

ACT 35

H.B. NO. 1305

A Bill for an Act Relating to Equal Pay.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to prohibit employers from discriminating on the basis of gender by paying wages to an employee at a rate less than the rate at which the employer pays wages to another employee of the opposite sex for equal work, except when the difference in wages is based on a seniority system, a merit system, a system that measures earnings by quantity or quality of production, a bona fide occupational qualification, or a differential based on any permissible factor other than sex.

It is the intent of the legislature that nothing in this Act shall be construed to require an employer to pay the same wages to employees who work in different locations, even though the employees perform jobs that require equal skill, effort, and responsibility and are performed under similar working conditions, provided that any disparity in wages is not based on gender. It is also not the intent of the legislature to affect or diminish the existing, broader protections provided under part I of chapter 378, Hawaii Revised Statutes.

SECTION 2. Chapter 378, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§378- Equal pay; sex discrimination. No employer shall discriminate between employees because of sex, by paying wages to employees in an establishment at a rate less than the rate at which the employer pays wages to employees of the opposite sex in the establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and that are performed under similar working conditions. Payment differentials resulting from:

- (1) A seniority system;
- (2) A merit system;
- (3) A system that measures earnings by quantity or quality of production;
- (4) A bona fide occupational qualification; or
- (5) A differential based on any other permissible factor other than sex

do not violate this section.”

SECTION 3. There is established a five-year pay equity task force to be conducted under the auspices of the office of the governor, beginning in fiscal year 2006-2007, and continuing through fiscal year 2010-2011. The task force shall consist of the following:

- (1) One representative from each of the unions serving as exclusive representative for civil service workers;
- (2) The director of labor and industrial relations or the director’s designee;
- (3) Four representatives of public employers appointed by the governor;
- (4) The chairperson of the Hawaii state commission on the status of women or the chairperson’s designee; and
- (5) Three individuals appointed by the governor who represent the public at large.

The office of the governor shall convene the first meeting at which the members shall elect a chairperson. The purpose of the task force shall be to determine the current extent and trend of gender-based pay inequities in the State of Hawaii. The task force shall review the 1995 “Study of Wage Equity in Public Employee Bargaining Units 1 and 10”; the 1987 study entitled “A Job Evaluation Study of Selected Job Classes of the State and Counties of Hawaii”; and any other data and information pertinent to the accomplishment of its purpose. The task force shall review the materials and, as appropriate, develop recommendations for submission to the legislature regarding the need for funding or specific actions to correct any gender-based pay inequities that are discovered. In addition, the task force shall provide the legislature with an annual report documenting its progress.

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. New statutory material is underscored.¹

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SECTION 6. This Act shall take effect upon its approval; provided that section 3 of this Act shall be repealed on June 30, 2011.

(Became law on April 28, 2005, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

Note

1. Edited pursuant to HRS §23G-16.5.