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IRRC Corporate Governance Service
2003 Background Report

LABOR SHAREHOLDER ACTIVISM in 2002 and 2003

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Executive Summary

Pension funds affiliated with unions represent tremendous shareholder voting power. AFL-CIO secretary-treasurer Richard Trumka describing the reasons for the federation's concerns regarding Sprint's auditors recently wrote, "The AFL-CIO is the federation of America's labor unions, representing more than 66 national and international unions and their membership of more than 13 million working women and men. Union members' benefit plans have over $5 trillion in assets. Pension plans sponsored by unions affiliated with the AFL-CIO account for over $400 billion of that amount." Union funds under the AFL-CIO's umbrella have been active filers of shareholder proposals and active participants in capital market transactions (including mergers and IPOs) for several years. In 2003, labor funds filed 381 proposals, compared with 198 in 2002, and 105 proposals in 2001. Labor shareholder activists appear poised to achieve landmark victories as issues they helped raise—from the need to expense stock options to giving shareholders greater ability to nominate directors and to allow their nominees to appear on company ballots—gain broader support. This report will look at those proposals, the history of and recent trend in union fund activism and the distinct features that set union fund activists apart from other activists.

Note that this report often refers to a union rather than giving the full name of its pension fund. This is done for editorial simplicity, and does not imply that the union itself is the proponent of the proposal.

Recent Developments

- In 2003, labor funds filed 381 shareholder proposals on corporate governance topics. To put that figure in context, in 2001 only 264 corporate governance proposals filed by all sources – individual investors, public pension funds, and labor – came to a vote. (Labor that year filed 105 resolutions). It is still too early to say exactly how many of the proposals filed by labor will ultimately be voted on in 2003, but there is no doubt that they have dominated one of the busiest shareholder seasons ever. The vast majority of the proposals filed by labor funds, 267, dealt with executive compensation issues (of these 228 were related to options). The dominance of the issue may be in part due to some of the changes labor helped bring about. Corporate policies labor lobbied for, enacted in both the Sarbanes-Oxley Act and proposed listing requirements, meant that issues such as board independence and the role of auditors were addressed in with global reforms, and clearly were given lower priority this year by labor funds.

- Union funds played a critical role in the proposed change that may soon allow shareholders greater ability to nominate boards of directors. On July 15, the Securities and Exchange Commission issued a staff report recommending that the proxy rules be revised to give long-term shareholders greater access to the director nomination process. AFL-CIO chairman John Sweeney said, "This is a positive step towards making boards of directors more accountable to long-term investors. The retirement savings of America's working families have been harmed by the failure of boards of directors to prevent wrongdoing at Enron, WorldCom and other scandal-plagued companies. We urge the SEC Commissioners to quickly adopt strong proxy rules that make real the promise of the staff report to end the self-perpetuating system that permits incumbent boards to hand-pick director candidates." An AFSCME proposal that was excluded as ordinary business early in the year inspired the first round of consideration, and labor leaders met at the SEC and filed lengthy comments on the issue prior to the July decision. SEC commissioners voted unanimously on August 6 to issue new rules enhancing transparency of the nomination process. It is likely that the SEC will ultimately devise a process for direct nomination by shareholders under limited circumstances.

- The AFL-CIO's long campaign to compel mutual funds to disclose their proxy votes ended in success on January 23, when the SEC adopted a rule that will require mutual funds to disclose their proxy votes as well as their proxy voting guidelines. Efforts for change had been taking place for years: In December 2000, the AFL-CIO first petitioned the Commission to adopt rules to improve the quality of mutual fund disclosure on issues such as proxy voting records and fund holdings. In April 2002, Fidelity Investments caught the AFL-CIO's interest, as the federation was conducting a heated "vote no" campaign against Lockheed Martin director (and former Enron board member) Frank Savage. After Fidelity, which had an 11 percent stake in the company, refused to reveal its vote, the issue immediately became a much higher priority. A strongly worded letter to the SEC in July 2002 emphasized the urgent need for rules that required mutual funds to disclose their individual proxy votes. On September 19, the SEC, prompted by the AFL-CIO and other investors, proposed a rule that would require mutual funds to disclose how they vote their proxies. Nearly 8,000 letters were sent in support of the proposal, over 3,000 of which were generated through the AFL-CIO's "Working Families E-Activist" network.

- The AFL-CIO released new proxy voting guidelines in 2003. They can be found at http://aflcio.org/corporateamerica/capital/toolbox.cfm.

- On a range of topics—auditors, directors, and company stock options plans--labor has shared its carefully honed critiques and urged other shareholders to join in opposition to management proposals. In 2002, labor led one of the fiercest campaigns ever against a director, targeting Frank Savage at Lockheed for his previous tenure on the board at Enron. The 2003 proxy season was the first to see an organized "vote no" campaign on the ratification of auditors. Thirty-eight percent of shares voted were cast in opposition to Sprint's retaining Ernst & Young, a vote the AFL-CIO believes to be a record. The AFL-CIO launched this campaign with a March 25 letter from Secretary-Treasurer Richard Trumka to Sprint's newly appointed lead independent director, Irvine Hockaday, urging him not to reappoint Ernst & Young as the company's auditor: "We believe that in light of Ernst & Young's egregious conduct, the interests of shareholders and the reputation of the company would be better served by ending Sprint's relationship with Ernst & Young." The most recent "vote no" campaign concluded on June 3, when over 42 percent of shareholders at Nabors Industries voted against the company's 2003 Employee Stock Option Plan after receiving a letter from the Laborers International Union of North America opposing the plan. The other vote no campaign conducted by the AFL-CIO was a repeat of one conducted last year, against former Enron director Frank Savage, who again stood for re-election at Lockheed. This year the campaign was extended to cover Norman Augustine, the chair of the committee that renominated Savage. According to preliminary results, approximately 28 percent of votes were withheld from Savage, nearly the same as the number withheld in 2002, in what the AFL-CIO claims "as the largest block of votes ever withheld from a single director." Lockheed Martin shareholders also withheld 17 percent of the votes cast from Augustine. In May, the AFL-CIO hosted a forum for El Paso shareholders that included the current CEO and a dissident slate of directors. Following the forum the federation endorsed the dissident slate and added the election to the list of their "key votes" for the season. The dissidents were defeated, but the AFL-CIO once again raised its profile in a new arena.

- A 2002 survey of 1,000 Americans showed broad support for pension fund shareholder activism. The poll, conducted by the Employment Law Alliance, focused on beliefs about whom Americans trust to reverse the problems with corporate America and what specific actions would help. The most popular answer on preferred specific actions was "employee pension funds should force corporations to become more accountable" which was selected by 84 percent of those polled. This compares to 58 percent of those polled who believed that unions organizing additional workers would be effective. Also of note, 73 percent of those surveyed supported mandatory representation of rank-and-file workers on corporate boards.

Background

Union shareholder activism began well over a decade ago, though it has reached new heights in recent years. A number of union funds participated actively in the Council of Institutional Investors, and sponsored numerous shareholder resolutions throughout the late 1980s and early 1990s. Impetus for growth and consolidation occurred under a larger umbrella with the election of John Sweeney as president and Richard Trumka as Secretary-Treasurer of the AFL-CIO in October 1995. Both men, as well as Linda Chavez Thompson, who joined the ticket as executive vice-president, represented a more activist and energetic vision of what the labor movement could

be. In 1996, the AFL-CIO appointed Bill Patterson, who had been the director of the office of corporate affairs at the Teamsters, to lead and create an office of investment. That office soon created a key votes survey, which grades investment managers on their votes on particular proxy proposals, and an executive paywatch website, which publicizes executive compensation issues.

In 1997, the AFL-CIO launched the Center for Working Capital, a research and education center that has as one of its goals the education and training of more than 6,000 union pension fund trustees. Executive Director Robert Pleasure notes that one of the missions of the center, "is to find ways of giving support for trustees to do their jobs most effectively and consistently with their fiduciary responsibilities." The board of the center includes representatives from public pension funds, from unions affiliated with the AFL-CIO and from unions elsewhere in the world. Pleasure explains, "We will be responsible for bringing up a research agenda and an education program for trustees, not only those representing workers, but for trustees generally." Programs will include internet education programs and research on such issues as how training and treating workers better enhances long-term corporate success.

To some extent the unions' interest in capital stewardship is seen as part of their larger social-justice mission. Speaking at a gathering of the Heartland Labor Capital Network in 1999, Richard Trumka said, "Just as working people have to organize and defend their interests in the labor market, we believed that they had to organize and defend themselves in the capital markets." Indeed, labor shareholder activists tend to approach their work as crusaders, enthusiastic and diligent, on a mission of reform. Trumka added, in the same speech, "Worker capital is sometimes the only force that can save good companies from bad management."

One key distinction of the labor funds' interest in corporate governance is that they are invested in companies both as shareholders and as employees. Many shareholders dissatisfied with a company can simply do "the Wall Street walk" and sell their shares. Labor union funds can, and do, sell shares like everyone else. But union leaders know that if a company is failing then the front-line employees suffer with the shareholders, and perhaps more than other shareholders. Union leaders are keenly aware that there is no equivalent "Main Street walk," allowing their members to take the years of time and knowledge they've invested in one company and easily transfer it to another. A typical investor who sees early warning signs that a company is in trouble will get out while the getting is good. A union pension fund has more at stake in turning the company around. In "Corporate Governance and Performance: Enhancing Shareholder Value Through Active Ownership" a recent report from the LongView funds of the Amalgamated Bank, authors Julie Gozan and Melissa Moye explain, "Workers have everything to lose when the stock market fails to thrive – certainly, when firms squander their employees' jobs and savings due to mismanagement and fraud." (The Amalgamated Bank is affiliated with UNITE, the Union of Needletrades, Industrial and Textile Employees.)

In addition, many of the large funds are heavily indexed, and the decision to hold Enron, for example, depends not on the judgement of the funds' analysts but rather on whether a company is included in the S&P 500. Bruce Raynor, vice chair of the Amalgamated Bank, in testimony before the Senate Judiciary Committee regarding Enron explained: "Index funds rely on the market to accurately price the securities in which they invest—and their track record of beating the average active manager is testimony to the depth of the liquidity of our markets and the effectiveness of our system of market regulation; index funds are also by far the cheapest way to prudently invest in the equity markets. But index funds are also the perfect victim of accounting fraud—if corporate members are fraudulent, the markets will price stocks too high, and index funds cannot help but be the victims."

