



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-655 Insurers: diversity. (2021-2022)

SHARE THIS:  

Date Published: 09/29/2021 02:00 PM

Senate Bill No. 655

CHAPTER 390

An act to amend Sections 926, 926.1, 927, 927.2, and 927.3 of the Insurance Code, relating to insurance.

[Approved by Governor September 28, 2021. Filed with Secretary of State September 28, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 655, Bradford. Insurers: diversity.

Existing law establishes the California Organized Investment Network within the Department of Insurance to, among other things, pursue active measures to encourage insurers to make investments in California's underserved and low-to-moderate-income communities. Existing law encourages insurers to be supportive of investments that promote social, economic, and environmental benefits.

This bill would additionally encourage insurers to consider making investments with diverse investment managers to the extent possible. The bill would define "diverse investment managers" for this purpose to mean investment management organizations located in, or actively making and holding investments in, California whose investment managers are composed of at least 51% women, veterans, minorities, or lesbian, gay, bisexual, transgender, or queer persons, or a combination of persons in those groups.

Existing law requires each admitted insurer with premiums written equal to or in excess of \$100,000,000 to provide information to the Insurance Commissioner every 2 years on its minority, women, LGBT, veteran, and disabled veteran-owned business procurement efforts, as well as its governing board and board diversity efforts, during the previous 2 years. Existing law requires the commissioner, by November 1 of the reporting year, to establish and maintain a link on the department's internet website that provides public access to the information submitted.

This bill would require an admitted insurer with premiums written equal to or in excess of \$75,000,000 to provide the above-described procurement and board diversity information to the Insurance Commissioner every 2 years. The bill would also require an insurer to provide to the commissioner a board diversity policy statement or a measurable goal or goals to include at least one diverse board member on its board of directors. The bill would require the commissioner to publish the board diversity information and the board diversity policy statement or measurable goal or goals on its internet website in the aggregate.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 926 of the Insurance Code is amended to read:

926. The Legislature finds and declares all of the following:

(a) It is in the interest of all Californians that there is a strong and viable insurance market.

(b) It is the policy of this state that insurers should be supportive of investments that promote social, economic, and environmental benefits, and should consider making these investments with an emphasis on using diverse investment managers to the extent possible.

(c) This article shall establish the California Organized Investment Network (COIN) within the department.

(d) COIN has the responsibility to pursue active measures to encourage insurers to make investments that promote social, economic, and environmental benefits.

(e) COIN shall pursue active measures to encourage insurers to make investments, as defined in this article, including, but not limited to, creating and identifying potential investment opportunities, including the development of investment opportunity bulletins and marketing and outreach efforts. This information shall be published on the department's internet website in investment opportunity bulletins. These opportunity bulletins help finance projects that address the state's critical needs, particularly in underserved, low-to-moderate-income, and rural communities, as well as environmental needs.

SEC. 2. Section 926.1 of the Insurance Code is amended to read:

926.1. As used in this article, the following terms shall have the following meanings:

(a) "Area median income" (AMI) means either of the following:

(1) The median family income for the metropolitan statistical area (MSA), if a person or geography is located in an MSA, or for the metropolitan division, if a person or geography is located in an MSA that has been subdivided into metropolitan divisions.

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(b) "Community development investment" means an investment where all or a portion of the investment has as its primary purpose community development for, or that directly benefits, California underserved or low-to-moderate-income individuals, families, or communities. "Community development investment" includes, but is not limited to, investments in California in the following:

(1) Affordable housing, including multifamily rental and ownership housing, for underserved or low-to-moderate-income individuals or families.

(2) Community facilities or community services providers (including providers of education, health, or social services) directly benefiting underserved or low-to-moderate-income individuals, families, or communities.

(3) Economic development that demonstrates benefits, including, but not limited to, job creation, retention, or improvement, or provision of needed capital, to underserved or low-to-moderate-income individuals, families, or communities, including urban or rural communities, or businesses or nonprofit community service organizations that serve these communities.

(4) Activities that revitalize or stabilize underserved or low-to-moderate-income communities.

(5) Investments in or through California Organized Investment Network (COIN)-certified community development financial institutions (CDFIs) and investments made pursuant to the requirements of federal, state, or local community development investment programs or community development investment tax incentive programs, if these investments directly benefit underserved or low-to-moderate-income individuals, families, and communities and are consistent with this article.

