

California law on company boards spotlights deep challenges

October 3 2018, by Alexandra Olson And Matt Ott



In this Dec. 14, 2016, file photo from left, Amazon founder Jeff Bezos, Alphabet CEO Larry Page and Facebook COO Sheryl Sandberg listen as President-elect Donald Trump speaks during a meeting with technology industry leaders at Trump Tower in New York. California has become the first state to require publicly traded companies to include women on their boards of directors. The measure requires at least one female director on the board of each California-based public corporation by the end of next year. (AP Photo/Evan Vucci, File)

California's new law requiring companies to include women on their boards of directors may not survive widely expected legal challenges but it has already spotlighted the entrenched practices and barriers that have helped keep women out of boardrooms.

Some of the country's best-known companies, along with many smaller ones, will have to overcome such obstacles to comply with the new measure, which requires public corporations headquartered in California to have at least one female director on their board by the end of next year. Companies with more than six board members would need three [female directors](#) by the end of 2021. Those with fewer than six members would need two [women](#).

After years of public and internal pressure to increase gender parity at the top of the corporate ranks, few of the biggest companies have zero female board directors. But men vastly outnumber women on boards across nearly every industry, a landscape that has remained stubbornly unchanged despite years of debate and studies on the subject.

Facebook, Apple and Google's parent [company](#) Alphabet are among the several hundred companies headquartered in California that would have to add women to their boards by 2021 to comply with the law.

The law imposes a \$100,000 fine for a first violation and a \$300,000 penalty for subsequent violations, not huge sums for major corporations. Nevertheless, companies will likely begin efforts to comply with the law even as they keep track of—or participate in—legal efforts to block it, said Wendy Patrick, a professor of business ethics at San Diego State University.

Those efforts will push companies to work through obstacles frequently cited by corporate executives, including finding a wide pool of female talent, particularly in industries that are male-dominated from top to

bottom. In the short term, Davis said the law might serve as catalyst for widening the pool if it encourages more women to seek out board positions. In the long term, the law will encourage companies to more aggressively recruit and retain women in all ranks, she said.



In this Sept. 12, 2017, file photo Angela Ahrendts, Apple's Senior Vice President of Retail, discusses updates at Apple Stores before a new product announcement at the Steve Jobs Theater on the new Apple campus in Cupertino, Calif. California has become the first state to require publicly traded companies to include women on their boards of directors. The measure requires at least one female director on the board of each California-based public corporation by the end of next year. (AP Photo/Marcio Jose Sanchez, File)

"Maybe this will encourage women to step up who otherwise never thought they had a shot," Patrick said.

Women held about 20 percent of board seats at Fortune 500 companies in 2016, according to the most recent census by the Alliance of Board Diversity. That was up from just under 17 percent in 2012, according to the study, which was conducted with Deloitte, an auditing, taxes and consulting services provider.

Among California-based companies, many of the top companies already have at least three women on their boards, including Walt Disney, Chevron, Oracle, HP Inc. and Twitter. Those with only two female directors include Facebook, Apple and Alphabet.

The scarcity of women on boards is more prevalent among smaller companies headquartered in the state, said Annalisa Barrett, the CEO of the Board Governance Research LLC, which researches corporate board practices and composition.

The new law will force 377 companies to add at least one female director to their boards by 2021, according to Barrett, who analyzed numbers provided by data-gathering firm Equilar Inc. for companies on the Russell 3000 Index that are headquartered in California. But she said that number does not reflect many companies that are too small to be included in the Russell 3000, many of which are likely to have all-male boards.

"Smaller companies haven't had as much pressure on them to take advantage of the benefits of having a diversified board," said Barrett, a professor of corporate governance at the University of San Diego School of Business.



In this Sept. 11, 2007 file photo Diane Greene, CEO of VMware Inc. waits to be introduced before delivering her keynote address at the VMWorld 2007 conference in San Francisco. Greene is current a member of the board of directors for Google. California has become the first state to require publicly traded companies to include women on their boards of directors. The measure requires at least one female director on the board of each California-based public corporation by the end of next year. (AP Photo/Eric Risberg, File)

A number of corporate practices serve as potential barriers for recruiting women to boards, according to a 2017 Deloitte survey of 300 corporate directors and C-Suite executives at U.S. companies with at least \$50 million in annual revenue.

The survey found that more than 90 percent of board members would discount candidates without executive experience. That stacks the odds against women since the vast majority of CEOs at U.S. companies are

men. The Deloitte study suggested that boards need to look outside their traditional recruitment practices, seeking out candidates with expertise in a certain field, or who reflect the customer base.

The Deloitte study also pointed to low turnover on boards. Less than 6 percent of companies surveyed in a 2016 Deloitte study on board practices have term limits for board members, although most have retirement age requirements.

To avoid dropping a male director or wait for a vacancy, most companies striving to comply with the California law will have to increase the number of [board members](#), Barrett said. She noted that most companies have the flexibility to expand their boards in their bylaws.

The California law is almost certain to face legal challenges, something even Gov. Jerry Brown acknowledged when signing it Sunday.

A number of countries have implemented similar mandates, including France and Norway. In the United States, several states passed non-binding resolutions calling on companies to improve gender diversity on boards, following the lead of California, which became the first to do so in 2013. If California's new binding law survives legal challenges, other states can be expected to follow suit, Barrett said.

"Other states have followed along with California's movement. I would expect that if it indeed stands up to [legal challenges](#), other states will follow along," Barrett said.

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