

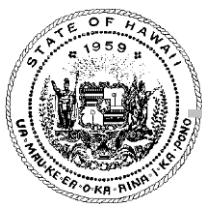
HB-1536-HD-1

Submitted on: 2/25/2019 1:55:42 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Khara Jabola-Carolus	Hawai'i State Commission on the Status of Women	Oppose	No

Comments:



HAWAI‘I CIVIL RIGHTS COMMISSION

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

February 26, 2019
Rm. 325, 2:05 p.m.

To: The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
Members of the House Committee on Judiciary

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

Re: H.B. No. 1536, 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.

H.B. No. 1536, H.D. 1, Relating to Equal Pay, would amend H.R.S. § 378-2.3 which prohibits retaliation against an employee for disclosure of or discussion of an employee’s wages. The amendments state that the subsection shall not apply to discussion of employee wages if knowledge of the wages stems from human resources, payroll, or legal professional responsibilities in the workplace.

The HCRC opposes H.B. No. 1536, H.D. 1, though it is significantly different from the original bill. Maintaining confidentiality by human resources, payroll or legal staff is important, and should be covered in their job description and fiduciary duties. The amendments do not prohibit disclosure wages by such professionals, only discussion of wages. Also, disclosure may be appropriate, and necessary, in investigations or legal actions. This blanket exclusion would make compliance with investigations of equal pay allegations impossible.

In Act 108, L. 2018, H.R.S. § 378-2.3 was just recently amended to add subsection (b) prohibiting retaliation or discrimination against an employee for disclosure of wages, discussing or inquiring about wages or aiding other employees to exercise their rights. These changes went into effect on January 1, 2019, and employees should be given an opportunity to discuss wages, without interference.

The HCRC opposes H.B. No. 1536, H.D. 1.



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Opposing HB 1536 HD1 – Relating to Equal Pay
House Committee on Judiciary
Tuesday, February 26, 2019, 2:05 PM, conference room 325

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

Thank you for the opportunity to provide testimony **OPPOSING HB 1536 HD1**.

We are concerned about the language added by this bill to our new equal pay law. If an employee were to attempt to find out if she were being paid less than her male colleagues, the exemption of human resources staff from protection against retaliation or discrimination could prevent human resources from disclosing her colleagues' wages to her. This language might force her to have to directly ask her colleagues for their wage levels, which seems to undermine the intent of this section of our equal pay law.

According to the U.S. Bureau of Labor Statistics, Hawai'i women had median usual weekly earnings of \$734, or 80.0 percent, of the \$918 median usual weekly earnings of their male counterparts in 2017. That's lower than the national ratio of 81.8 percent. After reaching its peak of 92.8 percent in 2014, this ratio has decreased in in Hawai'i in each of the past three years.

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 commend you for passing SB 2351 in 2018, which took strides to reduce the gender wage gap in Hawai'i. **We respectfully request that you defer HB 1536 HD1**, in order to prevent an erosion of our equal pay law.

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.



Fujiwara & Rosenbaum, L.L.L.C.

*Alahea Corporate Tower
1100 Alahea Street 20th Floor
Honolulu, Hawaii 96813*

To: The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
Members of the House Committee on Judiciary

From: Elizabeth Jubin Fujiwara, Senior Partner,
Fujiwara & Rosenbaum, L.L.L.C.

Re: **H.B. 1536 H.D.1**

I have specialized in civil rights and employment law as a plaintiff's attorney since 1986. H.B. No. 1536, Relating to Equal Pay, would amend H.R.S. § 378-2.3 to prohibit the disclosure of an employee's wages by any person other than the employee.

Our law firm opposes the intent of H.B. No. H.B. 1536 H.D.1 for several reasons:

1. it is well-documented that women, and especially women of color, face overt discrimination and unconscious biases in the workplace, including in pay. A study conducted by labor economists Francine Blau and Lawrence Kahn found that 38 percent of the wage gap remains unexplained even when accounting for factors like race, region, unionization status, education, occupation, industry, and work experience. Discrimination is thought to be a major cause of this unexplained gap. Hawai'i women had 80% of the \$918 median usual weekly earnings of their male counterparts in 2017. *U.S. Bureau of Labor Statistics*. Moreover, eliminating the gender wage gap would reduce the poverty rate among single mothers by almost half. *Institute for Women's Policy Research*.
2. As a result of this grave concern of sex discrimination in Hawai'i in Act 108, L. 2018, H.R.S. § 378-2.3 was just recently amended by our legislature to add subsection (b) prohibiting retaliation or discrimination

against an employee for disclosure of wages, discussing or inquiring about wages or aiding other employees to exercise their rights.

