

By: Senator(s) Witherspoon

To: Accountability,  
Efficiency, Transparency;  
Judiciary, Division A

SENATE BILL NO. 2894

1 AN ACT TO ESTABLISH THE "MISSISSIPPI PAY EQUITY ACT" TO  
2 PROVIDE THAT NO EMPLOYER SHALL PAY AN EMPLOYEE A WAGE AT A RATE  
3 LESS THAN THE RATE AT WHICH AN EMPLOYEE OF A DIFFERENT GENDER IS  
4 PAID FOR EQUAL WORK; TO PROVIDE THAT AN EMPLOYEE MAY FILE A  
5 PETITION IN THE PROPER CIRCUIT COURT; TO PROHIBIT RETALIATORY  
6 DISCHARGE; AND FOR RELATED PURPOSES

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** This act shall be known and may be cited as the  
9 "Mississippi Pay Equity Act."

10 **SECTION 2.** The following words and phrases shall have the  
11 following meanings, unless the context clearly requires otherwise:

12 (a) "Employer" means any person or entity employing one  
13 or more employees.

14 (b) "Employee" means an individual who renders personal  
15 service wholly or partly in this state to an employer who pays or  
16 agrees to pay such individual an agreed-upon rate for services  
17 rendered in which payments are ordinarily made or to be made in  
18 this state.

19 (c) "Wages" means all forms of remuneration and  
20 compensation for services rendered by an employee for an employer



21 whether paid directly by the employer or another person, including  
22 the cash value of all compensation paid in any form other than  
23 cash.

24 (d) "Rate," with reference to wages, means the basis of  
25 compensation for services by an employee for an employer and  
26 includes compensation based on the time spent in the performance  
27 of such services, or on a quantity of production or number of  
28 tasks or operations completed.

29 (e) "Unpaid wages" means the difference between the  
30 wages actually paid to an employee and the wages required under  
31 Section 3(1) of this act.

32 (f) "Comparable work" means work that is substantially  
33 similar in that it requires substantially similar skill, effort  
34 and responsibility and is performed under similar working  
35 conditions; provided, however, that a job title or job description  
36 alone shall not determine work comparability.

37 (g) "Working conditions" shall include the  
38 environmental and other similar circumstances customarily taken  
39 into consideration in setting salary or wages, and the physical  
40 surroundings and hazards encountered by employees performing a  
41 job.

42 **SECTION 3.** (1) No employer shall discriminate in any way on  
43 the basis of gender in the payment of wages, or pay any person in  
44 its employ a salary or wage rate less than the rates paid to its  
45 employees of a different gender for comparable work; provided,



46 however, that variations in salaries or wages shall not be  
47 prohibited if based upon:

48 (a) A system of pay that rewards seniority with the  
49 employer in the form of pay increases and/or promotions; provided,  
50 however, that time spent on leave due to a pregnancy-related  
51 condition and protected parental, family and medical leave shall  
52 not reduce the seniority-level of an employee;

53 (b) A merit system; provided, however, that such a  
54 merit system was well-established prior to the alleging of a  
55 violation of this section on the part of an employee or employees;  
56 and, provided that such a merit system is equally accessible to  
57 employees of all genders; and, provided that such a merit system  
58 is not stratified by gender in which certain jobs or occupations  
59 offered by the same employer providing more opportunities for  
60 meritorious achievements are disproportionately occupied by one  
61 (1) gender, provided that the education, training and experience  
62 of employees is not the reason for stratification of jobs by  
63 gender;

64 (c) A system which measures earnings by quantity or  
65 quality of production, sales or revenue;

66 (d) The geographic location in which a job is  
67 performed;

68 (e) Education, training or experience to the extent  
69 such factors are reasonably related to the particular job in  
70 question;



71 (f) Travel, if the travel is a regular and necessary  
72 condition of the particular job.

73 (2) An employer who is paying a wage differential in  
74 violation of this section shall not reduce the wages of any  
75 employee solely in order to comply with this section. No employer  
76 shall discriminate against any employee in regard to hire or  
77 tenure of employment or any term or condition of employment  
78 because the employee has filed a complaint in a proceeding under  
79 subsection (1) of this section, or has testified, or is about to  
80 testify, in any investigation or proceedings pursuant to  
81 subsection (1) of this section or in a criminal action pursuant to  
82 subsection (1) of this section.

