

HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

February 6, 2018
Rm. 309, 8:30 a.m.

To: The Honorable Aaron Ling Johanson , Chair
Members of the House Committee on Labor

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. No. 2137

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services (on the basis of disability). The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

H.B. No. 2137, if enacted, will add a new section to H.R.S. chapter 378, part I, prohibiting employer inquiries about salary or wage history or reliance on such history in determining compensation for an applicant in the hiring process, and amend H.R.S. § 378-2.3, by adding a subsection (b) prohibiting an employer from retaliating against an employee for disclosing wages or discussing wages.

The HCRC strongly supports H.B. No. 2137.

The HCRC strongly supports the prohibition against employer inquiries into and consideration of salary or wage history in determining compensation in the hiring process, and also strongly supports the addition of subsection (b) to H.R.S. 278-2.3 which prohibits employer retaliation for disclosing or discussing pay information. Employees must be permitted to discuss wage differences, in order to determine pay disparity. Free and open discussion will promote pay equality between genders. HCRC supports this bill as a step towards ending pay discrimination against women, particularly women of color, in lower wages than their male counterparts. Equal pay for equal work will inure to the benefit of women employees, families, and children.

HB-2137

Submitted on: 2/5/2018 9:40:28 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Councilmember Yuki Lei Sugimura	Maui County Council	Support	No

Comments:

This bill prohibits prospective employers from requesting or considering a job applicant's wage or salary history as part of an employment application process or compensation offer. Prohibits enforced wage secrecy and retaliation or discrimination against employees who disclose, discuss, or inquire about their own or coworkers' wages.



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS			MAILING ADDRESS
John Bickel, President	Guy Archer	Jan Lubin	Cameron Sato	P.O. Box 23404
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Karin Gill, Secretary	Chuck Huxel	Doug Pyle		

February 2 , 2018

TO: Honorable Chairs Johanson and Members of Labor & Public Employment Committee

RE: HB2137 Relating to Equal Pay

Support for hearing on Feb. 6

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support HB2137 as it would prohibit prospective employers from requesting or considering a job applicant's wage or salary history as part of an employment application process or compensation offer. It also prohibits enforced wage secrecy and retaliation. The National Partnership for Women and Families reports that women in Hawai'i earn 84 cents for every dollar earned by men. This is not acceptable. This bill takes a few steps in the right direction.

Thank you for your favorable consideration.

Sincerely,

John Bickel
President



1050 Bishop St. PMB 235 | Honolulu, HI 96813
P: 808-533-1292 | e: info@hawaiiifood.com

Executive Officers

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Barry Taniguchi, KTA Superstores, *Advisor*
Derek Kurisu, KTA Superstores, *Advisor*

TO:
Committee on Labor and Public Employment
Rep. Aaron Ling Johanson, Chair
Rep. Daniel Holt, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: Tuesday, February 6, 2018
TIME: 8:30am
PLACE: Conference Room 309

RE: HB 2137 Relating to Equal Pay

Position: Comments

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

Hawaii currently has an unemployment rate of about 2%, which is the lowest that any state has ever recorded. In this incredibly competitive labor market employers must use all the tools available to them to fill job openings with qualified candidates. An applicant's salary history is one important piece of information that helps paint a picture of a person's work experience and career trajectory.

Both job seekers and those involved in the hiring process are aware that a previous salary is not the sole dictator of the wage at a new job. Potential employees can easily let employers know during the hiring process if they feel that their former wages were inadequate for any reason, or not an accurate comparison for the work and compensation they anticipate in the new position. However, prohibiting any discussion of previous wages means that both parties may have to start negotiations with hypothetical numbers, which can make the process unnecessarily complicated and adversarial.

While we fully support the intent of this measure, our concern is that banning the disclosure of this particular piece of information places both potential employers and employees at a

disadvantage when conducting negotiations. We ask that the measure be reworded to encourage salary disclosure to be voluntary on the part of job seekers. We thank you for the opportunity to testify.



**Testimony to the House Committee on Labor & Public Employment
Tuesday, February 6, 2018 at 8:30am
Conference Room 309, State Capitol**

RE: HOUSE BILL 2137 RELATING TO EQUAL PAY

Chair Johanson , Vice Chair Holt, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") supports equal pay in the workplace, however, at this time, we do not support HB 2137. Like many difficult issues complexities exist.

The Chamber is Hawaii's leading statewide business advocacy organization, representing approximately 2,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We have concerns for the following reasons:

Existing Law

It is already against the law for an employer to discriminate in setting employee wages based on gender. At the state level we have the Equal Pay Law, which clearly states that no employer shall discriminate based on gender when setting wages. At the federal level, the Equal Pay Act says that employers must pay equal wages to women and men in the same establishment for performing substantially equal work.

Under existing laws, employees who perform "substantially similar work" under similar working conditions, must be paid equally, unless the employer can demonstrate that the wage differential is based on either:

- A seniority system;
- A merit system;
- A system that measures quality or quantity of production; or
- A bona fide factor other than sex, race or ethnicity (such as education, training, or experience).

Second, the law already requires that each factor must be relied on reasonably and account for the entire wage differential.

Sharing of Wage Information

While federal law protects certain sharing of wage information, the bill goes much farther than present federal law. We believe that this section could lead to morale problems in the workplace.



Prohibition of Salary History

HB2137 states that its objective is to "Disrupt the cycle of wage inequality for women and minorities" and "encourage equal pay between men and women."

These are both important problems to solve. The fact is that prohibiting a discussion between hiring manager and applicant on current and past salary history will not solve, but will worsen the pay gap.

