

JAN 23 2015

A BILL FOR AN ACT

RELATING TO GOVERNMENT CONTRACTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that pay disparity
2 persists between men and women who do similar work. In 2013,
3 women engaged in full-time, year-round work earned just 78.3 per
4 cent of the wages collected by their male counterparts.

5 Although the pay gap has narrowed, the Institute for Women's
6 Policy Research reports that if the pace of change continues at
7 the same rate as it has since 1960, women and men will not reach
8 parity until 2058.

9 The legislature further finds that action should be taken
10 to encourage greater gender equality in the workplace. Since
11 first enacting laws against employment discrimination based on
12 sex decades ago, it has been the intent of the legislature to
13 promote gender equality in the workplace. Other states, like
14 New Mexico and Minnesota, have taken the initiative to use their
15 contracting power to enforce pay equity between men and women
16 who work under certain government contracts. President Obama
17 has also initiated such action within the federal government



1 through executive order. Federal contractors are required to
2 supply information about wages and are held accountable for
3 violations of pay equity based on gender. The legislature finds
4 that Hawaii should follow suit in order to effect its intentions
5 to promote gender equality in the work place and close the pay
6 gap between men and women.

7 The legislature also finds that pay secrecy undermines
8 efforts to close the pay gap. A 2010 Institute for Women's
9 Policy Research/Rockefeller Survey of Economic Security reported
10 that 23.1 per cent of private sector workers reported that
11 discussion of wages and salaries was formally prohibited, and an
12 additional 38.1 per cent reported that such discussion was
13 discouraged by managers. Pay secrecy inhibits workers from
14 pursuing claims of pay discrimination. The federal government
15 and many states have taken action to end wage secrecy by
16 prohibiting retaliation against employees who discuss wages.
17 Hawaii can also take this step by banning retaliation against
18 employees who perform work under government contracts and
19 discuss or inquire about wages. Wage information for state
20 employees is available to the public, and similar transparency
21 should exist for those who perform work under state contracts.



1 The purpose of this Act is to encourage improvements in pay
2 equity between men and women by:

- 3 (1) Prohibiting state contractors from retaliating against
4 employees for disclosing wage information;
- 5 (2) Requiring contractors who win certain state contracts
6 to pay men and women equally for similar work; and
- 7 (3) Requiring contractors who win certain state contracts
8 to report wages paid to employees by gender.

9 SECTION 2. Chapter 103, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 **"§103- Wage equity; reporting; enforcement. (a) All**
13 contractors and subcontractors performing services under a
14 contract subject to section 103-55 shall pay employees who
15 perform work under such contracts equal wages or salaries for
16 performance of work which requires equal skill, effort, and
17 responsibility, and which are performed under similar working
18 conditions, except where such payment is made pursuant to a
19 differential based on any factor other than gender.



1 (b) Any governmental contracting agency awarding a
2 contract subject to section 103-55 shall include in the
3 contract:

4 (1) A provision requiring the contractor to submit to the
5 governmental contracting agency prior to completion of
6 the contract, a report, on a schedule determined by
7 the governmental contracting agency, showing a summary
8 of the wages paid to its employees who performed
9 direct, measureable work under the contract, by
10 gender; and

11 (2) A provision specifying that liquidated damages may be
12 imposed in the event that a contractor violates the
13 wage requirements of this section.

14 (c) If the governmental contracting agency finds, after
15 proper notice and opportunity for hearing, that a violation of
16 this section has occurred, the contractor shall be suspended
17 from doing any work on a contract with a governmental
18 contracting agency for a period of three years from the notice
19 of violation; provided that the contractor shall complete
20 performance on any active contract.



1 (d) A contractor shall not discharge or in any other
2 manner discriminate or retaliate against an employee who
3 performs direct, measurable work under the contract governed by
4 this section because the employee:

5 (1) Has inquired about, discussed, or disclosed the wages
6 of the employee or another employee;

7 (2) Asserts any right under this subsection; or

8 (3) Files any complaint for violation of this section.

9 (e) The prohibition against retaliation under subsection
10 (d) does not apply to an employee who has access to wage
11 information of other employees or applicants as part of the
12 employee's essential job functions and discloses the wages of
13 other employees or applicants to individuals who do not
14 otherwise have access to the information, unless the disclosure
15 is:

16 (1) In response to a formal complaint or charge;

17 (2) In furtherance of an investigation, proceeding,
18 hearing, or action, including an investigation
19 conducted by the contractor; or

20 (3) Is consistent with the contractor's legal duty to
21 furnish information.



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(f) The comptroller shall adopt rules pursuant to chapter 91 as necessary for the enforcement, administration, and effectuation of this section. These rules shall have the force and effect of law."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

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Report Title:

Government Contracts; Contractors; Wage Reporting; Pay Equity;
Gender Discrimination

Description:

Requires equal pay for similar work for any employee performing services under certain government contracts. Establishes a requirement for government contractors to report wages paid to employees, by gender. Provides penalties for contractors found to be in violation of these practices, including liquidated damages and suspension from government contract work. Also prohibits contractors on certain government contracts from retaliating against employees who disclose wage information.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

