



Sen. Cristina Castro

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1 AMENDMENT TO SENATE BILL 76

2 AMENDMENT NO. _____. Amend Senate Bill 76 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Business Corporation Act of 1983 is amended
5 by changing Section 14.05 and adding Section 8.90 as follows:

6 (805 ILCS 5/8.90 new)

7 Sec. 8.90. Female directors.

8 (a) Findings and policy.

9 (1) More female directors serving on boards of
10 directors of publicly held corporations will boost the
11 Illinois economy, improve opportunities for women in the
12 workplace, and protect Illinois taxpayers, shareholders,
13 and retirees, including retired State employees whose
14 pensions are managed by the State. Yet studies predict that
15 it will take 40 or 50 years to achieve gender parity, if
16 something is not done proactively.

1 (2) In May 2015 and again in May 2017, the General
2 Assembly passed resolutions urging that, within the next 3
3 years, all public companies in Illinois increase the number
4 of women on their boards of directors ranging from one to
5 3, depending upon the size of their boards. Five other
6 states have passed similar resolutions urging more female
7 directors on corporate boards in their states.

8 (A) A 2017 study by MSCI found that United States
9 companies that began the 5-year period from 2011 to
10 2016 with 3 or more female directors reported earnings
11 per share that were 45% higher than those companies
12 with no female directors at the beginning of the
13 period.

14 (B) In 2014, Credit Suisse found that companies
15 with at least one woman on the board had an average
16 return on equity of 12.2%, compared to 10.1% for
17 companies with no female directors. Additionally, the
18 price-to-book value of these firms was greater for
19 those with women on their boards: 2.4 times the value
20 in comparison to 1.8 times the value for zero-women
21 boards.

22 (C) A 2012 University of California, Berkeley
23 study entitled "Women Create a Sustainable Future"
24 found that companies with more women on their boards
25 are more likely to create a sustainable future by,
26 among other things, instituting strong governance

1 structures with a high level of transparency.

2 (D) Credit Suisse conducted a 6-year global
3 research study from 2006 to 2012, with more than 2,000
4 companies worldwide, showing that women on boards
5 improve business performance for key metrics,
6 including stock performance. For companies with a
7 market capitalization of more than \$10,000,000,000,
8 those with female directors on boards outperformed
9 shares of comparable businesses with all-male boards
10 by 26%.

11 (E) The Credit Suisse report included the
12 following findings:

13 (i) There has been a greater correlation
14 between stock performance and the presence of
15 women on a board since the financial crisis in
16 2008.

17 (ii) Companies with women on their boards of
18 directors significantly outperformed others when
19 the recession occurred.

20 (iii) Companies with women on their boards
21 tend to be somewhat risk averse and carry less
22 debt, on average.

23 (iv) Net income growth for companies with
24 women on their boards averaged 14% over a 6-year
25 period, compared with 10% for companies with no
26 female directors.

1 (4) Other countries have addressed the lack of gender
2 diversity on corporate boards by instituting quotas
3 mandating 30% to 40% of seats to be held by female
4 directors. Germany is the largest economy to mandate a
5 quota requiring that 30% of public company board seats be
6 held by women; in 2003, Norway was the first country to
7 legislate a mandatory 40% quota for female representation
8 on corporate boards. Since then, other European nations
9 that have legislated similar quotas include France, Spain,
10 Iceland, and the Netherlands.

11 (5) 43% of Illinois public companies in the Russell
12 3000 index have zero or only one woman on their boards of
13 directors. Of the Fortune 1000 companies headquartered in
14 Illinois, only 10% have 20% or more of their boards
15 comprised of women, and women hold only 19.5% of the board
16 seats overall.

17 (6) If measures are not taken to proactively increase
18 the numbers of women serving on corporate boards, studies
19 have shown that it will take decades, as many as 40 or 50
20 years, to achieve gender parity among directors,
21 including:

22 (A) A 2015 study conducted by the United States
23 Government Accountability Office estimated that it
24 could take more than 40 years for the numbers of women
25 on boards to match men.

26 (B) The 2017 Equilar Gender Diversity Index

1 revealed that it will take nearly 40 years for the
2 Russell 3000 companies nationwide to reach gender
3 parity – the year 2055.

4 (C) Nearly one-half of the 75 largest initial
5 public offerings from 2014 to 2016 went public with no
6 women on their boards.

7 (7) Further, several studies have concluded that
8 having 3 women on the board, rather than just one or none,
9 increases the effectiveness of boards, including:

10 (A) (i) According to the study entitled "Women
11 Directors on Corporate Boards From Tokenism to
12 Critical Mass", by M. Torchia, A. Calabrò, and M. Huse,
13 published in the Journal of Business Ethics in 2011,
14 and a report entitled "Critical Mass on Corporate
15 Boards: Why Three or More Women Enhance Governance",
16 attaining critical mass, going from one or 2 female
17 directors to at least 3 female directors, creates an
18 environment where women are no longer seen as outsiders
19 and are able to influence the content and process of
20 board discussions more substantially.