- 1) In study after study, both men AND women, have unconscious biases that result in the belief that men are more worthy of higher salaries and promotions, despite everything being equal. With this bill in place, men will ask for and receive more money, women will ask for and receive less money. The pay gap will widen.
- 2) It's very difficult to determine skills and abilities from an interview. Male candidates will exaggerate their abilities. Female candidates have been found to underestimate their abilities. Assessment tests can provide limited information on general skills, but are not an accurate determination of abilities. They are very expensive for companies to administer and provide limited help on the capabilities of an employee.
- 3) Hiring Managers need all the information they can get to help them pay a fair and proper wage. If a candidate is currently underpaid because they worked at a bad company, they can explain the situation to the hiring manager.

Also, please note, in addition to the pay gap widening, a secondary unintended consequence will be reduced productivity as companies mistakenly hire applicants who have exaggerated their abilities. Without the check and balance of previous salary history, companies will learn and have to deal with the true abilities on the job. This could cause havoc, particularly in jobs such as healthcare where there is little room for error.

Employers like to have as much information as possible on job applicants, and prior salary is a helpful data point when evaluating and comparing candidates, said David Conmy, principal owner of Zenzile Consulting in San Jose and president of the Bay Area Human Resource Executives Council. "It is human nature for people to go out and price-compare," he said, noting that salary history "is one component businesses look at to see if candidates are equally qualified."

Conclusion

We support the principle of equal pay, however we believe this legislation would have a reverse effect, would be costly, potentially increasing payroll and recruiting costs, and ultimately impose enormous burdens and risks on employers; devalue important factors in establishing wages, such as training, experience, education and skill; and expand litigation opportunities. Lastly, it could tie the hands of employers in offering other benefits that employees may value for their own individual situation.

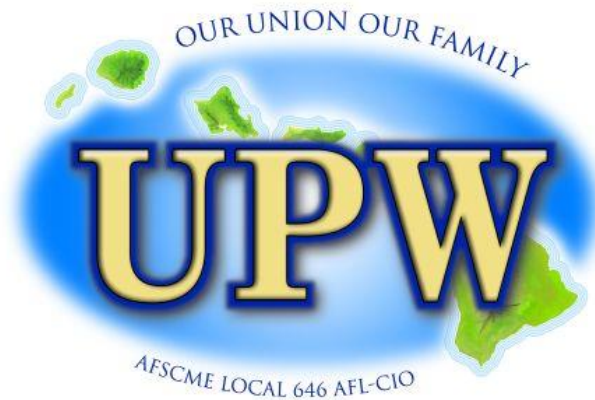


Chamber *of* Commerce HAWAII

The Voice of Business

Essentially, companies will have to guess how much money to pay which could lead to lower offers. On the opposite spectrum, employers will have to try to justify why one applicant (someone they really want to hire) can't be paid a premium without bumping up everyone else in a substantially similar position.

While we understand the intent, please **defer** this bill, so that further research can be done on the outcome and unintended consequences of similar bills that passed in other states, such as New York. Thank you for the opportunity to testify.



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Ninth Legislature
Regular Session of 2018

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
The Honorable Aaron Ling Johansen, Chair
The Honorable Daniel Holt, Vice Chair

DATE OF HEARING: Tuesday, February 6, 2018
TIME OF HEARING: 8:30 a.m.
PLACE OF HEARING: State Capitol,
415 South Beretania Street
Conference Room 309

TESTIMONY IN SUPPORT OF -HB2137 RELATING TO EQUAL PAY

By DAYTON M. NAKANELUA,
State Director of the United Public Workers (UPW),
AFSCME Local 646, AFL-CIO

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO. The UPW is the exclusive bargaining representative for approximately 12,000 public employees, which include blue collar non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

HB2137 will take the fight for equal pay to a higher level with a large step forward to break the cycle of wage inequality for women and minorities. Employers will be prohibited from asking about a person's salary history in the job application process to set compensation offers. Employers will also be prohibited from enforced wage secrecy that encourages wage discrimination by the employer.

The UPW strongly supports this measure. Thank you for the opportunity to submit this testimony.

To: Hawaii State House Committee on Labor and Public Employment
Hearing Date/Time: Tuesday, Feb. 6, 2018, 8:30 a.m.
Place: Hawaii State Capitol, Rm. 309
Re: Testimony of Planned Parenthood Votes Northwest and Hawaii in strong support of H.B. 2137, relating to Equal Pay

Dear Chair Johanson and Members of the Committee,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in strong support of H.B. 2137, which seeks to increase fairness and lessen discrimination in the workplace.

PPVNH supports equal pay policies that bring women’s earnings in line with men’s earnings.

Women have higher rates of economic insecurity than men do, and their lower wages hurt not only themselves but also their families who rely on those earnings for all or part of their income. Women are also more likely to rely on public benefits like Medicaid, the Supplemental Nutrition Assistance Program (SNAP, formerly food stamps), and housing assistance. This economic insecurity is even more common for women of color.

Closing the wage gap requires laws like H.B. 2137 that address workplace discrimination. Employers pay women less from the moment of hire, and are more likely to deny them promotions because of the presumption that they will have children and thus commit less time and dedication to their jobs.

If women do get pregnant or take on caregiving responsibilities, they sometimes lose income because of overt discrimination based on these stereotypes. They also lose pay when they are deprived of opportunities to advance to higher paid jobs or are pushed out of work altogether because employers do not accommodate needs that may arise for women as a result of motherhood (like the need to pump breast milk at work or take time off to care for a sick child).