The recent LongView report explains how being an index fund gives LongView a broader perspective. “We do not seek to beat the market with a few winning stock picks. Our performance duplicates the market. When an individual stock thrives at the expense of another in its peer group, we do not benefit. As ‘universal owners,’ we want the entire market to operate at peak efficiency.” The report continues, “This leads us to a far-reaching, future-focused view in our work. We seek to raise the bar for all public companies, to raise standards across the market, and to create a sustainable investing climate that allows for optimum health and productivity over the long term.”

Thus, union pension funds often directly engage the companies they own. Action can take a number of forms. The LongView report notes, “We continually research the performance and practices of each company we hold, using performance and practice screens to indicate issues of concern. Then we take action: We actively vote our proxies; promote dialogue addressing corporate policies and practices; submit resolutions at underperforming companies; and organize support among our fellow shareholders.” Other forms of action taken by funds include withholding support from incumbent directors; organizing and participating in “vote no” campaigns, negotiating with companies; and even participating in lawsuits. Sometimes the process of engagement is more like a wrestling match with the SEC cast in the role of referee, sometimes it resembles an awkward waltz as management and labor discuss their common interests.

One distinction the funds themselves often raise is their concern with performance over a longer horizon than the next quarter. Supporting statements on labor shareholder proposals frequently conclude with the phrase, “As long term investors, we urge you to support this resolution…” In a report issued in 2001 by the building trades unions, *A Shareowner – Management Dialogue on Governance Issues & Long-term Corporate Values*, author Ed Durkin who is special projects director at the Carpenters union notes, “This is a key difference with Taft-Hartley funds: We believe companies must constantly balance the interests of important corporate constituents for the long-term good of the corporation, its owners, employees, communities and customers.” That report itself begins with a description of the special perspective of shareholder activism that union members have, noting that, “These workers are corporate owners through their pension funds, but they also relate to many of these same corporations as employees, customers, and active members of the communities where these companies operate.”

Another important reason for the involvement of unions in shareholder activism is that, in an era when the perception is that unions are fading in power, capital stewardship may be one of the most powerful cards labor holds. “One … strategic approach is the harnessing and leveraging of organized labor’s capital resources to further the goal of increasing its power in the labor market and making a more just society,” writes Stephen Sleigh of the International Association of Machinists (IAM).[1] “The IAM, with the support and encouragement of the AFL-CIO’s Office of Investment and working through the Council of Institutional Investors, sees shareholder activism as an important avenue through which workers’ concerns for a fairer society can be addressed.”

In her essay, "Labor's Role in the Shareholder Revolution," Marleen O'Connor, a professor of law at Stetson University, contends that the accomplishments of activism thus far have been political rather than economic. "The one main benefit of labor-shareholder activism comes from a new public perspective that unions exercise tremendous power over managers and are [in the words of Richard Trumka] 'continuing to be the pioneers of social innovation'." The shareholder proposals filed garner both media attention and the interest of other institutional investors. O’Connor notes that labor then "gains symbolic value by highlighting the fact that working people are the beneficiaries of many institutional shareholders."[2]

While sharing many features in common with other investors, labor funds offer a special perspective, which is clear in everything from the arguments they make in supporting statements to the questions they ask at contentious annual meetings.

Daniel Gross, in his book “Bull Run: Wall Street, the Democrats and the New Politics of Personal Finance,” outlines another possible reason for labor’s involvement in the financial markets. “As companies have devised increasingly ingenious methods to combat organizing, the graying and beleaguered labor movement has come to realize that stockholdings, and the stock markets generally, can be a crucial point of leverage.”

Philosophy Behind Proposals

Executive compensation

It is no surprise that the labor pension funds have taken a lead role in the critique of executive compensation. Compensation for the front-line employees unions represent is a standard, and frequently contentious, component of the bargaining in labor contracts, and the perceived greed of top executives is often mentioned in union leaflets. The AFL-CIO Executive Paywatch website was launched with much publicity in 1997, and is updated with new features each year. The site highlights the gap between executive pay and the pay of rank and file employees, even offering visitors the ability to find out the ratio between their salaries and that of their bosses.

Union fund activists believe that high executive compensation is often paid to the detriment of front-line workers. In their essay "Collateral Damage: Do Pension Fund Investments Hurt Workers?" Dean Baker and Archon Fung point out that financial markets cheer companies that engage in cost-cutting by seeking cheaper labor and criticize companies who fail to squeeze the highest productivity for the dollar from their front-line employees, but do not react the same way to excessive executive pay. In fact, the authors contend, "The markets have been willing to tolerate deliberate acts of deception to hide the true cost of CEO pay." As an example, they discuss the bitter fight against the Financial Accounting Standards Board’s (FASB) attempt to require option expensing in 1992.[3]

"Insofar as CEOs receive excessively generous pay packages, the excess comes directly out of money that should be going to shareholders. In such a situation, the fiduciary responsibility that pension fund managers have to the fund not only allows them to try to rein in CEO pay, but also legally obligates them to make such an effort. Unless it can be shown that high CEO pay has somehow led to better corporate performance (the existing research indicates the opposite), pension fund managers are obligated to bring this pay under control to increase the returns to the fund."

While unions were among the early advocates of pay for performance, some have become dissatisfied with the large option payouts that have resulted and have been particularly outspoken on stock option repricing. A 2001 proposal at Sprint, filed by the IBEW, sought to limit repricing. The proposal’s supporting statement says, “Repricing essentially rewards poor performance and divides the interests of option holders from those of shareholders who cannot reprice their stock.” Union funds also have tended to focus on how broadly or narrowly options are distributed. In LongView’s repricing proposal at Earthgrains, which was subsequently negotiated and withdrawn, the proponent noted that only 225 members of Earthgrains’ total workforce of more than 26,000 employees are eligible to participate in the stock incentive plan. In 2001, a major focus of executive compensation proposals by unions was performance-based options. In 2003,

options again were a dominant issue, with 228 proposals filed, primarily seeking either the expensing of options or performance-based options.

Some union funds have sought to link executive compensation to workplace issue. In 1998, IAM proposed a new system of compensation for senior managers that would take more than financial performance into account. At United Airlines, where IAM and airline pilots own approximately 55 percent of common stock, IAM worked with UAL's management to create a compensation formula that includes employee satisfaction and customer satisfaction as well as financial performance in determining compensation for management. In another example, the Teamsters have for several years filed proposals seeking to bar executives from cashing out options immediately following large layoffs at the company.

As other features of compensation began to be addressed or at least considered more broadly, the funds have often introduced proposals on new and occasionally obscure aspects of executive compensation, from deferred compensation, to Supplemental Executive Retirement Plans, to vapor profits. A recent focus for such proposals has been executive retirement plans. One labor activist explained to the press that since the executives and compensation committees always seem to be struggling to find new ways of compensating executives, then the unions continue to shut down those loopholes—or at least raise awareness of the issues—through shareholder proposals.

Board independence

A host of highly visible cases that left shareholders asking, "Where was the board when that happened?" may be leading to higher votes when union funds submit board independence proposals, but this is not a new issue for the union funds. The issue has been seen as a key component of corporate governance by the funds since their beginning days of activism. In 2001, union funds were the only proponents that submitted proposals that sought independent compensation or auditing committees.

In December 2002, AFL-CIO Secretary-Treasurer Trumka wrote to the SEC requesting additional disclosure of director conflicts following the collapse of Enron stating, "Our system of corporate governance relies heavily on independent directors to act as vigorous monitors of management behavior and to represent shareholder interests." Trumka recommended a number of specific categories of disclosure that should be added to proxies.

For many union funds the critique of board independence springs directly from concerns regarding executive compensation. The union funds view boards as being responsible for many outrageous executive compensation deals, and have a history of raising these issues. For several years during the 1990s, the Teamsters published an annual list of "America's Least Valuable Corporate Directors," which considered, among other factors, board attendance, director over-commitment, and excessive executive compensation packages. Bill Patterson, who was at that time Director of Corporate Affairs at the Teamsters, explained to a reporter, "A bad board is a breakdown of individual shareholders' rights, but you can't just look at a board as a monolith. Oversight will improve when shareholders focus on the individuals." Over the past several years, union funds have run "vote no" campaigns targeting specific directors.

The building trades' campaign for long-term shareholder value also has included proposals on board independence. As UBCIA's Durkin wrote in *A Shareowner—Management Dialogue on Governance Issues & Long-term Corporate Values*, "Rather than seeking to undertake the inappropriate task of micro-managing corporations, institutional and individual investors have

focused on important issues related to the nomination, elections and qualifications of their legal representatives, corporate board members." The paper reported on the outcome of meetings between proponents and companies and noted that, "The significant improvement in the degree of board and board committee independence is due to both the advocacy of shareowners and the positive response from most responsible corporations to the call for more director independence."

Another finding by the union activists was that board members' involvement in planning strategies, which the funds consider to be of critical importance, varied widely from company to company. In 2002, the funds submitted a new proposal to a number of companies that built on these conversations. The new proposal focuses not on strategy itself, but on how the strategy is developed, and specifically on board members' role in the process. It asked the companies to disclose information regarding the board's role in corporate strategy formation, including an outline of the tasks performed by the board in strategy development, and mechanisms in place to ensure director access to pertinent information. A number of companies agreed to make more information public and the funds withdrew a significant number of these proposals.

Anti-takeover/other corporate governance

In the early days of shareholder activism, the funds were eager to prove their place as legitimate players in the financial world and focused on widely accepted principles of corporate governance. Since shareholder activism at the time was primarily aimed at preventing management from blocking takeovers, many of the proposals focused on issues such as board classification and poison pills.

However, concern has grown that takeovers might well harm employee shareholders as workers without creating real benefits for them as shareholders. "Research … shows how, generally without generating greater operating efficiencies or sustained increases to shareholders, takeovers and buyouts harm workers through layoffs, reductions in benefits and wages, and underinvestment in long-term capacities such as R&D." [4] Richard Trumka himself has questioned a number of deals. "These deals often leave unwieldy corporations—amalgams of companies unable to respond to changing business conditions or make needed investments."

