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**SENATE BILL 5142**

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**State of Washington****66th Legislature****2019 Regular Session**

**By** Senators Wellman, Keiser, Saldaña, Dhingra, Kuderer, Nguyen, Hunt, Das, and Randall

Prefiled 01/11/19.

1       AN ACT Relating to increasing equitable gender representation on  
2 corporate boards; amending RCW 23.95.255 and 43.07.130; adding a new  
3 section to chapter 23B.08 RCW; creating a new section; and  
4 prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       NEW SECTION. **Sec. 1.** (1) The legislature finds that it has a  
7 substantial interest in gender equity at all levels, including the  
8 highest levels of corporations. It also finds that over the last  
9 decade, less than satisfactory progress has been made with regard to  
10 gender equity on the boards of corporations. Numerous independent  
11 studies have concluded that publicly held companies perform better  
12 when women serve on their boards of directors, including the  
13 following:

14       (a) A 2017 study by morgan stanley capital international (MSCI)  
15 found that United States' companies that began the five-year period  
16 from 2011 to 2016 with three or more female directors reported  
17 earnings per share that were forty-five percent higher than those  
18 companies with no female directors at the beginning of the period.

19       (b) In 2014, credit suisse found that companies with at least one  
20 woman on the board had an average return on equity of 12.2 percent,  
21 compared to 10.1 percent for companies with no female directors.

1 Additionally, the price-to-book value of these firms was greater for  
2 those with women on their boards: 2.4 times the value in comparison  
3 to 1.8 times the value for boards with no women.

4 (c) A 2012 University of California, Berkeley study called "women  
5 create a sustainable future" found that companies with more women on  
6 their boards are more likely to "create a sustainable future" by,  
7 among other things, instituting strong governance structures with a  
8 high level of transparency.

9 (d) Credit suisse conducted a six-year global research study from  
10 2006 to 2012, with more than two thousand companies worldwide,  
11 showing that women on boards improve business performance for key  
12 metrics, including stock performance. For companies with a market  
13 capitalization of more than ten billion dollars, those with women  
14 directors on boards outperformed shares of comparable businesses with  
15 all-male boards by twenty-six percent. This report included the  
16 following findings:

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

20 (ii) Companies with women on their boards of directors  
21 significantly outperformed others when the recession occurred;

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

24 (iv) Net income growth for companies with women on their boards  
25 averaged fourteen percent over a six-year period, compared with ten  
26 percent for companies with no women directors.

27 (2) The legislature also finds that more women directors serving  
28 on boards of directors will boost Washington's economy and improve  
29 opportunities for women in the workplace. However, studies predict  
30 that it will take forty or fifty years to achieve gender parity if  
31 something is not done proactively. These studies include:

32 (a) A 2015 study conducted by the United States government  
33 accountability office estimated that it could take more than forty  
34 years for the numbers of women on boards to match men; and

35 (b) The 2017 equilar gender diversity index revealed that it will  
36 take nearly forty years, until 2055, for the russell 3000 companies  
37 nationwide to reach gender parity.

38 (3) Therefore, the legislature finds that standards for  
39 membership of boards need to be set in order to support a strong  
40 Washington economy.

1        NEW SECTION. **Sec. 2.** A new section is added to chapter 23B.08

2 RCW to read as follows:

3        (1) (a) By December 31, 2020, a corporation must have a minimum of  
4 one female director on its board.

5        (b) By December 31, 2022, a corporation must have a minimum of:

6            (i) Thirty percent female directors, if its number of directors  
7 is twenty or more;

8            (ii) Three female directors, if its number of directors is ten to  
9 nineteen; or

10           (iii) One female director, if its number of directors is nine or  
11 fewer.

12        (2) (a) By December 31, 2020, the office of the secretary of state  
13 must publish on its web site, the number of corporations that have at  
14 least one female director.

15        (b) By June 30, 2021, and annually thereafter, the office of the  
16 secretary of state must publish a report on its web site that  
17 includes the number of:

18            (i) Corporations;

19            (ii) Corporations in compliance with this section during at least  
20 one point in the preceding calendar year; and

21            (iii) Corporations fined under (c) of this subsection.

22        (c) The secretary of state shall enforce this section and may  
23 impose fines on corporations for violations of this section as  
24 follows:

25            (i) Failing to meet the requirements of subsection (1) of this  
26 section is punishable by a fine of one hundred thousand dollars for  
27 the first violation and three hundred thousand dollars for each  
28 subsequent violation.

29            (ii) Failing to timely file board member information with the  
30 secretary of state pursuant to a rule adopted under subsection (4) of  
31 this section is punishable by a fine of one hundred thousand dollars.

