



the work and family legal center

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LEGISLATIVE MEMORANDUM

Support for A8348/S5674 and the Prohibition of Workplace Retaliation for Wage Disclosure

February 3, 2012

As an organization dedicated to promoting fairness in the workplace and achieving pay equity, A Better Balance strongly supports A8348 (Meng)/S5674 (Krueger), a bill in the New York State Legislature that would prohibit retaliation in the workplace based on wage disclosure.

Wage discrimination often remains undetected due to workplace policies that punish employees for voluntarily sharing wage information with colleagues. Pay confidentiality policies are widespread in the private sector, and the negative impact on women's earnings is significant. According to a 2010 study, 61% of private sector employees in the United States reported that they are discouraged or prohibited from discussing wage and salary information. Pay confidentiality policies and the threat of retaliation for wage disclosure are key contributors to gender wage discrimination. If a woman does not know how much her male colleagues earn, it is extremely difficult to determine whether she is a victim of pay discrimination. Such pay secrecy policies enable employers to discriminate against women employees without their knowledge.

A8348/S5674 would encourage pay transparency and discourage gender discrimination by prohibiting retaliation based on wage disclosure. Specifically, the bill would amend New York State Labor Law to make it unlawful for employers to retaliate against workers for disclosing, comparing, inquiring about, or otherwise discussing their wages. According to the Supreme Court of the United States, “[f]ear of retaliation is the leading reason why people stay silent instead of voicing their concerns about bias and discrimination.” A8348/S5674 would allow workers with concerns regarding gender discrimination to disclose and discuss their wages without fear of penalty or job loss; workers who do face retaliation for voluntarily disclosing their wages would have a legal remedy.

By increasing pay transparency and discouraging discrimination, A8348/S5674 would contribute to greater pay equity in New York. Gender discrimination in the workplace is a major contributor to New York's persistent and pernicious gender wage gap. In New York City, a female full-time worker in the for-profit sector earns only 71.5 cents for every dollar her male counterpart earns. Statewide, the wage gap stands at 82.5%. Due to this continued pay gap, full-time working women in New York collectively lose more than \$22,340,000,000 each year. If the wage gap was closed, working women in New York and their families would have enough money for more than a year's worth of food; 4.4 months of mortgage and utility payments; 9 additional months of rent; 3 extra years of family health insurance premiums; or more than 2,000 gallons of gas.

In today's economy, measures that help to deter discrimination and close the wage gap—such as A8348/S5674—are critical to the financial security of working families. Women head more than 1,000,000



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households in New York, and more than 63% of working mothers in New York are primary or co-breadwinners. Elimination of the wage gap would also provide crucial income to nearly 280,000 New York families living in poverty, many of which are led by women; more than 26% percent of women-headed households in New York live below the poverty level. To close the wage gap in New York, we must fight pay secrecy and gender wage discrimination. All New Yorkers should be guaranteed fair pay and an equal opportunity, and A8348/S5674 is a key step in the right direction.

For more information, please contact Dina Bakst, Co-Founder and Co-President of A Better Balance at dbakst@abetterbalance.org, or Jared Make, Staff Attorney of A Better Balance at jmake@abetterbalance.org; 212-430-5982.

Sincerely,

Dina Bakst, Co-Founder and Co-President
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