Increasingly throughout the 1990s, some of the funds involved in crafting shareholder proposals became dissatisfied with the emphasis on anti-takeover shareholder proposals. "Although the [building trades'] funds were leading opponents of management entrenchment, they questioned the efficiency and productiveness of hostile corporate takeovers as a method of management accountability," writes Durkin in the building trades' white paper. In fact, the paper argues that much of shareholder activism "has been reflexive and simplistic, too often offering formulistic governance proposals that fail to address the root causes of performance shortcomings."

Durkin further notes, "The nature of this shareholder advocacy, combined with the market's short-term performance pressure, creates a corporate urgency to generate short-term 'shareholder value.' Short term 'shareholder value' is often 'value' extracted from the corporation or the corporation's constituents that is vital to its long-term success."

In 1997, 29 percent of the 37 corporate governance proposals filed by labor funds which came to a vote were poison pill proposals. By 2001, only 18 percent of the 48 proposals that came to a vote were poison pill proposals, and most of them were filed at smaller companies that would be less likely to be disrupted by an unfriendly takeover. In fact, more than half of the poison pill proposals filed by labor unions in 2001 were filed at Real Estate Investment Trusts (REITS). Takeovers at REITS are much less likely to displace workers, since the typical REIT employs far

fewer people, and those employees are unlikely to have a union contract. By 2003, poison pill proposals made up only three percent of the proposals filed by labor funds.

However, takeover defense proposals can still serve a strategic purpose, suggests Marlene O'Connor, "Strategically, shareholder proposals dealing with poison pills and classified boards are likely to receive majority support; thus, unions can target anti-union firms with these proposals while avoiding pro-union firms."[5]

A nuanced view of the issue appears to be emerging. As the recent LongView report contends, "A very active market for corporate control (e.g. takeovers) may destroy some of the value-creating capacity of firms, such as the element of teamwork in production. LongView is sensitive to these factors—which are too often treated as pure externalities—when exercising our power on issues related to mergers and acquisitions."

Social Issues

Labor funds also occasionally file shareholder proposals on social issues. The LongView fund has taken a leadership role in this arena, and Gozan and Moye outline the rationale in their recent report. "Corporate governance can be defined narrowly as the relationship of a company to its shareholders, or more broadly, as its relationship to society. The LongView Funds takes this broader view, recognizing that the promotion of fairness, transparency and accountability extends beyond the corporate headquarters to the role that industry plays in labor, environmental and policy issues around the world. High employee turnover, inadequate employee incentives, lack of community goodwill due to human rights abuses or environmental degradation, labor disputes, and an unstable political climate can impact share price."

2003 Proxy Season

AFL-CIO Actions

Vote No Campaigns: The AFL-CIO launched the first broad campaign against the ratification of auditors with a March 25 letter from AFL-CIO Secretary-Treasurer Richard Trumka to Sprint's newly appointed lead independent director, Irvine Hockaday, urging him not to reappoint Ernst & Young as the company's auditor. "We believe that in light of Ernst & Young's egregious conduct, the interests of shareholders and the reputation of the company would be better served by ending Sprint's relationship with Ernst & Young."

Tax shelters created by Ernst & Young were at the center of a controversy that ultimately led the board to oust Sprint's CEO William Esrey and President Ronald LeMay early in 2003. Ernst & Young, which has audited Sprint's books since 1965, designed a strategy that allowed Esrey and LeMay to avoid paying taxes on more than $100 million in paper option gains. The IRS later threatened to disallow the shelters, however, turning the executives' boon into a potential financial nightmare since the shares they had purchased via the option exercises were by then worth too little to cover the tax liability. Esrey and LeMay had an aggregate of $287 million in option gains in 1999 and 2000, and the company made corresponding deductions on its tax returns, which enabled it to realize $100 million of tax savings in those years and increase its profit accordingly. The IRS's objection to the executives' tax shelters apparently prompted them

to request that the company “unwind” the option exercises, in which case Sprint would have had to cancel its tax deduction and restate prior earnings statements—in short, the situation triggered a clear conflict of interest between Sprint and its top executives.

Another issue raised by the AFL-CIO in the letter to Hockaday was the amount of compensation Ernst & Young received for non-auditing work at the company. In 2000, the company paid Ernst and Young more for the tax advice it sold to executives than for auditing Sprint’s books, Trumka said. He noted that the audit firm got $5.8 million for the tax shelters that year, $5.1 million for audit and audit-related services, and $8.4 million for other services. "We believe this unbalanced fee structure compromised Ernst & Young's independence," Trumka said in the letter. In 2002, Sprint paid Ernst & Young $3.3 million in audit fees and $8.8 million in all other fees.

Richard Metcalf, deputy director of the AFL-CIO's Office of Investment in Washington, spoke out against the accounting firm at Sprint's May 13 annual shareholder meeting, where 38 percent of shares cast were cast in opposition of Ernst & Young. "It's a huge vote," he told the *Kansas City Business Journal* . "People cannot recall whether there's been anything in the 30 percent range before. Management cannot ignore this. To do so would be in peril of alienating new investors." The support for auditors is routinely quite high, and even in cases of accounting scandals this represents an unusual vote. At Tyco International, for example, 23 percent of shares cast voted not to support PricewaterhouseCoopers. “Most of the time, auditors sail through with 99 percent of the vote,” Metcalf told the press. “If you get anything less than that, surely it's a sign that shareholders are speaking and you need to listen,"

On May 13, following the meeting, Trumka sent a letter to Charles Rice, the chairman of Sprint’s audit committee, once again calling for the company to select new auditors. “We believe the information already available to shareholders regarding Ernst & Young’s conflicted role, together with today’s shareholder vote, provide ample reason to replace Ernst & Young.” In July, Sprint announced that board's audit committee will review and evaluate outside auditors for its fiscal 2004 audit. The four leading accounting firms -- KPMG LLP, PricewaterhouseCoopers LLP, Ernst & Young LP and Deloitte & Touche LLP -- will be invited to participate in the process, Sprint said.

The other “vote no” campaign conducted by the AFL-CIO was a repeat of one conducted last year, against former Enron director Frank Savage, who again stood for re-election at Lockheed. This year the campaign was extended to cover Norman Augustine, the chair of the committee that renominated Savage. According to preliminary results, approximately 28 percent of votes were withheld from Savage, nearly the same as the number withheld in 2002, in what the AFL-CIO claims “as the largest block of votes ever withheld from a single director.” Lockheed Martin shareholders also withheld 17 percent of the votes cast for Augustine.

“Despite the well-documented failure of Enron’s directors and despite last year’s extraordinary vote against Frank Savage by Lockheed Martin shareholders, Lockheed Martin chose to re-nominate him. Today’s vote sends a clear message to the Lockheed Martin board that will reverberate in boardrooms throughout corporate America,” said Trumka. “Working Americans have trillions invested in the markets, and the lessons of Enron are still fresh on their minds. Shareholders will hold corporate directors accountable for both their actions and lack of action.”

“Recent regulatory reforms help to rein in the conflicts of interest that can compromise the independence of corporate boards and the auditors they retain, but they cannot address the more fundamental problem of weak directors.” He added, “Today’s vote shows that shareholders aren’t

going to just sit back and rely on these reforms to protect their investments."

Executive Paywatch: The AFL-CIO's focus for its 2003 version of its Executive Paywatch website was executive retirement plans—and the attention generated by the website along with shareholder resolutions on the topic and press interest seem to be making an impression. The revised site, released in April, points out that, "At the same time workers' retirement savings have suffered through the worst stock market decline since the Great Depression, executives are receiving extraordinary retirement benefits not available to regular workers."

The AFL-CIO has long contended that executive compensation should be based on long-term performance objectives and has come to believe that guaranteed extravagant retirement benefits undermine the principle. According to the site, "While CEOs have attempted to justify their high compensation as being based on risk and tied to company performance, many executives have negotiated retirement benefits that promise a lifetime of income far exceeding what they would be entitled to under the retirement plans of their rank-and-file workers. The promise of a six- or seven-figure annual pension virtually guaranteed, no matter what happens to the company or its stock price, dramatically undermines the goal of pay linked to performance. Executives have received these extraordinary retirement benefits at the same time that workers are being asked to bear increased risk for their retirement security."

The new Paywatch website explains how these executive retirement benefits work, using 15 case studies of companies to illustrate a range of compensation practices. Three of the companies featured, which also received shareholder resolutions, have already responded with actions attempting to address shareholder concerns. These actions, at Coca-Cola, Excelon and GE, are discussed on page 17.

Nonqualified Deferred Compensation Plans (NDCPs) and supplemental executive retirement plans (SERPs) are highlighted as ways of delivering excessive benefits. Under some such plans, executives often may contribute up to 100 percent of their pay and sometimes receive guaranteed above-market interest rates. One of the companies criticized for this practice was Wal-Mart. The site reports: "In 2001, Wal-Mart granted both H. Lee Scott Jr., Wal-Mart president and CEO, and [former CEO] Glass more than $100,000 in SERP contributions. In contrast, Wal-Mart contributions to its 401(k) plan were limited to $3,400 per employee. Wal-Mart stock makes up 19.5 percent of its employees' 401(k) plan and these shares have lost approximately 24 percent over the past three years." Worker 401(k) accounts meanwhile are subject to stock market risk and may hold a significant percentage of their employers' own stock, points out the AFL-CIO.

Supplemental executive retirement plans generally promise defined benefit pensions for executives and other highly compensated employees. In contrast, only 19 percent of workers are covered by a defined benefit pension plan, the AFL-CIO says. When AllState, one of the featured companies, converted its pension plan to a defined contribution plan, it offered all executives the option of participating in the new plan; all opted out. Companies often enhance their executives' pension benefits by giving executives unearned years of service credit or preferential benefit formulas over what other workers receive. At Sears, for example, executives are credited for two years of service for every year worked.

The site also describes the steps necessary to curb the excess: enhanced disclosure; requirement of shareholder approval for such plans, and increased board independence.

