may only accrue up to a limited amount of supplemental benefits, as determined by the department; and,
 - i) There shall be no expiration date for the use of supplemental benefits, but the benefits may be expunged in accordance with federal Supplemental Nutrition Assistance Program (SNAP) regulations.
- 12) Requires CDSS to contract with one or more vendors to develop at least two technology solutions that allows authorized retailers to wirelessly accept EBT CalFresh benefits. Further, requires this technology to be developed in consultation with CDSS, CDFA's Office of Farm to Fork, and stakeholders and limits allocation to \$750,000.
- 13) Requires CDSS to develop marketing materials that authorized retailers and community groups can use for outreach efforts to promote supplemental benefits at no cost. Further, requires the material to contain information targeted to populations that receive a low amount of CalFresh benefits, as specified.
- 14) Requires CDFA to develop a grant program to award funds to nonprofit organizations to recruit, train and support authorized retailers participating in the supplemental benefits program and requires that no more than \$1 million be allocated for this purpose.
- 15) Requires CDSS to submit a report to the Legislature, as specified, with the initial progress two months after the first supplemental benefits are distributed through the program, or March 1,

2024, whichever comes first. Further, requires the report to include recommendations on whether the technology used can support additional expansion and whether any aspects of the program design should be changed as part of the program expansion.

- 16) Stipulates that if the department fails to submit the required report, if the report includes a recommendation to stop further expansion of the program, or if supplemental benefits are not distributed as required by the program, the remaining unencumbered funds in the State Treasury Fund shall revert back to the General Fund.
- 17) Requires CDSS to publish data on program utilization quarterly, as specified, beginning three months after an authorized retailer first provides supplemental benefits.
- 18) Requires CDSS, as specified, to submit a report to the Legislature examining what could be improved in expanding access to supplemental benefits, implementing technological upgrades to provide supplemental benefits, communications and marketing regarding supplemental benefits, CalFresh participant experience accessing and using supplemental benefits, and retailer experience providing supplemental benefits.
- 19) Requires CDSS to seek any necessary federal waivers or approvals to implement the program.

EXISTING LAW:

- 1) Establishes the federal “Supplemental Nutrition Assistance Program”, pursuant to the Food Stamps Act of 1964, to provide benefits to families and individuals meeting specified criteria. (7 United States Code Section [U.S.C.] 2011 *et seq.*)
- 2) Establishes the CalFresh program for the administration of federal SNAP benefits to eligible individuals. Provides program requirements and eligibility, as specified. (Welfare and Institutions Code Section [WIC] 18900 *et seq.*)
- 3) Establishes the “EBT Act” and defines the EBT system as the program designed to provide benefits to those eligible to receive public assistance benefits such as CalWORKs and CalFresh. (WIC 10065 *et seq.*)
- 4) Places a number of requirements on the EBT system, including, but not limited to, requirements that the system: be designed, to the maximum extent feasible, to be compatible with EBT systems in other states; provide reasonable access to benefits to recipients who demonstrate an inability to use an EBT card because of disability, language, lack of access, or other barrier; and, have a 24-hour per day toll-free telephone hotline for the reporting of lost or stolen cards that will provide recipients, at no additional cost to the recipient, with information on how to have the card and personal identification number replaced, among others. (WIC 10072)
- 5) Makes Legislative findings and declarations related to EBT, including that one of the primary goals of EBT is to reduce the cost of delivering benefits to recipients, to ensure that all systems within California are compatible, and to afford public social services recipients the opportunity to better and more securely manage their financial affairs. (WIC 10065(b))
- 6) Establishes CDFA to promote and protect the agricultural industry of the state, enhance, protect, and perpetuate the ability of the private sector to produce food in a way that benefits

the general welfare and the economy of the state, and seek to maintain the economic well-being of agriculturally dependent rural communities in the state. (Food and Agriculture Code Section 100 *et seq.*)

