A BILL FOR AN ACT

RELATING TO GENDER EQUITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the inclusion of more females on boards of directors of publicly held corporations would boost the State's economy, improve opportunities for women in the workplace, protect Hawaii taxpayers, shareholders, and retirees, and lead to other economic benefits. The legislature recognizes that numerous independent studies have concluded that publicly held corporations perform better when women serve on their boards of directors. A 2017 study by MSCI found that during the period from 2011 to 2016, United States companies with three or more female directors reported earnings per share that were forty-five per cent higher than earnings for companies with no female directors. In 2014, Credit Suisse found that companies with at least one woman on their boards had an average return on equity of 12.2 per cent, compared to 10.1 per cent for companies with no female directors. The same report found that companies with women on their boards had a price-to-book value of 2.4 times the
value in comparison to 1.8 times the value for companies without
women on their boards. Further, a 2012 study from the
University of California, Berkeley found that companies with
more women on their boards are more likely to "create a
sustainable future" by, among other matters, instituting strong
governance structures with a high level of transparency.

The legislature also recognizes, however, that studies
predict that it will take forty to fifty years to achieve gender
parity if proactive measures are not taken. The legislature
notes that economically thriving European countries, such as
Germany, France, Norway, and the Netherlands, have addressed the
lack of gender diversity on corporate boards by instituting
quotas mandating that thirty to forty per cent of seats be held
by female directors.

The purpose of this Act is to require publicly held
domestic and foreign corporations to include a certain number of
women among the directors of their corporate boards.

SECTION 2. Chapter 414, Hawaii Revised Statutes, is
amended by adding a new section to part IX, subpart A, to be
appropriately designated and to read as follows:
"5414-A  Boards of publicly held corporations; gender equity.  (a) Beginning no later than December 31, 2020, each publicly held domestic or foreign corporation whose principal executive office is located within the State shall have a minimum of one female director on its board.

(b) Beginning no later than December 31, 2022, each publicly held domestic or foreign corporation whose principal executive office is located within the State shall comply with the following:

(1) If its number of directors is six or more, the corporation shall have at least three female directors;

(2) If its number of directors is five, the corporation shall have at least two female directors; and

(3) If its number of directors is four or fewer, the corporation shall have at least one female director.

(c) A corporation may increase the number of directors on its board to comply with this section.

(d) No later than July 1, 2020, the department of commerce and consumer affairs shall publish a report on its website
documenting the number of domestic and foreign corporations that have all of the following:

1. A principal executive office located within the State;
2. At least one female director.

(e) No later than March 1, 2021, and no later than each March 1 that occurs thereafter, the department of commerce and consumer affairs shall publish an annual report on its website that shall provide, at a minimum:

1. The number of corporations subject to this section that complied with this section for any period of time during the preceding calendar year;
2. The number of publicly held corporations that moved their United States headquarters to this State from outside of the State during the preceding calendar year; and
3. The number of corporations that were subject to this section at some point during the preceding calendar year, but subsequently ceased to be publicly held corporations.
(f) The department of commerce and consumer affairs may adopt rules pursuant to chapter 91 to implement this section.

(g) The department of commerce and consumer affairs may impose an administrative fine upon a corporation subject to this section for failure to timely file with the department any board member information that is required by any rule adopted by the department. For a first violation, the fine shall be $100,000. For any second violation or subsequent violation that occurs within ten years after the most recent violation, the fine shall be $500,000.

(h) The department of commerce and consumer affairs may impose an administrative fine upon a corporation subject to this section for failure to include the minimum number of female directors on its board, as required by subsection (a) or (b). The amount of the fine imposed shall be determined by administrative rule. For the purposes of this subsection:

(1) Each director's seat not filled by a female, as required by subsection (a) or (b), shall count as a separate violation; and

(2) If a female filled a director's seat as required by subsection (a) or (b) during any portion of a calendar
year, the corporation shall not be found to have violated the corresponding subsection for that calendar year.

(i) For purposes of this section:

"Female" means an individual who self-identifies her gender as a woman, without regard to the individual's designated sex at birth.

"Principal executive office" means a corporation's principal executive office, as listed on the corporation's most recent SEC 10-K form.

"Publicly held corporation" means a corporation with outstanding shares listed on a major United States stock exchange."

SECTION 3. Chapter 414, Hawaii Revised Statutes, is amended by adding a new section to part XVI to be appropriately designated and to read as follows:

"§414-B  Boards of publicly held foreign corporations; gender equity.  (a) Section 414-A shall apply to each publicly held foreign corporation to the exclusion of the law of the jurisdiction in which the foreign corporation is incorporated."
(b) For purposes of this section, "publicly held foreign corporation" means a foreign corporation with outstanding shares on a major United States stock exchange.

SECTION 4. In codifying the new sections added by sections 2 and 3 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

INTRODUCED BY:
H.B. NO. 2720

JAN 23 2020

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Report Title:
Department of Commerce and Consumer Affairs; Corporations; Boards of Directors; Women; Penalties

Description:
Requires publicly held domestic and foreign corporations to includes certain numbers of females among their boards of directors. Authorizes administrative fines for noncompliance.

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