

SB-2351

Submitted on: 1/31/2018 6:47:19 AM

Testimony for LBR on 2/1/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Monk	Commission on the Status of Women	Support	No

Comments:

I support this bill because pay check secrecy and requiring payroll history perpetuate unequal pay. Historically, women have been the subject of these unfair practices and as a result women in Hawaii earn about 17 per cent less than men for the same work. We need to eliminate these unfair employment practices and give young women a chance to compete on the basis of education, character and experience.



HAWAI‘I CIVIL RIGHTS COMMISSION

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

February 1, 2018
Rm. 229, 2:50 p.m.

To: The Honorable Jill N. Tokuda , Chair
Members of the Senate Committee on Labor

The Honorable Brian T. Taniguchi , Chair
Members of the Senate Committee on Judiciary

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

Re: S.B. No. 2351

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, 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 S.B. No. 2313

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.

SB-2351

Submitted on: 1/31/2018 11:29:48 AM

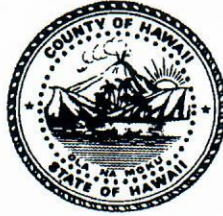
Testimony for LBR on 2/1/2018 2:50:00 PM

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

Comments:

Eileen O'Hara
Council Member
Council District 4

Chair: Environmental
Management Committee



Phone: (808) 965-2712
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Vice Chair: Planning Committee and
Agriculture, Water & Energy
Sustainability Committee

County of Hawaii
Hawaii County Council

25 Aupuni Street, Suite 1402 • Hilo, Hawai'i 96720

Senator Jill N. Tokuda
Chair, Committee on Labor
Hawai'i State Senate

January 31, 2018

Re: In Support of Senate Bill 2351, from Hawai'i County Council District 4
To be heard by LBR/JDC on 02-01-18 2:50PM in conference room 229

Aloha Chair Tokuda and Committee Members:

I'm writing to express my support of Senate Bill 2351, 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. It also prohibits enforced wage secrecy and retaliation or discrimination against employees who disclose, discuss, or inquire about their own or coworker's wages.

I do not hesitate to support any measure which supports equity for all genders and minorities. Please consider the important impact this Bill will have on the people of Hawai'i, and contact me if you have any questions about my support or knowledge of the subject.

Sincerely,

Eileen O'Hara
Council Member
Council District 4

To: Hawaii State Senate Committee on Labor
Hawaii State Senate Committee on Judiciary

Hearing Date/Time: Thursday, February 1, 2018, 2:50PM
Hawaii State Capitol, Rm. 229

Position Statement Supporting Senate Bill 2351

Thank you Chair Tokuda, Chair Taniguchi, Vice Chair English, Vice Chair Rhoads and committee members,

The YWCA O'ahu **supports Senate Bill 2351**, 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.

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



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Supporting SB 2351 – Relating to Equal Pay
Senate Committees on Labor and Judiciary
Scheduled for hearing at 2:50 pm on Thursday, February 1, 2018 in Conference Room 229

Dear Chairs Tokuda and Taniguchi, Vice Chairs English and Rhoads, and members of the Committees:

Thank you for the opportunity to testify in SUPPORT of **SB 2351**, 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 5, 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 SB 2351 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.



SB2364, RELATING TO WORKERS' COMPENSATION

Sen LBR/JDC Committee Hearing

Thurs, Feb. 1, 2018 – 2:50 pm

Room 229

Position: Support

Chairs Tokuda and Taniguchi and Members of the Joint LBR/JDC Committees:

I am Gregg Pacilio, PT and Board President of the Hawaii Chapter of the American Physical Therapy Association (HAPTA), a non-profit professional organization serving more than 340 member Physical Therapists and Physical Therapist Assistants. We are movement specialists and are part of the spectrum of care for Hawaii, and provide rehabilitative services for infants and children, youth, adults and the elderly. Rehabilitative services are a vital part of restoring optimum functioning from neuromusculoskeletal injuries and impairments.

HAPTA supports this measure because it enables the injured worker to proceed and receive care as soon as the claim is open. Currently, providers and injured workers do not get compensated when claims are on hold and pending investigation, which can take months. This means that injured workers can be without receiving a WC "paycheck" and providers do not get reimbursed at all.

