



The Equal Pay Bill (S-992)

This bill amends current law, including the Law Against Discrimination, P.L.1945, c.169 (C.10:5-1 et seq.) (“LAD”), to strengthen protections against employment discrimination and promote equal pay for women. The bill:

- **Prohibits unequal pay for “substantially similar” work, under the Law Against Discrimination (LAD).** The legislation would make it unlawful for an employer to pay a rate of compensation, including benefits, to an employee of one sex less than the rate paid to an employee of the other sex for substantially similar work when viewed as a composite of skill, effort and responsibility, unless specific conditions apply.
- **Requires different rate of compensation be justified by factors other than sex.** The bill permits an employer to pay a different rate of compensation if the employer demonstrates that the differential is made pursuant to a seniority system, a merit system, or is based on legitimate, bona fide factors other than sex, such as training, education, experience, or the quantity or quality of production. It requires that each factor is applied reasonably, that one or more of the factors account for the entire wage differential, and that the factor or factors do not perpetuate a sex-based differential in compensation, are job-related and based upon legitimate business necessities. Comparison of wage rates would be based on those in all of an employer’s operations or facilities.
- **Restarts statute of limitations for each instance of discrimination.** The bill provides that a discriminatory compensation decision or other employment practice that is unlawful under the LAD occurs each time that compensation is paid in furtherance of that discriminatory decision or practice – effectively making each paycheck another instance of discrimination, reflecting the language in the federal Lilly Ledbetter Fair Pay Act. In addition, the bill provides that liability shall accrue and an aggrieved person may obtain relief for back pay for the entire period of time in which the violation has been continuous, if the violation continues to occur within the statute of limitations. This provision is stronger than the federal Lilly Ledbetter Act, which has a two-year cap on back pay.
- **Prohibits employer retaliation against employee for disclosing compensation.** Employers could not take reprisals against an employee for disclosing information about the job title, occupational category, and rate of compensation of any employees or former employees, as well as other information. It would prohibit an employer from requiring an employee or prospective employee to forgo rights to make or request those disclosures.

- **Requires transparency in state contracting.** The bill requires contractors to provide information on gender, race, job title, occupational category and compensation, and to report certain changes during the course of the contract; information must be filed with Labor Commissioner and Division of Civil Rights. The bill requires disclosure to employees and their authorized representatives upon request.