

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 115

Representatives Miranda, Brent

Cosponsors: Representatives Russo, Brennan, Brown, Dell'Aquila, Denson, Grim, Lightbody, Skindell, Somani, Sweeney, Weinstein, Humphrey, Blackshear, Jarrells, Forhan, Miller, A., Baker, Miller, J., Brewer, Galonski, Isaacsohn, McNally, Mohamed, Robinson, Thomas, C., Upchurch, Liston

A BILL

To amend sections 4112.04 and 4117.08 and to enact 1
sections 142.01, 142.02, 142.03, 142.04, 142.05, 2
142.06, 142.07, 142.08, 142.09, 142.10, 4113.12, 3
4113.43, 4117.141, 4145.01, 4145.02, 4145.03, 4
4145.04, 4145.05, 4145.06, 4145.07, 4145.08, and 5
4145.09 of the Revised Code to address wage 6
disparities in public and private employment and 7
to name this act the Ohio Equal Pay Act. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4112.04 and 4117.08 be amended 9
and sections 142.01, 142.02, 142.03, 142.04, 142.05, 142.06, 10
142.07, 142.08, 142.09, 142.10, 4113.12, 4113.43, 4117.141, 11
4145.01, 4145.02, 4145.03, 4145.04, 4145.05, 4145.06, 4145.07, 12
4145.08, and 4145.09 of the Revised Code be enacted to read as 13
follows: 14

Sec. 142.01. As used in this chapter: 15

(A) "Balanced class" means any class in which both of the 16

<u>following conditions apply:</u>	17
<u>(1) Not more than eighty per cent of the members are male.</u>	18
<u>(2) Not more than seventy per cent of the members are female.</u>	19 20
<u>(B) "Comparable work value" means the value of work measured by skill, effort, responsibility, and working conditions normally required in the performance of the work.</u>	21 22 23
<u>(C) "Class" means one or more positions in public employment that have similar duties, responsibilities, and general qualifications necessary to perform the duties, with comparable selection procedures used to recruit employees, and use of the same compensation schedule.</u>	24 25 26 27 28
<u>(D) "Equitable compensation relationship" means that the compensation for female-dominated classes is not consistently below the compensation for male-dominated classes of comparable work value, as determined under section 142.04 of the Revised Code, for each public employer.</u>	29 30 31 32 33
<u>(E) "Exclusive representative" has the same meaning as in section 4117.01 of the Revised Code.</u>	34 35
<u>(F) "Female-dominated class" means any class in which seventy per cent or more of the members are female.</u>	36 37
<u>(G) "Male-dominated class" means any class in which eighty per cent or more of the members are male.</u>	38 39
<u>(H) "Position" means a group of current duties and responsibilities assigned or delegated by a supervisor to an employee.</u>	40 41 42
<u>(I) "Political subdivision" means a county, township,</u>	43

municipal corporation, or any other body corporate and politic 44
that is responsible for government activities in a geographic 45
area smaller than that of the state. 46

(J) "Public employer" means either of the following: 47

(1) A state agency; 48

(2) A political subdivision. 49

(K) "State agency" means any organized body, office, 50
agency, institution, or other entity established by the laws of 51
the state for the exercise of any function of state government. 52

Sec. 142.02. Subject to Chapter 4117. and sections 4115.03 53
to 4115.21 and 4115.99 of the Revised Code, but notwithstanding 54
any other law to the contrary, every public employer shall 55
establish equitable compensation relationships between female- 56
dominated, male-dominated, and balanced classes of employees to 57
eliminate sex-based wage disparities in public employment in 58
this state. A public employer shall make the comparable work 59
value of a position in relationship to other employee positions 60
a primary consideration in negotiating, establishing, 61
recommending, and approving compensation. 62

Nothing in this chapter limits the ability of the parties 63
to collectively bargain in good faith. 64

Sec. 142.03. (A) The director of administrative services, 65
in establishing the job classification plan and assigning pay 66
ranges pursuant to section 124.14 of the Revised Code, and any 67
other public employer with the authority to determine 68
compensation for the employees of the public employer, shall 69
assure all of the following, as applicable: 70

(1) That compensation for positions in the classified 71

civil service and unclassified civil service bear reasonable 72
relationship to one another; 73

(2) That compensation for positions bears a reasonable 74
relationship to similar positions outside of that particular 75
public employer; 76

(3) That compensation for positions within the public 77
employer's workforce bears a reasonable relationship among 78
various classes and among various levels within the same 79
occupation group. 80

(B) For purposes of division (A) of this section, 81
compensation for a position bears a "reasonable relationship" to 82
another position if both of the following conditions are 83
satisfied: 84

(1) Compensation for positions that require comparable 85
skill, effort, responsibility, working conditions, and other 86
relevant work-related criteria is comparable. 87

(2) Compensation for positions that require differing 88
skill, effort, responsibility, working conditions, and other 89
relevant work-related criteria is proportional to the skill, 90
effort, responsibility, working conditions, and other relevant 91
work-related criteria required. 92

