

ASSEMBLY BILL

No. 17

Introduced by Assembly Member Davis

December 6, 2010

An act to add Section 22204.5 to the Education Code, and to add Section 20139 to the Government Code, relating to retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 17, as introduced, Davis. Retirement: pension fund management.

The Public Employees' Retirement Law creates the Public Employees' Retirement Fund, which is a trust fund created and administered solely for the benefit of the members and retired members of this system and their survivors and beneficiaries. The Board of Administration of the Public Employees' Retirement System has the exclusive control of the administration and investment of the retirement fund.

The Teachers' Retirement Law establishes the State Teachers' Retirement System in order to provide a financially sound plan for the retirement, with adequate retirement allowances, for teachers in public schools of the state, teachers in schools supported by the state, and other persons employed in connection with the schools. The plan and the system are administered by the Teachers' Retirement Board.

This bill would require the Board of Administration of the Public Employees' Retirement System and the Teachers' Retirement Board to submit a report annually to the Legislature on the ethnicity and gender of the investment managers who participate in managing their portfolios of external fund management contracts, as specified. The bill would also require these boards to report on the ethnicity and gender of the brokerage firms that provide brokerage services to their fund's internally and externally managed investment management firms, as specified.

The bill would also require these boards to develop and include in the report plans and strategies to increase the participation of emerging investment managers, as defined, and emerging brokerage firms, as defined. The bill would also make related findings and declarations.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The California Public Employees’ Retirement System, the
4 nation’s largest pension fund, and the California State Teachers’
5 Retirement System, together, have approximately \$328 billion in
6 assets under their management.

7 (b) As the nation’s leader in attracting private equity capital and
8 advancing innovation, California should also be the leader in
9 encouraging equal opportunity in our state pension fund utilization
10 of emerging investment managers and emerging brokerage firms.

11 SEC. 2. Section 22204.5 is added to the Education Code, to
12 read:

13 22204.5. (a) (1) Notwithstanding Section 10231.5 of the
14 Government Code, the board shall annually report to the
15 Legislature, comprehensively and aggregately, on the ethnicity
16 and gender of the investment managers who participate in
17 managing its portfolio of external fund management contracts,
18 including all asset classes in which the fund has assets allocated.
19 The report shall identify the investment firm ownership
20 composition, including ethnic and gender breakdowns as well as
21 the portfolio value amount and asset class managed, in addition
22 to fees paid to each investment manager. The report shall separately
23 include a percentage breakdown by ethnicity and gender of
24 investment officer composition of contracted portfolio management
25 firms. The board shall report and testify before the Legislature
26 regarding strategic plans of promoting existing underlying
27 emerging managers from manager of manager structures to direct
28 mandates.

29 (2) The board shall also annually report, comprehensively and
30 aggregately, on the ethnicity and gender of the brokerage firms
31 who provide brokerage services to the fund’s internally and

1 externally managed investment management firms in addition to
2 the commissions paid for trading equity securities and par value
3 traded for fixed income by product, to each brokerage firm utilized
4 by the fund. The board shall be required to highlight within the
5 reports submitted firms that are at least 51 percent minority owned
6 or women owned, or both. Annually, the board shall testify at
7 hearings before the Legislature to discuss the reports required to
8 be submitted by this section.

9 (3) The reports required to be submitted by this section shall be
10 submitted in compliance with Section 9795 of the Government
11 Code.

12 (b) The board shall develop and include in the annual report to
13 the Legislature a detailed and verifiable plan and strategy to
14 increase the participation of emerging investment managers and
15 emerging brokerage firms, in each asset class, that are internally
16 and externally managed by investment managers that manage
17 publicly traded securities. Any percentages provided by the board
18 shall be used as a reporting threshold only, and not as a basis upon
19 which to contract with any given emerging investment manager
20 or emerging brokerage firm.

21 (c) “Emerging investment manager” means an investment firm
22 that is at least 51 percent minority or women owned that manages
23 an investment portfolio of less than ten billion dollars
24 (\$10,000,000,000) in publicly traded assets, less than two billion
25 dollars (\$2,000,000,000) in a private equity fund of funds and real
26 estate partnerships, less than five hundred million dollars
27 (\$500,000,000) in REITs, hedge funds, and private equity, and
28 less than one billion dollars (\$1,000,000,000) in a hedge fund of
29 funds.

30 (d) “Emerging brokerage firm” means a brokerage firm that is
31 at least 51 percent minority or women owned.

32 (e) Nothing in this section shall require the board to take action
33 as described in this section unless the board determines, in good
34 faith, that the action described in this section is consistent with the
35 fiduciary responsibilities of the board as described in Section 17
36 of Article XVI of the California Constitution.

37 SEC. 3. Section 20139 is added to the Government Code, to
38 read:

39 20139. (a) (1) Notwithstanding Section 10231.5, the board
40 shall annually report to the Legislature, comprehensively and

1 aggregately, on the ethnicity and gender of the investment
2 managers who participate in managing its portfolio of external
3 fund management contracts, including all asset classes in which
4 the fund has assets allocated. The report shall identify the
5 investment firm ownership composition, including ethnic and
6 gender breakdowns as well as the portfolio value amount and asset
7 class managed, in addition to fees paid to each investment manager.
8 The report shall separately include a percentage breakdown by
9 ethnicity and gender of investment officer composition of
10 contracted portfolio management firms. The board shall report and
11 testify before the Legislature regarding strategic plans of promoting
12 existing underlying emerging managers from manager of manager
13 structures to direct mandates.

14 (2) The board shall also annually report, comprehensively and
15 aggregately, on the ethnicity and gender of the brokerage firms
16 who provide brokerage services to the fund's internally and
17 externally managed investment management firms in addition to
18 the commissions paid for trading equity securities and par value
19 traded for fixed income by product, to each brokerage firm utilized
20 by the fund. The board shall be required to highlight within the
21 reports submitted firms that are at least 51 percent minority owned
22 or women owned, or both. Annually, the board shall testify at
23 hearings before the Legislature to discuss the reports required to
24 be submitted by this section.

25 (3) The reports required to be submitted by this section shall be
26 submitted in compliance with Section 9795 of the Government
27 Code.

28 (b) The board shall develop and include in the annual report to
29 the Legislature a detailed and verifiable plan and strategy to
30 increase the participation of emerging investment managers and
31 emerging brokerage firms, in each asset class, that are internally
32 and externally managed by investment managers that manage
33 publicly traded securities. Any percentages provided by the board
34 shall be used as a reporting threshold only, and not as a basis upon
35 which to contract with any given emerging investment manager
36 or emerging brokerage firm.

37 (c) "Emerging investment manager" means a person or
38 investment firm that manages an investment portfolio of less than
39 ten billion dollars (\$10,000,000,000) in publicly traded assets, less
40 than two billion dollars (\$2,000,000,000) in a private equity fund

1 of funds and real estate partnerships, less than five hundred million
2 dollars (\$500,000,000) in REITs, hedge funds, and private equity,
3 and less than one billion dollars (\$1,000,000,000) in a hedge fund
4 of funds.

5 (d) “Emerging brokerage firm” means a brokerage that is at
6 least 51 percent minority or women owned.

7 (e) Nothing in this section shall require the board to take action
8 as described in this section unless the board determines, in good
9 faith, that the action described in this section is consistent with the
10 fiduciary responsibilities of the board as described in Section 17
11 of Article XVI of the California Constitution.

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