

City of Alexandria, Virginia

MEMORANDUM

DATE: APRIL 22, 2008

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: CHARNIELE HERRING, CHAIR ALEXANDRIA COMMISSION FOR WOMEN

SUBJECT: CONSIDERATION OF A RESOLUTION ON THE LILY LEDBETTER FAIR PAY ACT

ISSUE: Request by the Commission for Women that City Council Adopt a Resolution requesting that the City's United States Senate Delegation Support the Lily Ledbetter Fair Pay Act (H.R. 2831).

RECOMMENDATION: The Commission for Women recommends that City Council adopt the attached resolution requesting that our United States Senate delegation support the Lily Ledbetter Fair Pay Act (H.R. 2831) now pending before the Senate.

DISCUSSION: This memo is to provide background on the Commission for Womens' request for Council to consider a resolution supporting the Lily Ledbetter Fair Pay Act (hereinafter "Act" or "Legislation").

On Friday, April 18, 2008, members of the Commission were informed that the Act would be voted upon in the Senate the week of April 22, 2008. The House of Representatives has approved the legislation. Congressman Jim Moran served as one of the Act sponsors, and the Senate is expected to vote as early as Wednesday, April 23rd.

Background

The following is background provided by the National Partnership for Women and Families

Lilly Ledbetter, the only woman supervisor in her division at the Goodyear plant, sued Goodyear for sex-based pay discrimination under Title VII of the Civil Rights Act of 1964 (Title VII) after learning that she was paid substantially less – 15 to 40 percent – than her male colleagues. A jury awarded Ms. Ledbetter over \$3.2 million, which was later reduced to \$360,000 (\$300,000 in compensatory and punitive damages and \$60,000 in back-pay) due to Title VII's damages caps.

A sharply divided Supreme Court ruled that Ms. Ledbetter's claim was time-barred because she waited too long to file her claim. Title VII requires employees to file within 180 days of "the alleged unlawful employment practice." The Court calculated the deadline from the day that Goodyear allegedly made a discriminatory pay decision, rather than – as decades of precedent recognized – from the day Ms. Ledbetter received her last discriminatory paycheck. Because Ms. Ledbetter filed her charge more than six months after the pay decision, the Court concluded that her claim must fail, even though she continued to make less money due to her sex for many years after that decision – and within 180 days of when she filed her charge.

Restoring the Timeliness Standard for Pay Discrimination Claims

The Fair Pay Restoration Act (FPRA) would amend Title VII to make clear that an unlawful employment practice occurs (1) when a discriminatory compensation decision or other practice *is adopted*, (2) when an individual *becomes subject to* a discriminatory compensation decision or practice, *or* (3) when an individual *is affected by* the application of a discriminatory compensation decision or other practice, including each time compensation is paid. This legislation thus would reinstate the rule that had been in place for decades – the paycheck accrual rule – which provides that the 180-day time limit for filing a charge of discrimination with the EEOC begins to run anew after each discriminatory paycheck is received.

A Step Backward

The *Ledbetter* decision is a step backward for both *women and men* alleging pay discrimination under Title VII. Despite Title VII's guarantee of equal employment opportunity, the Court's ruling would leave many victims of pay discrimination without an effective remedy, even when their rights have been violated. If allowed to stand uncorrected, this decision authorizes employers to violate Title VII's bar on pay discrimination with impunity as long as they do not get caught within 180 days. As the law now stands, employers will have every reason to try to avoid liability simply by keeping pay disparities hidden during the Title VII charge-filing period.

