

HAWAII  
STATE  
COMMISSION  
ON THE  
STATUS  
OF  
WOMEN



Chair  
LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA  
CYD HOFFELD  
MARILYN LEE  
JUDY KERN  
AMY MONK  
LISA ELLEN SMITH

Executive Director  
Khara Jabola-Carolus

Email: [kjabola-carolus@dhs.hawaii.gov](mailto:kjabola-carolus@dhs.hawaii.gov)

235 S. Beretania #407  
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April 3, 2018

To: Rep. Nishimoto, Chair  
Rep. San Buenaventura, Vice Chair  
Honorable Members of the H. Committee on Judiciary

From: Khara Jabola-Carolus  
Executive Director  
Hawaii State Commission on the Status of Women

Re: Testimony in Support, SB2351 SD1, HD1 With Amendments

On behalf of the Commission on the Status of Women, I thank you for this opportunity to testify in support of SB2351 SD2 HD1, with recommendations as to the language of HD1. SB2351, if passed, would prohibit an employer from requesting or considering a job applicant's pay history, and prohibit enforced wage secrecy and retaliation against employees who disclose, discuss, or inquire about their own or coworkers' wages. These provisions intend to correct Hawai'i's gender wage gap—the growing pay difference in men's and women's median earnings.

Hawai'i's gender wage gap has widened over the past twenty years. In 1997, women in Hawai'i earned 83.8 percent of what men earned. Today, women in Hawai'i earn 81.6 percent of what men earn for comparable work. The wage gap is even more pronounced for women of marginalized identities. The most extreme disparities exist among earnings of Native Hawaiian and immigrant women (naturalized or undocumented). The difference between women's and men's median annual earnings is \$9,000. This would pay for over 3 years of community college tuition in Hawai'i.

Current Hawai'i law prohibits pay discrimination, but does not prohibit inquiries into pay history. If a woman is initially paid less than a man for comparable work in her first job and subsequently transitions to a second job in which her new employer bases her pay on previous salary, then her lower pay will persist. To break this cycle, an ever-growing list of states have restricted or banned employers from seeking an applicant's pay history.

**To strengthen this measure, the Commission offers the following amendments:**

- Deletion of Section 2, subsection (a)(2), which prohibits employers from considering pay history to determine an applicant's pay, except where an applicant voluntarily discloses her pay history. The Commission questions the enforceability, in-built contradiction, and therefore efficacy of this well-intentioned provision.
- Section 3(a): Replace the term "equal work" for "comparable work that is substantially similar" in Section 3. The proposed language is broader and more inclusive of work not necessarily identical or alike in all respects. Minor differences in skill, effort, or responsibility will not prevent two jobs from being considered comparable.
- Addition of a requirement that, after a conditional offer and prior to pay negotiations, employers disclose a "pay scale" or comparative information on salary for comparable workers for the position sought within an organization.

The Commission therefore supports SB2351 and urges the Committee to pass this important measure with the recommended amendments.

Sincerely,

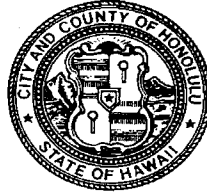
Khara Jabola-Carolus

DEPARTMENT OF HUMAN RESOURCES

**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET 10<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

KIRK CALDWELL  
MAYOR



CAROLEE C. KUBO  
DIRECTOR  
  
NOEL T. ONO  
ASSISTANT DIRECTOR

April 4, 2018

The Honorable Scott Y. Nishimoto, Chair  
The Honorable Joy A. San Buenaventura, Vice Chair  
and Members of the Committee on Judiciary  
The House of Representatives  
State Capitol, Room 325  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

SUBJECT: Senate Bill No. 2351, S.D. 1, H.D. 1  
Relating to Equal Pay

The City and County of Honolulu ("City"), Department of Human Resources offers comments on Senate Bill 2351, S.D. 1, H.D. 1. The City strongly supports the goal of promoting equality in the workplace and closing the gender wage gap in Hawaii.

In order to clarify intent, however, the City requests that amendment to Hawaii Revised Statutes, Chapter 378, specify that such amendment is not intended to apply to the City and other counties which have exempt and excluded employees covered by directives whose pay follows collective bargaining agreements.

The City requests the following amendment (added language underlined):

**§378- Employer inquiries into and consideration of salary or wage history.**

....

(c) This section shall not apply to:

....

(3) Public employee positions, including excluded and exempt employees, for which salary, benefits, or other compensation are determined pursuant to collective bargaining or executive directives.

The Honorable Scott Y. Nishimoto, Chair  
The Honorable Joy A. San Buenaventura, Vice Chair  
and Members of the Committee on Judiciary  
The House of Representatives  
April 4, 2018  
Page 2

These changes would clarify that all categories of public employees are excluded from the prohibition on inquiries into and consideration of wage history. Without this amendment, excluded and exempt employees whose compensation is set via executive directive to mirror schedules determined pursuant to collective bargaining processes, would be unfairly differentiated from other public employee positions.

Thank you for the opportunity to comment on this bill.

Sincerely,

  
For Carolee C. Kubo  
Director



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

#### Executive Officers

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**Derek Kurisu**, KTA Superstores, *Advisor*

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TO:  
Committee on Judiciary  
Rep. Scott Y. Nishimoto, Chair  
Rep. Joy A. San Buenaventura, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION  
Lauren Zirbel, Executive Director

DATE: Wednesday, April 4, 2018  
TIME: 2pm  
PLACE: Conference Room 325

RE: SB 2531 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 thank you for the opportunity to testify.



April 2, 2018

To: Hawaii State House Committee on Judiciary  
Hearing Date/Time: Wednesday, April 4, 2018 (2:00 pm)  
Place: Hawaii State Capitol, Rm. 325  
Re: Testimony in support of SB2351 SD1 HD1

Dear Representative Scott Y. Nishimoto (Chair), Representative Joy A San Buenaventura (Vice Chair), and Committee Members,

I am grateful for this opportunity to testify in **strong support of SB2351**, 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.<sup>1</sup> 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.