These changes and went into effect on January 1, 2019. This bill would undermine those amendments, only weeks after they went into effect.

3. **This amendment would clearly prevent the human resources department, the payroll department or the legal department from disclosing her colleagues' wages to her.**
4. **Secrecy. Secrecy about pay and pay practices not only masks gender and racial pay gaps, it perpetuates them.** Because pay often is cloaked in secrecy, when a discriminatory salary decision is made, it is seldom as obvious to an affected employee as a termination or a denial of a promotion. Cultural norms around pay secrecy remain strong and many workers are fearful of questioning the validity of their pay due to workplace power dynamics or threat of retaliation, given that many employers explicitly prohibit or discourage discussion of pay. As a result, employees often have no idea they are being discriminated against and, even if they suspect discrimination, face significant obstacles in gathering the information that would indicate they have experienced pay discrimination, undermining their ability to challenge such discrimination.
5. In short, **pay secrecy allows unjustified pay gaps to grow in the shadows, undetected.**
6. We commend you for passing Act 108, L. 2018, H.R.S. § 378-2.3(b) which took strides to reduce the gender wage gap in Hawai'i. But **limiting this kind of pay disclosure defeats the purpose of H.R.S. § 378-2.3(b) and undermines the purpose of achieving equal pay.**



February 23, 2019

From: Younghee Overly, Public Policy Chair, AAUW Hawaii

To: Hawaii State House Committee on Judiciary

Hearing Date/Time: February 26, 2019 2:05PM

Place: Hawaii State Capitol, Rm. 325

Re: Testimony in OPPOSE of HB1536 HD1

Dear Chair Lee, Vice-Chair San Buenaventura, and members of the House Committee on Judiciary,

AAUW of Hawaii strongly opposes HB1536 HD1 which allows employers to retaliate and discriminate employees in human resources, payroll, or legal departments of businesses if they discussed wages of employees with other employees.

Many women would only know of pay inequality at their workplace if they were advised by another employee. This bill is unfair to employees in human resources, payroll and legal departments who will be prohibited from discussing, inquiring about or disclosing wages of their departmental co-workers.

This bill also undermines newly passed Act 108's protections by placing limits on disclosures and discussions of pay levels in the workplace. Act 108 of Session Laws of Hawaii 2018 just became effective January 1, 2019. Please give Act 108 to take effect first.

The American Association of University Women (AAUW) of Hawaii is a state-wide organization made up of six branches (Hilo, Honolulu, Kauai, Kona, Maui, and Windward Oahu) and includes just over 450 active members with over 1700 supporters statewide. As advocates for gender equity, AAUW of Hawaii promotes the economic, social, and physical well-being of all persons.

Please do not pass this measure and mahalo for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to be "Y. Overly", is written below the text "Sincerely,".

LATE

HB-1536-HD-1

Submitted on: 2/25/2019 7:14:18 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Oppose	No

Comments:



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Judiciary
Tuesday, February 26, 2019 at 2:05 P.M.
Conference Room 325, State Capitol**

LATE

RE: HOUSE BILL 1536 HD 1 RELATING TO EQUAL PAY

Chair Lee, Vice Chair San Buenaventura, and members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") supports HB 1536 HD 1, which prohibits the disclosure of an employee's wages by any person other than the employee.

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

This bill helps to clarify the intent of the Equal Pay bill that passed last session (Act 108, 2018). It doesn't take away from the law, such that it still allows employees to talk about their own salary to others, however, the amendment prevents employees from talking about other employee's salaries. For example, a payroll specialist would not be allowed to disclose or share other employee salaries to other employees. Additionally, the Chamber would like to recommend that the language be made broader in order to include any employee who has access to payroll information because of their job duties.

Thank you for the opportunity to testify.

HB-1536-HD-1

Submitted on: 2/22/2019 5:59:40 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

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

Comments:

Aloha Representatives,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of HB 1536 HD 1.

Mahalo for your consideration and for the opportunity to testify.

Mahalo,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawaii

HB-1536-HD-1

Submitted on: 2/23/2019 3:10:06 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Betty Sestak	aa uw hawaii	Oppose	No

Comments:

Hearing Date: Thursday, February 26, 2019, 2:05 pm, Room 325

To: House Committee on Judiciary
Chair, Representative Chris Lee
Vice Chair, Representative Joy A. San Buenaventura

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

**Re: TESTIMONY IN OPPOSITION OF HB 1536, HD1
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 in opposition of HB 1536, HD1 Relating to Equal Pay.

