

AMENDED IN ASSEMBLY MARCH 19, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 449

Introduced by Assembly Member Irwin

(Principal coauthor: Assembly Member Wilk)

**(Coauthors: Assembly Members Brown, Chávez, Maienschein,
Steinorth, and Waldron)**

~~(Coauthors: Senators Allen and Anderson)~~

(Principal coauthor: Senator Pavley)

(Coauthors: Senators Allen, Anderson, and Vidak)

February 23, 2015

An act to add Sections 17140.4 and 23711.4 to the Revenue and Taxation Code, and to add Chapter 15 (commencing with Section 4875) to Division 4.5 of the Welfare and Institutions Code, relating to ~~public social services~~: taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 449, as amended, Irwin. ~~Individuals with disabilities: savings accounts.~~ *Income taxation: savings plans: Qualified ABLE Program.*

The Personal Income Tax Law and the Corporation Income Tax Law, in specified conformity with federal income tax laws regarding qualified tuition programs, provide that distributions from a qualified tuition program are generally not included in the income of the donor or the beneficiary, as specified.

Existing federal law, the Stephen Beck Jr., Achieving a Better Life Experience Act of 2014 (ABLE) Act, for taxable years beginning on or after January 1, 2015, encourages and assists individuals and families to save private funds for the purpose of supporting persons with disabilities to maintain their health, independence, and quality of life

by excluding from gross income distributions used for qualified disability expenses by a beneficiary of a qualified ABLÉ program established and maintained by a state, as specified.

This bill would conform to these federal income tax law provisions relating to the ABLÉ Act under the Personal Income Tax Law and the Corporation Income Tax Law, as provided. The bill would also establish in state government a qualified ABLÉ program and the Qualified ABLÉ Fund for purposes of implementing the federal ABLÉ Act. The bill would require the Treasurer to administer the program in compliance with the requirements of the federal ABLÉ Act.

~~Existing law provides for the State Supplementary Program for the Aged, Blind and Disabled (SSP), which requires the State Department of Social Services to contract with the United States Secretary of Health and Human Services to make payments to SSP recipients to supplement supplemental security income (SSI) payments made available pursuant to the federal Social Security Act. Existing law also declares that an array of services and supports should be established that is sufficiently complete to meet the needs and choices of each person with developmental disabilities to support their integration into the mainstream life of the community. Existing federal law, the Achieving a Better Life Experience (ABLE) Act, would create tax-free savings accounts for individuals with disabilities. The ABLÉ Act aims to ease financial strains faced by individuals with disabilities by making tax-free savings accounts available to cover qualified expenses.~~

~~This bill would express the intent of the Legislature to enact legislation that would implement the federal ABLÉ Act in California to ensure that people with disabilities can save for the future to achieve greater independence.~~

~~Vote: majority. Appropriation: no. Fiscal committee: no-yes. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 *SECTION 1. It is the intent of the Legislature to further the*
- 2 *purposes of the federal Stephen Beck Jr., Achieving a Better Life*
- 3 *Experience Act to ensure that people with disabilities may save*
- 4 *for the future to achieve greater independence.*
- 5 *SEC. 2. This act shall be known, and may be cited, as the*
- 6 *California Achieving a Better Life Experience Act.*

1 SEC. 3. Section 17140.4 is added to the Revenue and Taxation
2 Code, to read:

3 17140.4. Section 529A of the Internal Revenue Code, relating
4 to qualified ABLE programs, as enacted by Section 102 of Public
5 Law 113-295, shall apply, except as otherwise provided.

6 (a) Section 529A of the Internal Revenue Code is modified as
7 follows:

8 (1) By substituting the phrase “under this part and Part 11
9 (commencing with Section 23001)” in lieu of the phrase “under
10 this subtitle.”

11 (2) By substituting “Article 2 (commencing with Section 23731)”
12 in lieu of “Section 511.”

13 (b) A copy of the report required to be filed with the Secretary
14 of the Treasury under Section 529A(g) of the Internal Revenue
15 Code shall be filed with the Franchise Tax Board at the same time
16 and in the same manner as specified in that section.

17 SEC. 4. Section 23711.4 is added to the Revenue and Taxation
18 Code, to read:

19 23711.4. Section 529A of the Internal Revenue Code, relating
20 to qualified ABLE programs, as enacted by Section 102 of Public
21 Law 113-295, shall apply, except as otherwise provided.

