



**Report to the 24th Legislature
As Required under the Provisions of
Act 35 - Relating to Equal Pay
Session Laws of Hawaii 2005**

Submitted by:
Pay Equity Task Force
Office of the Governor
STATE OF HAWAII

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REPORT TO THE LEGISLATURE REQUIRED BY LAW

Act 35, Session Laws of Hawaii 2005, became law on April 28, 2005. The Act reiterates and reinforces current state and federal law prohibiting sex discrimination in payment of wages to women and men performing "equal work" in jobs that require equal skill, effort and responsibility under similar working conditions in the same establishment. The language of Act 35 mirrors language from the federal Equal Pay Act (29 U.S.C. §206(d)), except for the term "because of sex", which is specifically defined in section 378-1, Hawaii Revised Statutes

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("HRS").

In addition to reinforcing the State of Hawaii's commitment to pay equity, Act 35 also established a Pay Equity Task Force to be conducted under the auspices of the Office of the Governor to review any relevant information and make recommendations for funds or specific actions to correct any gender-based pay inequities that have been identified by the task force.

The duration of the task force was set from July 1, 2006 until June 30, 2011, when the task force shall be terminated.

Composition of the Pay Equity Task Force

Act 35 requires that the Pay Equity Task Force 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 ("DLIR") 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.

Duties of the Pay Equity Task Force

As described by Act 35, the purpose of the task force is to determine the current extent and trend of gender-based pay inequities in the State of Hawaii. The task force is required to 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 that the task force believes is relevant to its goals.

Further, the task force is required to review the specified materials and, as appropriate, develop recommendations for submission to the state legislature regarding the need for funding or specific actions to correct any gender-based pay inequities that the task force may discover. The task force is also required to provide the legislature with an annual report documenting any progress.

Relevant Pay Equity Laws

A. State Laws

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Haw. Rev. Stat., Chapters 368 and 378. The Hawaii Civil Rights Commission (“HCRC”), which is an administratively attached agency to the DLIR, enforces the State’s anti-discrimination laws provided in Chapters 368 and 378, HRS. These chapters and the HCRC administrative rules already prohibit employers from discriminating on the basis of sex, especially in the payment of wages. The HCRC is obligated to investigate and enforce Hawaii’s anti-discrimination laws. If the employer is found in violation of the law, the Commission may award the employee with back pay, and other equitable relief.

Haw. Rev. Stat. § 378-2(1)(A), explicitly prohibits employers to “discriminate against any individual in compensation or in the terms, conditions, or privileges of employment” on the basis of the employee’s “sex.”

Haw. Rev. Stat., § 378-2.3, prohibits employers from discriminating 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 for work requiring equal skill, effort, and responsibility, and is performed under similar working conditions.

B. Federal Laws

Equal Pay Act of 1963. This federal law prohibits sex-based pay differentials in employment. Generally, it requires all employers subject to the Fair Labor Standards Act (“FLSA”) to provide equal pay for men and women performing similar work.

Title VII of the Civil Rights Act of 1964. This Act specifically prohibits employment discrimination on the basis of race, sex, national origin, or religion in all institutions with fifteen or more employees.

Executive Order (“E.O.”) 11246 of 1965. This Presidential E.O. prohibits job discrimination by employers holding federal contracts or subcontracts, on the basis of race, sex, color, national origin, or religion. The E.O. requires employers to take affirmative steps to ensure equal opportunity in all aspects of employment.

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The United States Equal Employment Opportunity Commission ("EEOC") enforces these laws. Currently, the HCRC and the EEOC share responsibilities in the enforcement of these laws.

Progress of the Pay Equity Task Force

Since enactment of Act 35, the Office of the Governor convened the initial organizational meeting of the Pay Equity Task Force on Friday, June 16, 2006, in the conference room of the Governor's Office. At that meeting, the Honorable Judge Marie Milks (retired) was elected to be the chairperson of the Pay Equity Task Force. Since the organizational meeting, the task force has met on five (5) occasions: 1) September 8, 2006; 2) December 8, 2006; 3) February 16, 2007; 4) April 10, 2007; and 5) April 30, 2007. At these meetings, the task force members reviewed the reports recommended by the legislature, as well as reports submitted by the DLIR (Attachment #1) and Ms. Venora Hung (Attachment #2). Also at the meeting on April 30, 2007, the Honorable Judge Marie Milks (retired) voluntarily stepped down from the chair position and the task force elected Margaret Masunaga to be the chairperson.

The discussion at the initial meetings centered on ascertaining the scope and intent of the legislation that formed the Pay Equity Task Force. The legislation that guides the purpose of the task force is ambiguous and broad. The purpose of the task force as described by Act 35 reads:

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.

Findings and Recommendations

The language of Act 35 does not specifically indicate whether the task force should be studying pay inequities within the private and/or public employment sectors. While the language says 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", it also directs the task force to review prior wage equity studies that centered on public sector employees. Further, the language suggests that the task force develop recommendations for funding and or specific actions based upon the review of those earlier studies.