Remedying pay disparities improves the lives of women and their families, and helps relieve the economic burden of women’s health care and family planning. Please pass H.B. 2137 in support of Hawaii’s working women.

Thank you for this opportunity to testify in support of this important measure.

Sincerely,

Laurie Field
Hawaii Legislative Director

eliminating racism
empowering women

ywca

O'ahu

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1566 Wilder Avenue
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Hawaii State House Committee on Labor & Public Employment
Hearing Date/Time: Tuesday, February 6, 2018, 8:30AM
Hawaii State Capitol, Rm. 309

Position Statement Supporting House Bill 2137

Thank you Chair Johanson, Vice Chair Holt and committee members, The YWCA O'ahu supports House Bill 2137, which would help close the wage gap between men and women.

House Bill 2137 makes small provisions that ensure a person is paid according to their education, experience, and skills. It is an undeniable fact that women earn less than men. Women in Hawaii earn on average twenty cents less per dollar than a male counterpart. Native Hawaiian women earn 40 cents less per dollar. Women earn less from the beginning of their career and that lower salary follows them. Salary negotiating workshops for women will advise not to answer the "previous salary" question if possible, because they know the harm it will cause. The loss of earnings over a lifetime is significant to a woman, her family, and her economic vitality.

For women in Hawaii, the yearly collective lost in wages is more than \$2.5 billion. If the wage gap were closed, women would have enough money for:

- An additional 8 months of child care
- Approximately 51 more weeks of food for her family
- More than 5 additional months of rent

The additional income is also beneficial to our local economy. The changes in HB 2137 are small but significant. It allows women who have the experience, education, and skill set to be paid a salary/wage they deserve.

Kathleen Algire
Director, Public Policy and Advocacy
YWCA O'ahu

YWCA IS ON A MISSION

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Aaron Ling Johanson, Chair,

Rep. Daniel Holt, Vice Chair

Tuesday, February 6, 2018

8:30 AM

Room 309

SUPPORT FOR HB 2137 - EQUAL PAY

Aloha Chair Johanson, Vice Chair Holt and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the approximately 5,500 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that approximately 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

HB 2137 prohibits prospective employers from requesting or considering a job applicant's wage or salary history as part of an employment application process or compensation offer and prohibits enforced wage secrecy and retaliation or discrimination against employees who disclose, discuss, or inquire about their own or coworkers' wages.

Community Alliance on Prisons supports this important measure. This particular bill focuses on diminishing the pay gap when women change employment, and on allowing women to speak with colleagues, so they can discover when they are being paid less than men. The two tenets of the bill: (a) to prohibit employers from asking potential employees about salaries in a previous job, and (b) to prevent employers from negatively sanctioning employees who discuss their salaries.

Current laws focusing on equality have not created a gender-neutral wage landscape, and more legislation is needed if pay equity is to occur before 2058 (date cited in bill). In Hawai'i, women with the same skill sets earn 84% of what a man earns (full-time, year-round work).

2017 US Current Population Survey provides the average pay of men and women working full time within specific occupations, and in almost every occupation, men are paid more than women.¹

¹ "Labor Force Statistics from the Current Population Survey," US Dept. of Labor, Bureau of Labor Statistics.
<https://www.bls.gov/cps/cpsaat39.htm>

Gender pay gap is found across ethnic/racial groups, age groups, educational groups, and occupational groups.²

Gender pay gap penalizes all households in Hawaii, since many households rely on the paychecks of more than one household member.

Gender pay gap penalizes children excessively, since many children reside in female-headed households.

Research shows that workers stay longer and are more productive, when working for companies which treat them with dignity. A recent Harvard-Berkeley study showed that pay inequality decreased worker attendance, cooperation, and output.³

We urge the committee to pass this important measure. Mahalo for this opportunity to testify in support of this bill.

*"It's indisputable that there's a real pay gap.
People can argue about how big,
but that's almost beside the point.
The point is that every woman, every girl,
deserves to get paid what they're worth."
Sheryl Sandberg*

² AAUW, The Simple Truth about the Gender Pay Gap, 2017.

<https://www.aauw.org/resource/the-simple-truth-about-the-gender-pay-gap>

³ "The Morale Effects of Pay Inequality," Emily Breza, Supreet Kaur & Yogita Shamdasanani, NBER Working Papers, National Bureau of Economic Research, 2016. <http://www.nber.org/papers/w22491.pdf>



February 4, 2018

To: Hawaii State House Committee on Labor and Public Employment
Hearing Date/Time: Tuesday, February 6, 2018 (8:30 am)
Place: Hawaii State Capitol, Rm. 309
Re: Testimony in support of HB2137

Dear Representative Aaron Ling Johansen (Chair), Representative Daniel Holt (Vice Chair), and Committee Members,

I am grateful for this opportunity to testify in **strong support of HB2137**, which directly confronts the gender equity issue in employment wages. This is a concern in Hawai‘i, and in the USA in general because most Americans believe fundamentally in fairness. We hear this mantra whispered to children by family members, imparted to students in secondary school, and promoted in community educational policies. If we spend this much effort in extolling the benefits of fairness in a civil society, how can we not support this attribute in the work place?

We have clear evidence that fairness does not prevail in the locations where people earn their incomes. Men and women performing similar occupational tasks are not paid the same salaries. These gender-based salary differentials are found across occupations, and continue through individuals’ working lives, worsening with age.¹ The gender pay gap affects women’s abilities to feed their families at the start of their careers, and their capacities to retire in comfort at age 65. All families in Hawai‘i with a female family member in the workplace are negatively impacted.

