

SENATE BILL 911

C2, Q4

9lr3133
CF HB 1116

By: **Senators Beidle, Carter, Elfreth, Kagan, Lee, and Washington**

Introduced and read first time: February 14, 2019

Assigned to: Rules

A BILL ENTITLED

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; requiring the Comptroller to
12 make a certain report to the General Assembly on or before a certain date each year;
13 and generally relating to gender diversity in corporate management and boardrooms.

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

19 BY repealing and reenacting, with amendments,
20 Article – Tax – General
21 Section 11–204(c)
22 Annotated Code of Maryland
23 (2016 Replacement Volume and 2018 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Tax – Property
26 Section 11–101
27 Annotated Code of Maryland
28 (2012 Replacement Volume and 2018 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Preamble

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

WHEREAS, The Executive Alliance, a nonprofit organization of women executive leaders actively working to leverage the collective power of women's leadership in the State of Maryland, reported in its 2016 "Census of Women Board Directors in Maryland" that women held 14.4% of board seats and 12.3% of executive positions at the 76 publicly traded companies headquartered in the State; and

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

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

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

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

WHEREAS, Commencing in 2006, Credit Suisse conducted a 6-year global research study of more than 2,000 companies worldwide that showed that women on boards improve business performance by key metrics, including stock performance, as demonstrated by the fact that companies with a market capitalization of more than \$10 billion, whose boards have women, outperformed shares of comparable businesses with all-male boards by 26%; and

WHEREAS, The Credit Suisse report included the following findings:

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

(2) Companies with women on their boards significantly outperformed

1 others when the recession occurred;

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

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

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

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

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

21 WHEREAS, Catalyst found a clear and positive correlation between the percentage
22 of women board directors in the past and the percentage of women corporate officers in the
23 future; and

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

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

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

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

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

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

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

17 **Article – Tax – General**

18 11–204.

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

20 (3) a sale to a nonprofit organization made to carry on its work, if the
21 organization:

22 (i) 1. is located in the State;

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

25 3. is located in an adjacent jurisdiction whose law:

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

28 B. contains a reciprocal exemption from sales and use tax for
29 sales to nonprofit organizations located in adjacent jurisdictions similar to the exemption
30 allowed under this subsection;

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

32 (iii) is not the United States; and

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

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

6 (c) (1) To qualify as an organization to which a sale is exempt under subsection
7 (a)(3) or (5) of this section, the organization shall file an application for an exemption
8 certificate with the Comptroller.

9 (2) IF THE APPLICANT HAS AN OPERATING BUDGET EXCEEDING
10 \$5,000,000, THE APPLICATION REQUIRED UNDER PARAGRAPH (1) OF THIS
11 SUBSECTION SHALL INCLUDE THE PERCENTAGE OF FEMALE MEMBERSHIP ON THE
12 APPLICANT'S BOARD OF DIRECTORS.

13 Article – Tax – Property

14 11–101.

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

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

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

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

24 (b) The report shall:

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

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

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

28 (C) IF THE PERSON SUBMITTING THE REPORT IS A PUBLICALLY-TRADED
29 INSTITUTION OR COMPANY WITH AN OPERATING BUDGET EXCEEDING \$5,000,000,
30 THE REPORT REQUIRED BY THE DEPARTMENT SHALL INCLUDE THE PERCENTAGE
31 OF FEMALE MEMBERSHIP ON THE PERSON'S BOARD OF DIRECTORS.

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

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

6 (2) make the report publically available on the Comptroller's website.

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