

March 12, 2018

Re: Senate Bill 377/House Bill 512 – SUPPORT

Dear Maryland Senate Finance Committee Members:

As organizations dedicated to ensuring that working people in Maryland and throughout the country are treated fairly in the workplace, we write to strongly urge you to support SB 377/HB 512. Maryland made important strides in strengthening its equal pay laws by passing the Equal Pay for Equal Work Act in 2016, but too many employers are still setting pay in a way that perpetuates gender and racial pay disparities without justification. SB 377/HB 512 targets one of these insidious employer practices by prohibiting employers from setting pay based on job applicants' salary history and by requiring employers to provide a pay scale for a position upon request, thereby leveling the negotiating playing field.

Using salary history in the hiring and pay setting process is an unfair practice that hurts all working people in Maryland, but has a disproportionately negative impact on women and people of color who face conscious and unconscious discrimination in the workplace and, consequently, are paid lower wages, on average, than white men. It also penalizes individuals—predominately women—who had to reduce their hours or leave their prior job to care for children or family members, or who worked for the nonprofit sector, and whose prior salary, consequently, doesn't reflect their current qualifications or market conditions. Relying on salary history perpetuates and reinforces gender and racial wage gaps throughout women's careers, hurting women, their families, and the state's economy.

By passing SB377/HB 512, Maryland would join a growing chorus of states and cities seeking to stop employers' unfair and unnecessary reliance on job applicants' salary history. Massachusetts, California, Delaware, Oregon, Puerto Rico, New York City, San Francisco, and Philadelphia have all passed legislation prohibiting employers from relying on salary history—many times with bipartisan and business support. Likewise, the District of Columbia, New York, New Jersey, and the cities of New Orleans, Pittsburgh, and Salt Lake City have also prohibited the use of salary history by state or city agencies. And this year, nearly 20 states—from Nebraska to Vermont—are considering enacting similar legislation. We are seeing a groundswell of support for this legislation throughout the country because it is a commonsense, simple, yet impactful measure for closing gender and racial wage gaps.

Many businesses recognize that using salary history in the hiring process is neither a necessary nor a good business practice. Small and large businesses throughout the country, including Bank of America, Wells Fargo, Cisco, Progressive, and Amazon, have announced that they are no longer asking applicants to provide their salary history, acknowledging that this practice perpetuates wage gaps, and that employees should be paid based on their experience, skills, track record, and the responsibilities they will be assuming, not on what they happened to be paid in their past job.¹ The Greater Boston Chamber of Commerce publicly supported similar legislation when it passed in Massachusetts in 2016. Ending reliance on salary history—a practice that unjustifiably perpetuates gender and racial wage gaps within a workplace—will help employers decrease their exposure to costly pay discrimination litigation.²

SB 377/HB 512 will also help Maryland businesses attract and retain diverse and qualified talent. As a human resources professional stated in Forbes, the practice of asking for salary history is “intrusive and heavy-handed . . . It’s a Worst Practice . . . It hurts an employer’s brand and drives the best candidates away.”³ Moreover, a recent study showed that when salary history information was taken out of the equation, the employers studied ended up widening the pool of workers under consideration and interviewing and ultimately hiring individuals who had made less money in the past.⁴

SB 377/HB 512 still permits a job applicant to volunteer her salary history information and permits an employer to rely on that information to offer the applicant a higher salary. And nothing in this bill prevents an employer from asking applicants for their salary requirements or expectations. Since research shows, however, that women ask for less than men in pay negotiations, even when they are equally qualified and applying for similar jobs,⁵ this bill requires employers to provide applicants the salary range for the position, upon request. Research shows that when job applicants are clearly informed about the context of negotiations, gender wage gaps narrow.⁶

Stopping employers from relying on salary history and requiring employers to provide applicants with pay scales upon request are crucial steps to closing the wage gap. We urge the members of this Committee to once again stand up for working people in Maryland by supporting SB 377/HB 512.

Sincerely,

National Women’s Law Center
American Association of University Women - Maryland
American Civil Liberties Union (ACLU) of Maryland
Maryland National Organization for Women
Maryland Legislative Agenda for Women (MLAW), a coalition of over 45 organizations
Maryland State and D.C. AFL-CIO
Maryland Working Families
Montgomery County Commission for Women
Montgomery County Business and Professional Women (MC BPW)
NAACP Maryland State Conference
NARAL Pro-Choice Maryland
Progressive Maryland
Public Justice Center
The Maryland Federation of Business and Professional Women Clubs, Inc.
The Women’s Law Center of Maryland
SEIU 1199
American Civil Liberties Union (ACLU)
American Association of University Women
Atlanta Women for Equality
Congregation of Our Lady of Charity of the Good Shepherd, US provinces
Equal Pay Today!
Equal Rights Advocates
Gender Justice
MomsRising
National Advocacy Center of the Sister of the Good

National Asian Pacific American Women's Forum (NAPAWF)
National Committee on Pay Equity
National Employment Law Project
National Organization for Women
National Partnership for Women & Families
Not Without Black Women
SiXAction
UltraViolet
PowHer New York
Women's Law Project

¹ Jena McGregor, *Bank of America is the latest company to ban this dreaded job-interview question*, Washington Post (Jan. 29, 2018), https://www.washingtonpost.com/news/on-leadership/wp/2018/01/29/bank-of-america-is-the-latest-company-to-ban-this-dreaded-job-interview-question/?utm_term=.dc43dba61a8c.

² See, e.g. Beck v. Boeing (W.D. Wash. 2000) (\$72.5 million dollar settlement in class action suit alleging pay discrimination based on Boeing setting salaries of new hires based on past salary plus hiring bonus leading to significant gender pay disparities).

³ Liz Ryan, *When Someone Demands Your Salary History, Give Your Salary Requirements Instead*, FORBES (Jan. 16, 2017), <https://www.forbes.com/sites/lizryan/2017/01/16/when-they-demand-your-salary-history-give-your-salary-requirement-instead/#944ba255a8bb>.

⁴ Moshe A. Barach & John J. Horton, *How do Employers Use Compensation History: Evidence From a Field Experiment* (CESifo, Working Paper No. 6559, 2017), <http://moshebarach.com/wp-content/uploads/2017/06/WageHistory.pdf>

⁵ See Linda Babcock & Sara Laschever, *Women Don't Ask: Negotiation and the Gender Divide* (2003) (finding that women ask for less when they do negotiate and that women business school graduates who negotiate fare 30 percent worse than their peers who are men); Jenny Save-Soderbergh, *Are Women Asking for Low Wages? Gender Differences in Wage Bargaining Strategies and Ensuing Bargaining Success*, SWEDISH INST. SOC. RES. WORKING PAPER SERIES 7/2007 10 (2007), available at https://ideas.repec.org/p/hhs/sofiwp/2007_007.html.

⁶ See, e.g., Hannah Riley Bowles, Linda Babcock & Kathleen L. McGinn, *Constraints and Triggers: Situational Mechanics of Gender in Negotiations*, 89 J. PERSONALITY & SOC. PSYCH. 951, 955-56 (2005).