SB2364 would facilitate medical providers to render care without fear that they will not get reimbursed. It holds insurance companies accountable for payment of services versus holding claims in limbo when they say it "pending investigation".

SB2364 holds insurance companies accountable for making good faith effort to resolve disputes, which should provide quicker resolution of bill disputes.

Your support of SB2364 is appreciated. Thank you for the opportunity to testify. Please feel free to contact Derrick Ishihara, HAPTA's Workers' Compensation lead at 808-221-8620 for further information.

To: Hawaii State Senate Committees on Labor and Judiciary
Hearing Date/Time: Thursday, Feb. 1, 2018, 2:50 p.m.
Place: Hawaii State Capitol, Rm. 229
Re: Testimony of Planned Parenthood Votes Northwest and Hawaii in strong support of S.B. 2351, relating to Equal Pay

Dear Chairs Tokuda and Taniguchi and Members of the Committees,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in strong support of S.B. 2351, 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 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



February 1, 2018

To: Senator Jill Tokuda, Chair
Senator J. Kalani English, Vice Chair and
Members of the Committee on Labor

To: Senator Brian Taniguchi, Chair
Senator Karl Rhoads, Vice Chair and
Members of the Committee on Judiciary

From: Jeanne Y. Ohta, Co-Chair

RE: SB 2351 Relating to Equal Pay
Hearing: Thursday, February 1, 2018, 2:50 p.m., Room 229

POSITION: Strong Support

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

Both provisions 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.



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 Senate
Committee on Labor
&
Committee on Judiciary

Testimony by
Hawaii State AFL-CIO

February 1, 2018

S.B. 2351 – RELATING TO EQUAL PAY

The Hawaii State AFL-CIO strongly supports S.B. 2351 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 S.B. 2351 will hopefully correct the wage and salary injustice many women face today. The Hawaii State AFL-CIO strongly urges the Committee on Labor and the Committee on Judiciary to pass S.B. 2351 to help ensure equal pay becomes a reality.

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira
President



January 30, 2018

To: Hawaii State Senate Committee on Labor / Committee on Judiciary
Hearing Date/Time: Thursday, February 1, 2018 (2:50 pm)
Place: Hawaii State Capitol, Rm. 229
Re: Testimony in support of SB2351

Dear Senator Jill N. Tokuda (Chair), Senator J. Kalani English (Vice Chair), Senator Brian T. Taniguchi (Chair), Senator Karl Rhoads (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 Hawaii, 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 Hawaii 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 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 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

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>

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 has 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-Berkeley research demonstrates that this knowledge will be good for worker morale, the workplace environment, and ultimately, business output.

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

Moving Hawaii forward to a situation in which women receive similar economic rewards to those of men has the potential to improve the situation of many Hawaii 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.⁵

In conclusion the fixes provided in **HB2137 or 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

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

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>

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

January 31, 2018

Subject: Support of SB2351

Date/Time of Hearing: February 1, 2018; 2:50 p.m.

To Whom It May Concern:

Thank you for the opportunity to express my support for SB2351 (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, especially legislative ones. Two simple proposals are included in SB2351, 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 21st 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



HAWAII

AMERICANS FOR DEMOCRATIC ACTION

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

January 30 , 2018

TO: Honorable Chairs Tokuda & Keith-Agaran and Members of the LBR & JDC Committees

RE: SB2351 Relating to Equal Pay

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Support for hearing on Feb. 1

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 SB 2351 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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John Shilf, Rainbow Sales & Marketing, *Advisor*
Barry Taniguchi, KTA Superstores, *Advisor*
Derek Kurisu, KTA Superstores, *Advisor*

TO:

Committee on Labor and Committee on Judiciary
Senator Jill N. Tokuda and Senator Brian T. Taniguchi, Chairs
Senator J. Kalani English and Senator Karl Rhoads, Vice Chairs

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: Thursday, February 1, 2018
TIME: 2:50pm
PLACE: Conference Room 229

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 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 Senate Committees on Labor and Judiciary
Thursday, February 1, 2018 at 2:50 P.M.
Conference Room 229, State Capitol**

RE: SENATE BILL 2351 RELATING TO EQUAL PAY

Chairs Tokuda and Taniguchi, Vice Chairs English and Rhoads, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") supports equal pay in the workplace, however, at this time, we do not support SB 2351. 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

SB2351 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.

