

## COMPARABLE WORTH & EQUAL PAY

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## COMPARABLE WORTH - EQUAL PAY

- \$ History of Pay Equity and Comparable Worth
- \$ Federal and State Legislative Activity
- \$ Internal Value Proposition
- \$ External Value Proposition
- \$ Synergistic Value for Both

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<https://www.youtube.com/watch?v=bm3YfMtgEdI>

**(Only 78%)**

Same Job  
Same Employer  
Means **Equal Pay**  
for Men and Women

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### History of Pay Equity to Comparable Worth/Pay – 60 Years

- Equal Pay - 1960's
- Comparable Worth – 1980's
- Pay Equity – 2000's
- Comparable Pay – 2020's

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### Federal and State Legislative Activity

- Fair Labor Standards Act of 1938 (FLSA)  
Equal Pay Act of 1963 (Federal EPA)
- Title VII of the Civil Rights Act of 1964 (EEO)
- Comparable Worth Suits/Cases – 1980's
- Lilly Ledbetter Fair Pay Act of 2009
- Executive Order: "Closing the persistent pay gap for women and minorities" April 8, 2014
- California Fair Pay Act 2015 (SB 358)

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### Fair Labor Standards Act of 1938

Fair Labor Standards Act of 1938 (abbreviated as FLSA; also referred to as the Wages and Hours Bill) is a federal statute of the United States. The FLSA introduced the forty-hour work week, established a national minimum wage, guaranteed "time-and-a-half" for overtime in certain jobs, and prohibited most employment of minors.

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### Equal Pay Act of 1963

No **employer** having employees subject to any provisions of this section [section 206 of title 29 of the United States Code] shall **discriminate**, within any establishment in which such employees are employed, between employees on the **basis of sex** by **paying wages to employees** in such establishment at a rate **less than the rate** at which he pays wages to employees of the **opposite sex** in such establishment for **equal work on jobs**, the performance of which requires **equal skill, effort, and responsibility**, and which are performed under **similar working conditions**.

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### Title VII of the Civil Rights Act of 1964

Title VII of the Civil Rights Act of 1964 protects individuals **against employment discrimination on the bases of race and color, as well as national origin, sex, and religion**. Title VII applies to employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government

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### Comparable Worth - 1980's

The overarching Comparable Worth idea/theory was that some **jobs** and **occupations** were being **systematically devalued** (discriminated against) based on the gender makeup of the occupation, and that the true value of the jobs' were being **depressed by some sort of intrinsic gender bias in the marketplace**.

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### Comparable Worth – 1980’s

Comparable Worth was also struck down by a Federal Appeals Court back in the mid 80s in [AFSCME v. The State of Washington](#). The court ruled that Comparable Worth was not a Title VII theory, and that the plaintiff (AFSME) **had to show job similarity, not just comparable worth**, to have a potentially valid claim of gender-based pay discrimination. In addition, the court reasoned that since the [State of Washington used market data in determining its wage rates](#), it therefore could **not held liable for market-created disparities**.

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### Pay Equity in the 2000’s

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States of America, do hereby proclaim **May 11, 2000**, as **National Equal Pay Day**. I call upon government officials, law enforcement agencies, business leaders, educators, and the American people to recognize the full value of the **skills and contributions of women in the labor force**. I urge all employers to review their wage practices and ensure that **all their employees are paid equitably for their work**.

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### Pay Equity in the 2000’s

**The Legislative Fix: The Lilly Ledbetter Fair Pay Act of 2009**  
Less than two years after the *Ledbetter* decision and during the first month of the 111th Congress, both the House and Senate passed the Lilly Ledbetter Fair Pay Act of 2009. And the Act as the first substantive piece of legislation signed by the President. **The Act restores longstanding law and helps to ensure that individuals subjected to unlawful pay discrimination are able to effectively assert their rights under the federal anti-discrimination laws**. Under the Act, each discriminatory paycheck (rather than simply the original decision to discriminate) resets the 180-day limit to file a claim.

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### Pay Equity in the 2010's

On April 8, 2014, President Obama signed a memorandum and executive order designed to address race and gender-based disparities in compensation. The [memorandum](#) directs the Department of Labor ("DOL") to propose a rule within 120 days requiring federal contractors and subcontractors to submit "summary data" on employee compensation by race and sex to the DOL using a "tool" to be developed by the agency.