- 7) Makes Legislative findings and declarations related to the importance of flea markets, farmers' markets, and certified farmers' markets and their goal of providing low-cost produce for Californians needing food assistance. (WIC 10072.1)
- 8) Establishes the "California Fruit and Vegetable EBT Pilot Project," which requires CDSS, in consultation with CDFA, county CalFresh administrators, and stakeholders, to include within the EBT system a supplemental benefits mechanism that allows an authorized retailer to deliver and redeem supplemental benefits, which must be compatible with operational procedures at farmers' markets with centralized point-of-sale (POS) terminals and at grocery stores with integrated POS terminals, as specified. (WIC 10072.3)

FISCAL EFFECT: Unknown, this bill has not been analyzed by a fiscal committee.

COMMENTS:

Background: *Food Insecurity.* According to the United States Census Bureau, one of every ten California adults report struggling with food insecurity. The California Association of Food Banks defines "food insecurity" as the occasional or constant lack of access to food for a healthy, active life. Food security can be impacted by various factors, including access to local healthy foods, the price of food, and the ability to store and prepare food. Individuals who face food insecurity are often forced to decide between nurturing their physical health and maintaining other aspects of their lives, leading to serious health effects.

As the complications of the coronavirus pandemic continue to influence all parts of daily life, individuals across the state struggle to find safe and reliable access to fresh foods. Data show that the number of Californians experiencing food insecurity is almost 2.5 times higher than before the pandemic. High unemployment rates, supply chain delays, and lockdown stockpiles made it difficult for many to secure the proper quality and quantity of food for themselves and their families.

The pandemic further highlighted the racial and ethnic health disparities in communities of color's experience with food access. A 2020 study in Los Angeles County showed that Non-Hispanic White residents had the lowest rates of food insecurity from April to December 2020. The relationship between race and food insecurity is complex; however, research suggests that the concentration of social and economic disadvantage among minorities is a significant predictor of their higher rates of food insecurity.

This bill could positively impact those facing food insecurity particularly in more rural areas. Rural areas face unique barriers in accessing every day essentials like food. Expanding access to CalFresh benefits to areas that are not currently served will further access and help reduce food insecurity.

Pandemic Hunger Cliff: At the beginning of the coronavirus pandemic, the federal government approved SNAP emergency allotments and flexibilities to states, resulting in a temporary benefit increase for recipients. Since early 2020, this change has allowed our most vulnerable residents to receive additional monthly money for healthy food. The 2022 federal spending bill ended the

SNAP emergency allotment, with the USDA announcing that the February 2023 payment would be the last. CDSS estimates that some households will lose up to \$200 monthly in benefits, pushing recipients back to early 2020 payment levels. This dramatic reduction in assistance combined with rising inflation is causing concern for many advocates, including those from agriculture and local government. Not only will this “hunger cliff” hinder individuals’ access to healthy food, local economies—including farmers’ markets—that have begun to thrive due to the influx of additional CalFresh dollars will feel the impact.

CalFresh. In California, SNAP funds are administered through the CalFresh program. SNAP is the federal program that provides states funding to offer nutritional benefits to low-income individuals and families. SNAP eligibility standards are set by the United States Department of Agriculture (USDA) and include income tests, work requirements, and required documentation. The current maximum allowable gross income to be eligible for CalFresh is 200% of the Federal Poverty Level (FPL); however, households with members who are elderly or have disabilities are instead subject to a net monthly income at or below 100% of the FPL. As of October 1, 2022, the maximum monthly benefit amount for a one-person household in California is \$281, while a family of three may receive up to \$658.

