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## SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

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**Bill No:** AB 2041 **Hearing Date:** June 27, 2018  
**Author:** Caballero  
**Version:** June 18, 2018  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Lynn Lorber

**Subject:** University of California: Office of the Chief Investment Officer.

### SUMMARY

This bill urges the Regents of the University of California (UC) to direct their Office of the Chief Investment Officer (OCIO) to take specified steps to increase diversity within that office as well as in the venture capital industry.

### BACKGROUND

Existing law:

- 1) Prohibits the State from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. This applies to the State itself, any city, county, city and county, public university system, including the UC, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the State. (California Constitution, Article 1, § 31, as added by Proposition 209 (1996))
- 2) Requires each state agency to be responsible for an effective equal employment opportunity program, including statewide advocacy, coordination, enforcement, and monitoring. (Government Code § 19790, et seq.)

### ANALYSIS

This bill urges the Regents of the UC to direct their OCIO to take specified steps to increase diversity within that office as well as in the venture capital industry. Specifically, this bill:

- 1) Urges the Regents of the UC to direct their OCIO to do all of the following:
  - a) Use reasonable efforts to encourage diversity, such as implementing a hiring strategy that requires that candidates from underrepresented groups be given full consideration whenever an OCIO position is to be filled.
  - b) Request partner firms it invests in use reasonable efforts to encourage diversity, such as implementing a hiring strategy that requires that candidates from underrepresented groups be given full consideration

whenever a position is filled.

- c) Launch an emerging manager program, and requires the Office of the Chief Investment Officer (OCIO) to define the term “emerging manager” for this purpose.
  - d) Encourage startup firms to increase efforts to develop diverse executive teams and to recruit diverse managerial talent, as applicable.
- 2) Requires the OCIO to submit a report to the Legislature, by January 1, 2020, describing its progress addressing the requirements of the Regents described in # 1.
  - 3) Requires the report to also include pertinent statistics setting forth the OCIO’s internal diversity metrics.
  - 4) Provides that nothing in this bill is to require the Regents of the OCIO to take action that is inconsistent with its fiduciary duties.
  - 5) States legislative findings and declarations relative to the lack of diversity in the venture capital industry.

#### STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “University of California (UC) Investments has not yet adopted an investment strategy that embraces diversity, internally, nor works to encourage its investment partners to do so, either. This is markedly different from the investment strategy of UC’s sister entities with decades of investment management experience, CalPERS and Cal STRS, which have been in the vanguard in sponsoring corporate diversity through their own hiring processes, and through their investment selection process directly associated with their emerging managers programs.”
- 2) ***Office of the Chief Investment Officer (OCIO).*** The OCIO manages UC's retirement, endowment, working capital, and cash assets under the policies, guidelines, and performance benchmarks established by the Regents. The mission of OCIO is to implement those policies and guidelines by selecting, executing, and monitoring investment strategies designed to add value over the benchmarks within a risk-controlled framework. The OCIO currently manages a portfolio totaling approximately \$100 billion.
- 3) ***Emerging Managers.*** In January 2007, both CalPERS and CalSTRS unveiled an online Emerging Managers and other Financial Service Provider database of more than 700 emerging managers and financial service providers towards exposing public and private pension funds and other institutional investors to a new universe of emerging investment firms, and in an effort to boost investment returns by building investment portfolios that tap into the changing demographics and talent emerging in California and across the country. In 2011-12, both entities adopted five-year strategic plans to expand outreach to emerging managers.

According to the Assembly Higher Education Committee analysis of this bill, emerging managers are generally defined as newly-formed or relatively small investment firms. Each CalPERS and CalSTRS asset class – global equity fund of funds, private equity funds, real estate partnerships, etc. - has emerging manager definitions based on assets under management and/or length of track record. For example, at CalPERS, an emerging manager global equity fund of funds would have less than \$2 billion in assets under management. Proposition 209 prohibits state agencies from discriminating against or granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity or national origin in the operation of public contracting. Therefore, CalPERS and CalSTRS may not grant preferential treatment to emerging managers based on these characteristics. Data shows, however, that women and minority managers make up a higher proportion of emerging managers than of all external managers.

CalPERS and CalSTRS have also pushed for diversity on corporate boards. They, along with leading corporate governance experts have developed a digital resource to assist companies in finding diverse candidates for their boards. Since 2001, CalSTRS and 24 other institutional investors have also engaged 250 companies with the intent to have their board consist of at least 30 percent women. CalSTRS indicates that it is also partnering with the University of California (UC) Regents on an initiative to engage 50 companies headquartered in California that have not women on their boards.

- 4) ***Fiscal impact.*** According to the Assembly Appropriations Committee, this bill would impose potential General Fund cost pressures to UC, likely in the low hundreds of thousands of dollars, to enhance diversity at the Office of the Chief Investment Officer, adopt investment strategies to include more diverse partners, and produce a report. Costs could be higher or lower depending on the actions UC takes to comply with this measure.
- 5) ***Prior Legislation.*** AB 856 (Levine, 2017) required the Trustees of the California State University and the governing board of each community college district, and requested the UC Regents, when filling faculty or athletic coaching positions, to give consideration to candidates with socioeconomic backgrounds that are underrepresented among existing faculty or coaching staff on the campus where the position is to be filled. AB 856 was held in the Assembly Appropriations Committee.

## SUPPORT

Fairview Capital Partners, Inc.  
Numerous individuals

## OPPOSITION

None received

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