The web site can be found at www.paywatch.org.

Key Vote List: On February 27 the AFL-CIO released a list of 18 shareholder proposals and one "vote no" campaign that the union federation believes stand out as the key votes for the 2003 proxy season. The proposals on the roster ran the gamut from calling for the separation of the roles of board chair and CEO to urging companies to expense their stock options. Reflective of all shareholder proposals submitted for the 2003 proxy season, the majority of proposals on the list are aimed at curbing executive compensation.

The list this year is considerably shorter than last year's, which included 34 shareholder proposals, one "vote no" campaign, and three management proposals. "There's a line of thinking that there's value to having a focused list," said Brandon Rees of the AFL-CIO. "There's also a line of thinking that there's value to a broader list in order to gather more data. We're still in the process of balancing those competing needs." The list was released earlier this year than it had been in 2002, which meant that it evolved considerably over the course of the season, as some proposals were added and others removed from the list. Two proposals were allowed to be omitted on the grounds that they related to the election of directors. A proposal at Hilton that sought additional disclosure of total executive retirement costs was omitted under the ordinary business exclusion. Another proposal was withdrawn after negotiations with the company. Sprint adopted a policy of expensing stock options and the proposal was withdrawn—saving the company from the dubious distinction of appearing on the list three years in a row.

Three of the final key votes in 2003 were not shareholder proposals. The AFL-CIO's "vote no" campaign against Lockheed Martin directors Frank Savage and Norman Augustine, as well as their campaign opposing the reappointment of Ernst & Young as Sprint's auditors also appear on the list. Late in the proxy season, and just a few days before the meeting took place the contested board election at El Paso was added to the list.

Table 1: 2003 key votes and results

Company	**Proposal**	**Proponent**	**Support ***
Boeing	executive pensions	IAM member	14.7
Citigroup	golden parachutes	SEIU	31.3
Coca-Cola	index stock options	Teamsters	10.1
Delta	pension income accounting	ALPA member	30.2
Equity Office Properties	related party transactions	SEIU	41.0
General Electric	golden parachutes	Teamsters	48.0
Halliburton	golden parachute	LongView	36.5
Home Depot	independent chairman	UA – Plumbers and Pipefitters	37.0
Massey Energy	golden parachutes	LongView	72.0
MONY	performance based pay	individual w. PACE	38.0
Paccar	independent chairman	BAC – Bricklayers	26.2
Siebel Systems	expense stock options	AFSCME	32.0
Sprint	vote no on auditors	led by AFL-CIO	25.7
Tyco	reincorporation	AFSCME	25.7
VF Corp	annual director elections	LongView	56.7
Wal-Mart Stores	executive pensions	AFL-CIO	22.0

* percentage of votes cast for, of all shares voted

Building Trades Activities – Focus on Stock Options

The building trades again dominated the proxy season with a frequently filed, high vote gaining proposal. Of the 112 option expensing proposals IRRC tracked in 2003, all but three were submitted by union funds, almost all of them members of the building trades. At this point, approximately one third of the 112 were either withdrawn by the proponent, omitted from proxy statements by the company or otherwise did not appear in proxy statements. Preliminary voting results are available for 53 companies. The average proportion of votes cast in favor of those 53 is 48.3 percent. The median vote is slightly higher, however, and it appears that the majority of the proposals received support of over 50 percent. The highest tallies were at Fluor, with 70.3 percent support; Zimmer Holdings, with 70.3 percent support and Georgia Pacific, with support of 65 percent. Other companies where preliminary counts indicate the resolution received 60 percent or more of the votes cast include Capital One Financial, Equifax, Starwood Hotels and Resorts, and Delta Air Lines.

Early in the season it seemed that none of these proposals would come to a vote. A few off-season filing deadlines allowed union funds to file several variations of shareholder proposals regarding option expensing at companies with late fall 2002 meetings. The SEC's Division of Corporation Finance, in a July 19, 2002 ruling, said there was some basis for National Semiconductor's argument that the proposal pertained to its ordinary business, specifically regarding the company's choice of accounting methods. The Carpenters' protested the decision, and asked that the full Commission review it. The AFL-CIO joined the letter-writing campaign, which in addition to labor unions included money managers such as Calvert and Walden Asset Management, to get the SEC to reverse its position. In an August 30, letter, AFL-CIO Associate General Counsel Damon Silvers challenged the decision on the grounds that stock option expensing is a significant policy issue and that it relates to executive compensation, and thus falls under existing commission staff policy of allowable proposals. Silvers wrote, "We believe stock option expensing is a fundamental issue of transparency fundamentally affecting shareholders' ability to oversee executive compensation and not a simple matter of choosing between two accounting methods. The recent level of public and Congressional debate on this issue shows that investors are well informed on the issue and that proposals to expense stock options are clearly not an attempt to inappropriately micro-manage management decisions."

The ruling caused sufficient outcry from investors that the entire commission agreed to review the proposal, an unusual move. However, that consideration—which began prior to Harvey Pitt's resignation from the Commission—dragged on for several months. The Division of Corporate Finance took the interim position that, it could "not express any view with respect to whether it concurs or does not concur" with a company's plans to omit such proposals under an "ordinary business" exclusion.

The funds continued to file the proposals, even though it appeared that they might never be voted on, and that decision proved prescient. The full commission on December 6 issued a decision on an option expensing proposal that was submitted to National Semiconductor by saying, "in the future, we will not treat shareholder proposals requesting the expensing of stock options as relating to ordinary business matters." This cleared the way for the remaining proposals to go forward.

From the time they began filing these resolutions last summer, labor activists have been clear that they sought a global policy change, rather than simply pressuring individual companies to adopt the policy. Indeed, they have been willing to accept assurances from companies that took only small steps. After shareholders approved the proposal at Fluor Corporation, the board met to consider action on the proposal. On May 9, Fluor announced that it would begin expensing options once new accounting standards have been set in place – a policy that promises little more than to obey the law if it changes. The press release included a quote from the resolution proponent: "Fluor's formal consideration of expensing stock options was a positive and prudent response to the shareholder vote," said Ed Durkin, a Carpenters' spokesperson. "We want to send a signal to political and business leaders, as well as the FASB, that it's time for action on an accounting standard requiring option expensing. But, our proposal was non-binding because we do not believe that an individual company should be compelled to expense options while its industry peers do not."

"The change to Fluor's current accounting practices will occur when the ongoing uncertainty is resolved by adoption of uniform accounting standards," said Peter J. Fluor, described by the company as the lead independent director of Fluor's board. "In the meantime, Fluor could be placed at a significant competitive disadvantage, if it were to begin recognizing stock option expense in its earnings statements when most, if not all, of Fluor's competitors do not."

Despite shareholders' evident support for such a change the future remains uncertain. Of particular concern to many activists is HR 1372, "The Broad-Based Stock Option Plan Transparency Act" introduced by Rep. David Dreier (R-Calif.) and Rep. Anna Eshoo (D-Calif.). The bill proposes greater disclosure of stock options but it also commissions a three-year SEC study on the effects of stock option accounting. During those three years, the SEC would not recognize as GAAP any new accounting standards governing the expensing of stock options.

Far less successful for the funds were a number of proposals filed that urged that options be performance based. Labor funds, predominantly those associated with the building trades funds, filed 85 such proposals, but not a single one received majority support. In fact, the median level of support for the 35 proposals for which preliminary tallies are known was only 14.1 percent. (Many of the proposals were withdrawn by the proponents or omitted at the SEC). The highest level of support was at TECO Energy where 27.6 percent of shares voting were cast in favor of the proposal.

The low votes were undoubtedly a disappointment to the proponents. For many labor activists the issue of expensing is secondary to the larger issue of reforming option practices generally. Many activists have favored options whose exercise price may change (i.e., indexed options) or whose vesting depends solely on performance (i.e., a small number of performance-vesting options). Such options, however, are subject to variable accounting treatment, which has restrained their use, since other options qualify for more favorable "fixed" accounting. In the past, when facing such proposals from shareholders, companies have contended that to adopt performance based options would require them to expense options, and such an action would place them at a competitive disadvantage. However, as the call to expense options has gained momentum, labor activists see this proposal as the next step toward ensuring more reasonable executive compensation. In particular, they filed proposals seeking performance-based options at companies that have already declared their intent to expense options. It does not appear that their goals have been widely supported, however.

Proposals – Summary

Executive Compensation

Although executive compensation has always been a priority issue for labor funds, this year brought stronger focus on the issue than ever before. Of 381 proposals filed, 267 dealt with executive compensation issues. Of those, 228 were related to options. The vast majority of these were proposals seeking the expensing of options or the creation of performance based options, described above, but the funds spotlighted other issues as well.

Ban stock options for executives: The AFL-CIO fund took its dissatisfaction with options to the extreme and filed proposals that sought an outright ban on options for top executives at eight companies. The fund contends, in the supporting statement of the proposal, "Banning stock options for senior executives will decouple executive pay from short-term price movements and the temptation for executives to inappropriately manipulate our company's stock price in order to exercise their stock options. In our opinion, other forms of compensation, such as restricted stock and long term incentive plans, will better focus senior executives on building the sustained profitability of our company." The SEC has allowed for the exclusion of two of these proposals on the grounds that they conflict with a management proposal on options that will appear on the proxy. The other proposals went to a vote, with the highest level of support (22 percent) recorded at Baker Hughes.

Require holding period for stock options: Proposals from AFSCME and from the LongView funds of the Amalgamated Bank tackle another issue: CEOs who cash in options while in office. Many labor activists joined the chorus of those condemning executives who cashed in millions of dollars in options before their companies' stock price plummeted. The LongView funds' proposal, filed at Maytag, urges the board to adopt a policy under which senior executives and directors commit to hold at least 75 percent of all Maytag shares throughout their tenure in office. The policy is similar to one adopted by Citigroup, and according to the supporting statement, "seeks to decouple executive and director compensation from short-term price movements and to encourage greater emphasis on longer-term gains while giving directors and officers some flexibility with respect to their holdings." The proposal received support from 29 percent of votes cast. AFSCME filed proposals urging the board to impose a holding period on stocks gained through compensation plans such as stock options at Adobe Systems, where it was supported by 8.9 percent of votes cast, and Gateway, where it received 12.2 percent support.