There is little that women can do to protect themselves against the gender pay gap. Attending university does not eliminate the gender effect in salaries. Women experience its effects a year after receiving their undergraduate degrees, and their economic situations worsen in comparison to those of men ten years after graduation.²

Women are encouraged to select high-profit majors, such as STEM fields, but research shows that when women become more prevalent in a field, salaries drop in the profession.³ There is a gender effect across occupations and within occupations, and women cannot change this situation on their own.

This issue is complex, and is not correcting merely through cultural change. At current rates of change, my grand-daughter will still not have equal pay. This pace of change is too slow for the good of women and their families, and legislation, such as this bill is needed to encourage speedier change. The gender pay gap will require multiple types of policy interventions to correct. Two simple fixes are proposed in this bill, which is focused on discussion of wages in the workplace, and provision of one’s previous salary to a new employer. Women’s salary histories show that a gender penalty follows

¹ US Dept. of Labor, Bureau of Labor Statistics, “Labor Force Statistics from the Current Population Survey,” <https://www.bls.gov/cps/cpsaat39.htm>; AAUW, *The Simple Truth about the Gender Pay Gap*, 2017; <https://www.aauw.org/resource/the-simple-truth-about-the-gender-pay-gap/>.

² AAUW, 2012, *Graduating to a Pay Gap*, <https://www.aauw.org/resource/graduating-to-a-pay-gap/>; AAUW, AAUW, 2007, *Behind the Pay Gap*, <https://www.aauw.org/files/2013/02/Behind-the-Pay-Gap.pdf>.

³ Francine D. Blau & Lawrence M. Kahn, 2016, “The Gender Wage Gap,” <http://ftp.iza.org/dp9656.pdf>

them from one workplace to another. This bill is an effort to break this cycle, by prohibiting employers from asking potential employees about their earnings at a previous job. This means that women will be offered salaries based on their educational qualifications, their occupational skills, and their workplace successes, rather than the lower wages they suffered at previous jobs. Similar bills have been passed in a number of other states, including, California, Oregon, Delaware, Massachusetts, and New Jersey, and proved successful.

It is apparent that employees benefit from a salary-history bill, but does it benefit businesses? Are there any incentives for employers to hire in this manner? Interestingly, recent studies by a Harvard-Berkeley coalition of economists have demonstrated that pay inequality has major effects in the workplace for employers.⁴ For example, workers who were aware that they were paid in an unequal fashion (i.e., different wages for similar types of work) demonstrated their disgruntlement in various ways against their employer. Unfairly paid employees were lax in their work attendance, showed decreased cooperation with each other, and had lower work outputs, compared with those, who knew they were being paid in an equal manner. Employees reward their employers with better work according to a variety of measures in an economically-fair environment.

One conclusion from these studies is that employers should be implementing these types of measures, which are zero cost to the employer, in the interests of getting better work from their employees. A second lesson from the research is that employees who know that they are paid fairly are more invested in their place of employment, and in working effectively, so employers should share this information with their workers.

In fact, the second portion of this bill, preventing employers from negatively sanctioning employees who discuss their wages is also helpful for businesses in a fair wages environment because it encourages knowledge of wages and knowledge of fairness to percolate among employees. The Harvard-Berkley research demonstrates that this knowledge will be good for worker morale, the workplace environment, and ultimately, business output.

Some business owners have concerns that somehow they won't be able to hire good employees if they don't know previous salaries. This has not proved to be an issue in other jurisdictions, where employers do not access salary information. There are ample data for making good hiring decisions, available from the application of careful interview strategies, combined with attention to letters of reference about potential employees, and other documents, including Resumes, university transcripts, and history of previous work experience.

Not only do businesses benefit from following the rules suggested in this bill, but so do employees. In Hawai'i, full-time, year-round women workers earn on average only 84% of what their male counterpart earns. There are many situations, when women earn even lower percentages, especially if they are women of color, or work part-time, among other factors.

Moving Hawai'i forward to a situation in which women receive similar economic rewards to those of men has the potential to improve the situation of many Hawai'i households, which tend to include multiple earners living under the same roof.

⁴ Emily Breza, Supreet Kaur & Yogita Shamdasanani, 2016, "The Morale Effects of Pay Inequality," *NBER Working Papers*, National Bureau of Economic Research

Approximately 56,000 Hawaiian households survive on female wages, and 19% of these families are struggling with incomes below the poverty level.⁵

In conclusion the fixes provided in **HB2137** have high potential to improve women's salaries across the state. Focusing on fairness is also good for businesses by improving workplace morale and output. I urge the passage of this bill.

Thank you for the opportunity to testify.

Sincerely

Susan J. Wurtzburg

Ph.D., Policy Chair

⁵ National Partnership for Women and Families, 2017, "Hawaii Women and the Wage Gap," <http://www.nationalpartnership.org/research-library/workplace-fairness/fair-pay/4-2017-hi-wage-gap.pdf>



February 6, 2018

To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair and
Members of the Committee on Labor and Public Employment

From: Jeanne Y. Ohta, Co-Chair

RE: HB 2137 Relating to Equal Pay
Hearing: Tuesday, February 6, 2018, 8:30 a.m., Room 309

POSITION: Strong Support

The Hawai'i State Democratic Women's Caucus writes in strong support of HB 2137 Relating to Equal Pay which would prohibit employers from requesting or considering a job applicant's wage or salary history as part of an employment application process or compensation offer.

