

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Mitzi Dean
Parliamentary Secretary
Gender Equity

Date Requested: March 24, 2020
Date Required: April 14, 2020

Initiated by: Ange Liu

Date Prepared: April 9, 2020

**Ministry
Contact:** Melanie Stewart

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Cliff #: 390432

TITLE: Pay Equity – Overview of Legislative Options

PURPOSE:

(X) FOR INFORMATION

COMMENTS: Minister of Finance staff have requested an overview of legislative options to address the gender pay gap in British Columbia.

Executive Director approval: _____

ADM approval: _____

DM approval: _____

DATE PREPARED: April 9, 2020

TITLE: Pay Equity – Overview of Options

ISSUE:

The purpose of this document is to provide an overview of legislative options that would help reduce the gender pay gap in British Columbia (B.C.)^{1 2} and to assess the effectiveness of each measure.

BACKGROUND:

s.12; s.13

In March 2020, GEO provided updated briefing materials with additional non-legislative approaches to be considered within the new context of: COVID-19, the reintroduction of MLA Stephanie Cadieux's Private Member's Bill (*Equal Pay Reporting Act*), Nova Scotia's pay transparency amendments to the provincial Labour Standards Code, and the Vancouver Sun's gender analysis of the most recent public sector salary database.

s.12; s.13

GEO expects updated analysis from West Coast LEAF that may inform options moving forward, but it is not ready yet. West Coast LEAF previously wrote a briefing note on pay equity in 2018.

The impact of COVID-19 on businesses and employment in B.C. is expected to be substantial, with the long term impacts dynamic and unknown at this time. As a result, the analysis provided here assesses legislative models based on previously understood, pre-pandemic impacts. However, it is important to note that with women over-represented in many of the most significantly impacted sectors of the economy

¹ The Conference Board of Canada reports that women in B.C. earn 22.6% less than men. British Columbia has the third highest pay gap disparity of all the provinces. 2016. Statistics Canada. The Conference Board of Canada. Accessed on March 17, 2020. <https://www.conferenceboard.ca/hcp/provincial/society/gender-gap.aspx>

² Indigenous and racialized women experience even more profound gendered pay discrepancies on average, with Indigenous women earning 23% less per year than white women. 2012. Aboriginal Affairs and Northern Development Canada. Aboriginal Women in Canada. Accessed on March 17, 2020. www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/ai_rs_pubs_ex_abwch_pdf_1333374752380_eng.pdf

(health and social care,³ education,⁴ and the minimum wage workforce⁵) the overall impact of COVID-19 may increase the gender pay gap. Early data from Statistics Canada shows that in March 2020, the monthly decline in employment for women was more than twice that of men (ages 25-54) and nearly half of the decrease among women was from part-time employment.⁶

It is important to note, however, that another result could be that the gender pay gap narrows, but this is not necessarily because of women's improved outcomes. The European Commission contends that a lower gender pay gap can also be the result of lower employment rates for women.⁷ There could be a variety of reasons for such an outcome in B.C., such as women-dominated sectors being unable to re-hire post-pandemic or women staying at home due to childcare responsibilities (which universal childcare could help mitigate).

DISCUSSION:

Pay equity legislation is one measure that governments can use to reduce the gender pay gap. There are two types of new legislative options that the Province could consider: standalone pay equity legislation or pay transparency legislation. Both of these are proactive models, meaning that the onus is on the employer to address pay equity. A third option would be for the Government of B.C. to maintain the current complaints-based system through the Human Rights Code, which is a reactive model.

1. Proactive Stand Alone Pay Equity Legislation ^{s.13}

^{s.13} and would be in line with the Government of Canada's *Pay Equity Act* (expected to come into force this year) and similar legislation in six other provinces (Nova Scotia, Manitoba, New Brunswick, Prince Edward Island, Quebec, and Ontario). It could address systemic pay inequities and would require the employer to provide a process to ensure equal pay for work of equal value. It is more likely to be the most onerous option in terms of administrative burdens and costs on the employer.

