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## SENATE COMMITTEE ON INSURANCE

Senator Susan Rubio, Chair

2021 - 2022 Regular

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<b>Bill No:</b>	SB 655	<b>Hearing Date:</b>	March 25, 2021
<b>Author:</b>	Bradford		
<b>Version:</b>	February 19, 2021		
<b>Urgency:</b>	No	<b>Fiscal:</b>	No
<b>Consultant:</b>	Brian Flemmer		

**SUBJECT:** Insurers: diversity

**DIGEST:** Decreases the reporting threshold for required participation in the California Department of Insurance (CDI)'s supplier diversity and governing board diversity surveys, specifically lowering the threshold from \$100 million in California written premiums to \$75 million and requires submission of a board diversity policy statement, as defined. Additionally, the bill encourages California Organized Investment Network (COIN) participating insurers to use diverse investment managers.

**ANALYSIS:**

Existing law:

- 1) Requires admitted insurers that write one hundred million dollars (\$100,000,000) or more in California premiums to report biennially to the California Insurance Commissioner (commissioner) on its supplier diversity and governing board diversity efforts during the previous two years, and its goals regarding board diversity.
- 2) Establishes the California Organized Investment Network (COIN) program, a voluntary insurance company investment program that encourages insurers to make investments in California's underserved and low-to-moderate-income communities.
- 3) Encourages insurers to be supportive of investments that promote social, economic, and environmental benefits.

This bill:

- 1) Makes specific legislative findings related to the results of the 2019 California Insurance Diversity Survey and a private analysis of board makeup that show board members from historically underrepresented communities remains disproportionately low, and that board members are predominantly white and/or male.
- 2) Lowers the reporting threshold for participation in the supplier diversity and governing board diversity survey to include insurers that write at least seventy-five million dollars (\$75,000,000) in California premiums.
- 3) Requires an insurer's biennial report to the Commissioner include a board diversity policy statement or to state its measurable goal(s) to include at least one diverse board member on the insurer's board of directors.

- 4) Defines “board diversity policy statement” to refer to corporate governance policy language intended to increase board diversity, and specifies the statement should describe how the board takes gender, ethnicity, race, age, geographic location, sexual orientation, skills, and experience into account when identifying director candidates and throughout the nomination process.
- 5) For purposes of the COIN program, encourages insurers to consider making investments that promote social, economic, or environmental benefits with an emphasis on using diverse investment managers, as defined, to the extent possible.
- 6) Defines “diverse investment managers” to mean an investment management organization located, or actively making investments, in California, where at least 51% of its investment managers are made up by women, veterans, minorities, or LGBTQ persons.

## Background

According to the author:

“In November 2020, the Department of Insurance released results from the California Insurance Diversity Survey that unveiled some disconcerting disparities in boardrooms across 260 insurance companies (comprising 90% of the total market share). From the data collected in 2019, among at least 1,300 board seats surveyed, nearly 80% were occupied by Caucasians, and 70% identified as men. Meanwhile, less than 1% of board members publicly identified as LGBT and those from historically underrepresented communities continue to remain disproportionately low. Research has shown that governing boards are better equipped when their members are comprised of a mix of people with different backgrounds and experiences.

Encouraging diversity strengthens our insurance market and its protection of Californians. SB 655 builds upon California’s efforts to improve diversity in the insurance industry’s highest governing levels by requiring more companies to participate and include measureable goals in the California Insurance Diversity Survey. SB 655 also defines the term Diverse Investment Manager, a new definition for the Department’s COIN program, which focuses on inclusivity within the asset management industry.”

*Effect on Data Collection.* The threshold of \$100 million written premium has been in use for approximately ten years. The Department reports that based on 2018 and 2019 participation, approximately 45-55 more insurers would have been required to participate at a \$75 million dollar level than the 239 that did in 2018 and the 255 in 2019. SB 655’s proposed change could amount to approximately 20% more participation going forward, by company count.

When it comes to written premium, however, current participating insurers reportedly account for approximately 90% of the market, meaning any expansion comes with some diminishing returns, and may progressively target smaller companies. The change this bill proposes would therefore have a greater influence on providing insight on board diversity, and perhaps provide less added information regarding diverse supplier usage.

Given the disparity that CDI reports exists among many larger company boards, the Legislature may wish to inquire into the make-up of smaller California insurers as well. Stakeholder conversations appear to be assuaging most of the minor implementation concerns that industry has brought up regarding the changes.

*Supplier Diversity Survey.* CDI reports it began requesting insurance companies' participation in a baseline survey to assess insurer diversity practices in 2011. All admitted insurers that wrote in excess of \$100 million in California premiums, for experience year 2010, were encouraged to report. In 2012, AB 53 (Statutes of 2012, Chapter 414), required insurers to biennially report their purchases of services and goods from certified diverse suppliers used by California insurers. Reported purchases include those made from certified providers of accommodation and food services, legal services, real estate services, print services, office supplies, advertising and marketing, and financial services. AB 53's provisions include a sunset for January 1, 2019.

CDI argues, "What gets measured, gets done," and points to its own data analysis to argue that simply asking insurance companies these questions planted the seeds of change. From 2012 to 2019, survey results indicate a 126% increase in spend by California insurers with diverse businesses, from \$930 million to \$2.1 billion.

Starting July 1, 2020 an insurer with California written premiums of \$100 million or more must report biennially to CDI on its minority, women, LGBT, veteran, and disabled veteran-owned business procurement efforts and results during the reporting period. The report is required to include the insurer's supplier diversity statement, outreach and communications efforts to grow board diversity, and the appropriate contact information.

