S T A T E   O F   N E W   Y O R K

4746

2013-2014 Regular Sessions

I N A S S E M B L Y

February 8, 2013

Introduced by M. of A. WALTER, FINCH, MONTESANO -- Multi-Sponsored by -- M. of A. HAWLEY -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to providing that the college choice savings program be administered by no less than two financial organizations

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions 2, 3, 4 and 5 of section 695-d of the education law, subdivisions 2 and 5 as added by chapter 546 of the laws of 1997 and subdivisions 3 and 4 as amended by chapter 535 of the laws of 2000, are amended to read as follows:

2. The comptroller may solicit proposals from financial organizations to act as depositories and managers of the program. Financial organizations submitting proposals shall describe the investment instrument which will be held in accounts. The comptroller shall select AT LEAST TWO FINANCIAL ORGANIZATIONS as program depositories and managers [the financial organization], from among the bidding financial organizations that demonstrates [the most] AN advantageous combination, both to potential program participants and this state, of the following factors:

a. Financial stability and integrity of the financial organization;

b. The safety of the investment instrument being offered;

c. The ability of the investment instrument to track increasing costs of higher education;

d. The ability of the financial organization to satisfy recordkeeping and reporting requirements;

e. The financial organization's plan for promoting the program and the investment it is willing to make to promote the program;

f. The fees, if any, proposed to be charged to persons for opening accounts;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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g. The minimum initial deposit and minimum contributions that the financial organization will require;

h. The ability of banking organizations to accept electronic withdrawals, including payroll deduction plans; [and]

i. Other benefits to the state or its residents included in the proposal, including fees payable to the state to cover expenses of operation of the program[.]; AND

J. AT THE CONCLUSION OF SUCH CONTRACTS ENTERED INTO PURSUANT TO SUBDIVISION THREE OF THIS SECTION, THE COMPTROLLER SHALL ANALYZE ALL OTHER COLLEGE CHOICE SAVINGS PROGRAMS AUTHORIZED PURSUANT TO THE INTERNAL REVENUE CODE AND ENSURE THAT NEW YORK STATE OFFERS THE MAXIMUM AMOUNT OF INVESTMENT OPTIONS AUTHORIZED BY FEDERAL LAW.

3. The comptroller [may] SHALL enter into [a contract] CONTRACTS with [a] financial [organization] ORGANIZATIONS. Such financial [organization] ORGANIZATIONS management may provide one or more types of investment instrument.

4. The comptroller [may] SHALL select [more than one] financial [organization] ORGANIZATIONS for the program, SO LONG AS THEY MEET THE CRITERIA OF SUBDIVISION TWO OF THIS SECTION.

5. A management contract shall include, at a minimum, terms requiring the financial organization to:

a. Take any action required to keep the program in compliance with requirements of section six hundred ninety-five-e of this article and any actions not contrary to its contract to manage the program to qualify as a "qualified state tuition plan" under section 529 of the Internal Revenue Code of 1986, as amended;

b. Keep adequate records of each account, keep each account segregated from each other account, and provide the comptroller with the information necessary to prepare the statements required by section six hundred ninety-five-e of this article;

c. Compile and total information contained in statements required to be prepared under section six hundred ninety-five-e of this article and provide such compilations to the comptroller;

d. [If there is more than one program manager, provide] PROVIDE the comptroller with such information necessary to determine compliance with section six hundred ninety-five-e of this article;

e. Provide the comptroller or his OR HER designee access to the books and records of the program manager to the extent needed to determine compliance with the contract;

f. Hold all accounts for the benefit of the account owner;

g. Be audited at least annually by a firm of certified public accountants selected by the program manager and that the results of such audit be provided to the comptroller;

h. Provide the comptroller with copies of all regulatory filings and reports made by it during the term of the management contract or while it is holding any accounts, other than confidential filings or reports that will not become part of the program. The program manager shall make available for review by the comptroller the results of any periodic examination of such manager by any state or federal banking, insurance, or securities commission, except to the extent that such report or reports may not be disclosed under applicable law or the rules of such commission; and

i. Ensure that any description of the program, whether in writing or through the use of any media, is consistent with the marketing plan developed in the memorandum of understanding pursuant to the provisions of section six hundred ninety-five-c of this article.

S 2. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that any rules and regulations necessary for the timely implementation of this act on its effective date shall be promulgated on or before such date.