



Breaking through Barriers

The Paycheck Fairness Act's Perfect Storm

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When the Paycheck Fairness Act (H.R. 1338) passed on Thursday, July 31, it was the culmination of a long process — and I don't just mean the 11-year wait pay equity activists and tenacious sponsor Rep. Rosa DeLauro (D-CT) have endured just to get a vote. I also mean the roller coaster of the 110th Congress (2007–2008) as well as of the last three weeks. AAUW has long supported the Act, but in the past few years AAUW members and the government relations staff with them were on a mission to put the issue of pay equity back on the congressional radar screen. And thanks to a couple of circumstances — a positive one of our own making, and a negative one beyond our control — we succeeded in spades.

Policy victories like the one AAUW had last week are team efforts, and they don't happen in a vacuum. They are the result of weeks, months, typically years of work on the part of AAUW staff, member leaders, the AAUW Capitol Hill Lobby Corps, and AAUW advocates across the country.

A History of Advocacy

Of course, AAUW has been working on the issue of pay equity practically since that first meeting in Boston in 1881 of Marion Talbot and her uppity friends, who had the nerve to think that women should not only be educated but that they should do something productive with that education. AAUW published its first research on equal pay in 1913 and, as early as 1922, our legislative program called for a reclassification of the U.S. Civil Service and for a repeal of salary restrictions in the Department of Labor's Women's Bureau.

In 1955, AAUW supported a bill introduced by Reps. Edith Green (D-OR) and Edith Rogers (R-MA) requiring "equal pay for work of comparable value requiring comparable skills." Congress enacted the Equal Pay Act,ⁱ a version of the 1955 bill, in 1963. AAUW also supported the Civil Rights Act of 1964, which included Title VII and pay discrimination remedies for women and people of color. At every major battle for pay equity, AAUW has been there — persistent, on the frontlines, demanding simple justice.

AAUW Goes Behind the Pay Gap

I could write an entire book on AAUW's amazing activism — and maybe I should — but for now let's fast forward to Monday, April 23, 2007. AAUW released its much-anticipated report, *Behind the Pay Gap*. The next day, Tuesday, April 24, 2007 — not coincidentally, also Equal Pay Day — it became clear the report was a media sensation.

Headlines across the country trumpeted this startling fact: The pay gap between college educated men and women appears within the first year after college — even when women are working full-time in the same fields as men with the same major — and continues to widen over the first ten years in the workforce.ⁱⁱ

Report authors Catherine Hill, AAUW director of research, and Judy Goldberg Dey were everywhere — television, newspapers, radio; they even performed the coveted coffee trifecta, appearing on all three morning television news programs in one day. Later that day — still Equal Pay Day 2007 — Hill testified about *Behind the Pay Gap* before the House Education and Labor Committee at the first hearing on pay equity the committee had held in a decade.

Paycheck Fairness Act sponsor DeLauro was also there; she testified that the Paycheck Fairness Act would be the first bill passed to update and strengthen the Equal Pay Act of 1963, closing loopholes and improving the law's effectiveness and that it would deter wage discrimination by strengthening penalties and prohibiting retaliation against workers who disclose their own wages. The bill would also require employers to show that wage gaps are truly a result of factors other than sex, to collect better data on wages, to reinstate activities that promote equal pay at the Department of Labor, and to develop training for women and girls on salary negotiations. DeLauro also made sure every House office received a copy of AAUW's *Behind the Pay Gap*.

Rep. Eleanor Holmes Norton (D-DC, the longtime sponsor of the Fair Pay Act, a comparable worth bill, also testified at the hearing, stating that it was past time to take action on the DeLauro bill. The stage was set.

Later that day — Equal Pay Day 2007 was a very full day! — together with our coalition partners from WomenWork!, AAUW rallied for pay equity on the front lawn of the U.S. Capitol. We were joined not only by DeLauro and Norton, but also by their compatriots who had championed the Senate versions of these bills for years: Sen. Hillary Rodham Clinton (D—NY) and Sen. Tom Harkin (D—IA).

I was honored to have the chance to speak to the crowd, to let even more people know about AAUW's research and the need to finally take action on the Paycheck Fairness Act. Little did I know that another equal pay issue would soon be occupying our time, thanks to the highest court in the land.

The Supreme Court Ups the Stakes

Just a month later, on May 29, 2007, the now infamous decision in the case of *Ledbetter v. Goodyear Tire & Rubber Co.* was handed down by the U.S. Supreme Court. In a contentious split decision, the Court turned 40 years of legal precedent and EEOC practice on its head, and in the process made it virtually impossible for victims of pay discrimination to protect their rights under Title VII. Under this new rule, employers cannot be held accountable for their discrimination after 180 days.

The sheer wrongheadedness of this decision moved Justice Ruth Bader Ginsberg to read her dissent, aloud, from the bench, a very unusual event. It also caused a public outcry, and newspapers across the country editorialized against the Court's action. The decision also galvanized Congress to right the Court's wrong.

AAUW's report, together with the *Ledbetter* decision and the courage of Lilly Ledbetter, who continues to campaign tirelessly in the hopes that other women won't face the same inequities she did, created a perfect storm that cemented the issue of equal pay for equal work on the congressional agenda. By the

end of June 2007, support for everything pay equity was on the rise: the Paycheck Fairness Act had more than doubled its co-sponsorship to 222, thanks in part to two successive weeks of advocacy by AAUW's Capitol Hill Lobby Corps. By July 2007 the *Ledbetter* fix had been passed by the House, with help from AAUW members in the field and Lobby Corps and AAUW staff on the Hill.ⁱⁱⁱ

Presidential Politics and Pay Equity

AAUW and the public continued to focus on equal pay as the presidential primaries moved into high gear. Women in particular keyed in on pay equity issues as they considered their election choices, and polls showed that younger women especially identified equal pay for equal work as a main concern.^{iv} AAUW's own *Congressional Voting Record for the First Session of the 110th Congress* scored the House's *Ledbetter* vote so AAUW members could hold their elected officials accountable on this priority issue.^v

While the presidential campaigns were dominating the political dialogue in the first six months of 2008, advocacy groups focused on getting the *Ledbetter* fix passed on the Senate side. However, AAUW was one of the only groups that simultaneously kept its eye on the Paycheck Fairness Act prize in the House. In short, AAUW was carrying the ball when a lot of other folks were occupied solely with the *Ledbetter* bill.

