

AMENDED IN ASSEMBLY MAY 11, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 17

Introduced by Assembly Member Davis

December 6, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

AB 17, as amended, 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 or before August 1, 2012, and annually each August 1 thereafter*, on the ethnicity and gender of the investment managers *with whom they have contracted in the immediately preceding fiscal year*, and who participate in managing

their portfolios of external fund management contracts, as specified. The bill would also require these boards to report *to the Legislature, on or before August 1, 2012, and annually each August 1 thereafter,* on the ethnicity and gender of the brokerage firms *with which they have contracted in the immediately preceding fiscal year,* and 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~~ *and report to the Legislature, on or before August 1, 2012, and annually each August 1 thereafter, a plan and strategy for participation of emerging investment managers, as defined,* and emerging brokerage firms, ~~as defined.~~ *The bill would provide for the repeal of these provisions on January 1, 2018.* 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, *on or before August 1, 2012, and annually*
 15 *each August 1 thereafter,* the board shall ~~annually~~ report to the
 16 Legislature, comprehensively and aggregately, on the ethnicity
 17 and gender of the investment managers *with whom it has contracted*
 18 *in the immediately preceding fiscal year,* and who participate in
 19 managing its portfolio of external fund management contracts,
 20 including all asset classes in which the fund has assets allocated.
 21 The report shall identify the ~~investment firm ownership~~

1 ~~composition~~ *ownership composition of any privately owned*
2 *investment firm*, including ethnic and gender breakdowns as well
3 as the portfolio value amount and asset class managed, in addition
4 to fees paid to each investment manager. The report shall separately
5 include a percentage breakdown by ethnicity and gender of
6 investment officer composition of contracted portfolio management
7 firms. The board shall report and testify before the Legislature
8 regarding strategic plans of promoting existing underlying
9 emerging managers from manager of manager structures to direct
10 mandates.

11 (2) ~~The Notwithstanding Section 10231.5 of the Government~~
12 ~~Code, on or before August 1, 2012, and annually each August 1~~
13 ~~thereafter, the board shall also annually report, comprehensively~~
14 ~~and aggregately, on the ethnicity and gender of the brokerage firms~~
15 ~~who with which it has contracted in the immediately preceding~~
16 ~~fiscal year, and which provide brokerage services to the fund's~~
17 ~~internally and externally managed investment management firms~~
18 ~~in addition to the commissions paid for trading equity securities~~
19 ~~and par value traded for fixed income by product; to each brokerage~~
20 ~~firm utilized by the fund. The board shall be required to highlight~~
21 ~~within the reports submitted firms that are at least 51 percent~~
22 ~~minority owned or women owned, or both. Annually, the board~~
23 ~~shall testify at hearings before the Legislature to discuss the reports~~
24 ~~required to 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.~~

34 (b) *Notwithstanding Section 10231.5 of the Government Code,*
35 *on or before August 1, 2012, and annually each August 1*
36 *thereafter, the board shall develop and report to the Legislature*
37 *a plan and strategy for participation of emerging investment*
38 *managers who manage internally and externally managed assets*
39 *in each asset class, and emerging brokerage firms that execute*
40 *securities on organized exchanges as selected agents. Any*

1 percentages provided by the board shall be used as a reporting
2 threshold only, and not as a basis upon which to contract with any
3 given emerging investment manager or emerging brokerage firm.

4 (e) ~~“Emerging investment manager” means an investment firm
5 that is at least 51 percent minority or women owned that manages
6 an investment portfolio of less than ten billion dollars
7 (\$10,000,000,000) in publicly traded assets, less than two billion
8 dollars (\$2,000,000,000) in a private equity fund of funds and real
9 estate partnerships, less than five hundred million dollars
10 (\$500,000,000) in REITs, hedge funds, and private equity, and
11 less than one billion dollars (\$1,000,000,000) in a hedge fund of
12 funds.~~

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

15 (c) *The board shall define the terms “emerging investment
16 manager” and “emerging brokerage firm” by regulation for
17 purposes of this section.*

18 (e)

19 (d) Nothing in this section shall require the board to take action
20 as described in this section unless the board determines, in good
21 faith, that the action described in this section is consistent with the
22 fiduciary responsibilities of the board as described in Section 17
23 of Article XVI of the California Constitution.

