

ASSEMBLY THIRD READING

AB 339 (Irwin)

As Amended March 14, 2023

Majority vote

SUMMARY

Revises the definition of an "eligible individual" under the Qualified ABLE Program (Program) by increasing the age prior to which an eligible individual's blindness or disability must have begun to conform with recent changes to the Federal ABLE Act.

Major Provisions

- 1) Increases, from 26 to 46, the age by which blindness or disability must begin for an individual to qualify as eligible by reason of such blindness or disability for the Program.
- 2) Provides that the revised definition applies for taxable years commencing on or after January 1, 2026.
- 3) Conforms the Personal Income Tax (PIT) Law and Corporation Tax (CT) Law, for taxable years commencing on or after January 1, 2026, to the gross income exclusions provided in Internal Revenue Code (IRC) Section 529A related to disbursements for qualified expenses made by Program beneficiaries.
- 4) Requires the Treasurer's Office to submit a report to the Legislature, no later than January 1, 2030, detailing the number of ABLE accounts that are created for individuals who are made newly eligible by the raised age limit.

COMMENTS

Overview of ABLE Accounts: Federal law authorizes states to establish a qualified ABLE program under which individuals may contribute to an ABLE account established to meet the "qualified disability expenses" of the account's designated beneficiary. Qualified disability expenses" are defined as any expenses related to the eligible individual's blindness or disability, including expenses for education, housing, transportation, employment training, assistive technology, health, financial management, and legal fees. As long as distributions from a qualified ABLE program do not exceed the designated beneficiary's qualified disability expenses, those distributions are excluded from gross income. Assets in an ABLE account, up to \$100,000, are not taken into account when determining eligibility for federal welfare benefit programs.

Who is ABLE eligible? ABLE eligibility is tied to the age of onset of the disability, meaning symptoms of a person's disability must begin before the age specified in statute. For taxable years beginning before December 31, 2025, those who sustain a severe injury or develop a chronic health condition after their 26th birthday are not eligible to open an ABLE account. Under the changes proposed by this bill, an individual who experiences onset of a disability or blindness after their 26th birthday would be eligible to open an ABLE account in California beginning on January 1, 2026. According to a resolution adopted by the Board on October 19, 2022 expressing support for the age adjustment, this change will expand ABLE eligibility to an estimated six million Americans, including one million disabled veterans.

Recent changes to Federal ABLE Act: Enacted on December 29, 2022, the Consolidated Appropriations Act of 2023 modified the age requirement for taxable years beginning after December 31, 2025 for qualified ABLE programs. The legislation increased the age, from 26 to 46, prior to which an individual's blindness or disability must have begun to qualify for the program. This bill would conform California state law to these Federal provisions.

According to the Author

The author has provided the following statement in support of this bill:

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 CalABLE accounts and begin to build a rainy-day fund.

Arguments in Support

This bill is sponsored by State Treasurer Fiona Ma, who notes, in part:

Improvements to the Act have continued to be made at the Federal level and it is imperative we conform to these changes so that CalABLE accounts maintain the competitive choice for Californians, compared to other states' ABLE programs. California does not have rolling conformity and we must ensure that Californians enrolled in ABLE plans do not fall behind other states.

Arguments in Opposition

None on file

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 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.

VOTES**ASM REVENUE AND TAXATION: 11-0-0**

YES: Irwin, Wallis, Bains, Grayson, Pacheco, Jim Patterson, Petrie-Norris, Luz Rivas, Ta, Valencia, Zbur

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Sanchez, Weber, Ortega

ABS, ABST OR NV: Robert Rivas

UPDATED

VERSION: March 14, 2023

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FN: 0000651