

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): May 25, 2023

Assembly Biosciences, Inc.

(Exact name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-35005
(Commission File Number)

20-8729264
(IRS Employer
Identification No.)

**331 Oyster Point Blvd., Fourth Floor,
South San Francisco, California**
(Address of Principal Executive Offices)

94080
(Zip Code)

Registrant's Telephone Number, Including Area Code: (833) 509-4583

Not Applicable

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

| Title of each class | Trading Symbol(s) | Name of each exchange on which registered |
|--|----------------------|---|
| Common Stock, par value \$0.001 | ASMB | The Nasdaq Global Select Market |

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

At the Assembly Biosciences, Inc. (the “Company”) Annual Meeting of Stockholders held on May 25, 2023 (the “Annual Meeting”), the Company’s stockholders approved Amendment No. 6 (the “Amendment”) to the Assembly Biosciences, Inc. Stock Incentive Plan (the “2018 Plan”) to increase the number of shares reserved for issuance thereunder from 8,600,000 shares of common stock to 10,600,000 shares. A copy of the Amendment is attached as Exhibit 10.1 and is incorporated herein by reference.

A summary of the material terms of the 2018 Plan, as amended by the Amendment, is set forth as a part of Proposal 4 in the Company’s definitive proxy statement on Schedule 14A filed with the Securities and Exchange Commission on April 12, 2023 (the “Proxy Statement”) and is incorporated by reference herein. That summary is qualified in its entirety by reference to the full text of the 2018 Plan incorporating the Amendment, set forth as Appendix B of the Proxy Statement, which is also incorporated by reference herein.

Item 5.07 Submission of Matters to a Vote of Security Holders.

On May 25, 2023, the matters listed below were submitted to a vote of the Company’s stockholders at the Annual Meeting through the solicitation of proxies. Detailed descriptions of each of the proposals are included in the Proxy Statement. The results of the stockholders’ votes are as follows:

1. William R. Ringo, Jr., Anthony E. Altig, Gina Consylman, Sir Michael Houghton, Ph.D., Lisa R. Johnson-Pratt, M.D., Susan Mahony, Ph.D., John G. McHutchison, A.O., M.D. and Jason A. Okazaki were each elected to serve on the Company’s Board of Directors until the Company’s 2024 annual meeting of stockholders and until their successors are duly elected and qualified.

| <u>Director Nominee</u> | <u>Votes For</u> | <u>Votes Against</u> | <u>Abstain</u> | <u>Broker Non-Votes</u> |
|---------------------------------|-------------------------|-----------------------------|-----------------------|--------------------------------|
| William R. Ringo, Jr. | 8,982,222 | 3,382,033 | 377,279 | 9,425,338 |
| Anthony E. Altig | 11,725,601 | 651,017 | 364,916 | 9,425,338 |
| Gina Consylman | 9,051,880 | 2,961,344 | 728,310 | 9,425,338 |
| Sir Michael Houghton, Ph.D. | 11,564,519 | 451,105 | 725,910 | 9,425,338 |
| Lisa R. Johnson-Pratt, M.D. | 11,385,205 | 629,819 | 726,510 | 9,425,338 |
| Susan Mahony, Ph.D. | 9,185,838 | 3,190,417 | 365,279 | 9,425,338 |
| John G. McHutchison, A.O., M.D. | 11,539,406 | 839,324 | 362,804 | 9,425,338 |
| Jason A. Okazaki | 11,598,693 | 754,100 | 388,741 | 9,425,338 |

2. The stockholders approved, on a non-binding advisory basis, the Company’s named executive officers’ compensation disclosed in the Proxy Statement.

| <u>Votes For</u> | <u>Votes Against</u> | <u>Abstain</u> | <u>Broker Non-Votes</u> |
|-------------------------|-----------------------------|-----------------------|--------------------------------|
| 10,602,082 | 1,654,857 | 484,595 | 9,425,338 |

3. The stockholders ratified the selection of Ernst & Young LLP as the Company’s independent registered public accounting firm for the fiscal year ending December 31, 2023.

