

ALASKA STATE LEGISLATURE

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North to the Future

Senator Cathy Giessel
Senate District N

CS for SB 104

Overview of changes from original version I to new CS vsn L

March 22, 2016

When Senate Bill 104 was introduced, it was written to reflect the intention of Alaska setting up its own ABLE Savings Program to be housed and administered in the Department of Commerce and Economic Development.

Early on we heard from DCCED concerns that they would have a conflict of interest in housing the program since banking and securities would be in charge of auditing the very same accounts that they would be administering. Following that, we then approached Dept. of Revenue to run the program (which is where most states house their ABLE programs) and they agreed to work with us on the legislation.

In looking for expertise in the area of 529 plans, like Alaska's college savings plan, we called the folks there who run that program out of University of Alaska, Fairbanks. In that conversation we learned that TRowe Price, one of the financial institutions who offer the college savings plan portfolios, had told UAA that they had no interest in offering 529(A) plans in Alaska, as there is not a healthy economy of scale for them to make it worth their investment to do so.

After that conversation, we learned that is the same obstacle that other states were experiencing: not large enough numbers of possible account holders to make it economically viable for investment companies to offer ABLE accounts in most states.

Then we learned about a consortium of states who are now working together in an effort to offer ABLE accounts by joining together and pooling their numbers to attract and incentivize financial institutions to respond to an RFP with ABLE Account investment offerings. If SB 104 passes, Alaska plans to join that consortium of 8 states (and more states poised to join), be part of the RFP process to select a financial contractor to handle the accounts and benefit from the economies of scale, resulting in lower account fees for Alaska ABLE account holders. The consortium would also provide a call center and assist in marketing assistance for its members.

Currently our office and our Dept. of Revenue folks are part of a weekly teleconference with the other states to share concerns, ask questions and learn as much as they can about the ABLE Act, as it is a brand new federal authorizing law and many states are in some stage of implementation at this time.

This change of course for the program has resulted in **restructured legislation language** to reflect that:

- Dept. of Revenue will run the program
- Broader language for it to respond to any changes in federal authorizing law
- Allows DOR to “contract with other states” (ie) join the “consortium” to achieve a better economy of scale and share administrative tasks
- Allows DOR to have an equal vote in the RFP process that selects a financial contractor
- Allows DOR to contract with its own financial institution if it chooses to do so and it deems it an economically viable choice

These items remain the same:

- The Dept. can order an audit of the financial contractor, maintain oversight, terminate or not renew a contract if they want to choose a different contractor
- Describes who is eligible to apply for an ABLE account
- Describes who can represent an eligible individual for an ABLE account
- States who can own an account, the number of accounts allowed, that a fee may be required to open an account, guidelines and caps for the accounts themselves, that the accounts can be changed only 2 times a year, that a designated beneficiary can be changed, guidelines for use of the account, rollover options, statement requirements, accounting requirements, annual fees.
- Does not allow an ABLE account to be seen as a “security” for a loan
- States that an ABLE account is exempt from creditor claims
- Relieves the state of any obligation to guarantee an ABLE account
- Ensures that information re: ABLE accounts are confidential, and not open to public record search, but allows the Dept and DHSS to exchange information re: eligibility
- Specifies that ABLE accounts may not be considered assets under means test programs
- Funds/fees received can be used in a program expense fund to run the program
- Allows a state or Medicaid to file a claim to claw back funds if a beneficiary dies
- Established federal law as governing law for the program
- Adds an ABLE account to list of exemptions
- Requires annual report to the legislature