Sec. 142.04. (A) Every public employer shall establish a 93
job evaluation system and use that system to determine the 94
comparable work value of the work performed by each class of the 95
public employer's employees. A public employer may adopt the job 96
evaluation system established by any other public employer. 97

A public employer shall meet and confer with the exclusive 98
representative of the public employer's employees on the 99
development or selection of a job evaluation system. 100

(B) (1) A public employer shall maintain and update a job evaluation system established by the public employer to account for both of the following: 101
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(a) New employee classes; 104

(b) Changes in factors affecting the comparable work value of existing classes. 105
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(2) A public employer that substantially modifies the public employer's job evaluation system or adopts a new job evaluation system shall notify the director of budget and management. 107
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Sec. 142.05. Every public employer shall submit a report containing the results of the job evaluation system conducted under section 142.04 of the Revised Code to the exclusive representative selected by the public employer's employees under section 4117.05 of the Revised Code to be used by both parties in negotiations for collective bargaining agreements. The report shall contain the following information: 111
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(A) The female-dominated classes of a public employer for which compensation inequity exists, based on the comparable work value; 118
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(B) All data not on individuals used to support the findings in division (A) of this section. 121
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Sec. 142.06. (A) (1) Each public employer shall submit an implementation report to the director of budget and management that contains all of the following information, as of the thirty-first day of December of the preceding year: 123
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(a) A list of all job classes of the public employer; 127

(b) The number of employees in each class listed in 128

<u>division (A) (1) (a) of this section;</u>	129
<u>(c) The number of female employees in each class listed in</u>	130
<u>division (A) (1) (a) of this section;</u>	131
<u>(d) An identification of each class listed in division (A)</u>	132
<u>(1) (a) of this section as male-dominated, female-dominated, or</u>	133
<u>balanced;</u>	134
<u>(e) The comparable work value of each class listed in</u>	135
<u>division (A) (1) (a) of this section as determined by the job</u>	136
<u>evaluation system used by the public employer under section</u>	137
<u>142.04 of the Revised Code;</u>	138
<u>(f) The minimum and maximum salary for each class listed</u>	139
<u>in division (A) (1) (a) of this section, if salary ranges have</u>	140
<u>been established, and the amount of time in employment required</u>	141
<u>to qualify for the maximum salary;</u>	142
<u>(g) Any additional cash compensation paid to members of a</u>	143
<u>class listed in division (A) (1) (a) of this section;</u>	144
<u>(h) Any additional information requested by the director.</u>	145
<u>(2) The director shall adopt rules in accordance with</u>	146
<u>Chapter 119. of the Revised Code to establish a schedule to</u>	147
<u>stagger the submission of the implementation reports required by</u>	148
<u>division (A) (1) of this section. Each public employer shall</u>	149
<u>submit a report every three years, with the first set of reports</u>	150
<u>due to the director not later than the thirty-first day of</u>	151
<u>January immediately following the effective date of this</u>	152
<u>section.</u>	153
<u>(3) Notwithstanding any provision of section 121.95 of the</u>	154
<u>Revised Code to the contrary, a regulatory restriction contained</u>	155
<u>in a rule adopted under this section is not subject to sections</u>	156

<u>121.95 to 121.953 of the Revised Code.</u>	157
<u>(B) A state agency that fails to submit an implementation report is subject to the penalty described in section 142.07 of the Revised Code.</u>	158 159 160
<u>Sec. 142.07. (A) The director of budget and management shall review the implementation reports the director receives under section 142.06 of the Revised Code to determine whether a public employer has established equitable compensation relationships as required under section 142.02 of the Revised Code. The director shall notify a public employer in writing if the director determines that the public employer has complied with the requirement of that section.</u>	161 162 163 164 165 166 167 168
<u>(B) If the director finds that a public employer did not comply with that section, the director shall issue a statement to the public employer in writing containing the following information:</u>	169 170 171 172
<u>(1) A detailed description of the basis of the finding of noncompliance;</u>	173 174
<u>(2) Specific recommended actions the public employer is required to take to comply with that section;</u>	175 176
<u>(3) An estimate of the cost to the public employer to comply with that section.</u>	177 178
<u>(C) (1) A public employer shall notify the director in writing of a disagreement with a finding of the director under division (B) of this section. The director shall provide the public employer a specified time period in which to submit additional evidence to support the employer's claim of compliance with the requirements of section 142.02 of the Revised Code. That evidence may include any of the following:</u>	179 180 181 182 183 184 185