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### State Legislative Activity

Over 15 states have approved or tried to introduce legislation that further defines **equal pay as being something more than just equal dollars between genders and protected groups.**



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### State Legislative Activity

- Now that the Equal Pay Act of 1963 is over 50 years old, why are there current efforts by several state legislative branches to further define equal pay and expected fairness pay outcomes?
- To compound this complex issue, each employee/person assesses fairness individually based on personal values and prior circumstances.



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**State Legislative Activity**

**Thursday, August 04, 2016**  
[Massachusetts: Leading the Way on Equal Pay](#)  
This was truly a historic week in Massachusetts. After decades of work and coalition building, the state legislature unanimously passed the strongest [...]

**Monday, July 04, 2016**  
[Equal Pay for Equal Work in Maryland](#)  
On average, women in America earn about 79 cents for every dollar a man makes. In Maryland, women make about 84.3 cents for every dollar a man makes, [...]



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**State Legislative Activity**

The state of California passed a new law called the "California 2015 Fair Pay Act". This law extends to definition of equal pay to comparable pay and requires employers to extend "comparable pay" for jobs that are **substantially similar**. There is a legal expectation that men and women should be paid comparable pay for work performed of the same value to the organization.



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**California Fair Pay Act – Background**

- CA Equal Pay Act in existence since 1949
- Part of California Labor Code, minimum wage law
- Fair Pay Act of 2015, SB 358 (Jackson) amended the CA EPA, making it the strongest in the nation.
- Achieved bipartisan support, endorsed by the California Chamber of Commerce.



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### California Fair Pay Act – Background

- Ensures that employees performing substantially similar work are paid equally
- Eliminates "same establishment" requirement
- Revises the "bona fide factor other than sex" defense to require employers to prove a business necessity for using the factor
- Strengthens EPA's anti-pay secrecy provisions by prohibiting retaliation or discrimination against employees who disclose, discuss, or inquire about their own or co-workers' wages for the purpose of exercising rights under the law.
- Ensures that any legitimate, non-sex related factor(s) relied upon are applied reasonably and account for the entire pay differential; and

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### Internal Value Proposition

This next level definition and interpretation for equal pay or "comparable pay" will require employers to **re-evaluate their positions/jobs based on different criteria**. Job valuing needs to be completed with a consistent job valuing factors system that can value all job classifications and provide a **non-biased compensable factors** process to **determine which jobs are substantially similar** based on proven factors and weighted points.

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### Internal Value Proposition

With all of the new laws and executive orders over the past eight years, the Wage Gap between women's to men's earnings has continued to close and will move closer and closer as more companies get serious about comparable worth policies. These policies include the evaluation of each position in the organization against a common set of objective and defensible job valuing factors. This kind of review takes out gender and other forms of potential biases to arrive at an overall point total score for the positions and not the individual in the position.

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### Internal Value Proposition

Will external market pay only studies stand-up to the scrutiny equal pay regulatory auditors and investigators?



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### Internal Value Proposition Job Evaluation

**Knowledge and Skill Requirements**

- General Experience
- Management Experience
- Education
- Initiative and Ingenuity
- Mental Demand
- Analytical Ability/Problem Solving



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### Internal Value Proposition Job Evaluation

**Responsibilities**

- Responsibility for Work of Others – Supervision
- Responsibility for Funds, Equipment and Property
- Responsibility for Accuracy
- Accountabilities for End Results



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### Internal Value Proposition Job Evaluation

- **Communications and Efforts**
- Internal Communications
- External Communications
- Machine and Computer Operations
- Working Conditions
- Physical Demands

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### External Value Proposition

- Market pay comparisons
- Job matching
- Validation of internal pay structure
- Validation of position pay placement
- Pay competitiveness

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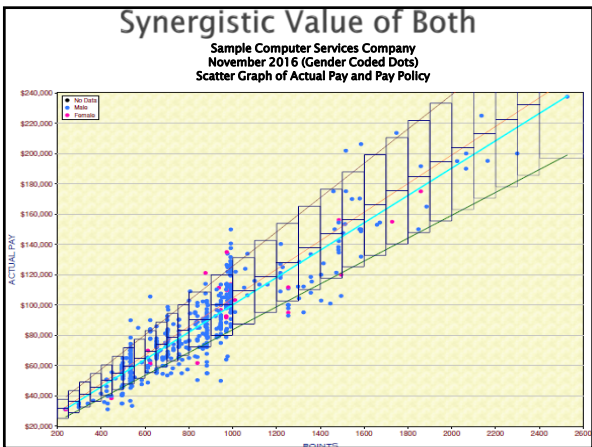
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