2. Proactive Pay Transparency Legislation ^{s.13}

^{s.13} An example of this type of legislation has been re-introduced in the provincial legislature by MLA Stephanie Cadieux. It is much less onerous on the employer than standalone pay equity legislation because employers would only be required to report and publish anonymous workforce data but not to proactively

³ *Gender Equity in the health workforce*. World Health Organization. March 2019. <https://apps.who.int/iris/bitstream/handle/10665/311314/WHO-HIS-HWF-Gender-WP1-2019.1-eng.pdf?sequence=1&isAllowed=y>

⁴ BC Teacher's Federation, Oct. 2018, retrieved March 17, 2020, <https://bctf.ca/publications/ResearchReports.aspx?id=52009>

⁵ *BC Fair Wages Commission Report*, Jan. 2018

⁶ *Labour Force Survey*. Statistics Canada. April 9, 2020. <https://www150.statcan.gc.ca/n1/daily-quotidien/200409/dq200409a-eng.htm>

⁷ *The gender pay gap situation in the EU*. European Commission. Accessed April 9, 2020. https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/equal-pay/gender-pay-gap-situation-eu_en

correct pay inequities. There may be some additional administrative costs associated with reporting. Ontario passed pay transparency legislation a few years ago, but its implementation has been delayed since 2018 for consultation on cost to business.

3. **Reactive Human Rights Code**^{s.13} : The final option is to maintain B.C.'s current legislative model, which is a reactive, complaints-based model.^{s.13}
 s.13 It puts the onus on the employee to rectify pay inequity, does not address systemic pay inequities, and can be a lengthy process. However, it is also the least onerous on the employer and, by continuing with the status quo, the Province would have no additional costs or administrative burdens incurred.

OPTIONS:

1. Standalone Pay Equity Legislation

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s.13 Based on witness testimony and research,^{8 9} the federal Standing Committee on the Status of Women reported that the advantages of such a model include: broad implementation of pay equity, reduced need for complaints, management-union cooperation, reduced ambiguity, prioritization of non-discriminatory wages, and pay equity without retroactive pay awards.

Witnesses proposed five elements for pay equity legislation to the federal Standing Committee¹⁰:

- require employers to review compensation practices and provide a process to ensure equal pay for work of equal value;
- contain enforcement mechanisms;
- address the undervaluing of female-dominated sectors and occupations;
- require the collection and sharing of employment and wage data; and
- require organizations to conduct internal pay equity studies, analyses, and audits to eliminate and ensure no gender wage gap.

s.12; s.13

⁸ *Women's Economic Security: Securing the Future of Canada's Economy*. Report of the Standing Committee on the Status of Women. June 2018, 42nd Parliament, 1st Session.

<https://www.ourcommons.ca/Content/Committee/421/FEWO/Reports/RP9974529/feworp12/feworp12-e.pdf>

⁹ *It's Time to Act*. Report of the Special Committee on Pay Equity. June 2016, 42nd Parliament, 1st Session.

<https://www.ourcommons.ca/Content/Committee/421/ESPE/Reports/RP8320461/esperp01/esperp01-e.pdf>

¹⁰ *Women's Economic Security*, p. 116-117.

s.12; s.13

s.12; s.13

In addition to potential added costs on business, proactive pay equity legislation would establish independent oversight, often in the form of a Pay Equity Commissioner or Office that enforces employer compliance to the legislation. This would mean added operating costs for government. For example, the annual operating budget for the Pay Equity Office in Ontario for 2018-19 was approximately \$3.2 million and for the Pay Equity Hearings Tribunal was approximately \$398k.¹³

A final consideration, as the federal Standing Committee cites from the International Monetary Fund and McKinsey Global Institute, is that having more women in Canada's workforce has contributed to greater overall growth and that, long-term, the reduction of the gender pay gap could add hundreds of billions of dollars to Canada's GDP.¹⁴

s.12; s.13

¹² Ibid.

¹³ *Pay Equity Commission Annual Report 2018-19*. Pay Equity Commission. August 2019.
<http://www.payequity.gov.on.ca/en/DocsEN/2019-08-27%20PEC%20Annual%20Report%202018-19%20EN%20FINAL.pdf>

¹⁴ *Women's Economic Security*, p. 231.

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2. Pay Transparency Legislation

A secondary legislative option would be pay transparency legislation like the *Equal Pay Reporting Act* that MLA Stephanie Cadieux reintroduced as a Private Members Bill in the legislature in March 2020.

Although Ontario's legislation is effectively on hold and there are no other Canadian examples to measure this type of legislation's effectiveness, other jurisdictions around the world have passed similar types of legislation and can provide some idea of its effectiveness in reducing the gender pay gap. Denmark and Australia, for example, both cite reductions in their gender pay gap since legislation came into force.^{15 16 17 18}

The UK is another example of a country that has introduced pay transparency regulations, which came into force on April 6, 2017 under the *Equality Act*. These regulations require that private and voluntary sector employers with over 250 employees and select public sector employers with 250 or more employees must report data on gender pay gaps at their companies. The Gender Equity Office consulted with the Legislative Library for research support to find any reports on the effectiveness of the UK's regulations on reducing the gender pay gap, but very little information could be found.