<u>(a) Recruitment difficulties;</u>	186
<u>(b) Retention difficulties;</u>	187
<u>(c) Recent conciliation awards made under section 4117.14</u>	188
<u>of the Revised Code that are inconsistent with equitable</u>	189
<u>compensation relationships under section 142.02 of the Revised</u>	190
<u>Code;</u>	191
<u>(d) Information that demonstrates that the employer made a</u>	192
<u>good faith effort to comply with section 142.02 of the Revised</u>	193
<u>Code, including constraints faced by the employer;</u>	194
<u>(e) A plan for the employer to comply with that section.</u>	195
<u>(2) The public employer shall specify with the evidence a</u>	196
<u>date for additional review by the director.</u>	197
<u>(D) (1) If a state agency does not make changes to comply</u>	198
<u>with the requirements of section 142.02 of the Revised Code</u>	199
<u>within a reasonable time period established by the director, the</u>	200
<u>director shall assess a fine of one hundred dollars for each day</u>	201
<u>the state agency remains noncompliant. The penalty remains in</u>	202
<u>effect until the state agency demonstrates that the state agency</u>	203
<u>has complied with section 142.02 of the Revised Code.</u>	204
<u>(2) The director may suspend the penalty imposed on a</u>	205
<u>state agency under division (D) (1) of this section for any of</u>	206
<u>the following reasons:</u>	207
<u>(a) The state agency's failure to comply was attributable</u>	208
<u>to circumstances beyond the control of the state agency.</u>	209
<u>(b) The state agency's failure to comply was attributable</u>	210
<u>to severe hardship of the state agency.</u>	211
<u>(c) The noncompliance is a result of factors unrelated to</u>	212

the sex of the members of the affected classes, and the state 213
agency is taking steps to comply with the requirements of 214
section 142.02 of the Revised Code to the extent possible. 215

(E) A state agency may appeal a penalty imposed under 216
division (D) (1) of this section to the director within thirty 217
days after the director assesses the penalty. The director shall 218
not impose the penalty on a state agency while an appeal is 219
pending. 220

Sec. 142.08. On or before the first day of January 221
immediately following the effective date of this section, and on 222
or before the first day of January each year thereafter, the 223
director of budget and management shall submit a results-based 224
accountability report on the status of compliance of public 225
employers with section 142.02 of the Revised Code to the general 226
assembly. The report shall contain all of the following 227
information: 228

(A) A list of the public employers in compliance with the 229
requirements of section 142.02 of the Revised Code; 230

(B) The estimated cost of each public employer listed in 231
division (A) of this section to be compliant with those 232
requirements; 233

(C) A list of the public employers the director found to 234
be not in compliance with section 142.02 of the Revised Code; 235

(D) The basis for the director's finding in division (C) 236
of this section; 237

(E) The list of recommended changes the public employers 238
listed in division (C) of this section must make to comply with 239
section 142.02 of the Revised Code; 240

(F) The estimated cost for each public employer listed in 241
division (C) of this section to become compliant with section 242
142.02 of the Revised Code; 243

(G) A list of the public employers who did not comply with 244
the reporting requirements in section 142.06 of the Revised 245
Code; 246

(H) The number of female employees in each public 247
employer's job class listed in division (A)(1)(a) of section 248
142.06 of the Revised Code; 249

(I) Any additional information the director determines the 250
general assembly needs to know from a public employer. 251

Sec. 142.09. Notwithstanding division (A) of section 252
4117.11 of the Revised Code, it is not an unfair labor practice 253
for a public employer to specify an amount of funds to be used 254
solely to correct inequitable compensation relationships. 255

This chapter does not diminish the duty of a public 256
employer to bargain in good faith under Chapter 4117. of the 257
Revised Code. 258

Sec. 142.10. The Ohio civil rights commission or any court 259
of this state may use either of the following as evidence in any 260
proceeding or action alleging that an unlawful discriminatory 261
practice, as defined in section 4112.01 of the Revised Code, has 262
been committed: 263

(A) The results of any job evaluation system established 264
under section 142.04 of the Revised Code; 265

(B) A report compiled by a public employer under section 266
142.05 of the Revised Code. 267

Sec. 4112.04. (A) The commission shall do all of the 268

following:	269
(1) Establish and maintain a principal office in the city of Columbus and any other offices within the state that it considers necessary;	270 271 272
(2) Appoint an executive director who shall serve at the pleasure of the commission and be its principal administrative officer. The executive director shall be paid a salary fixed pursuant to Chapter 124. of the Revised Code.	273 274 275 276
(3) Appoint hearing examiners and other employees and agents who it considers necessary and prescribe their duties subject to Chapter 124. of the Revised Code;	277 278 279
(4) Adopt, promulgate, amend, and rescind rules to effectuate the provisions of this chapter and the policies and practice of the commission in connection with this chapter;	280 281 282
(5) Formulate policies to effectuate the purposes of this chapter and make recommendations to agencies and officers of the state or political subdivisions to effectuate the policies;	283 284 285
(6) Receive, investigate, and pass upon written charges made under oath of unlawful discriminatory practices;	286 287
(7) Make periodic surveys of the existence and effect of discrimination because of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry on the enjoyment of civil rights by persons within the state;	288 289 290 291 292
(8) Report, from time to time, but not less than once a year, to the general assembly and the governor, describing in detail the investigations, proceedings, and hearings it has conducted and their outcome, the decisions it has rendered, and	293 294 295 296

the other work performed by it, which report shall include a 297
copy of any surveys prepared pursuant to division (A) (7) of this 298
section and shall include the recommendations of the commission 299
as to legislative or other remedial action; 300

(9) Prepare a comprehensive educational program, in 301
cooperation with the department of education, for the students 302
of the public schools of this state and for all other residents 303
of this state that is designed to eliminate prejudice on the 304
basis of race, color, religion, sex, military status, familial 305
status, national origin, disability, age, or ancestry in this 306
state, to further good will among those groups, and to emphasize 307
the origin of prejudice against those groups, its harmful 308
effects, and its incompatibility with American principles of 309
equality and fair play; 310

(10) Receive progress reports from agencies, 311
instrumentalities, institutions, boards, commissions, and other 312
entities of this state or any of its political subdivisions and 313
their agencies, instrumentalities, institutions, boards, 314
commissions, and other entities regarding affirmative action 315
programs for the employment of persons against whom 316
discrimination is prohibited by this chapter, or regarding any 317
affirmative housing accommodations programs developed to 318
eliminate or reduce an imbalance of race, color, religion, sex, 319
military status, familial status, national origin, disability, 320
or ancestry. All agencies, instrumentalities, institutions, 321
boards, commissions, and other entities of this state or its 322
political subdivisions, and all political subdivisions, that 323
have undertaken affirmative action programs pursuant to a 324
conciliation agreement with the commission, an executive order 325
of the governor, any federal statute or rule, or an executive 326
order of the president of the United States shall file progress 327

reports with the commission annually on or before the first day 328
of November. The commission shall analyze and evaluate the 329
progress reports and report its findings annually to the general 330
assembly on or before the thirtieth day of January of the year 331
immediately following the receipt of the reports. 332

(11) Notify a person who files a charge pursuant to 333
section 4112.051 of the Revised Code that under division (A) of 334
section 4112.052 of the Revised Code, the person is prohibited 335
from bringing a civil action under this chapter unless one of 336
the following applies: 337

(a) The conditions stated in division (B)(1) of section 338
4112.052 of the Revised Code are satisfied; 339

(b) An exception specified in division (B)(2) of section 340
4112.052 of the Revised Code applies. 341

(12) Comply with divisions (D) to (G) of section 4113.12 342
of the Revised Code. 343

(B) The commission may do any of the following: 344

(1) Meet and function at any place within the state; 345

(2) Initiate and undertake on its own motion 346
investigations of problems of employment or housing 347
accommodations discrimination; 348

(3) Hold hearings, subpoena witnesses, compel their 349
attendance, administer oaths, take the testimony of any person 350
under oath, require the production for examination of any books 351
and papers relating to any matter under investigation or in 352
question before the commission, and make rules as to the 353
issuance of subpoenas by individual commissioners. 354

(a) In conducting a hearing or investigation, the 355

commission shall have access at all reasonable times to 356
premises, records, documents, individuals, and other evidence or 357
possible sources of evidence and may examine, record, and copy 358
the premises, records, documents, and other evidence or possible 359
sources of evidence and take and record the testimony or 360
statements of the individuals as reasonably necessary for the 361
furtherance of the hearing or investigation. In investigations, 362
the commission shall comply with the fourth amendment to the 363
United States Constitution relating to unreasonable searches and 364
seizures. The commission or a member of the commission may issue 365
subpoenas to compel access to or the production of premises, 366
records, documents, and other evidence or possible sources of 367
evidence or the appearance of individuals, and may issue 368
interrogatories to a respondent, to the same extent and subject 369
to the same limitations as would apply if the subpoenas or 370
interrogatories were issued or served in aid of a civil action 371
in a court of common pleas. 372

(b) Upon written application by a party to a hearing under 373
division (B) of section 4112.05 or division (G) of section 374
4112.051 of the Revised Code, the commission shall issue 375
subpoenas in its name to the same extent and subject to the same 376
limitations as subpoenas issued by the commission. Subpoenas 377
issued at the request of a party shall show on their face the 378
name and address of the party and shall state that they were 379
issued at the party's request. 380

(c) Witnesses summoned by subpoena of the commission are 381
entitled to the witness and mileage fees provided for under 382
section 119.094 of the Revised Code. 383

(d) Within five days after service of a subpoena upon any 384
person, the person may petition the commission to revoke or 385

modify the subpoena. The commission shall grant the petition if 386
it finds that the subpoena requires an appearance or attendance 387
at an unreasonable time or place, that it requires production of 388
evidence that does not relate to any matter before the 389
commission, that it does not describe with sufficient 390
particularity the evidence to be produced, that compliance would 391
be unduly onerous, or for other good reason. 392

(e) In case of contumacy or refusal to obey a subpoena, 393
the commission or person at whose request it was issued may 394
petition for its enforcement in the court of common pleas in the 395
county in which the person to whom the subpoena was addressed 396
resides, was served, or transacts business. 397

(4) Create local or statewide advisory agencies and 398
conciliation councils to aid in effectuating the purposes of 399
this chapter. The commission may itself, or it may empower these 400
agencies and councils to, do either or both of the following: 401

(a) Study the problems of discrimination in all or 402
specific fields of human relationships when based on race, 403
color, religion, sex, military status, familial status, national 404
origin, disability, age, or ancestry; 405

(b) Foster through community effort, or otherwise, good 406
will among the groups and elements of the population of the 407
state. 408

The agencies and councils may make recommendations to the 409
commission for the development of policies and procedures in 410
general. They shall be composed of representative citizens who 411
shall serve without pay, except that reimbursement for actual 412
and necessary traveling expenses shall be made to citizens who 413
serve on a statewide agency or council. 414

