

AN ACT

relating to the Texas Achieving a Better Life Experience (ABLE) Program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 54.902(4) and (6), Education Code, are amended to read as follows:

(4) "Designated beneficiary" means a person [~~resident of this state~~] with a disability who:

(A) is an eligible individual;

(B) is [~~and~~] named as the designated beneficiary of an ABLE account; and

(C) meets any residency requirements established by the board.

(6) "Financial institution" means a bank, a trust company, a depository trust company, an insurance company, a broker-dealer, a registered investment company or investment manager, the Texas Treasury Safekeeping Trust Company, or another similar financial institution authorized to transact business in this state.

SECTION 2. Section 54.904(b), Education Code, is amended to read as follows:

(b) The board has all powers necessary or proper to carry out its duties under this subchapter and to effectuate the purposes of this subchapter, including the power to:

- 1 (1) sue and be sued;
- 2 (2) enter into contracts and other necessary
3 instruments;
- 4 (3) enter into agreements or other transactions with
5 the United States, state agencies, and other entities as necessary,
6 including:
 - 7 (A) an agreement to engage services through a
8 consortium of states; and
 - 9 (B) an agreement with another entity to act as
10 plan manager;
- 11 (4) appear on its own behalf before governmental
12 agencies;
- 13 (5) contract for necessary goods and services,
14 including specifying in the contract duties to be performed by the
15 provider of a good or service that are a part of or are in addition
16 to the person's primary duties under the contract;
- 17 (6) contract with another state or a consortium of
18 states that administers a qualified ABLE program as authorized by
19 Section 529A, Internal Revenue Code, to provide [~~residents of this~~
20 ~~state with~~] access in this state to a qualified ABLE program;
- 21 (7) engage the services of private consultants,
22 trustees, records administrators, managers, legal counsel,
23 auditors, and other appropriate parties or organizations for
24 administrative or technical assistance;
- 25 (8) participate in any government program;
- 26 (9) impose fees and charges;
- 27 (10) develop marketing plans or promotional materials

1 or contract with a consultant to market the program;

2 (11) make reports;

3 (12) purchase liability insurance covering the board
4 and employees and agents of the board;

5 (13) make changes to the program as necessary for the
6 participants in the program to obtain or maintain federal income
7 tax benefits or treatment provided by Section 529A, Internal
8 Revenue Code, and exemptions under federal securities laws; ~~and~~

9 (14) establish other policies, procedures, and
10 eligibility criteria to implement this subchapter; and

11 (15) adopt rules establishing residency requirements
12 for a designated beneficiary, if determined appropriate.

13 SECTION 3. Sections 54.905(b), (c), (f), and (g), Education
14 Code, are amended to read as follows:

15 (b) The board at least annually shall establish and review
16 the asset allocation and selection of the underlying investments of
17 the ABLE program. The board may delegate this duty to a financial
18 institution, including a financial institution retained by another
19 state or a consortium of states.

20 (c) The board may delegate to duly appointed financial
21 institutions, including a financial institution retained by
22 another state or a consortium of states, authority to act on behalf
23 of the board in the investment and reinvestment of all or part of
24 the funds and may also delegate to those financial institutions the
25 authority to act on behalf of the board in the holding, purchasing,
26 selling, assigning, transferring, or disposing of any or all of the
27 securities and investments in which the funds in the Texas ABLE

1 savings plan account have been invested, as well as the proceeds
2 from the investment of those funds.

3 (f) In the board's discretion, the board may contract with:

4 (1) one or more financial institutions, including a
5 financial institution retained by another state or a consortium of
6 states, or other entities to serve as plan managers; [~~manager~~] and

7 (2) one or more financial institutions, including a
8 financial institution retained by another state or a consortium of
9 states, to invest the money in ABLE accounts.

10 (g) A contract between the board and a financial institution
11 or other entity to act as plan manager under this subchapter may be
12 for a term of up to five years and may be renewable.

13 SECTION 4. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2017.

S.B. No. 377

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 377 passed the Senate on April 3, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 377 passed the House on May 19, 2017, by the following vote: Yeas 143, Nays 1, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor