Date of Hearing: May 10, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
AB 339 (Irwin) – As Amended March 14, 2023

Policy Committee: Revenue and Taxation Vote: 11 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill revises the definition of "eligible individual" under the state Qualified ABLE (CalABLE) Program to conform with the federal ABLE Act.

Beginning January 1, 2026, this bill increases, from age 26 to age 46, the age by which a disability must occur for an individual to be eligible for the CalABLE Program. This bill states the goal of the resultant tax expenditure and requires, by January 1, 2030, the State Treasurer's Office (STO) to provide a report to the Legislature with the number of ABLE accounts created for individuals newly eligible for the program due to the revised age limit.

FISCAL EFFECT:

1) General Fund (GF) revenue loss of approximately $700,000 in fiscal year (FY) 2025-26, $2.5 million in FY 2026-27, and $4.7 million in FY 2027-28.

2) Minor and absorbable costs to the California ABLE Act Board and Franchise Tax Board to update program administration in conformity with federal law.

COMMENTS:

1) **Purpose.** According to the author:

> A recent change in federal law has given California the opportunity to make the CalABLE program more inclusive to those who develop a disability in their later years. AB 339 will raise the eligibility age limit for the onset of disability from age 26 to age 46 which would enable more disabled Californians, particularly those who are hurt on the job or during military service, to secure the important protections of CalABE accounts and begin to build a rainy-day fund.

This bill is sponsored by State Treasurer Fiona Ma and supported by disability rights groups.

2) **Background.**

CalABLE Program. Federal law authorizes each state to establish a program allowing individuals to contribute to an ABLE account to support "qualified disability expenses" of the account's designated beneficiary. After-tax contributions allow earnings to grow tax-deferred, and withdrawals, when used for qualified disability expenses, are federal and state tax-free. Qualified disability expenses include any expenses related to the designated beneficiary's blindness or disability, including expenses for education, housing, transportation, employment training, assistive technology, health, financial management, and legal fees. ABLE accounts also enable eligible individuals to build savings without impacting their eligibility for means-tested public benefits, such as Medicaid/Medi-Cal.

In accordance with federal law, the CalABLE Program opened to the public on December 18, 2018, and is managed by TIAA-CREF Tuition Financing, Inc, which also manages California's analogous 529 ScholarShare College Savings Plan. The CalABLE Board, chaired by the State Treasurer, sets investment policies and oversees program activities.

Recent Changes to Federal ABLE Act. Existing federal and state law specifies that an individual must sustain a severe injury or develop a chronic health condition by age 26 to qualify as a designated beneficiary of an ABLE account. The federal Consolidated Appropriations Act of 2023 increased, for taxable years beginning after December 31, 2025, this eligibility ceiling to age 46. This bill conforms the CalABLE Program to the increased age ceiling under federal law.

3) **Prior Legislation.** AB 2216 (Irwin), Chapter 896, Statutes of 2022, modified provisions of the CalABLE Program to bring the program into further conformity with federal law.

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