

AMENDED IN SENATE AUGUST 30, 2002
AMENDED IN SENATE AUGUST 22, 2002
AMENDED IN SENATE AUGUST 21, 2002
AMENDED IN SENATE AUGUST 28, 2001
AMENDED IN SENATE JULY 9, 2001
AMENDED IN ASSEMBLY MAY 31, 2001
AMENDED IN ASSEMBLY MAY 16, 2001
AMENDED IN ASSEMBLY MAY 1, 2001
AMENDED IN ASSEMBLY APRIL 17, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 55

Introduced by Assembly Members Shelley and Matthews
(Principal coauthor: Senator Dunn)
(Coauthor: Senator Machado)

December 4, 2000

An act to amend Sections 1502 and 2117 of, and to add Section 1502.5 to, the Corporations Code, relating to corporations, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 55, as amended, Shelley. Corporations: disclosure statements. Existing law, the General Corporation Law, requires a domestic corporation and a foreign corporation to file statements with the

Secretary of State disclosing specified information concerning its operation biennially.

This bill would require the statement to instead be filed annually. The bill would specify additional information that a *publicly traded* corporation is required to include in these statements. The bill would make the information contained in the statements open to public inspection and would require the Secretary of State, prior to December 31, 2004, to make this information available on an online database. The bill would also require a corporation to pay a \$5 disclosure fee when filing the statement *in addition to any other fees required*. The bill would specify the use of this fee, including the deposit of one-half of the fee revenue into the Victims of Corporate Fraud Compensation Fund, which would be established by the bill. The bill would require the Secretary of State to administer the fund and to adopt regulations regarding its administration and the eligibility of victims to receive compensation. ~~Because the revenue in the fund would be continuously appropriated by the bill, the bill would make an appropriation.~~

Vote: majority. Appropriation: ~~yes~~ *no*. Fiscal committee: *yes*. State-mandated local program: *no*.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 California Corporate Disclosure Act.

3 SEC. 2. Section 1502 of the Corporations Code is amended to
4 read:

5 1502. (a) (1) Every corporation shall file, within 90 days
6 after the filing of its original articles and annually thereafter during
7 the applicable filing period, on a form prescribed by the Secretary
8 of State, a statement containing all of the following:

9 ~~(1)~~

10 (A) The names and complete business or residence addresses of
11 its incumbent directors.

12 ~~(2)~~

13 (B) The number of vacancies on the board, if any.

14 ~~(3)~~

15 (C) The names and complete business or residence addresses of
16 its chief executive officer, secretary, and chief financial officer.

17 ~~(4)~~

18 (D) The street address of its principal executive office.



1 ~~(5)~~
2 (E) If the address of its principal executive office is not in this
3 state, the street address of its principal business office in this state,
4 if any.

5 ~~(6)~~
6 (F) A statement of the general type of business that constitutes
7 the principal business activity of the corporation (for example,
8 manufacturer of aircraft; wholesale liquor distributor; or retail
9 department store).

10 ~~(7)~~
11 (2) *In addition to all of the information required by paragraph*
12 *(1), every publicly traded company shall also include the following*
13 *information in the statement:*

14 (A) The name of the independent auditor used by the
15 corporation and a description of any other services, if any,
16 performed for the corporation during the previous 24 months by
17 the independent auditor, by its parent corporation, or by ~~an agent,~~
18 ~~subsidiary, corporate partner,~~ *a subsidiary* or corporate affiliate of
19 the independent auditor or its parent corporation.

20 ~~(8)~~
21 (B) The date of the last report prepared for the corporation by
22 the independent auditor. The corporation shall attach a copy of the
23 report to the statement.

24 ~~(9)~~
25 (C) The annual compensation paid to each ~~director and~~
26 *member of the board of directors and each executive officer,*
27 including the number of any shares, or options for shares, ~~provided~~
28 ~~to each director and officer~~ that were not available to other
29 employees of the corporation.

30 ~~(10)~~
31 (D) A description of any loans made to a ~~director~~ *member of the*
32 *board of directors* by the corporation at a preferential loan rate
33 during the previous 24 months, including the amount and terms of
34 the loans.

35 ~~(11)~~
36 (E) A statement indicating whether any bankruptcy was filed
37 by the corporation, its ~~officers,~~ *or executive officers, or members*
38 *of the board of directors* within the previous 10 years.

39 ~~(12)~~



1 (F) A statement indicating whether any ~~director or~~ *member of*
2 *the board of directors or executive officer* of the corporation was
3 convicted of fraud during the previous 10 years.