Act 108, which includes the provision allowing employees to discuss their wages went into effect just last month on January 1, 2019. I am concerned that adding additional restrictions on workers abilities to openly discuss salaries will significantly weaken the efforts to achieve equal pay. This bill aims to prevent personnel in specific departments from discussing, inquiring about or disclosing wages of others. This is unfair to those employees and their departmental co-workers and can lead to confusion in the way the law is applied. Salary transparency in the workplace is a very important factor in equaling the playing field for all employees. I believe leaving the language intact is the best course and will uphold the purpose of Act 108.

Mahalo for allowing me to submit my testimony today.

Jean Evans

HB-1536-HD-1

Submitted on: 2/23/2019 8:36:07 AM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Annette Barr	Individual	Oppose	No

Comments:

It is vital to Hawaii workers and businesses that Act 108 is left intact. I oppose this bill as it undermines protections that were recently passed. This bill is unfair to employees who need to be able to discuss wages in their positions, such as those in Human Resources, payroll and others. This bill is going in the wrong direction—backwards.

HB-1536-HD-1

Submitted on: 2/23/2019 9:38:10 AM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Oppose	No

Comments:

Aloha,

I oppose HB1536 HD1. Please do not pass this bill.

Mahalo,

Caroline Kunitake

HB-1536-HD-1

Submitted on: 2/23/2019 4:24:10 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
elizabeth hansen	Individual	Oppose	No

Comments:

Dear Representatives: I am opposing this bill. Please leave Act 108 intact to help achieve equal pay. This bill will undermine newly passed Act 108's protections by placing limits on discussions of pay levels in the workplace. Thank you in advance for your consideration.

Elizabeth Hansen,

Hakalau HI 96710

HB-1536-HD-1

Submitted on: 2/23/2019 8:08:28 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lea Minton	Individual	Oppose	No

Comments:

I oppose HB1536 as it undermines Act 108 that was passed in 2018.

HB-1536-HD-1

Submitted on: 2/23/2019 8:09:24 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Midwives Alliance of Hawaii	Individual	Oppose	No

Comments:

We strongly oppose HB1536 HD1. We recommend the JUD committee defer this bill.

HB-1536-HD-1

Submitted on: 2/24/2019 2:11:31 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Monk	Individual	Oppose	No

Comments:

February 23, 2019

To: Hawaii State House Committee on Judiciary
Hearing Date/Time: February 26, 2019, 2:05 PM
Place: Hawaii State Capitol, Room 325
Re: Testimony in OPPOSITION to HB1536, HD1

Dear Representative Lee, Chair, Representative Buenaventura, Vice-Chair and Members of the Committee,

The gender pay gap has widened in Hawaii. The median annual earnings for women were 84% of men's earnings in Hawaii in 2015, but slipped to 81% in 2017, barely above the 80% national average.

The passage of Act 108 in the 2018 legislative session was an important step in closing the pay gap. Requiring employers to make salary range information available to employees and job candidates can help to erase gender differences in salaries. This provision of the act can help women avoid taking a gender penalty into new employment

I am strongly opposed to HB1536 because it would prohibit persons other than the employee from disclosing an employee's wages. This bill will undermine Act 108's protections by placing limits on discussions of pay levels in the workplace.

This bill is unfair to employees in human resources, payroll and legal departments who will be prohibited from discussing, inquiring about or disclosing wages of their departmental co-workers.

Please leave Act 108 intact. Hawaii has led the way in civil rights and we should be a leader in pay equity.

Thank you for the opportunity to testify.

Janet Morse
AAUW Hawaii member

HB-1536-HD-1

Submitted on: 2/25/2019 10:11:38 AM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan J. Wurtzburg	Individual	Oppose	No

Comments:

This bill is equal pay in name only, since it subverts the equal pay bill passed last session. I am disappointed in the businesses who believe that this is the appropriate way to treat their employees. I am so glad that I don't work for any of them!

Please vote down this bill which acts against the interests of Hawaii women & families. It is clear that we have a gender pay gap in the state & all efforts should focus on diminishing it.

mahalo

Susan J Wurtzburg, Ph.D

HB-1536-HD-1

Submitted on: 2/25/2019 11:12:25 AM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tamara Swift	Individual	Oppose	No

Comments:

- This bill will undermine newly passed Act 108's protections by placing limits on discussions of pay levels in the workplace.
- This bill is unfair to employees in human resources, payroll and legal departments who will be prohibited from discussing, inquiring about or disclosing wages of their departmental co-workers.
- Leave Act 108 intact to help achieve equal pay.