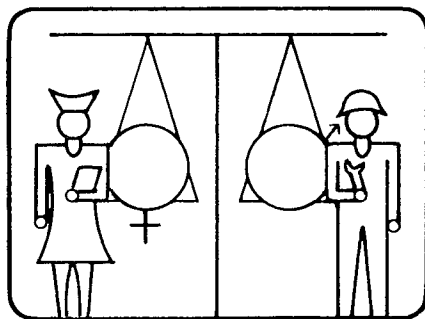


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# Private Sector

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## Comparable Worth — An Illusory Concept

by Allan Shackelford



Michael Matros

Proponents of comparable worth call it the women's issue of the eighties. Using highly emotional arguments and political intimidation, they have achieved greatest success through administrative and legislative efforts. Meanwhile, the court decisions in *Gunther* and *AFSCME* (see article on page 38 for more on these cases) have intensified the debate over comparable worth. To date, however, no court has decided a case in favor of a plaintiff based solely upon a theory of comparable worth. In fact, several courts appear to have rejected such arguments.<sup>1</sup>

Determining the standard by which an employer should pay an employee is the crux of the comparable worth issue. Proponents contend that a discernible, quantitative relationship exists between the "intrinsic" value of *dissimilar* jobs. They argue that an employer should base compensation primarily on a point-factor, quantitative analysis. Such a system often negates the effect of free-market economics.

Using a theoretical, point-value comparison, employers—in the public or private sector—are not able to rely freely on competitive, market-value pay rates. Private sector employers measure an employee's value *in terms of cost and profits*, not on theoretical constructs of "intrinsic" worth.

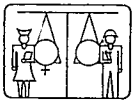
Comparable worth, in fact, is an illusion. Measurable, quantitative comparisons cannot be made of dissimilar jobs. Such comparisons—the cornerstone of comparable worth—can only be made by reference to subjective factors and will always reflect the subjective judgment of the evaluator; different methods of measurement will produce different results.

The differences in pay between jobs which have been dominated historically by males versus

*Continued on page 36*

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## Local Government

### *Crotts, continued*

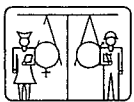
That sounds easy enough: choose a point system. But who decides? And how will the number of points be assigned to various factors? What is the value to the organization of contact with the public versus job hazards versus independence of action? What, for example, is the proper balance between physical strength required (which may favor male-dominated jobs) and dexterity required (which may favor more female-oriented positions)?

In addition to assigning weights among different job factors, I would have to define the levels within one factor. How would you define, for example, a scale for "job complexity," spelling out what characterizes little, some, more, and a lot of job intricacy or complexity? And how are points assigned within that hierarchy?

I could develop my own point system, or there are a number of systems already developed, some better thought out and more usable than others. Which system best fits my organization's values, without perpetuating the previous sex-related segregation which may have been present among jobs?

**2. How will a point/job evaluation system based on comparable worth be implemented?** Once a state or national agency (or a legislative body) has selected a job classification system, someone has to apply the system to specific jobs. Then the second round of judgments begins. Someone has to decide how many points each job is assigned, based on that job's duties and responsibilities. A personnel specialist, a supervisor, or a committee may make this determination, and these decisions will be closely scrutinized.

Since the number of points assigned to each job would have a direct relationship to pay, employees or supervisors may challenge each point assignment, trying to justify the assignment of more points. Whose judgment prevails



## Private Sector

### *Shackelford, continued*

jobs that have been dominated historically by females do not equate to discrimination. Personal preferences of both males and females have affected these job patterns. Proponents of comparable worth often state that they hope to eliminate alleged discriminatory pay inequities between jobs most often performed by men as opposed to those most often performed by women. But it frequently seems that the real impact of comparable worth would be to inflate artificially the wages paid for certain jobs dominated by women.

The N.C. General Assembly, by funding and mandating a "pay equity study" of the state government personnel system, has encouraged the intrusion of comparable worth into the

economy of this state. Such studies, and any attempts at implementing "pay equity" or "comparable worth," will almost certainly be used to support allegations of pay disparity within the private sector.