The benefit is meant to assist with access to healthy and nutritious foods and is distributed through various sources, depending on the state. Formerly known as food stamps, the program provides specific eligibility requirements and funding to states, planning and implementing at the local level. In California, CalFresh is under the purview of CDSS and facilitated through county human services agencies. Federal, state, and local governments share in the financial obligation of program administration. Individuals can complete the CalFresh application online, over the phone, in-person at their county CalFresh office, or through the mail. Eligible individuals in the state receive benefits through electronic cards, known as EBT cards. EBT cards can be used at any accepting retailer; however, due to technological limits there are many areas that struggle to accept cards and make it more difficult for recipients to access benefits.

The EBT system automates the delivery, redemption, and reconciliation of multiple types of public assistance benefits, including CalFresh, CalWORKs, and General Assistance. Recipients who receive benefits on an EBT card can use their funds at authorized vendors across the state, or for specific benefit programs at an ATM to withdraw cash. The California Office of Systems Integration (OSI) is responsible for developing and maintaining California's EBT system. Changes to the EBT system, such as online access to transaction history and account balances, are implemented and overseen by OSI.

CalFresh & Farmers' Markets: As California continues to seek flexibilities and implement policy changes to increase access to nutritional benefits, one of the most successful projects has been EBT utilization at farmers' markets. When individuals wish to use CalFresh benefits at a farmers’ market to purchase fresh fruits and vegetables, the market establishes a central point-of-sale model, which allows the individual to purchase scrip or vouchers that can then be used to purchase food from vendors. CalFresh recipients use their vouchers to purchase fresh fruit and vegetables from the approved market, and farmers are then reimbursed for the dollar amount of vouchers used to purchase their items. Additionally, some certified farmers' markets offer Market Match, which is a federally-funded incentive program that doubles the value of an individual's CalFresh purchases at participating farmers' markets; for every dollar in CalFresh scrip that a customer purchases, they are given an extra Market Match dollar that can be spent

only on fruits and vegetables. In 2020, CalFresh customers utilized a match of \$13,836 of funds—providing expanded access in a time of increased food insecurity.

California Fruit and Vegetable EBT Pilot Project: In 2018, the California Fruit and Vegetable EBT Pilot Program was established through Legislative action to develop and refine a scalable model for increasing the purchase and consumption of California-grown fresh fruits and vegetables by delivering supplemental benefits to CalFresh recipients. The pilot requires CDSS, in partnership with CalFresh, OSI, and CDFA, to include within the EBT system a supplemental benefits mechanism that allows an authorized retailer to deliver and redeem supplemental benefits. The program also required CDSS to evaluate the pilot, make recommendations to the Legislature to further refine the supplemental benefits mechanism, and submit a report to the Legislature no later than January 1, 2022. According to the department, the coronavirus pandemic has caused a significant delay in implementation of the pilot. Because of the delay in implementation, the Legislature has yet to receive the report with recommendations on expanding the supplemental benefits mechanism, however, there are currently 7 farmers markets and 4 brick and mortar organizations participating in the pilot.

Author’s statement: According to the author, “Despite all of the pandemic-era efforts to mitigate food insecurity in the state’s most vulnerable populations, food insecurity challenges impact 18.2% of communities of color. This is double the 9.9% observed before the pandemic. As of October 11th, according to California Food Banks, 24.2% of Black, 32.1% of Latinx, and 17.6% of Asian families with children reported food insecurity. Nearly 1 in 5 Californians, disproportionately low-income communities of color, don’t know where their next meal is coming from.

“[This bill] helps mitigate some of this lost support for these families. By expanding the number of retailers integrating the EBT supplemental benefits payment systems, families can more efficiently access supplemental help. This bill is the foundation and start of an automated supplemental food system that can scale more efficiently and effectively for this and future benefits.”

Need for this bill: This bill seeks to expand access and funding to provide supplemental benefits to recipients of CalFresh who purchase fresh fruits and vegetables. While several local or regional programs in California provide additional support to CalFresh recipients, these programs do not necessarily have benefits transferrable throughout the state, nor do they reach the entire population of individuals relying on CalFresh to put food on the table. To ensure that folks have access to fresh fruits and vegetables regardless of where they are located in the state, it is vital that we support flexible community-based options like farm stands and farmers' markets to provide equal access to those receiving public benefits.