21 (ii) Boards of directors need to have at least 3
22 women to enable them to interact and exercise an
23 influence on the working style, processes, and tasks of
24 the board, in turn positively affecting the level of
25 organizational innovation within the firm they govern.

26 (B) (i) A 2016 McKinsey and Company study entitled

1 "Women Matter" showed nationwide that companies where
2 women are most strongly represented at board or
3 top-management levels are also the companies that
4 perform the best in profitability, productivity, and
5 workforce engagement.

6 (ii) Companies with 3 or more women in senior
7 management functions score even more highly, on
8 average, on the organizational performance profile,
9 than companies with no women on boards or in the
10 executive ranks. When there are at least 3 women on
11 corporate boards with an average membership of 10
12 directors, performance increases significantly.

13 (b) Definitions. As used in this Section:

14 "Annual report" means the report submitted annually to the
15 Secretary of State pursuant to this Act.

16 "Female" means an individual who self-identifies her
17 gender as a woman, without regard to the individual's
18 designated sex at birth.

19 "Publicly held corporation" means a corporation or foreign
20 corporation with outstanding shares listed on a major United
21 States stock exchange.

22 (c) Composition of board of directors.

23 (1) No later than December 31, 2020, a publicly held
24 domestic or foreign corporation the principal address of
25 which, according to the corporation's annual report, is
26 located in Illinois shall have a minimum of one female

1 director on its board. A corporation may increase the
2 number of directors on its board to comply with this
3 Section.

4 (2) No later than December 31, 2022, a publicly held
5 domestic or foreign corporation the principal address of
6 which, according to the corporation's annual report, is
7 located in Illinois shall comply with the following:

8 (A) If its number of directors is 6 or more, the
9 corporation shall have a minimum of 3 female directors.

10 (B) If its number of directors is 5, the
11 corporation shall have a minimum of 2 female directors.

12 (C) If its number of directors is 4 or fewer, the
13 corporation shall have a minimum of one female
14 director.

15 (3) No later than December 31, 2021, the Secretary of
16 State shall publish a report on its Internet website
17 documenting the number of domestic and foreign
18 corporations the principal address of which, according to
19 the corporation's annual report, is located in Illinois and
20 who have at least one female director.

21 (4) No later than July 31, 2023, and annually
22 thereafter, the Secretary of State shall publish a report
23 on its Internet website regarding, at a minimum, all of the
24 following:

25 (A) The number of corporations subject to this
26 Section that reported being in compliance with the

1 requirements of this Section during at least one point
2 during the preceding calendar year.

3 (B) The number of publicly held corporations that
4 moved their United States headquarters to Illinois
5 from another state or out of Illinois into another
6 state during the preceding calendar year.

7 (C) The number of publicly held corporations that
8 were subject to this Section during the preceding year,
9 but are no longer publicly traded.

10 (D) The number of publicly held corporations that
11 the Secretary of State referred to the Attorney
12 General's Office pursuant to subsection (d) of this
13 Section.

14 (5) (A) The Secretary of State may adopt rules to
15 implement this Section. The Secretary of State may impose a
16 civil penalty for failure to file information required
17 under this Section. For failure to timely file board member
18 information with the Secretary of State pursuant to a
19 regulation adopted in accordance with this paragraph, the
20 Secretary of State may impose a civil penalty of \$10,000.

21 (B) For the purposes of this paragraph, each director
22 seat required by this Section to be held by a female that
23 is not held by a female during at least a portion of a
24 calendar year shall count as a violation.

25 (C) For purposes of this paragraph, a female director
26 having held a seat for at least a portion of the year shall

1 not be a violation.

2 (D) Civil penalties collected in accordance with this
3 Section shall be available, upon appropriation by the
4 General Assembly, for use by the Secretary of State to
5 offset the cost of administering this Section.

6 (d) Enforcement.

7 (1) When the Secretary of State has reason to believe a
8 publicly held corporation subject to this Section is not in
9 compliance with this Section or the Secretary of State
10 receives a complaint that a publicly held corporation
11 subject to this Section may not be in compliance with this
12 Section, the Secretary of State shall refer the matter to
13 the Attorney General for investigation and prosecution.

14 (2) A publicly held corporation subject to this Section
15 that violates this Section shall be subject to a civil
16 penalty not exceed \$300,000 for each year the corporation
17 is not in compliance. In determining the amount of the
18 penalty, the appropriateness of the penalty to the size of
19 the business of the publicly held corporation charged and
20 the gravity of the violation shall be considered. The
21 penalty may be recovered in a civil action brought by the
22 Attorney General in any circuit court.

23 (e) This Section applies to a foreign corporation that is a
24 publicly held corporation to the exclusion of the law of the
25 jurisdiction in which the foreign corporation is incorporated.

