

Pennsylvania State Senate Democratic Policy Committee

Witten Testimony On

Equal Pay

by

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Tyler Hall 275 Swamp Rd, Newtown, PA 18940

Good afternoon. I'm Tracy Lawless, a government relations professional based in Pittsburgh PA. I also serve as co-chair of the workforce subcommittee of the Governor's Advisory Commission on Women. I've had the honor to serve alongside your colleagues in the Senate as part of this Commission's work as well as dozens of other women across the Commonwealth representing various business and non-profit sectors impacting women in the workforce. Pay equity is one of several areas we have examined on the commission as well as childcare access, women veterans issues and nontraditional career paths for women. Other subcommittees have addressed women's health issues and violence prevention. Today my remarks will focus on pay equity. While I've had my own personal experience and resolution with pay disparity among my male counterparts in the workplace earlier in my career, today I will provide you with some big picture perspective and data.

In Pennsylvania women earn 79 cents for every dollar paid to men, amounting to a gap of over \$10,000 a year. According to the National Partnership for Women and Families, across race and ethnicity, women in the United States are paid just 76 cents for every dollar paid to men.¹

That's more than \$14,000 less per year – the equivalent of 18 months of food, 13 months of child care, 7 months of mortgage payments or the full cost of tuition and fees at a two-year community college.

For women of color, the combined challenges of racial and gender discrimination result in even harsher wage gaps. According to a 2022 report from the National Women's Law Center, Black women earn just 63 cents and Latina women earn only 55 cents for every dollar paid to white men. At the current slow rate of progress, women of color are projected to wait more than a century before achieving pay parity with white men.

FEDERAL

While the federal Equal Employment Opportunity Commission (EEOC) focuses on anti-discrimination in the employee base, the Office of Federal Contract Compliance Programs (OFCCP) promotes anti-discrimination in hiring practices. Contractors that are not compliant can be audited, sued, and lose their government contracts.

There is also the Equal Pay Act (EPA) at the Federal level. The Equal Pay Act prohibits paying men and women differently for the same work with four exceptions. Employers can pay workers at different rates if they do so based on:

¹ <https://nationalpartnership.org/economic-justice/fair-pay/>

1. Seniority
2. Merit
3. The quantity of quality of the employees work
4. Any other factor other than sex

Keep in mind, the enforcement agency for this is the EEOC. The key word being enforcement. The EEO Commission focuses on the priorities of the current Administration. In the last 15 months this Commission has been primarily focused on protecting religious freedom in the workplace, reversing DEI policies, and enforcement action that protects American workers from what they are calling anti-American bias involving preferences for foreign workers.²

Also, in place is title VII of the Civil Rights Act of 1964. This prohibits employment discrimination based on race, color, sex, sexual orientation, gender identity and national origin. Unlike the Equal Pay Act, there is no requirement that the jobs must be substantially equal. This is also “enforced” by the EEOC. So examples of violations might include giving assignment preferences to people of a certain sexual orientation, providing training opportunities to one gender, condition hiring or promotion on a test that excludes a certain gender and is not based on a reasonable, job-related factor, rescinding a job offer after finding out someone is transitioning from one gender to another.

The EEOC has several tools to leverage to address gender and racial pay gaps including outreach and education, enforcement, and litigation if they choose.

² <https://www.eeoc.gov/newsroom/eeoc-delivers-administration-priorities-and-president-trumps-executive-orders>

There is also a federal Executive Order dating back to Lyndon Johnson that requires certain government contractors to conduct an annual self-audit including compensation and pay equity this should be enforced by the Department of Labor's office of federal Contract and Compliance Programs (OFCCP). This includes a requirement for private sector employers with 100 or more employees and Federal contractors with 50 or more employees to meet certain criteria, to submit annual demographic workforce data, including data on race/ethnicity, sex and jobs categories.

STATES

There are also several Pay Equity laws in place at the state level. For example:

Pennsylvania is in good company in that we have equal pay for work under "equal conditions" on jobs which require equal skill.