In addition, economic data demonstrate that the pay gap is not diminishing any time soon, which means that my grand-daughter will still be dealing with lower wages than men in her university graduating cohort, and in her later years of life. Indeed, “a girl born in the United States in 2017 has a life expectancy of 87 years. In 2082, when she turns 65, a wage gap will still remain in 13 states.”<sup>2</sup>

There is little that women can do on their own to protect themselves against the gender pay gap. This is why government action, and legislation of this type is so important. If laws do not change, then women are abandoned to their economic plight.

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.<sup>3</sup>

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

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<sup>1</sup> 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/>.

<sup>2</sup> “Status of Women in the States. Projected Year the Wage Gap Will Close by State. IWPR #R476.” March 2017. [www.statusofwomen.org](http://www.statusofwomen.org)

<sup>3</sup> AAUW, 2012, *Graduating to a Pay Gap*, <https://www.aauw.org/resource/graduating-to-a-pay-gap/>; AAUW, 2007, *Behind the Pay Gap*, <https://www.aauw.org/files/2013/02/Behind-the-Pay-Gap.pdf>.

profession.<sup>4</sup> There is a gender effect across occupations and within occupations, and women cannot change this situation on their own.

This issue is complex, and it will require multiple types of legislation and policy interventions to correct. This is only the start of the process. 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 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 educational qualifications, occupational skills, and 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 in changing how HR departments deal with potential employees. Their long-term effects are still to be measured, but it is significant that many legislators across the nation have deemed this tactic to be good policy.

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 Columbia University / University of California, Berkeley coalition of economists has demonstrated that pay inequality has major negative effects in the workplace for employers.<sup>5</sup> 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 fair employer, in the interests of getting better work from their employees and encouraging employees to remain with the business long-term. 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 fair wages to percolate among employees. The Columbia-Berkley research demonstrates that this knowledge will be good for worker morale, the workplace environment, and ultimately, business output.

Some business owners have mentioned concerns that for unspecified means they won't be able to hire good employees if they don't know previous salaries. I doubt that Hawai'i businesses are quite as poorly managed as implied by this statement, which is readily countered by available information from other locations. Hiring of good employees 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, readily

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<sup>4</sup> Francine D. Blau & Lawrence M. Kahn, 2016, "The Gender Wage Gap," <http://ftp.iza.org/dp9656.pdf>

<sup>5</sup> Emily Breza, Supreet Kaur & Yogita Shamdasanani, 2016, "The Morale Effects of Pay Inequality," *NBER Working Papers*, National Bureau of Economic Research.

available from the application of careful interview strategies, combined with attention to letters of reference about potential employees, and other documents, including resumes, university or high school transcripts, and a history of previous work experience. Indeed, just this past few months, I chaired a committee considering a CEO hiring for a consortium working across several Pacific states, and we experienced no difficulty in judging candidates, without using previous salary information.

It has also been suggested that disclosure of salaries should be voluntary. This type of modification does reduce the effect of the bill. Potential employees would feel pressured to disclose, and nervous that lack of disclosure would be viewed as uncooperative by the potential employer and diminish their chances of a job offer. This bill ideally should be amended to remove the option of disclosing salaries, rendering it more effective for reducing the gender pay gap.

I have also encountered the fallacious statement that maintaining the status-quo is more protective of women than removing previous salary disclosure. This idea is based on social science research demonstrating that women do not negotiate as well as men (a result of effective socialization in a gendered society), and that women who do negotiate are viewed more negatively than men in the same situation (also a cultural artifact). These well-accepted research outcomes should not result in the negation of portions of this bill. It seems more effective to provide education to women on how to be good negotiators (such as the AAUW Start Smart, or Work Smart programs), and also support the bill, which has been approved by legislators from many other states in the US, and overseas. There are decades of data demonstrating that the existing system is penalizing women, so an argument for the status-quo is not one that most women should endorse. In addition, several HR specialists submitted testimony in previous hearings about how knowledge of previous salaries disadvantages women significantly in new employment situations. Surely, it is valuable to listen to these accounts of work experience, from those who have dealt with employees and salaries for major portions of their working lives.

It is anticipated that owners and managers of well-run businesses will see the merits of this bill, and as has been shown, most businesses benefit from following the rules suggested in this bill, as do employees. In Hawai‘i, full-time, year-round women workers earn on average only 84% of what their male counterparts earn. There are many situations, when women earn 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. Approximately 56,000 Hawaiian households survive on female wages, and 19% of these families are struggling with incomes below the poverty level.<sup>6</sup> It is estimated that 61.2% of children living in poverty in our state with working mothers would benefit “if working women were paid the same as comparable men [2016 data].”<sup>7</sup>

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<sup>6</sup> 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>

<sup>7</sup> Table 3: Impact of Equal Pay on Children. Institute for Women’s Policy Research, “Status of Women in the States. IWPR #C457.” [www.statusofwomendata.org](http://www.statusofwomendata.org)

In conclusion the fixes provided in **SB2351** 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



**SB-2351-HD-1**

Submitted on: 4/2/2018 4:15:11 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gail Switzer	AAUW	Support	No

Comments:

eliminating racism  
empowering women

**ywca**

O'ahu

**Fernhurst YWCA**  
1566 Wilder Avenue  
Honolulu, Hawai'i 96822  
808.941.2231

**Kokokahi YWCA**  
45-035 Kāne'ohe Bay Drive  
Kāne'ohe, Hawai'i 96744  
808.247.2124

**Laniākea YWCA**  
1040 Richards Street  
Honolulu, Hawai'i 96813  
808.538.7061

ywcaoahu.org

To: Hawaii State House Committee on Judiciary

Hearing Date/Time: Wednesday, April 4, 2018, 2PM  
Hawaii State Capitol, Rm. 325

***Position Statement Supporting Senate Bill 2351 SD1 HD1***

Thank you Chair Nishimoto, Vice Chair San Buenaventura, and Committee Members,

The YWCA O'ahu **supports Senate Bill 2351 SD1**, which would help close the wage gap between men and women. Senate bill 2351 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, especially Native Hawaiian women, earn less than their male counterparts. This trend begins with their first job and because of practices like disclosing one's previous salary, follows a woman through her career. 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.

