
CALIFORNIA ACHIEVING A BETTER LIFE EXPERIENCE ACT BOARD

NOTICE OF PROPOSED RULEMAKING

ADOPTION TO CALIFORNIA CODE OF REGULATIONS,
TITLE 10, CHAPTER 14, REGARDING THE CALIFORNIA
ACHIEVING A BETTER LIFE EXPERIENCE (ABLE)
PROGRAM TRUST

[Notice published June 2, 2017]

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NOTICE IS HEREBY GIVEN that the California ABLE Act Board proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held July 18, 2017, as follows:

State Treasurer's Office
915 Capitol Mall, Room 587
Sacramento, CA 95814

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Board will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Agency Contact Person identified in this Notice at least two weeks prior to the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Carrie Fisher Stone, Deputy Executive Director
California ABLE Act Board
915 Capitol Mall, Room 101

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Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at (916) 589-2860 or by e-mail to carrie.fisherstone@treasurer.ca.gov.

Comments must be received by the Deputy Executive Director by 5:00 p.m. on July 17, 2017. All written comments received by the California ABLE Act Board staff during the public comment period are subject to disclosure under the Public Records Act.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the California ABLE Act Board may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Deputy Executive Director and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposed regulations.

AUTHORITY AND REFERENCE

Authority: Section 4882, Welfare and Institutions Code.

Reference: Sections 4875, 4877, 4878, 4879, 4880, 4881, and 4882, Welfare and Institutions Code; Section 529A, Internal Revenue Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Legislature enacted and the Governor signed Senate Bill (SB) 324 (Chapter 796, Statutes of 2015) and Assembly Bill (AB) 449 (Chapter 774, Statutes of 2015), which authorized the California ABLE Act Board to develop and implement the California ABLE Program Trust ("Trust" or "Program"), which is a financial savings tool for qualified people with disabilities as defined in Section 529A of the Internal Revenue Code.

The California ABLE Act Board is authorized under Welfare and Institutions Code section 4882 to adopt regulations as it deems necessary to implement the Program consistent with Section 529A of the Internal Revenue Code and regulations issued pursuant to that code to ensure that the Program meets all criteria for federal tax-exempt benefits.

These regulations provide the framework to allow eligible individuals to save and maintain their funds in the Trust while continuing to receive public means-tested benefits. Prior to the California ABLE Act, eligible individuals were subject to asset limits in order to continue receiving public means-tested benefits. Eligible individuals could only have \$2,000 in assets before their Social Security Income was impacted. With the ABLE Act, they can now contribute up to \$14,000 per year and have up to \$100,000 in their ABLE accounts and still maintain eligibility for public means-tested benefits such as Social Security Income and Medi-Cal.

The following are included in the proposed regulations: relevant definitions; account enrollment; limitations on contributions; change of designated beneficiary; qualified and rollover distributions; account information and reports; and other provisions related to the administration of the Program.

The California ABLE Act Board anticipates the regulations will benefit qualified people with disabilities through the implementation and administration of the Trust. The regulations are compatible and consistent with the intent of the Legislature in adopting Welfare and Institutions Code section 4875 et seq.

The California ABLE Act Board evaluated whether the proposed regulations are inconsistent or incompatible with existing state regulations and has found that these are the only regulations concerning the Program. Therefore, the proposed regulations are not inconsistent or incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION/ FISCAL IMPACT

- Costs or savings to state agencies or costs/savings in federal funding to the State: None
- Nondiscretionary costs/savings to local agencies: None
- Programs mandated on local agencies or school districts: None
- Costs imposed on any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code: None
- Effect on housing costs: None
- Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses, to compete with businesses in other states: The Board has determined that the proposed regulations will not have such an impact.
- Cost impacts on a representative private person or business: The Board is not aware of any costs impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Impact on jobs/new businesses: The Board has determined that this regulatory proposal will not have significant impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State.
- Effect on small businesses: The proposed regulations will not have affect on any small business because these regulations are specific to and affect only people with disabilities and will have no impact on the private sector.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

This regulatory action is required by Welfare and Institutions Code section 4882, as added by AB 449 (Chapter 774, Statutes of 2015), effective January 1, 2016, which permitted the California ABLE Act Board to implement the California ABLE Program Trust.

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

These regulations will directly impact the health and welfare of California residents, specifically people with disabilities, allowing them to use their ABLE account monies for expenses that help improve and maintain their quality of life.

CONSIDERATION OF ALTERNATIVES

The California ABLE Act Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the California ABLE Act Board, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The California ABLE Act Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the content of this regulation should be directed to:

Carrie Fisher Stone, Deputy Executive Director
California ABLE Act Board
915 Capitol Mall, Room 101
Sacramento, CA 95814
Telephone: (916) 653-0665
E-mail: carrie.fisherstone@treasurer.ca.gov

Inquiries concerning the regulatory process may be directed to the Program Analyst, Rajeshwari "Raji" Prasad at (916) 651-3257.

INITIAL STATEMENT OF REASONS AND INFORMATION

The California ABLE Act Board has prepared an Initial Statement of Reasons for the proposed regulations and has available all the information upon which the proposal is based.

TEXT OF PROPOSED REGULATIONS AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Deputy Executive Director. These documents may also be viewed and downloaded from the California ABLE Act Board's website at www.treasurer.ca.gov/able.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Deputy Executive Director at the address, email address or phone number listed above.

You may obtain a copy of the Final Statement of Reasons, once it has been finalized, by making a written request to the Deputy Executive Director at the above address.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Carrie Fisher Stone, Deputy Executive Director, California ABLE Act Board, 915 Capitol Mall, Room 101, Sacramento, CA, 95814; telephone, (916) 653-0665. It is recommended that assistance be requested at least two weeks prior to the hearing.