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HR Policy Association Urges Senate to Reject Paycheck Fairness Act

Unprecedented Unlimited Damages, Elimination of Reasonable Non-Discriminatory Factors in Defending Pay Determinations, and EEOC Collection of Sensitive Wage and Salary Data Light Fuse for Employment Litigation Explosion

Washington, DC—HR Policy Association, representing the senior human resource officers of more than 300 of the largest employers in the United States, expressed major concerns about the Paycheck Fairness Act (PFA; H.R. 12/S. 182) currently under consideration by the U.S. Senate. The Association addressed these concerns in a policy memorandum that explained how the Paycheck Fairness Act would increase employment litigation.

The Paycheck Fairness Act would subject companies to an explosion in costly employment litigation under the Equal Pay Act (EPA) that would make it far too easy to both bring and prevail in lawsuits, even where the employer has no intent to discriminate but has based pay on legitimate factors such as education, training and productivity. The Senate is considering whether to take up the measure, which was passed by the House of Representative in 2009.

Daniel V. Yager, Chief Policy Officer and General Counsel of the HR Policy Association said, “This legislation underscores why a new approach needs to be developed in the U.S. to employment regulation that examines not just the protections being provided employees, but the methods by which they are provided, to seek to avoid reducing American competitiveness and negatively impacting employment. The Paycheck Fairness Act fails this test. The U.S. already has far more employment litigation than nearly all other countries in the world, which generally limit recovery to make whole remedies such as back pay and reinstatement. The Paycheck Fairness Act, in contrast, would allow unlimited compensatory and punitive damages for discrimination claims against employers that would be brought before juries, making the American workplace even more litigious.”

The Paycheck Fairness Act creates a three step process for plaintiff’s lawyers that will significantly increase the prospects for successful lawsuits against employers. First, the Act invites more discrimination suits by authorizing EEOC to make the pay data of every private sector employee in America a matter of public record. Second, the Act makes it easier for plaintiffs’ lawyers to prevail by eviscerating key employer defenses, such as the experience level of the person in the job or occupation. Third, the Act makes victory far more lucrative by authorizing unlimited compensatory and punitive damages.

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To view the HR Policy Association's policy brief, visit:

<http://www.hrpolicy.org/downloads/2010/10-55%20Paycheck%20Fairness%20Policy%20Brief%204%2025%2010.pdf>

HR Policy Association is the lead organization representing chief human resource officers of major employers. The Association consists of more than 300 of the largest corporations doing business in the United States and globally, and these employers are represented in the organization by their most senior human resource executive. Collectively, their companies employ more than 18 million employees worldwide and have a combined market capitalization of more than \$7.5 trillion. These senior corporate officers participate in the Association because of their passionate interest in the direction of human resource policy. Their objective is to use the combined power of the membership to act as a positive influence to improve public policy, the HR marketplace, and the human resource profession. For more information visit www.hrpolicy.org