The measure would also prohibit retaliation against employees who disclose or discuss their wages. Employees cannot know that they have lower salaries if they are prohibited from discussing them. Indeed, that is one of the reasons that Lilly Ledbetter did not know for years that she was the victim of wage discrimination. (Lilly Ledbetter Fair Pay Act of 2009)

Lilly Ledbetter was one of the few female supervisors at the Goodyear plant in Gadsden, Alabama, and worked there for close to two decades. She faced sexual harassment at the plant and was told by her boss that he didn't think a woman should be working there. Her co-workers bragged about their overtime pay, but Goodyear did not allow its employees to discuss their pay, and Ms. Ledbetter did not know she was the subject of discrimination until she received an anonymous note revealing the salaries of three of the male managers. After she filed a complaint with the EEOC, her case went to trial, and the jury awarded her back-pay and approximately \$3.3 million in compensatory and punitive damages for the extreme nature of the pay discrimination to which she had been subjected.

The Court of Appeals for the Eleventh Circuit reversed the jury verdict, holding that her case was filed too late – even though Ms. Ledbetter continued to receive discriminatory pay – because the company's original decision on her pay had been made years earlier. In a 5-4 decision authored by Justice Alito, the Supreme Court upheld the Eleventh Circuit decision and ruled that employees cannot challenge ongoing pay discrimination if the employer's original discriminatory pay decision occurred more than 180 days earlier, even when the employee continues to receive paychecks that have been discriminatorily reduced.

It is because of this situation and many like it that we are asking that the legislature pass legislation that protects workers from discrimination.

Both provisions in this measure would assist in closing the gender wage gap. The use of salary histories in job applications continues to penalize women by perpetuating the wage gap by basing salaries for new jobs on their current lower salaries. Salary history bills have been passed in several states, including: California, Delaware, Massachusetts, New Jersey, and Oregon. Employee wage discussion bills have been passed in 18 states, including Colorado, Nevada, and Puerto Rico.

The gender pay gap is found across ethnic and racial groups, age groups, educational groups, and occupational groups; pay inequality is worse for women of color; and the gap gets worse as women age.

More needs to be done to eliminate the gender pay gap. This measure is just a start. We ask that the committee pass this measure.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls. Thank you for the opportunity to provide testimony.

HB-2137

Submitted on: 2/5/2018 6:00:57 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Beverly Munson	AAUW & private citizen	Support	Yes

Comments:

Passage of this bill is absolutely essential to addressing the gender pay gap in Hawaii. By passing this bill, Hawaii will be joining many other states in ending archaic employment practices that result in lower pay for women performing the same jobs as their male co-workers.

As a Human Resources Executive with almost 30 years experience I know firsthand that the majority of salary offers are made based on a person's past salary history which continues to perpetuate the gender salary gap.

Taking punitive action against someone who shares their personal salary information with another employee is an outdated practice that has been illegal in other states (e.g. California) for decades.

This bill will harm no employer except those who still in 2018 continue to engage in subversive employment practices that have disparate impact on women.

Please help the women of Hawaii in their quest for equity by passing this bill.



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Supporting HB 2137 – Relating to Equal Pay
House Committee on Labor & Public Employment
Scheduled for hearing at Tuesday, February 6, 2018, 8:30 AM, in Conference Room 309

Dear Chair Johanson, Vice Chair Hold, and members of the Committee:

Thank you for the opportunity to testify in SUPPORT of **HB 2137**, which would prohibit prospective employers from requesting or considering a job applicant's pay history as part of the hiring process as well as prohibit enforced wage secrecy and retaliation or discrimination against employees who disclose, discuss, or inquire about their own or their colleagues' pay.

These provisions are intended to reduce the gender wage gap, which would help ensure more financial security for women and their families across Hawai'i. Eighteen other states have laws that protect against discrimination for discussing wages, and since 2016 eight states and cities have banned salary history requests.

In Hawai'i, females make 84 cents for every dollar a male makes. However, Asian women in Hawai'i make only 74 cents for every white male dollar, significantly lower than the national average for Asian women of almost 85 cents.

The National Partnership for Women and Families pegs the pay gap as taking \$2.5 billion out of the pockets of women statewide, or \$7,640 per woman per year. According to the National Women's Law Center, the lifetime wage gap for women in Hawai'i is \$305,600 over a 40-year career.

The problem of the wage gap is only compounded in Hawai'i by our high cost of living. These burdens make it very difficult for women to pursue further education, start a business, buy a home, or save for retirement. Economic insecurity also makes it more difficult for women to leave domestic violence situations. These all have effects on future generations.

Three out of ten Hawai'i single mothers with children under the age of 18 live in poverty. When their children are all under the age of five, one-third of single mothers are poor. Meanwhile, research from the Institute for Women's Policy Research estimates that eliminating the gender wage gap would reduce the poverty rate among single mothers at the national level by almost half.

We can and should find ways to better ensure that our women and their children can find economic security in the Aloha State. The modest and common-sense proposals contained within HB 2137 would move us closer towards that goal.

We appreciate your consideration of this testimony.

The Hawai'i Appleseed Center for Law and Economic Justice is committed to a more socially just Hawai'i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.

HB-2137

Submitted on: 2/4/2018 8:54:11 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Stacey Moniz	Hawaii State Coalition Against Domestic Violence	Support	No

Comments:

On behalf of the Hawaii State Coalition Against Domestic Violence (HSCADV) and our 22 member organizations across the state, I am submitting testimony in **STRONG SUPPORT** of HB2137 which would create equal pay for women who are performing similar work. It seems like a simple and common sense approach, however, passing this law will require your support. I urge you to pass HB2137 and create fairness and equity once and for all. Thank you so much for your consideration.