The survey garners information about which procurements are made from minority, women, LGBT, and veteran business enterprises and the total procurement contract dollars awarded. Noncompliant insurers are subject to a penalty of up to \$5,000 or, if the failure to comply is "willful," \$10,000. The law does not require quotas, set-asides, or preferences and affirms that insurers retain the authority to use business judgment to select the supplier for a particular contract.

*Governing Board Diversity Survey.* Companies that must participate in the supplier diversity survey must also report biennially to CDI on its efforts to increase diversity on its governing board and current demographic information about the board, by requiring the insurer to provide each board member with an opportunity to participate in a survey for the purpose of collecting and reporting related demographic information. The law does not require quotas, set-asides, or preferences.

In 2015, AB 553 (Daly), sponsored by CDI, was enacted to require insurers to submit a Governance Disclosure, requiring disclosure of corporate governance practices, including whether the insurer has a board diversity policy in place and how it functions (but it does not include demographic information). In 2016 and 2018, CDI issued Governing Board Diversity Surveys and as part of a component of the Multistate Insurance Diversity Survey (MIDS).

*Multistate Insurance Diversity Survey.* In 2016, CDI established the MIDS in cooperation with the District of Columbia, Minnesota, New York, Oregon, and Washington. In administering MIDS, the Department "administratively" modified and expanded AB 53's

requirements and combined it with the Governing Board Diversity Survey. In 2017, CDI sponsored SB 488 (Bradford) to codify MIDS, but that bill died in Assembly Appropriations. The Department issued variations of the MIDS in 2017 and 2018 with only some of the original states participating.

*COIN.* The COIN Program was created in 1996 as a public/private partnership between CDI, the insurance industry, state government leaders, and community development organizations. COIN's goal is to help address unmet capital needs that support investments in economic development and affordable housing in low-income urban and rural communities throughout California. The program serves as a liaison between insurers that are seeking investment opportunities and the community organizations that are seeking investment capital for projects.

The COIN program has two functions: facilitating socially beneficial investments and reporting insurer investments. The program has historically facilitated investments through its “matchmaking” functions and through a tax credit. The program also collects information on insurer investments, scrutinizes those investments for compliance with program criteria, and reports the results on the CDI website. The changes made to the COIN program by this bill promote the use of diverse investment managers, a goal in line with that of the larger COIN program itself. Just as COIN participating insurers make investments with diverse suppliers and in underserved regions, this bill would encourage the use of diverse investment managers to make those investments.

### **Related/Prior Legislation**

SB 534 (Bradford, Chapter 249, Statutes of 2019), codified the Insurance Diversity Task Force, reenacted and expanded the insurer Supplier Diversity Survey, and codified the insurer Governing Board Diversity Survey.

AB 979 (Holden, Chapter 316, Statutes of 2020) Requires, no later than the close of the 2021 calendar year, a publicly held domestic or foreign corporation whose principal executive office is located in California to have a minimum of one director from an under-represented community. Provides that “Director from an underrepresented community” means an individual who self-identifies as Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, or Alaska Native, or who self-identifies as gay, lesbian, bisexual, or transgender.

SB 826 (Jackson), Chapter 954, Statutes of 2018, required each publicly held corporation whose principal executive offices are located in California to have a minimum number of women on its board of directors, as specified.

SB 488 (Bradford, 2017) would have renewed and broadened the Supplier Diversity Survey and codified the Governing Board Diversity Survey and would have authorized the Department to issue data calls and surveys relating to core function of the Department via emergency regulations. Held in Assembly Appropriations.

AB 601 (Ridley-Thomas, 2017) would have renewed and broadened the Supplier Diversity Survey, codified the Governing Board Diversity Survey and would have authorized the Department to issue data calls and surveys relating to core function of

the Department of Insurance via emergency regulations. Held in Assembly Appropriations.

AB 553 (Daly), Chapter 213, Statutes of 2015, established the Governance Disclosure.

AB 53 (Solorio), Chapter 414, Statutes of 2012, codified the Supplier Diversity Survey until January 1, 2019.

**ARGUMENTS IN SUPPORT:**

The Golden Gate Business Association writes in support, “The Department of Insurance’s nationally recognized Insurance Diversity Initiative continues to demonstrate how public policy can be a catalyst for equitable change when it comes to advancing diversity within the boardrooms and procurement practices of insurance companies. For example, the Department’s California Insurance Diversity Survey data indicates that insurance companies have increased contracting with California’s diverse businesses by 126% over seven years -- from \$930 million in 2012 to \$2.1 billion in 2019. However, while these strides are promising, there is still more work to do at the board level, especially in light of the COVID-19 pandemic that has deepened income inequalities and disproportionately impacted businesses owned by women and people from diverse communities.”

**SUPPORT:**

California Department of Insurance (Sponsor)  
California Black Chamber of Commerce  
City National Bank  
Golden Gate Business Association  
LEAP (Leadership Education for Asian Pacifics)  
Long Beach Gay & Lesbian Chamber of Commerce  
National Association of Women Business Owners  
National Association of Women Business Owners – Bakersfield Chapter  
National Association of Women Business Owners – Ventura Chapter  
Out Leadership  
Tulare Kings Hispanic Chamber of Commerce  
Veterans in Business Network (VIB)

**OPPOSITION:**

None on File (3-21-2021)

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