83 (3) Subsection (1) of this section creates an actionable  
84 right in Mississippi for any person who is an employee and who  
85 believes that such person's employer has violated the provisions  
86 of subsection (1) of this section. Any such employee who is  
87 aggrieved under subsection (1) of this section may file a petition  
88 in the proper circuit court in Mississippi. If an employer is  
89 found to have violated the provisions of subsection (1) of this  
90 section, the employee shall be awarded reasonable remedies, which  
91 may include attorney's fees, prejudgment interest, back pay,  
92 liquidated damages and one hundred percent (100%) of the  
93 difference of unpaid wages. If the employer is found to have  
94 willfully violated the provisions of subsection (1) of this  
95 section, the employee shall be awarded three hundred percent



96 (300%) of reasonable remedies, which may include attorney's fees,  
97 prejudgment interest, back pay, liquidated damages and the  
98 difference of unpaid wages. Action to recover such liability may  
99 be maintained by any one or more employees for and on their own  
100 behalf, or on behalf of other employees similarly situated. Any  
101 agreement between the employer and any employee to work for less  
102 than the wage to which the employee is entitled under subsection  
103 (1) of this section shall not be a defense to action. An  
104 employee's previous wage or salary history shall not be a defense  
105 to action.

106 Any petition alleging violations under subsection (1) of this  
107 section shall be filed in the proper circuit court within three  
108 (3) years after the date of the alleged violation. A violation  
109 occurs when an employer is found to have made a compensation  
110 decision or engaged in a compensation practice resulting in a  
111 discriminatory pay differential between genders on the basis of  
112 gender alone, including when such a practice is adopted by the  
113 employer, when an employee becomes subject to such a decision or  
114 practice, or when an employee is affected by the employer's  
115 application of such a decision or practice, including each time  
116 wages are paid, resulting in whole or in part from such a decision  
117 or practice.

118 **SECTION 4.** (1) It shall be an unlawful practice for an  
119 employer to:



120           (a) Prohibit, as a condition of employment, employees  
121 from openly discussing or disclosing information about their own  
122 salary or wages with their colleagues, co-workers or supervisors  
123 if they choose to do so, or to prohibit employees from inquiring  
124 about, disclosing or discussing any information about any other  
125 employee' wages; provided, however, that no employer shall be  
126 obligated to disclose an employee's wages to another employee or a  
127 third party under this section.

128           (b) Seek the wage or salary history of a prospective  
129 employee from the prospective employee or a current or former  
130 employer or to require that a prospective employee's prior wage or  
131 salary history meet certain criteria; provided, however, that if a  
132 prospective employee has voluntarily disclosed such information, a  
133 prospective employer may confirm prior wages or salary or permit a  
134 prospective employee to confirm prior wages or salary and a  
135 prospective employer may seek or confirm a prospective employee's  
136 wage or salary history after an offer of employment with  
137 compensation has been negotiated and made to the prospective  
138 employee.

139           (c) Terminate employment of, reduce hours, reduce pay,  
140 deny promotion or in any other manner retaliate against any  
141 employee because the employee:

142                   (i) Opposed any act or practice made unlawful by  
143 this section;



144 (ii) Made or indicated an intent to make a  
145 complaint under this section;

146 (iii) Testified or is about to testify, assist or  
147 participate in any manner in an investigation or proceeding under  
148 this section; or

149 (iv) Disclosed the employee's wages or has  
150 inquired about or discussed the wages of any other employee.

151 (d) Restructure employment arrangements by entering  
152 into a contract with an employee for the sole purpose of avoiding  
153 compliance with this subsection or by any other means exempt  
154 itself from this subsection; provided, however, that an employer  
155 may prohibit a human resources employee, a supervisor or any other  
156 employee whose job responsibilities require or allow access to  
157 other employees' compensation information from disclosing such  
158 information without prior written consent from the employee whose  
159 information is sought or requested unless the compensation  
160 information is a public record.

161 This section shall be enforced in the same manner as Section  
162 3(3) of this act.

163 **SECTION 5.** This act shall take effect and be in force from  
164 and after July 1, 2017.