(5) Issue any publications and the results of 415
investigations and research that in its judgment will tend to 416
promote good will and minimize or eliminate discrimination 417
because of race, color, religion, sex, military status, familial 418
status, national origin, disability, age, or ancestry. 419

Sec. 4113.12. (A) As used in this section, "employer" has 420
the same meaning as in section 4112.01 of the Revised Code. 421

(B) Except as provided in division (C) of this section, no 422
employer shall do either of the following: 423

(1) Request information regarding or seek a prospective 424
employee's wage or salary history from the prospective employee 425
or the prospective employee's current or former employer; 426

(2) Require that a prospective employee's prior wage or 427
salary history satisfy certain criteria. 428

(C) An employer may request information regarding, seek, 429
or confirm a prospective employee's wage or salary history under 430
either of the following circumstances: 431

(1) The prospective employee has voluntarily disclosed to 432
the employer the prospective employee's wage or salary history. 433

(2) The employer has made an offer of employment with 434
compensation to the prospective employee. 435

(D) A prospective employee who has reasonable cause to 436
believe an employer has violated this section may file a written 437
complaint with the Ohio civil rights commission. On receiving a 438
complaint, the commission may investigate an employer to 439
determine whether it is probable that the employer has violated 440
this section. If after an investigation the commission 441
determines it is probable that the employer has violated this 442

section, the commission shall proceed in accordance with the 443
notice and hearing requirements prescribed in Chapter 119. of 444
the Revised Code. 445

After a hearing conducted under Chapter 119. of the 446
Revised Code, if the commission determines that the employer has 447
violated this section, it shall order the offending employer to 448
complete successfully a remedial training course conducted by 449
the commission to educate the employer on appropriate hiring 450
practices in accordance with this section. The employer shall 451
complete the course not later than six months after the date on 452
which the employer receives the order. 453

(E) If an offending employer fails to successfully 454
complete the remedial training course within the time period 455
specified in division (D) of this section, or if the commission 456
determines it is probable after an investigation that an 457
offending employer has committed a second or subsequent 458
violation of this section within two years after a first 459
violation, the commission may refer the matter to the attorney 460
general for commencement of a civil action in a court of common 461
pleas. The attorney general may seek any relief the attorney 462
general considers necessary to enforce this section and costs. 463

(F) The commission shall adopt rules, in accordance with 464
Chapter 119. of the Revised Code, to develop and administer the 465
remedial training course conducted under division (D) of this 466
section. The commission shall maintain indefinitely a list of 467
offending employers that have successfully completed the course. 468

(G) The decision and order of the commission is final, 469
subject to review in the manner provided in Chapter 119. of the 470
Revised Code and appeal to the court of common pleas of Franklin 471
county. 472

Sec. 4113.43. As used in this section, "employee" and "employer" have the same meanings as in section 4113.51 of the Revised Code. 473
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No employer shall discharge or otherwise retaliate against an employee because the employee has discussed the employee's salary or wage rate with another employee. 476
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Sec. 4117.08. (A) All matters pertaining to wages, hours, 479
or terms and other conditions of employment and the 480
continuation, modification, or deletion of an existing provision 481
of a collective bargaining agreement are subject to collective 482
bargaining between the public employer and the exclusive 483
representative, except as otherwise specified in this section 484
and division (E) of section 4117.03 of the Revised Code. 485

(B) The conduct and grading of civil service examinations, 486
the rating of candidates, the establishment of eligible lists 487
from the examinations, and the original appointments from the 488
eligible lists are not appropriate subjects for collective 489
bargaining. 490

(C) Unless a public employer agrees otherwise in a 491
collective bargaining agreement, nothing in Chapter 4117. of the 492
Revised Code impairs the right and responsibility of each public 493
employer to: 494

(1) Determine matters of inherent managerial policy which 495
include, but are not limited to, areas of discretion or policy 496
such as the functions and programs of the public employer, 497
standards of services, its overall budget, utilization of 498
technology, and organizational structure; 499

(2) Direct, supervise, evaluate, or hire employees; 500

(3) Maintain and improve the efficiency and effectiveness 501

of governmental operations;	502
(4) Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted;	503 504
(5) Suspend, discipline, demote, or discharge for just cause, or lay off, transfer, assign, schedule, promote, or retain employees;	505 506 507
(6) Determine the adequacy of the work force;	508
(7) Determine the overall mission of the employer as a unit of government;	509 510
(8) Effectively manage the work force;	511
(9) Take actions to carry out the mission of the public employer as a governmental unit.	512 513
The employer is not required to bargain on subjects reserved to the management and direction of the governmental unit except as affect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. A public employee or exclusive representative may raise a legitimate complaint or file a grievance based on the collective bargaining agreement.	514 515 516 517 518 519 520 521
<u>(D) (1) A public employer shall assure that all of the following occur in preparation for negotiating a collective bargaining agreement, if applicable:</u>	522 523 524
<u>(a) That compensation for positions in the classified civil service and unclassified civil service bear reasonable relationship to one another;</u>	525 526 527
<u>(b) That compensation for positions bears a reasonable</u>	528

relationship to similar positions outside of that particular 529
public employer; 530

