

THE
NATIONAL LAW REVIEW

As The Clock Winds Down, Criticism Of California's Gender Quota Bill Winds Up

Tuesday, September 25, 2018

The Governor has until this Sunday to sign or veto bills passed by the legislature before September 1. Cal. Const. Art. IV, Sec. 10(b)(2). One bill in the Governor's inbox is SB 826. If signed by the Governor, SB 826 would impose gender quotas on the boards of directors of publicly held companies headquartered in California. See [California Bill Would Mandate Gender Quotas For Publicly Traded Companies](#), [Impossibility And California's Proposed Gender Quota Law](#), and [Why California's Gender Quota Bill Is More Likely To Be Unconstitutional Than California's Pseudo-Foreign Corporation Statute](#).

Although I have been writing about this bill for several months, it has only recently attracted widespread notice and criticism. Professor Grundfest recently posted a [working paper](#) concluding:

"The bill will increase the number of board seats occupied by women by trivial amounts, if at all. These trivial changes will, however, come at great risk to the evolution of affirmative action jurisprudence. California's own legislative analysis concludes that 'the use of a quota-like system, as proposed by this bill ... may be difficult to defend.' A successful equal rights challenge means that SB 826 will have no effect at all. The legislation thus offers a poor bargain for diversity advocates: gain a trivial number of board seats, if any, but increase the risk of judicial rulings inimical to broader affirmative action initiatives."

And then SEC Commissioner Hester Peirce made the following observation in a [speech](#) given in California:

"Counting the number of female directors may tell you something about how well a company is run. Or it may simply tell you that the company has more female directors. There are studies going both ways. In most cases, the companies themselves are ill equipped to make these determinations."

Footnote omitted.

© 2010-2019 Allen Matkins Leck Gamble Mallory & Natsis LLP

Source URL: <https://www.natlawreview.com/article/clock-winds-down-criticism-california-s-gender-quota-bill-winds>



Allen Matkins
CHALLENGE. OPPORTUNITY. SUCCESS.

Article By
[Keith Paul Bishop](#)
[Allen Matkins Leck Gamble Mallory & Natsis LLP](#)
[California Corporate and Securities Law Election Law / Legislative News California](#)