Oppose management options proposals: In addition to filing a total of 228 shareholder proposals related to options, labor funds also campaigned against a few management proposals on options. The most successful campaign was at Nabors Industries where over 42 percent of shareholders voted against the company's 2003 Employee Stock Option Plan. The Laborers sent a letter to Nabors Industries shareholders urging them to vote against the stock plan proposal. The May 23 letter urged Nabors Industries' shareholders "to assist us in sending a strong message to management that shareholders will not support Nabors' overly generous compensation plans and practices." The Laborers' believed the plan was vague, since it did not specify how the company would distribute the shares or to whom, and that it would dilute shareholder equity and power.

Laborers' General President Terence O'Sullivan blasted Nabors' executive compensation practices. In particular, he noted that the five highest compensated executives held 74.2 percent of all unexercised options granted under current equity plans. "While we understand and agree with the need to provide meaningful incentives, we strongly object to what we see as excessive grants

made to Nabors' senior management," O'Sullivan said. "We think that when shareholders take a close look at the plan and at Nabors' past practices, they'll agree with us."

The union was not able to convince a majority of shareholders to oppose the plan, but was pleased with the extent of their success. The vote against the proposal was unusually high, particularly considering the insider ownership at the company (directors and executives own 12.3 percent of the stock) and the fact that "we only worked on this for a very short time," says Linda Priscilla, the Laborers' corporate governance advisor. "After we read the proxy statement and saw the travesty, we decided to do something about it. We're thrilled that so many investors agreed with us."

The company is also claiming victory. Nabors points out that the company's philosophy of paying below market salaries and higher stock options, in addition to the fact that the company encourages employees to hold on to their stock options, accounts for its high level of dilution.

Another campaign was launched by the Communications Workers of America (CWA) who asked Comcast shareholders to vote against two management proposals on executive compensation at the company's May 7 annual meeting. CWA took on this campaign despite the fact that there was considerable insider ownership already committed in support of those proposals, and never expected to defeat them, but simply wanted to raise awareness of the issues.

The first proposal sought approval of a stock option plan that reserves 70 million Class A common shares for grants of stock options to all employees, including executives, and non-employee directors of the company. "If approved, these shares will transfer 2.46 percent of the company's market value to the option holders, an amount approximately equal to the economic ownership the Roberts family currently has in the company," CWA noted. "It will also dilute the voting power of existing shareholders by 4.62 percent, since under the terms of the company's capital structure the Roberts family is entitled to an undilutable 33 percent of total voting power," the union fund added.

This proposal received approximately 86 percent of the vote for ratification.

The second proposal that CWA urged Comcast shareholders to oppose was to create a supplemental cash bonus plan for executives. Shareholder approval of this plan is required to avoid the limitations imposed by Section 162(m) of the Internal Revenue Code, which prohibits companies from deducting more than $1 million in compensation paid to each of the top five executives, unless the compensation is paid under a performance-based, shareholder-approved plan. To maintain compliance, these performance-based plans require shareholder approval every five years. If shareholders do not approve the proposal, bonuses awarded under it may not be deductible by the company. The union apparently believes that shareholders simply should not endorse this "extra" bonus plan. "The plan has the potential of rewarding an executive up to a $5 million cash bonus (in addition to salary and regular bonus) for 2003," said CWA. In 2002, CEO Brian Roberts received total bonuses of $6 million under the regular and supplemental bonus plans.

The union pointed out that the company's stock is still trading 25 percent below its price of two years ago, and employees are being asked to tighten their belts. In light of this, said CWA, "It is inappropriate to enhance already large and generous executive salaries, bonuses and stock option awards with supplemental stock option and cash bonus plans."

This proposal received approximately 95 percent of the vote for ratification. Holders of the company's class A special common stock were not entitled to vote at the meeting. CEO Roberts, who controls 33 percent of the company's voting power through his ownership of class B common stock, voted all of these shares in favor of each of the management proposals.

Golden parachute and severance proposals: The most successful of all labor proposals were also on executive compensation, those related to golden parachutes. Of the 16 golden parachute/severance proposals filed by union funds for which voting results are available as this report is published, only four failed to gain majority support. IRRC is aware of nine companies where the proposal passed, including Massey Energy, where it was supported by 72.5 percent of votes cast and Alcoa, where the proposal received support from 66.3 percent of votes cast. Two companies that faced golden parachute proposals from labor funds negotiated with the proponents and had the proposals withdrawn. The SEIU withdrew a proposal from Intel after the company agreed to allow shareholders to vote on parachutes that exceed certain thresholds, and AFSCME withdrew a similar proposal at Electronic Data Systems after the company negotiated a similar solution.

In July Hewlett-Packard and Tyco International responded to majority votes supporting golden parachutes proposals this spring by adopting new policies affecting how they will award executive severance packages. At HP, the new policy requires the company to seek shareholder approval of any future severance agreements that provide benefits that exceed 2.99 times the sum of an executive's base salary plus bonus. More than 52 percent of HP shareholders voting supported the golden parachute proposal, which was submitted by an SEIU fund at the company's April 2 meeting. Tyco International's board adopted its new severance policy after shareholders at the March 6 annual meeting passed a non-binding resolution on the matter. The new policy caps standard severance payments at twice the executive's base salary and bonus at the time of termination. In a "change of control" situation, departing executives could receive 2.99 times their base salary and bonus.

SERP proposals: The AFL-CIO fund and IAM members filed eight proposals to request that companies require shareholder approval of SERPs or deferred compensation plans, including four to companies featured on the Executive Paywatch website. Proposals at four companies were withdrawn after negotiations. The AFL-CIO withdrew a proposal at Coca-Cola when the company agreed to continue to phase out its Key Executive Plan. This would be accomplished by not adding any new participants to this SERP and reducing, dollar for dollar, its payouts by amounts payable under the company's retirement plan. At General Electric, the AFL-CIO withdrew a SERP proposal after GE agreed to exclude its top five executives from participating in any future salary deferral plan that pays above-market interest rates (although existing deferred accounts are apparently not affected). The proposal at Bank One was withdrawn after the proponent learned that the company had renegotiated some SERP benefits with the CEO. Excelon agreed that beginning Jan. 1, 2004, it will seek shareholder approval before granting newly hired executives supplemental pension benefits in excess of any they are giving up at their previous employers. In return, the AFL-CIO withdrew its shareholder resolution. The AFL-CIO hopes more actions will follow, particularly when the proposals score high votes. The first such proposal to be voted on this year, at U.S. Bancorp, gained support from 51.6 percent of shares voted.

Other initiatives

Proxy Access: AFSCME's new initiatives this year related to enhancing shareholder power. The boldest such proposal did not go to a vote, but inspired the SEC to take a look at the larger issue. The Division of Corporation Finance ruled that companies could exclude the AFSCME proposal that sought to give shareholders the ability to have director nominations appear on the company proxy, on the grounds that it is related to the election of directors. In its ruling, the SEC said, "It appears that the proposal, rather than establishing procedures for nomination or qualification generally, would establish a procedure that may result in contested elections of directors." AFSCME appealed the staff's decision to the full five-member Commission. AFSCME believes that "the (i)(8) exclusion does—and should—preclude shareholders from submitting a shareholder proposal that nominates a specific candidate for election to a company's board and argues in favor of that person's election." However, the fund contends, "We believe the SEC did not intend the exclusion to apply to any proposal conceivably touching on director elections other than those dealing with general qualifications (as the staff's reasoning implies); indeed, the staff's approach to board declassification and cumulative voting proposals—both of which are consistently ruled to be includable—shows that such a broad reading is not appropriate. We think that the SEC staff's interpretation unreasonably expands the coverage of the (i)(8) basis and should be reversed by the full Commission." The Commission chose not to review this decision, but instead opened up for comment the much broader area of how directors or nominated and what role shareholders could play in nominations. The initial recommendations are addressed at the beginning of this report, and final rulemaking is expected soon on enhancing transparency of the nomination process. It is likely that the SEC will ultimately devise a process for direct nominations by shareholders under limited circumstances. .

Shareholder committee: Another new AFSCME proposal, filed at Kroger, however, did however go to a vote and was supported by 47 percent of votes cast, according to AFSCME. That proposed bylaw amendment would require the board to create a "majority vote shareholder committee" if it fails to implement a proposal that wins a majority vote. That committee would be composed of the proponent of the proposal as well as other shareholders with interest, and will meet with independent board members two times during the year. AFSCME noted that Kroger failed to institute a proposal to declassify the board, despite the fact that it garnered majority votes in 1999, 2000, 2001, and 2002. The proponents wrote, "The purpose of this proposal is to create a mechanism by which shareholders can communicate with their representatives, the independent directors. This proposal does not aim to supplant the board's decision making power, but to improve that decision making by ensuring that shareholders' viewpoints are fully presented to the independent directors."

Analyst independence: Union funds filed seven proposals seeking increased analyst independence, but withdrew the proposals after the firms involved reached a global settlement with the SEC, NASD, the New York Stock Exchange, the New York Attorney General, and other state regulators. The proposals urged the boards at these companies "to effectively manage investment banking related conflicts of interest by formally separating the company's investment banking business from the company's sell-side analyst research and IPO allocation process." A number of the specific changes called for in the proposal were instituted as part of the April 28, 2003 settlement.

Of the nine proposals that went to a vote and for which preliminary results are available, only one scored support of more than twenty percent. Presumably, most shareholders voting believed that regulatory changes were adequate to address the problem.

Auditor independence: The Sarbanes-Oxley Act of 2002 contains provisions that establish safeguards to promote auditor independence. Specifically, certain non-audit services are now

prohibited, and the Act requires audit committees to pre-approve other non-audit services. The Sarbanes-Oxley Act also established an independent Public Company Accounting Oversight Board (PCAOB), which the SEC oversees. The PCAOB is responsible for setting audit, quality control, and ethical standards for audits and for inspecting, investigating and disciplining firms and their accountants. Also, audit firms are required to rotate the lead audit partner at each company every five years.

