ACTUATE CORP
Form SC 13D
May 28, 2014

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 13D

[Rule 13d-101]

Under the Securities Exchange Act of 1934

(Amendment No.)*

Actuate Corporation

(Name of Issuer)

Common Stock, $0.001 par value

(Title of Class of Securities)

00508B102

(CUSIP Number)

Vector Capital IV, L.P.

Vector Capital Partners IV, L.P.

Vector Entrepreneur Fund III, L.P.

Vector Capital Partners III, L.P.

Vector Capital, L.L.C.

Alexander R. Slusky

c/o Vector Capital Management, L.P.

One Market Street

Steuart Tower, 23rd Floor

San Francisco, California 94105

Telephone: (415) 293-5100

with copies to:

Steve L. Camahort, Esq.

Shearman & Sterling LLP

Four Embarcadero Center, Suite 3800

San Francisco, CA 94111

Telephone: (415) 616-1100

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)

May 16, 2014

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. ¨

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See §240.13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person s initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be filed for the purpose of Section 18 of the Securities Exchange Act of 1934 (Act) or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

CUSIP No. 00508B102

1. Names of Reporting Persons.

Vector Capital IV, L.P.

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) ¨ (b) x

3. SEC Use Only

4. Source of Funds (See Instructions)

WC, BK, OO

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) ¨

6. Citizenship or Place of Organization

Delaware

Number of Shares Beneficially Owned by Each Reporting Person With	7.	Sole Voting Power 0
	8.	Shared Voting Power 4,180,297
	9.	Sole Dispositive Power 0
	10.	Shared Dispositive Power 4,180,297

11. Aggregate Amount Beneficially Owned by Each Reporting Person

4,180,297

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) ¨

13. Percent of Class Represented by Amount in Row (11)

9.08%

14. Type of Reporting Person (See Instructions)

PN

CUSIP No. 00508B102

1. Names of Reporting Persons.

Vector Capital Partners IV, L.P.

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) ¨ (b) x

3. SEC Use Only

4. Source of Funds (See Instructions)

AF

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) ¨

6. Citizenship or Place of Organization

Delaware

Number of Shares Beneficially Owned by Each Reporting Person With	7. Sole Voting Power	0
	8. Shared Voting Power	4,180,297
	9. Sole Dispositive Power	0
	10. Shared Dispositive Power	4,180,297

11. Aggregate Amount Beneficially Owned by Each Reporting Person

4,180,297

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) ¨

13. Percent of Class Represented by Amount in Row (11)

9.08%

14. Type of Reporting Person (See Instructions)

PN

CUSIP No. 00508B102

1. Names of Reporting Persons.

Vector Entrepreneur Fund III, L.P.

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) ¨ (b) x

3. SEC Use Only

4. Source of Funds (See Instructions)

WC, BK, OO

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) ¨

6. Citizenship or Place of Organization

Delaware

Number of Shares Beneficially Owned by Each Reporting Person With	7. Sole Voting Power	0
	8. Shared Voting Power	50,773
	9. Sole Dispositive Power	0
	10. Shared Dispositive Power	50,773 (See Item 5)

11. Aggregate Amount Beneficially Owned by Each Reporting Person

50,773 (See Item 5)

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) ¨

13. Percent of Class Represented by Amount in Row (11)

0.11% (See Item 5)

14. Type of Reporting Person (See Instructions)

PN

CUSIP No. 00508B102

1. Names of Reporting Persons.

Vector Capital Partners III, L.P.

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) ¨ (b) x

3. SEC Use Only

4. Source of Funds (See Instructions)

AF

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) ¨

6. Citizenship or Place of Organization

Delaware

Number of Shares Beneficially Owned by Each Reporting Person With	7. Sole Voting Power	0
	8. Shared Voting Power	50,773
	9. Sole Dispositive Power	0
	10. Shared Dispositive Power	50,773 (See Item 5)

11. Aggregate Amount Beneficially Owned by Each Reporting Person

50,773

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) ¨

13. Percent of Class Represented by Amount in Row (11)

0.11% (See Item 5)

14. Type of Reporting Person (See Instructions)

PN

CUSIP No. 00508B102

1. Names of Reporting Persons.

Vector Capital, L.L.C.

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) ¨ (b) x

3. SEC Use Only

4. Source of Funds (See Instructions)

AF

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) ¨

6. Citizenship or Place of Organization

Delaware

Number of Shares Beneficially Owned by Each Reporting Person With	7.	Sole Voting Power 0
	8.	Shared Voting Power 4,231,070 (See Item 5)
	9.	Sole Dispositive Power 0
	10.	Shared Dispositive Power 4,231,070 (See Item 5)

11. Aggregate Amount Beneficially Owned by Each Reporting Person

4,231,070 (See Item 5)

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) ¨

13. Percent of Class Represented by Amount in Row (11)

9.19% (See Item 5)

