

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Bash/Trujillo, CH ORIGINAL DATE 2/24/19
/Garratt LAST UPDATED _____ HB 599
 SHORT TITLE Female Members of Corporate Boards SB _____
 ANALYST Hawker

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI			

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files
 National Conference of State Legislatures (NCSL)

No Response From
 Secretary of State (SoS)

SUMMARY

Synopsis of Bill

House Bill 599 amends sections of statute requiring a certain number of women as directors, new sections of statute are created.

Section 1: amends Section 53-8-18 NMSA 1978, Board of Directors of Nonprofit Corporations. A new section is added, requiring the board of directors of each domestic corporation shall have:

- at least one female director if the number of directors is four or fewer;
- two female directors if the number of directors is five;
- three female directors if the number of directors is six or more.

Section 2: adds a new section to the Nonprofit Corporation Act, Chapter 53, Article 8 NMSA 1978, establishing penalties for boards of directors who fail to appoint and maintain women on the boards as stipulated in HB 599. Domestic corporations are provided 60 days from the date they are notified by the SoS of being not in compliance with statute to remedy the board composition. Established penalties are:

- an amount not to exceed \$5 thousand for the first violation
- an amount not to exceed \$10 thousand for second or subsequent violations.

Boards of directors can appeal the assessed penalties via district court pursuant to Section 39-3-1.1 NMSA 1978.

Section 3: Section 53-11-36 NMSA 1978, Business Corporations Board of Directors, is amended to require the board of directors of each domestic corporation to have:

- at least one female director if the number of directors is four or fewer,
- two female directors if the number of directors is five,
- three female directors if the number of is six or more.

Section 4: adds a new section to Business Corporations Act, Chapter 53, Article 11 NMSA 1978, establishing penalties for boards of directors who fail to appoint and maintain women on the boards, as stipulated in HB 599. Domestic corporations are provided 60 days from the date they are notified by the SoS of being not in compliance with statute to remedy the board composition. Established penalties are:

- an amount not to exceed \$5 thousand for the first violation.
- an amount not to exceed \$10 thousand for second or subsequent violations.

Section 5: creates two new subsections to Section 53-2-4 NMSA 1978, requiring the SoS to compile an annual list of each domestic nonprofit and business corporation that fail to appoint or maintain the required number of female directors.

This section also provides technical cleanup.

Section 6: amends Section 53-5-2 NMSA 1978, requiring domestic corporations that are not exempted from the section to file reports which per HB 599 are now to include the number of female directors of the corporation if the corporation is a domestic corporation pursuant to the Nonprofit Corporation Act or the Business Corporation Act.

Section 7: amends Section 53-5-4 NMSA 1978, providing that nonprofit corporations as required by HB 599 are not exempted from the Corporate Reports Act.

Section 8: establishes a temporary provision for domestic nonprofit corporations incorporated before July 1, 2019. If the board is not composed of the number of directors required pursuant to HB 599, the domestic nonprofit has until December 31, 2019 to increase the number of female directors to meet the requirements of HB 599.

Section 9: establishes a temporary provision for domestic business corporations incorporated before July 1, 2019. If the board is not composed of the number of directors required pursuant to HB 599, the domestic nonprofit has until December 31, 2019 to increase the number of female directors to meet the requirements of HB 599.

Section 10: The effective date of HB 599 is July 1, 2019.

FISCAL IMPLICATIONS

HB 599 has no fiscal impact.

SIGNIFICANT ISSUES

In 2018 California became the first state to require every publicly held corporation in California to have a minimum of one woman on its board of directors by the end of 2019. Corporate boards are the have a minimum of one female director if the total number on the board is four or fewer; a minimum of three female directors if the corporation has six or more total board members. The California Secretary of State's Office will keep an annually updated list of all corporations in the state. Authority is granted to the impost fines on those who are out of compliance.

Other states have passed nonbinding resolutions, encouraging companies to diversify their boards. In 2015 Massachusetts passed a nonbinding resolution seeking equitable and diverse representation on boards by encouraging all companies doing business in Massachusetts to adopt policies and practices designed to increase gender diversity on their boards as well as publicly disclosing the number of women who serve on their boards.

Also in 2015 the Illinois General Assembly passed a resolution encouraging publicly held corporations with nine or more board of director seats to include a minimum of three women; corporations with at least five, but fewer than nine, seats should have a minimum of two women; every corporation with fewer than five seats should have a minimum of one woman on the board.

In the 2017 legislative session, Pennsylvania passed a resolution urging every business in the state to reach membership of women at 30 percent of all board members by 2020. The resolution urges businesses to publicly track progress toward the 30 percent goal.

VKH/al/gb