We have seen similar laws go into effect in New York City, Delaware, and California, with Massachusetts starting enforcement in the summer. Oregon and Maryland are also considering this legislation and some areas have included fines for companies found out of compliance. Around the country, we are seeing an end to discriminatory hiring practices through legislation like Senate Bill 2351.

The changes in SB 2351 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**

To: Hawaii State House of Representatives Committee on Judiciary  
Hearing Date/Time: Wednesday, April 4, 2018, 2:00 p.m.  
Place: Hawaii State Capitol, Rm. 325  
Re: Testimony of Planned Parenthood Votes Northwest and Hawaii in strong support of S.B. 2351, SD1, HD1, relating to Equal Pay

Dear Chair Nishimoto and Members of the Committee,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in strong support of S.B. 2351, SD1, HD1, which seeks to increase fairness 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 S.B. 2351 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 S.B. 2351 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



# HAWAII APPLESEED

## CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai'i Appleseed Center for Law and Economic Justice  
Supporting SB 2351 SD1 HD1 – Relating to Equal Pay  
House Committee on Judiciary  
Scheduled for hearing on Wednesday, April 4, 2018, 2:00 PM, in Conference Room 325

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Dear Chair Nishimoto, Vice Chair San Buenaventura, and members of the Committee:

Thank you for the opportunity to testify in SUPPORT of **SB 2351 SD1 HD1**, 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 coworkers' wages.

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 or retaliation for discussing wages, and since 2016 eight states and cities have banned salary history requests.

In Hawai'i, female workers earn 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 per woman 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 this bill would move us closer towards that goal.

We appreciate your consideration of this testimony.

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*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.*

**SB-2351-HD-1**

Submitted on: 4/2/2018 7:26:42 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Caroline Kunitake	AAUW-Hawaii	Support	No

Comments:

Dear Representative Scott Y. Nishimoto (Chair), Representative Joy A San Buenaventura (Vice Chair), and Committee Members,

**Hawaii Needs an Equal Pay Bill:**

- Gender-based salary differentials are found across occupations, and continue through individuals' working lives, worsening with age.[\[1\]](#)
- "A girl born in the United States in 2017 has a life expectancy of 87 years. In 2082, when she turns 65, a wage gap will still remain in 13 states."[\[2\]](#)
- Little that women can do on their own to protect themselves against the gender pay gap, legislation is needed
- 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.[\[3\]](#)
- 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.[\[4\]](#) There is a gender effect across occupations and within occupations, and women cannot change this situation on their own.

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Please support this bill.

Mahalo,

Caroline Kunitake

Member of AAUW-Hawaii



**SB-2351-HD-1**

Submitted on: 4/2/2018 8:11:17 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tiffany Peek	Planned Parenthood Generation Action	Support	No

Comments:



April 4, 2018

To: Representative Scott Nishimoto, Chair  
Representative Joy San Buenaventura, Vice Chair and  
Members of the Committee on Judiciary

From: Jeanne Y. Ohta, Co-Chair

RE: SB 2351 SD1 HD1 Relating to Equal Pay  
Hearing: Wednesday, April 4, 2018, 2:00 p.m., Room 325

**POSITION: Strong Support**

The Hawai'i State Democratic Women's Caucus writes in strong support of SB 2351 SD1 HD1 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 almost 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.

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.

“Salary is not a neutral, objective factor. Salary history is also an imperfect proxy for an applicant’s value or interest in a position. For example, relying on salary history can lead to depressed wages for individuals who have previously worked in the public sector or in nonprofits and are moving into the private sector; it can deprive senior individuals with higher salaries who are looking to change jobs or re-enter the workforce the opportunity to be considered for lower paying jobs they might seek.”<sup>1</sup>

Human resource managers do not need to ask for salary histories, they have other methods to determine compensation; such as market-based approaches to wage setting — where employers compensate workers on the basis of the needs of and competition for the job, rather than the history of the person. It is not necessary for employers to ask for salary histories.

Examples of the no cost, **publicly available wage data** are attached. There are many other websites with wage data and job demand information. Since this information is widely available, human resource managers should not need to ask for wage histories.

Wage information is also available on the University of Hawaii Community College’s website “Industry Sectors” at <http://uhcc.hawaii.edu/workforce/index.php>.

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.

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<sup>1</sup> National Women’s Law Center, “Asking for Salary History Perpetuates Pay Discrimination from Job to Job,” June 9, 2017, <https://nwlc.org/resources/asking-for-salary-history-perpetuates-pay-discrimination-from-job-to-job/>

# Attachment 1: Example of Wage Information from HireNet Hawaii, www.hirenethawaii.com



Here is the information you selected for Bookkeeping, Accounting, and Auditing Clerks in Honolulu County, HI.



## Bookkeeping, Accounting, and Auditing...

Compare

Honolulu County, HI

Compare

Summary | Description | Jobs | Candidates | Supply and Demand | Skills | Education and Work Experience | **Employment and Wages** | Nature of the Work | Job Requirements | Other

Customize Report

For help click the question mark icon next to each section.

### Employment Wage Statistics

This section shows the estimated employment wage statistics for individuals in Honolulu County, HI employed for Bookkeeping, Accounting, and Auditing Clerks in 2016.

Click a column title to sort.

Rate Type / Statistical Type	Entry level	Median	Experienced
Annual salary	\$29,350	\$39,040	\$45,690
Hourly wage	\$14.11	\$18.77	\$21.97



Source: Hawaii Dept. of Labor and Industrial Relations, Research and Statistics Office, OES BLS (State & Hon) and LEWIS (Other Counties)

The median wage is the estimated 50th percentile; 50 percent of workers in an occupation earn less than the median wage, and 50 percent earn more than the median wage. Entry level and Experienced wage rates represent the means of the lower 1/3 and upper 2/3 of the wage distribution, respectively. Data is from an annual survey.

