

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 879

PRINTER NO. 1238

AMOUNT

\$1,500,000

FUND

General Fund

DATE INTRODUCED

June 8, 2015

PRIME SPONSOR

Senator Baker

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 879 is a freestanding act that would establish the Pennsylvania ABLE Act. The act provides that the Pennsylvania Treasury Department (“Treasury” or “department”) may establish and maintain a savings program through which ABLE savings accounts may be opened for eligible individuals for payment of qualified disability expenses.

The program is intended to empower an individual with a disability and the individual’s family to save private funds in a savings account to support the individual with a disability in maintaining health, independence and quality of life.

The Federal Achieving a Better Life Experience (ABLE) Act was enacted in December 2014. It provides Federal tax and other benefits to eligible individuals with disabilities who save to meet qualified disability expenses through ABLE savings programs offered by states. The Federal law requires that the ABLE account be opened in the home state of the individual with disabilities or a state that the home state contracts with. ABLE accounts are modeled after 529 college savings plans. Each state must enact regulations to establish and administer the ABLE Act program within the state.

The bill provides the Treasury Department with the authority to develop and administer the qualified ABLE program in accordance with IRC § 529A in a manner that allows account owners and designated beneficiaries to obtain and maintain Federal income tax benefits provided by the Internal Revenue Code. The legislation provides that Treasury may utilize the administrative or investment structures of the Tuition Account Investment Program (i.e. PA 529 College Saving Plan) without separately soliciting proposals for assistance in the management of all or part of the program.

Treasury may engage the services of consultants on a contract basis for rendering professional and technical assistance to set up the ABLE account program and may enter into management contracts with a legal entity to oversee the ABLE accounts. Treasury shall enforce the account limitation and regulate accounts as required in IRC § 529A.

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The Treasury Department may contract with other states as follows: for another state to provide all or part of the program to beneficiaries residing in the Commonwealth; for Treasury to provide all or part of the program to beneficiaries residing in another state; and for Treasury and another state to engage in joint efforts to establish and maintain ABLE savings programs.

The ABLE Savings Program Fund is established in the State Treasury for contributions made to ABLE accounts, fees and charges to cover costs of administering the program, and any other public or private money appropriated or made available to the department for the fund. Moneys in the fund shall be invested under policies established by Treasury to provide for an appropriate balance of risk, liquidity and return commensurate with the management of a prudent investor. All money in the fund is appropriated to the department on a continuing basis to carry out the provisions of the act. The assets of the fund shall be preserved, invested and expended solely to and for the purposes of carrying out the act.

Powers and duties of the Treasury Department as they relate to the ABLE Act are outlined in the bill. Treasury is required to prepare and submit through the Governor an annual budget covering the operating and administrative expenses of the program. The General Assembly shall approve the budget in an appropriation bill, and the department shall be paid from program fees and charges or from other available funds.

Senate Bill 879 provides that an ABLE savings account may be opened through a contract entered into by an account owner (including a fiduciary) and the department. Qualified withdrawals are withdrawals from an account to pay the qualified disability expenses of the designated beneficiary of the account. Procedures related to nonqualified withdrawals are also outlined.

An ABLE savings account shall not be subject to attachment, levy or execution by any creditor of a contributor, account owner or designated beneficiary and shall not be used as security for a loan. Any amounts related to an account shall not be used in calculating personal assets in order to determine eligibility for disability, medical assistance or other health benefits conferred by the Commonwealth, or for determining eligibility and need for student loan, grant or aid programs administered by an agency of the Commonwealth.

The program and accounts are exempt from any statute regulating securities, including the Pennsylvania Securities Act of 1972.

The property of the program and the earnings from the program are exempt from all taxation by the Commonwealth and its political subdivisions. Contributions made to an account, any increase in the value of those contributions, the retention or transfer during life or as a result of death of any legal interest in an account and payment of qualified disability expenses of eligible individuals from an account shall be exempt from all taxation by the Commonwealth and its political subdivisions.

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Any obligation or debt under this act shall not be deemed an obligation or debt of the Commonwealth, nor shall the Commonwealth be liable to pay principal and interest on obligations or to offset any loss of principal and interest earnings on investments made by the department under this act.

This act shall take effect immediately.

FISCAL IMPACT:

Senate Bill 879 is anticipated to result in one-time costs to the Commonwealth of \$1,500,000 to provide the Treasury Department with funds to establish the ABLÉ Program account structure and develop operating procedures and reporting mechanisms for the program. The one-time funds will also provide for advertising costs to make qualified individuals and their families aware of the program. Once ABLÉ accounts are established, it is anticipated that ongoing administrative and operating expenses will be covered from management fees assessed on ABLÉ program account owners.