Encoding More Proxy voting by Organized Workers, Employees, and Retirement Savers (EMPOWERS) Act

U.S. Senator Tammy Baldwin and Congresswoman Pramila Jayapal

The problem: When workers give their hard earned retirement savings to Wall Street investment funds, who use the cash to buy stocks, most workers don't get to say how they would like their shares to be voted at annual meetings—the investment fund does. Despite the trillions workers have saved in stocks, their voices are not heard in board rooms and at annual meetings.

Employee retirement savings have become increasingly concentrated into one of three large index funds. These "Big Three" funds manage money for over 63 percent of all employer-sponsored retirement plans.[1] As a result, one of the Big Three funds is the largest shareholder in 9 out of 10 publicly traded companies in the U.S., giving these funds the power to swing virtually every vote at almost every annual meeting in America—using workers' retirement savings to do it. Research analyzing the voting records of asset managers reveals disturbing trends:

- Funds often use workers' retirement savings to advance their own business interests;
- Despite claims that they support holding companies accountable on climate change, they "voted overwhelmingly against climate-critical resolutions." Had the funds supported these climate proposals, almost all would have passed;
- Some funds set proxy voting guidelines that enhance the likelihood that the fund will vote in support of management; and,
- Many funds serve too many different clients for one set of voting guidelines to be satisfactory for all.

To make matters worse, the Department of Labor (DOL) under President Trump tried to deny ERISA fund managers from voting at all. On December 16, 2020, the DOL finalized a rule discouraging ERISA fiduciaries from engaging with companies and voting shares in many circumstances. It is clear that the DOL wrote this rule to prevent workers from using their voices to influence public companies. While the Biden DOL has said it would not enforce the new rule, statutory changes remain necessary to protect worker voices.

The solution: In order to address these problems, the *EMPOWERS Act* will:

- Allow workers to nominate and elect trustees to represent *them* and allow these trustees to jointly manage the retirement plan as equal partners with the employer's trustees;
- Provide these worker representative trustees the authority to set their ERISA plan's proxy voting guidelines jointly with employer trustees;
- Require fund managers to vote the workers' shares in accordance with the plan's guidelines and provide annual voting reports to the plan;
- Require plan fiduciaries to set proxy policies in accordance with the ERISA plans' inherently long-term investment horizons in contrast with other short-term market actors; and
- Reverse the DOL's rule discouraging proxy voting and make it easier for workers to control how their shares held for retirement are voted.

Cosponsors: Senators Blumenthal, Booker, Markey, Merkley, Sanders, and Warren.

This legislation is supported by: American Federal of Labor and Congressional of Industrial Organizations (AFL-CIO), Majority Action, Public Citizen, Service Employees International Union (SEIU), Communication Workers of America (CWA), International Brotherhood of Teamsters (IBT), American Economic Liberties Project, Stop The Money Pipeline, Rapid Shift Network, Catholic Network US, Call to Action CO, Connecticut Citizen Action Group, American Federation of State, County and Municipal Employees (AFSCME), and Sierra Club.

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[1] Data provided to Office of Senator Tammy Baldwin by Morningstar, Inc.