



Date: April 18, 2017

To: The Honorable Steven Bradford

From: American Insurance Association (AIA)
Association of California Insurance Companies (ACIC)
Personal Insurance Federation of California (PIFC)
Association of California Life and Health Insurance Companies (ACLHIC)
Pacific Association of Domestic Insurance Companies (PADIC)
National Association of Mutual Insurance Companies (NAMIC)

RE: **SB 488 – Procurement and Board Diversity – Oppose Unless Amended**

Dear Senator Bradford:

The above organizations, representing many of the insurers doing business in California, commend and thank you for your efforts in regards to highlighting and helping to encourage supplier diversity programs. The provisions of the bill that extend that program are laudable. However we must respectfully oppose the provisions as currently drafted that would mandate company employees to intrude upon the privacy of their board members for the public dissemination of otherwise confidential information.

Existing law, as established by AB 53 (Solario, Chp. 414, Statutes of 2012) requires certain insurers to provide the Insurance Commissioner with a report on their minority, women, and disabled veteran-owned business procurement efforts. Companies may voluntarily self-certify if they meet a number of categories, which the insurer then reports in a biennial update. This statute was subject to expire in 2018. SB 488 would extend the sunset of the data call to 2025 and add veteran and lesbian, gay, bisexual, and transgender (LGBT) business enterprises to the entities for which the reporting described above is required. We have no concerns with these provisions and are pleased to see the additional categories.

While we support your efforts in expanding the scope of supplier diversity, we unfortunately have significant concerns with the provisions in SB 488 which would require companies to ask their board members sensitive information in the demographic makeup of the insurer's board

and future board strategies to diversify its board. While the bill does not clearly articulate specific demographic categories, prior data calls initiated by the Department have included racial and ethnic identification, as well as sexual orientation. These efforts have not treated individual privacy rights with the degree of respect they deserve, and asking these questions of board members could put the insurer in dangerous legal territory.

Mandatory data calls which involve personal, confidential information of insurer board members present serious concerns. While the identities of companies' boards of directors are generally publicly available, asking and publishing non-voluntary information that otherwise would appear illegal to ask for in the workplace for public consumption may violate laws and is problematic. While we understand that it is not the sponsor's intention to "out" board members that wish to keep their personal preferences confidential, in this case, the reporting on a very small population of individuals could make it likely to cross-reference the collected data with other public information which may lead to the unintended consequence that confidential information of a board member is made publicly available irrespective of that individual's desire.

Neither the National Association of Insurance Commissioners (NAIC) nor any California law require the publishing of such confidential identifying information for public consumption. Under NAIC Corporate Governance Annual Disclosure Model Act, which California has adopted, corporate governance structure, policies, and practices, including whether there is a board diversity policy in place and how it functions are available to the regulator. These acts contain confidentiality provisions, as does the examination authority cited for last year's survey. Initially the department's foray into publicly disseminating this information was undertaken in a voluntary manner. However, last year when it became mandatory, under subpoena power provisions and examination authority (CIC Sections 730 and 12924 (a)), the confidentiality provisions and attendant procedures were not observed. The industry strongly believes that collected board information of this nature should be made on a protected and purely voluntary basis to the Department of Insurance, and only if known, permitted, and self-reported.

We commend you for your well-intended efforts, however, the bill, as currently drafted, calls for the collection of demographic information from insurers about their governing boards and appears to mistreat this highly sensitive information. For those reasons, we must respectfully oppose SB 488 unless it is amended to address our concerns.

cc: Members, Senate Insurance Committee
Hugh Slayden, Consultant, Senate Insurance Committee
Tim Conaghan, Consultant, Senate Republican Caucus
Michael Martinez, Legislative Deputy, Office of Governor Brown