### Wage Rates on Advertised Jobs

This section shows a statistical breakdown of available wage data on the 42 job openings advertised online for Bookkeeping, Accounting, and Auditing Clerks in Honolulu County, HI that posted a salary on March 17, 2018.

Click a column title to sort.

Rate Type / Statistical Type	Entry Level	Median	Experienced
Annual wage or salary	\$33,038	\$38,740	\$42,865
Hourly Wage	\$15.88	\$18.63	\$20.61



Source: Online advertised jobs data

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### Desired Salary of Available Candidates

This section shows the desired salary of potential candidates in the workforce system that are looking for jobs as Bookkeeping, Accounting, and Auditing Clerks in Honolulu County, HI on March 17, 2018.

Click a column title to sort.

Rank	Desired Salary	Potential Candidates	Percentage of Potential Candidates
1	Not Specified	14	9.46%
2	\$5,000 - \$19,999	2	1.35%
3	\$20,000 - \$34,999	41	27.70%
4	\$35,000 - \$49,999	63	42.57%
5	\$50,000 - \$64,999	26	17.57%
6	\$65,000 - \$79,999	2	1.35%



Source: Individuals with active résumés in the workforce system.

## Wage Rates Area Distribution



This section shows the distribution of the estimated 2016 median annual labor market wage rates for individuals employed in Bookkeeping, Accounting, and Auditing Clerks in Hawaii by county.

Click a column title to sort.

Rank	Area	Median
1	<a href="#">Maui County</a>	\$40,370
2	Honolulu County	\$39,040
3	<a href="#">Hawaii County</a>	\$38,430
4	<a href="#">Kauai County</a>	\$38,330



Source: Hawaii Dept. of Labor and Industrial Relations, Research and Statistics Office, OES BLS (State & Hon) and LEWIS (Other Counties)

The median wage is the estimated 50th percentile; 50 percent of workers in an occupation earn less than the median wage, and 50 percent earn more than the median wage. Entry level and Experienced wage rates represent the means of the lower 1/3 and upper 2/3 of the wage distribution, respectively. Data is from an annual survey.

## Wage Rates in Related Occupations



This section shows a comparison of 2016 median annual rates for occupations that are in the same occupational family as Bookkeeping, Accounting, and Auditing Clerks for Honolulu County, HI.

Click a column title to sort.

Rank	Occupation	Median	*Related By
1	<a href="#">Budget Analysts</a>	\$77,390	O*NET
2	<a href="#">Credit Analysts</a>	\$58,230	O*NET
3	<a href="#">Accountants</a>	\$58,100	O*NET
4	<a href="#">Tax Preparers</a>	\$56,970	O*NET
5	<a href="#">Executive Secretaries and Executive Administrative Assistants</a>	\$53,700	O*NET
6	<a href="#">Title Examiners, Abstractors, and Searchers</a>	\$52,860	O*NET
7	<a href="#">Legal Secretaries</a>	\$50,160	O*NET
8	<a href="#">City and Regional Planning Aides</a>	\$47,800	O*NET
9	<a href="#">Court Reporters</a>	\$47,280	O*NET
10	<a href="#">Payroll and Timekeeping Clerks</a>	\$43,660	O*NET
11	<a href="#">Library Technicians</a>	\$43,520	O*NET
12	<a href="#">Paralegals and Legal Assistants</a>	\$42,380	O*NET
13	<a href="#">Procurement Clerks</a>	\$41,710	O*NET
14	<a href="#">Human Resources Assistants, Except Payroll and Timekeeping</a>	\$40,630	O*NET
15	<a href="#">Statistical Assistants</a>	\$40,230	O*NET
16	<a href="#">Statement Clerks</a>	\$39,920	SOC4
17	<a href="#">Billing, Cost, and Rate Clerks</a>	\$39,920	O*NET
18	<a href="#">Bookkeeping, Accounting, and Auditing Clerks</a>	\$39,040	N/A
19	<a href="#">Insurance Claims Clerks</a>	\$38,890	O*NET
20	<a href="#">Insurance Policy Processing Clerks</a>	\$38,890	O*NET
21	<a href="#">Brokerage Clerks</a>	\$38,140	O*NET

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23	<a href="#">Loan Interviewers and Clerks</a>	\$37,430	O*NET
24	<a href="#">Bill and Account Collectors</a>	\$36,850	SOC4
25	<a href="#">Word Processors and Typists</a>	\$31,060	O*NET
26	<a href="#">Cargo and Freight Agents</a>	\$29,050	O*NET
27	<a href="#">Tellers</a>	\$25,670	SOC4
28	<a href="#">Medical Transcriptionists</a>	\$24,200	O*NET
29	<a href="#">File Clerks</a>	\$19,480	O*NET

BRIGHT OUTLOOK NATIONALLY



Source: Hawaii Dept. of Labor and Industrial Relations, Research and Statistics Office, OES BLS (State & Hon) and LEWIS (Other Counties)

The median wage is the estimated 50th percentile; 50 percent of workers in an occupation earn less than the median wage, and 50 percent earn more than the median wage. Entry level and Experienced wage rates represent the means of the lower 1/3 and upper 2/3 of the wage distribution, respectively. Data is from an annual survey.

\*Related By: O\*NET™ - The Occupational Information Network; O\*NET is a registered trademark of the US Department of Labor, Employment and Training Administration.  
SOC4 - Occupational grouping based on 1st 4 digits of the Standard Occupational Classification system.

Wage information is available by counties

**SB-2351-HD-1**

Submitted on: 4/2/2018 4:17:52 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anne Abaya	Individual	Support	No

Comments:

**SB-2351-HD-1**

Submitted on: 4/2/2018 3:10:55 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeannine	Individual	Support	No

Comments:

I am testifying in support of SB2351 SD1 to implement equal pay protections for all. And, while women are closing the gap in attaining higher education, their pay as compared to men for similar work is still unequal. Out state needs to take a step forward and close this gap so that women, many of whom are heads of households and are at an economic disadvantage as compared to men in similar jobs.

