

HRPA UPDATE

Strategy—commitment—foresight

**THE LEDBETTER FAIR PAY ACT—LENGTHENS
TIME EMPLOYEES CAN FILE**

The Ledbetter Fair Pay Act was signed into law on Jan. 29, 2009. The measure is designed to override a 2007 Supreme Court ruling that requires workers who believe they are victims of wage discrimination to file suit within six months of when the alleged bias first occurred.

For employers, the law creates the possibility that actions from years ago could lead to a rash of new discrimination claims.

Key provisions of the Lilly Ledbetter Fair Pay Act include:

◆ **Changes application of statute of limitations.**

The Ledbetter Act will allow individuals to bring discrimination claims potentially many years after an alleged act of discrimination occurred. Employers will be liable for earlier management decisions for which there may be no records.

◆ **Expands plaintiff field.**

The Ledbetter Act will allow, not just an employee who was discriminated against, but, other individuals who were "affected" by an act of pay discrimination to file claims. Thus, the new law may allow family members, including spouses and children, and potentially others to become plaintiffs in discrimination suits over an employee's pay.

◆ **Amends other civil rights statutes.**

The Ledbetter Act will extend the statute of limitations for filing claims for all protected classes of employment law, including gender, age, color, disability, race, religion and national origin.

STEPS EMPLOYERS CAN TAKE:

- **Audit current & past compensation policy**

Auditing past actions will allow employers to identify and deal with problems before they result in costly litigation. Current compensation policies should be evaluated for equity to ensure pay practices are legally compliant.

- **Review job descriptions**

Ensure that job descriptions accurately reflect the responsibilities of the job and pay reflects the level of responsibility.

- **Analyze performance management system**

Compare how much more pay employees with high performance ratings receive to those pay levels of others with similar jobs and performance ratings. There could be certain parts of the organization, such as regions and business units, with a concentration of pay inequity.

- **Train supervisors & managers**

Ensure supervisors and managers understand how to make sure pay and performance evaluations that are done objectively and fairly and with adequate documentation. Ongoing training and communication can help emphasize the importance of pay equity issues and the risks of poor pay-related decisions.

- **Evaluate Records Retention Policies.**

Because the law makes it possible for a company to be sued at almost any time for pay inequities no matter how far in the distant past, it is a good idea to re-consider records retention policies.

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