

June 20, 2023

Honorable Bernie Sanders  
Chair  
Senate Health, Education, Labor, and Pensions Committee  
Washington, D.C., 20510

Honorable Bill Cassidy  
Ranking Member  
Senate Health, Education, Labor, and Pensions Committee  
Washington, D.C., 20510

Dear Chair Sanders and Ranking Member Cassidy:

HR Policy Association writes to express opposition to three bills scheduled to be marked up by the Senate Health, Education, Labor, and Pensions Committee this week: The Richard L. Trumka Protecting the Right to Organize Act (S.567) (“PRO Act”); the Paycheck Fairness Act (S.728) (“PFA”); and the Healthy Families Act (S. 1664) (“HFA”).

HR Policy Association is a public policy advocacy organization that represents the most senior human resources officers in nearly 400 of the largest corporations doing business in the United States and globally. Collectively, these companies employ more than 10 million employees in the United States, nearly nine percent of the private sector workforce. The Association’s member companies are committed to ensuring that laws and policies affecting the workplace are sound, practical, and responsive to the needs of the modern workforce and economy.

The Association understands the need for federal labor law reform, as the current framework is based on a largely outdated industrial model from nearly a century ago. Association members are committed to engaging with their employees and ensuring their workplace needs are met. The PRO Act is not a balanced and sincere attempt to update federal labor law to meet the needs of the modern workplace; it is merely a handout to organized labor. The PRO Act would radically rewrite the current law to the benefit of labor unions alone, and at the expense of both employers and employees. The bill would essentially eliminate employer voice while also restricting employees’ rights to decide upon representation. Rather than harmonizing the needs and interests of all stakeholders in the modern workplace, the PRO Act would incentivize increased labor relations unrest and as well as unnecessary litigation.

The Association and our members strongly support pay equity. Our members are committed to compensation practices that attempt to close any racial or gender pay gap. As such, Association members regularly audit their pay practices – and often publicly disclose the same – to ensure they are addressing any pay gaps. Illustrating our commitment to pragmatic solutions, the Association has worked closely with members of Congress to create effective pay equity legislative solutions, including the WAGE Equity Act (introduced in the 117<sup>th</sup> Congress, H.R.2491). Although the Association supports the objectives of the Paycheck Fairness Act – addressing gender pay disparity issues in the workplace, we do not support the bill itself, because it does not address the underlying causes of wage and equity issues, and it will create unnecessary litigation. The Association is especially opposed to the following PFA provisions:

- **Removal of nondiscriminatory defenses:** The bill would remove important and substantial nondiscriminatory defenses that have been well established and upheld by the courts in Equal Pay Act litigation and make it extremely difficult for companies to justify nondiscriminatory pay practices based on factors other than sex (such as education, training or experience).
- **Unlimited damages even in the absence of intentional discrimination:** The PFA would permit recovery of unlimited damages even absent a showing of intentional discrimination.
- **Pay data reporting:** The PFA would significantly increase the type and amount of employer data required to be filed with the EEOC, including pay data collection similar to the EEOC's Component 2 collection which was widely criticized in a report commissioned by the EEOC to determine its effectiveness.

Regarding the HFA, the Association's member companies have long recognized the value paid leave benefits deliver to employees' work-life balance. Providing such flexibility is an essential recruitment and retention tool that creates an engaged workforce. Accordingly, most large employers offer robust paid leave benefits that exceed the growing maze of federal, state, or local paid sick leave requirements. However, it is increasingly challenging for multi-state employers to develop paid sick leave policies that comply universally. The central issue for multi-jurisdictional employers is not the level of benefits required under applicable laws, but the compliance burden (including the coordination and administration of benefits) associated with the increasing patchwork of conflicting state and local leave laws. Differing state and local requirements make it difficult for employers with operations in several jurisdictions to offer uniform benefit plans for all or most of their employees. Employers want a federal program that would operate as a national standard, under which an employer would be exempted from state and local requirements if it was in compliance with such a standard. Unfortunately, the HFA does not address the state patchwork problem. In 2019 the Association and Littler's Workplace Policy Institute (WPI) [published a paper](#), discussing the challenges of navigating various state and local paid leave laws and federal policy solutions that should be considered by lawmakers.

The Association supports meaningful labor law reform and welcomes the opportunity to work with lawmakers to find solutions that will benefit employers, employees, and the U.S. economy. However, for the reasons mentioned above we urge members to vote against advancing the PRO Act, Healthy Families Act, and Paycheck Fairness Act as they do not address the needs of today's businesses and modern workforce.

Sincerely,

*Chatrane Birbal*

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Vice President, Policy and Government Relations  
HR Policy Association

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CC: All members of the Senate Health, Education, Labor, and Pensions Committee