There some evident contributing factors that perpetuating this inequality: 1) employers asking for work pay history of applicants, and basing the salary and compensation based on previous earnings; 2) employers prohibiting employees from discussing salaries and benefits with other employees. This bill would prohibit employers from these outdated practices to pay parity for all.

For these reasons, I humbly ask for your support of this bill. Mahalo for your consideration.

Hearing Date: April 4, 2018, 2:00 pm., Rm 325

To: House Committee on Judiciary,  
Chair, Rep. Scott Y Nishimoto  
Vice Chair, Rep. Joy A San Buenaventura

From: Jean Evans, MPH (Individual, [jevans9999@yahoo.com](mailto:jevans9999@yahoo.com), 808-728-1152,  
99-1669 Hoapono Pl., Aiea, HI 96701)

**Re: TESTIMONY IN SUPPORT OF SB 2351, SD1, HD 1 - RELATING TO EQUAL PAY**

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

**I am strong support of SB 2351, SD1, HD1 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 responsibility associated with the positions. These agencies, which were 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 has been slow and contributes 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. 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, this type of salary history screening often eliminates applicants. If this measure were in place all applicants would be considered based on their qualifications rather than pay history.

**No matter how good your intentions are when in the position of hiring, if past salary history is available, it is very tempting to use it as a factor in hiring.**

I also support the provision 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 legislation where these measures have been shown to succeed in leveling the salary discrepancies and retaining talented employees. I encourage your support for this measure.

Mahalo for allowing me to submit my testimony today.

**SB-2351-HD-1**

Submitted on: 4/2/2018 4:52:37 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Amy Monk	Individual	Support	No

Comments:



**SB-2351-HD-1**

Submitted on: 4/2/2018 6:10:15 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
elizabeth hansen	Individual	Support	No

Comments:

It is imperative to finally pass this bill.

Mahalo. Elizabeth Hansen / Hakalau HI 96710

**SB-2351-HD-1**

Submitted on: 4/2/2018 6:49:53 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
amanda	Individual	Support	No

Comments:

I Amanda Patrick, stand in strong support of SB 2351

**SB-2351-HD-1**

Submitted on: 4/2/2018 6:52:09 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

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

Comments:

Dear Chair Nishimoto, Vice-Chair San Buenaventura, and Members of House Committee on Judiciary,

Thank you for the opportunity to testify in strong support for S.B. 2351 and thank you for your support in getting the companion measure HB2137 pass out of House.

In Hawaii, median annual pay for a woman who holds a full-time, year-round job is \$40,000 while median annual pay for a man who holds a full-time, year-round job is \$49,000. This means that women in Hawaii are paid 81.6 cents for every dollar paid to men, amounting to an annual wage gap of \$9,000. ***The gender wage gap widened since 2004*** in Hawaii when the median annual pay for a woman was \$40,957 which equated to 83.4 cents for every dollar paid to men. In Hawaii, more than 52,000 family households are headed by women; about 21.3 percent of the families headed by single mothers 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. (Sources: [National Partnership for Women & Families, Hawaii Women and the Wage Gap, April 2017](#), [Institute for Women's Policy Research, The Economic Status of Women in Hawaii, March 2018](#)). There is very little than women can do on their own to protect themselves against the gender pay gap and we need legislation to protect the working women and their families.

Gender pay gap is a complex issue and it will require multiple types of legislation and policy interventions to correct. S.B. 2351 proposes two effective simple fixes to the problem of gender pay gap, at zero cost to the employers. Similar recent laws prevail in other states, including: California, Oregon, Delaware, and Massachusetts. (Source: [AAUW Policy Guide to Equal Pay in the States](#))

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. Women's salary histories show that a gender penalty follows them from one workplace to another, and they do not discover this fact at their place of work. S.B. 2351 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, occupational skills, and 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 Columbia-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 S.B. 2351 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 IBM as well as 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 S.B. 2351 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 S.B. 2351 because it is fair to women, for their families, and because these fair pay practices are also good for the employers.

Thank you for taking time to read and take my testimony into consideration.

**SB-2351-HD-1**

Submitted on: 4/2/2018 9:15:23 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lea Minton	Individual	Support	No

Comments:

I strongly support SB2351, of course we need to put laws in place to work to create equal pay so that we don't continue to have gender based pay. I worked a job where I did the exact same thing my co-worker did, we brought in the same reimbursement for what we did and he received double my hourly salary. We were both equally qualified for our jobs with graduate degrees. I've worked where when one female employee left who had been paid the same hourly wage as me - that I was informed I'd be absorbing her position for a \$1 pay increase to my hourly wage, as well as my male co-worker's position for any work he did not do, for no pay increase. He had a substance use disorder and in the 2.5 years of my employment there he showed up to work 3 times. I was instructed every two weeks to walk his check to the bank. He made 4.8 X's an hour what I made, which I knew because I deposited his pay checks.

As a female who supports other family members I strongly support the need for reform to get rid of the gender pay gap. Let's pay women, transgender and queer persons the same as men for the work they do, meaning not only do we need to pay them equal, we need to not reduce the pay in the field if more persons of gender other than men work in it.

Mahalo for the opportunity to testify on this important matter.

**SB-2351-HD-1**

Submitted on: 4/2/2018 11:55:18 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Genie Jane	Individual	Support	No

Comments:

Dear hearing committee,

I am in support of SB 2351 - which is to promote equal pay - because no one should be told that they are receiving less income due to unreasonable reasons. The bill will prohibit employers from requesting or considering an applicant's income because of their past salary history. Employer's shouldn't decide an individual's income through what they had made prior but rather focusing on their expertise within that career field, as well as the skills they have that will benefit the company or organization.

**SB-2351-HD-1**

Submitted on: 4/3/2018 7:37:35 AM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Judy McCluskey	Individual	Support	Yes

Comments:

I strongly support SB2351. Passage of this bill will help overcome employer bias during the hiring process by prohibiting the employer from requiring information regarding the applicant's previous salary. Thus, the applicants would be judged on their qualifications and skills rather than the lower wages they earned at previous employment. In addition, the bill would provide protections for employees who discuss and compare their wages with coworkers, allowing them to judge for themselves what is fair. These two concepts would be steps in the right direction toward providing equal pay for women, who, as a group, historically have received significantly less compensation than men for equal work.

