

1-1 By: Perry S.B. No. 377
1-2 (In the Senate - Filed December 20, 2016; February 1, 2017,
1-3 read first time and referred to Committee on Business & Commerce;
1-4 March 16, 2017, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 16, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Hancock	X		
1-9	Creighton	X		
1-10	Campbell	X		
1-11	Estes	X		
1-12	Nichols	X		
1-13	Schwertner	X		
1-14	Taylor of Galveston	X		
1-15	Whitmire	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the Texas Achieving a Better Life Experience (ABLE)
1-20 Program.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Sections 54.902(4) and (6), Education Code, are
1-23 amended to read as follows:

1-24 (4) "Designated beneficiary" means a person [~~resident~~
1-25 ~~of this state~~] with a disability who:

1-26 (A) is an eligible individual;

1-27 (B) is [~~and~~] named as the designated beneficiary
1-28 of an ABLE account; and

1-29 (C) meets any residency requirements established
1-30 by the board.

1-31 (6) "Financial institution" means a bank, a trust
1-32 company, a depository trust company, an insurance company, a
1-33 broker-dealer, a registered investment company or investment
1-34 manager, the Texas Treasury Safekeeping Trust Company, or another
1-35 similar financial institution authorized to transact business in
1-36 this state.

1-37 SECTION 2. Section 54.904(b), Education Code, is amended to
1-38 read as follows:

1-39 (b) The board has all powers necessary or proper to carry
1-40 out its duties under this subchapter and to effectuate the purposes
1-41 of this subchapter, including the power to:

1-42 (1) sue and be sued;

1-43 (2) enter into contracts and other necessary
1-44 instruments;

1-45 (3) enter into agreements or other transactions with
1-46 the United States, state agencies, and other entities as necessary,
1-47 including:

1-48 (A) an agreement to engage services through a
1-49 consortium of states; and

1-50 (B) an agreement with another entity to act as
1-51 plan manager;

1-52 (4) appear on its own behalf before governmental
1-53 agencies;

1-54 (5) contract for necessary goods and services,
1-55 including specifying in the contract duties to be performed by the
1-56 provider of a good or service that are a part of or are in addition
1-57 to the person's primary duties under the contract;

1-58 (6) contract with another state or a consortium of
1-59 states that administers a qualified ABLE program as authorized by
1-60 Section 529A, Internal Revenue Code, to provide [~~residents of this~~
1-61 ~~state with~~] access in this state to a qualified ABLE program;

- 2-1 (7) engage the services of private consultants,
 2-2 trustees, records administrators, managers, legal counsel,
 2-3 auditors, and other appropriate parties or organizations for
 2-4 administrative or technical assistance;
 2-5 (8) participate in any government program;
 2-6 (9) impose fees and charges;
 2-7 (10) develop marketing plans or promotional materials
 2-8 or contract with a consultant to market the program;
 2-9 (11) make reports;
 2-10 (12) purchase liability insurance covering the board
 2-11 and employees and agents of the board;
 2-12 (13) make changes to the program as necessary for the
 2-13 participants in the program to obtain or maintain federal income
 2-14 tax benefits or treatment provided by Section 529A, Internal
 2-15 Revenue Code, and exemptions under federal securities laws; ~~and~~
 2-16 (14) establish other policies, procedures, and
 2-17 eligibility criteria to implement this subchapter; and
 2-18 (15) adopt rules establishing residency requirements
 2-19 for a designated beneficiary, if determined appropriate.

2-20 SECTION 3. Sections 54.905(b), (c), (f), and (g), Education
 2-21 Code, are amended to read as follows:

2-22 (b) The board at least annually shall establish and review
 2-23 the asset allocation and selection of the underlying investments of
 2-24 the ABLE program. The board may delegate this duty to a financial
 2-25 institution, including a financial institution retained by another
 2-26 state or a consortium of states.

2-27 (c) The board may delegate to duly appointed financial
 2-28 institutions, including a financial institution retained by
 2-29 another state or a consortium of states, authority to act on behalf
 2-30 of the board in the investment and reinvestment of all or part of
 2-31 the funds and may also delegate to those financial institutions the
 2-32 authority to act on behalf of the board in the holding, purchasing,
 2-33 selling, assigning, transferring, or disposing of any or all of the
 2-34 securities and investments in which the funds in the Texas ABLE
 2-35 savings plan account have been invested, as well as the proceeds
 2-36 from the investment of those funds.

2-37 (f) In the board's discretion, the board may contract with:
 2-38 (1) one or more financial institutions, including a
 2-39 financial institution retained by another state or a consortium of
 2-40 states, or other entities to serve as plan managers; ~~manager~~ and

2-41 (2) one or more financial institutions, including a
 2-42 financial institution retained by another state or a consortium of
 2-43 states, to invest the money in ABLE accounts.

2-44 (g) A contract between the board and a financial institution
 2-45 or other entity to act as plan manager under this subchapter may be
 2-46 for a term of up to five years and may be renewable.

2-47 SECTION 4. This Act takes effect immediately if it receives
 2-48 a vote of two-thirds of all the members elected to each house, as
 2-49 provided by Section 39, Article III, Texas Constitution. If this
 2-50 Act does not receive the vote necessary for immediate effect, this
 2-51 Act takes effect September 1, 2017.

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