PUBLIC HEARING ON PAY EQUITY IN THE STATE OF NEW YORK

TESTIMONY SUBMITTED TO THE
ASSEMBLY STANDING COMMITTEE ON LABOR
ASSEMBLY STANDING COMMITTEE ON GOVERNMENTAL EMPLOYEES
ASSEMBLY STANDING COMMITTEE ON GOVERNMENTAL OPERATIONS
ASSEMBLY STANDING COMMITTEE ON OVERSIGHT, ANALYSIS AND INVESTIGATION
ASSEMBLY TASK FORCE ON WOMEN’S ISSUES

NEW YORK STATE ASSEMBLY
DECEMBER 12, 2011
11:00 a.m.
Assembly Hearing Room 1923, 19th Floor
250 Broadway
New York City

The League of Women Voters of New York State (the League) respectfully submits testimony for your consideration on wage disparities in New York State and ways to eliminate discriminatory practices. The League is a multi-issue, nonpartisan political organization working to promote political responsibility through the informed and active participation of citizens in government. We would like to thank the committees and the Assembly for having this hearing on this very important topic.

In 1981 members of the League all over the state studied issues related to employment in New York, and in 1982, following that grassroots input, the League adopted a position that called, in part, for “state legislation and regulations that will establish greater equity in wage compensation for comparable jobs. Comparable worth of jobs should be determined by gender neutral criteria such as responsibility, effort, skill, education and experience required, and the working conditions.” That was 30 years ago and we still don’t have laws requiring comparable worth. We still need them because job titles that have historically been filled by women and people of color are still underpaid according to any gender neutral job evaluation system.
In 1986 the state agreed to a one-time-only funding pool to cover pay equity adjustment for state employees. The set-asides represented one percent of the gross payroll in 1986-87, and the comparable worth adjustments were made in 1987. In the absence of legislation, however, there has been no reexamination of pay equity for those in state service and no required extension of pay equity to all those in the private and broader public sector including cities, counties, and school districts.

In May of 1997, Commissioner Edward Mercado, head of the State Division of Human Rights, dismissed a ten year old lawsuit by secretarial staff in the Sachem School District demanding equal pay with custodians, saying that “while the case raised the very real issue of historic salary inequities between the genders he had neither the tools nor the discretion to address the disparity.” (Long Island Press)

“Existing law focuses exclusively on the nature of the work performed, not on the class of persons performing it,” said Mercado, in the court order. “Such a situation cries out for legislative action to correct this flaw.”

That was 24 years ago and we still don’t have laws requiring comparable worth.

In 1998, in response to requests from then Assembly members Thomas DiNapoli (Chair, Government Operations); Catherine T. Nolan (Chair, Labor) and Joan Christensen (Chair, Task Force on Women) the Assembly held a hearing to design legislation. That was 23 years ago and, although legislation was written, we still haven’t passed laws requiring comparable worth.

To its credit, the Assembly has been passing a package of Pay Equity Bills for many years. The best of these, and the most comprehensive, is the NYS Fair Pay Act (currently A06130.). The Fair Pay Act is strong and enforceable legislation amending the Labor Law, which, if passed, would provide equal pay for jobs of comparable worth in both the public and private sectors. It requires that job titles where people of color and/or women and/or people of specific national origins predominate should receive equal pay with comparable job titles.

Another important strength of the NYS Fair Pay Act which is particularly important for private sector workers is that it allows employees to voluntarily share salary information without fear of being fired or reprimanded for disclosing information about pay. The vast majority of workers are employed in the private sector, where salaries can be kept secret and employees can be fired for sharing salary information. Without salary information, it is impossible for private sector employees to know whether they are being paid equally for equal work.

We believe that if the NYS Fair Pay Act were to become law there would be no need for any of the other bills in the Assembly’s pay equity package. The other bills address only a part of the problem:

- A01780- An act to amend the civil service law in relation to implementing a policy of setting salaries on the basis of comparability of the work. This bill is
strongly written, and includes sex, race and national origin BUT it applies only to employees of the State of New York.
- A06448 – Amends the civil service law to require all public employers to determine the comparable worth of job titles that have historically been filled predominately by women. Race and national origin are not included as considerations.
- A03690 – Amends the Executive Law to require all public and private employers to determine the comparable worth of job titles that have historically been filled predominately by women. Race and national origin are not included as considerations.

If sex, race and national origin are not all included in the determination of which job titles are predominately held by categories of people who have historically been discriminated against, fewer job titles will be eligible for comparable worth adjustments. For example a particular job title might be filled by 48% women, 15% men of color or Hispanic origin, but would not be eligible for comparable worth adjustments if sex were the only factor to be considered.

The League doesn’t have the resources to determine the fiscal impact of any of these bills, but we think that different points have to be considered:
- some public and private employers did reevaluate their job titles with a gender neutral evaluation tool, even though they were not required by law to do so,
- employers who did not reevaluate their job titles with a gender neutral evaluation tool have had an unfair competitive edge by continuing the historic discrimination. They will have new payroll expenses to correct this situation,
- A01780 would have very little fiscal impact on NYS because most of the required adjustments were made in 1987,
- employees working in job titles that are adjusted for comparable worth will be earning more money, which means they will have less need for any public income supports and that they will be paying more in taxes.

Larger employers already have personnel or human resource departments that routinely create new job descriptions and fit them into a job title evaluation scheme. It would be just as easy for them to use a race and gender neutral evaluation tool. The Fair Pay Act currently applies to all employers of more than three people. The League would support an increase in that number so that small employers are not unduly burdened.

If it is deemed that it is politically necessary to approach comparable worth in a gradual way (as if 30 years weren’t gradual enough) then the steps the League would recommend are:
- passage of A01780,
- amending A01780 to include all public employers,
- passage of a new bill that guarantees employees the right to voluntarily share salary information without fear of being fired or reprimanded for disclosing information about pay,
- passage of A06130, amended to include only private employers (since an amended A01780 would already require comparable worth of public employers).

The League commends the Assembly for its concern and long-term support for equal pay for comparable worth. This is an issue that continues to be of concern to our members across the state and we hope that there is the political will to get these important laws passed.