

HOUSE BILL 1116

C2, Q4

9lr2080
CF SB 911

By: Delegates Hettleman, McIntosh, Atterbeary, Bridges, Brooks, Crutchfield, Cullison, Ebersole, W. Fisher, Ghrist, Glenn, Haynes, Hill, Holmes, Hornberger, Jones, Kelly, Lierman, Queen, Sample-Hughes, Shetty, and ~~Sydnor~~ Sydnor, Guyton, Cain, Wilkins, Patterson, Luedtke, Smith, Walker, Washington, Mosby, Turner, Ivey, Palakovich Carr, Feldmark, and Kaiser

Introduced and read first time: February 8, 2019

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 12, 2019

CHAPTER _____

1 AN ACT concerning

2 **Gender Diversity in the Boardroom – Annual Report ~~or Nonprofit Sales and Use~~**
3 **~~Tax Exemption Application~~**

4 FOR the purpose of establishing the intent of the General Assembly to promote gender
5 diversity in corporate management and boardrooms; ~~requiring a certain entity~~
6 ~~applying to the Comptroller to qualify as an organization to which a sale is exempt~~
7 ~~from certain sales and use taxes to include in the application certain information~~
8 ~~relating to the female representation on the applicant's board of directors;~~ requiring
9 a certain entity submitting a certain annual report to the State Department of
10 Assessments and Taxation to include in the report certain information relating to
11 female representation on the entity's board of directors; providing for the application
12 of this Act; requiring the Comptroller to make a certain report to the General
13 Assembly on or before a certain date each year; and generally relating to gender
14 diversity in corporate management and boardrooms.

15 ~~BY repealing and reenacting, without amendments,~~
16 ~~Article – Tax – General~~
17 ~~Section 11-204(a)(3) and (5)~~
18 ~~Annotated Code of Maryland~~
19 ~~(2016 Replacement Volume and 2018 Supplement)~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~BY repealing and reenacting, with amendments,~~
 2 ~~Article – Tax – General~~
 3 ~~Section 11–204(e)~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2016 Replacement Volume and 2018 Supplement)~~

6 BY repealing and reenacting, with amendments,
 7 Article – Tax – Property
 8 Section 11–101
 9 Annotated Code of Maryland
 10 (2012 Replacement Volume and 2018 Supplement)

11 Preamble

12 WHEREAS, Equitable and diverse gender representation in the leadership ranks of
 13 companies in the State of Maryland is essential to enhance the competitive position of the
 14 State in the global economy; and

15 WHEREAS, The Executive Alliance, a nonprofit organization of women executive
 16 leaders actively working to leverage the collective power of women’s leadership in the State
 17 of Maryland, reported in its ~~2016~~ 2018 “Census of Women Board Directors in Maryland”
 18 that women held ~~14.4%~~ 16.8% of board seats ~~and 12.3% of executive positions at the 76~~
 19 ~~publicly traded companies headquartered in the State;~~ and

20 WHEREAS, Of those 76 companies, 36 have no women in executive positions, 23
 21 have no women on their boards of directors, and 14 have no women on their boards of
 22 directors or in their executive suites; and

23 WHEREAS, According to the Maryland Commission for Women, women make up
 24 49% of the labor force in Maryland; and

25 WHEREAS, Deloitte’s Missing Pieces Report, which included a 2016 census of
 26 diversity on Fortune 500 corporate boards, found that minority women are even less
 27 represented, with African American women holding only 2.2% of board seats, Asian women
 28 holding only 0.081%, and Latina women holding only 0.075%; and

29 WHEREAS, A McKinsey & Company study entitled “Women Matter” showed that
 30 companies where women are most strongly represented at board or top management levels
 31 are also the companies that perform the best; companies with three or more women in
 32 senior management functions score more highly, on average, on the organizational
 33 performance profile than companies with no women at the top; and company performance
 34 increases significantly once a certain critical mass is attained – specifically, when there are
 35 at least three women on management committees with an average membership of 10
 36 people, performance improves dramatically; and

