

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 92

Senator Maharath

A BILL

To amend sections 3314.03, 3326.11, 4111.04, 1
4111.05, 4111.06, 4111.07, 4111.09, 4111.11, 2
4111.12, 4111.13, 4111.17, 4111.99, and 4112.01; 3
to amend, for the purpose of adopting a new 4
section number as indicated in parentheses, 5
section 4111.17 (4112.17) of the Revised Code to 6
enact the "Fair and Acceptable Income Required 7
(FAIR) Act" and to revise the enforcement of the 8
prohibitions against discrimination in the 9
payment of wages. 10

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

Section 1. That sections 3314.03, 3326.11, 4111.04, 11
4111.05, 4111.06, 4111.07, 4111.09, 4111.11, 4111.12, 4111.13, 12
4111.17, 4111.99, and 4112.01 be amended; and section 4111.17 13
(4112.17) of the Revised Code be amended for the purpose of 14
adopting a new section number as indicated in parentheses to 15
read as follows: 16

Sec. 3314.03. A copy of every contract entered into under 17
this section shall be filed with the superintendent of public 18
instruction. The department of education shall make available on 19

its web site a copy of every approved, executed contract filed 20
with the superintendent under this section. 21

(A) Each contract entered into between a sponsor and the 22
governing authority of a community school shall specify the 23
following: 24

(1) That the school shall be established as either of the 25
following: 26

(a) A nonprofit corporation established under Chapter 27
1702. of the Revised Code, if established prior to April 8, 28
2003; 29

(b) A public benefit corporation established under Chapter 30
1702. of the Revised Code, if established after April 8, 2003. 31

(2) The education program of the school, including the 32
school's mission, the characteristics of the students the school 33
is expected to attract, the ages and grades of students, and the 34
focus of the curriculum; 35

(3) The academic goals to be achieved and the method of 36
measurement that will be used to determine progress toward those 37
goals, which shall include the statewide achievement 38
assessments; 39

(4) Performance standards, including but not limited to 40
all applicable report card measures set forth in section 3302.03 41
or 3314.017 of the Revised Code, by which the success of the 42
school will be evaluated by the sponsor; 43

(5) The admission standards of section 3314.06 of the 44
Revised Code and, if applicable, section 3314.061 of the Revised 45
Code; 46

(6) (a) Dismissal procedures; 47

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in seventy-two consecutive hours of the learning opportunities offered to the student.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) An addendum to the contract outlining the facilities to be used that contains at least the following information:

(a) A detailed description of each facility used for instructional purposes;

(b) The annual costs associated with leasing each facility that are paid by or on behalf of the school;

(c) The annual mortgage principal and interest payments that are paid by the school;

(d) The name of the lender or landlord, identified as such, and the lender's or landlord's relationship to the operator, if any.

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except

that a community school may engage noncertificated persons to 76
teach up to twelve hours per week pursuant to section 3319.301 77
of the Revised Code. 78

(11) That the school will comply with the following 79
requirements: 80

(a) The school will provide learning opportunities to a 81
minimum of twenty-five students for a minimum of nine hundred 82
twenty hours per school year. 83

(b) The governing authority will purchase liability 84
insurance, or otherwise provide for the potential liability of 85
the school. 86

(c) The school will be nonsectarian in its programs, 87
admission policies, employment practices, and all other 88
operations, and will not be operated by a sectarian school or 89
religious institution. 90

(d) The school will comply with sections 9.90, 9.91, 91
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 92
3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3313.472, 93
3313.50, 3313.536, 3313.539, 3313.5310, 3313.608, 3313.609, 94
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.643, 95
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 96
3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 3313.673, 97
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 98
3313.721, 3313.80, 3313.814, 3313.816, 3313.817, 3313.86, 99
3313.89, 3313.96, 3319.073, 3319.074, 3319.321, 3319.39, 100
3319.391, 3319.41, 3319.46, 3321.01, 3321.041, 3321.13, 3321.14, 101
3321.141, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, ~~4111.17,~~ 102
4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 103
3742., 4112., 4123., 4141., and 4167. of the Revised Code as if 104

it were a school district and will comply with section 3301.0714 105
of the Revised Code in the manner specified in section 3314.17 106
of the Revised Code. 107

(e) The school shall comply with Chapter 102. and section 108
2921.42 of the Revised Code. 109

