

By: Perry

S.B. No. 377

A BILL TO BE ENTITLED

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

or contract with a consultant to market the program;

(11) make reports;

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

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

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

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

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

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

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

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

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

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

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

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

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