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ISSUE UPDATE



DATE: January 23, 2009
TO: Concerned Parties
FROM: Hilary O. Shelton, Director, Washington Bureau

NAACP–Supported Legislation to Make it Easier For Women To Receive Equal Pay For Equal Work and Correct a Loophole In Pay Discrimination Passes U.S. House In First Week of 111th Congress

THE LILLY LEDBETTER FAIR PAY ACT AND THE PAYCHECK FAIRNESS ACT MUST NOW PASS THE SENATE

THE ISSUE

One of the first acts of legislative business for the U.S. House of Representatives in the new 111th Congress was to pass, on January 9, 2009, bills to combat wage discrimination. Specifically, the House passed H.R. 11, the *Lilly Ledbetter Fair Pay Act of 2009* by a margin of 247 yeas to 171 nays and then H.R. 12, the *Paycheck Fairness Act* by a margin of 256 yeas to 163 nays. Both of these bills, which are legislative priorities for the NAACP, passed the House in the 110th Congress but were stalled in the Senate.

On May 29, 2007, the US Supreme Court handed down a problematic decision in *Ledbetter v. Goodyear Tire and Rubber Co.*, in which the Court held that an action for pay discrimination under Title VII of the 1964 Civil Rights Act, which prohibits discrimination based on race, color, religion, national origin or sex must be brought *within 180 days of the initial discriminatory pay decision*. This means that an individual who is receiving less pay for equal work due to his or her race, ethnic background, gender or age, must file a lawsuit within 180 days of his or her first discriminatory paycheck in order for the suit to be considered by the courts. This ruling ignores the fact that individuals who are receiving less pay often do not realize that they are being discriminated against in the first three months. Nor does it take into account the fact that oftentimes an individual is able to determine discrimination only after several months (and sometimes even years). H.R. 12 addresses the errors of the Supreme Court decision (and to reinstitute the original intent of Congress in the 1964 Civil Rights Act), by mandating that an individual may file a discrimination suit against an employer (or former employer) within 180 days of the end of his or her employment, thereby restoring the ability of victims of pay discrimination to obtain effective remedies.

H.R. 11 would make it easier for women who are paid less than their male counterparts to bring suits against their employers. Employers seeking to justify unequal pay would have to prove that disparities are job-related and required by business necessity. Workers who win wage discrimination cases could collect compensatory and punitive damages. Together H.R. 11 and H.R. 12 would help to remedy the continuing pay gap; for every dollar made by a Caucasian male in the United States today, it is estimated that an African American male makes 79 cents for equal work and a woman makes 77 cents.

We must now urge the U.S. Senate to take up these bills and pass them as quickly as possible so they can be sent to President Obama for his signature.

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