14. Type of Reporting Person (See Instructions)

OO

CUSIP No. 00508B102

1. Names of Reporting Persons.

Alexander R. Slusky

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) ¨ (b) x

3. SEC Use Only

4. Source of Funds (See Instructions)

AF

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) ¨

6. Citizenship or Place of Organization

Delaware

Number of Shares Beneficially Owned by Each Reporting Person With	7. Sole Voting Power	0
	8. Shared Voting Power	4,231,070 (See Item 5)
	9. Sole Dispositive Power	0
	10. Shared Dispositive Power	4,231,070 (See Item 5)

11. Aggregate Amount Beneficially Owned by Each Reporting Person

4,231,070 (See Item 5)

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) ¨

13. Percent of Class Represented by Amount in Row (11)

9.19% (See Item 5)

14. Type of Reporting Person (See Instructions)

IN

The information set forth in response to each separate Item below shall be deemed to be a response to all Items where such information is relevant. The information set forth in the Exhibits and Schedule attached hereto is expressly incorporated herein by reference and the response to each item of this Schedule 13D is qualified in its entirety by the provisions of such Exhibits and Schedule.

Item 1. Security and Issuer.

This statement on Schedule 13D (this Statement) relates to the shares of common stock, $0.001 par value per share (Shares), of Actuate Corporation, a Delaware corporation (the Company). The principal executive offices of the Company are located at 951 Mariners Island Boulevard, San Mateo, CA 94404. As reported in the Company s Quarterly Report on Form 10-Q for the quarter ended March 31, 2014, as of April 30, 2014, there were 46,056,820 Shares outstanding.

Item 2. Identity and Background.

(a) This Statement is being filed jointly on behalf of the following persons (collectively, the Reporting Persons): (i) Vector Capital IV, L.P., a Delaware limited partnership (VC IV), (ii) Vector Capital Partners IV, L.P., a Delaware limited partnership (VCP IV), (iii) Vector Entrepreneur Fund III, L.P., a Delaware limited partnership (VE III), (iv) Vector Capital Partners III, L.P., a Delaware limited partnership (VCP III), (v) Vector Capital, L.L.C., a Delaware limited liability company (VC , together with VC IV, VCP IV, VE III and VCP III, Vector) and (vi) Alexander R. Slusky, an individual (Mr. Slusky). VCP IV is the sole general partner of VC IV. VCP III is the sole general partner of VE III. VC is a general partner of both VCP IV and VCP III. The agreement among the Reporting Persons relating to the joint filing of this statement is attached to this statement on Schedule 13D as Exhibit 1.

(b)The business address for each of the Reporting Persons is c/o Vector Capital Management, L.P., One Market Street, Steuart Tower, 23rd Floor, San Francisco, CA 94105.

(c) The business of Vector is that of a private limited partnership, engaged in making investments in securities of public and private companies for its own account. The principal employment of Mr. Slusky is as the Managing Director and Chief Investment Officer of Vector Capital Management, L.P., a Delaware limited partnership, which is principally engaged in the business of managing a portfolio of funds, including Vector.

(d) None of the Reporting Persons have, during the last five years, been convicted in a criminal proceeding.

(e) None of the Reporting Persons have, during the last five years, been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

(f) Each of VC IV, VCP IV, VE III, VCP III and VC is organized under the laws of the State of Delaware. Mr. Slusky is a United States citizen.

Item 3. Source and Amount of Funds or Other Consideration

In a series of transactions completed on May 27, 2014, the Reporting Persons acquired 4,231,070 Shares for approximately $17,471,763.05 in investment capital (including commissions). The source of funds for this consideration was the available capital of Vector, which may, at any given time, include margin loans made by

brokerage firms, borrowings under a working capital line of credit with Silicon Valley Bank or capital contributions from investors in the Vector funds, each in the ordinary course of business.

Item 4. Purpose of Transaction

The Reporting Persons acquired the Shares for investment in the ordinary course of business, as they believed that the Shares, at market prices when acquired, represented an attractive investment opportunity.

The Reporting Persons have no present plan or proposals that would relate to or result in any of the matters set forth in subparagraphs (a)-(j) of Item 4 of Schedule 13D. The Reporting Persons intend to review their investment in the Company on a continuing basis and have in the past and may in the future engage in discussions with management, the board of directors, other stockholders and other relevant parties concerning the business, operations, board composition, management, strategy and future plans of the Company. Depending on various factors including, without limitation, the

results of any such discussions, the Company s financial position and business strategy, price levels of the Shares, conditions in the securities market and general economic and industry conditions, the Reporting Persons may in the future take such actions with respect to their investment in the Company as they deem appropriate including, without limitation, purchasing additional shares or selling some or all of their Shares, engaging in any hedging or similar transactions with respect to the Shares, seeking board representation or taking other action to effect changes in the board composition, ownership structure or operations of the Company, encouraging the Company to pursue one or more strategic transactions and/or otherwise changing their intention with respect to any and all matters referred to in Item 4 of Schedule 13D.

Item 5. Interest in Securities of the Issuer

(a) As of the date hereof, the Reporting Persons have the following interest in the securities of the Company:

i. VC IV beneficially owns 4,180,297 Shares, making it the beneficial owner of 9.08% of the Company s common stock.

ii. VCP IV beneficially owns 4,180,297 Shares, making it the beneficial owner of 9.08% of the Company s common stock.

iii. VE III beneficially owns 50,773 Shares, making it the beneficial owner of 0.11% of the Company s common stock.

iv. VCP III beneficially owns 50,773 Shares, making it the beneficial owner of 0.11% of the Company s common stock.

v. VC beneficially owns 4,231,070 Shares, making it the beneficial owner of 9.19% of the Company s common stock.

vi. Mr. Slusky beneficially owns 4,231,070 Shares, making him the beneficial owner of 9.19% of the Company s common stock.

