



Phil Mullin

Bill Analysis
Legislative Service Commission

H.B. 103
124th General Assembly
(As Introduced)

**Reps. Jones, Trakas, Allen, D. Miller, Sulzer, Jerse, Britton, Patton, Barrett,
R. Miller, Ford**

BILL SUMMARY

- Requires the Secretary of State to establish, develop, and maintain a registry of women and minorities available to serve on corporate boards of directors.
- Specifies the information that may be maintained in the registry and provides for publication of a directory of women and minorities eligible to serve as corporate directors.
- Provides for access to registry information, fees, rules, and reporting to the General Assembly.

CONTENT AND OPERATION

Creation of the registry

The bill requires the Secretary of State to establish, develop, and maintain a registry of distinguished women and minorities who are available to serve on corporate boards of directors (sec. 111.32(A)).¹ Any woman or minority may become a registrant through self-nomination by filing with the Secretary of State the information described in the following paragraphs in the form and manner the Secretary of State prescribes (sec. 111.32(B)).

The Secretary of State must maintain for each registrant information of the registrant's educational, professional, community service, and corporate governance background. This information may include any of the following: (1)

¹ *The bill defines "minority" as an ethnic person of color and includes an ethnic person of color in any of the following groups: American Indians, Blacks, Filipinos, Hispanics, and Asians, including Chinese, Japanese, Koreans, Pacific Islanders, Samoans, and Southeast Asians (sec. 111.31(A)).*

paid or volunteer employment, (2) service in elected public office or on public boards or commissions, (3) directorships, officerships, and trusteeships of business and nonprofit entities, including committee experience, (4) professional, academic, or community awards or honors, (5) publications, (6) government relations experience, (7) experience with corporate constituents, (8) any other areas of special expertise, and (9) any personal attributes, including gender, physical disability, race, or ethnic origin, that may contribute to corporate board diversity. (Sec. 111.32(C).)

In addition to the information described in items (1) through (9) above, each registrant may indicate characteristics of corporations for which the registrant would consider, or is especially interested in, serving as a director. These characteristics may include any of the following: (1) company size, (2) industry, (3) geographic location, (4) board meeting frequency, (5) director time commitments, (6) director compensation, (7) director insurance or indemnification, and (8) social policy concerns. (Sec. 111.32(D).)

A registrant may attach a copy of the registrant's resume and up to two letters of recommendation to the registrant's registration form. Each registration form and any attached resume or letters of recommendation constitute the *registrant's registry transcript*. (Sec. 111.32(E).)

Access to the registry data base

File number and data base

The bill requires the Secretary of State to assign a file number to each registrant of the registry and to then enter the information described above into a data base using each registrant's file number to identify that registrant. The registry data base *must not disclose* any registrant's name or street address but may disclose the city, county, or zip code of the registrant's business or residence address. (Sec. 111.34(A) and (B).)

To whom and circumstances when data base available

The Secretary of State must make the registry data base available, directly or through the Internet, by (1) making a reasonable number of registry transcripts available to any corporation or its representative or (2) granting access to a reasonable number of registry transcripts to any other person that demonstrates to the Secretary of State's satisfaction that the person meets both of the following conditions: (a) the person seeks access to the registry in connection with an actual search for a corporate director and (b) the person intends to use any information obtained from the registry only for the purpose of finding candidates for an open

position on a corporate board of directors.² In carrying out this duty, the Secretary of State either must permit direct registry data base searches or perform registry data base searches upon a written request. (Secs. 111.34(C)(1) and (2) and 111.35(C) and (D).)

The Secretary of State also may make the registry data base accessible to any person or entity that is qualified to transact business in Ohio and that regularly engages in the business of providing data base access or search services. This accessibility of the registry data base must not be construed to entitle the user to access any registrant's registry transcript. (Sec. 111.34(D).)

Means of availability

Upon *written request* specifying a registrant's file number, the Secretary of State must provide a copy of the registrant's registry transcript to any party described in the second immediately preceding paragraph as being entitled to access registry transcripts. The Secretary of State first must take reasonable means to verify that any party seeking access to registry transcripts is authorized to review the transcripts under the circumstances described in that paragraph. To carry out this duty, the Secretary of State may require a representative to identify its principal but must not disclose that principal's identity to another person. (Sec. 111.35(A) and (B).)

The Secretary of State by rule may specify other reasonable means by which persons entitled to registry transcripts may order copies of them (sec. 111.35(E)).

Miscellaneous

The bill prohibits any person from accessing any registry transcript except as previously described (sec. 111.35(F)). It also provides that neither the Privacy Law nor the Public Records Law applies to the bill's provisions (sec. 111.40(A) and (B); see **COMMENT**).

Promotion of the registry

The bill authorizes the Secretary of State to cooperate with women's organizations, minority organizations, business and professional organizations,

² *The bill defines "representative" as an attorney, an accountant, or a retained executive recruiter, and defines "retained executive recruiter" as an individual or business entity that is engaged in the executive search business and that is regularly retained to locate qualified candidates for appointment or election as corporate directors or executive officers (sec. 111.31(B) and (C)).*

and any other individual or entity the Secretary of State considers appropriate, to do any of the following: (1) promote corporate use of the registry, (2) locate qualified women and minorities and encourage them to participate in the registry, or (3) educate interested parties on the purpose and most effective use of the registry. The Secretary of State may prepare and distribute publications designed to promote informed use of the registry, but, in doing so, the Secretary of State must comply with any applicable provision described in the next paragraph. (Sec. 111.38.)

Directory of women and minorities

The bill authorizes the Secretary of State periodically to publish, or cause to be published, a directory of women and minorities eligible to serve as corporate directors. The directory must contain a summary of each registrant's qualifications, and only those registrants who consent in writing may be included in the directory. A printed directory must be provided to any person upon payment of a fee determined by rule of the Secretary of State. (Sec. 111.33.)

Fees charged by the Secretary of State

Under the bill, the Secretary of State must charge fees for all of the following: (1) registering with the registry, (2) obtaining access to the registry data base, and (3) obtaining a copy of a registrant's registry transcript. Secretary of State rules must establish the fees, and they must be of an amount to cover the administrative expenses of the registry program and to encourage qualified women and minorities to participate. The Secretary of State must pay any fees collected under the bill to the Treasurer of State to the credit of the Women and Minority Registry Fund, which the bill creates. (Sec. 111.36.)

Rule-making authority of the Secretary of State

The bill requires the Secretary of State to adopt rules necessary to carry out its purposes. The rules must include provisions requiring registrants to renew or update registry information as necessary to ensure continued accuracy of registry information. The Secretary of State may enter into any agreement necessary to carry out the bill's purposes and must implement the bill's provisions no later than January 1, 2002. (Sec. 111.37.)

Report to the General Assembly

The bill requires the Secretary of State to report to the General Assembly on the extent to which the registry has helped women and minorities progress toward achieving parity in corporate board appointments or elections. The report

must be made at least once each three-year period during which the registry is available for corporate use. (Sec. 111.39.)

COMMENT

It appears that records the Secretary of State maintains under the bill are not considered public records available for public inspection and copying under the Public Records Law (sec. 149.43, not in the bill). Likewise, it appears, for example, that the Secretary of State need not (1) inform persons under the Privacy Law (Chapter 1347.) that personal information about them is contained in the records the Secretary of State maintains under the bill, (2) allow them to inspect these records, or (3) inform them about the types of uses made of the personal information in these records, including the identity of any users usually granted access to them (sec. 1347.08(A), not in the bill).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-15-01	p. 166

h0103-i.124/kl