ENCLOSED DOCUMENT: Resolution

RESOLUTION NO. ____

SUPPORTING PASSAGE OF THE LILY LEDBETTER FAIR PAY ACT

WHEREAS, the Civil Rights Act of 1964 included among its provisions the protection against pay discrimination on the job because of race, national origin, gender, and religion; and

WHEREAS, more than four decades after Congress outlawed wage discrimination based on sex, women continue to be paid, on average, only 77 cents for every dollar paid to men; and

WHEREAS, this persistent wage gap can be addressed only if women are armed with the tools necessary to challenge sex discrimination against them; and

WHEREAS, wage discrimination also affects the wages of African-Americans and Latinos who also require the necessary tools to challenge wage discrimination, since African-American men make 21 percent less than white men, and Latino workers make 28 percent less than white workers; and

WHEREAS, the City of Alexandria affirms its responsibility to ensure that all workers within the City are treated and compensated fairly; and

WHEREAS, the Supreme Court decision in Ledbetter v. Goodyear Tire & Rubber Co. reversed decades of precedent to severely limit workers' ability to address wage discrimination and reverse laws that had been upheld by the EEOC and nine of the twelve federal courts of appeals; and

WHEREAS, the Court ruled in Ledbetter that a worker must file any pay discrimination claim within 180 days of when the employer first starts discriminating – even if the discrimination continues far beyond the 180 day period; and

WHEREAS, the Supreme Court decision undermines the intent of the Civil Rights Act of 1964; and

WHEREAS, the Lily Ledbetter Fair Pay Act (HR 2831) would change the law to allow workers to file a pay discrimination claim within 180 days of a discriminatory paycheck, thus enabling a worker to challenge discrimination as long as it continues; and

WHEREAS, the Lily Ledbetter Fair Pay Act leaves unaltered the federal two-year limitation on the recovery of back pay, thereby reducing concerns that this will place an undue burden on employers; and

WHEREAS, The Lily Ledbetter Fair Pay Act has already been passed by the U.S. House of Representatives and is being considered for passage by the U.S. Senate; and

WHEREAS, Alexandria is a City committed to upholding the principles of civil rights in all areas, including pay equity;

THEREFORE, BE IT RESOLVED, that the Alexandria City Council supports passage of the Lily Ledbetter Fair Pay Act; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to Senators John Warner and James Webb, with a request that they support this legislation.

ADOPTED: April 22, 2008

WILLIAM D. EUILLE MAYOR

ATTEST:

Jackie Henderson, CMC City Clerk

RESOLUTION NO. ____

WHEREAS, The Civil Rights Act of 1964 included among its protections the protection against pay discrimination on the job because of race, national origin, gender, and religion;

WHEREAS, More than four decades after Congress outlawed wage discrimination based on sex, women continue to be paid, on average, only 77 cents for every dollar paid to men;

WHEREAS, African American men make, on average, 21% less than white men, and Latino workers make, on average, 28% less than white workers;

WHEREAS, These persistent wage gaps can be addressed only if employees are armed with the tools necessary to challenge past workplace pay discrimination;

WHEREAS, The recent decision of the United States Supreme Court in Ledbetter v. Goodyear Tire & Rubber Co. reversed decades of precedent that had been established by the EEOC and nine of the twelve federal courts of appeal and severely limited workers' ability to redress long-established patterns of wage discrimination;

WHEREAS, The Lily Ledbetter Fair Pay Act has already been passed by the U.S. House of Representatives and is being considered for passage by the U.S. Senate;

WHEREAS, The Act restores the ability of workers to seek redress for acts of wage discrimination which, though the acts may have occurred more than 180 days prior to filing a charge of discrimination, continue to have a discriminatory impact on current wages;

WHEREAS, The Act leaves unaltered Title VII's two-year limitation on the recovery of back pay, thereby reducing concerns that this will place an undue burden on employers;

WHEREAS, the City of Alexandria is committed to upholding the principles of civil rights under law in all areas, including pay equity, and

WHEREAS, The City of Alexandria desires to ensure that all workers within our city limits are treated and compensated fairly;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alexandria, Virginia that:

1. The City urges the Congress of the United States to enact, and the President to sign into law, the Lily Ledbetter Fair Pay Act.
2. A copy of this Resolution shall be transmitted forthwith to the City's Congressional delegation.
3. That this resolution shall become effective upon its adoption by the City Council.