3) 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.

4) 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.

5) 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

Governor Jerry Brown of California stated in his veto message of a similar bill that passed the Legislature, "**this bill broadly prohibits employers from obtaining relevant information with little evidence that this would assure equitable wages.**"



Chamber of Commerce HAWAII

The Voice of Business

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.

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.

SB-2351

Submitted on: 1/29/2018 1:31:38 PM

Testimony for LBR on 2/1/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Kent		Support	No

Comments:

Thanks for the introduction of this bill. As someone who teaches negotiation and has read a lot of reasearch on women and negotiation, I wholeheartedly support the intent of this bill. I believe that a similar bill was recently passed in Massachusetts. I strongly urge passage of this bill.

Chairs Senators Tokuda and Taniguchi, Vice Chairs Senator English and Senator Rhoads and Labor and Judiciary Committee members,

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 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.

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

Submitted on: 1/31/2018 12:51:24 PM

Testimony for LBR on 2/1/2018 2:50:00 PM

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

Comments:

January 31, 2018

Hawaii State Judiciary and Labor Committees

Hearing Date/Time: February 1, 2018 (2:50pm.)

Place: Hawaii State Capitol, Rm. 229

Re: Testimony in support of SB2351,

Dear Representative or Senator (Chair), and Members of the Committee,

I am writing in support of **SB2351**. In Hawaii, women 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.

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

The goal of the bill is to diminish the gender pay gap, and to promote fairness in how salaries are determined for both men and women 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.

I feel strongly that this bill will help 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

Sincerely,

Janet Morse

AAUW Hawaii member January 31, 2018

Hawaii State Judiciary and Labor Committees

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Sincerely.

Janet Morse

AAUW Hawaii member

SB-2351

Submitted on: 1/29/2018 3:31:46 PM

Testimony for LBR on 2/1/2018 2:50:00 PM

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

Comments:

SB-2351

Submitted on: 1/29/2018 8:55:00 PM

Testimony for LBR on 2/1/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Bradwell		Support	No

Comments:

I strongly support equal pay.

SB-2351

Submitted on: 1/29/2018 10:06:39 PM

Testimony for LBR on 2/1/2018 2:50:00 PM

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

Comments:

Dear Senators: Women must be supported for equal pay issues. It helps the economy in Hawaii and helps the family function. Thank you for your consideration.

Elizabeth Hansen, Hakalau HI 96710

SB-2351

Submitted on: 1/29/2018 10:48:14 PM

Testimony for LBR on 2/1/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gretchen Gould		Support	No

Comments:

I support equal pay for everyone and anyone doing the same job as others in the same position, no matter whether they are man or woman, black or white, young or old. This seems like a fair and easy concept. Let us get with it and acknowledge that.

Mahalo,

Gretchen Gould

American Association of American Women (AAUW)

SB-2351

Submitted on: 1/29/2018 11:10:12 PM

Testimony for LBR on 2/1/2018 2:50:00 PM

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

Comments:

Aloha,

I am writing to support SB2351. I believe that salary history does not accurately describe the capabilities of a job applicant.

Mahalo,

Caroline Kunitake

SB-2351

Submitted on: 1/29/2018 11:17:23 PM

Testimony for LBR on 2/1/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	NONE	Support	Yes

Comments:

Dear Chair Tokuda, Chair Taniguchi, and Members of LBR and JDC Committees,

Thank you for introducing S.B. 2351 and for the opportunity to testify in strong support.

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](#))

S.B. 2351 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 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 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 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 pay practices are also good for the employers.

SB-2351

Submitted on: 1/30/2018 6:32:37 AM

Testimony for LBR on 2/1/2018 2:50:00 PM

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

Comments:

SB-2351

Submitted on: 1/30/2018 10:12:59 AM

Testimony for LBR on 2/1/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Margaret H Elcock	LWV	Support	No

Comments:

I wish to support this bill. It is very important to the women of this state

Margaret H Elcock. Hilo

SB-2351

Submitted on: 1/30/2018 2:01:48 PM

Testimony for LBR on 2/1/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Loren Bullard	1982	Support	No

Comments:

To the Senate Committees on Labor and Judiciary,

I am writing to today to show my support of SB2351. Wage transparency is not only good for women but for all employees and employers as well. Wage transparency has shown to increase employee satisfaction, increase employee productivity, it encourages growth and retention as well as fighting gender bias in pay.

