

Same Work, Less Pay: The Wage Gap in Alabama

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One of the most fundamental rules of football is that a touchdown is worth six points for everyone. Regardless of which team you play for or what color uniforms you wear, if you play by the rules and do the work required to get the ball into your opponent's end zone, you score six points. But imagine the uproar if officials suddenly were to declare touchdowns worth six points for one team but only five points for the other.

Many workers both in Alabama and nationwide encounter just that sort of shortfall with every paycheck they receive. Despite decades of steady improvement, sizable earnings gaps remain between women and men and between racial minorities and non-minorities. Further, research has shown some disparities persist even among workers with comparable employment, educational background and job tenure. This lack of **pay equity** can cost workers hundreds of thousands of dollars over their lifetimes and hits especially hard among low-income workers, for whom a few dollars a week can make or break a household budget.

This fact sheet will examine the history of wage discrimination and federal laws designed to protect women and minorities from it. This fact sheet also will consider the scope of today's disparities and look at how an **Equal Pay Commission** could help Alabama find ways to explain and close the pay gap to ensure that equal work pays off equally for everyone.

The legal framework for pay equity

Many federal efforts to stop wage discrimination trace their roots to the Fair Labor Standards Act (FLSA). The 1938 law established overtime guarantees, created a minimum wage and barred oppressive child labor. In 1963, Congress passed the **Equal Pay Act** as an amendment to the FLSA. The act, which applies to almost all employers, forbids the payment of unequal wages or benefits to men and women who do substantially equal work on jobs that require "equal skill, effort, and responsibility, and which are performed under similar working conditions." Employers must show that any disparity results from seniority, merit, quality or quantity of production, or another factor unrelated to sex. Under the law, no employee's compensation may be reduced in correcting a disparity. Instead, the pay of underpaid workers must be increased.

Keywords

Equal Employment Opportunity Commission (EEOC) – a federal agency created in 1965 to enforce laws against workplace discrimination.

Equal Pay Act – a 1963 federal law barring employers from engaging in sex discrimination in wage payments to most blue-collar and white-collar employees.

Equal Pay Commission – a proposed statewide panel that would study the extent, causes and effects of pay inequity in Alabama and recommend actions to end those disparities.

Lilly Ledbetter Fair Pay Act – a 2009 federal law declaring that each new discriminatory paycheck resets the 180-day period for filing an equal pay complaint under Title VII.

Paycheck Fairness Act – proposed federal legislation that would forbid employer retaliation against workers who share salary information with coworkers and would require employers to prove that pay differences are job-related rather than sex-based.

pay equity – a situation in which workers, regardless of their race, sex, etc., receive comparable pay for jobs that require similar skill, effort, responsibilities and working conditions.

Title VII – a provision of the federal Civil Rights Act of 1964 that prohibits employment discrimination on the basis of race, color, religion, sex or national origin.

Shortly after passing the Equal Pay Act, Congress approved the Civil Rights Act of 1964. Title VII of the act, which applies to employers with at least 15 workers, bars employment discrimination based on race, color, religion, sex or national origin. (Later amendments added protections for older, disabled and pregnant workers.) A year later, Congress created the **Equal Employment Opportunity Commission (EEOC)** to help enforce Title VII and other workplace protections.

Many pay equity advocates say efforts to sue under these laws can be costly and difficult. One widely known lawsuit that came up short was filed by Alabama native Lilly Ledbetter, a longtime manager at the Goodyear Tire and Rubber Co. plant in Gadsden. Ledbetter sued after learning just before retirement that she for years had been paid 25 percent to 40 percent less than male managers with similar jobs and seniority. After a decade of litigation, the U.S. Supreme Court

ruled in 2007 that her claim was barred under Title VII because she did not sue within 180 days of the initial alleged decision to discriminate against her. Congress responded in 2009 by passing the **Lilly Ledbetter Fair Pay Act** to declare that each new discriminatory paycheck resets the 180-day window for filing suit.

Another recent effort to strengthen equal pay laws was not as successful. Lawmakers in 2009 introduced the **Paycheck Fairness Act**, which would have barred retaliation against workers who share salary information and required employers to demonstrate that pay differences stemmed from job characteristics rather than sex. The U.S. House approved the bill in 2009, but it died in November 2010 after coming up two short of the 60 votes required on a Senate procedural vote.

Where equal pay stands today

Notable wage differences by sex and race continue almost half a century after passage of the Equal Pay Act and Title VII. Nationwide, women made just 81.6 cents in median wages for every \$1 that men earned in 2009, according to the U.S. Census Bureau's Current Population Survey (CPS). White workers made \$1 in median wages for every 77.6 cents that African Americans earned and every 69.8 cents that Hispanics earned in 2009, according to the CPS.

Alabama's wage disparities historically have been even larger than the national average. The state's women made 76.8 cents for every \$1 that men earned in 2009, according to the CPS. White Alabama workers, meanwhile, made \$1 in median wages for every 75.5 cents that African Americans made in 2009, according to the CPS. (State-level wage data for Hispanics were unavailable because of insufficient sample size.)

The earnings gaps between women and men and between minorities and non-minorities have narrowed considerably in recent decades. White Alabama workers made \$1 in median wages for every 65 cents that African Americans earned in 1979, while women made 58.1 cents for every \$1 that men earned that year. The state's shrinking disparities have followed a national pattern. Still, despite the long-term narrowing trend, the wage gap for Alabama women was slightly larger in 2009 than at the start of the decade.

American women earn less than men in almost every occupation. Women's median weekly earnings are higher than those of men in only four of the 108

occupations for which Bureau of Labor Statistics data allowed the calculation of a male/female earnings ratio, according to a study last year by the Institute for Women's Policy Research (IWPR). Women earn less than men in jobs primarily done by men, jobs primarily done by women, and jobs with a roughly even divide between men and women, IWPR found. These gaps remain even as past assumptions that men are families' primary breadwinners increasingly no longer hold true.

Educational background and work experience do not explain some pay disparities. One year out of college, women working full time make between 5 percent and 27 percent less than similarly situated male colleagues in the same field, according to a 2007 study by the American Association of University Women. Over a lifetime, the wage gap can cost an average full-time female worker between \$700,000 and \$2 million, according to the National Committee on Pay Equity. The effects can be especially pronounced among single mothers, many of whom must raise children with little or no financial assistance from fathers.

How an Equal Pay Commission could help

The persistence of wage discrimination by sex and race is well-established, but the causes and potential solutions are less clear. Many states have created an Equal Pay Commission to study the disparities and recommend actions to help end the pay gaps. The Alabama Legislature in 2009 approved a joint resolution to establish a commission that was to report its findings to the state Senate during the 2010 legislative session. The resolution called for the panel to include representatives of business, labor, education and other interested advocacy groups. Most of the nine members never were appointed, however, and the commission never met. Efforts to establish a new panel were unsuccessful last year, but the measure's sponsors will try again in 2011.

Pay equity in Alabama is a topic that needs more research. Unequal pay can lead to more poverty, lower living standards and a less inclusive workforce, all of which hurt the state's economic growth and quality of life. A permanent Equal Pay Commission would better equip Alabama to design public policies that close the wage gap and ensure that people who do the same work under the same rules can reap the same rewards.

This fact sheet was prepared by policy analyst Chris Sanders. It may be reproduced with acknowledgment of Arise Citizens' Policy Project, Box 1188, Montgomery, AL 36101; (800) 832-9060; arisecitizens.org.