Peace be the journey,
Stacey Moniz

HB-2137

Submitted on: 2/5/2018 1:17:41 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Zachary LaPrade	Quicksilver Charters	Oppose	No

Comments:

HB-2137

Submitted on: 2/4/2018 9:36:27 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Janet Morse	AAUW Hawaii	Support	No

Comments:

February 4, 2018

Hawaii State House Committee on Labor & Public Employment

Hearing Date/Time: February 6 2018 (8:30am)

Place: Hawaii State Capitol, Rm.309

Re: Testimony in support of HB2137

Dear Representative Aaron Ling Johanson, Chair and Members of the Committee,

I am writing in support of HB2137.

Women in Hawaii make 84 cents for every dollar a man makes. The National Partnership for Women and Families pegs the pay gap as taking \$2.5 billion out of the pockets of women statewide, or \$7,640 per woman per year. According to the National Women's Law Center, the lifetime wage gap for women in Hawaii is \$305,600 over a 40-year career. This is clear evidence that women are paid less, documenting the need for a legislative fix.

Women have been waiting decades for the gender pay gap to diminish. Progress in decreasing the gap is too slow without legislation. The goal of HB2137 is to diminish the gender pay gap, and to promote fairness in how salaries are determined for both men and women. The bill focuses on diminishing the pay gap when women change employment, and on allowing women to speak with colleagues, so they can discover when they are being paid less than men. The two tenets of the bill: (a) to prohibit

employers from asking potential employees about salaries in a previous job, and (b) to prevent employers from negatively sanctioning employees who discuss their salaries.

Requiring salary history is unfair to women who make less than their male counterparts and is not necessary to decide how much to pay employees. There is data available showing the range in wages for every type of work in Hawaii. There are other tools available to employers such as paying salaries based on educational level, work experience, and specific skills. Being forced to disclosing previous salaries keep women's pay artificially decreased.

Sanctions against discussing salaries make it possible for employers to hide this discrimination from female employees. Women are greatly disadvantaged when disparities in salaries are hidden.

There is little that women can do to protect themselves against the gender pay gap. I feel strongly that this bill is needed to help women to achieve economic equity in employment and ensure that our women – and their children and families – can find economic security in the Aloha State.

Thank you for the opportunity to testify.

Janet Morse

AAUW Hawaii member

HB-2137

Submitted on: 2/5/2018 8:26:10 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:



Randy Perreira
President

HAWAII STATE AFL-CIO

345 Queen Street, Suite 500 • Honolulu, Hawaii 96813

Telephone: (808) 597-1441

Fax: (808) 593-2149

The Twenty-Ninth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii State AFL-CIO

February 6, 2018

H.B. 2137 – RELATING TO EQUAL PAY

The Hawaii State AFL-CIO strongly supports H.B. 2137 which prohibits prospective employers from requesting or considering a job applicant's wage or salary history as part of an employment application process or compensation offer and prohibits enforced wage secrecy and retaliation or discrimination against employees who disclose, discuss, or inquire about their own or coworkers' wages.

Unfortunately a gender wage gap still exists in the United States. On average, women earn roughly 79 cents for every dollar a man earns and in some cases work harder and longer hours. This is simply wrong. Passage of H.B. 2137 will hopefully correct the wage and salary injustice many women face today. The Hawaii State AFL-CIO strongly urges the Committee on Labor and Public Employment to pass H.B. 2137 to help ensure equal pay becomes a reality.

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira
President

Hearing Date: February 6, 2018, 8:30 AM, Conference Room 309

To: Chair Representative Aaron Ling Johanson, Vice Chair Representative Daniel Holt and Members of the House of Representatives Committee on Labor & Public Employment

From: Jean Evans, MPH (Individual, jevans9999@yahoo.com, 808-728-1152)

Re: TESTIMONY IN SUPPORT OF HB 2137 RELATING TO EQUAL PAY

My name is Jean Evans. I retired after 40 years holding executive positions in several Hawaii non-profit agencies. In these positions I interviewed and hired hundreds of applicants. I am also a member of AAUW Hawaii.

I am in strong support of HB 2137 Relating to Equal Pay.

It is well documented that there is a large gap in gender pay across the nation and in Hawaii where women earn only 84% of what men earn.

Non-profit agencies in Hawaii have historically offered low salaries which did not reflect the level of education, experience and especially, responsibility, associated with the positions. These agencies, which have been predominately filled by females with a few male top executives, were seen as helping and giving organizations and so perpetuated the idea that the women should work for lower wages for the good of the community. Slowly this mind-set is changing to reflect a more professional attitude toward the non-profit workforce. However, this change continues to remain slow and contributes significantly to the wage gap.

In my application for the two executive director positions which I subsequently secured, I was required to list my past salary history, which because I worked my way up the ladder in non-profits was lower than salaries in other sectors in Hawaii. Only after being in these positions, did I discover that previous Executive Directors were compensated well above me. In one case over twice my salary. Interestingly, one was a female and the other a male.

I am ashamed to admit, when in the position of hiring, I often used previous salary history to offer lower salaries to save funds for the agency. I also found myself using pay history to eliminate applicants with high salary histories, who were perhaps changing fields or relocating from the mainland, thinking that they wouldn't consider the lower range I could offer. With the increased usage of on-line application processes, screening by salary history often eliminates applicants even before an interview or leads to focusing on only "bargain" employees. If this measure were in place all applicants would be considered based on their qualifications rather than pay history.

I also support prohibiting retaliation against employees who share and discuss their own wages.