The Sarbanes-Oxley Act does not prohibit auditors from providing management consulting services. Many labor proponents believe this represents a significant loophole since these services represent a significant source of revenue for audit firms and pose conflict of interest risks.

Reincorporation: Labor unions have been outspoken opponents of companies that reincorporate outside of the United States. Following campaigns in 2002 in opposition to such moves (see page 23), the AFL-CIO, AFSCME, and LongView filed proposals in 2003 urging U.S. companies incorporated outside the country to reincorporate in the U.S. Tyco, with its March 6, meeting date, became a key focus for the funds. AFSCME coordinated a cross-country press conference that included state treasurers and representatives of large public funds as well as union leaders, immediately prior to the meeting. The proposal at Tyco garnered 25.7 percent of votes cast, well below the vote on a similar proposal at Ingersoll-Rand that was supported by 41.4 of votes cast. Proposals were withdrawn at McDermott International and at Schlumberger after both companies agreed to take formal steps to consider the issue.

Independence: As Sarbanes-Oxley and listing requirements seemed to address many investor concerns about independence, proponents took a wait and see attitude rather than filing proposals directly on that topic. Most proposals this year on the issue related to separating the positions of chairman and CEO. The proposals did not do as well as expected. No proposals on the topic passed, and many garnered support of less than twenty percent. Of the 15 such proposals that have come to a vote and for which results are known, the two highest votes were at Kohl's, at 38 percent, and Home Depot, where support was approximately 37 percent. The proposal was withdrawn at five companies. In two cases, where the proposal was withdrawn by the AFL-CIO fund, the company made changes that satisfied the proponent: Clear Channel and Dow Chemical each enhanced the role of their presiding director with rights that gave them additional leadership capacity (such as the right to add agenda items, to hire independent consultants and advisors, and to interview company employees).

Anti-takeover: With their emphasis on executive compensation topics this year, funds expended less effort on anti-takeover proposals. There were 11 proposals filed to declassify boards and 14 on poison pills, many of which were repeat filings at companies where the proposal had scored a majority vote in the past. The proposals received votes as they had in the past. Of the six classified board proposals for which results are known, five received more than 50 percent support. Two proposals were withdrawn after the companies agreed to put proposals on the topic on their ballots. (Because these proposals were re-filings of 2002 proposals, the discussion of their withdrawals is presented under 2002 proposals on page 28). Seven of the eight poison pill proposals for which voting results are known received majority support.

2002 Proxy Season

The 2002 proxy season immediately followed the collapse of Enron and came at a time when falling stock prices and corporate scandals inspired passion on the part of investors. Enron's collapse occurred after most filing deadlines had passed but before shareholder resolutions were

voted on. Labor fund activists, who had presciently filed proposals on a variety of topics subsequently in the public spotlight, benefited from their timing. The funds filed a total of 198 proposals in 2002, 105 of which came to a vote. Sixty-two proposals were withdrawn, often after the company met with the proponents and made some changes in its policies.

AFL-CIO Activities

Enron-related activities: Bill Patterson, director of investment for the AFL-CIO, told the *Washington Post*, "The Enron tragedy really opened up the debate on retirement security and corporate governance. This is a moment in which these issues are being discussed and debated in earnest in a way they haven't been for years."

In late 2001, the AFL-CIO launched a campaign to have the boards of other companies on which Enron directors sit refrain from re-nominating them with a letter to 21 companies where Enron directors then served.

"The future retirement security of practically every American worker was hurt by the collapse of Enron," said Richard Trumka, secretary-treasurer of the AFL-CIO. "In our opinion, directors who permitted the accounting deception that led to the collapse of a company worth over $70 billion are not suited to serve on other boards."

In his four-page letter to the nominating committee chairs of boards where Enron directors serve, Trumka laid out concerns about the related-party transactions at Enron and the company's lack of transparency. "We believe there is sufficient evidence about some of Enron's practices and about the role of Enron's board in approving those practices to support a presumption that Enron's directors failed in carrying out their fiduciary obligation to safeguard the interests of shareholders," wrote Trumka.

The 21 companies included Alliance Capital Management, California Water Services Group, Comdisco, DynCorp, Lockheed Martin, Motorola, Owens Corning and Qualcomm. Results from the letter were almost immediate, both from other investors and from boards. Robert Jaedicke resigned from the California Water Service Group on January 30, after having served on the water utility's board since 1974. Wendy Gramm resigned from the board of Invesco Funds on February 7. In early February the New York City Pension Funds and Retirement System approved a plan to attempt to persuade six companies with Enron board members up for renomination not to renominate them: Group 1 Automotive, Motorola, ImClone, Lockheed Martin, Qualcomm and CCC Information Services. Former Enron CEO Ken Lay resigned from the boards of Eli Lilly, Compaq Computer, and i2 Technologies, as well as from Enron's board.

The AFL-CIO then sent a public, more pointed letter to Procter & Gamble's CEO John E. Pepper, who then served as Chairman of Motorola's nominating committee, calling on him to reject former Enron director Ronnie C. Chan's re-election to Motorola's board. The next day Chan announced his resignation from the board. "As a member of Enron's audit and compliance committee as well as Enron's finance committee, Mr. Chan was in a unique position to oversee the moves Enron made to cover up the facts about the company," Trumka had written. "He failed in his fiduciary duty and hurt shareholders and employees," the letter adds. Trumka also noted that Chan missed more than 25 percent of the meetings at both Motorola and Enron.

Lockheed Martin then became the target of what was perhaps the most publicized "vote no" campaign ever conducted against a director. The AFL-CIO launched a public campaign and

issued a March 28 letter to other Lockheed Martin shareholders urging them to withhold votes for director-nominee Frank Savage because he was a director on Enron's board. Savage had been a member of Enron's board of directors since October 1999, and also served on Enron's finance committee and compensation and management development committee.

The AFL-CIO justified its position based on the report of the Special Investigative Committee of the Enron board of directors, otherwise know as the "Powers Report." The investigation concluded "The board of directors failed, in our judgement, in its oversight duties. This had serious consequences for Enron shareholders, its employees, and its shareholders." The complete text of the Powers report is available at http://news.findlaw.com/hdocs/docs/enron/sicreport/index.html.

The AFL-CIO stated "…without an adequate explanation of his role at Enron, we do not believe that Mr. Savage should be re-elected to the Lockheed Martin board." At Lockheed's April 25th annual meeting, 28.3 percent of shareholders casting votes withheld their votes on the election of Savage. According to IRRC's records, this campaign resulted in a higher percentage of votes withheld than any campaign in the prior 7 years. (In 1994, 34.2 percent of shareholders withheld votes in director elections at Michigan National and 31.6 percent of shareholders withheld votes at MDT).

Patterson believes that the vote is of critical importance. The issue of director elections "goes to the question of control." Even in what Patterson sees as an extreme situation, managers seemed reluctant to cast votes against one of their own. "The ability to hand-pick your board is crucial" to CEOs, noted Patterson, and is a pressing issue on the agenda of labor shareholder activists. Savage's reelection prompted the *Washington Post* to write, in a May 23 editorial, "If even the most compromised director can survive like this, the rest needn't care about the shareholders' interests."

Executive Paywatch: The AFL-CIO's 2002 website devoted to executive pay highlighted executives' hefty retirement packages and "risk-proof" job security.

The site pointed out that while most workers now have 401(k)s instead of traditional defined-benefit pension plans, more and more executives are receiving supplemental retirement pensions, or top hat plans, that promise a guaranteed pension based on the traditional defined-benefit formula of years of service multiplied by final annual pay. "Top hat plans give executives an additional incentive to trim workers' retirement benefits," said the site. "With their retirement income secure, executives are better positioned to freeze or cut workers' benefits. At the same time, companies can use the resulting pension fund surpluses to help shore up corporate earnings, and therefore justify ever-larger executive compensation packages," the site adds.

The AFL-CIO also pointed to a disparity in job security, noting, that while 1.4 million workers were laid off in 2001, executives continued to protect themselves with generous golden parachutes. Many of the benefits provided to executives if they are dismissed are defined in their employment contracts, a document that guarantees employment and terms of service for a period of years, points out the AFL-CIO. By contrast, the union federation also notes, "Most workers are considered 'at will' employees—that is, they have no expectation of continued employment and may be dismissed at any time without cause."

Overall, the web site said most CEOs saw their compensation grow in 2001. "Median pay grew by 7 percent, according to a *New York Times* survey by the compensation consultant Pearl Meyer

& Partners," the site says. "This change—contrasted with the 35 percent decline in corporate profits, 13 percent drop in Standard & Poor's 500 stock prices and 35 percent increase in the number of unemployed workers—starkly illustrates the dangerous and still growing disconnect between pay and performance," the AFL-CIO contended.

Key votes survey: The AFL-CIO released its longest key votes list ever in the spring of 2002, with 34 shareholder proposals, one "vote no" campaign and three management proposals that it considered to be the key votes of the 2002 proxy season.

The proposals included in the list ranged from routine corporate governance shareholder proposals, such as poison pill and classified board resolutions, to those related to the implementation of the International Labor Organization principles. The union funds demonstrated their commitment to curbing excessive executive compensation by placing a generous number of proposals tied to this issue on the key votes list.

Also on the roster was the timely proposal addressing auditor independence, which union funds submitted for the first time in 2002. The resolution recommended that companies adopt a policy that any public accounting firm used by the company for outside audit services will not be retained to provide non-audit services. The proposal was inspired pre-Enron by data such as that released by IRRC last year showing that nearly three-quarters of fees paid by 414 companies to their auditors in fiscal 2000 were for non-audit services.