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In 2019, the Office for National Statistics (ONS) reported that the gender pay gap had been slightly reduced from 18.4% in 2017 (when the regulations came into force) to 17.3% in 2019.¹⁹ However, there was a slight increase to the gap if looking at full-time workers only: 8.6% to 8.9% between 2018 and 2019, which the ONS called statistically insignificant. The Guardian argued that the ONS data for the overall gap may be lower because low-paid women (mainly part-time) benefited from increases to the national minimum wage. Additionally,

¹⁵ https://wpcarey.asu.edu/sites/default/files/daniel_wolfenzon_seminar_november_9_2018.pdf, Accessed March 18, 2019.

¹⁶ Bennedsen, M., et al. "Do firms respond to gender pay gap disclosure?" NBER Working Paper Series, 25435. January 2018. https://www.df.cl/noticias/site/artic/20190201/asocfile/20190201174506/paper_3_.pdf

¹⁷ 2020. Australia's Gender Pay Gap Statistics. Accessed March 13, 2020.

<https://www.wgea.gov.au/data/fact-sheets/australias-gender-pay-gap-statistics>

¹⁸ 2018. In Australia, we're taking a different path to close our gender pay gap.

https://apolitical.co/en/solution_article/in-australia-we-dont-need-transparency-laws-to-tackle-the-gender-pay-gap

¹⁹ 2019. Gender Pay Gap in the UK.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/genderpaygapintheuk/2019>

when conducting additional analysis into pay gaps within occupational sectors, they found that significant pay inequities remain.²⁰

It is possible, therefore, that the reduction in the UK's gender pay gap is associated with other measures (e.g. minimum wage). In any case, the UK's regulations, as with any pay transparency legislation, does not address systemic pay inequities across sectors.
s.12; s.13

²⁰ *UK Gender Pay Gap for Full-Time Workers Increases*. The Guardian. October 2019.
<https://www.theguardian.com/money/2019/oct/29/uk-gender-pay-gap-full-time-workers#maincontent>

s.12; s.13

3. No Legislative Changes

This option would keep the current complaints-based Human Rights Code model. As noted, B.C. does not currently have a proactive model but is one of four provinces with a complaints-based model (alongside Alberta, Ontario, and Saskatchewan) that is applied through the Human Rights Code. This means that the onus is on the employee to make a pay equity complaint. Additionally, seven provinces and territories (Nova Scotia most recently) have amended their Employment Standards Act (or Labour Standards Code) to implement pay equity measures, but these are still complaints-based models that witnesses at the Standing Committee did not deem as effective as a proactive model.

The federal Standing Committee on the Status of Women heard from witnesses that this type of complaints-based model used in the federally regulated sector has resulted in “lengthy, costly and contentious disputes.” The Standing Committee also found that this model only remedies a complaint with one employer (rather than across an industry where similar inequities may persist) and can create barriers for non-unionized employees who may not have the same resources.²²

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CONCLUSION:

Addressing the gender pay gap is complex. While the implementation of universal child care remains the single most significant action that can be taken by governments to reduce the gender pay gap, it is expected to take a decade to fully implement such a

²¹ <https://www.gendereconomy.org/sarah-kaplan-appears-before-the-standing-committee-on-social-policy-regarding-bill-3/>, Accessed April 8, 2019.

²² *It's Time to Act*, p. 8-9.

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Gender Pay Gap Action Plan

Goal: To implement and enhance non-legislative approaches to addressing the pay gap that focus on the key drivers of pay inequity and discrimination in the province.

Actions	Objective(s)	Status	Timeline	Lead
1. Inventory of existing initiatives that address the pay gap	<ul style="list-style-type: none"> Highlight existing government initiatives that address the key drivers of the pay gap. 	In Progress <ul style="list-style-type: none"> Preliminary inventory developed GCPE to reach out to ministries 	Summer 2019	GEO
	<ul style="list-style-type: none"> Strengthened communications on the issue 	Ongoing <ul style="list-style-type: none"> Issues note being updated GCPE to advise re: communications format 	Summer 2019	GCPE
Childcare BC	<ul style="list-style-type: none"> Investments in child care will increase women's participation in full-time employment and the overall labour market Childcare BC lays the groundwork for a universal childcare system 	Ongoing <ul style="list-style-type: none"> \$1B investment in child care over three years 		MCDF GCPE
Poverty Reduction Strategy	<ul style="list-style-type: none"> The Poverty Reduction Strategy Act commits BC to reducing overall poverty by 25% and child poverty by 50% over five years; women are overrepresented in poverty statistics The legislation states that the minister must establish a poverty reduction advisory committee - at least half of the members of the must be women 	Ongoing <ul style="list-style-type: none"> The Poverty Reduction Strategy Act was passed unanimously in November 2018. 		SDPR

Gender Pay Gap Action Plan

Supporting Women and Girls in STEM Education & Skills Training	<ul style="list-style-type: none"> Expansion of women's and girl's access to education and training in STEM (science, technology, engineering, and math) 	Ongoing <ul style="list-style-type: none"> A number of programs/funding including \$250k to the Achieve Anything Foundation (AEST) 	AEST EDUC
Supporting Elder Care	<ul style="list-style-type: none"> Expansion of respite care and adult day programs to provide support to both senior and unpaid caregivers Unpaid caregiving is a substantial driver of the gender pay gap 	Ongoing <ul style="list-style-type: none"> \$75M investment in respite services and adult day programs over three years (HLTH) 	HLTH
Raising Minimum Wage	<ul style="list-style-type: none"> Incremental raising of the minimum wage to \$15.20, and eliminating the lower wage for liquor servers, the majority of whom are women, by 2021 	Ongoing <ul style="list-style-type: none"> Annual increases take place on June 1st of each year 	SDPR
Employment Standards Act Amendments	<ul style="list-style-type: none"> New unpaid job protected leave for those trying to escape domestic violence New unpaid job-protected leave for those caring for critically-ill family members that will align with federal employment insurance benefits Established legal framework for regulating tips and tip pooling and protecting workers' rights with respect to tips and gratuities 	Complete <ul style="list-style-type: none"> Employment Standards Act amended April 2019 Consultations on paid vs. unpaid Domestic Violence Leave will commence in Summer 2019 	LBR
2. Strengthen sexual harassment policy	<ul style="list-style-type: none"> Support work done by PSA, including sexual harassment policy paper and workplan 	In Progress <ul style="list-style-type: none"> ADM and ADM have met with PSA; to follow-up with PSA re: revised workplan 	Fall 2019 PSA

Gender Pay Gap Action Plan

	<ul style="list-style-type: none"> Respectful Workplaces policy in development for the legislature 	Approved by LAMC <ul style="list-style-type: none"> Feedback for PS being drafted by ADM 	Fall 2019	GEO
	<ul style="list-style-type: none"> Raise awareness of sexual harassment as a driver of pay inequity and encourage private sector to review/strengthen policies 	Not Started <ul style="list-style-type: none"> To be determined by GCPE as part of overall gender pay gap communications 	Fall 2019	GCPE
3. Increase women's representation in leadership in the public and private sectors	<ul style="list-style-type: none"> Expand the Leading for Equality campaign lead by the Parliamentary Secretary to promote women's leadership in the private sector in partnership with the Minerva Foundation and other stakeholders 	In Progress <ul style="list-style-type: none"> GCPE to advise if this initiative will proceed as planned 	Fall 2019	GCPE
	<ul style="list-style-type: none"> Continue to promote equality and diversity on public sector boards 	Ongoing <ul style="list-style-type: none"> ADM to get update from Charley Beresford re: 2019/20 targets and approach 		CABRO (FIN)
4. Develop pay transparency policies for the BCPS	<ul style="list-style-type: none"> Work with the PSA to determine baseline representation of women in leadership positions 	Initiated <ul style="list-style-type: none"> Material developed by PSA Awaiting briefing with MCJ and PSA DM 	Fall 2019	PSA
	<ul style="list-style-type: none"> s.12; s.13 	Not Started <ul style="list-style-type: none"> Discussion of options with PSA DM to be scheduled 	TBD	PSA
	<ul style="list-style-type: none"> 	Not Started	TBD	GEO/ GCPE

Gender Pay Gap Action Plan

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5.	Address gender segregation in the labour market	<ul style="list-style-type: none"> Promotion of women and girls in STEM education 	Ongoing		AEST/EDUC
		<ul style="list-style-type: none"> Promotion of girls in tech 	Ongoing		AEST/EDUC
		<ul style="list-style-type: none"> Work with ministries to develop campaigns to increase men's participation in female-dominant occupations 	Not Started	TBD	AEST/EDUC/HLTH/GEO
6					FIN (OCG)
7					PSA GEO