Employee turnover continues to be a problem in Hawaii, especially when unemployment is low. This bill is an important step in reducing turnover by ensuring competitive salaries and equal treatment.

Let Hawaii join other states in passing this important legislation so that we can level salary discrepancies and retain talented employees. I encourage your support for this measure.

Mahalo for allowing me to submit my testimony today.

HB-2137

Submitted on: 2/2/2018 6:04:17 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede		Support	No

Comments:

HB-2137

Submitted on: 2/3/2018 4:45:15 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly		Support	Yes

Comments:

Dear Chair Johanson, Vice-Chair Holt, and Members of LAB Committees,

Thank you for the opportunity to testify in strong support for H.B. 2137.

In Hawaii, median annual pay for a woman who holds a full-time, year-round job is \$40,434 while median annual pay for a man who holds a full-time, year-round job is \$48,074. This means that women in Hawaii are paid 84 cents for every dollar paid to men, amounting to an annual wage gap of \$7,640. This equates to about 51 weeks of food for the working woman. In Hawaii, more than 52,000 family households are headed by women; about 17 percent of the families headed by women have incomes that fall below the poverty level. Eliminating the wage gap would provide much-needed income to women whose wages sustain their households. So not only do gender pay gap unfair to the working women, it is unfair to their families. (Source: [National Partnership for Women & Families, Hawaii Women and the Wage Gap, April 2017](#))

H.B. 2137 proposes two effective simple fixes to the problem of gender pay gap, at zero cost to the employers. By prohibiting employers from asking potential employees about their earnings at a previous job, women will be offered salaries based on their educational qualifications, their occupational skills, and their workplace successes, rather than the lower wages they suffered at previous jobs. Preventing employers from retaliating employees who discuss their wages is also helpful for businesses in a fair wages environment because it encourages knowledge of wages and knowledge of fairness to percolate among employees. A research by a coalition of Harvard-Berkley economists demonstrates that this knowledge will be good for worker morale, the workplace environment, and ultimately, business output. (Source: Emily Breza, Supreet Kaur & Yogita Shamdasanani 2016 "The Morale Effects of Pay Inequality," NBER Working Papers, National Bureau of Economic Research)

As a retired IBM manager, I can testify for H.B. 2137 based on its benefit to the employers. Starting late 1990s, IBM started to track and share with employees where their pay stood in comparison to what market paid. This meant the managers had to make sure that employees were paid fairly in order to retain them. This also assured the employees that they were paid fairly, reducing the suspicion that employees at other companies may be getting paid better. While fair pay is not the only tool available to managers, I believe this fair and transparent pay practice which H.B. 2137 would create

helped with employee morale and employee retainment. In one case when I made sure that an employee was paid fairly for the work she was doing rather than paid based on pay from her previous job (she was a teacher), she went extra mile whenever IBM needed her to do so and became one of the best performers in the business unit.

So I strongly support H.B. 2137 because it is fair to women, for their families, and because these pay practices are also good for the employers.

HB-2137

Submitted on: 2/2/2018 10:42:20 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melinda Wood		Support	No

Comments:

I strongly support HB 2137 as a step toward addressing the pay gap between women and men. I have experienced the frustration of trying to get salary information for similar positions from an employer in our state and was denied at every turn. Such secrecy is demoralizing and serves only to maintain the unequal status quo. Please advance this bill to help the working women of Hawaii.

HB-2137

Submitted on: 2/3/2018 5:01:08 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Betty Sestak		Support	No

Comments:

clear evidence that women get less pay than men for same work.. this may help and is a first step.

HB-2137

Submitted on: 2/4/2018 2:44:12 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Gail Switzer		Support	No

Comments:

Ms. Jo Ann C. Kocher
7124 Naakea Street
Honolulu, Hawaii 96825
February 4, 2018

Subject: Support of HB2137

Date/Time of Hearing: February 6, 2018; 8:30 a.m.

To Whom It May Concern:

Thank you for the opportunity to express my support for HB2137 (AAUW Equal Pay Bill). As President of the Windward Oahu Branch of the American Association of University Women (AAUW), the issue of equal pay is very important to me. There are inequities in the salaries of men and women in too many workplaces, nationwide and in Hawaii, where women are paid 84 cents for every dollar their male counterparts earn. Unfortunately, this disparity often follows the women even when they change jobs. This affects the woman's ability to provide for herself throughout her working life and into retirement. Since many women are contributing or sole providers for their families, it also impacts their children adversely. In Hawaii, more than 52,000 households are headed by women. About 17 percent of those families live below the poverty line.

This issue has been manifested for many years and is caused by various contributing factors. It cannot be solved overnight but can be corrected with multiple levels of interventions. Although gender discrimination is illegal, women have been waiting for many years for the pay gap to be eliminated. Women cannot, and should not, wait any longer. One of the most important and effective corrections to this issue is through legislative changes. Two simple proposals are included in HB2137, which would greatly help women in the workforce. This bill focuses on a discussion of wages in the workplace, and provision of one's previous salary to a new employer. Women's salary histories show that a gender penalty follows them from one workplace to another. This bill, if passed, would begin to break this cycle, by prohibiting employers from asking potential employees about their earnings at a previous job. Women would be offered salaries based on their educations, occupational skills and achievements, rather than the lower wages they suffered at previous jobs. Previous salaries need to be unknown for women to avoid prior pay discrimination from following them from job to job. The bill would also prohibit employers from sanctioning or discriminating against employees who discuss their salaries. Similar bills have been passed in several other states. It is time for Hawaii to move into the 21st Century regarding equal pay for men and women. Research has shown that productivity and morale increase for both employers and employees when everyone is treated fairly and with respect.

