



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 22, 2008
(Senate)

STATEMENT OF ADMINISTRATION POLICY

H.R. 2831 – Lilly Ledbetter Fair Pay Act of 2007

(Rep. Miller (D) CA and 93 cosponsors)

The Administration supports our Nation's anti-discrimination laws and is committed to the timely resolution of discrimination claims. For this and other reasons, the Administration strongly opposes the Ledbetter Fair Pay Act of 2007. H.R. 2831 would allow employees to bring a claim of pay or other employment-related discrimination years or even decades after the alleged discrimination occurred. H.R. 2831 constitutes a major change in, and expanded application of, employment discrimination law. The change would serve to impede justice and undermine the important goal of having allegations of discrimination expeditiously resolved. Furthermore, the effective elimination of any statute of limitations in this area would be contrary to the centuries-old notion of a limitations period for all lawsuits. If H.R. 2831 were presented to the President, his senior advisors would recommend that he veto the bill.

Meaningful statutes of limitations in these sorts of fact-intensive cases are crucial to the fair administration of justice. The prompt assertion of employment discrimination permits employers to defend against – and allows employees to prove – claims that arise from employment decisions instead of having to litigate claims that are long past. In such cases, evidence often will have been lost, memories will have faded, and witnesses will have moved on. Moreover, effective statutes of limitations benefit employees by encouraging the prompt discovery, assertion, and resolution of employment discrimination claims so that workplace discrimination can be remedied without delay.

H.R. 2831 purports to undo the Supreme Court's decision of May 29, 2007, in *Ledbetter v. Goodyear Tire & Rubber Co.* by permitting pay discrimination claims to be brought within 180 days not of a discriminatory pay decision, which is the rule under current law, but rather within 180 days of receiving any paycheck affected by such a decision, no matter how far in the past the underlying act of discrimination allegedly occurred. As a result, this legislation effectively eliminates any time requirement for filing a claim involving compensation discrimination. Allegations from 30 years ago or more could be resurrected and filed in federal courts.

Moreover, the bill far exceeds the stated purpose of undoing the Court's decision in *Ledbetter* by extending the expanded statute of limitations to any "other practice" that remotely affects an individual's wages, benefits, or other compensation in the future. This could effectively waive the statute of limitations for a wide variety of claims (such as promotion and arguably even termination decisions) traditionally regarded as actionable only when they occur.

This legislation does not appear to be based on evidence that the current statute of limitations principles have caused any systemic prejudice to the interests of employees, but it is reasonable

to expect the bill's vastly expanded statute of limitations would exacerbate the existing heavy burden on the courts by encouraging the filing of stale claims.

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