Appendix I: Overview of Legislative Approaches to Pay Discrimination in Canada

Mechanism	Jurisdiction	Pay Gap/Wage Gap	Proactive /Reactive	Public/Private
Human Rights Code Pay discrimination on the grounds of gender is prohibited	BC	Wage Gap	Reactive	Public & Private
	Alberta			
	Ontario			
	Saskatchewan			
Employment Standards Act / Labour Standards Code “Equal pay for same or similar work”	Ontario			
	Manitoba			
	Saskatchewan			
	Yukon			
	Newfoundland			
	Northwest Territories			
	Nova Scotia			
Policy Framework	<i>British Columbia’s Pay Equity Policy Framework (1995)</i>	Pay Gap	Proactive	Public *now addressed through collective bargaining
Pay Equity Act “Equal pay for work of equal value”	Nova Scotia (1988)			Public
	Manitoba (1985)			Public (Crown entities, civil service, external agencies)
	New Brunswick (2009)			Public (10 or more employees)
	Prince Edward Island (1988)			Public
	Quebec (1996 – amended in 2009)			Private and Public (10 or more employees)
	Ontario (1990)			Private and Public (10 or more employees)
	Ontario (2018) * delayed			Private and Public
Pay Transparency Act	Ontario (2018) * delayed			Private and Public

Percentage of Earnings Gap by Province and Pay Equity Legislation

Province	Earnings Gap (%)	Pay Equity Legislation	...for Public Sector	... for Private Sector	Policy for Public Sector
PEI	10.7	Yes	Yes	No	Yes
MN	13.2	Yes	Yes	No	Yes
NB	14.4	Yes	Yes	No	Yes
ON	16.2	Yes	Yes	Yes	Yes
QC	16.4	Yes	Yes	Yes	Yes
NS	16.4	Yes	Yes	No	Yes
SK	21.6	No	No	No	Yes
BC	22.6	No	No	No	Yes
AB	24.6	No	No	No	No
NL	28.5	No	No	No	Yes

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Mitzi Dean
Parliamentary Secretary
Gender Equity

Date Requested: March 5, 2020
Date Required: March 20, 2020

Initiated by: Ange Liu

Date Prepared: March 20, 2020

**Ministry
Contact:** Melanie Stewart

Phone Number: (250) 213 - 8764
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Cliff #: 389918

TITLE: Pay Equity – Overview of Options (Update)

PURPOSE:

(X) FOR INFORMATION

COMMENTS: Parliamentary Secretary for Gender Equity staff have requested an update to non-legislative options previously presented in 2019 that would address the gender pay gap in British Columbia, including additional analysis of potential pay transparency measures.

Executive Director approval: _____

ADM approval: _____

DM approval: _____

DATE PREPARED: March 20, 2020

TITLE: Pay Equity – Overview of Options

ISSUE:

The purpose of this document is to provide an update on measures to address the gender pay gap in British Columbia (B.C.)^{1 2} and to propose additional non-legislative options for reducing the gap.

BACKGROUND:

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¹ The Conference Board of Canada reports that women in B.C. earn 22.6% less than men. British Columbia has the third highest pay gap disparity of all the provinces. 2016. Statistics Canada. The Conference Board of Canada. Accessed on March 17, 2020. <https://www.conferenceboard.ca/hcp/provincial/society/gender-gap.aspx>

² Indigenous and racialized women experience even more profound gendered pay discrepancies on average, with Indigenous women earning 23% less per year than white women. 2012. Aboriginal Affairs and Northern Development Canada. Aboriginal Women in Canada. Accessed on March 17, 2020. www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/ai_rs_pubs_ex_abwch_pdf_1333374752380_eng.pdf

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DISCUSSION:

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Guided by this Action Plan, government continues to tackle the gender pay gap through targeted actions. This includes making historic investments in childcare (\$1 billion over three years). Research suggests that the majority of the wage gap occurs after the first child is born.³ As such, funding accessible, affordable and quality childcare is likely one of the most meaningful measures the Province can take to address the gender pay gap.

In addition to *Childcare BC*, the Province is also raising the minimum wage and eliminating lower wage for liquor servers by 2021, supporting elder care (i.e. \$75 million over three years), and supporting women in STEM and education and skills training (e.g. \$250k to Achieve Anything Foundation). Government has also passed legislation giving workers fleeing domestic violence up to 10 days of unpaid job-protected leave and legislation has been introduced that will give workers fleeing domestic violence up to five days paid leave. With targets to increase women in public sector leadership positions, women's representation on public sector boards increased from 41.5% in 2017 to 49% in 2019. Lastly, Budget 2020 introduced a new tax rate of 20.5% on taxable income over \$220,000; this is an equity measure that affects approximately 1% of the population of which 70% are men.

