

H.R. 7, Paycheck Fairness Act

As ordered reported by the House Committee on Education and Labor on February 26, 2019

Millions of Dollars		Direct Spending	Revenues	Deficit Effect	Spending Subject to Appropriation
2019		0	0	0	0
2019-2024		0	*	*	68
2019-2029		0	*	*	n.a.
Pay-as-you-go procedures apply?	Yes	Mandate Effects			Yes, Under Threshold
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No				
			Contains private-sector mandate?	Yes, Under Threshold	
n.a. = not applicable; * = between -\$500,000 and \$500,000.					

The bill would

- Amend federal statutes governing labor standards and wage discrimination
- Increase civil penalties for violations of equal pay provisions
- Authorize appropriations for research, education, public outreach, and data collection
- Impose mandates by restricting employers' use of wage, salary, and benefit history

Estimated budgetary effects would primarily stem from

- Authorizing appropriations for the Department of Labor and the Equal Employment Opportunity Commission to undertake various activities to address wage discrimination

Detailed estimate begins on the next page.



Bill Summary

H.R. 7 would revise the equal pay provisions of the Fair Labor Standards Act and increase civil penalties for their violation. That law prohibits wage discrimination by employers on the basis of sex. Specifically, H.R. 7 would restrict the use of the bona fide factor defense to wage discrimination claims, enhance nonretaliation prohibitions, and prohibit contracts that disallow employees from disclosing their wages. Additionally, the bill would increase civil penalties for violations of wage discrimination provisions. Finally, the bill would authorize the appropriation of whatever amounts are necessary for the Department of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC) to conduct various activities to address wage discrimination.

Estimated Federal Cost

The estimated budgetary effects of H.R. 7 are detailed in Table 1. The costs of the legislation fall within budget functions 500 (education, training, employment, and social services) and 750 (administration of justice).

Table 1.
Estimated Increases in Spending Subject to Appropriation Under H.R. 7

	By Fiscal Year, Millions of Dollars						2019-2024
	2019	2020	2021	2022	2023	2024	
Department of Labor							
Estimated Authorization	0	10	10	10	10	10	50
Estimated Outlays	0	8	8	9	9	10	44
Equal Employment Opportunity Commission							
Estimated Authorization	0	5	5	5	5	5	25
Estimated Outlays	0	4	5	5	5	5	24
Total Changes							
Estimated Authorization	0	15	15	15	15	15	75
Estimated Outlays	0	12	13	14	14	15	68

Enacting the bill also would increase revenues by an insignificant amount over the 2019-2029 period.

Basis of Estimate

CBO assumes that the bill will be enacted early in 2020 and that the estimated amounts will be appropriated for each fiscal year. Estimated outlays are based on historical patterns for existing and similar activities. CBO estimates that under H.R. 7, DOL and the EEOC would need appropriations of \$75 million over the 2019-2024 period, and that those appropriations would result in outlays of \$68 million over the same period.

H.R. 7 would authorize DOL to undertake several activities related to wage discrimination. Based on similar programs within the Women's Bureau in DOL, programs in the Office of Federal Contract Compliance, and information from the department CBO estimates that implementing the following measures would result in outlays of \$44 million over the 2019-2024 period, assuming appropriation of estimated amounts. Those activities include:



- Surveying and collecting certain employment-related data from federal contractors (\$15 million),
- Making competitive grants to state, local, and community organizations to provide women and girls with training in negotiation skills (\$11 million),
- Conducting research, publishing educational materials, and sponsoring educational programs about wage discrimination (\$8 million),
- Training affected individuals and providing technical assistance to help small businesses comply with the act (\$6 million); and
- Establishing an annual National Award for Pay Equity in the Workplace (\$4 million).

H.R. 7 also would direct the EEOC to provide training on wage discrimination issues and assist small businesses in complying with the bill's requirements. CBO estimates those efforts would cost \$5 million a year over the 2019-2024 period.

Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that enacting H.R. 7 would increase federal revenues from the collection of new civil penalties. However, we estimate that such collections would be insignificant because of the small number of cases that the EEOC would likely resolve and because of the high degree of uncertainty about how employers would behave under the bill.

Increase in Long-Term Direct Spending and Deficits: None

Mandates

CBO has not reviewed section 3 of H.R. 7 for intergovernmental or private-sector mandates. Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that would establish or enforce statutory rights prohibiting discrimination. CBO has determined that the exclusion applies because section 3 would enforce protections against discrimination on the basis of sex.

Other provisions in H.R. 7 would impose intergovernmental and private-sector mandates as defined in UMRA by restricting employers' use of wage, salary, and benefit history. Specifically, under section 10 public and private employers could not:

- Rely on wage history in considering a person for employment,
- Rely on wage history in determining wages for a prospective employee,
- Seek the wage history of any prospective employee before an offer of employment is made, and
- Retaliate against employees who exercise their right to protections under section 10.

Those restrictions would not require covered employers to take any action and would not impose any direct cost. Therefore, CBO estimates that the cost of complying with the bill's mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$82 million and \$164 million in 2019, respectively, adjusted annually for inflation).

The bill also would require the EEOC to issue regulations requiring large employers to report compensation data. That provision would not impose a mandate on large employers because such information already must be reported. CBO does not consider that provisions that codify existing regulatory practice are mandates because those regulations already carry the force of law.



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