4 ~~(13)~~

5 (G) A statement indicating whether the corporation violated
6 any federal security laws or any *security or banking* provision of
7 California law during the previous 10 years for which the
8 corporation was found liable ~~or fined~~ *in an action before a federal*
9 *or state court or regulatory agency or a self-regulatory*
10 *organization in which a judgment over ten thousand dollars*
11 *(\$10,000) was entered.*

12 (3) *For purposes of this section, the following definitions*
13 *apply:*

14 (A) *“Publicly traded company” means a company with*
15 *securities that are either listed or admitted to trading on a national*
16 *or foreign exchange, or is the subject of two-way quotations, such*
17 *as both bid and asked prices, that is regularly published by one or*
18 *more broker-dealers in the National Daily Quotation Service or a*
19 *similar service.*

20 (B) *“Executive officer” means the five most highly*
21 *compensated officers of the company, excluding any officer who is*
22 *also a member of the board of directors.*

23 (b) The statement required by subdivision (a) shall also
24 designate, as the agent of the corporation for the purpose of service
25 of process, a natural person residing in this state or a corporation
26 that has complied with Section 1505 and whose capacity to act as
27 an agent has not terminated. If a natural person is designated, the
28 statement shall set forth that person’s complete business or
29 residence address. If a corporate agent is designated, no address for
30 it shall be set forth.

31 (c) If there has been no change in the information in the last
32 filed statement of the corporation on file in the Secretary of State’s
33 office, the corporation may, in lieu of filing the statement required
34 by subdivisions (a) and (b), advise the Secretary of State, on a form
35 prescribed by the Secretary of State, that no changes in the
36 required information have occurred during the applicable filing
37 period.

38 (d) For the purposes of this section, the applicable filing period
39 for a corporation shall be the calendar month during which its
40 original articles were filed and the immediately preceding five



1 calendar months. The Secretary of State shall mail a form for
2 compliance with this section to each corporation approximately
3 three months prior to the close of the applicable filing period. The
4 form shall state the due date thereof and shall be mailed to the last
5 address of the corporation according to the records of the Secretary
6 of State. The failure of the corporation to receive the form is not
7 an excuse for failure to comply with this section.

8 (e) Whenever any of the information required by subdivision
9 (a) is changed, the corporation may file a current statement
10 containing all the information required by subdivisions (a) and (b).
11 In order to change its agent for service of process or the address of
12 the agent, the corporation must file a current statement containing
13 all the information required by subdivisions (a) and (b). Whenever
14 any statement is filed pursuant to this section, it supersedes any
15 previously filed statement and the statement in the articles as to the
16 agent for service of process and the address of the agent.

17 (f) The Secretary of State may destroy or otherwise dispose of
18 any statement filed pursuant to this section after it has been
19 superseded by the filing of a new statement.

20 (g) This section shall not be construed to place any person
21 dealing with the corporation on notice of, or under any duty to
22 inquire about, the existence or content of a statement filed pursuant
23 to this section.

24 (h) The statement required by subdivision (a) shall be available
25 and open to the public for inspection. The Secretary of State, no
26 later than December 31, 2004, shall provide access to all
27 information contained in this statement by means of an online
28 database.

29 (i) ~~Notwithstanding any other provision of law~~ *In addition to*
30 *any other fees required*, a corporation shall pay a five-dollar (\$5)
31 disclosure fee when filing the statement required by subdivision
32 (a). One-half of the fee shall be utilized to further the provisions
33 of this section, including the development and maintenance of the
34 online database required by subdivision (h), and one-half shall be
35 deposited into the Victims of Corporate Fraud Compensation Fund
36 established in Section 1502.5.

37 (j) *A corporation shall certify that the information it provides*
38 *pursuant to subdivisions (a) and (b) is true and correct. No claim*
39 *may be made against the state for inaccurate information*
40 *contained in the statements.*



1 SEC. 3. Section 1502.5 is added to the Corporations Code, to
2 read:

3 1502.5. The Victims of Corporate Fraud Compensation Fund
4 is hereby established in the State Treasury. The fund shall be
5 administered by the Secretary of State who shall adopt regulations
6 regarding the administration of the fund and the eligibility of
7 victims to receive compensation from the fund. The revenue in the
8 fund shall be used for the sole purpose of providing restitution to
9 the victims of a corporate fraud. ~~Notwithstanding Section 13340~~
10 ~~of the Government Code, all money in the fund is continuously~~
11 ~~appropriated for the purpose described in this section.~~

12 SEC. 4. Section 2117 of the Corporations Code is amended to
13 read:

14 2117. (a) (1) Every foreign corporation (other than a foreign
15 association) qualified to transact intrastate business shall file,
16 annually during the applicable filing period, on a form prescribed
17 by the Secretary of State, a statement containing:

18 ~~(1)~~

19 (A) The names and complete business or residence addresses of
20 its chief executive officer, secretary, and chief financial officer.

21 ~~(2)~~

22 (B) The street address of its principal executive office.

23 ~~(3)~~

24 (C) The street address of its principal business office in this
25 state, if any.