32            (iii) Beginning in 2025, and every five years thereafter, the  
33 fine amounts listed in (c)(i) and (ii) of this subsection shall  
34 increase by ten percent.

35            (d) Fines imposed under (c) of this subsection shall be deposited  
36 into the secretary of state's revolving fund created in RCW  
37 43.07.130.

38        (3) For purposes of this section, "female" means an individual  
39 who self-identifies her gender as a woman, without regard to the  
40 individual's designated sex at birth.

1       (4) The office of the secretary of state may adopt rules to  
2 implement this section.

3       (5) The attorney general may adopt rules to implement this  
4 section.

5       **Sec. 3.** RCW 23.95.255 and 2017 c 31 s 2 are each amended to read  
6 as follows:

7       (1) A domestic entity other than a limited liability partnership  
8 or nonprofit corporation shall, within one hundred twenty days of the  
9 date on which its public organic record became effective, deliver to  
10 the secretary of state for filing an initial report that states the  
11 information required under subsection (2) of this section, as well as  
12 information regarding the gender of each of the domestic entity's  
13 directors on its board of directors.

14       (2) A domestic entity or registered foreign entity shall deliver  
15 to the secretary of state for filing an annual report that states:

16           (a) The name of the entity and its jurisdiction of formation;

17           (b) The name and street and mailing addresses of the entity's  
18 registered agent in this state;

19           (c) The street and mailing addresses of the entity's principal  
20 office;

21           (d) In the case of a registered foreign entity, the street and  
22 mailing address of the entity's principal office in the state or  
23 country under the laws of which it is incorporated;

24           (e) The names of the entity's governors;

25           (f) A brief description of the nature of the entity's business;  
26 and

27           (g) The entity's unified business identifier number.

28       (3) Information in an initial or annual report must be current as  
29 of the date the report is executed by the entity.

30       (4) Annual reports must be delivered to the secretary of state on  
31 a date determined by the secretary of state and at such additional  
32 times as the entity elects.

33       (5) If an initial or annual report does not contain the  
34 information required by this section, the secretary of state promptly  
35 shall notify the reporting entity in a record and return the report  
36 for correction.

37       (6) If an initial or annual report contains the name or address  
38 of a registered agent that differs from the information shown in the  
39 records of the secretary of state immediately before the annual

1 report becomes effective, the differing information in the initial or  
2 annual report is considered a statement of change under RCW  
3 23.95.430.

4 (7) The secretary of state shall send to each domestic entity and  
5 registered foreign entity, not less than thirty or more than ninety  
6 days prior to the expiration date of the entity's annual renewal, a  
7 notice that the entity's annual report must be filed as required by  
8 this chapter and that any applicable annual renewal fee must be paid,  
9 and stating that if the entity fails to file its annual report or pay  
10 the annual renewal fee it will be administratively dissolved. The  
11 notice may be sent by postal or email as elected by the entity,  
12 addressed to its registered agent within the state, or to an  
13 electronic address designated by the entity in a record retained by  
14 the secretary of state. Failure of the secretary of state to provide  
15 any such notice does not relieve a domestic entity or registered  
16 foreign entity from its obligations to file the annual report  
17 required by this chapter or to pay any applicable annual renewal fee.  
18 The option to receive the notice provided under this section by email  
19 may be selected only when the secretary of state makes the option  
20 available.

21 **Sec. 4.** RCW 43.07.130 and 2015 c 176 s 8102 are each amended to  
22 read as follows:

23 There is created within the state treasury a revolving fund, to  
24 be known as the "secretary of state's revolving fund," which must be  
25 used by the office of the secretary of state to defray the costs of  
26 providing registration and information services authorized by law by  
27 the office of the secretary of state, and any other cost of carrying  
28 out the functions of the secretary of state under Title 11, 18, 19,  
29 23B, 24, 25, 26, 30A, 30B, 42, 43, or 64 RCW.

30 The secretary of state is authorized to charge a fee for  
31 publications in an amount which will compensate for the costs of  
32 printing, reprinting, and distributing such printed matter. Fees or  
33 fines recovered by the secretary of state under RCW 43.07.120(2),  
34 19.09.305, 19.09.315, 19.09.440, 23.95.260(1) (a)(ii) and (iii) and  
35 (d), section 2 of this act, or 46.64.040, and such other moneys as  
36 are expressly designated for deposit in the secretary of state's  
37 revolving fund must be placed in the secretary of state's revolving  
38 fund.

1        During the 2005-2007 fiscal biennium, the legislature may  
2 transfer from the secretary of state's revolving fund to the state  
3 general fund such amounts as reflect the excess fund balance of the  
4 fund.

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