ADOPTED:

WILLIAM D. EUILLE, MAYOR

ATTEST:

Jacqueline M. Henderson, CMC City Clerk



Michele Evans/Alex
04/22/2008 11:59 AM

To "Gloria Sitton" <Gloria.Sitton@alexandriava.gov>
cc Valerie Brown/Alex, Bernard Caton/Alex, "Lisa Baker"
<Lisa.Baker@alexandriava.gov>
bcc
Subject Fw: Proposed Resolution for Consideration at City Council
Meeting, 4/22/08

This went to council

Bernie is working with the group on some changes to the resolution for tonight
M

----- Original Message -----

From: "Laura Mandala" [Laura@MandalaResearch.com]
Sent: 04/22/2008 09:33 AM AST
To: <alexvamayor@aol.com>; <DELPepper@aol.com>; <councilmangaines@aol.com>;
<Council@krupicka.com>; Justin Wilson; <PaulCSmedberg@aol.com>; <Timothylovain@aol.com>
Cc: Michele Evans; Bernard Caton; Lisa Baker
Subject: Proposed Resolution for Consideration at City Council Meeting , 4/22/08

Honorable Mayor and Council Members ,

The Alexandria Commission for Women is kindly requesting that you consider approving a resolution to support the Lily Ledbetter Fair Pay Act. Please find attached a Memorandum and Resolution that we are asking you review at tonight's Council meeting. (My apologies for the short notice ; we had just recently been made aware of the urgent nature of this legislation.)

I am copying the text of the document below , for your convenience .

Thank you for your consideration of this important matter .

Laura Mandala
Managing Director
Mandala Research and Consulting
703.820.1041 ph
703.798.5452 cell
Laura@MandalaResearch.com
www.MandalaResearch.com

MEMORANDUM

DATE: APRIL 22, 2008

TO: THE HONORABLE MAYOR AND CITY COUNCIL

FROM: CHARNIELE HERRING, CHAIR ALEXANDRIA
COMMISSION FOR WOMEN

SUBJECT: CONSIDERATION OF A RESOLUTION ON THE LILY
LEDBETTER FAIR PAY ACT

ISSUE: Consideration of a Resolution on the Lily Ledbetter Fair Pay Act .

RECOMMENDATION : That City Council adopts the attached resolution .

DISCUSSION: The Alexandria Commission for Women is supporting the Lily Ledbetter Fair Pay Act and is requesting the City Council support the attached resolution.

ATTACHMENT :
Attachment 1. Proposed resolution .

STAFF:
Lisa Baker, Director, Office on Women
Michelle Evans, Deputy City Manager
Bernie Caton, Legislative Director

WHEREAS, More than four decades after Congress outlawed wage discrimination based on sex , women continue to be paid , on average, only 77 cents for every dollar paid to men . This persistent wage gap can be addressed only if women are armed with the tools necessary to challenge sex discrimination against them, and

WHEREAS, Wage discrimination also affects the wages of African Americans and Latinos . African American men make 21% less than white men .

Latino workers make 28% less than white workers , and also require the necessary tools to challenge wage discrimination , and

WHEREAS, The City of Alexandria affirms its responsibility to ensure that all workers within our city limits are treated and compensated fairly , and

WHEREAS, The Supreme Court decision in Ledbetter v . Goodyear Tire & Rubber Co. reversed decades of precedent to severely limit workers' ability to address wage discrimination and reverse laws that had been upheld by the EEOC and nine of the twelve federal courts of appeals , and

WHEREAS, The Act leaves unaltered Title VII's two -year limitation on the recovery of back pay , thereby reducing concerns that this will place an undue burden on employers, and

WHEREAS, The Lily Ledbetter Fair Pay Act has already been passed by the U.S. House of Representatives and is being considered for passage by the U .S. Senate, and

WHEREAS, The Civil Rights Act of 1964 Included among its protections the protection against pay discrimination on the job because of race , national origin, gender, and religion, and

WHEREAS, Alexandria is a City committed to upholding the principles of civil rights in all areas , including pay equity,

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF ALEXANDRIA THA T THE CITY OF ALEXANDRIA WILL SUPPORT THE LILY LEDBETTER FAIR PAY ACT .



