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Corporate boards *should* be diverse

By Arash Homampour

In 2018, California enacted Senate Bill 826, the "Women on Boards" law, becoming the first U.S. state to mandate female representation on the boards of publicly traded companies. At least one person identifying as a woman was required on corporate boards by the end of 2019; in 2022, two women must sit on boards with five directors and three women on boards with six or more members.

Before the law went into effect, just 17% of the seats on boards were held by women; now they hold more than 30% of board seats. The number of women chosen to fill vacant corporate board seats in the state grew from 208 to 739 in the two years after the bill passed, according to the California Partners Project.

California isn't an outlier. France, Germany, Norway and Spain also require female representation on corporate boards. Ten other states have similar laws, with lawmakers in Washington, Massachusetts, New Jersey, Hawaii and Illinois joining the fold this year.

How sad that laws are required to bring diversity into the boardroom. And how troubling that California's law is now being challenged as unconstitutional. In the wake of #MeToo and Black Lives Matter, companies large and small moved forward with diversity, equality and inclusion programs, belatedly attempting to address disparities in recruiting, hiring, pay and promotion. Without laws requiring broader representation at the top, most corporate boards would remain glaringly male.

Women bring a unique perspective to the world of business, providing an alternative approach to problem solving and a higher level of social responsibility. But they also help the bottom line. A study of large companies in the United Kingdom showed that firms with boards that are one-third female are 10 times more profitable, on average, than those with all-male boards. Another study suggested that companies with the most women on their boards had a 60% higher return on investment than the companies with the fewest women on their boards.

It's about much more than putting women on boards. Yes, women bring a missing piece to the puzzle, but the women on California boards are predominantly white. If diversity and inclusion is important for rank-and-file workplaces, it should be imperative for executive suites and boardrooms. According to the California Partners Project, only 6.6% of board seats are held by women of color, despite the fact that women of color make up 32% of California's population. Latinas, who make up more than 19% of California's population, hold just 1% of the seats on its public company boards.

And that brings us to Assembly Bill 979, which was signed into law in September 2020. This law requires publicly held corporations headquartered in California to have at least one director from an underrepresented community by December 31. This includes individuals who self-identify as Black, African-American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian or Alaska Native, or who self-identify as gay, lesbian, bisexual or transgender. By the end of 2022, corporate boards with four to nine members must have two directors from underrepresented communities, and those with more than nine members must have at least three from those communities.

As with the Women on Boards law, AB 979 is facing challenge on state constitutional grounds. Both legal challenges are expected to be resolved before the laws take full effect in 2022.

How interesting that this past August — while SB 826 and AB 979 were being challenged — the Securities and Exchange Commission approved Nasdaq's requirement that companies listed on the exchange have at least one female director and at least one person from an underrepresented minority or LGBTQ+ group, or explain why they don't.

The bottom line is that we shouldn't need laws to make companies do the right thing. It is in their moral and financial best interests to have diversity at all levels — including at the very top. Executive suites and corporate boards should reflect the communities in which companies do business, as well as the consumers to whom they market and sell their products and services. It is time to disrupt the faux corporate constructs.

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