| <u>Votes For</u> | <u>Votes Against</u> | <u>Abstain</u> | <u>Broker Non-Votes</u> |
|-------------------------|-----------------------------|-----------------------|--------------------------------|
| 21,468,191 | 245,224 | 453,457 | 0 |

4. The stockholders approved an amendment to the 2018 Plan to increase the number of shares reserved for issuance thereunder by 2,000,000.

| <u>Votes For</u> | <u>Votes Against</u> | <u>Abstain</u> | <u>Broker Non-Votes</u> |
|-------------------------|-----------------------------|-----------------------|--------------------------------|
| 8,040,979 | 4,320,754 | 379,801 | 9,425,338 |

5. The stockholders did not approve the amendment and restatement of the Company’s Sixth Amended and Restated Certificate of Incorporation to increase the authorized number of shares of common stock from 150,000,000 shares to 225,000,000 shares, which required the affirmative vote of a majority of the outstanding shares of common stock.

| <u>Votes For</u> | <u>Votes Against</u> | <u>Abstain</u> | <u>Broker Non-Votes</u> |
|-------------------------|-----------------------------|-----------------------|--------------------------------|
| 19,106,122 | 2,696,278 | 364,472 | 0 |

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

| Exhibit Number | Description |
|-------------------|---|
| 10.1 | Amendment No. 6 to Assembly Biosciences, Inc. 2018 Stock Incentive Plan |
| 104 | Cover Page Interactive Data File (embedded within the Inline XBRL document). |

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Assembly Biosciences, Inc.

Date: May 30, 2023

By: /s/ John O. Gunderson

John O. Gunderson

VP, General Counsel and Corporate Secretary

AMENDMENT NO. 6
TO
ASSEMBLY BIOSCIENCES, INC.
2018 STOCK INCENTIVE PLAN

Assembly Biosciences, Inc., a Delaware corporation (the “Company”) adopted the 2018 Stock Incentive Plan on May 30, 2018, which was amended by Amendment No. 1 to Assembly Biosciences, Inc. 2018 Stock Incentive Plan effective as of May 17, 2019, by Omnibus Amendment to Assembly Biosciences, Inc. Stock Plans effective as of March 11, 2020, by Amendment No. 3 effective as of June 11, 2020, by Amendment No. 4 effective as of May 20, 2021 and Amendment No. 5 effective as of May 25, 2022 (as amended from time to time, the “Plan”).

Prior to this Amendment No. 6 to the Plan, the number of shares of Common Stock, par value \$0.001 per share, reserved under the Plan was 8,600,000.

The Board of Directors of the Company (the “Board”) may, with stockholder approval, amend the Plan to increase the number of authorized shares reserved for issuance under the Plan.

The Board has determined that it is advantageous to the Company and necessary to attract and retain the best available personnel to amend the Plan to increase the number of shares reserved for issuance under the Plan.

Now, therefore, the Plan is hereby amended as follows:

1. Section 3(a) shall be amended and restated as follows:

“(a) Subject to the provisions of Sections 3(b) and 12 below, the maximum aggregate number of Shares which may be issued pursuant to all Awards (including Incentive Stock Options) is Ten Million Six Hundred Thousand (10,600,000) Shares. The Shares granted under the Plan may be authorized, but unissued, or reacquired Common Stock.”

Except as expressly set forth in this Amendment No. 6, all other terms and conditions set forth in the Plan shall remain in full force and effect. Each capitalized term used and not defined herein shall have the meaning set forth in the Plan.

Subject to approval of the stockholders, this Amendment No. 6 has been adopted by the Board of Directors of the Company as of March 16, 2023.

This Amendment No. 6 will be submitted to the stockholders of the Company for approval at the annual stockholders meeting to be held on May 25, 2023 and will become effective upon receipt of approval by the stockholders.

March 16, 2023: Subject to Stockholder Approval, adopted by Board of Directors

March 25, 2023: Approved by Stockholders