In addition to the progress on the Action Plan noted above, the following developments have occurred s.12; s.13

- COVID-19 pandemic;
- reintroduction of a Private Members Bill on pay transparency;
- Nova Scotia becoming the seventh province or territory to amend their Employment Standards Act/Labour Standards Code to include pay transparency provisions; and
- Vancouver Sun's coverage of gender imbalances in public sector pay.

COVID-19

COVID-19 is a global pandemic that is impacting different populations in different and complex ways and is amplifying existing gender inequalities and factors that contribute to the gender pay gap (e.g. horizontal segregation, gender socialization). Women are at higher risk of long-term economic insecurity as a result of this pandemic and its implications for the economy because of their over-representation in part time work and

³ <https://www.gendereconomy.org/sarah-kaplan-appears-before-the-standing-committee-on-social-policy-regarding-bill-3/>. Accessed March 17, 2020.

highly-affected sectors like health, education, home support, and service. They are also much more likely to take on a double burden of having to balance work and care for children who are now out of school due to school closures.⁴

It is unclear at this time what the long-term implications will be for the economy and for gender equity. It is possible that women will face greater challenges returning to the workforce if they are expected to shoulder childcare responsibilities for an extended period or if their sectors struggle to bounce back post-pandemic.^{s.12; s.13}

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Equal Pay Reporting Act

On March 5, 2020, MLA Stephanie Cadieux reintroduced a Private Members Bill that had passed First Reading in 2019.

The bill would require relevant employers (50 employees or more) to publicly publish the following information (either on the employer's existing website or an official website designated by a Registrar established by government):

- the difference between the *mean* regular wage and *median* regular wage of male full-pay relevant employees and female full-pay relevant employees;
- the difference between the *mean* and *median* bonus pay paid to male relevant employees and that paid to female relevant employees;
- the proportions of male and female relevant employees who were paid bonus pay, and;
- the proportions of male and female full-pay relevant employees in the lower, lower middle, upper middle and upper quartiles of regular wage.

s.12; s.13

⁴ World Economic Forum. *The coronavirus fallout may be worse for women than men*. March 12, 2020. <https://www.weforum.org/agenda/2020/03/the-coronavirus-fallout-may-be-worse-for-women-than-men-heres-why/>

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Nova Scotia

In March 2020, Nova Scotia passed amendments to the provincial Labour Standards Code that will provide wage transparency for job applicants, prohibit employers from inquiring about wage history, and prohibit employers from barring employees from discussing or disclosing wages among employees; it also expands equal pay provisions to gender-diverse employees.¹¹

Nova Scotia is now the seventh province or territory to amend their Code to bring in reactive pay equity measures (i.e. the onus is on the employee to make a complaint). The others include Ontario, Manitoba, Saskatchewan, Yukon, Newfoundland and Labrador, and the Northwest Territories. Additionally, six provinces (Nova Scotia, Manitoba, New Brunswick, Prince Edward Island, Quebec, and Ontario) have some version of a Pay Equity Act, i.e. equal pay for work of equal value. Ontario passed pay transparency legislation a few years ago, but its implementation has been delayed since 2018 for consultation on cost to business.

B.C. is one of four provinces with a complaints-based model (alongside Alberta, Ontario, and Saskatchewan). This is achieved through Section 12 of the *Human Rights Code*, R.S.B.C. 1996, c. 210 (the “Code”), which provides that the same employer cannot discriminate between employees doing similar or substantially similar work on the basis of sex. (See Appendix II for a table of pay equity legislation in other jurisdictions).

https://www.ippr.org/files/2018-11/1542206529_the-fair-pay-report.pdf

⁷ 2019. Gender Pay Gap in the UK.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/genderpaygapintheuk/2019>

⁸ 2018. In Australia, we're taking a different path to close our gender pay gap.

https://apolitical.co/en/solution_article/in-australia-we-dont-need-transparency-laws-to-tackle-the-gender-pay-gap

⁹ 2020. Australia's Gender Pay Gap Statistics. Accessed March 13, 2020.

<https://www.wgea.gov.au/data/fact-sheets/australias-gender-pay-gap-statistics>

¹⁰ 2019. Small Business Profile. https://www2.gov.bc.ca/assets/gov/employment-business-and-economic-development/business-management/small-business/sb_profile.pdf

¹¹ <https://novascotia.ca/news/release/?id=20200220005>

Accessed March 17, 2020.

Vancouver Sun

In January 2020, the Vancouver Sun issued the 10th edition of their public sector salary database, with a focus this year on gender imbalances in the public service, at Crowns and provincial agencies, and in municipal governments:

- Within the provincial government, only six of the top 25 highest-paid employees are women.
- In Metro Vancouver, four out of every five city hall workers who make more than \$75,000 a year are men.
- Only 16 of the 100 highest-paid university employees are women, and UBC has the lion's share of top-earning academics.

