

HEARING #1

STATEMENT BY

THE NEW YORK STATE BAR ASSOCIATION

BEFORE

THE NEW YORK ASSEMBLY

STANDING COMMITTEE ON LABOR;

STANDING COMMITTEE ON GOVERNMENTAL EMPLOYEES;

STANDING COMMITTEE ON GOVERNMENTAL OPERATIONS;

STANDING COMMITTEE ON OVERSIGHT ANALYSIS AND

INVESTIGATION; AND

THE ASSEMBLY TASK FORCE ON WOMEN'S ISSUES

REGARDING

PAY EQUITY IN NEW YORK

DECEMBER 12, 2011

The New York State Bar Association through its Committee on Women in the Law ("CWIL") submits this statement in support of the passage of pay equity legislation in New York.

Pay equity legislation currently under consideration by the New York State Legislature would provide employees with protections against sexism and racism, and protections against employer retaliation for discussing wages with colleagues.

Specifically, the Association urges passage of A6130/S 2200, the "New York State Fair Pay Act" (the "Fair Pay Act"), which will reduce wage disparities by creating criteria for defining equivalent jobs and ensuring that those jobs are paid equally. The Fair Pay Act will also provide employees with important protections against retaliatory personnel actions by employers, and damages including compensatory, punitive, and injunctive relief as appropriate.

Why is Pay Equity Legislation Necessary?

There is a persistent wage gap for working women in the State of New York.

- ① Women working full-time year-round were paid only 77 cents for every dollar paid to men. African-American women were paid only 62 cents and Latinas only 52 cents, for every dollar paid to white, non-Hispanic men. (U.S. Census Bureau 2009, *American Community Survey*)

New York women are increasingly responsible for the economic security of their families and cannot afford to face discrimination and lower wages.

- ⌚ More than 63% of working mothers in New York bring in more than a quarter of their families' income (Center for American Progress 2010, *Interactive Map: Women Provide for Their Families*) and 1,050,106 households in New York are headed by women. (U.S. Census Bureau 2009, *Selected Social Characteristics in the United States: 2009: New York*)
- ⌚ More than 26% of women-headed households in New York live below the poverty level. (U.S. Census Bureau 2009, *Selected Social Characteristics in the United States: 2009: New York*). Eliminating the wage gap would provide critical income to 279,328 families living in poverty.

The real impact of the wage gap means:

- Full-time working women in New York lose approximately **\$22,340,027,689** each year due to the wage gap. (U.S. Census Bureau. (2009)). If the wage gap were eliminated, New York's working women and their families would have enough money for:

~64 more weeks of food (1.2 years' worth); U.S. Bureau of Labor Statistics. (2010, October)

~4.4 more months of mortgage and utilities payments; U.S. Census Bureau. (2009)

~9 more months of rent; U.S. Census Bureau. (2009)

~3 more years of family health insurance premiums; Henry J. Kaiser Family Foundation. (2010)

~More than 2,000 additional gallons of gas. AAA. (2011)

Passage of fair pay legislation will:

- ⌚ Reduce wage disparities by creating criteria for defining equivalent jobs and ensuring that those jobs are paid equally.
- ⌚ Require that employers prove that any pay differences exist for legitimate, job-related reasons.
- ⌚ Prohibit employers from retaliating against workers who discuss salaries with colleagues.

- ⌚ Provide enforcement and remedies for those negatively impacted by wage discrimination.

How does the Fair Pay Act Address the Wage Gap?

Prohibits Wage Discrimination for Equivalent Jobs

- ⌚ Some employers use different job evaluation systems for jobs where women and people of color predominate. These systems undervalue important skills and responsibilities. Using the same job evaluation system to assess all job title assures fair and consistent pay.

Prohibits Retaliation & Provides Enforcement Mechanisms

- ⌚ The Fair Pay Act would allow employees to freely and without fear of repercussions from their employer, share information concerning salary levels. Without salary information, the vast majority of workers employed in the private sector cannot establish that they are receiving equal pay, which renders current State and Federal equal-pay for equal-work laws useless.

