
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

AB 339 (Irwin) - Qualified ABLE Program: age limit

Version: March 14, 2023
Urgency: No
Hearing Date: July 3, 2023

Policy Vote: GOV. & F. 8 - 0
Mandate: No
Consultant: Robert Ingenito

Bill Summary: AB 339 would conform state law to the recent federal change made to Achieving a Better Life Experience Act (ABLE) accounts.

Fiscal Impact:

- The Franchise Tax Board (FTB) estimates that this bill would result in a General Fund revenue loss of \$700,000 in 2025-26, \$2.5 million in 2026-27, and \$4.7 million in 2027-28.
- The California ABLE Act Board and FTB would incur minor and absorbable administrative costs.

Background: Under current law, individuals who became blind or disabled before reaching age 26 can create tax-free savings accounts, known as ABLE accounts. These savings accounts may be used to pay for qualified services, including education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention, and wellness, financial management and administrative services, legal fees, oversight and monitoring, and funeral and burial services. Taxpayers can contribute up to \$17,000 each year to any ABLE account.

ABLE accounts generally follow the same rules as education savings accounts allowed by Section 529 of the Internal Revenue Code: individuals can make nondeductible cash contributions to an ABLE account in the name of a specified beneficiary, and earnings can grow tax free. ABLE account distributions are also not included in the beneficiary's income so long as they're used for qualified services for the beneficiary, and distributions don't exceed the cost of the services, which include education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention, and wellness, financial management and administrative services, legal fees, oversight and monitoring, and funeral and burial services. If money is withdrawn from an account for something other than qualified disability expenses, then the beneficiary is subject to an additional 10 percent penalty on the overall amount withdrawn.

The federal Consolidated Appropriations Act of 2023 increased, beginning in taxable year 2026, the eligibility ceiling of ABLE accounts to age 46.

Proposed Law: This bill would, among other things, conform state law effective taxable year 2026 to the recent change made to ABLE accounts in the Consolidated Appropriations Act, specifically to increase the age for eligible individuals before which an individual's blindness or disability must have begun to qualify for an ABLE account. .

Related 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.

Staff Comments: The Legislature authorized CalABLE accounts in 2015 under the administration of the State Treasurer's Office, and conformed to the federal tax treatment of ABLE accounts as of January 1st, 2015 (AB 449, Irwin, and SB 324, Pavley, 2015). The CalABLE program opened to the public on December 18, 2018. The Legislature has conformed several times to federal changes to ABLE accounts, including eliminating differences in qualification criteria, increasing contribution limits to up to the federal poverty level, and allowing taxpayers to roll-over Section 529 plans to ABLE accounts, among other changes (AB 91, Burke, 2019).

-- END --