(6) Community development infrastructure investments.

(7) Investments in a commercial property or properties located in underserved or low-to-moderate-income geographical areas and are consistent with this article.

(8) Investments in reservation-based communities. "Reservation-based" means an area of land managed by a Native American tribe under the jurisdiction of the federal Bureau of Indian Affairs, provided that the tribe is named on the most current list of "Indian Entities Recognized and Eligible to Receive Services From the Bureau of Indian Affairs," or successor document, as published in the Federal Register by the Bureau of Indian Affairs.

(9) Investments in rural areas. "Rural area" means any open country or any place, town, village, or city that, by itself and taken together with any other places, towns, villages, or cities that it is part of or associated with, has either a population not exceeding 10,000 persons or has a population not exceeding 50,000 persons and is contained within a nonmetropolitan area. "Rural area" also means any open country, place, town, village, or city located within a standard MSA if the population of that area does not exceed 50,000 persons, the area is not part of, or associated with, an urban area, and the area is rural in character.

(c) "Community development infrastructure" means California debt, including all debt issued by the State of California or a California state or local government agency, if all or a portion of the debt has as its primary purpose community development for, or that directly benefits, underserved or low-to-moderate-income communities and is consistent with subdivision (b).

(d) "Diverse investment managers" means investment management organizations, including corporations, groups, and persons within corporations, partnerships, limited liability corporations, and other special purpose vehicles that are either located in, or actively make and hold investments in, California and whose investment managers are composed of at least 51 percent women, veterans, minorities, or lesbian, gay, bisexual, transgender, or queer persons, or a combination of persons in those groups.

(e) "Geography" means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.

(f) "Green investments" means investments that emphasize renewable energy projects, economic development, and affordable housing focused on infill sites so as to reduce the degree of automobile dependency and promote the use and reuse of existing urbanized lands supplied with infrastructure for the purpose of accommodating new growth and jobs. "Green investments" also means investments that can help communities grow through new capital investment in the maintenance and rehabilitation of existing infrastructure so that the reuse and reinvention of city centers and existing transportation corridors and community space, including projects offering energy efficiency improvements and renewable energy generation, including, but not limited to, solar and wind power, water and waste management, sustainable agriculture, mixed-use development, affordable housing opportunities, multimodal transportation systems, and transit-oriented development, can advance economic development, jobs, and housing.

(g) "Impact investments" means investments that provide a social or environmental benefit to underserved or low-to-moderate-income individuals, families, or communities in California.

(h) "High-impact investments" means investments that are innovative, responsive to community needs, not routinely provided by insurers, and provide a minimum of 50 percent social or environmental benefits to underserved or low-to-moderate-income individuals, families, or communities in California.

(i) "Insurer" means an admitted insurer as defined in Section 24, including the State Compensation Insurance Fund, or a domestic fraternal benefit society as defined in Section 10990.

(j) "Investment" means a lawful equity or debt investment, or loan, or deposit obligation, or other investment or investment transaction allowed by the Insurance Code.

(k) "Low-income" means an individual income that is less than 50 percent of the AMI, or a median family income that is less than 50 percent of the AMI in the case of a geographical area.

(l) "MSA" means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(m) "Moderate-income" means an individual income that is at least 50 percent but less than 80 percent of the AMI, or a median family income that is at least 50 percent but less than 80 percent of the AMI in the case of a geographical area.

(n) "Nonmetropolitan area" means any area that is not located in an MSA.

SEC. 3. Section 927 of the Insurance Code is amended to read:

927. The Legislature finds and declares all of the following:

(a) It is in the state's interest to encourage competitive business opportunities for all of its people. Insurers are uniquely positioned to build relationships within the communities they serve through the development, inclusion, and utilization of certified minority, women, LGBT, veteran, and disabled veteran-owned business enterprises whenever possible.

(b) It is in the state's interest to encourage corporate leadership opportunities for all of its people. Insurers are uniquely positioned to build relationships within the communities they serve through the development of a corporate board that represents the diversity of the state.