Thank you for the opportunity to testify in this important matter. If you have any questions or would like to discuss my support for this bill further, please feel free to contact me at 808 395-1300 or at Tiger2Balm@aol.com.

Sincerely,

Jo Ann C. Kocher

HB-2137

Submitted on: 2/3/2018 6:29:52 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Marshall		Support	No

Comments:

HB-2137

Submitted on: 2/4/2018 6:03:20 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lea Minton		Support	No

Comments:

HB-2137

Submitted on: 2/5/2018 6:49:55 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
elizabeth hansen		Support	No

Comments:

Aloha - it is essential to pass the equal pay bill for women. We hold the Hawai'i economy

together and support our families.

Mahalo

Elizabeth Hansen, MSW

Hakalau HI 96710

HB 2137

**LATE
TESTIMONY**

HOUSE OF REPRESENTATIVES
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018

LATE

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Aaron Ling Johnason, Chair
Rep. Daniel Holt, Vice Chair
State Capitol, Conference Room 309
Tuesday, February 6, 2018, 8:30 a.m.

STATEMENT OF ILWU LOCAL 142 RE: HB 2137

Thank you for the opportunity to present testimony regarding H.B. 2137. ILWU Local 142 supports this bill.

H.B. 2137 seeks to address the problem of pay inequality based on gender, an illogical, counterproductive, and unsustainable practice that must be eliminated. The problem of pay inequality is especially a barrier to the economic progress of women of color. This proposal prohibits employers from inquiring into an applicant's salary history, unless the employee consents to disclosure because reliance on an applicant's salary history often functions to perpetuate the historical inequality in compensation, as prior salary levels are used as a benchmark for determining current and future salary.

Employers are also prohibited from requiring secrecy amongst employees in discussing their rates of pay, because common, voluntary discussions of compensation can generate the mobilization of the work force to campaign for greater gender pay equity. As a long-standing trade union, ILWU especially stands in support of this concept, not only because we oppose pay inequality based on gender, but because we support the rights of all employees, unionized or non-unionized, to work together to improve their wages, working conditions and terms of employment. The principle of protecting common concerted activity amongst employees is a cornerstone of American labor law and is fundamental to implementing the right to organize and take effective collective action. Such dialogue amongst employees further educates the workforce, trains them for effective citizenship, and encourages the kind of grassroots participation that is essential to the functioning of democratic government.

ILWU Local 142 therefore supports the enactment of H.B. 2137 to promote the cause of gender pay equity.

LATE

HB-2137

Submitted on: 2/5/2018 11:02:58 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake		Support	No

Comments:

Aloha,

I am a new member of the AAUW and I'm proud to support this bill.

It is now 2018. It is long overdue for women to be respected as equals to their male peers through equal pay. Legislation is required to move forward on this equality issue. Women are still being paid less at the work place. Fairness in pay helps to create a positive and inclusive environment irregardless of gender.

Wage history will not ensure equal pay for equal work. I believe that education level, work experience, and professional skills are a much better criterias for determining salary. Also performance evaluation tools (which are under the employer's control) can regularly measure productivity and meaningful contributions which then could determine salary.

I am hopeful that more employers will see the advantage of equal pay. Creating a work place based on fairness, inclusiveness and merit will be much more valuable in the long run. Hard feelings of ill will and resentment prompted by unequal pay cannot be resolved overnight.

Please be part of a progressive movement that respects all for what they contribute.

Mahalo,

Caroline Kunitake



Hawaii Women's Coalition

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Aaron Ling Johanson, Chair

Rep. Daniel Holt, Vice Chair

LATE

DATE: Tuesday, February 6, 2018

TIME: 8:30 AM

PLACE: Conference Room 309

STRONG SUPPORT FOR HB2137 Relating to Equal Pay

Aloha Chair Johanson, Vice Chair Holt and members,

The Coalition has supported some form of equal pay statute for over a decade. We hope that this is the year our efforts might actually come to fruition.

The components of this bill, excluding employees' salary history as a requirement for employment, prohibiting forced wage secrecy and prohibiting retaliation against workers who "disclose, discuss, or inquire about their own or coworkers' wages," will go a long way towards creating fairness in the workplace.

We note that in Hawaii women earn 84% of what a man earns. The consequences of this inequality multiply over time and are more serious at the lower end of the economic scale. Moreover, current laws focusing on equality have not created a gender-neutral wage landscape. More legislation is needed if pay equity is to occur before 2058.

Please also note that the gender pay gap gets worse as women age; that the gender pay gap penalizes all households in Hawaii, since many households rely on the paychecks of more than one household member; Finally, that the gender pay gap penalizes children excessively, since many children reside in female-headed households.

This bill would also benefit businesses as well. Research shows that workers stay longer and are more productive, when working for companies that treat them with dignity. A recent Harvard-Berkeley study showed that pay inequality decreased worker attendance, cooperation, and output (Emily Breza, Supreet Kaur & Yogita Shamdasanani 2016 "The Morale Effects of Pay Inequality,"

Mahalo for the opportunity to testify,

Ann S. Freed Co-Chair, Hawai'i Women's Coalition

Contact: annsreed@gmail.com Phone: 808-623-5676

HB-2137

Submitted on: 2/6/2018 9:34:04 AM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Kimura	Healthy Mothers Healthy Babies	Support	Yes

Comments:

LATE

HB-2137

Submitted on: 2/5/2018 11:16:21 PM

Testimony for LAB on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Virginia Hinshaw		Support	No

Comments:

LATE