(f) The school will comply with sections 3313.61, 110
3313.611, and 3313.614 of the Revised Code, except that for 111
students who enter ninth grade for the first time before July 1, 112
2010, the requirement in sections 3313.61 and 3313.611 of the 113
Revised Code that a person must successfully complete the 114
curriculum in any high school prior to receiving a high school 115
diploma may be met by completing the curriculum adopted by the 116
governing authority of the community school rather than the 117
curriculum specified in Title XXXVIII of the Revised Code or any 118
rules of the state board of education. Beginning with students 119
who enter ninth grade for the first time on or after July 1, 120
2010, the requirement in sections 3313.61 and 3313.611 of the 121
Revised Code that a person must successfully complete the 122
curriculum of a high school prior to receiving a high school 123
diploma shall be met by completing the requirements prescribed 124
in division (C) of section 3313.603 of the Revised Code, unless 125
the person qualifies under division (D) or (F) of that section. 126
Each school shall comply with the plan for awarding high school 127
credit based on demonstration of subject area competency, and 128
beginning with the 2017-2018 school year, with the updated plan 129
that permits students enrolled in seventh and eighth grade to 130
meet curriculum requirements based on subject area competency 131
adopted by the state board of education under divisions (J) (1) 132
and (2) of section 3313.603 of the Revised Code. Beginning with 133
the 2018-2019 school year, the school shall comply with the 134
framework for granting units of high school credit to students 135

who demonstrate subject area competency through work-based 136
learning experiences, internships, or cooperative education 137
developed by the department under division (J) (3) of section 138
3313.603 of the Revised Code. 139

(g) The school governing authority will submit within four 140
months after the end of each school year a report of its 141
activities and progress in meeting the goals and standards of 142
divisions (A) (3) and (4) of this section and its financial 143
status to the sponsor and the parents of all students enrolled 144
in the school. 145

(h) The school, unless it is an internet- or computer- 146
based community school, will comply with section 3313.801 of the 147
Revised Code as if it were a school district. 148

(i) If the school is the recipient of moneys from a grant 149
awarded under the federal race to the top program, Division (A), 150
Title XIV, Sections 14005 and 14006 of the "American Recovery 151
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 152
the school will pay teachers based upon performance in 153
accordance with section 3317.141 and will comply with section 154
3319.111 of the Revised Code as if it were a school district. 155

(j) If the school operates a preschool program that is 156
licensed by the department of education under sections 3301.52 157
to 3301.59 of the Revised Code, the school shall comply with 158
sections 3301.50 to 3301.59 of the Revised Code and the minimum 159
standards for preschool programs prescribed in rules adopted by 160
the state board under section 3301.53 of the Revised Code. 161

(k) The school will comply with sections 3313.6021 and 162
3313.6023 of the Revised Code as if it were a school district 163
unless it is either of the following: 164

(i) An internet- or computer-based community school;	165
(ii) A community school in which a majority of the enrolled students are children with disabilities as described in division (A) (4) (b) of section 3314.35 of the Revised Code.	166 167 168
(12) Arrangements for providing health and other benefits to employees;	169 170
(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.	171 172 173 174
(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;	175 176
(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year.	177 178 179
(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;	180 181 182 183
(17) Whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school, and if it is a converted public school or service center building, specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining	184 185 186 187 188 189 190 191 192 193

agreement applicable to such employees;	194
(18) Provisions establishing procedures for resolving	195
disputes or differences of opinion between the sponsor and the	196
governing authority of the community school;	197
(19) A provision requiring the governing authority to	198
adopt a policy regarding the admission of students who reside	199
outside the district in which the school is located. That policy	200
shall comply with the admissions procedures specified in	201
sections 3314.06 and 3314.061 of the Revised Code and, at the	202
sole discretion of the authority, shall do one of the following:	203
(a) Prohibit the enrollment of students who reside outside	204
the district in which the school is located;	205
(b) Permit the enrollment of students who reside in	206
districts adjacent to the district in which the school is	207
located;	208
(c) Permit the enrollment of students who reside in any	209
other district in the state.	210
(20) A provision recognizing the authority of the	211
department of education to take over the sponsorship of the	212
school in accordance with the provisions of division (C) of	213
section 3314.015 of the Revised Code;	214
(21) A provision recognizing the sponsor's authority to	215
assume the operation of a school under the conditions specified	216
in division (B) of section 3314.073 of the Revised Code;	217
(22) A provision recognizing both of the following:	218
(a) The authority of public health and safety officials to	219
inspect the facilities of the school and to order the facilities	220
closed if those officials find that the facilities are not in	221

