



Construction Industry Round Table

Legislative News

A force for positive change in the design / construction industry

5/13/10 – New Bill Would Allow Government to Intrude on Pay Rates

In yet another example of the government's insatiable appetite to reach into the every day workings of American life and business, S.182, (the "Paycheck Fairness Act") would give the federal government and the courts unprecedented power to second guess routine pay-setting decisions that employers make for their businesses and staffs. The Paycheck Fairness Act would significantly expand the reach of the pay equity laws and make it much more difficult for employers to justify legitimate pay differences. For example, it would no longer be permissible to pay employees differently based on market forces, negotiating ability, or even the amount of revenue they generate for the employer's bottom line unless the employer could prove it was a "business necessity."

Under current law, employers have wide latitude to establish compensation systems that make sense for their business as long as they don't violate anti-discrimination laws. This misguided bill would make it easier to file large class action lawsuits and expand remedies under the Equal Pay Act to include unlimited punitive and compensatory damages. Proponents support the bill based on the concept of "pay gap"--- which assumes that any gap in pay must be due to unlawful discrimination. This assumption is being used to justify radical rewrites of pay equity laws and put expansive regulation in place. The only parties that benefit from this are the trial lawyers given even the government agency charged with enforcing most discrimination laws finds merit in only 5 to 6 percent of claims brought.

The Paycheck Fairness Act passed the House as a companion piece to the Lilly Ledbetter Fair Pay Act (which was rushed through Congress in January 2009 and signed by the President within weeks of taking office) – but the Senate did not include/pass Paycheck Fairness. As a result, proponents of the bill are trying to shore-up votes in an effort to bypass the Senate Committee process (i.e., hearings and markups) and bring it straight to the Senate floor. The next few weeks are critical to ensuring they do not rush the bill through.

Urge your Senators to oppose S.182 (or at a minimum not to support it being brought directly to the floor w/o proper hearings, etc.)

Possible swing Senators includes both **Republican Senators:** Collins and Snowe (ME), Murkowski (AK), Hutchinson (TX), and Brown (MA); AND

Democrat Senators: Lincoln and Pryor (AR), Landrieu (LA), M. Bennet and M. Udall (CO), B. Nelson (NE), as well as Warner and Webb (VA)