

December 5, 2022

The Honorable Kathleen C. Hochul
Governor, State of New York
NYS State Capital Bldg. Albany, NY 12224.

Dear Governor Hochul,

As advocates at the forefront of advancing pay equity for women in New York and across the country, the undersigned organizations write to **urge you to promptly sign A.10477/S9427A, without amendment.** This legislation would empower women with necessary information to overcome longstanding barriers to pay equity, by requiring employers with four or more employees to disclose wage or salary ranges in advertisements for new jobs, transfers, and promotion opportunities for any position that can be carried out in the state. This bill is essential to pay equity, and **we hope that as the first elected female Governor of the State of New York, you will step up to lead this change and to act on your stated commitments to pay equity and gender equality.**

Decades of research, policy advocacy, and litigation have made clear that **pay equity cannot be achieved without the type of transparency advanced by this bill.** For too long, women and people of color have remained powerless under our existing scheme of pay secrecy. This scheme makes it impossible to unearth disparities, forces women to undersell themselves, and allows employers to set salary subject to unconscious biases and absent accountability. When women have access to wage and salary information up front, they not only are in a better position to advocate for themselves during the hiring process, they are in a better position to identify higher paying jobs and industries to counter occupational segregation.

This bill, which passed in both houses of our legislature and has already been significantly pared down and aligned with the NYC law, should not be amended further. Through robust negotiations, **the concerns of business were addressed and important provisions were removed or altered, like notice to current employees and extending the effective date.** Apart from sending the wrong message to women across the state, any amendments would exclude some of the most vulnerable workers, disadvantage certain employers, and create inconsistency across the state.

Maintaining the current employee threshold of four employees or more is essential to ensure that we do not exclude a substantial number of businesses and consequently exclude a large number of workers the bill intended to protect. By excluding businesses with fewer than four employees, the current bill already eliminates the posting requirement for about half of the state's 300,000 employers, excluding NYC employers. **An amendment to expand the employee threshold to exclude businesses with up to 20 employees will effectively require that approximately 13% of all businesses post salary information.**¹ This disproportionately hurts women of color working in nail salons, hair salons, restaurants, daycare providers, retail stores, and other small businesses where New York workers are known to face high rates of exploitation and desperately need access to wage information up front. Meanwhile, with worker expectations shifting in favor of transparency,² small businesses will likely be at even more of a competitive

¹ *The County Business Patterns Data for 2020*, United States Census Bureau
<https://www.census.gov/programs-surveys/cbp.html>

² Tom Starner, *Employees Are Demanding Pay Transparency, Here's How HR Should Respond*, Human Resources Executive (Oct. 24, 2022), <https://hrexecutive.com/employees-are-demanding-pay-transparency-heres-how-hr-should-respond/>.

disadvantage if they are exempt from compliance.³ Including them gives the Department of Labor authority to provide targeted guidance to small businesses as they make this necessary and inevitable transition.

A key element of the bill, which was negotiated, covers remote work opportunities. **Any change to the current language would effectively dismantle the bill by excluding a considerable percentage of positions at a time when the number of remote work opportunities are on the rise.** This exclusion would uniquely harm women, denying them access to wage and salary information for positions that are often more desirable and beneficial for individuals with caregiving responsibilities.

Chapter amendments at this juncture would also bring the law out of parity with laws now in place in New York City, Ithaca, and Westchester County, to the detriment of workers across New York State who deserve equal protection. Carving out such exemptions will either have no impact on those employers already subject to local requirements or will create a more convoluted, confusing, and unequal compliance scheme for other employers within the state.

Instead of weakening this important bill, now is an opportunity to get behind it. Across the country, we are witnessing a notable shift towards pay transparency. Since the passage of legislation in New York City, **states and localities across the country are acting swiftly to mandate disclosure of pay rates in job postings and many employers are making this move voluntarily.**⁴ Colorado, California, Washington State, and Jersey City have already enacted legislation that requires disclosure of pay ranges in job postings, and other states like Connecticut, Maryland, Nevada, and Rhode Island now require some form of disclosure during the application process. Pay transparency is now broadly recognized by the women's rights community, workers, employers, and human resources experts as **an essential tool to close the gender wage gap and to improve employment practices to benefit workers and employers alike.**⁵ New York State cannot forgo this opportunity to keep pace with this national trend.

