New York Enacts ‘Women on Corporate Boards Study’

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On December 30, 2019, New York governor Andrew M. Cuomo signed legislation requiring the New York State Department of State, partnered with the Department of Taxation and Finance, to conduct a study of the proportion of female members on the boards of domestic and foreign corporations licensed to do business in New York. The “Women on Corporate Boards Study” law requires corporations to report the number of directors on their boards and how many of those directors are women. Corporations must provide this information on their biennial filings with the secretary of state as required under Section 408 of the Business Corporation Law. The law will take effect on June 27, 2020.

As part of the study, the state will issue a report detailing the number of female directors and the total number of directors that constitute the board of each corporation, an analysis of the change in the number of female directors from previous years, and the aggregate percentage of female directors on all boards. The law requires the department of state to publish the report on or before February 1, 2022, and every four years thereafter.

Legislative supporters of the law explained that by taking “a proactive approach,” corporations will be able “to identify where they are lacking in diversity.” According to a statement issued by Governor Cuomo, “[t]his new study will help . . . guide the development of new policies to ensure more women have a seat at the proverbial table.”

Trend Toward Reporting Board Composition

Legislative efforts requiring corporations to report on the representation of women on boards seems to be a growing trend. In 2018, California passed a law—which is currently being challenged in court—that requires publicly held corporations with principal offices located in California to have at least one woman on their boards, along with other requirements. Legislators in New Jersey and Michigan introduced bills similar to the California law, although neither bill has been signed into law. Similar to New York, Maryland and Illinois recently imposed corporate reporting requirements of board membership designed to promote gender diversity.

Takeaways for Corporate Employers

Corporate employers authorized to conduct business in New York can prepare to provide information to state departments regarding their board composition. Corporations across the country may want to watch for similar legislative developments in jurisdictions in which they conduct business. Companies may also
wish to consider the composition of their boards and explore appropriate proactive steps to encourage diversity as legislatures, and the public, are increasingly taking notice.