



SAN
FRANCISCO
CHAMBER OF
COMMERCE

April 19, 2017

Supervisor Mark Farrell
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102

RE: File No. 170350 Parity in Pay Ordinance

Dear Supervisor Farrell:

The San Francisco Chamber of Commerce, representing over 2,500 local businesses with more than 200,000 employees, strongly supports equal pay for equal work and encourages compliance with federal and state law requiring pay equity. While statistics show that over the last fifty years significant progress has been made in closing the gender based wage gap, disparities still exist.

We appreciate the goal of your pending ordinance, which is to eliminate improper wage disparity arising out of the hiring process. However, as drafted, the ordinance would significantly curtail the right of an employer to determine the appropriate salary and benefit package to offer an applicant, potentially dragging out the hiring process.

As you know, similar laws have been challenged as a violation of an employer's First Amendment rights. Few things are as basic to the hiring process than employers and applicants having the ability to enter into a robust discussion of salary and benefits, especially where deferred compensation or commission structure come into play. The ordinance will also expose employers to potential enforcement actions by OLSE or the City Attorney, enforcement that can arise from a complaint that seems to have no statute of limitations.

If an employer possibly posed unlawful questions or improperly sought salary history during an application process, the applicant should have the reasonable burden of seeking redress as soon as possible. The one year statute of limitations proposed in the ordinance may be appropriate for the commencement of civil litigation but a much shorter time-period for alleging a violation to OLSE should be included in the legislation. For small business who will rely on guidance from OLSE, an effective date beyond January 1, 2018 should also be considered.

The Chamber urges you to consider the following amendments to the Wage Parity legislation:

- 1) Clarify that an applicant may voluntarily disclose salary and benefit history. New York City recently enacted an Administrative Code ordinance that allows for salary history discussions in such cases: Sec. 8-107 25 (b) 2 (d).
- 2) Though your ordinance does not appear to prohibit discussion of salary expectations, clarify, like the New York ordinance, that a discussion of salary and benefit expectations is not prohibited: Sec. 8-107 25 (b) 2 (c).
- 3) Where an applicant engages the services of a search firm and voluntarily discloses salary history, sharing of such history with potential employers is not prohibited.
- 4) Include a filing deadline for any report to OLSE of a suspected violation of the ordinance, for example within 90 days of the job interview.
- 5) Like the New York ordinance, include language that allows disclosure when required by federal, state or other local laws and clarify that receipt of salary information from a background check does not, in and of itself, violate the law.
- 6) Extend the effective date of the ordinance to July 1, 2018 for employers with fewer than 100 employees to allow greater time for OLSE to develop informational materials and outreach to small businesses.

We appreciate your consideration of these proposed changes and look forward to working with you and your staff on drafting an amended version of the Wage Parity ordinance.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Lazarus", with a long horizontal flourish extending to the right.

Jim Lazarus
Senior Vice President of Public Policy