The Pay Equity Task Force offers the following findings and recommendations:

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1. The legislature should clarify the scope of the duties of the Pay Equity Task Force. Specifically, the legislature should make clear whether the task force should focus solely on Hawaii's civil service system, on private sector employees and employers, or on both.
2. A review of the “Study of Wage Equity in Public Employee Bargaining Units 1 and 10” published 1995 and “A Job Evaluation Study of Selected Job Classes of the State and Counties of Hawaii” published in 1987, has revealed that that these studies are outdated. Additionally, the job classifications found in these studies have changed significantly since their respective publications. Consequently, an attempt to perform a job match proved to be fruitless.
3. Once the scope of the duties of the Pay Equity Task Force is clarified, should a comprehensive study be needed, the task force recommends that funding be appropriated.

September 7, 2006

MEMORANDUM

TO: Nelson B. Befitel, Director

FROM: Naomi Harada, Chief of Research and Statistics Office

SUBJECT: Pay Equity Studies in the past 20 years

The following lists pay equity studies locally and nationally over the last 20 years with a summary of their findings:

Title: Author(s): Date:	Summary of Findings:
Local Reports	
Study of Wage Equity in Public Employee Bargaining Units 1 and 10; Vols. 1 – Background, Findings, and Recommendations & Vol. 2 – Technical Appendices Conducted by Hubbard & Revo-Cohen, Inc. and submitted by The Auditor, State of Hawaii April 1995	Two sets of analyses: 1) reviewed procedures and legislation governing the process of establishing wages for public employees in Hawaii, and 2) analyzed 50 jobs from bargaining units 1 and 10. Found that sex-based wage inequities exist in BU 1 & 10. Female-dominated jobs (those with 70 percent or more females) tend to be undervalued and underpaid when compared with comparable male-dominated jobs. Certain female-dominated job classes in both bargaining units are consistently underpaid relative to male-dominated classes with similar evaluations (based on skill, effort, responsibilities, and working conditions), establishing the “value of work”.
A Job Evaluation Study of Selected Job Classes of the State and Counties of Hawaii Arthur Young January 1987	Approximately 25 percent of the 82 job classes studied were found to have some form of pay inequity. No one cause or action could be found because of the complexity of the job evaluation system.
National Reports	
The Status of Women in Your County: A Community Research Tool The Institute for Women’s Policy Research and Statistics Office & James A. & Faith Knight Foundation Circa 2004	This tool allows you to build capacity among community groups to assess and track the status of women in their regions, i.e., using the American FactFinder, a program to access U.S. Census Bureau data online, one can find employment and earnings of women in Hawaii. Benjamin Nishimoto, a DLIR intern in 2005, found that the ratio of women’s to men’s median annual earnings in Hawaii’s counties ranged from 81-83 percent in 2000.

<p>The Status of Women in the States Women's Economic Status in the States: Wide Disparities by Race, Ethnicity, and Region</p> <p>Amy Caiazza, Ph.D., April Shaw, and Misha Werschkul for Institute for Women's Policy Research</p> <p>April 2004</p>	<p>Hawaii had the second highest earnings ratio between women and men at 83.4% among the 50 states in 2002. Other rankings cited for Hawaii involved women's median annual earnings at 15; percent of employed women in professional or managerial occupations at 36; and percent of women living above poverty at 31; for either 2001 or 2002. There were also rankings of ethnic breakouts for the above categories.</p>
<p>Still a Man's Labor Market: The Long-Term Earnings Gap</p> <p>Stephen J. Rose and Heidi I. Hartmann for Institute for Women's Policy Research</p> <p>June 2004</p>	<p>Using a 15-year time frame (1983-1998) and taking into account women's lower work hours and their years with zero earnings due to family care, the study found that women workers, in their prime earning years, make only 38 percent of what men earn. Data was from the Panel Study of Income Dynamics. One major reason for the gender gap was due to the gender segregation of the labor market. Jobs where females dominated (with at least 75 %) were paid significantly less than those of their male counterparts even though both sets of occupations tend to require the same level of educational preparation. The study developed a three-tier schema of elite, good, and less-skilled jobs. In general, even restricting the comparison to women who work full-time, women in women's jobs earn less than men in men's jobs one tier below: women in female elite jobs earn less than men in male good jobs, and women in female good jobs earn less than men in male less-skilled jobs. Numerous policy recommendations were offered to support greater equity between women and men.</p>

In Attachment I, you will find short summaries of research reports on the pay equity issue from the National Committee on Pay Equity's website www.pay-equity.org/info.html.

The American Community Survey (ACS) conducted by the Census Bureau provides some Hawaii wage data by gender. On average there is wage disparity between men and women for 2000-2003. In 2003, the ratio of female to male wages is approximately 79 percent.

