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## Legislative Bulletin.....April 18, 2007

### Contents:

**H.R. 1257**—Amendments to the Shareholder Vote on Executive Compensation Act

H.R. 1257, the Shareholder Vote on Executive Compensation Act (sponsored by Rep. Barney Frank, D-MA), is scheduled to be considered on the House floor today, April 18, 2007, subject to a modified open rule (H.Res. 301), making in order only those germane amendments pre-filed in the *Congressional Record* by the close of business on April 17, 2007, or those amendments that are *pro forma* (for the purpose of debate only). The rule allows one motion to recommit with or without instructions. All amendments are debatable under the five-minute rule.

The rule waives all points of order except those regarding PAYGO and earmarks, deems the previous question as ordered, and allows the Chair to postpone consideration of the legislation at any time during its consideration.

Below are summaries of the 13 amendments pre-filed in the *Congressional Record*, **the vast majority of which were introduced by RSC Members.**

Note: The summaries are based on RSC staff's review of *actual amendment text*. For a summary of the underlying bill, see a separate RSC document released yesterday.

**RSC Contact:** Paul Teller; [paul.teller@mail.house.gov](mailto:paul.teller@mail.house.gov); 202-226-9718

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**1. Bachus (R-AL).** Corrects certain technical errors citing current law in the underlying bill.

**2. Campbell (R-CA):** Provides that the shareholder vote requirements in the underlying bill would not apply with respect to any public company that already requires the members of its board of directors to be elected by a shareholder majority vote.

**3. Frank (D-MA).** Corrects certain technical errors citing current law in the underlying bill. (same as Bachus amendment above)

**4. Frank (D-MA).** Strengthens the language regarding shareholder voting to ensure that such voting is not just permitted but provided for. Clarifies that the shareholding voting would not be binding on the corporation as a whole. Changes the description of the proxy, consent, or authorization in the underlying bill from that for “an annual or other meeting of the shareholders” to that for “an annual meeting of the shareholders (or a special meeting in lieu of the annual meeting).” (This last provision is the same as the Roskam amendment below.)

**5. Garrett (R-NJ):** Provides that the shareholder vote requirements in the underlying bill would only apply if a company's executive compensation exceeds by 10% or more the average compensation for comparable positions in companies within the company's industry and among companies with comparable total market capitalization, as determined by the SEC.

**6. Jackson-Lee (D-TX):** Requires that public companies with websites post the results of the shareholder votes provided for in the underlying bill in a prominent location on their respective websites within 30 days of the votes.

**7. McHenry (R-NC):** Requires a shareholder who is casting a vote on executive compensation on behalf of the beneficiaries of a pension fund to disclose to such beneficiaries whether the vote was cast to approve or disapprove the compensation.

**8. Price (R-GA):** Requires the SEC to study whether a separate non-binding shareholder vote on executive compensation would hinder a publicly traded company's ability to recruit and retain executives. If the SEC finds that such voting would hamper a company's ability to compete for the best candidates, then the non-binding shareholder vote provisions would not go in effect. If the study finds that such voting would not hinder recruitment and retention, then the underlying bill's voting provisions would go into effect 90 days after the SEC transmits its report to Congress.

**9. Price (R-GA):** Replaces the entire underlying bill with a congressional finding that the disclosure rules on executive compensation adopted by the SEC in September 2006 (71 Fed. Reg. 53158) provide an "adequate and complete" mechanism for shareholder approval of executive compensation.

**10. Price (R-GA):** Reverses the Rep. Barney Frank (D-MA) amendment that passed in committee, which clarified that nothing in the underlying bill should be construed to restrict the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation and golden parachute compensation. This Price amendment would strike the Frank committee-amendment language and explicitly make shareholders who are allowed to vote under this legislation ineligible to make proposals for inclusion in any proxy materials related to compensation.

**11. Putnam (R-FL):** Prevents the shareholder vote requirements of the underlying bill from applying to a public company that provides the majority of its executive compensation in the form of non-qualified deferred compensation (as disclosed pursuant to the SEC's compensation disclosure rules).

**12. Roskam (R-IL):** Changes the description of the proxy, consent, or authorization in the underlying bill from that for "an annual or other meeting of the shareholders" to that for "an annual meeting of the shareholders (or a special meeting in lieu of the annual meeting)."

**13. Sessions (R-TX):** Prohibits a shareholder's vote from counting if the shareholder has spent, directly or indirectly, more than a *de minimis* amount of money (as determined by the SEC) on activities to influence a vote of other shareholders, unless such shareholder discloses to the

SEC:

- the identity of all persons or entities engaged in such a campaign;
- the activities engaged in to influence the vote; and
- the amount of money expended on such a campaign.

The amendment sponsor's office writes, "The Democrat Executive Compensation legislation would allow outside organizations to spend money to influence the outcome of this new mandatory shareholder vote, without disclosing their identities to shareholders. This opens the door for activist organizations – such as labor unions, environmental groups or 'consumer advocates' – to spend as much money as they want influencing shareholders to reach their preferred outcome, but never have to disclose their identity or practices to anyone."

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