As attorneys representing management in employment matters, we are especially concerned about the possible ultimate impact of this study. Our concern is not only for the impact upon the cost of state government but also its inevitable spillover effect upon the private sector. Proponents of comparable worth are very shortsighted in failing to recognize several of the practical implications of implementing this doctrine.

First, the cost of comparable worth to government, to the private sector, to the taxpayer, and to the economy might well be exceedingly high. A spokesman for the U.S. Chamber of Commerce warned in a recently released Bureau of National Affairs report of a \$320 billion cost to employers if proposed federal laws adopting the comparable worth doctrine for federal and private sector employees are enacted.<sup>2</sup>

Second, employers who must compete in

as factor definitions and points are applied to specific job tasks? When consensus has finally been reached on the worth of the jobs, through points assigned, a third major judgment must be made.

**3. How does the value of the job—i.e., the amount of “points”—determine pay ranges?** As a personnel administrator, I would attempt to match job points with salary data. Where points are approximately equal, pay should be about the same—according to a system of comparable worth.

Three different kinds of jobs might have approximately equal number of points, such as: administrative secretary (female-dominated occupation), maintenance mechanic (male-dominated), and computer programmer (integrated by sex); or social worker (mostly female), police officer (mostly male), and accountant (mixed). In each of these groups, the differences in market salaries might range from \$1,000 to \$5,000 or more among the three different jobs. So how do I assign salaries?

If I pay the average of the salary ranges for the three jobs with equal points, I might “overpay” one job (according to market factors) but may not be competitive for another. If I pay the highest rate for all three, I overpay two of the jobs according to the market rates.

I might well take a midpoint line, paying the highest rate when 1) the competitive market required it, and 2) the salary didn't result in a male-dominated job being paid more than a mostly female job with equal points. But meeting these two conditions might be difficult. I might instead have to bite the comparable-worth bullet and recommend paying the highest salaries to all jobs of equivalent point values.

This, then, is perhaps the most difficult judgment. I have to decide between two conflicting values: fairness to employees performing work which has been determined to be of comparable worth (i.e., paying all three jobs the highest salary), versus the mandate to government officials to provide services to its citizens at the lowest practical cost (paying the market, and hence, lower salaries to some female-dominated positions). □

the marketplace will respond to comparable worth by taking necessary steps to preserve their competitive advantages. Such steps would probably result in an overall loss of jobs as employers respond to increased labor costs through an accelerated use of mechanization, robotics, and a transfer of jobs to overseas labor markets.

Third, comparable worth could have a serious impact upon industrial recruitment in this state if our pro-business labor climate were to be threatened by higher labor costs in general or by unions beginning to attract female employees by promising that they would push for comparable worth in contract negotiations.

Fourth, higher paid workers throughout the country might well resist the erosion of existing wage differentials between themselves and lower paid workers. Inflation resulting from their efforts to maintain these wage differentials would result in an overall drop in real income.

The continuing debate over pay equity or comparable worth requires careful analysis regarding the ultimate impact of this doctrine. Comparable worth, in effect, could function as an inflationary wage control. It would be a mistake to

impose such a system of compensation as a politically expedient way to provide inflated wages for some female employees.

The issue of ultimate importance should be unlawful discrimination in employment, not comparable worth. Employers who intentionally discriminate in the payment of wages to female employees within the meaning and intent of the standards set forth in the Equal Pay Act, or as those standards are incorporated into Title VII, should bear the consequences of their actions. However, innocent employers, taxpayers, consumers, and the economy should not be subjected to the burdensome effects of this illusory concept called “comparable worth.” □

#### FOOTNOTES

1. See *Spaulding v. Univ. of Washington*, 35 FEP 217 (9th Cir. 1984). The Ninth Circuit Court of Appeals, the same court that will hear the appeal in the *AFSCME* case, appears to have rejected the theory of comparable worth. See also *Plemer v. Parsons-Gilbane*, 713 F.2d 1127 (5th Cir. 1983) and *Lemons v. City and County of Denver*, 620 F.2d 228 (10th Cir.), cert. denied, 449 U.S. 888 (1980).

2. *Pay Equity and Comparable Worth*, A BNA Special Report, The Bureau of National Affairs Inc., 1231 25th St., N.W., Wash., D.C. 20037, 1984, page 72.