TABLE 3. SELECTED ECONOMIC CHARACTERISTICS for HAWAII	2003 Estimate	2002 Estimate	2001 Estimate	2000 Estimate
Median earnings (in 2003 inflation-adjusted dollars):	\$27,095	\$26,118	\$25,898	\$26,819
Male full-time, year-round workers	\$39,205	\$36,739	\$37,356	\$38,642

Female full-time, year-round workers	\$31,123	\$30,451	\$29,546	\$32,046
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In a March 2006 summary in *Issues in Labor Statistics* from the U.S. Bureau of Labor Statistics, they found that nationally women's median usual weekly earnings were 81 percent of men's in 2005, among full-time wage and salary workers. While this proportion has risen over the last several decades, women still are underrepresented among the highest earners and overrepresented among the lowest. These findings are based on data from the Current Population Survey.

The Research and Statistics (R&S) Office' Local Employment Dynamics data provides quarterly workforce indicators by gender of average monthly earnings, average new hire earnings, employment, net job flows, job creation, new hires, separations, and turnover for the state and counties. As of June 2006, there were more males than females in every category statewide. Women's earnings comprised only 69 percent of men's earnings, and fared only slightly better with 70 percent when comparing women's and men's newly hired's wages.

The Current Employment Statistics survey that is conducted by the R&S Office no longer collects employment data on women as of January 2005. Another federal survey that R& S conducts called the Occupational Employment Statistics survey of employment and wages does not collect data by gender.

Some websites concerning the pay equity issue are:

<http://www.doer.state.mn.us/lr-peqty/lr-peqty.htm> - State of Minnesota, Department of Employee Relations' Compensation Division staff assist local government employers in implementing the Minnesota pay parity law with workbooks and software

<http://www.now.org/issues/economic/factsheet.html> - Facts on Pay Parity Sheet from National Organization for Women, 4/19/06, from various sources such as the U.S. Census Bureau, [2004 American Community Survey](#)

http://www.aauw.org/issue_advocacy/actionpages/payequity.cfm - American Association of University Women provides a *Pay Equity Resource Kit* that includes information about state and federal legislation and step-by-step suggestions to help you pursue pay equity projects. Their AAUW Educational Foundation also commissioned a nationally representative poll conducted by Lake, Snell, Perry, Mermin and Associates to learn about common perceptions of the pay gap in March 2005 that can be found on the website. Using the AAUW Educational Foundation's [Gains in Learning, Gaps in Earning](#) research, one can find out the pay gap between college-education men and women in your state. For Hawaii, it was 77 percent in 1999 and we were ranked third among the 50 states with the smallest gap.

<http://www.census.gov/prod/2004pubs/censr-15.pdf> - Census 2000 Special Reports, issued May 2004, documents the pervasiveness of the gender wage gap based upon an examination of 505 occupations

Pay Inequities Exist

In January 2005 the American Association of University Women (AAUW) Educational Foundation reported that nationally, college-educated women earn only 72 percent as much as college-educated men, a wage gap of 28 cents on the dollar. In every state, a persistent and significant gap exists between the earnings of college-educated, full-time working women and college-educated, full-time working men. (<http://www.pay-equity.org>)

According to the National Committee on Pay Equity, Hawaii is ranked as number 19 out of the 50 states for pay equity. If Hawaii does not make any policy changes, it is estimated that Hawaii will not reach pay equity until year 2049. (<http://www.pay-equity.org/PDFs/payequitysummarytable.pdf>)

Pay Inequities Exist in the Public Sector

National research studies show that pay inequities exist in Hawaii, but the last in depth research on the public sector was conducted in June of 1993. This information is now outdated and a new study should be done to understand the current climate of pay inequity. A new study will provide the information needed to understand what policy changes must be implemented to close the wage gap between men and women.

Suggestions on Improving Pay Inequity in Hawaii

- Conduct new research - According to the Hawaii State Department of Labor and Industrial Relations, there is no current state driven research regarding pay equity. Information regarding pay equity could not be found through the Research and Statistics Department.
- Conduct research on each island - Government attorneys salaries need to be studied separately on each island since each island's corporation counsel's office and the prosecutor's office is set by the salary commission of each county.
- Conduct research on the public sector first.
- Work with the Hawaii Civil Rights Commission since they receive complaints on employers who violate the Hawaii Employment Practices Act, H.R.S. Ch. 378, Part I (which makes it illegal for an employer or labor organization to discriminate against someone on the basis of sex.)
- Work with IWPR - Maryland Department of Labor's [Report of the Equal Pay Commission](#) (issued September 30, 2006) revealed "wage gaps based on both gender and race in the State, particularly in the private sector." The Commission was assisted by the [Institute for Women's Policy Research](#), which conducted a study on wage disparities in Maryland. Hawaii can leverage the expertise of IWPR to conduct an analysis of wage disparities.