Eliminating the wage gap is good for women, families and the economy. In Hawaii, many mothers are the primary earners in their families with children under 18 years of age, yet they earn only 84 cents for every dollar earned by a father. Closing the wage gap would ensure families have greater financial security enabling them to better afford rent, groceries and childcare. It would also boost our state's economy by making up for monies lost annually in lower women's wages.

Equal pay for equal work would benefit society as a whole, focusing on fairness and improving morale, cooperation and productivity in the workplace.

I support this bill and would like to see it implemented as soon as possible.

Sincerely, Judy McCluskey

**SB-2351-HD-1**

Submitted on: 4/3/2018 7:57:34 AM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jamie Pardau	Individual	Support	No

Comments:

The fight to equalize pay in America has been a long one. Some progress has been made, but not enough. Every possible avenue to reach pay equity for women must be explored. This bill provides two essential steps: open discussions of salaries and the prohibition of requiring a job applicant to reveal previous pay levels. If the courts limit damages for inequity to a time period from the payment (as happened with Lily Ledbetter), women must know about the pay of male colleagues. This can only be achieved when salaries are discussed openly. And basing the wage offered to a job applicant on previous earnings can only continue the inequity of underpayment. Revealing previous pay levels should never be a requirement when applying for a job. This bill can address both. Please pass it!



**SB-2351-HD-1**

Submitted on: 4/3/2018 8:33:35 AM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patrick Callahan	Individual	Support	No

Comments:

**SB-2351-HD-1**

Submitted on: 4/3/2018 8:33:35 AM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patrick Callahan	Individual	Support	No

Comments:



**Testimony to the House Committee on Judiciary  
Wednesday, April 4, 2018 at 2:00 P.M.  
Conference Room 325, State Capitol**

**RE: SENATE BILL 2351 SD1 HD1 RELATING TO EQUAL PAY**

Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **has comments** on SB 2351 SD1 HD1, 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. Prohibits enforced wage secrecy and retaliation or discrimination against employees who disclose, discuss, or inquire about their own or coworkers' wages.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 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.

The Chamber supports equal pay and the equal pay language found in HRS chapter 378. Saying that, we do have concerns with the proposed amendments contained in SB2351 SD2 HD1 which would disallow employers from inquiring about the salary history of a potential employee. All employers covered by the National Labor Relations Act are already prohibited from preventing employees from discussing wages among themselves. Also, Hawaii Labor Relations Board generally applies similar law to employers not covered by the NLRA. Additionally, we believe that this section could lead to morale problems in the workplace.

Like many difficult issues, this one is full of complexity. Supporters of this legislation often cite statistics that say that on average, women earn 77 cents on the dollar as compared to men. This often leads to the assumption that there must be wide spread wage discrimination by employers. However, this does not tell the whole picture or provide details on what is happening in the workplace.

The 2009 report (see, U.S. Department of Labor, Consad Research Corporation, An Analysis of Reasons for the Disparity in Wages Between Men and Women) prepared for the U.S. Department of Labor, provides some insight into the factors that include the fact that a larger



percentage of women work in part-time jobs, a larger percentage of women leave the work force at some point for family responsibilities to name a few.

Another telling report comes from Pew Research. Below are some of other parts of the story.

- The BLS study looks at weekly earnings and not hourly earnings which leads to a larger gap, especially since women are twice as likely as men to work part time.
- The BLS study restricts the estimate to full time workers which leaves out a significant share of workers, both men and women. Also, men report working longer hours – 26% of full time men say they work more than 40 hours per week compared to 14% of women.
- Occupation, negotiation of wages and tradeoffs of compensation for other amenities such as flexible work hours are other attributes for the wage differential.
- For young women, the pay gap is smaller at 93%.
- The presence of discrimination is more difficult to quantify.

In closing, we support equal pay, however we believe this legislation would ultimately devalue key factors in establishing wages, such as training, experience, education, and skill; and expand litigation opportunities. If the concern is truly prohibiting discriminations then we believe enforcement should be the focus and not a change in the law. Lastly, it could tie the hands of employers in offering other benefits that employees may value for their own individual situation.

Thank you for the opportunity to testify.

**SB-2351-HD-1**

Submitted on: 4/3/2018 1:51:49 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	the Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:

Good afternoon. My name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **SB2351 SD1 HD1**, relating to Employment; Job Applicants; Salary History; Gender Discrimination; and Wage Secrecy.

The OCC Legislative Priorities Committee is in favor of **SB2351 SD1 HD1** and support its passage.

**SB2351 SD1 HD1**, is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it 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.

Specifically, the DPH Platform states, "We believe in efforts to build and retain a qualified workforce in Hawai'i.

As the party of working men and women in Hawai'i, we work to protect labor rights and social security; to ensure fair labor right and social security; to ensure fair labor practices, a living wage for all workers, equal pay for equal work and fair taxation; we encourage legislation to raise the minimum wage and paid family and sick leave; to protect employees' rights to organize and bargain collectively with their employers; to oppose the outsourcing of Hawaii's jobs; to promote employment opportunities and sustainable growth; to assist the economically disadvantaged and advocate for sound trade and economic policies; and build our workforce for jobs in emerging technologies,

in green industries, in renovation and in green construction, so that their jobs are not dependent on ever-expanding real estate development.

We believe that workers need to be safe and free from any form of discrimination, harassment or abuse in the workplace. We seek legislation that will achieve these goals.

We are committed to the elimination of glass ceilings that prevent women and minorities from advancing to the highest levels of government, education, and business.” (Platform of the DPH, P. 3, Lines 119, 122-129, 131-132, 143-145 (2016)).

Given that **SB2351 SD1 HD1** 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, it is the position of the OCC Legislative Priorities Committee to support this measure.

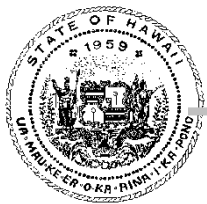
Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889



**LATE**

# HAWAI‘I CIVIL RIGHTS COMMISSION

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

April 4, 2018  
Rm. 325, 2:00 p.m.

