
A BILL FOR AN ACT

RELATING TO GOVERNMENT CONTRACTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that pay disparity
2 persists between men and women who do similar work. In 2013,
3 women engaged in full-time, year-round work earned just 78.3 per
4 cent of the wages collected by their male counterparts.

5 Although the pay gap has narrowed, the Institute for Women's
6 Policy Research reports that if the pace of change continues at
7 the same rate as it has since 1960, women and men will not reach
8 parity until 2058.

9 The legislature further finds that action should be taken
10 to encourage greater gender equality in the workplace. Since
11 first enacting laws against employment discrimination based on
12 sex decades ago, it has been the intent of the legislature to
13 promote gender equality in the workplace. Other states, like
14 New Mexico and Minnesota, have taken the initiative to use their
15 contracting power to enforce pay equity between men and women
16 who work under certain government contracts. President Obama
17 has also initiated such action within the federal government



1 through executive order. Federal contractors are required to
2 supply information about wages and are held accountable for
3 violations of pay equity based on gender. The legislature finds
4 that Hawaii should follow suit in order to effect its intentions
5 to promote gender equality in the work place and close the pay
6 gap between men and women.

7 The legislature also finds that pay secrecy undermines
8 efforts to close the pay gap. A 2010 Institute for Women's
9 Policy Research/Rockefeller Survey of Economic Security reported
10 that 23.1 per cent of private sector workers reported that
11 discussion of wages and salaries was formally prohibited, and an
12 additional 38.1 per cent reported that such discussion was
13 discouraged by managers. Pay secrecy inhibits workers from
14 pursuing claims of pay discrimination. The federal government
15 and many states have taken action to end wage secrecy by
16 prohibiting retaliation against employees who discuss wages.
17 Hawaii can also take this step by banning retaliation against
18 employees who perform work under government contracts and
19 discuss or inquire about wages. Wage information for state
20 employees is available to the public, and similar transparency
21 should exist for those who perform work under state contracts.



1 The purpose of this Act is to encourage improvements in pay
2 equity between men and women by:

3 (1) Requiring contractors who win certain state contracts
4 to pay men and women equally for similar work;

5 (2) Requiring contractors who win certain state contracts
6 to report wages paid to employees by gender; and

7 (3) Prohibiting state contractors from retaliating against
8 employees for disclosing wage information.

9 SECTION 2. Chapter 103, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§103- Wage equity; reporting; enforcement. (a) All
13 contractors and subcontractors performing services under a
14 contract subject to section 103-55 shall pay employees who
15 perform work under such contracts equal wages or salaries for
16 performance of work which requires equal skill, effort, and
17 responsibility, and which are performed under similar working
18 conditions.

19 (b) Any governmental contracting agency awarding a
20 contract subject to section 103-55 shall include in the
21 contract:



- 1 (1) A provision requiring the contractor to submit to the
2 department of labor and industrial relations for
3 transmittal to the governmental contracting agency
4 prior to completion of the contract, a report, on a
5 schedule determined by the governmental contracting
6 agency, showing a summary of the wages paid to its
7 employees who performed direct, measureable work under
8 the contract, by gender; and
- 9 (2) A provision specifying that liquidated damages may be
10 imposed in the event that a contractor violates the
11 wage requirements of this section.
- 12 (c) If the governmental contracting agency finds, after
13 proper notice and opportunity for hearing, that a violation of
14 this section has occurred, the contractor shall be suspended
15 from doing any work on a contract with a governmental
16 contracting agency for a period of three years from the notice
17 of violation; provided that the contractor shall complete
18 performance on any active contract.
- 19 (d) A contractor shall not discharge or in any other
20 manner discriminate or retaliate against an employee who



1 performs direct, measurable work under a contract governed by
2 this section because the employee:

3 (1) Has inquired about, discussed, or disclosed the wages
4 of the employee or another employee;

5 (2) Asserts any right under this subsection; or

6 (3) Files any complaint for violation of this section.

7 (e) The prohibition against retaliation under subsection
8 (d) does not apply to an employee who has access to wage
9 information of other employees or applicants as part of the
10 employee's essential job functions and discloses the wages of
11 other employees or applicants to individuals who do not
12 otherwise have access to the information, unless the disclosure
13 is:

14 (1) In response to a formal complaint or charge;

15 (2) In furtherance of an investigation, proceeding,
16 hearing, or action, including an investigation
17 conducted by the contractor; or

18 (3) Consistent with the contractor's legal duty to furnish
19 information.

20 (f) The comptroller shall adopt rules pursuant to chapter
21 91 as necessary for the enforcement, administration, and



1 effectuation of this section. These rules shall have the force
2 and effect of law."

3 SECTION 3. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 4. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Government Contracts; Pay Equity; Gender Discrimination

Description:

Bars gender-based wage discrimination in certain government contracts. Establishes a wage reporting requirement. Provides penalties for violation. Prohibits retaliation against employees. (HB536 HD2)

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