(c) That compensation for positions within the public 531
employer's workforce bears a reasonable relationship among 532
various classes and among various levels within the same 533
occupation group. 534

(2) As used in division (D)(1) of this section, 535
"reasonable relationship" has the same meaning as in section 536
142.03 of the Revised Code. 537

Sec. 4117.141. (A) As used in this section, "balanced 538
class" has the same meaning as in section 142.01 of the Revised 539
Code. 540

(B) A fact-finding panel or a conciliator appointed under 541
section 4117.14 of the Revised Code shall consider all of the 542
following in any settlement of a dispute involving a class other 543
than a balanced class under Chapter 142. of the Revised Code: 544

(1) The equitable compensation relationship standards 545
established in section 142.02 of the Revised Code; 546

(2) The reasonable compensation relationships established 547
under section 142.03 of the Revised Code; 548

(3) The results of a job evaluation system conducted under 549
section 142.04 of the Revised Code; 550

(4) Any employee objections to the job evaluation system. 551

(C) In settlements of disputes involving a balanced class, 552
the fact-finding panel or conciliator shall consider similar 553
classifications of other public employers. The fact-finding 554
panel or conciliator also may consider the standards established 555
under section 142.02 of the Revised Code and the results of, and 556

any employee objections to, a job evaluation system conducted 557
under section 142.04 of the Revised Code. 558

(D) In collective bargaining involving a balanced class, 559
the parties shall consider similar classifications of other 560
public employers. The parties also may consider the equitable 561
compensation relationship standards established under section 562
142.02 of the Revised Code and the results of a job evaluation 563
system conducted under section 142.04 of the Revised Code. 564

Sec. 4145.01. As used in this chapter: 565

(A) "Business entity" means a corporation, partnership, 566
association, firm, sole proprietorship, limited liability 567
corporation, limited liability partnership, or other entity 568
engaged in business. 569

(B) "Construction manager" and "construction manager at 570
risk" have the same meanings as in section 9.33 of the Revised 571
Code. 572

(C) "Contractor" means any person who undertakes to 573
construct, alter, erect, improve, repair, demolish, remove, dig, 574
or drill any part of a public improvement under a contract, and 575
includes a construction manager, construction manager at risk, 576
and design-build firm. 577

(D) "Design-build firm" has the same meaning as in section 578
153.65 of the Revised Code. 579

(E) "EEO-1 report" means the report required by the United 580
States equal employment opportunity commission under 29 C.F.R. 581
1602.7. 582

(F) "Public improvement" means any construction, 583
reconstruction, improvement, enlargement, alteration, 584

demolition, or repair of a building, highway, drainage system, 585
water system, road, street, alley, sewer, ditch, sewage disposal 586
plant, water works, and any other structure or work of any 587
nature by a state agency. 588

(G) "State agency" has the same meaning as in section 1.60 589
of the Revised Code. 590

Sec. 4145.02. (A) (1) No state agency shall award a 591
contract for a public improvement to a contractor who employs 592
four or more full-time employees on any day in the prior twelve 593
months in the state where the contractor has the contractor's 594
principal place of business unless the contractor meets one of 595
the following conditions: 596

(a) The contractor has obtained an equal pay certificate 597
issued under section 4145.03 of the Revised Code. 598

(b) The contractor has certified that the contractor is 599
exempt from obtaining a certificate pursuant to division (B) of 600
this section in accordance with rules adopted by the director of 601
administrative services. 602

(2) No state agency shall award a contract to provide 603
goods or services to a state agency to a person who employs four 604
or more full-time employees on any day in the prior twelve 605
months in the state where the person has the person's principal 606
place of business unless the person meets one of the following 607
conditions: 608

(a) The person has obtained an equal pay certificate 609
issued under section 4145.03 of the Revised Code. 610

(b) The person has certified that the person is exempt 611
from obtaining a certificate pursuant to division (B) of this 612
section in accordance with rules adopted by the director. 613

(3) No state agency shall award a grant or other economic 614
incentive to a business entity that employs four or more full- 615
time employees on any day in the prior twelve months in the 616
state where the business entity has the business entity's 617
principal place of business, including if the award is being 618
made on recommendation of the nonprofit corporation formed under 619
section 187.01 of the Revised Code, unless the business entity 620
meets one of the following conditions: 621

(a) The business entity has obtained an equal pay 622
certificate issued under section 4145.03 of the Revised Code. 623

(b) The business entity has certified that the business 624
entity is exempt from obtaining a certificate pursuant to 625
division (B) of this section in accordance with rules adopted by 626
the director. 627

(B) This section does not apply to a contractor, person, 628
or business entity described in division (A) of this section, 629
with respect to a specific contract for a public improvement, to 630
provide goods or services to a state agency, or to a specific 631
grant or other economic incentive, if the director determines 632
that compliance with division (A) of this section would cause 633
undue hardship to the contractor, person, or business entity. 634

(C) The director shall adopt rules in accordance with 635
Chapter 119. of the Revised Code to do all of the following: 636