To: The Honorable Scott Y. Nishimoto, Chair  
Members of the House Committee on Judiciary

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

Re: S.B. No. 2351, S.D.1, H.D.1

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.

S.B. No. 2351, S.D.1, H.D.1, 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 Hawai‘i Civil Rights Commission (HCRC) recommends that S.B. No. 2351, S.D.1, H.D. 1 should be amended by deletion of Section 2 of the bill, while retaining the current Section 3 of the bill.**

The HCRC supports the intent of S.B. No. 2351, S.D.1, H.D. 1, strongly supporting the proposed prohibition against employer retaliation for disclosing or discussing pay information, but has serious concern about the efficacy of the proposed prohibition against employer inquiries about salary or wage history or reliance on such history in determining compensation for an applicant in the hiring process.

The HCRC did not raise this concern or suggest amendments when S.B. No 2351 and its companion, H.B. No. 2137, were first heard before the Senate and House Committees on Labor, respectively. The concern arose and was articulated after the subject matter committee’s hearing on the bill, based on Commission review and discussion of the bill and relevant social and psychological research. A bibliography of relevant articles is attached.

## **HCRC Concerns RE: Section 2 of S.B. No. 2351, S.D.1, H.D.1**

Based on review of recent social and psychological research, the HCRC questions the efficacy of the proposed prohibition against employer inquiries into and consideration of salary or wage history in determining compensation in the hiring process, with an exception allowing employer consideration of salary

history in determining salary, benefits, and other compensation, if an applicant voluntarily and without prompting discloses salary history.

The HCRC is concerned that this well-intentioned statutory prohibition and exception may actually have a negative impact on women applicants and even exacerbate, rather than narrow, the gender pay gap.

Numerous studies have shown that men are more likely to engage in negotiation over compensation in the hiring process, affecting starting pay. Under the proposed law, male applicants will be more likely to negotiate expectations for starting pay, voluntarily disclosing salary history that can then be considered in determining salary, benefits, and other compensation. In effect, the statutory exception negates the rule, to the advantage of male applicants. Further, women who are less economically empowered, including many women of color or lower socioeconomic status, are even less likely to engage in initial negotiation of salary.

Research also raises a troubling phenomenon, indicating that even when women negotiate starting compensation, it can have a negative impact on them. Assertive or aggressive negotiation that is seen as a positive masculine trait in men can be viewed as a negative for women, based on stereotyping of female behavior. *See* H.R. Bowles, *et al.*, “Social incentives for gender differences in the propensity to initiate negotiations: Sometimes it does hurt to ask,” *Organizational Behavior and Human Decision Processes* 103 (2007) 84-103. (available online at <https://www.sciencedirect.com/>). Other articles are included in the attached bibliography.

The unintended consequence of the Section 2 protection could be that a male applicant who voluntarily discloses his salary history may be viewed as assertive, with voluntary disclosure triggering negotiation. Women, research indicates, would be less likely to voluntarily disclose salary history (it being “protected”) putting them at a disadvantage in negotiation, and even if they do voluntarily disclose salary history, it can be ignored or held against them.

### **HCRC’s Suggested Amendment**

Based on the concerns discussed above, the HCRC suggests amendment of S.B. No. 2351, S.D.1, H.D.1, deleting Section 2 of the bill in its entirety.

### **Strong HCRC Support for Section 3 of S.B. No. 2351, S.D.1, H.D.1**

The HCRC continues to strongly support 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. Transparency, with free and open discussion, will promote pay equality between genders.

Enactment of the Section 3 prohibition against employer retaliation against employees for disclosing or discussing wages will mark a substantial step forward in the movement toward gender pay equality, that being one of the pillars of the Paycheck Fairness Act that has languished in Congress for the past two decades.



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**LATE**

**SB-2351-HD-1**

Submitted on: 4/3/2018 3:53:13 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Golojuch Jr	LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

**LATE**

**SB-2351-HD-1**

Submitted on: 4/3/2018 5:09:48 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lynn Onderko	Individual	Support	No

Comments:

Aloha Chair and Committee Members,

My name is Lynn Robinson-Onderko, I am a resident of Ewa Beach and I am writing in strong support of SB2351 SD1 HD1. This is a rights issue and a law like this is long overdue in our state. Women deserve equal pay for equal work. I ask that you please vote in favor of closing the wage gap.

Mahalo for your time and attention.

Lynn Robinson-Onderko

Ms. Jo Ann C. Kocher  
7124 Naakea Street  
Honolulu, Hawaii 96825  
April 3, 2018



Subject: Support of SB2351, SD1  
Date/Time of Hearing: April 4, 2018; 2:00 p.m.  
Committee on Judiciary

To Whom It May Concern:

Thank you for the opportunity to express my strong support for SB2351, SD1. As a single woman who has supported herself her whole life, the issue of equal pay is very important to me. Inequities in the salaries of men and women exist 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. I was fortunate to have a career with the federal government but have many friends who were not so lucky. My heart aches for them as they struggle to survive on limited social security and meager pensions, the result of not being paid what they were worth during their working lives. One 77 year old friend with several serious medical conditions resorts to cleaning houses to make ends meet.

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, especially legislative ones. Two simple proposals are included in SB2351, SD1 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. 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 21<sup>st</sup> Century regarding equal pay for men and women. Research has shown that morale and productivity 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

**LATE**

**SB-2351-HD-1**

Submitted on: 4/3/2018 7:13:11 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
William K. Chang	Individual	Support	No

Comments:



**COMMITTEE ON JUDICIARY**

**Rep. Scott Y. Nishimoto, Chair**

**Rep. Joy A. San Buenaventura, Vice Chair**

DATE: Wednesday, April 4, 2018

TIME: 2 p.m.

PLACE: Conference Room 325

Aloha Chair Nishimoto, Vice Chair San Buenaventura and members,

**STRONG SUPPORT FOR SB2351** that 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. Prohibits enforced wage secrecy and retaliation or discrimination against employees who disclose, discuss, or inquire about their own or coworkers' wages.