Why Pass the Fair Pay Act Now?

The Fair Pay Act has passed the Assembly with overwhelming support every year since 2002.

There is national momentum favoring passage of pay equity legislation in 2012:

- ⌚ President Obama recently released a report entitled “*Women in America: Indicators of Social and Economic Well-Being*” which reveals that:
 - ⌚ “[g]ains in education and labor force involvement have not yet translated into wage and income equity.”
 - ⌚ at **all** levels of education, women earned about 75 percent of what their male counterparts earned in 2009.
 - ⌚ “part of the continued disparity between women’s and men’s earnings is due to the continued segregation of women into the female-dominated fields and jobs, many of which are low-paying and pay less than men’s lowest paying jobs.”
- ⌚ As Senator, now President Obama co-sponsored the federal Fair Pay Act. President Obama has often spoken about the wage gap, most recently on Equal Pay Day 2011:

- ⌚ “Achieving equal pay for women is vital to strengthening the future prosperity of our country. For the sake of our daughters and granddaughters, we must renew our commitment to eliminating the barriers women face in the workforce and give both women and men the opportunity to reach greater heights. ... I call upon all Americans to recognize the full value of women's skills and their significant contributions to the labor force, acknowledge the injustice of wage discrimination, and join efforts to achieve equal pay.”

How is this Legislation Different from Existing Fair Pay Laws, Such as the 1963 Equal Pay Act or the Lily Ledbetter Act?

Equal Pay Act of 1963

- ⌚ This act made it illegal for employers to pay unequal wages to men and women who hold the same job and perform the same work. Yet unequal pay still exists because job titles performed predominately by women and people of color have been under paid due to historic discrimination.

For example clerical workers, nurses and teacher’s aides may be paid less than groundskeepers and security staff. These lost earnings and pension benefits are particularly painful for workers and their families forcing them to fall below the poverty line. According to studies, if women and people of color were to receive wages equal to those of men for comparable jobs, working families would gain a staggering \$200 billion in family income annually, with each working woman’s family gaining more than \$4,000 per year.

The Lily Ledbetter Act

- ⌚ This act restores protections for people whose jobs involve the same work. The NY Fair Pay Act is aimed at job- title pay equity that removes discrimination in the pay of job titles in fields such as library, food service, clerical and office management where women and people of color are the majority of the workforce.

Job titles traditionally done by women and people of color have been undervalued in the marketplace. Unfortunately, the Ledbetter Act does not address pay inequities across different but equally-valued job titles.

Proposed Pay Equity Legislation

- ⌚ The Fair Pay Act provisions would pick up exactly where existing laws have left off, with stronger enforcement mechanisms, stronger remedies, and protections against retaliation. Put simply, the Fair Pay Act would ensure New Yorkers are paid for the value of their work and are protected when they share salary information. It would help New York workers by closing the pay gap. This is a

family pocketbook issue that transcends gender, income levels and race, and can help lift many out of poverty which is important in these difficult economic times.

What about the economic costs associated with legislating fair pay?

Pay inequities actually translate into lost revenue and higher costs for New York State.

- ⌚ If employees' wages are adjusted to match the value of their work, they will pay taxes on those increased wages.
- ⌚ Additionally, since inequities are most common in low-wage jobs, pay adjustments would help reduce poverty and result in a decrease of government subsidies.
- ⌚ The cost of poverty includes health and social consequences as well which would be diminished.
- ⌚ In the long term, over a working lifetime, inequities result in the reduction of pensions, which has particularly hurt women who live longer than men.

The Association, based on the report and recommendations of its Committee on Women and the Law, **URGES PASSAGE** of Pay Equity Legislation in New York

- ⌚ New York's women and families need our voice to help them be heard. Women are shouldering the financial burdens for the entire family – with fewer resources than their male counterparts – adding to the critical importance of addressing wage disparities.