Thank you,

Loren Bullard

SB-2351

Submitted on: 1/30/2018 6:56:31 PM

Testimony for LBR on 2/1/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melinda Wood		Support	Yes

Comments:

I strongly support this bill. It is a small step toward equalizing the pay between men and women. I personally have experienced pay inequity and had no recourse when I tried to gather comparative data on the pay of similarly qualified men. I was completely shut down by everyone I sought help from, including co-workers and the HR department. SB 2351 is a positive first step toward addressing this problem.

January 30, 2018

In support of S.B. 2351

I appeal to you all to listen to the many testimonials that give evidence that the passing of SB 2351 can only bring about equity in the workplace. There is no justifiable argument against it.

SB-2351

Submitted on: 1/31/2018 5:52:32 AM

Testimony for LBR on 2/1/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Beverly Munson	AAUW & private citizen	Support	No

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.

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 also 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.

SB-2351

Submitted on: 1/31/2018 7:55:35 AM

Testimony for LBR on 2/1/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeannine		Support	No

Comments:

I am testifying in support of SB2351 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.

SB-2351

Submitted on: 1/29/2018 3:36:22 PM

Testimony for LBR on 2/1/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura		Oppose	No

Comments:

I am all for not disclosing previous salary's or pay when applying for a new position elsewhere, with any internal pay "monitoring" being conducted by the Regional manager, manager and the Human Resources department only. As after my income/pay was disclosed, it led to workplace as well as external harassment, from parties that shouldn't have known my pay to begin with, much less be told – not to mention my phone number disclosed as well as my location. While I feel that pay equality between genders regardless of race needs to occur, making it accessible is one that has to remain anonymous. (Which even confidentiality agreements or policies unfortunately aren't always enforced.) Pay should be based on the ability of the person, and compensate for the amount of work, responsibilities, etc. that is placed on the employee. Same with bonuses that are achieved or exceeded.

My only concern, is:

An employer shall not retaliate or discriminate against an employee for, nor prohibit an employee from, disclosing the employee's wages, discussing and inquiring about the wages of other employees, or aiding or encouraging any other employee to exercise rights under this section."

In my case, I had a manager from a different location call me directly to inquire about my pay, and even persisted when I told him that I wasn't going to disclose that information. With later my pay, not disclosed by me, being something that was widely available, and a cause for disturbance it seems. If the employer had reprimanded the individual, than I wouldn't have gone through the issues that I did with them. I believe that an employer needs to have the right to prohibit employees from inquiring – regardless of position within the workforce, unless it's needed to assess an increase to wages that they are capable of actually doing. That if that particular employee feels they want to tell everyone how much they themselves are making, is fine, and should they have someone who feels the need to share their payroll to them, is one thing, but to share that information with everyone is again something that only the person who's pay it is should be allowed to disclose.

LATE

SB-2351

Submitted on: 2/1/2018 1:13:14 PM

Testimony for LBR on 2/1/2018 2:50:00 PM

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

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES**

DEMOCRATIC PARTY OF HAWAII

TO THE COMMITTEE ON LABOR

AND

THE COMMITTEE ON JUDICIARY

THE SENATE

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Thursday, February 1, 2018

2:50 p.m.

Hawaii State Capitol, Conference Room 229

RE: Testimony in Support of SB 2351, RELATING TO EQUAL PAY

To the Honorable Jill N. Tokuda, Chair; the Honorable J. Kalani English, Vice Chair, and Members of the Committee on Labor:

To the Honorable Brian T. Taniguchi, Chair; the Honorable Karl Rhoads, Vice Chair, and Members of the Committee on Judiciary:

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 Senate Bill No. 2351, relating to employee salary history disclosure and gender discrimination during the job application process and wage secrecy in the workplace. The OCC Legislative Priorities Committee is in favor of Senate Bill No. 2351 and support its passage.

Senate Bill No. 2351, 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 it 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 Senate Bill No. 2351 prohibits prospective employers from requesting or considering a job applicant's wage or salary history as part of an employment application process and it prohibits enforced wage secrecy and retaliation or discrimination against employees who disclose, discuss, or inquire about their own or coworkers' wages absent which would stifle "equal pay for equal work," 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