(b) The table below sets forth for the Reporting Persons the number of shares of Common Stock for which there is sole power to vote or to direct the vote, shared power to vote or direct the vote, or sole or shared power to dispose or to direct the disposition.

	VC IV	**VCP IV**	**VE III**	**VCP III**	**VC**	**Mr. Slusky**
Sole Power to Vote/Direct Vote	0	0	0	0	0	0
Shared Power to Vote/Direct Vote	4,180,297	4,180,297	50,773	50,773	4,231,070	4,231,070
Sole Power to Dispose/Direct Disposition	0	0	0	0	0	0

Shared Power to Dispose/Direct Disposition	4,180,297	4,180,297	50,773	50,773	4,231,070	4,231,070

(c) There have been no purchases or sales of the Company s common stock by any of the Reporting Persons within the last sixty days, except for the purchases of the Company s common stock by VC IV and VC III on the open market as indicated in the table below, which table sets forth the date of each transaction, number of shares purchased in each transaction, and the purchase price per share for the shares purchased in each transaction.

Purchases by VC IV:

Date	Number of Shares Purchased	Purchase Price per Share
05/05/14	182,360	$ 3.86200
05/06/14	650,199	$ 3.87200
05/07/14	316,213	$ 3.85810
05/08/14	182,172	$ 3.89480
05/09/14	113,647	$ 3.89660
05/12/14	4,268	$ 3.95000
05/13/14	171,617	$ 3.98800
05/14/14	134,788	$ 3.95830
05/15/14	368,936	$ 4.02370
05/16/14	405,600	$ 4.08960
05/19/14	165,521	$ 4.16350
05/20/14	103,379	$ 4.18680
05/21/14	341,922	$ 4.26670
05/22/14	212,436	$ 4.34720
05/23/14	175,186	$ 4.41600
05/27/14	652,053	$ 4.49090

Purchases by VE III:

Date	Number of Shares Purchased	Purchase Price per Share
05/05/14	2,215	$ 3.86200
05/06/14	7,897	$ 3.87200
05/07/14	3,841	$ 3.85810
05/08/14	2,213	$ 3.89480
05/09/14	1,380	$ 3.89660
05/12/14	52	$ 3.95000
05/13/14	2,084	$ 3.98800
05/14/14	1,637	$ 3.95830
05/15/14	4,481	$ 4.02370
05/16/14	4,926	$ 4.08960
05/19/14	2,010	$ 4.16350
05/20/14	1,256	$ 4.18680
05/21/14	4,153	$ 4.26670
05/22/14	2,580	$ 4.34720
05/23/14	2,128	$ 4.41600
05/27/14	7,920	$ 4.49090

(d) Not applicable.

(e) Not applicable.

Except as set forth above, to the knowledge of the Reporting Persons, none of the Managing Persons has beneficial ownership of any Shares.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of Issuer

The responses set forth in Item 3, 4 and 5 of this Statement are incorporated herein by reference.

Based on the transactions and relationships described herein, the Reporting Persons may be deemed to constitute a group for purposes of Section 13(d)(3) of the Exchange Act. The filing of this statement shall not be construed as an admission that the Reporting Persons are a group, or have agreed to act as a group.

Item 7. Material to be Filed as Exhibits

99.1 Joint Filing Agreement, dated May 27, 2014 by and among VC IV, VCP IV, VE III, VCP III, VC and Alexander R. Slusky.

SIGNATURE

After reasonable inquiry and to the best of each of the undersigned s knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: May 27, 2014

VECTOR CAPITAL IV, L.P.
By: Vector Capital Partners IV, L.P., its General Partner
By: Vector Capital, L.L.C., its General Partner

By: /s/ Alexander R. Slusky
Name: Alexander R. Slusky
Title: Managing Member

VECTOR CAPITAL PARTNERS IV, L.P.
By: Vector Capital, L.L.C., its General Partner

By: /s/ Alexander R. Slusky
Name: Alexander R. Slusky
Title: Managing Member

VECTOR ENTREPRENEUR FUND III, L.P.
By: Vector Capital Partners III, L.P., its General Partner
By: Vector Capital, L.L.C., its General Partner

By: /s/ Alexander R. Slusky
Name: Alexander R. Slusky
Title: Managing Member

VECTOR CAPITAL PARTNERS III, L.P.
By: Vector Capital, L.L.C,. its General Partner

By: /s/ Alexander R. Slusky
Name: Alexander R. Slusky
Title: Managing Member

VECTOR CAPITAL, L.L.C.

By: /s/ Alexander R. Slusky
Name: Alexander R. Slusky
Title: Managing Member

ALEXANDER R. SLUSKY

By: /s/ Alexander R. Slusky
Name: Alexander R. Slusky