



So-Called Paycheck Fairness Act Would Allow Government to Second-Guess Private Markets

Daniel J. Mitchell

Back in 2010, [I cited the superb work of Christina Hoff Summers](#) as she explained that we should let markets determine wages rather than giving that power to a bunch of bean-counting bureaucrats.

She wrote that article because leftists at the time were pushing a so-called Paycheck Fairness Act that would have given the government powers to second guess compensation levels produced by the private marketplace.

For all intents and purposes, proponents were arguing that employers were deliberately and systematically sacrificing profits by paying men more than they were worth (which is the unavoidable flip side of arguing that women were paid less than they were worth).

Well, bad ideas never die and the Senate recently took up this statist proposal.

That's the bad news. The good news is that it didn't get enough votes to overcome a procedural objection.

Writing for U.S. News & World Report, [Christina Hoff Summers explains](#) why we should be happy about that result.

Groups like the National Organization for Women insist that women are being cheated out of 24 percent of their salary. The pay equity bill is driven by indignation at this supposed injustice. Yet no competent labor economist takes the NOW perspective seriously. An analysis of more than 50 peer-reviewed papers, commissioned by the Labor Department, found that the so-called wage gap is mostly, and perhaps entirely, an artifact of the different choices men and women make—different fields of study, different professions, different balances between home and work. ... The misnamed Paycheck Fairness Act is a special-interest bill for litigators and aggrieved women's groups. A core provision would encourage class-action lawsuits and force defendants to settle under threat of uncapped punitive damages. Employers would be liable not only for intentional discrimination (banned long ago) but for the "lingering effects of past discrimination." What does that mean? Employers have no idea. ... Census data from 2008 show that

single, childless women in their 20s now earn 8 percent more on average than their male counterparts in metropolitan areas.

At the risk of sounding extreme (perish the thought), let me take Ms. Summers argument one step farther. Yes, it would be costly and inefficient to let trial lawyers and bureaucrats go after private companies for private compensation decisions.

But what's really at stake is whether we want resources to be allocated by market forces instead of political edicts.

This should be a no-brainer. If we look at the failure of central planning in the Soviet Union and elsewhere, a fundamental problem was that government officials – even [assuming intelligence and good intentions](#) – did not have the knowledge needed to make decisions on prices.

And in the absence of a functioning price system, resources get misallocated and growth suffers. So you can imagine the potential damage of giving politicians, bureaucrats, and courts the ability to act as central planners for the wage system.

But that didn't stop the economic illiterates in Washington from pushing a vote in the Senate.

Here's some of what [Steve Chapman wrote](#) for the Washington Examiner.

President Barack Obama said it would merely mandate "equal pay for equal work." Senate Democratic Leader Harry Reid of Nevada warned beforehand that failing to pass the bill would send "the message to little girls across the country that their work is less valuable because they happened to be born female." ... This is a myth resting on a deception. ... The gap reflects many benign factors stemming from the choices voluntarily made by women and men. ... Women, on average, work fewer hours and are more likely than men to take time off for family duties. A 2009 report commissioned by the U.S. Labor Department concluded that such "factors account for a major portion and, possibly, almost all of the raw gender wage gap." "The gender gap shrinks to between 8 percent and 0 percent when the study incorporates such measures as work experience, career breaks and part-time work," Baruch College economist June O'Neill has written. ... What the alleged gender pay gap reflects is the interaction of supply and demand in a competitive labor market. Even in a slow economy, companies that mistreat women can expect to lose them to rival employers.

Regular readers know that I'm [very critical of Republicans for their propensity to do the wrong thing](#), particularly since they presumably know better.

But I also believe in giving praise when it's warranted. That's why [I've written nice things about Bill Clinton](#) and also why [I praised House Republicans](#) for supporting [entitlement reform](#).

Well, here's a case where a very bad idea was blocked because every single GOPer in the Senate held firm and voted for economic rationality. Those Senate Republicans did the right thing

and prevailed, just as [they were victorious when they did the right thing on taxes a couple of years ago](#).

Mitt Romney, on the other hand, [refused to take a position on the issue](#), showing that he is trying very hard to be the [Richard Nixon of 2012](#).