1 (805 ILCS 5/14.05) (from Ch. 32, par. 14.05)

2 Sec. 14.05. Annual report of domestic or foreign
3 corporation. Each domestic corporation organized under any
4 general law or special act of this State authorizing the
5 corporation to issue shares, other than homestead
6 associations, building and loan associations, banks and
7 insurance companies (which includes a syndicate or limited
8 syndicate regulated under Article V 1/2 of the Illinois
9 Insurance Code or member of a group of underwriters regulated
10 under Article V of that Code), and each foreign corporation
11 (except members of a group of underwriters regulated under
12 Article V of the Illinois Insurance Code) authorized to
13 transact business in this State, shall file, within the time
14 prescribed by this Act, an annual report setting forth:

15 (a) The name of the corporation.

16 (b) The address, including street and number, or rural
17 route number, of its registered office in this State, and
18 the name of its registered agent at that address.

19 (c) The address, including street and number, or rural
20 route number, of its principal office.

21 (d) The names and respective addresses, including
22 street and number, or rural route number, of its directors
23 and officers.

24 (e) A statement of the aggregate number of shares which
25 the corporation has authority to issue, itemized by classes
26 and series, if any, within a class.

1 (f) A statement of the aggregate number of issued
2 shares, itemized by classes, and series, if any, within a
3 class.

4 (g) A statement, expressed in dollars, of the amount of
5 paid-in capital of the corporation as defined in this Act.

6 (h) Either a statement that (1) all the property of the
7 corporation is located in this State and all of its
8 business is transacted at or from places of business in
9 this State, or the corporation elects to pay the annual
10 franchise tax on the basis of its entire paid-in capital,
11 or (2) a statement, expressed in dollars, of the value of
12 all the property owned by the corporation, wherever
13 located, and the value of the property located within this
14 State, and a statement, expressed in dollars, of the gross
15 amount of business transacted by the corporation and the
16 gross amount thereof transacted by the corporation at or
17 from places of business in this State as of the close of
18 its fiscal year on or immediately preceding the last day of
19 the third month prior to the anniversary month or in the
20 case of a corporation which has established an extended
21 filing month, as of the close of its fiscal year on or
22 immediately preceding the last day of the third month prior
23 to the extended filing month; however, in the case of a
24 domestic corporation that has not completed its first
25 fiscal year, the statement with respect to property owned
26 shall be as of the last day of the third month preceding

1 the anniversary month and the statement with respect to
2 business transacted shall be furnished for the period
3 between the date of incorporation and the last day of the
4 third month preceding the anniversary month. In the case of
5 a foreign corporation that has not been authorized to
6 transact business in this State for a period of 12 months
7 and has not commenced transacting business prior to
8 obtaining authority, the statement with respect to
9 property owned shall be as of the last day of the third
10 month preceding the anniversary month and the statement
11 with respect to business transacted shall be furnished for
12 the period between the date of its authorization to
13 transact business in this State and the last day of the
14 third month preceding the anniversary month. If the data
15 referenced in item (2) of this subsection is not completed,
16 the franchise tax provided for in this Act shall be
17 computed on the basis of the entire paid-in capital.

18 (i) A statement, including the basis therefor, of
19 status as a "minority-owned business" or as a "women-owned
20 business" as those terms are defined in the Business
21 Enterprise for Minorities, Women, and Persons with
22 Disabilities Act.

23 (j) Additional information as may be necessary or
24 appropriate in order to enable the Secretary of State to
25 administer this Act and to verify the proper amount of fees
26 and franchise taxes payable by the corporation.

1 (k) A statement providing the self-identified gender
2 of each director for the purposes of Section 8.90 of this
3 Act.

4 (l) A statement of whether the corporation or foreign
5 corporation has outstanding shares listed on a major United
6 States stock exchange.

7 The annual report shall be made on forms prescribed and
8 furnished by the Secretary of State, and the information
9 therein required by paragraphs (a) through (d), both inclusive,
10 of this Section, shall be given as of the date of the execution
11 of the annual report and the information therein required by
12 paragraphs (e), (f), and (g) of this Section shall be given as
13 of the last day of the third month preceding the anniversary
14 month, except that the information required by paragraphs (e),
15 (f), and (g) shall, in the case of a corporation which has
16 established an extended filing month, be given in its final
17 transition annual report and each subsequent annual report as
18 of the close of its fiscal year on or immediately preceding the
19 last day of the third month prior to its extended filing month.
20 It shall be executed by the corporation by its president, a
21 vice-president, secretary, assistant secretary, treasurer or
22 other officer duly authorized by the board of directors of the
23 corporation to execute those reports, and verified by him or
24 her, or, if the corporation is in the hands of a receiver or
25 trustee, it shall be executed on behalf of the corporation and
26 verified by the receiver or trustee.

1 (Source: P.A. 100-391, eff. 8-25-17; 100-486, eff. 1-1-18;
2 100-863, eff. 8-14-18.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".