New York – equal pay for substantially similar work

Massachusetts – equal pay for comparable work; safe harbor defense

California – Fair Pay Act; pay data reporting

Illinois – certification of equal pay compliance (2024)

Under current PA law – Pennsylvania employers are prohibited from discriminating on the bases of sex by paying less wages to employees if one sex for equal work on jobs that require equal skill, effort, and responsibility, and which are performed under similar working conditions. And as I mentioned previously, pay differences can be based on a seniority system, a merit system, a quantity/quality of production

measurement system, a differential based on any other factor other than sex.

We already know the gender wage gap is the result of many factors, including occupational segregation, bias against working mothers, and direct pay discrimination. The bottom line is, when an employee works hard and follows the rules, they should earn the same amount as their colleagues for doing the same job.

SENATE BILL 889

The problem is the current law in PA isn't comprehensive enough to combat unequal pay in the workplace and some of the lack of enforcement at the federal level makes it worse. Senate Bill 889 would make Pennsylvania's antiquated Equal Pay Law more robust by:

1. Broadening the scope of current law to include more employees and fringe benefits;
2. Protect employees from retaliation when inquiring about wage information, ensuring wages are based on bona fide factors; and
3. Provide workers the ability to collect unpaid wages when an employer is found to violate the law.

In short, Senate Bill 889 is an impactful piece of legislation aimed at promoting fairness and equity in the workplace for all employees in Pennsylvania.

Senate Bill 889 seeks to broaden the scope of our current laws surrounding wage transparency and employee protections. This bill has the potential to create a more inclusive workplace environment by

ensuring that a greater number of employees are covered under these essential labor protections. By expanding the definition of employees and fringe benefits, we acknowledge the diverse and evolving nature of our workforce, ensuring that all workers have the rights and protections they deserve.

BEST PRACTICES

We know when there are actual and perceived disparities in the workplace, it will lead to lower success rates for attracting talent, lower work satisfaction rates which leads to lower productivity, and higher turnover rates. I know when my colleagues in employment law advise our private sector clients, we recommend a governance strategy that includes pay equity metrics, policies, and best practices. Only 22% of the 922 largest public U.S. corporations reported conducting a pay equity analysis for their U.S. workforce prior to 2016 and 2020. Furthermore, the New York Stock Exchange has introduced a tool enabling its publicly listed companies to monitor their progress on equity. Some additional best practice recommendations are to be pro-active in setting annual self audits that will aid in correcting identified pay disparities as opposed to general pay gaps. Other best practices could include:

- Set starting pay without regard to prior pay
- Test for and correct salary compression when market pressure are increasing starting salaries
- Have a written policy that establishes factors considered in setting and increasing pay
- When relying on evaluations for merit increases, including a scoring system based on objective factors to mitigate subjectivity and the potential for unconscious bias.

- Establish a pay analysis group that covers over 80% of your workforce in advance
- Conduct annual training on pay equity as part of a DEIA program.

CONCLUSION

One of the most significant aspects of the proposed legislation is its provision that protects employees from retaliation when they seek information regarding wage disparities. In many workplaces, employees may fear retribution when inquiring about wages, which perpetuates a culture of secrecy and inequality. By explicitly safeguarding workers in this regard, Senate Bill 889 empowers employees to advocate for themselves and ensures that wages are determined based on bona fide factors such as experience, education, and merit, rather than on discriminatory practices.

Additionally, this legislation provides critical mechanisms for workers to collect unpaid wages when an employer is found to be in violation of the law. Many employees face challenges in recovering wages that are rightfully theirs, and this bill addresses that inequity head-on. By facilitating the recovery of unpaid wages, we are not only supporting the financial stability of our workforce but also reinforcing the principle that hard work should be justly compensated.

In conclusion, I urge you to support Pennsylvania Senate Bill 889. This bill represents a significant step forward in promoting fair labor practices, empowering employees, and ensuring equity within our workplaces. In my shared work of the Workforce Subcommittee of the Governor's Advisory Commission on Women, I believe that it is our duty to advocate for policies that foster a more just and equitable workforce for all Pennsylvanians.

I thank you for advancing legislation that will ensure that women are recognized equally for the value of their work

Thank you for your time and consideration.