

For Release
September 26, 2005
4:30 p.m. EDT

Corporate Laws Committee
Continues Work on
Director Voting

The Committee on Corporate Laws of the Section of Business Law of the American Bar Association met in Chicago on September 23 and 24, 2005, to continue its work on various issues, including the matter of whether to propose revisions to the Model Business Corporation Act relating to voting by shareholders for the election of directors. At the Chicago meeting, the Committee evaluated and discussed the many helpful observations and comments contained in the 36 letters it received by August 15, 2005, in response to the Committee's June 22, 2005 Discussion Paper* and other developments.

One positive development is the growing trend of voluntary adoption by certain corporations of corporate governance guidelines that address the failure of nominees to satisfy a minimum vote requirement. One such guideline is that exemplified by the action of the board of directors of Pfizer, Inc. (as well as similar action and variations thereon by other companies), to the general effect that a nominee for director must tender his or her resignation to the board of directors for action by the board in the event that the

* The Discussion Paper and the responses may be accessed on the website of the Section of Business Law at <http://www.abanet.org/buslaw/r/0004.html>. The Discussion Paper and this Release have been prepared by the Committee on Corporate Laws of the Section of Business Law of the American Bar Association (the "ABA"). Neither the Discussion Paper nor this Release set forth a proposal recommended by the Committee and do not purport to set forth ABA policy. They have not been approved by the Section of Business Law, the House of Delegates or the Board of Governors of the ABA. Accordingly, they should not be considered as representing the policy of the ABA.

nominee “receives a greater number of votes ‘withheld’ from his or her election than votes ‘for’ such election.” The Committee is looking at whether there are suitable ways in the Model Act to reinforce this kind of voluntary initiative. The Committee is continuing as well to study other director voting issues, including those identified in the Discussion Paper.

The Director Voting Task Force of the Committee is continuing its objective and intensive work on this subject. The next full Committee meeting is scheduled for December 1 and 2, 2005, at which time the Committee expects to receive a further report from the Task Force, which will be meeting in the interim. Until the full Committee has reached its final conclusions and has taken definitive action, its deliberations remain confidential.

As noted in the Discussion Paper, this is a very complex issue, and recommendations by the Committee of proposed amendments to the Model Act involve a deliberative process that includes consideration of changes at successive meetings and a requirement that any proposed change be published in *The Business Lawyer*.

Thus, it is too early to predict any timetable for the Committee to conclude its work on this subject. The Committee appreciates not only the input of interested persons and groups, but also the patience of those involved in this process.