Oh, AAUW did our *Ledbetter* work too – it was also a priority, as AAUW members well know. But AAUW advocates are nothing if not excellent multitaskers! The AAUW Action Network continued to write their members of Congress about both bills, and the AAUW Capitol Hill Lobby Corps went up to the Hill twice more on the Paycheck Fairness Act during this time – including the week of Equal Pay Day 2008.

Equal Pay Day 2008

"I am the Face of Pay Equity" was AAUW's message for April 22, Equal Pay Day 2008, and AAUW states and branches delivered that message nationwide through a variety of events — from rallies to pay equity bake sales, voter education forums, salary negotiation workshops, and in-district meetings with members of Congress. AAUW members excel at taking the message to the community, and Equal Pay Day was a wonderful example of moving the inside-the-beltway policy work into neighborhoods across the country.

And AAUW's grassroots efforts didn't stop there. Our Campus Action Projects at colleges around the country put the *Behind the Pay Gap* research into action, and students held Equal Pay Day-related events to spread the word about pay equity. All of these activities added up to crucial visibility that reminded legislators that voters were watching, and that pay equity was very much on their minds.

This Was Our Chance

This coordinated grassroots and lobbying activity paid off; when the House leadership finally focused on the Paycheck Fairness Act in July 2008, AAUW was ready — and we led the charge for the women's rights, labor, and civil rights communities.

The lagging economy has made women even more sensitive to the issue of equal pay and, in this election year, never underestimate the power of constituents! Couple that with a Congress already primed for the issue, and the recipe for action was sweet. By July 1, 2008, we had managed to gather 228 co-sponsors on the Paycheck Fairness Act — 10 more than the 218 votes we needed for passage.

That's when the inside baseball games began in earnest. AAUW lobbyists were a part of meetings and calls with Hill staff — often it was only AAUW, or AAUW and our partners at the National Women's Law Center — negotiating about final bill language, amendment possibilities, and floor strategy. AAUW was frequently the group DeLauro and other House offices came to for information, research, strategies, and support.

AAUW led conference calls for our coalition partners and developed talking points for the coalition's lobbying efforts. We developed an action message template for partners to use to rally their own members and organized a Paycheck Fairness Act endorsement letter that 200 groups signed — including every AAUW state affiliate. This letter, representing wide-spread support for the bill from various constituencies, went to every member of the House of Representatives.

Meanwhile, AAUW members did their part in the field, writing letters and telling friends and family to do the same. In fact, by the time the Paycheck Fairness Act passed on July 31, almost 20,000 emails about pay equity had been sent to the Hill by AAUW's Action Network.

The House Makes Its Move

Once Speaker Nancy Pelosi (D-CA) made the Paycheck Fairness Act a priority, things moved into high gear. A July 17th rally originally scheduled by Sen. Barbara Mikulski (D-MD) to jumpstart the Senate *Ledbetter* fix became just as much about the House's intent to move the Paycheck Fairness Act, and AAUW signs were everywhere. A mark-up to prepare the bill for the floor was held July 24th in the House Education and Labor Committee, called by Chairman George Miller (D-CA).

Despite some strong opposition from the minority party, the Democrats pushed the Paycheck Fairness Act through with no amendments. Majority Leader Steny Hoyer (D-MD) scheduled the bill for a vote before the House adjourned for its August recess. By this time, DeLauro herself had talked with more than 200 members of Congress — I can honestly say I have never seen a bill's sponsor so personally committed to passage. The Act passed with overwhelming support (247-178); every Democrat present supported the bill, and 14 Republicans crossed party lines to vote yes. In the end, the bill had moved with dizzying speed, considering how long we had all been working on it.

AAUW's policy staff watched the final vote in DeLauro's office, together with coalition partners and the DeLauro staff. We had all worked so hard to pass the Paycheck Fairness Act. It was a team effort with the bill's sponsor, the coalition, the entire AAUW staff, and the AAUW membership. It was a sweet victory — long in coming, yes, but all the sweeter for the key role AAUW played in the outcome.

ⁱ Equal Pay Act of 1963, 29 U.S.C. § 206(d), (June 10, 1963).

ⁱⁱ AAUW Educational Foundation. (2007). *Behind the Pay Gap*, by Catherine Hill and Judy Goldberg Dey. Washington, DC.

ⁱⁱⁱ The Senate, unfortunately, despite making it a priority, has not been so successful in their efforts to pass a *Ledbetter* fix. The Senate's test vote failed (56-44) the week of Equal Pay Day 2008.

^{iv} Greenberg Quinlan Rosner Research. "Unmarried Women and Pay Inequity." May 29, 2007. Retrieved July 16, 2008 from <http://www.wvww.org/assets/2007/10/22/payequity6.1.pdf>. In a January 2007 Women's Voices, Women Vote survey of 1000 unmarried women, pay equity ranked at the top of vote-driving issues.

^v The final scorecard for the 110th Congress will include three pay equity votes, and will be released online around Labor Day 2008.