Table 2: 2002 key votes and results

Company	Topic	Proponent	Vote
Allegheny Energy	reincorporate from MD to Delaware	Utility Workers Union	33.5
Apple Computer	independent nominating comm	IUOE	14.4
Arden Realty	poison pill	SEIU	76.5
Bank of America	GP/severance	Teamsters	50.7
Bed, Bath & Beyond	board diversity/EEO glass ceiling	United Methodist Church; Connecticut Retirement Plan	26.3
Boeing	link exec comp to human capital	IAM member	08.7
Boston Properties	poison pill	SEIU	74.8
Calpine	poison pill	UA	61.2
Citigroup	GP/severance	SEIU	46.5
Coca-Cola Enterprises	limit exercise of stock options	Teamsters	02.6
Comfort Systems	no repricing	SMWIA (independent solic)	majority of votes cast on SMWIA card
Conseco	predatory lending	Episcopal Church Mercy Health Services Walden Asset Mgmt	07.4
Delta	GP/severance	ALPA member	31.9

Duke Energy	auditor independence	UA	36
EMC	board diversity	Connecticut multiple socially responsible funds	32.2
EMC	board independence	Walden Asset Management	56.1
Exxon Mobil	EEO policy	New York City Pension Funds New York State Common Retirement Fund Trillium Asset Management Unitarian Universalist	23.9
Federated Department stores	ILO	New York City Pens. Funds Oblates of Mary Immaculate	9.2
Gateway	declassify the board	Calpers	33.2
General Electric	pension income accounting	CWA	13.3
General Electric	performance-based options	LongView	31.5
Great Lakes Chem.	declassify board	AFSCME	79.4
Halliburton	auditor independence	UA	12.3
Host Marriott	reincorporate	HERE	19.9
Lockheed Martin	vote no on director	management proposal AFL-CIO led "vote no"	28
Loews	independent nominating committee	IUOE	36
Marriott Intl	adopt ILO Conventions	HERE	14.3
Nabors	reincorporate to Bermuda	management proposal vote no campaign led by: Amalgamated Bank Laborers AFL-CIO	83 of 111.6 million votes cast approved the measure
Nordstrom	vendor conduct/ILO	New York City Pension Funds	06.7
Sierra Health	golden parachute	LongView	23.1
Sprint	option repricing	IBEW New York State	36.1
United Airlines	link exec comp to rebuilding core air transport	IAM	53.2
Unocal	ILO	LongView	31
Waste Management	privatization	AFSCME	03.7

Campaigns against reincorporations: Labor unions and pension funds led a campaign in the spring and summer of 2002 to prevent two U.S. companies from incorporating overseas. Nabors

Industries and Stanley Works had planned to reincorporate to Bermuda to save tax dollars, but in a changed political climate the moves were seen by many as unpatriotic. Stanley Works won a narrow shareholder victory in a disputed vote, and agreed to a re-vote following legal challenges. After continued pressure the company declared that they had changed plans and would no longer attempt to reincorporate outside the U.S.. The AFL-CIO immediately issued a press release claiming victory. "The decision by Stanley Works to drop its infamous plan to avoid paying U.S. corporate taxes by moving its mailbox to Bermuda is a promising example of one company rejecting financial gimmicks," said the Federation. "There is no question that Stanley Works reversed its previous goal to move to Bermuda only because of the unprecedented pressure brought directly on the company's CEO and members of its board of directors." Nabors Industries won the shareholder vote, but continues to face pressure from labor funds to reconsider the decision.

Building Trades Unions

The resolution that sought to limit the non-audit work a company's auditors can perform was initially submitted to 31 companies by funds affiliated with the United Brotherhood of Carpenters and Joiners, the International Brotherhood of Electrical Workers, the United Association of Plumbers and Pipefitters and the Sheet Metal Workers International Association. The timing of the proposal could not have been better – it premiered in the proxy statement at Walt Disney, which was first published in early January 2002. That same week in Congress, the House Financial Services Committee heard testimony from Arthur Andersen's Chief Executive Joseph F. Berardino, defending his firm's failure to catch Enron's problems. Also testifying at that hearing was AFL-CIO Secretary-Treasurer Richard L. Trumka who told the committee, "You had an audit firm that was dependent on Enron management for higher-margin consulting services, purporting to provide independent review on behalf of investors of transactions, some of which they, themselves, may have designed and charged a fee for."

Union funds initially submitted a total of 29 auditor conflict proposals, with the most—17—filed by Carpenters' funds. "Our funds submitted shareholder proposals on the auditor conflict issue in order to protect the integrity of the audit process," says Durkin. "The widespread and significant consulting relationships between corporations and their audit firms revealed in recent corporate disclosures threaten to undermine investor confidence in the independence of audit firms and the financial reporting system. The shareholder proposals provide an opportunity for investors, not just regulators, to speak loud and clear on this issue."

The success of the proposal may have helped spur more serious negotiations between companies and proponents. After the Disney vote, 16 proposals were withdrawn after companies agreed to new policies. Carpenters' pension funds withdrew proposals at Apple Computer, Best Buy, Bristol-Myers Squibb, FirstEnergy, Equitable Resources, Viacom and Dominion Resources after reaching settlements with the companies. The Sheet Metal Workers International Union withdrew the proposal at Johnson & Johnson. IBEW withdrew the proposal at Ameren, McGraw Hill and TXU.

The core policy agreed to by most of these companies has three components:

1) A limitation on services
- No consulting, no financial information services, no internal audit work

2) Changes to internal processes and procedures

- Pre-authorization of every engagement at the management level
- Dissemination of new policy throughout the organization
- An agreement that the audit committee will meet four times a year and that it will receive an itemized description of the auditor's work and fees at each meeting

3) Enhanced disclosure
- Better itemization
- Inclusion of policy in audit committee report
- Inclusion in the proxy statement of "an affirmative statement that the engagement of the auditor to perform work other than the audit work has not impaired the auditor's independence."

The intention of the negotiations was to take a more "comprehensive and broader approach" than simply seeking elimination of consulting services by auditors, although that remains a critical part of each agreement, Durkin says. Each settlement is a bit different: for some companies the alterations mean changes in the charter, at other companies they mean a different review process. For example, Bristol-Myers Squibb agreed that the audit committee will have to pre-approve the use of the auditor for tax work based on an estimate of aggregate fees, while FirstEnergy agreed that the audit committee will have to pre-approve the use of the audit firms to perform any audit-related work when the engagement contract exceeds $100,000.

Even at firms where the proposal was voted on several companies made changes. IRRC is aware of eight companies that faced the audit proposal then adopted new policies (see chart). Halliburton, for example, included with its proxy statement a two-page appendix entitled "Corporate Policy: Services of Principal Independent Auditors" that details the conditions under which the auditors will be hired to complete specific tasks.

Table 3: Auditor proposals in 2002

COMPANY	**PROPONENT**	**FINAL STATUS**
Albertson's	Longview	12.5 percent support
Allegheny Energy	Carpenters	40.3 percent support The company announced it will no longer use auditors for new financial systems design and implementation projects, but believes it should retain the flexibility, with audit committee oversight, to retain auditors for other matters.
Ameren	IBEW	Withdrawn—Company adopted a policy of more disclosure (including an itemized breakdown) and will describe internal monitoring processes in report. Proponent allowed audit-related fees as long as disclosure and monitoring were in place.
American Power Conversion	Carpenters	19.5 percent support
Apple Computer	Carpenters	Withdrawn- company adopted a new auditor independence policy, which prohibits its auditors from performing non-financial consulting services, such as information technology consulting and internal audit services. The policy also mandates that an annual budget for both audit and non-audit services be approved by the audit committee in advance, and that the audit committee be provided with quarterly reporting on actual spending. The policy requires non-audit services to be approved

		by the director of technical accounting and the CFO.
Automatic Data Processing	Carpenters	Withdrawn Company adopted auditor independence policy which prohibits the company or any of its affiliates from entering into most non-audit related consulting arrangements with its independent auditors
Avon Products	Carpenters	12.5 percent support In 2002, Avon amended its existing policy to prohibit the hiring of its independent auditors for non-audit services, except for certain audit-related services, such as statutory audits required in certain international locations, and certain tax consulting services that the audit committee has approved.
Best Buy	Carpenters	Withdrawn – company agreed to adopt core agreement.
Boston Properties	Carpenters	48.7 percent support
Bristol Myers Squibb	Carpenters	Withdrawn- Company agreed to adopt core agreement Bristol-Myers Squibb agreed that the audit committee will have to pre-approve the use of the auditor for tax work based on an estimate of aggregate fees,
Constellation Energy Group	IBEW	12.9 percent support
Delphi Automotive	Carpenters	34.2 percent support Delphi reports that "the audit committee has instructed the company to refrain from engaging in any future consulting services with its independent auditor." Deloitte and Touche split off audit and consulting components of company.
Dominion Resources	Carpenters	Withdrawn – company agreed to adopt policy
Duke Energy Corporation	United Association	36 percent support Was named by the AFL-CIO as one of the key votes of 2002. In late 2000, Duke Energy adopted additional restrictions beyond those imposed by the SEC's auditor independence rules, prohibiting Deloitte & Touch from providing internal auditing services or financial information systems design implementation services.
Emmis Communications	Carpenters	Withdrawn – company adopted policy
Equitable Resources	Carpenters	Withdrawn
Fedex	Carpenters	Withdrawn ?
First Energy Corp.	Carpenters	Withdrawn - adopted core policy. FirstEnergy also agreed that the audit committee will have to pre-approve the use of the audit firms to perform any audit-related work when the engagement contract exceeds $100,000.
Halliburton	United Association	12.3 percent support Halliburton adopted a policy that limits, but does not forbid, the provision of non-audit services by the company's outside auditors. The

		policy permits the company's outside auditors to provide non-audit services that facilitate the performance of the audit, improve the financial reporting process and internal controls environment, and relate to tax consulting or advice. The policy sets stipulations of conditions that must be met before the auditor can provide these non-auditing services.
Johnson & Johnson	Sheet Metal Workers	Withdrawn – Company agreed to adopt core agreement
K-Mart	Carpenters	Company filed for Chapter 11
Labor Ready	Longview	29.4 percent support
Lafarge North America	Carpenters	14.3 percent support
Liz Claiborne	Carpenters	14.9 percent support The company's new policy prohibits its independent auditor from performing any internal audit services or any consulting services related to the company's financial information systems. The audit committee reviews any proposed non-audit assignments in advance.
Manpower	Carpenters	18.1 percent support In March the company adopted a new policy regarding non-audit services which prohibits the company's independent auditors from providing any financial information systems design and implementation services, information technology systems consultation, and internal audit services, including internal control services
Marriott International	United Association	29.8 percent support
McGraw-Hill	IBEW	Withdrawn. "They created a policy that was close to what we wanted," says the IBEW.
Motorala	Sheet Metal Workers National Pension Fund	39.4 percent support
Nike	Carpenters	Withdrawn - adopted core policy
PG&E	Carpenters	46.5 percent support
Reliant	Carpenters	29.7 percent support
Safeway	United Association	43.5 percent support
Sara Lee	Carpenters	Withdrawn. Fall meeting took place after Sarbanes-Oxley Act
TXU Corporation	IBEW	Withdrawn. Company is improving disclosure and monitoring.
VF Corporation	IBEW	33.2 percent support The audit committee has adopted a policy to prohibit the retention of its auditors for services related to internal auditing functions and the design and implementation of financial information systems. The audit committee has also adopted a policy to require pre-clearance from audit committee members for substantial non-audit engagements by its auditors. Specifically, the audit committee chairman must approve any engagement that is expected to generate fees of $250,000 or more, and the full audit committee must approve any engagement expected to generate fees of more than $1 million.

