Legislative Analysis

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MICHIGAN ABLE PROGRAM ACT

House Bills 4542 & 4543 as enacted
Public Acts 160 and 161 of 2015
Sponsor: Rep. Anthony G. Forlini

House Bill 4544 as enacted
Public Act 162 of 2015
Sponsor: Rep. Nancy E. Jenkins

Senate Bill 360 as enacted
Public Act 163 of 2015
Sponsor: Sen. Rebekah Warren

House Committee: Financial Services
Senate Committee: Finance
Complete to 6-24-16

SUMMARY:

House Bill 4542 would create the Michigan Achieving a Better Life Experience (ABLE) Program Act and establish a new savings program, with tax advantages, aimed at assisting persons with disabilities. Such programs were recently authorized for the states to operate by Section 529A of the federal Internal Revenue Code. Some of the features of this legislation are similar to those found in the existing Michigan Education Savings Program Act, under which contributions can be made to special savings accounts with the proceeds to be used to pay higher education expenses. The administration by the Michigan Department of Treasury of the new savings accounts would be similar to its administration of the higher education (529 Plan) savings accounts.

Under the bill, as of January 1, 2016, individuals who were residents of the state, or residents of a contracting state, could contribute money to ABLE savings accounts, with the proceeds to be used to pay qualified disability expenses, which are defined in federal law as expenses related to a person's blindness or disability, including expenses for education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management, and legal fees, among others.

One feature of the plans is that contributions to and distributions from the savings accounts would be disregarded, generally speaking, in determining eligibility for assistance under the state's Social Welfare Act.

A resident of the state or a resident of a contracting state could open an ABLE savings account to pay the qualified disability expenses of one designated beneficiary. To do so requires entering into an agreement with the Department of Treasury. The maximum account balance limit could not exceed the maximum amount allowed for an education savings account under the Michigan Education Savings Program Act. (Currently, this is $235,000, but under the amendments in a related bill, Senate Bill 360, that would be increased to $500,000.) The required minimum initial deposit and required minimum contributions in the first year of the program could not be greater than $25 for a cash contribution or $15 per pay period for a payroll deduction plan. Money in the accounts would be invested by program managers selected by the Department of Treasury, who could charge a fee of up to two percent of the average daily net assets of the program.

House Bill 4543 would amend the Income Tax Act (MCL 206.30), for tax years beginning after December 31, 2015, in the following ways. (1) It would allow a taxpayer to deduct from taxable income contributions made to an ABLE savings account, not to exceed $5,000 for a single return or $10,000 for a joint return, per tax year. (2) It would allow a deduction for interest earned in a tax year on contributions to an ABLE savings account if the contributions were deductible. (3) It would allow a deduction for qualified withdrawals from an ABLE savings account to the designated beneficiary. The bill also would require that amounts withdrawn from an account that were not qualified withdrawals be added to taxable income, subject to certain limitations.

House Bill 4544 would amend the Social Welfare Act (MCL 400.1 et al.) to require the Department of Human Services to disregard money associated with a designated beneficiary's ABLE savings account in its financial eligibility determination for any assistance program under the act. This would include money in an ABLE account, earnings on money in an account, contributions to a designated beneficiary's own account, and distributions from an account for qualified disability expenses.

Senate Bill 360 would amend the Michigan Education Savings Program Act to increase the maximum account balance limit for an education savings account. That act allows individuals to contribute money to a tax-advantaged account for the benefit of a designated beneficiary to use for qualified educational expenses. Currently, the maximum account balance limit for all of the accounts that name any one individual as the designated beneficiary may not exceed $235,000. The bill would change the limit to $500,000.

FISCAL IMPACT:

House Bill 4542 would create new administrative and operational costs for the Department of Treasury through the creation of the Michigan Achieving a Better Life Experience (ABLE) Program Act. The increased costs to the Department of Treasury would be offset by the collection of a designated portion of the administrative fee not to exceed 2% of the average daily net assets of the account. If operated similarly to the Michigan Education Savings Program Act, the contracted Program Managers would retain a percentage-based administration fee and the Department of Treasury would receive a State Administrative Fee. Under the Michigan Education Savings Program Act, the fee is reduced once certain gross asset levels are reached.

House Bill 4543 and Senate Bill 360, in conjunction with the other bills, would reduce state revenue by an unknown amount. The number of participants and the rate at which they contribute to ABLE savings accounts are unknown. Furthermore, the number of eligible individuals in the state is not known, since this population (those whose disability or blindness occurred before the age of 26) is not tracked in any publicly available data. The reduction in gross individual income tax collections would affect both the General Fund and the School Aid Fund. At the current income tax rate, approximately 23.8% of gross individual income tax revenue is deposited in the School Aid Fund. According to the Department of Treasury, the bills would reduce revenue by approximately $300,000 in FY 2015-16 and $400,000 in FY 2016-17. Increased participation in future years would lead to revenue reductions of approximately $1.0 million in FY 2017-18 and $1.9 million in FY 2018-19.

House Bill 4544 would have a minimal fiscal impact on state government. Individuals could receive increased benefits under the Social Welfare Act if they deposited a sufficient amount of money into an ABLE savings account to change their benefit eligibility level. Any increase in benefits levels would be determined on a case by case basis. It is unknown how many individuals would see benefit levels change due to increased ABLE savings account contributions.

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