In the B.C. Public Service, the distribution of genders within executive positions (Deputy Ministers, Assistant Deputy Ministers and Executive Leads) is 52% (86) male and 48% (80) female. For Deputy Minister roles, 37% are female and 63% are male. Overall, female executive average salary (\$176,773) is approximately 97% of their male counterparts (\$182,507) – a pay gap of 3%.

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Ministry of Finance & Ministry of Labour

JOINT BRIEFING DOCUMENT

To: Honourable Selina Robinson
Minister of Finance

Date Requested:

Date Required:

Honourable Harry Bains
Minister of Labour

Initiated by: Elizabeth MacMillan, ADM
Gender Equity Office

Date Prepared:

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Cliff #:

TITLE: Pay Transparency Legislation – Initial Research Findings

PURPOSE:

(X) FOR INFORMATION

DATE PREPARED: July 30, 2021

TITLE: Pay Transparency Legislation – Initial Research Findings

ISSUE: Initial research findings, including components of existing models that could work most readily for BC.

BACKGROUND:

Parliamentary Secretary Grace Lore, Minister Selina Robinson, and Minister Harry Bains have a shared mandate commitment to close the gender pay gap “...by continuing to address systemic discrimination in the workplace and moving closer to equal pay for equal work through new pay transparency legislation.” Parliamentary Secretary Lore is identified in the mandate letters as the lead and reporting up to Minister Robinson, with Minister Bains supporting the work.

Pay transparency legislation exposes pay discrimination through reporting. While it does not require employers to actively close pay gaps within their respective organizations, it raises awareness of pay discrimination and it can contribute to broader efforts to close the gender pay gap. It achieves this by making wage information within an organization visible. Depending on the model, pay transparency legislation could require employers to publish wage information through a public registrar or agency and may also take a further step by enforcing pay transparency with penalties for false or no reporting.

DISCUSSION:

The purpose of this information note is to provide the Parliamentary Secretary and Ministers with early analysis of pay transparency models in other jurisdictions and to seek early direction on components that could work most readily for BC and any components that are not to be considered at this time.^{s.12}

s.12

s.12; s.13

Staff identified six existing models of pay transparency - in Canada, Ontario (not in force), UK, Australia, Germany, and Denmark (see Appendix 2, which also includes an overview of the Private Member’s Bill in BC, the *Equal Pay Reporting Act*).

There are four models that stand out and have components that could work most readily for BC (subject to Parliamentary Secretary and Ministers' support): Canada, Ontario, the UK, and Australia. Of note, both Canada and Ontario modelled their pay transparency measures after the UK so that there could be easy comparability of data across jurisdictions. BC could consider something similar so that it aligns with its federal and provincial partners (should Ontario choose to bring its Act into force). However, there are also components from Australia that contribute to a 99% compliance rate.

s.13

s.13

Additional considerations that will require further stakeholder and government input include:

- Threshold of employer size – to be subject to reporting requirements:
 - UK: 250 or more employees
 - Germany: 200 employees
 - Canada, Ontario, Australia: 100 or more employees
 - Denmark: 35 employees
 - BC Private Member's Bill: threshold to be determined with regulations
- Reporting on categories beyond male/female:
 - Canada: women, Indigenous Peoples, persons with disabilities, and members of visible minorities (as defined as designated groups under the Employment Equity Act)
 - Ontario: did not state in the legislation, but kept it open to be considered in regulations
 - BC Private Member's Bill: none
 - s.12; s.13
- Additional Pay Transparency “Plus” Components (as per Ontario):
 - Prohibits all Ontario employers from asking job applicants about their prior compensation or obtaining this information via other means

- Requires all Ontario employers to indicate a pay rate or a pay scale for all publicly advertised job postings.
- Prohibits Ontario employers from retaliating against an employee who:
 - makes an inquiry to his or her employer about his or her compensation
 - discloses his or her compensation to another employee
 - makes inquiries about a pay transparency report filed with the Ministry of Labour
 - gives information to the Ministry of Labour about his or her employer's compliance or noncompliance with the Act or
 - asks his or her employer to comply with the Act.
- None of the above "plus" components are in BC's Private Member's Bill.

NEXT STEPS:

Staff from the Ministry of Labour and the Ministry of Finance's Gender Equity Office will continue to develop research and analysis based on direction from Ministers and the Parliamentary Secretary.^{s.12}

s.12

INFORMATION NOTE

Issue: **Gender Pay Gap**

- BC has one of the largest gender pay gaps in Canada.