26 ~~(4)~~

27 (D) A statement of the general type of business that constitutes
28 the principal business activity of the corporation (for example,
29 manufacturer of aircraft; wholesale liquor distributor; or retail
30 department store).

31 ~~(5)~~

32 (2) *In addition to all of the information required by paragraph*
33 *(1) every publicly traded company shall also include the following*
34 *information in the statement:*

35 (A) The name of the independent auditor used by the
36 corporation and a description of any other services, if any,
37 performed for the corporation during the previous 24 months by
38 the independent auditor, by its parent corporation, or by an agent,
39 subsidiary, corporate partner, or corporate affiliate of the
40 independent auditor or its parent corporation.



1 ~~(6)~~

2 (B) The date of the last report prepared for the corporation by
3 the independent auditor. The corporation shall attach a copy of the
4 report to the statement.

5 ~~(7)~~

6 (C) The annual compensation paid to each ~~director and member~~
7 *of the board of directors and each executive officer*, including the
8 number of any shares, or options for shares, ~~provided to each~~
9 ~~director and officer~~ that were not available to other employees of
10 the corporation.

11 ~~(8)~~

12 (D) A description of any loans made to a ~~director~~ *member of the*
13 *board of directors* by the corporation at a preferential loan rate
14 during the previous 24 months, including the amount and terms of
15 the loans.

16 ~~(9)~~

17 (E) A statement indicating whether any bankruptcy was filed
18 by the corporation, its ~~officers, or executive officers, or members~~
19 *of the board of directors* within the previous 10 years.

20 ~~(10)~~

21 (F) A statement indicating whether any ~~director or member of~~
22 *the board of directors or executive officer* of the corporation was
23 convicted of fraud during the previous 10 years.

24 ~~(11)~~

25 (G) A statement indicating whether the corporation violated
26 any federal security laws or any *banking or security* provision of
27 California law during the previous 10 years for which the
28 corporation was found liable ~~or fined~~ *in an action before a federal*
29 *or state court or regulatory agency or a self-regulatory agency in*
30 *which a judgment over ten thousand dollars (\$10,000) was*
31 *entered.*

32 If the *executive* officers of the corporation use other titles, the
33 statement shall include the officers performing comparable duties
34 under other titles. If the corporation has no *executive* officers, or
35 has no *executive* officers who are natural persons, the statement
36 shall include the names of natural persons performing comparable
37 duties for the corporation pursuant to a management contract or
38 other arrangement.

39 (3) *For purposes of this section, the following definitions*
40 *apply:*



1 (4) “Publicly traded company” means a company with
2 securities that are either listed or admitted to trading on a national
3 or foreign exchange, or is the subject of two-way quotations, such
4 as both bid and asked prices, that is regularly published by one or
5 more broker-dealers in the National Daily Quotation Service or a
6 similar service.

7 (B) “Executive officer” means the five most highly
8 compensated officers of the company, excluding any officer that is
9 also a member of the board of directors.

10 (b) The statement required by subdivision (a) shall also
11 designate, as the agent of the corporation for the purpose of service
12 of process, a natural person residing in this state or a corporation
13 that has complied with Section 1505 and whose capacity to act as
14 the agent has not terminated. If a natural person is designated, the
15 statement shall set forth the person’s complete business or
16 residence address. If a corporate agent is designated, no address for
17 it shall be set forth.

18 (c) The statement and designation required by subdivision (a)
19 shall be available and open to the public for inspection. The
20 Secretary of State, no later than December 31, 2004, shall provide
21 access to all information contained in the statement and
22 designation by means of an online database.

23 (d) ~~Notwithstanding any other provision of law~~ *In addition to*
24 *any other fees required*, a foreign corporation shall pay a
25 five-dollar (\$5) disclosure fee upon filing the statement and
26 designation required by subdivision (a). One-half of the fee shall
27 be utilized to further the provisions of this section, including the
28 development and maintenance of the online database required by
29 subdivision (d), and one-half shall be deposited into the Victims
30 of Corporate Fraud Compensation Fund established in Section
31 1502.5.

32 (e) Whenever any of the information required by subdivision
33 (a) is changed, the corporation may file a current statement
34 containing all the information required by subdivisions (a) and (b).
35 In order to change its agent for service of process or the address of
36 the agent, the corporation shall file a current statement containing
37 all the information required by subdivisions (a) and (b). Whenever
38 any statement is filed pursuant to this section, it supersedes any
39 previously filed statement and the statement in the filing pursuant
40 to Section 2105.



1 (f) Subdivisions (c), (d), (f), and (g) of Section 1502 apply to
2 statements filed pursuant to this section except that “articles” shall
3 mean the filing pursuant to Section 2105.

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5 **CORRECTIONS**

6 **Digest — Page 2.**

7 **Text — Pages 3,5.**

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