37 WHEREAS, Commencing in 2006, Credit Suisse conducted a 6–year global research
 38 study of more than 2,000 companies worldwide that showed that women on boards improve

1 business performance by key metrics, including stock performance, as demonstrated by the
2 fact that companies with a market capitalization of more than \$10 billion, whose boards
3 have women, outperformed shares of comparable businesses with all-male boards by 26%;
4 and

5 WHEREAS, The Credit Suisse report included the following findings:

6 (1) There has been a greater correlation between stock performance and
7 the presence of women on a board since the financial crisis in 2008;

8 (2) Companies with women on their boards significantly outperformed
9 others when the recession occurred;

10 (3) Companies with women on their boards tend to be relatively
11 risk-averse and carry less debt, on average; and

12 (4) Net income growth for companies with women on their boards averaged
13 14% over a 6-year period, compared with 10% for those with no women directors; and

14 WHEREAS, An Oklahoma State University study found that board diversity,
15 including gender and ethnicity, is associated with improved financial value and that a
16 significant positive relationship exists between the fraction of women or minorities on the
17 board and the value of the firm; and

18 WHEREAS, The Catalyst Research Center for Equity in Business Leadership report
19 entitled “Women on Corporate Boards Globally” found that companies with more women
20 on boards had better financial results, on average, than other companies, and that
21 companies with sustained high representation of women board directors, defined as having
22 three or more women board directors in at least 4 of 5 years, significantly outperformed
23 those with sustained low representation by 84% on return on sales, 60% on return on
24 invested capital, and 46% on return on equity; and

25 WHEREAS, Catalyst’s report “Women on Corporate Boards Globally” also cites
26 findings that companies with fewer women on boards had more governance-related
27 controversies than average; and

28 WHEREAS, Catalyst found a clear and positive correlation between the percentage
29 of women board directors in the past and the percentage of women corporate officers in the
30 future; and

31 WHEREAS, Catalyst found that (1) women board directors appeared to have a
32 greater effect on increasing the percentage of line positions held by women than they did
33 on staff positions and (2) line experience is necessary for advancement into chief executive
34 officer and top leadership positions; and Catalyst’s annual censuses show that, historically,
35 women are underrepresented in those roles; and

1 WHEREAS, Executive Alliance’s Census report has shown little improvement in the
2 representation of women on corporate boards in Maryland over the last 10 years; and

3 WHEREAS, Women in the Workplace 2016, a comprehensive study of the state of
4 women in corporate America conducted by LeanIn.Org and McKinsey & Company,
5 emphasized that (1) women are less likely to receive the first critical promotion to manager
6 – so far fewer end up on the path to leadership; (2) women are less likely to be hired into
7 more senior positions; and (3) women also get less access to the people, input, and
8 opportunities that accelerate careers – thus, the higher you look in companies, the fewer
9 women you see; and

10 WHEREAS, Catalyst’s report “Women on Corporate Boards Globally” indicated that
11 research from many scholars and organizations, including Catalyst, had found that three
12 or more women serving on a board “changes boardroom dynamics substantially”, “enhances
13 the likelihood that women’s voices and ideas are heard”, and “creates a ‘critical mass’ of
14 women which can lead to better financial performance”; and

15 WHEREAS, The Maryland General Assembly finds that the State of Maryland has
16 a significant stake in promoting equitable and diverse gender representation in the public,
17 private, and nonprofit leadership ranks of Maryland companies, institutions, and State and
18 local government; and

19 WHEREAS, The Senate of Maryland and the House of Delegates urge that by
20 December 31, 2022, all nonprofit, privately held, and publicly traded institutions and
21 companies doing business in the State of Maryland have a minimum of 30% of women
22 directors and measure their progress toward a goal of equal representation of men and
23 women in leadership positions on an annual basis; now, therefore,

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
25 That the Laws of Maryland read as follows:

26 ~~Article Tax General~~

27 ~~11-204.~~

28 ~~(a) The sales and use tax does not apply to:~~

29 ~~(3) a sale to a nonprofit organization made to carry on its work, if the~~
30 ~~organization:~~

31 ~~(i) 1. is located in the State;~~

32 ~~2. is located in an adjacent jurisdiction and provides its~~
33 ~~services within the State on a routine and regular basis; or~~

34 ~~3. is located in an adjacent jurisdiction whose law:~~

1 A. ~~does not impose a sales or use tax on a sale to a nonprofit~~
2 ~~organization made to carry on its work; or~~

3 B. ~~contains a reciprocal exemption from sales and use tax for~~
4 ~~sales to nonprofit organizations located in adjacent jurisdictions similar to the exemption~~
5 ~~allowed under this subsection;~~

6 (ii) ~~is a charitable, educational, or religious organization;~~

7 (iii) ~~is not the United States; and~~

8 (iv) ~~except for the American National Red Cross, is not a unit or~~
9 ~~instrumentality of the United States;~~

10 (5) ~~a sale to a volunteer fire company or department or volunteer~~
11 ~~ambulance company or rescue squad located in the State made to carry on the work of the~~
12 ~~company, department, or squad;~~

13 (e) ~~(1) To qualify as an organization to which a sale is exempt under subsection~~
14 ~~(a)(3) or (5) of this section, the organization shall file an application for an exemption~~
15 ~~certificate with the Comptroller.~~

16 (2) ~~IF THE APPLICANT HAS AN OPERATING BUDGET EXCEEDING~~
17 ~~\$5,000,000, THE APPLICATION REQUIRED UNDER PARAGRAPH (1) OF THIS~~
18 ~~SUBSECTION SHALL INCLUDE THE PERCENTAGE OF FEMALE MEMBERSHIP ON THE~~
19 ~~APPLICANT'S BOARD OF DIRECTORS.~~

20 Article – Tax – Property

21 11–101.

22 (a) On or before April 15 of each year, a person shall submit a report on personal
23 property to the Department if:

24 (1) the person is a business trust, statutory trust, domestic corporation,
25 limited liability company, limited liability partnership, or limited partnership;

26 (2) the person is a foreign corporation, foreign statutory trust, foreign
27 limited liability company, foreign limited liability partnership, or foreign limited
28 partnership registered or qualified to do business in the State; or

29 (3) the person owns or during the preceding calendar year owned property
30 that is subject to property tax.

31 (b) The report shall:

32 (1) be in the form that the Department requires;

1 (2) be under oath as the Department requires; and

2 (3) contain the information that the Department requires.

3 (c) (1) THIS SUBSECTION DOES NOT APPLY TO A PRIVATELY HELD
 4 COMPANY IF AT LEAST 75% OF THE COMPANY'S SHAREHOLDERS ARE FAMILY
 5 MEMBERS.

6 (2) IF THE PERSON SUBMITTING THE REPORT IS A
 7 ~~PUBLICALLY TRADED INSTITUTION OR COMPANY~~ DOMESTIC STOCK CORPORATION
 8 OR DOMESTIC NONSTOCK CORPORATION WITH AN OPERATING BUDGET EXCEEDING
 9 \$5,000,000, THE REPORT REQUIRED BY THE DEPARTMENT SHALL INCLUDE THE
 10 ~~PERCENTAGE NUMBER OF FEMALE MEMBERSHIP~~ BOARD MEMBERS AND THE TOTAL
 11 NUMBER OF MEMBERS ON THE PERSON'S BOARD OF DIRECTORS.

12 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1 of
 13 each year, the Comptroller shall:

14 (1) report to the General Assembly, in accordance with § 2-1246 of the
 15 State Government Article, on the percentage of female representation on the boards of
 16 directors for all entities filing a report ~~or making an application~~ described in this Act; and

17 (2) make the report ~~publically~~ publicly available on the Comptroller's
 18 website.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 20 October 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.