(1) Establish procedures to apply for and requirements to 637
obtain an exemption described in division (B) of this section; 638

(2) Define "undue hardship" for purposes of division (B) 639
of this section; 640

(3) Establish procedures to renew a certificate. 641

(D) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under this section is not subject to sections 121.95 to 121.953 of the Revised Code. 642
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(E) The director shall provide technical assistance to a contractor, person, or business entity who requests assistance regarding compliance with this chapter. 646
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Sec. 4145.03. (A) A contractor wishing to be awarded a contract for a public improvement, a person wishing to provide goods or services to a state agency, or a business entity wishing to be awarded a grant or other economic incentive shall apply for a certificate required by section 4145.02 of the Revised Code by submitting a twenty-five-dollar filing fee and an equal pay compliance statement described in this section to the director of administrative services. An equal pay compliance statement shall be signed by the contractor, person, or the chief executive officer of the business entity and contain all of the following information: 649
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(1) That the contractor, person, or business entity is in compliance with Title VII of the "Civil Rights Act of 1964," 42 U.S.C. 2000e, et seq., the "Equal Pay Act of 1963," 29 U.S.C. 206(d), Chapter 4112. of the Revised Code, and section 4111.17 of the Revised Code; 660
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(2) That the average compensation for female employees is not consistently below the average compensation for male employees within each of the major job categories in the contractor's, person's, or business entity's EEO-1 report, if the contractor, person, or business entity is required to file that report, taking into account all of the following factors: 665
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<u>(a) Length of service;</u>	671
<u>(b) Requirements of specific jobs;</u>	672
<u>(c) Experience;</u>	673
<u>(d) Skill;</u>	674
<u>(e) Effort;</u>	675
<u>(f) Responsibility;</u>	676
<u>(g) Working conditions of the job;</u>	677
<u>(h) Other mitigating factors.</u>	678
<u>(3) That employees of one sex are not restricted to certain job classifications;</u>	679 680
<u>(4) That the contractor, person, or business entity makes retention and promotion decisions without regard to sex;</u>	681 682
<u>(5) That compensation and benefit disparities are corrected when identified;</u>	683 684
<u>(6) The frequency in which compensation and benefits are evaluated to ensure compliance with the laws listed in division (A) (1) of this section;</u>	685 686 687
<u>(7) Which of the following approaches a contractor, person, or business entity uses in setting compensation and benefits:</u>	688 689 690
<u>(a) Market pricing;</u>	691
<u>(b) State prevailing wage or labor organization contract requirements;</u>	692 693
<u>(c) A performance pay system;</u>	694
<u>(d) Internal analysis;</u>	695

(e) An alternative approach as described by the 696
contractor, person, or business entity. 697

(8) That employees of the contractor, person, or business 698
entity are able to contact the contractor's, person's, or 699
business entity's human resources department and request to see 700
how the employee's compensation compares with other employees 701
with jobs of "comparable skill, effort, responsibility, and 702
working conditions." 703

(B) Receipt of an equal pay compliance statement by the 704
director does not establish a contractor's, person's, or 705
business entity's compliance with the laws listed in division 706
(A) (1) of this section. 707

(C) The director shall reject an application only if the 708
statement described in division (A) of this section submitted by 709
the contractor, person, or business entity does not comply with 710
the requirements of that division or the contractor, person, or 711
business entity fails to submit the required fee. The director 712
shall issue a certificate or, if the director rejects an 713
application, a statement explaining the reason for the 714
rejection, to a contractor, person, or business entity within 715
fifteen days after receiving an application submitted under this 716
section. A certificate issued under this section is valid for a 717
period of four years and may be renewed in accordance with rules 718
adopted by the director. 719

Sec. 4145.04. (A) (1) The director of administrative 720
services, in accordance with Chapter 119. of the Revised Code, 721
may suspend or revoke a certificate issued under section 4145.03 722
of the Revised Code for any of the following reasons: 723

(a) The contractor, person, or business entity fails to 724

<u>comply with the laws listed in division (A) (1) of section</u>	725
<u>4145.03 of the Revised Code.</u>	726
<u>(b) The contractor, person, or business entity has</u>	727
<u>multiple violations of the laws listed in division (A) (1) of</u>	728
<u>section 4145.03 of the Revised Code.</u>	729
<u>(c) The contractor, person, or business entity fails to</u>	730
<u>comply with section 4145.02 of the Revised Code.</u>	731
<u>(2) The director shall provide a contractor, person, or</u>	732
<u>business entity an opportunity to comply with section 4145.02 or</u>	733
<u>4145.03 of the Revised Code before suspending or revoking the</u>	734
<u>contractor's, person's, or business entity's certificate.</u>	735
<u>(B) A state agency, in accordance with Chapter 119. of the</u>	736
<u>Revised Code, may abridge or terminate a contract with a</u>	737
<u>contractor or person or revoke a grant or other economic</u>	738
<u>incentive from a business entity on notice that the director has</u>	739
<u>suspended or revoked the certificate issued to a contractor,</u>	740
<u>person, or business entity.</u>	741
<u>(C) The director may void a contract or revoke a grant or</u>	742
<u>other economic incentive on behalf of a state agency if a</u>	743
<u>contractor, person, or business entity is not in compliance with</u>	744
<u>section 4145.02 or 4145.03 of the Revised Code.</u>	745
<u>(D) The director shall notify a state agency that has an</u>	746
<u>agreement with a contractor or person or has awarded a grant or</u>	747
<u>other economic incentive to a business entity before the</u>	748
<u>director voids the contract or revokes the grant or other</u>	749
<u>economic incentive under division (C) of this section.</u>	750
<u>Sec. 4145.05. (A) The director of administrative services</u>	751
<u>shall notify a contractor, person, or business entity that holds</u>	752
<u>a certificate issued under section 4145.03 of the Revised Code</u>	753

