

# Senate Bill 642

The Pay Equity Enforcement Act



# Monique Limón

REPRESENTING SENATE DISTRICT 21

## THIS BILL

SB 642 strengthens the California Equal Pay Act by:

- Clarifying what constitutes “wages”
- Harmonizing the statute of limitations with other wage and antidiscrimination statutes
- Allowing workers to recover for all lost pay
- Revising outdated gender binary language, and
- Providing limits on how wide pay ranges may be in public job postings.

## BACKGROUND

This year marks the 10<sup>TH</sup> anniversary of the passage of the California Fair Pay Act - a historic, bipartisan measure to address gaps in our Equal Pay Act. While progress has been made, the gender pay gap continues to persist, with women of color experiencing critical gaps. In fact, for the first time since 2003, the wage gap widened in 2023 from 2022.<sup>1</sup>

On average, women nationwide lose a combined total of almost \$1.7 trillion every year due to the wage gap. This impacts the ability of women to afford basic necessities like housing, food, and childcare, and also jeopardizes women's long-term financial security by hindering retirement savings. Research suggests that women have approximately 30 percent lower income in retirement than men and women receive Social Security benefits that are, on average, 80 percent of those men receive.

In California, the wage gap persists at 79 cents to the dollar for women overall in the state, with much larger gaps for women of color. It is imperative that we continue to proactively address gaps and loopholes in the law.

<sup>1</sup> <https://nationalpartnership.org/why-gender-wage-gap-widen-first-time-in-generation/>

<sup>2</sup> <https://www.hrc.org/resources/the-wage-gap-among-lgbtq-workers-in-the-united-states>

<sup>3</sup> See Code of Civil Procedure § 338  
[https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=CCP&sectionNum=338](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=338)

## PURPOSE

SB 642 makes reforms to the California Equal Pay Act to ensure workers can effectively enforce their rights. Strengthening protections in California is crucial given uncertainty of pay equity and pay transparency laws at the federal level.

### Clarifying What Constitutes “Wages”:

Under the federal Equal Pay Act, wages are more broadly defined to include “all forms of compensation irrespective of the time of payment, whether paid periodically or deferred until a later date, and whether called wages, salary, profit sharing, expense account, monthly minimum, bonus, uniform cleaning allowance, hotel accommodations, use of company car, gasoline allowance, or some other name. Fringe benefits are deemed to be remuneration for employment.” 29 CFR § 1620.10. The US Equal Employment Opportunity Commission (EEOC) also considers wages to include stock options.<sup>2</sup> This bill will make the California Equal Pay Act consistent with federal law.

### Extending the Recovery Period for Unlawful Pay Inequities:

California wage laws under the Labor Code permit workers to file claims for unpaid wages, including for minimum wage and overtime wage violations, for a period of *three years* after the wage violations occurred.<sup>3</sup> Yet the Equal Pay Act only gives workers two years after the equal pay wage violations occurred, unless workers prove the violations were “willful”.<sup>4</sup> Furthermore, California’s anti-discrimination laws also provide for a three year statute of limitations.<sup>5</sup>

<sup>4</sup> See Labor Code § 1197.5

(i) [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1197.5.&lawCode=LAB](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1197.5.&lawCode=LAB)

<sup>5</sup> See Gov Code § 12960

[https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=12960.&lawCode=GOV](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12960.&lawCode=GOV)

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This bill will extend the statute of limitations under the Equal Pay Act to three years, aligning the statute with other wage claims under the Labor code and anti-discrimination laws, and to four years for willful violations.

SB 642 will also apply the “continuing violations” doctrine to the Equal Pay Act, allowing workers to recover all of the pay they have lost due to their employer’s compensation practice. Generally, the continuing violations doctrine allows workers to seek recovery for unlawful conduct that takes place outside the statute of limitations, so long as that conduct is sufficiently connected to conduct that took place within the limitations period. See *Richards v. CH2M Hill, Inc.* (2001) 26 Cal. 4th 798, 798.

Revising Outdated Gender Binary Language: The California Equal Pay Act prohibits an employer from paying an employee wages that are less than what it pays an employee of “the opposite sex,” for substantially similar work. This binary language does not reflect the realities of our workforce and does not adequately address some forms of sex-based pay discrimination. Research shows that non-binary individuals earn 70 cents for every dollar earned by the average worker in the US<sup>6</sup> and are concentrated in the lowest-paid jobs.<sup>7</sup>

Limiting Pay Ranges in Job Postings: In 2022, the Legislature passed SB 1162 (Limón), which requires companies with 15 or more employees to include the pay scale for a position in any job posting. The legislation did not provide any outer limits on the pay scale that must be provided, allowing companies to post meaningless pay scales and still be in compliance. For example, one job posting

gave a salary range of \$65,000 USD to \$400,000 USD annually - a \$335,000 range.<sup>8</sup>

This bill will place reasonable limits on how wide the range can be – specifically, no wider than 10% above and below the mean pay rate within that range. For example, if the mean pay rate for an advertised job is \$65,000, then the range can be \$6,500 below and above that rate (\$58,500-\$71,500).

## SUPPORT

California Employment Lawyers Association (Co-Sponsor)  
Equal Rights Advocates (Co-Sponsor)  
Commission on the Status of Women and Girls (Co-Sponsor)

## OPPOSITION

None on File

## STAFF CONTACT

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<sup>6</sup> <https://www.hrc.org/resources/the-wage-gap-among-lgbtq-workers-in-the-united-states>

<sup>7</sup> <https://calcivilrights.ca.gov/2023/03/06/civil-rights-department-releases-groundbreaking-data-on-non-binary-workers/>

<sup>8</sup> <https://startup.jobs/junior-software-engineer-applied-intuition-4166670>