Viacom	Carpenters	Withdrawn- adopted core agreement
Walt Disney	United Association	Went to a vote February 19 and gained support from 43 percent of shareholders voting. Disney announced, prior to the meeting, that it would no longer hire auditors as consultants.

2002 Proposals -Summary

Labor funds filed a total of 198 proposals for 2002 meetings. The proposals covered a variety of topics. Of the 105 proposals that came to a vote, the largest category was executive compensation. Sixty-two proposals were withdrawn, often after the company met with the proponents and made some changes in its policies. In a number of cases, companies did make changes following the majority vote. The majority votes are outlined in the table below as well as subsequent actions, when taken.

Table 4: Proposals that received majority votes or passed

Company	**Proponent**	**Proposal**	**Action Taken**	**Percent Support**
Airborne	Teamsters	declassify board	board adopted	84.5*
Arden Realty	SEIU	poison pill		76.5*
Bank of America	Teamsters	golden parachute	board adopted	50.7 *
Bausch & Lomb	AFSCME	declassify board	company agreed to put management proposal on proxy	76.5*
Boston Properties	SEIU	poison pill		74.8
Calpine	UA	poison pill		61.2*
Circuit City	AFSCME	poison pill		73.3*
Great Lakes Chemical	AFSCME	declassify board	company agreed to put management proposal on proxy	79.4*
Norfolk Southern	LongView	golden parachute	board adopted	55.8*
Ryder	AFSCME	poison pill		72.8*
Simon Property	Carpenters	board independence		56.2
Sysco	Teamsters	declassify board		60.1
UAL	IAM member	separate chair/CEO		52.6 *
UAL	IAM member	link compensation to rebuilding company's core air transportation business		53.9*
VF	LongView	declassify board		54.9*

*passed under company's voting requirements

Several of these proposals were ultimately adopted, including two golden parachute proposals. Bank of America's board adopted a policy, disclosed in a letter to the Teamsters on October 25, allows shareholders to vote on any future severance packages that exceed 2 times annual salary and bonus. The letter arrived only after the Teamsters sent a letter to the company announcing that it was considering re-filing the proposal in 2003.

The policy adopted by Bank of America will apply to severance packages in contracts of any executive who has been hired or whose contract has been renewed after April 24, 2002, the date of the annual meeting. The lengthy policy stipulates that it will apply only to the named executives of the company, and offers several specific examples of situations in which the policy would or would not apply. For example, it notes that shareholders would have to approve five-year employment contracts if they include language providing for the executive to be paid for the life of the contract if dismissed without cause. The employment contract would not be valid unless approved by shareholders.

Norfolk Southern also agreed to allow shareholders to vote on any future executive severance packages exceeding 2.99 times annual salary and bonus. The resolution was the first executive compensation proposal raised by LongView to be passed by shareholders and adopted by a board.

In explaining its proposal on executive severance, Amalgamated Bank said that the potential cost of such agreements entitles shareholders to be heard when a company contemplates paying out at least three times the amount of an executive's salary and bonus. "On behalf of the retirement funds of working people, we will continue to press for accountability from corporate boards and executives," said Bruce Raynor, Amalgamated Bank vice chairman. "Executive severance payments need to be brought under control."

In two cases, companies agreed to changes on corporate governance issue only after the proposal was filed again in 2003. Airborne Express agreed to declassify its board of directors, but not until after the Teamsters had filed a binding by-law amendment at Airborne for 2003—which they then withdrew. Bausch & Lomb placed a management proposal to declassify the board on its proxy statement. The company noted, "Given shareholders' views on the classified board issue, the board has determined to put the requested amendments to the company's by-laws and certificate of incorporation before the annual meeting for a shareholder vote. Adoption of the proposed amendment to the certificate of incorporation and by-laws will require the affirmative vote of eighty percent (80 percent) of the outstanding shares of the company, not including shares owned by the company." The company and the board of directors are opposed to declassifying the board and have urged a vote against the proposal. Given the supermajority voting requirement and management's opposition to the proposal, it is unlikely to pass.

Table 5: Proposals other than auditor conflict withdrawn after action taken

Company	Proponent	Proposal withdrawn/action taken
AmeriCredit	IBEW	Proponent withdrew proposal seeking a report on the expense of options after the company agreed to give such a report
Barnes and Noble	Carpenters	Company adopted proposal that asked for disclosure of the role directors play in adopting corporate strategy.
Best Buy	IBEW	Company adopted proposal that asked for disclosure of the role directors play in adopting corporate strategy.
Borders Group	Carpenters	Company adopted proposal that asked for disclosure of the role

		directors play in adopting corporate strategy.
Boston Scientific	Carpenters	Company adopted proposal that asked for disclosure of the role directors play in adopting corporate strategy.
Calpine	Operating Engineers	Company adopted proposal to create an independent nominating and governance committee
Cendant	AFL-CIO	Proponent withdrew a performance-based compensation proposal after company agreed to put all future material option plans to a shareholder vote.
Cendant Corporation	AFSCME	Proponent withdrew a golden parachute proposal after Cendant agreed to restrict its use/seek shareholder approval of certain parachutes
Circuit City	Carpenters	Company adopted proposal that asked for disclosure of the role directors play in adopting corporate strategy.
Constellation Energy Group	Carpenters	Company adopted proposal that asked for disclosure of the role directors play in adopting corporate strategy.
Duke Energy	Carpenters	Proponent withdrew proposal seeking greater disclosure of transactions between company and executives after company agreed to provide disclosure.
Duke Realty	Carpenters	Proponents withdrew proposal on board independence after company agreed to make board changes.
Duke Realty	Laborers	Proponents withdrew proposal seeking independent audit committee after the company agreed to make board changs.
Equitable Resources	Sheet Metal Workers National Pension Fund	Proponents withdrew proposal seeking greater independence after the company adopted CII independence of independent directors.
Equity Residential	Carpenters	Proponents withdrew proposal on board independence after company agreed to make board changes.
First Energy	Laborers	Proponents withdrew proposal on board independence after company agreed to make board changes.
Gap	IBEW	Proponents withdrew proposal on board independence after company agreed to make board changes.
Genuine Parts	Laborers	Company adopted proposal to create an independent compensation committee.
Idexx	Carpenters	Company adopted proposal that asked for disclosure of the role directors play in adopting corporate strategy.
Intl Flavors & Fragrance	Carpenters	Proponents withdrew proposal on board independence after company agreed to make board changes.
Manpower	AFL-CIO	Proponents withdrew proposal on board independence after company agreed to make board changes.
Marriott International	Carpenters	Company adopted proposal that asked for disclosure of the role directors play in adopting corporate strategy.
McDermott International	Longview	Company became the first to adopt a policy of excluding pension fund profits when calculating executive compensation packages.
Merck & Company	Carpenters	Company adopted proposal that asked for disclosure of the role directors play in adopting corporate strategy.
Murphy Oil	AFL-CIO	Proponents withdrew proposal on board independence after company agreed to make board changes.
Nextel	AFL-CIO co-sponsored	Proponents withdrew proposal on board independence after company agreed to make changes to independence standard for

	with NYCERS	board members.
ShopKo Stores	Longview	Proponents withdrew proposal on board independence after company agreed to make board changes.
Toys R Us	Laborers	Company adopted proposal that asked for disclosure of the role directors play in adopting corporate strategy.
Wendy's Intl.	Carpenters	Company adopted proposal that asked for disclosure of the role directors play in adopting corporate strategy.

APPENDIX 1:

KEY TO SHAREHOLDER PROPONENTS AND COORDINATORS

AFSCME	American Federation of State, County and Municipal Employees
CWA	Communications Workers of America
HERE	Hotel Employees & Restaurant Employees International Union
IAM	International Association of Machinists & Aerospace Workers
IBEW	International Brotherhood of Electrical Workers
IBT	International Brotherhood of Teamsters
IUOE	International Union of Operating Engineers
LIUNA	Laborers' International Union of North America
LongView	LongView Collective Investment Fund
OCAW	Oil, Chemical and Atomic Workers International Union
Paperworkers	United Paperworkers International Union
SEIU	Service Employees International Union
SMWIA	Sheet Metal Workers International Association
UA	United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada
UBCJA	United Brotherhood of Carpenters and Joiners of America
UNITE	Union of Needletrades, Industrial and Textile Employees
UFCW	United Food and Commercial Workers International Union

[1] Sleigh, Stephen, "From Workplace to Corporate Governance: Emerging IR Issues in the Twenty-First Century." *Perspectives on Work*, December 2001.

[2] O'Connor, Marleen. "Labor's Role in the Shareholder Revolution." Working Capital: The Power of Labor's Pension. Ed. Archon Fung, Tessa Hebb, and Joel Rogers. Ithaca: Cornell University, 2001. p. 80.

[3] Baker, Dean and Fung, Archon. "Collateral Damage: Do Pension Fund Investments Hurt Workers?" Working Capital: The Power of Labor's Pension. Ed. Archon Fung, Tessa Hebb, and Joel Rogers. Ithaca: Cornell University, 2001. p. 39

[4] Baker and Fung, p. 43.

[5] O'Connor, p. 77.