

California Doubles Down On Problematic Venture Capital Reporting Law

Article By:

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Given the importance of venture capital to California's economy, one might expect that state lawmakers would be keen to nurture the industry rather than enact laws that encourage venture capital companies to avoid the Golden State. Last year, I [posted](#) that Governor Gavin Newsom had signed a new venture capital reporting law even while acknowledging that it contained "problematic provisions". As part of the recently completed budget process, the legislature has now repealed and recast these requirements. Problems and constitutional overbreadth remain, however.

In general, the new [law](#) will require a "covered entity" beginning in 2026 to file a report with the [Department of Financial Protection & Innovation](#) that provides at an aggregate level the following information for the "founding teams" of all of the businesses in which the covered entity made a "venture capital investment" in the prior calendar year:

- The gender identity of each member of the founding team, including nonbinary and gender-fluid identities.
- The race of each member of the founding team.
- The ethnicity of each member of the founding team.
- The disability status of each member of the founding team.
- Whether any member of the founding team identifies as LGBTQ+.
- Whether any member of the founding team is a veteran or a disabled veteran.
- Whether any member of the founding team is a resident of California.
- Whether any member of the founding team declined to provide any of the above information.

A "covered entity" will obtain the above information through a survey that it is required to provide to each business for which it has provided funding.

The law defines a "covered entity" as a "venture capital company", as defined in 10 CCR 206.204.9(a)(4), that meets *both* of the following criteria:

- The venture capital company primarily engages in the business of investing in, or providing financing to, startup, early-stage, or emerging growth companies.
- The venture capital company meets *any* of the following criteria:
 - The venture capital company is headquartered in California.

- The venture capital company has a significant presence or operational office in California.
- The venture capital company makes venture capital investments in businesses that are located in, or have significant operations in, California.
- The venture capital company solicits or receives investments from a person who is a resident of California.

The breadth of this definition is preposterous and jurisdictionally incontinent. If applied literally, venture capital companies located in other states and countries would be required to report to the DFPI if they solicit even one California resident regardless of where the solicitation occurs.

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