

# House panel takes up gender pay equity bill

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The House Education and Labor Committee will mark up a bill, [H.R. 7 \(117\)](#), on March 24 that would seek to address gender wage discrimination.

Under the bill, employers would have to demonstrate that any gap in pay between a man and a woman was due to job performance rather than gender.

The measure would also bar employers from retaliating against employees for sharing salary information with a coworker, forbid an employer from inquiring into or taking into consideration an employee's wage history, authorize the creation of a grant program that would train women on salary negotiations and require public education regarding wage discrimination, among other things.

## WHAT'S IN THE BILL?

*This Pro Bill Analysis is based on the [text of the substitute amendment](#) as released by the Education and Labor Committee March 23 for consideration during the March 24 markup.*

**Enhanced Enforcement of Equal Pay Requirements (Section 2):** H.R. 7 would amend pay-related provisions of the Fair Labor Standards Act of 1938 to:

- Include sexual orientation and gender identity in the definition of "sex"
- Require employers to prove that any wage differentiation between same-rank employees of different sexes is due to a "bona fide factor" other than sex — including education, training or experience (They are currently required to prove that it is "any other factor other than sex.")
- Ban employers from retaliating against any employee who has made a charge, filed a complaint or taken other action against the employer related to equal pay
- Prevent employers from retaliating against any employee who has inquired into, discussed or disclosed their wages or a colleague's wages, or who has "opposed any practice made unlawful by this act"
- Prohibit employers from requiring employees to sign anything prohibiting them from disclosing information about their wages
- Increase civil penalties for employers who violate the Fair Labor Standard Act's equal pay provisions

**Training (Section 3):** The bill would direct the Equal Employment Opportunity Commission and the Labor Department's Office of Federal Contract Compliance Programs to train its employees and others affected "on matters involving discrimination in the payment of wages."

**Negotiation Skills Training (Section 4):** The measure would authorize the Labor Department to create a grant program to carry out negotiation skills training programs that could help address pay disparities.

It would also direct DOL and the Education Department to integrate similar training into existing programs and to report to Congress on those efforts within 18 months.

**Research, Education and Outreach (Section 5):** The bill directs DOL, within 18 months, to educate employers, labor groups and the public on ways to eliminate gender pay disparities, including by:

- Conducting and promoting new research on the topic
- Publicizing the findings of said research

- Sponsoring and assisting state, local and community informational and educational programs
- Providing information to employers, labor organizations, professional associations and other interested persons on the means of eliminating the pay disparities
- Recognizing employers and groups that have taken steps to address pay discrimination

It would also require DOL to report to Congress within one year on the gender pay gap in the teenage labor force.

**Other sections** in the bill would:

- Establish an annual DOL National Award for Pay Equity in the Workplace (Section 6)
- Direct the EEOC to collect information from employers on compensation, with exceptions for private employers with less than 100 employees (Section 7)
- Prohibit employers from asking about and considering wage history when hiring a new employee (Section 9)
- Direct DOL and EEOC to assist small businesses in complying with the bill (Section 11)

The measure would authorize "such sums as may be necessary" for its implementation (Section 10).

## WHAT'S HAPPENED SO FAR?

The House passed last session's version of the bill, [also numbered H.R. 7](#), by a vote of [242-187](#) on March 27, 2019. Seven Republicans joined 235 Democrats in support, while no Democrat voted against the measure.

Sen. [Patty Murray](#) (D-Wash.) asked unanimous consent on April 2, 2019, to have the Senate proceed to the House-passed bill, but then-[Senate HELP](#) Chair Lamar Alexander (R-Tenn.) objected to the request, stalling the bill in the Senate.

In the 117th Congress, Murray, now Senate HELP chair, and [House Appropriations](#) Chair [Rosa DeLauro](#) (D-Conn.), who sponsored H.R. 7, got every Democrat in both [the House](#) and [Senate](#) to sign onto the new versions of the Paycheck Fairness Act.

Those Democrats are joined by three House Republicans in support of the legislation: New Jersey Reps. [Chris Smith](#) and [Jeff Van Drew](#), who both also co-sponsored H.R. 7 in the 116th Congress, along with [Brian Fitzpatrick](#) of Pennsylvania, who is a co-sponsor of the current H.R. 7, but did not co-sponsor the 116th Congress version.

While Democrats say the language's enactment is long overdue, Republicans generally oppose the bill. Because wage discrimination on the basis of sex is already illegal, they argue the measure is superfluous. They also say its provisions would make it too easy for employees to sue employers, leading to unnecessary lawsuits.

## WHAT'S NEXT?

The [House Education and Labor Committee](#) will [mark up H.R. 7 at noon on March 24](#). The panel released [a substitute text](#) in advance of the markup.

Proponents are confident the House will pass the bill this spring, but the lack of GOP co-sponsors in the Senate means it is unlikely to advance in that chamber unless Democrats abolish the legislative filibuster, thus requiring a majority instead of 60 votes for advancement.

## WHAT'S THE LATEST ON THE BILL?

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