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

27 (f) *This section shall remain in effect only until January 1, 2018,
28 and as of that date is repealed, unless a later enacted statute, that
29 is enacted before January 1, 2018, deletes or extends that date.*

30 SEC. 3. Section 20139 is added to the Government Code, to
31 read:

32 20139. (a) (1) Notwithstanding Section 10231.5, *on or before
33 August 1, 2012, and annually each August 1 thereafter*, the board
34 shall ~~annually~~ report to the Legislature, comprehensively and
35 aggregately, on the ethnicity and gender of the investment
36 managers *with whom it has contracted in the immediately
37 preceding fiscal year*, and who participate in managing its portfolio
38 of external fund management contracts, including all asset classes
39 in which the fund has assets allocated. The report shall identify
40 the ~~investment firm ownership composition~~ *ownership composition*

1 *of any privately owned investment firm*, including ethnic and gender
2 breakdowns as well as the portfolio value amount and asset class
3 managed, in addition to fees paid to each investment manager. The
4 report shall separately include a percentage breakdown by ethnicity
5 and gender of investment officer composition of contracted
6 portfolio management firms. The board shall report and testify
7 before the Legislature regarding strategic plans of promoting
8 existing underlying emerging managers from manager of manager
9 structures to direct mandates.

10 (2) ~~The Notwithstanding Section 10231.5, on or before August~~
11 ~~1, 2012, and annually each August 1 thereafter, the board shall~~
12 ~~also annually report, comprehensively and aggregately, on the~~
13 ~~ethnicity and gender of the brokerage firms who with which it has~~
14 ~~contracted in the immediately preceding fiscal year, and which~~
15 ~~provide brokerage services to the fund's internally and externally~~
16 ~~managed investment management firms in addition to the~~
17 ~~commissions paid for trading equity securities and par value traded~~
18 ~~for fixed income by product, to each brokerage firm utilized by~~
19 ~~the fund. The board shall be required to highlight within the reports~~
20 ~~submitted firms that are at least 51 percent minority owned or~~
21 ~~women owned, or both. Annually, the board shall testify at hearings~~
22 ~~before the Legislature to discuss the reports required to be~~
23 ~~submitted by this section.~~

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

27 (b) ~~The board shall develop and include in the annual report to~~
28 ~~the Legislature a detailed and verifiable plan and strategy to~~
29 ~~increase the participation of emerging investment managers and~~
30 ~~emerging brokerage firms, in each asset class, that are internally~~
31 ~~and externally managed by investment managers that manage~~
32 ~~publicly traded securities.~~

33 (b) *Notwithstanding Section 10231.5, on or before August 1,*
34 *2012, and annually each August 1 thereafter, the board shall*
35 *develop and report to the Legislature a plan and strategy for*
36 *participation of emerging investment managers who manage*
37 *internally and externally managed assets in each asset class, and*
38 *emerging brokerage firms that execute securities on organized*
39 *exchanges as selected agents. Any percentages provided by the*
40 *board shall be used as a reporting threshold only, and not as a basis*

1 upon which to contract with any given emerging investment
2 manager or emerging brokerage firm.

3 ~~(e) “Emerging investment manager” means a person or
4 investment firm that manages an investment portfolio of less than
5 ten billion dollars (\$10,000,000,000) in publicly traded assets, less
6 than two billion dollars (\$2,000,000,000) in a private equity fund
7 of funds and real estate partnerships, less than five hundred million
8 dollars (\$500,000,000) in REITs, hedge funds, and private equity,
9 and less than one billion dollars (\$1,000,000,000) in a hedge fund
10 of funds.~~

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

13 *(c) The board shall define the terms “emerging investment
14 manager” and “emerging brokerage firm” by regulation for
15 purposes of this section.*

16 (e)

17 (d) Nothing in this section shall require the board to take action
18 as described in this section unless the board determines, in good
19 faith, that the action described in this section is consistent with the
20 fiduciary responsibilities of the board as described in Section 17
21 of Article XVI of the California Constitution.

22 *(e) The reports required to be submitted by this section shall
23 be submitted in compliance with Section 9795.*

24 *(f) This section shall remain in effect only until January 1, 2018,
25 and as of that date is repealed, unless a later enacted statute, that
26 is enacted before January 1, 2018, deletes or extends that date.*

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