While New York has always been a leader in advancing meaningful reforms to close the gender pay gap, it is still falling short. **Women of color in New York continue to face the most sizable and stagnant pay disparities,** with Black and Latina women in New York earning 64 cents and 56 cents, respectively, compared to full-time working white non-Hispanic men.⁶ We have an urgent responsibility to close these gaps. Mandating pay transparency for most NYS businesses, while not sufficient, is a necessary step forward.

³ Salary is one of the most important factors candidates consider when looking for employment and existing employees are investing more time into finding out compensation. Greg Lewis, This Job Description Heatmap Shows You What Candidates Really Care About (and What They Ignore), LinkedIn Talent Blog (June 19, 2018), <https://www.linkedin.com/business/talent/blog/talent-acquisition/job-description-heatmap>; Brett Christie, Pay Transparency Remains Key Amid a Tight Labor Market, WorldatWork (June 16, 2022), <https://worldatwork.org/resources/publications/workspan-daily/pay-transparency-remains-key-amid-a-tight-labor-market>

⁴ Leah Shepherd, *Trend Toward Pay Transparency Continues*, SHRM (Sept. 27, 2022), <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/pay-transparency-trend-grows.aspx>; Jena McGregor, *Microsoft Announces it Will Include Pay Ranges in All U.S. Job Postings. Experts Predict it Will be the First of Many*, Forbes (June 9, 2022), <https://www.forbes.com/sites/jenamcgregor/2022/06/09/microsoft-announces-it-will-include-pay-ranges-in-all-us-job-postings-experts-predict-it-will-be-the-first-of-many/?sh=6205c4cf5c72>.

⁵ Michael Baker et al., *Pay Transparency and the Gender Gap* (Nat'l Bureau of Econ. Research Working Paper No. 25834), https://www.nber.org/system/files/working_papers/w25834/w25834.pdf; Michael Baker et al., *Can Transparency Laws Fix the Gender Wage Gap?*, Harv. Bus. Rev. (Feb. 26, 2020), <https://hbr.org/2020/02/can-transparency-laws-fix-the-gender-wage-gap>; Maria Recalde & Lise Verterlund, *Gender Differences in Negotiation and Policy for Improvement* (Nat'l Bureau of Econ. Research Working Paper No. 28183), https://www.nber.org/system/files/working_papers/w28183/w28183.pdf; *Does Pay Transparency Close the Gender Wage Gap?*, PayScale, <https://www.payscale.com/content/whitepaper/Pay-Transparency-Closing-Gender-Wage-Gap.pdf> (last visited June 5, 2022) (“The high-level results of this research show that when respondents agree that pay is transparent in their organization, the gender wage gap vanishes for women doing similar jobs to men when all compensable factors are adjusted.”).

⁶ *The Wage Gap, State by State*, National Women's Law Center (Mar. 16, 2021), <https://nwlc.org/resources/wage-gap-state-state/>.

On December 8th, we mark Latina Equal Pay Day which represents the number of additional days Latina women must work to catch up to their White male counterparts. **We urge you to use this last equal pay day of the year to sign A.10477/S9427A into law and to reaffirm New York's commitment to uplifting ALL women and marginalized workers across the state.**

We thank you for your consideration and tireless work for the people of New York.

Sincerely,

Powher New York Network
Legal Momentum, The Women's Legal Defense and Education Fund
NELA/NY
CWA Local 1180
A Better Balance
American Association of University Women
American Association of University Women-Rockland County
Barbara Phillips Consulting
BKForge: Brooklyn for Reproductive and Gender Equity
Brooklyn Queens Chapter, National Organization for Women
Equal Rights Advocates
FPWA
Gender Equality Law Center
Gender Equity in Hiring Project
HCMoneyball
Human Services Council
Institute for Women's Policy Research
KWH Law Center for Social Justice and Change
Larchmont Temple
League of Women Voters of New York State
League of Women Voters of St. Lawrence County, New York
Malkhut Queens
Methodist Federation for Social Action
Momsrising
National Center for Law and Economic Justice
National Committee on Pay Equity
National Employment Law Project
National Women's Law Center
New York State Coalition Against Domestic Violence
New York State Public Affairs Committee of the Junior Leagues
Nontraditional Employment for Women (NEW)
North Country Matters
Pay Equity Coalition
Restaurant Opportunity Centers United
Sister to Sister International, Inc.
The Conference Board
The New York Women's Foundation
The Women's Economic Institute, Inc
Westchester Black Women's Political Caucus
Women Creating Change (WCC)
Women Employed
YWCA Brooklyn
Zonta Club of Greater Queens
Zonta District 3