22 (a) Section 529A of the internal Revenue Code is modified as
23 follows:

24 (1) By substituting the phrase “under Part 10 (commencing
25 with Section 17001) and this part” in lieu of the phrase “under
26 this subtitle.”

27 (2) By substituting “Article 2 (commencing with Section 23731)”
28 in lieu of “Section 511.”

29 (b) A copy of the report required to be filed with the Secretary
30 of the Treasury under Section 529A(g) of the Internal Revenue
31 Code shall be filed with the Franchise Tax Board at the same time
32 and in the same manner as specified in that section.

33 SEC. 5. Chapter 15 (commencing with Section 4875) is added
34 to Division 4.5 of the Welfare and Institutions Code, to read:

35

36 CHAPTER 15. QUALIFIED ABLE PROGRAM

37

38 4875. For purposes of this chapter:

39 (a) “ABLE account” or “account” means the account an
40 eligible individual makes contributions to pursuant to this chapter

1 *for the purpose of meeting the qualified disability expenses of the*
2 *designated beneficiary of the account.*

3 (b) *“ABLE fund” or “fund” means the fund established by this*
4 *chapter for purposes of implementing the federal ABLE Act.*

5 (c) *“Designated beneficiary” means the eligible individual who*
6 *established an ABLE account and is the owner of the account.*

7 (d) *“Eligible individual” means an individual who is eligible*
8 *under the program for a taxable year if during that taxable year*
9 *both of the following criteria are met:*

10 (1) *The individual is entitled to benefits based on blindness or*
11 *disability under Title II or XVI of the federal Social Security Act,*
12 *and that blindness or disability occurred before the date on which*
13 *the individual attained 26 years of age.*

14 (2) *A disability certification, as defined in the federal ABLE*
15 *Act, with respect to the individual is filed pursuant to the*
16 *requirements set forth in the federal ABLE Act.*

17 (e) *“Federal ABLE Act” means the federal Stephen Beck Jr.,*
18 *Achieving a Better Life Experience Act of 2014.*

19 (f) *“Qualified ABLE program” or “program” means the*
20 *program established by this chapter to implement the federal ABLE*
21 *act pursuant to Section 529A of the Internal Revenue Code.*

22 (g) *“Qualified disability expenses” means any expenses related*
23 *to the eligible individual’s blindness or disability that are made*
24 *for the benefit of an eligible individual who is the designated*
25 *beneficiary, including expenses related to education, housing,*
26 *transportation, employment training and support, assistive*
27 *technology and personal support services, health, prevention and*
28 *wellness, financial management and administrative services, legal*
29 *fees, expenses for oversight and monitoring, funeral and burial*
30 *expenses, and other expenses, which are approved by the Secretary*
31 *of the Treasury under regulations and consistent with the purposes*
32 *of the federal ABLE Act.*

33 4876. (a) *There is hereby established in state government a*
34 *qualified ABLE program and the Qualified ABLE Fund for*
35 *purposes of implementing the federal ABLE Act pursuant to Section*
36 *529A of the Internal Revenue Code.*

37 (b) *The qualified ABLE program shall be administered by the*
38 *Treasurer, who shall be responsible for ensuring that the program*
39 *is administered in compliance with the requirements of the federal*
40 *ABLE Act.*

1 4877. Under the program, a person may make contributions
2 for a taxable year, for the benefit of an individual who is an eligible
3 individual for that taxable year, to an ABLE account that is
4 established for the purpose of meeting the qualified disability
5 expenses of the designated beneficiary of the account, if both of
6 the following criteria are met:

7 (a) The designated beneficiary is limited to one ABLE account
8 for purposes of this chapter.

9 (b) The ABLE account is established only for a designated
10 beneficiary who is a resident of this state.

11 4878. Notwithstanding any other law, money in an ABLE
12 account shall not count towards determining eligibility for a state
13 or local means-tested program.

14 4879. (a) The Treasurer may adopt regulations to implement
15 this chapter.

16 (b) The Treasurer shall adopt regulations to track all ABLE
17 accounts in California.

18 ~~SECTION 1. It is the intent of the Legislature to enact~~
19 ~~legislation that would implement the federal Achieving Better Life~~
20 ~~Experience (ABLE) Act in California to ensure that people with~~
21 ~~disabilities may save for the future to achieve greater independence.~~