Lilly Ledbetter was hired by Goodyear in 1979. After working for Goodyear for nineteen years, and nearing retirement, Ledbetter received an anonymous note revealing that she was making thousands less per year than the men in her position. Her discovery and subsequent crusade led the Lilly Ledbetter Fair Pay Act in 2009. Unfortunately the act has failed to result in equal pay for equal work due at least in part to the fact the right-wing led Supreme Court severely restricted the time period for filing pay discrimination claims, making it onerous for the individual woman.

Fortunately we in Hawaii have the opportunity to redress this imbalance. Keep in mind that women in Hawaii are still making 20 percent less than men doing the same job. Wage secrecy policies that include retaliation for disclosure coupled with employers basing salary/wages on a woman's already unequal pay at her previous job keep women from advancing.

These discriminatory practices hurt everyone, including the employer who may gain in short-term profits but will lose in morale and productivity. The economy as a whole suffers from these practices as dissatisfied workers look elsewhere resulting in a constant and costly churn in the workforce.

Please pass this bill,

Mahalo for the opportunity to testify,

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

Contact: [annsreed@gmail.com](mailto:annsreed@gmail.com) Phone: 808-623-5676



**LATE**

**SB-2351-HD-1**

Submitted on: 4/3/2018 10:40:07 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marcella Alohalani Boido	Individual	Support	No

Comments:

To all:

This bill is greatly needed. Please pass it bill with an effective date of this year.

Thank you.

Marcella Alohalani Boido, M. A.

Honolulu, Hawaii 96826

**LATE**

March 19, 2018  
Hawaii State House Committee on Judiciary  
Hearing Date/Time: April 4 (2:00pm)  
Place: Hawaii State Capitol, Rm.325  
Re: Testimony in support of SB2351 HD1

Dear Representative Scott Y. Nishimoto (Chair), Representative Joy A. San Buenaventura (Vice Chair) and Members of the Committee,

I am writing in strong support of SB2351 HD1.

In 1982 I was offered the position of executive director in a small non profit agency in Honolulu at \$19,000 a year. I was a single mother with two children in high school. I took the position. I had no idea that I could negotiate for a better salary. This starting salary affected my future earnings during my 30 year career and it affects my social security payments today.

Many women in Hawaii still are not aware that can negotiate, or don't how to negotiate, for an entry level salary or for a raise. 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. Statistics from the US Department of Labor show that gender-based salary differentials are found across occupations, and continue through individuals' working lives, worsening with age. 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.

Progress in decreasing the gap is too slow without legislation. Women have been waiting decades for the gender gap to close. This issue is complex, and it will require multiple types of legislation and policy interventions to correct. This bill is an initial step,

The goal of SB2351 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. Two simple fixes are proposed in this bill: (a) open discussion of wages in the workplace without negative sanction by employees, and (b) prohibition of required provision of one's previous salary to a new employer.

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.

Requiring salary history is unfair to women who make less than their male counterparts. women's salary histories show that a gender penalty follows them from one workplace to another 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. This measure ensures that women will be offered salaries based on their educational qualifications, occupational skills, and workplace successes, rather than the lower wages they labored under at previous jobs.

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 E. Morse

**LATE**

**SB-2351-HD-1**

Submitted on: 4/4/2018 11:52:46 AM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Katherine Mueller	Individual	Support	No

Comments:

**LATE**



**NATIONAL WOMEN'S POLITICAL CAUCUS  
HAWAII CHAPTER  
RECRUIT. TRAIN. ELECT.**

**TESTIMONY IN SUPPORT:  
SB2351 HD1 RELATING TO EQUAL PAY**

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**HEARING BEFORE THE HOUSE JUDICIARY COMMITTEE  
4/4/18 2:00 PM, ROOM 325**

Dear Chair Nishimoto and Vice Chair San Buenaventura:

The Hawaii Chapter of the National Women's Political Caucus strongly supports this measure.

Disparity in pay between men and women still prevails despite existing laws to the contrary. Public and private employers rely too much on knowing the previous salary of a candidate in determining qualifications, selecting, and setting pay for new employees. This practice tends to perpetuate existing gaps in pay. A good manager must bear the responsibility of determining a candidate's qualifications and work ethic—yet the Chamber of Commerce and other representatives of business associations claim that employers prefer to abdicate that responsibility, delegate it to the candidate's previous employer! That's not just poor management, it perpetuates the pay disparity that a woman bears, from her first job through to her retirement years.

Similarly, we have heard year after year from the Chamber that disclosing wages will harm worker morale, when the hard data shows that it is unfair pay policy that harms both productivity and morale—and is rampant. Overall, women make 84 cents on the dollar compared to men, but Native Hawaiian women make just 59 cents compared to white men in Hawaii. Workers who are able to learn and discuss wage disparity without fear of retaliation are the best defense against discrimination.

It's time for employers to stand up and do what is right for women and for minorities who suffer from hiring policies that stack the deck against them. Thank you for your support for this bill.

**CONTACT**

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Springer Kaye, Chair  
PO Box 116  
Honolulu, HI 96728  
info@nwpchawaii.org  
(808) 345-1668

April 4, 2018



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**LATE**

**SB-2351-HD-1**

Submitted on: 4/4/2018 3:30:16 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Karin Nomura	Individual	Support	No

Comments:

As someone who had their pay shouted about; mentioned; etc. by a superior which ended up causing harassment within and without the company - oddly, with people in other industries, who felt the need to mention their subsequently larger salary or hourly pay or 'new' employers who mentioned that the pay was because of the length of time one worked at a previous company - and actually feel the need when no response is given (as it's insulting - pay raises should be on ability/capability/actions/amount of work completed competently) the need to inquire/mention it again only to reassure themselves it seems (actually had someone do this in an interview with them a few times, so knew it wasn't the company for me)...Feel that unless it's offered by the employee in a means to negotiate a higher pay or what is reasonable for the same line of work/position; or if internal, where they try to pay you less for an advancement in ones career; that previous pay, benefits, etc. should not come into play.