by certified mail of the director's decision to suspend or 754
revoke a contractor's, person's, or business entity's 755
certificate under section 4145.04 of the Revised Code. 756

(B) A state agency shall notify a contractor, person, or 757
business entity by certified mail of the state agency's decision 758
to abridge or terminate a contractor's or person's contract or 759
to revoke a business entity's grant or other economic incentive 760
under section 4145.04 of the Revised Code. 761

Sec. 4145.06. The director of administrative services may 762
audit a contractor, person, or business entity described in 763
section 4145.02 of the Revised Code to determine whether the 764
contractor, person, or business entity is in compliance with 765
section 4145.02 or 4145.03 of the Revised Code. As part of an 766
audit, a contractor, person, or business entity shall provide to 767
the director information for all employees expected to perform 768
work under the contract, grant, or other economic incentive for 769
each of the major job categories included in the contractor's, 770
person's, or business entity's EEO-1 report if the contractor, 771
person, or business entity is required to file that report. As a 772
part of an audit, the contractor, person, or business entity 773
shall provide all of the following information to the director: 774

(A) Number of male employees; 775

(B) Number of female employees; 776

(C) Average length of service for male employees and for 777
female employees within each major job category; 778

(D) Average annualized salaries paid to male employees and 779
to female employees within each major job category, in the 780
manner most consistent with the compensation system identified 781
by the contractor, person, or business entity under division (A) 782

<u>(7) of section 4145.03 of the Revised Code;</u>	783
<u>(E) Performance payments, benefits, or other elements of</u>	784
<u>compensation, in the manner most consistent with the</u>	785
<u>compensation system identified by the contractor, person, or</u>	786
<u>business entity under division (A) (7) of section 4145.03 of the</u>	787
<u>Revised Code;</u>	788
<u>(F) Other information identified by the director as</u>	789
<u>necessary to determine compliance with division (A) of section</u>	790
<u>4145.03 of the Revised Code.</u>	791
<u>Sec. 4145.07. Any data on individuals submitted to the</u>	792
<u>director of administrative services under division (A) of</u>	793
<u>section 4145.03 of the Revised Code shall be confidential and is</u>	794
<u>not a public record under section 149.43 of the Revised Code.</u>	795
<u>A record of the director's decision to issue, not issue,</u>	796
<u>revoke, or suspend a certificate is a public record.</u>	797
<u>Sec. 4145.08. Not later than January 31, 2024, and every</u>	798
<u>two years thereafter, the director of administrative services</u>	799
<u>shall submit a results-based accountability report of the</u>	800
<u>activities of the department of administrative services</u>	801
<u>regarding certificates issued under section 4145.03 of the</u>	802
<u>Revised Code to the governor and the general assembly. The</u>	803
<u>report shall contain all of the following information:</u>	804
<u>(A) The number of certificates issued;</u>	805
<u>(B) The name of each contractor, person, and chief</u>	806
<u>executive officer who signed an equal pay compliance statement</u>	807
<u>pursuant to section 4145.03 of the Revised Code;</u>	808
<u>(C) For each year, the number of contracts awarded to a</u>	809
<u>contractor for a public improvement, contracts awarded to a</u>	810

person to provide goods or services to a state agency, and 811
grants or other economic incentives awarded to a business 812
entity; 813

(D) The number of females employed by each contractor, 814
person, or business entity to which the director issued a 815
certificate; 816

(E) The number of audits conducted under section 4145.06 817
of the Revised Code; 818

(F) The processes contractors for public improvements, 819
persons wishing to provide goods or services to a state agency, 820
or business entities awarded a grant or other economic incentive 821
use to ensure compliance with division (A) of section 4145.03 of 822
the Revised Code; 823

(G) A summary of the director's auditing efforts under 824
section 4145.06 of the Revised Code. 825

Sec. 4145.09. The equal pay certificate fund is created in 826
the state treasury. The fund consists of all certificate filing 827
fees collected by the director of administrative services under 828
division (A) of section 4145.03 of the Revised Code. Money in 829
the fund shall be used by the department of administrative 830
services to administer this chapter. Investment earnings of the 831
fund shall be credited to the fund. 832

Section 2. That existing sections 4112.04 and 4117.08 of 833
the Revised Code are hereby repealed. 834

Section 3. This act shall be known as the Ohio Equal Pay 835
Act. 836