(c) According to the California Insurance Diversity Survey, in 2019, among at least 1,300 board seats reported by 260 insurance companies, nearly 80 percent of those seats were occupied by Caucasians, and 70 percent of board members identified as men. Meanwhile, less than 1 percent of board members publicly identified as LGBT, 5.8 percent publicly identified as veterans, and less than 1 percent publicly identified as disabled veterans. Moreover, diverse board members from historically underrepresented communities continue to remain disproportionately low. African Americans, Asians-Pacific Islanders, Hispanics-Latinos, and American Indians comprised only 6.5 percent, 4.4 percent, 3.4 percent, and 0 percent, of board seats, respectively.

(d) Chapter 954 of the Statutes of 2018 addressed gender inequity on corporate boards in the state. Since the enactment of Chapter 954 of the Statutes of 2018, data shows that out of 511 director seats filled by women in California publicly traded companies, 77.9 percent are White. In comparison, 3.3 percent of female directors hired are Latina, 5.3 percent are African American, and 11.5 percent are Asian.

(e) An analysis by KPMG of 2020 proxy statement data from Equilar, Inc. revealed that nearly 23 percent of the directors serving on the boards of publicly held insurance companies in the Russell 3000 Index are women. At more than 35 percent of insurance companies, women comprise less than 10 percent of the board.

(f) By requiring each major insurer to report to the Insurance Commissioner, explaining the insurer's supplier diversity statement, expressing its goals regarding certified minority, women, LGBT, veteran, and disabled veteran-owned business enterprises, and detailing the insurer's efforts and goals regarding board diversity, and by having the commissioner place that information on the department's internet website, will help facilitate these relationships.

SEC. 4. Section 927.2 of the Insurance Code is amended to read:

927.2. (a) (1) Commencing July 1, 2020, and biennially on July 1 of each even-numbered year thereafter, each admitted insurer, with California premiums written of seventy-five million dollars (\$75,000,000) or more, shall report to the commissioner on its minority, women, LGBT, veteran, and disabled veteran-owned business procurement efforts during the previous two years.

(2) The insurer shall provide all of the following:

(A) The insurer's supplier diversity policy statement.

(B) The insurer's outreach and communications to minority, women, LGBT, veteran, and disabled veteran business enterprises, including:

(i) How the insurer encourages and seeks out minority, women, LGBT, veteran, and disabled veteran-owned business enterprises to become potential suppliers.

(ii) How the insurer encourages its employees involved in procurement to seek out minority, women, LGBT, veteran, and disabled veteran-owned business enterprises to become potential suppliers.

(iii) How the insurer conducts outreach and communication to minority, women, LGBT, veteran, and disabled veteran business enterprises.

(iv) How the insurer supports organizations that promote or certify minority, women, LGBT, veteran, and disabled veteran-owned business enterprises.

(v) Information regarding appropriate contacts at the insurer for interested business enterprises.

(C) Information about which procurements are made from minority, women, LGBT, and veteran business enterprises with a headquarters' address in California, and from disabled veteran business enterprises, as defined in subdivision (b) of Section 927.1, with each category aggregated separately, to the extent that information is readily accessible. An insurer may also include other relevant information.

(D) Information about which procurements are made from minority, women, LGBT, veteran, and disabled veteran business enterprises with at least a majority of the enterprise's workforce in California, with each category aggregated separately, to the extent that information is readily accessible. An insurer may also include other relevant information.

(E) Information related to total procurement contract dollars awarded, to the extent that information is readily accessible. An insurer may also include other relevant information.

(3) An insurer that does not enter into contracts to procure goods or services in California satisfies the requirements of paragraph (2) by filing a statement with the commissioner attesting that it does not enter into procurement contracts in California.

(b) This section does not require quotas, set-asides, or preferences in an admitted insurer's procurement of goods or services, and this section does not apply to insurer producer or licensee contracts. Admitted insurers retain the authority to use business judgment to select the supplier for a particular contract.

(c) This section does not preclude an admitted insurer that is a member of an insurance holding company system, as defined in Article 4.7 (commencing with Section 1215) of Chapter 2, from complying with paragraphs (1) and (2) of subdivision (a) through a single filing on behalf of the entire group of affiliated companies.