Background:

- A 2016 Conference Board of Canada report cites that BC has one of the highest pay gaps in Canada at 22.6%, with women making 77.4 cents for every dollar earned by a man.
- In 2019, Statistics Canada issued a report examining the evolution of the gender pay gap in hourly wages from 1998 to 2018 among employees aged 25 to 54. The report indicates that while the gender gap in hourly wages has narrowed by 5.5 percent since 1998, women in Canada still earn 13.3% less, on average, than men. BC is cited as having the largest gap at 18.9 per cent.
 - **Note:** BC Stats' Provincial Statistician has confirmed that both measures are valid but due to different methodology used, are not directly comparable. Also, the calculations above are unadjusted pay gap calculations, i.e. they are averages of all men and all women, not adjusted for job or sector.
- In addition to just gender, Indigenous women in Canada had an average annual employment income of \$33,455 in 2015 (17% less than non-Indigenous women, 28% less than Indigenous men, and 43% less than non-Indigenous men).¹ People of colour in Canada face a significant racial pay gap, with men of colour earning 78 cents and women of colour earning 59 cents for every dollar that a white man earned.²
- The gender pay gap is driven by a multitude of systemic factors including: horizontal segregation (women more likely to work in lower paid sectors and job classes), vertical segregation (fewer women in management and executive positions), systemic gender discrimination (women earning less than their male counterparts doing work of equal value), sexual harassment (women facing barriers in the workplace due to sexual harassment), and gender socialization (women are more likely to care for children and other dependents and work part-time).
- The impact of COVID-19 on businesses and employment in BC is expected to be substantial, with the long term impacts dynamic and unknown at this time. As a result, the analysis provided here assesses legislative models based on previously understood, pre-pandemic impacts. It is possible that the pandemic leads to a narrowing of the gender pay gap but as a result of lower employment rates for women,³ i.e. they would have left the paid workforce and no longer appear in the earnings calculations.
- Pre-pandemic research suggests that the majority of the gap starts after a first child is born,⁴ meaning that access to childcare can be the most meaningful measure taken to close the gap. Other

¹ *Economic Participation and Prosperity of Indigenous Women in Canada*. Department of Women and Gender Equality Canada. December 2019.

² *Canada's Colour Coded Income Inequality*. Sheila Block, Grace-Edward Galabuzi, Ricardo Tranjan. December 2019. <https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2019/12/Canada%27s%20Colour%20Code%20Income%20Inequality.pdf>

³ *The gender pay gap situation in the EU*. European Commission. Accessed April 9, 2020. https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/equal-pay/gender-pay-gap-situation-eu_en

⁴ <https://www.gendereconomy.org/sarah-kaplan-appears-before-the-standing-committee-on-social-policy-regarding-bill-3/>, Accessed March 17, 2020.

Issue/Opportunity:

- ***For informational purposes.***

⁵ *Women's Economic Security: Securing the Future of Canada's Economy*. Report of the Standing Committee on the Status of Women. June 2018, 42nd Parliament, 1st Session.

<https://www.ourcommons.ca/Content/Committee/421/FEWO/Reports/RP9974529/feworp12/feworp12-e.pdf> ; *It's Time to Act*. Report of the Special Committee on Pay Equity. June 2016, 42nd Parliament, 1st Session.

<https://www.ourcommons.ca/Content/Committee/421/ESPE/Reports/RP8320461/esperp01/esperp01-e.pdf>

⁶ https://wpcarey.asu.edu/sites/default/files/daniel_wolfenzon_seminar_november_9_2018.pdf, Accessed March 18, 2019.

⁷ Bennedsen, M., et al. "Do firms respond to gender pay gap disclosure?" NBER Working Paper Series, 25435. January 2018.

https://www.df.cl/noticias/site/artic/20190201/asocfile/20190201174506/paper_3_.pdf

⁸ 2020. Australia's Gender Pay Gap Statistics. Accessed March 13, 2020.

<https://www.wgea.gov.au/data/fact-sheets/australias-gender-pay-gap-statistics>

⁹ 2018. In Australia, we're taking a different path to close our gender pay gap.

https://apolitical.co/en/solution_article/in-australia-we-dont-need-transparency-laws-to-tackle-the-gender-pay-gap

¹⁰ 2019. Gender Pay Gap in the UK.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/genderpaygapintheuk/2019> ; *UK Gender Pay Gap for Full-Time Workers Increases*. The Guardian. October 2019. <https://www.theguardian.com/money/2019/oct/29/uk-gender-pay-gap-full-time-workers#maincontent>