Food insecurity continues to rise as prices and cost of living increase, with more than one in four low-income individuals having difficulty accessing fresh and affordable food. Studies show that additional support to purchase fresh fruits and vegetables drives similar trends in healthy choices for those participating in nutrition assistance programs like SNAP. By leveraging the existing EBT system and funding the existing pilot structure, this bill could increase the availability and diversity of supplemental benefits for CalFresh recipients across the state while supporting local vendors. Ensuring equitable access to fresh fruits and vegetables to food-insecure Californians requires more from the state than providing EBT benefits; we must provide options to use these benefits that fit easily into the everyday lives of those using them.

Staff comments: This bill requires retailers who received funding as a result of the first application solicitation to distribute supplemental benefits no later than April 1, 2024. Should this bill pass both houses of the Legislature and be signed by Governor Newsom, the provisions of this bill would take effective on January 1, 2024. The author may wish to allow retailers more time to establish processes to distribute funds.

Double referral: This bill will be referred to the Assembly Agriculture Committee should it pass out of this committee.

RELATED AND PRIOR LEGISLATION:

AB 2153 (Arambula) of 2022, would have established the “California Fruit and Vegetable Supplemental Benefits Expansion Program” and was substantially similar to this bill. *AB 2153 was held on the Assembly Appropriations Committee suspense file.*

SB 907 (Pan), Chapter 605, Statutes of 2022, requires CDSS and CDFA to establish a non-competitive grant program designed to expand the use of EBT acceptance systems at farmers' markets.

AB 534 (Mayes) of 2019, would have established the "Envision a Hunger-Free California Act of 2019" and would have required CDSS, the California Department of Public Health (CDPH), the California Department of Education (CDE), and CDFA to develop a plan to end hunger, which would have included the identification of barriers to food access. *AB 534 was held on the Assembly Appropriations Committee suspense file.*

AB 1952 (Mayes) of 2018, would have established the "Envision a Hunger-Free California Act of 2018" by requiring CDSS, CDPH, CDE, and CDFA to develop a plan to end hunger. *AB 1952 was held on the Senate Appropriations Committee suspense file.*

AB 1811 (Committee on Budget), Chapter 35, Statutes of 2018, created the "California Fruit and Vegetable EBT Pilot Project" to increase the purchase and consumption of California-grown fruits and vegetables that are financially out-of-reach for low-income residents.

SB 900 (Wiener) of 2018, would have established the "California Fruit and Vegetable EBT Pilot Project" to include within the EBT system a mechanism that would have enabled an authorized retailer to deliver and redeem supplemental CalFresh benefits. *SB 918 was set to be heard by this committee but the hearing was cancelled by the author.*

SB 675 (Skinner) of 2017, would have required the EBT system to only permit online purchase of food from retailers that comply with various specified requirements and the EBT system to prohibit payment of delivery fees for online food purchases using CalFresh benefits. *SB 675 died on the Assembly Inactive File.*

REGISTERED SUPPORT / OPPOSITION:

Support

Nourish California (Co-Sponsor)

SPUR (Co-Sponsor)

Alameda County Community Food Bank

California Association of Food Banks
California Fresh Fruit Association
California Grocers Association
California Retailers Association
Coalition of California Welfare Rights Organizations
Community Action Partnership of Orange County
Compass Family Services
Food Bank of Contra Costa & Solano
Food for People, the Food Bank for Humboldt County
Glide
Hunger Action Los Angeles INC
LA Raza Community Resource Center
Long Beach Alliance for Food and Fitness
Los Angeles Regional Food Bank
Open Heart Kitchen
San Diego Hunger Coalition
Second Harvest of Silicon Valley
Slo Food Bank
Western Center on Law & Poverty

Opposition

None on file

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