(d) Failure to report the information required by subdivision (a), by the reporting deadline, shall subject the admitted insurer to a civil penalty to be fixed by the commissioner, not to exceed five thousand dollars (\$5,000), or if the act or practice was willful, a civil penalty not to exceed ten thousand dollars (\$10,000). An insurer may request, and the commissioner may grant, a 30-day extension to report the information if needed due to unintended or unforeseen delays. If the insurer has failed to report the information within 30 days of a written notice by the commissioner that the insurer has failed to report the information, the commissioner may find that the failure to report the information was willful and increase the civil penalty to an amount not to exceed ten thousand dollars (\$10,000). The penalty imposed by this section shall be enforced by the commissioner and is appealable by means of any remedy provided by Section 12940, or by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. This subdivision is the sole means for enforcement of this section.

(e) By November 1 of the reporting year, the commissioner shall establish and maintain a link on the department's internet website that provides public access to the contents of each admitted insurer's reported information on minority, women, LGBT, veteran, and disabled veteran-owned business procurement efforts. The commissioner shall include a statement on the department's internet website that the information on minority, women, LGBT, veteran, and disabled veteran-owned businesses posted pursuant to this subdivision is provided for informational purposes only.

SEC. 5. Section 927.3 of the Insurance Code is amended to read:

927.3. (a) (1) Commencing July 1, 2020, and biennially on July 1 of each even-numbered year thereafter, each admitted insurer with California premiums written of seventy-five million dollars (\$75,000,000) or more, shall report to the commissioner on its governing board and board diversity efforts during the previous two years.

(2) The insurer shall provide all of the following information:

(A) The demographic makeup of the insurer's governing board.

(B) The insurer's goals regarding board diversity, including outreach and communication strategies to diversify its board.

(C) A board diversity policy statement or a measurable goal or goals to include at least one diverse board member on the insurer's board of directors. For purposes of this subparagraph:

(i) A "board diversity policy statement" is any language that refers to an insurer's corporate governance policy or guidelines, with the goal of increasing diversity on the insurer's board of directors. Board diversity language as part of an insurer's corporate governance policy describes how the board considers gender, ethnicity, race, age, geographic location, sexual orientation, skills, and experience when identifying director candidates and throughout the nomination process.

(ii) A "diverse board member" means an individual who self-identifies as a woman, nonbinary, Black, African American, Hispanic, Latino-Latina, Asian, Pacific Islander, Native American, Native Hawaiian, Alaskan Native, veteran or disabled veteran, lesbian, gay, bisexual, transgender, or queer.

(b) (1) An insurer shall provide each board member with an opportunity to participate in a survey for the purpose of collecting and reporting the information described in subparagraph (A) of paragraph (2) of subdivision (a).

(2) The insurer shall distribute a written disclosure to each board member prior to, or concurrently with, the survey. The disclosure shall notify the board member that the board member's decision to disclose their demographic information is voluntary, that no adverse action may be taken against the board member or the insurer if the board member declines to participate in the survey, and that the aggregate data collected for each demographic category will be reported.

(3) The survey shall be completed using a standardized form to be specified by the commissioner.

(4) Neither an insurer nor the department shall in any way encourage, incentivize, or attempt to influence the decision of a board member to participate in the survey.

(5) An insurer required to conduct the survey shall do both of the following:

(A) Collect survey response data from board members in a manner that maintains the anonymity of the responding board member and the confidentiality of the data reported.

(B) Transmit the survey response data to the department in a manner that does not associate the survey response data with an individual board member.

(c) This section does not require quotas, set-asides, or preferences in regard to an admitted insurer's governing board.

(d) This section does not preclude an admitted insurer that is a member of an insurance holding company system, as defined in Article 4.7 (commencing with Section 1215) of Chapter 2, from complying with subdivisions (a) and (b) through a single filing by the insurance holding company on behalf of an entire group of affiliated companies that identifies the aggregated survey results for each affiliated insurer.

(e) By November 1 of the reporting year, the commissioner shall establish and maintain a link on the department's internet website that provides public access to the information submitted pursuant to this section. The commissioner shall publish the information submitted pursuant to this section in the aggregate, and shall not identify an individual respondent or insurer. The commissioner shall include a statement on the department's internet website that the information posted pursuant to this subdivision is provided for informational purposes only.

(f) The data collected pursuant to this section is confidential and shall not be released by the department or an insurer under any circumstances, except as provided in this section.