REVISED**RESOLUTION NO. ____**

WHEREAS, The Civil Rights Act of 1964 included among its protections the protection against pay discrimination on the job because of race, national origin, gender, and religion;

WHEREAS, More than four decades after Congress outlawed wage discrimination based on sex, women continue to be paid, on average, only 77 cents for every dollar paid to men;

WHEREAS, African American men make, on average, 21% less than white men, and Latino workers make, on average, 28% less than white workers;

WHEREAS, These persistent wage gaps can be addressed only if employees are armed with the tools necessary to challenge past workplace pay discrimination;

WHEREAS, The recent decision of the United States Supreme Court in Ledbetter v. Goodyear Tire & Rubber Co. reversed decades of precedent that had been established by the EEOC and nine of the twelve federal courts of appeal and severely limited workers' ability to redress long-established patterns of wage discrimination;

WHEREAS, The Lily Ledbetter Fair Pay Act has already been passed by the U.S. House of Representatives and is being considered for passage by the U.S. Senate;

WHEREAS, The Act restores the ability of workers to seek redress for acts of wage discrimination which, though the acts may have occurred more than 180 days prior to filing a charge of discrimination, continue to have a discriminatory impact on current wages;

WHEREAS, The Act leaves unaltered Title VII's two-year limitation on the recovery of back pay, thereby reducing concerns that this will place an undue burden on employers;

WHEREAS, the City of Alexandria is committed to upholding the principles of civil rights under law in all areas, including pay equity, and

WHEREAS, The City of Alexandria desires to ensure that all workers within our city limits are treated and compensated fairly;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alexandria, Virginia that:

1. The City urges the Congress of the United States to enact, and the President to sign into law, the Lily Ledbetter Fair Pay Act.
2. A copy of this Resolution shall be transmitted forthwith to the City's Congressional

delegation.

3. That this resolution shall become effective upon its adoption by the City Council.

ADOPTED:

WILLIAM D. EUILLE, MAYOR

ATTEST:

Jacqueline M. Henderson, CMC City Clerk

RESOLUTION NO. 2273

WHEREAS, The Civil Rights Act of 1964 included among its protections the protection against pay discrimination on the job because of race, national origin, gender, and religion;

WHEREAS, More than four decades after Congress outlawed wage discrimination based on sex, women continue to be paid, on average, only 77 cents for every dollar paid to men;

WHEREAS, African American men make, on average, 21% less than white men, and Latino workers make, on average, 28% less than white workers;

WHEREAS, These persistent wage gaps can be addressed only if employees are armed with the tools necessary to challenge past workplace pay discrimination;

WHEREAS, The recent decision of the United States Supreme Court in Ledbetter v. Goodyear Tire & Rubber Co. reversed decades of precedent that had been established by the EEOC and nine of the twelve federal courts of appeal and severely limited workers' ability to redress long-established patterns of wage discrimination;

WHEREAS, The Lily Ledbetter Fair Pay Act has already been passed by the U.S. House of Representatives and is being considered for passage by the U.S. Senate;

WHEREAS, The Act restores the ability of workers to seek redress for acts of wage discrimination which, though the acts may have occurred more than 180 days prior to filing a charge of discrimination, continue to have a discriminatory impact on current wages;

WHEREAS, The Act leaves unaltered Title VII's two-year limitation on the recovery of back pay, thereby reducing concerns that this will place an undue burden on employers;

WHEREAS, the City of Alexandria is committed to upholding the principles of civil rights under law in all areas, including pay equity, and

WHEREAS, The City of Alexandria desires to ensure that all workers within our city limits are treated and compensated fairly;

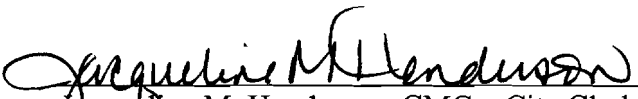
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alexandria, Virginia that:

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ADOPTED: April 22, 2008


WILLIAM D. EUILLE MAYOR

ATTEST:


Jacqueline M. Henderson, CMC City Clerk