

SB 241: A Fake Equal Pay Bill

Senate Bill 241, which is now awaiting action in the House Labor & Industry Committee, has been advertised by its sponsors¹ as strengthening the Pennsylvania Equal Pay Act. It does not. If passed, SB 241 will not protect women in Pennsylvania from receiving unequal pay for comparable work, and it will not protect employees from retaliation for talking about their wages. All this bill will do is take away control from local governments by preventing them from passing genuine legislation aimed at eliminating the gender wage gap.

SB 241 will not reduce or eliminate the gender wage gap.

- Pennsylvania already has a statewide Equal Pay Act, but it is ineffective for a number of reasons, and SB 241 does not fix any of those problems.
- SB 241 does not undo the 1967 amendment to our state Equal Pay Act that severely reduced the number of Pennsylvanians to whom the state Act applied.² To be effective, Pennsylvania's equal pay law must apply to all Pennsylvania employees.
- SB 241 does not close the “factor other than sex” loophole in our current Act. Our state Equal Pay Act allows employers to pay women less than they pay men if the employer can prove that the wages were set based on a “factor other than sex” regardless of whether the factor is job-related. As a result, this loophole allows employers to rely on “market forces” or “prior salary,” both of which perpetuate historical sex discrimination.
- SB 241 adds a meaningless defense that allows employers to determine wages based on the level or amount of education, training, or experience. Those factors are not sex-based.
- While SB 241 seems to protect employees from retaliation for sharing information about wages, the reality is that SB 241 only protects employee wage inquiries, discussions, and disclosures when they are “reasonable.” Who determines what is “reasonable”? Protection from retaliation must be unconditional. Employees should not risk losing their jobs when they try to stop discrimination.

SB 241 prevents local communities that want to pass real legislation to prevent sex discrimination in wages from doing so:

- SB 241 includes a provision that preempts (prevents) local control by making it impossible for localities to pass laws to eliminate the gender wage gap.
- This preemption provision could invalidate a law Philadelphia has already passed, taking away rights from Philadelphians and those in the surrounding counties who work in Philadelphia.

Women in Pennsylvania deserve better than a fake equal pay bill that stops local governments from protecting their constituents from pay discrimination. What Pennsylvanians need is an Equal Pay Act that (1) encourages pay transparency by unconditionally protecting employees who discuss their wages and (2) closes loopholes in our existing Act by allowing pay disparities only when those disparities are job-related, justified by business necessity, and not based on a sex-based pay differences. In the near future, legislation will be introduced to meet these goals, but SB 241 is not that bill.

Vote NO on SB 241.

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¹ Senator McGarrigle was the prime sponsor in the Senate. Senator Corman sponsored the amendment to preempt any local ordinance or rules concerning the subject matter of the Act.

² The 1967 amendment added a proviso to the definition of employee that makes the PA Equal Pay Act inapplicable to any persons who are covered by the Federal Equal Pay Act. That leaves only the following categories of employees covered by Pennsylvania's Equal Pay Act:

- Employment in public amusements or recreational establishments, organized camps or religious or nonprofit educational conference centers that do not operate for more than 7 months each year and where, in the preceding year, the average receipts for any 6 months were not more than one-third of the average receipts for the other 6 months of the year.
- Fishing and related processing operations.
- Farm labor on small farms.
- Certain seasonal student workers or learners or disabled workers (employers must seek approval from USDOL).
- Work related to the publication of a weekly, semiweekly or daily newspaper with a circulation of less than 4,000 and primarily circulated in the county or neighboring counties.
- Switchboard operators for independently-owned public telephone companies with no more than 750 stations.
- Seamen on foreign vessels.
- Domestic services in or about the private home of an employer.
- Federal criminal investigators.
- Computer professionals.

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