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THIRD READING

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Bill No: AB 339  
Author: Irwin (D)  
Amended: 3/14/23 in Assembly  
Vote: 21

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SENATE GOVERNANCE & FIN. COMMITTEE: 8-0, 6/21/23  
AYES: Caballero, Seyarto, Blakespear, Dahle, Durazo, Glazer, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/1/23  
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

ASSEMBLY FLOOR: 78-0, 5/25/23 - See last page for vote

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**SUBJECT:** Qualified ABLE Program: age limit

**SOURCE:** State Treasurer Fiona Ma  
East Bay Developmental Disabilities Legislative Coalition

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**DIGEST:** This bill conforms state law to the recent change made to Achieving a Better Life Experience Act accounts in the federal Consolidated Appropriations Act

**ANALYSIS:**

Existing law:

- 1) Does not automatically conform state tax law to changes in federal tax law, except for specific retirement provisions, so the Legislature must enact statute to affirmatively conform state tax law to any federal changes to the Internal Revenue Code.
- 2) Conforms, currently, to the Internal Revenue Code as of January 1, 2015 (AB 154, Ting, Chapter 359, Statutes of 2015).

- 3) Allows, in conformity with federal law, a CalABLE account that allows individuals who became blind or disabled before reaching age 26 to create tax-free savings accounts.
- 4) Allows CalABLE accounts to 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.

This bill:

- 1) Conforms state law to the recent change made by Congress 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.
- 2) Applies its change commencing in the 2026 taxable year, similar to federal law.
- 3) Makes legislative findings and declarations to comply with Section 41 of the Revenue and Taxation Code.

## **Background**

*ABLE Accounts.* On December 19, 2014, President Obama signed the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014, which allows individuals who became blind or disabled before reaching age 26 to create tax-free savings accounts, known as ABLE accounts. These savings accounts may be used to pay for qualified services. These services 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.

Congress created ABLE accounts to offer an alternative to Special Needs and Supplement Needs Trusts. The individual must be entitled to Social Security Disability Insurance benefits, or have a disability certificate on file with the Internal Revenue Service. The federal ABLE Act directed states to establish one ABLE account for each beneficiary who is a resident of the state.

The Legislature enacted two bills (SB 324, Pavley, Chapter 792, Statutes of 2015 and AB 449, Irwin, Chapter 774, Statutes of 2015) to implement the ABLE Act in California, known as CalABLE, and directed the State Treasurer to administer CalABLE accounts on behalf of qualified Californians. Contributions to a

CalABLE account must be in cash and is currently limited to \$15,000 per year. These contributions can be made by family, friends, or the beneficiary themselves. The account's earnings are allowed to accumulate tax-free, and the withdrawals, provided they are applied to qualifying disability expenses, are tax-free. Additionally, current state law provides that all CalABLE accounts are exempt from state collection activities for Medicaid cost recovery.

*Consolidated Appropriations Act.* On December 29, 2022, President Biden signed the Consolidated Appropriations Act of 2023, which among other provisions, modified the age requirement for qualified ABLE programs by increasing from 26 to 46 the age prior to which an individual's blindness or disability must have begun to qualify for the program. The change applies beginning in the 2026 taxable year.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- 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.

**SUPPORT:** (Verified 9/1/23)

State Treasurer Fiona Ma (co-source)  
East Bay Developmental Disabilities Legislative Coalition (co-source)  
Association of Regional Center Agencies  
California Society of Enrolled Agents  
Disability Rights California  
The ARC and United Cerebral Palsy California Collaboration

**OPPOSITION:** (Verified 9/1/23)

None received

**ARGUMENTS IN SUPPORT:** 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 CalABLE accounts and begin to build a rainy-day fund.”

ASSEMBLY FLOOR: 78-0, 5/25/23

AYES: Addis, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

NO VOTE RECORDED: Aguiar-Curry, Mathis

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119  
9/2/23 14:07:48

\*\*\*\* END \*\*\*\*