Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4542 (Substitute S-1 as reported)
House Bill 4543 (Substitute S-1 as reported)
House Bill 4544 (Substitute S-1 as reported)
Senate Bill 360 (Substitute S-1 as reported)
Sponsor: Representative Anthony G. Forlini (H.B. 4542 & 4543)
Representative Nancy E. Jenkins (H.B. 4544)
Senator Rebekah Warren (S.B. 360)
House Committee: Financial Services
Senate Committee: Finance

CONTENT

House Bill 4542 (S-1) would create the "Michigan Achieving a Better Life Experience Program (ABLE) Act", which, beginning January 1, 2016, would allow an individual to open an ABLE savings account to pay the qualified disability expenses of a designated beneficiary. The bill would do the following:

-- Require an individual or designated representative to enter into an agreement with the program, when opening an account.
-- Allow contributions to an account up to limits imposed by the Internal Revenue Code and rules promulgated by the State Treasurer.
-- Limit an account balance to the amount allowed for an Education Savings Program account.
-- Allow an income tax exemption for contributions to an ABLE savings account and qualified withdrawals from an account as provided in the Income Tax Act (which House Bill 4543 (S-1) would amend).
-- Require contributions to an individual's account and distributions for qualified disability expenses to be disregarded in a determination of the individual's eligibility for assistance from the State.
-- Require the State Treasurer to select program managers for the program and enter into contracts with them.
-- Establish reporting and disclosure requirements for program managers.

"Designated beneficiary" would mean an eligible individual designated as the individual whose qualified expenses are expected to be paid from the account. "Eligible individual" would be defined as the term is defined in Section 529A of the Internal Revenue Code, which states that an individual is an eligible individual if 1) he or she is entitled to benefits based on disability or blindness under the Social Security Act, and such blindness or disability occurred before age 26, and 2) a disability certification is filed with the Secretary of Treasury for the taxable year.

"Qualified withdrawal" would mean a distribution that is not subject to a penalty or excise tax under Section 529A (which provides for the taxation of distributions not used for disability expenses), and not subject to the Michigan income tax, and is any of the following:

-- A withdrawal to pay the qualified disability expenses of the designated beneficiary incurred after the account is established.
-- A withdrawal made as the result of the death or disability of the designated beneficiary.
-- A transfer of funds due to the termination of the management contract.

-- A transfer of funds to another ABLE account in which the designated beneficiary is a family member of the beneficiary.

"Qualified disability expenses" would mean as the term is defined in Section 529A, i.e., any expenses related to the eligible individual's blindness or disability that are made for the benefit of an eligible individual who is the designated beneficiary, including the following expenses: education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other approved expenses.

House Bill 4543 (S-1) would amend the Income Tax Act to allow a taxpayer to deduct from taxable income, for tax years beginning after December 31, 2015, to the extent not deducted from adjusted gross income, all of the following:

-- Contributions made by the taxpayer in the tax year less qualified withdrawals made in the tax year from an ABLE savings account, not to exceed a total deduction of $5,000 for a single return or $10,000 for a joint return per tax year.
-- Interest earned in the tax year on the contributions if they were deductible.
-- Distributions that were qualified withdrawals from an ABLE savings account to the designated beneficiary of that account.

A taxpayer would have to add to his or her adjusted gross income the amount of money withdrawn by the taxpayer in the tax year from the account, not to exceed the total amount deducted in the tax year and all previous tax years, if the withdrawal were not a qualified withdrawal. The provision would not apply to withdrawals that were less than the sum of all contributions made in all previous tax years for which no deduction was claimed, minus any contributions for which no deduction was claimed that were withdrawn in previous tax years.

House Bill 4544 (S-1) would require the Department of Health and Human Services, for any assistance program for which financial eligibility was determined, to disregard in its financial eligibility determination money associated with a designated beneficiary's ABLE savings account, including, but not limited to, all of the following:

-- Money in a designated beneficiary's ABLE savings account.
-- Earnings on money in an ABLE savings account.
-- Contributions to a beneficiary's own ABLE savings account.
-- Distributions from an ABLE savings account for the beneficiary's qualified disability expenses.

Senate Bill 360 (S-1) would amend the Michigan Education Savings Program Act to increase the maximum account balance limit for an education savings account from $235,000 to $500,000.

All of the bills are tie-barred to each other.

House Bills 4542 (S-1) and 4544 (S-1) would take effect 90 days after being enacted.

MCL 206.30 (H.B. 4543)
Proposed MCL 400.10g (H.B. 4544)
MCL 390.1480 (S.B. 360)

Legislative Analyst: Ryan M. Bergan

FISCAL IMPACT

House Bill 4542 (S-1) would result in additional costs to the Department of Treasury and would have no fiscal impact on local units of governments. The Department would have to create and administer the Michigan Achieving a Better Life Experience Program. The associated costs would be paid for from administrative fees charged on the accounts, which would be capped at 2.0% of the average daily net assets of the accounts. The fees charged would be similar to the amount that is charged for the Michigan Education Savings Program, which is sufficient to cover administrative expenses without additional appropriations from the General Fund. Any contracts that the Department entered into with program managers would result in a division of the fees between the managers and the Department.

House Bill 4543 (S-1) and Senate Bill 360 (S-1) would, in conjunction with the other bills, reduce State revenue by an unknown, and potentially significant amount, that would depending upon the number of the number of individuals affected and the magnitude of affected contributions and/or withdrawals (whether qualified or not). The bills would reduce revenue not only by increasing the maximum account balance on Michigan education savings plan accounts, but also by allowing the exemptions associated with the ABLE program. Based on estimates from the Department of Treasury derived from Federal Joint Committee on Taxation data, the bills would reduce revenue by approximately $300,000 in FY 2015-16 and $400,000 in FY 2016-17. As participation increased in future years, the revenue reduction would increase, totaling an estimated $1.0 million in FY 2017-18 and $1.9 million in FY 2018-19.

The bills would reduce both General Fund and School Aid Fund revenue. Under the current income tax rate, approximately 23.8% of gross individual income tax revenue is deposited into the School Aid Fund.

House Bill 4544 (S-1) would have a minimal fiscal impact on the State and no impact on local units of government. Individuals who qualified for the income exemption could receive increased monthly benefits for State Disability Assistance, Family Independence Program assistance, or State Emergency Relief, among other services. In order to receive increased benefits, the individuals would have to deposit a sufficient amount of money into an ABLE savings account to change their benefit eligibility level. Any actual increase in benefits would depend on participation in the savings account program and also the extent to which participation would result in increased benefits.

Date Completed: 7-1-15

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