

## **BILL ANALYSIS**

Senate Research Center  
85R1359 LED-F

S.B. 377  
By: Perry  
Business & Commerce  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Achieving a Better Life Experience (ABLE) Act was signed into law in December 2014 and the Texas ABLE Program was established with passage of S.B. 1664, 84th Legislature, Regular Session, 2015 to allow people with disabilities to have a tax-free savings accounts to fund and manage their disability, leading to greater independence and healthier living.

Congress updated the program in late 2015, allowing beneficiaries to open an account in any state program that accepts out-of-state residents. By allowing ABLE beneficiaries the opportunity to enroll outside of their state, individuals have greater options in choosing which program best meets their needs.

S.B. 377 amends current law to allow the Texas program to benefit from this new federal change and allows the state to participate in a multi-state consortium agreement or contract with another state for plan manager services, including delegation of certain investment management activities.

As proposed, S.B. 377 amends current law relating to the Texas Achieving a Better Life Experience (ABLE) Program.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Prepaid Higher Education Tuition Board in SECTION 2 (Section 54.904, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 54.902(4) and (6), Education Code, to redefine "designated beneficiary" and "financial institution."

SECTION 2. Amends Section 54.904(b), Education Code, as follows:

(b) Authorizes the Prepaid Higher Education Tuition Board (board) to have all powers necessary or proper to carry out its duties and to effectuate the purposes of this subchapter (Texas Achieving a Better Life Experience (ABLE) Program), including the power to:

(1) to (2) makes no changes to these subdivisions;

(3) enter into agreements or other transactions with the United States, state agencies, and other entities as necessary, including an agreement to engage services through a consortium of states and an agreement with another entity to act as plan manager;

(4) to (5) makes no changes to these subdivisions;

(6) contract with another state or a consortium of states that administers a qualified ABLE program as authorized by Section 529A, Internal Revenue Code, to provide access in this state to a qualified ABLE program, rather

than to provide residents of this state with access to a qualified ABLÉ program;

(7) to (12) makes no changes to these subdivisions;

(13) and (14) makes nonsubstantive changes;

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

SECTION 3. Amends Sections 54.905(b), (c), (f), and (g), Education Code, as follows:

(b) Requires the board to establish and review the asset allocation and selection of the underlying investments of the ABLÉ program. Authorizes the board to delegate this duty to a financial institution, including a financial institution retained by another state or a consortium of states.

(c) Makes a conforming change.

(f) Authorizes the board, in the board's discretion, to 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, rather than one or more financial institutions to serve as plan 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 ABLÉ accounts.

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

SECTION 4. Effective date: upon passage and September 1, 2017.