compliance with health and safety laws and regulations;	222
(b) The authority of the department of education as the	223
community school oversight body to suspend the operation of the	224
school under section 3314.072 of the Revised Code if the	225
department has evidence of conditions or violations of law at	226
the school that pose an imminent danger to the health and safety	227
of the school's students and employees and the sponsor refuses	228
to take such action.	229
(23) A description of the learning opportunities that will	230
be offered to students including both classroom-based and non-	231
classroom-based learning opportunities that is in compliance	232
with criteria for student participation established by the	233
department under division (H) (2) of section 3314.08 of the	234
Revised Code;	235
(24) The school will comply with sections 3302.04 and	236
3302.041 of the Revised Code, except that any action required to	237
be taken by a school district pursuant to those sections shall	238
be taken by the sponsor of the school. However, the sponsor	239
shall not be required to take any action described in division	240
(F) of section 3302.04 of the Revised Code.	241
(25) Beginning in the 2006-2007 school year, the school	242
will open for operation not later than the thirtieth day of	243
September each school year, unless the mission of the school as	244
specified under division (A) (2) of this section is solely to	245
serve dropouts. In its initial year of operation, if the school	246
fails to open by the thirtieth day of September, or within one	247
year after the adoption of the contract pursuant to division (D)	248
of section 3314.02 of the Revised Code if the mission of the	249
school is solely to serve dropouts, the contract shall be void.	250

(26) Whether the school's governing authority is planning to seek designation for the school as a STEM school equivalent under section 3326.032 of the Revised Code;	251 252 253
(27) That the school's attendance and participation policies will be available for public inspection;	254 255
(28) That the school's attendance and participation records shall be made available to the department of education, auditor of state, and school's sponsor to the extent permitted under and in accordance with the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, and any regulations promulgated under that act, and section 3319.321 of the Revised Code;	256 257 258 259 260 261 262
(29) If a school operates using the blended learning model, as defined in section 3301.079 of the Revised Code, all of the following information:	263 264 265
(a) An indication of what blended learning model or models will be used;	266 267
(b) A description of how student instructional needs will be determined and documented;	268 269
(c) The method to be used for determining competency, granting credit, and promoting students to a higher grade level;	270 271
(d) The school's attendance requirements, including how the school will document participation in learning opportunities;	272 273 274
(e) A statement describing how student progress will be monitored;	275 276
(f) A statement describing how private student data will be protected;	277 278

(g) A description of the professional development activities that will be offered to teachers.	279 280
(30) A provision requiring that all moneys the school's operator loans to the school, including facilities loans or cash flow assistance, must be accounted for, documented, and bear interest at a fair market rate;	281 282 283 284
(31) A provision requiring that, if the governing authority contracts with an attorney, accountant, or entity specializing in audits, the attorney, accountant, or entity shall be independent from the operator with which the school has contracted.	285 286 287 288 289
(32) A provision requiring the governing authority to adopt an enrollment and attendance policy that requires a student's parent to notify the community school in which the student is enrolled when there is a change in the location of the parent's or student's primary residence.	290 291 292 293 294
(33) A provision requiring the governing authority to adopt a student residence and address verification policy for students enrolling in or attending the school.	295 296 297
(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:	298 299 300
(1) The process by which the governing authority of the school will be selected in the future;	301 302
(2) The management and administration of the school;	303
(3) If the community school is a currently existing public school or educational service center building, alternative arrangements for current public school students who choose not	304 305 306

to attend the converted school and for teachers who choose not	307
to teach in the school or building after conversion;	308
(4) The instructional program and educational philosophy	309
of the school;	310
(5) Internal financial controls.	311
When submitting the plan under this division, the school	312
shall also submit copies of all policies and procedures	313
regarding internal financial controls adopted by the governing	314
authority of the school.	315
(C) A contract entered into under section 3314.02 of the	316
Revised Code between a sponsor and the governing authority of a	317
community school may provide for the community school governing	318
authority to make payments to the sponsor, which is hereby	319
authorized to receive such payments as set forth in the contract	320
between the governing authority and the sponsor. The total	321
amount of such payments for monitoring, oversight, and technical	322
assistance of the school shall not exceed three per cent of the	323
total amount of payments for operating expenses that the school	324
receives from the state.	325
(D) The contract shall specify the duties of the sponsor	326
which shall be in accordance with the written agreement entered	327
into with the department of education under division (B) of	328
section 3314.015 of the Revised Code and shall include the	329
following:	330
(1) Monitor the community school's compliance with all	331
laws applicable to the school and with the terms of the	332
contract;	333
(2) Monitor and evaluate the academic and fiscal	334
performance and the organization and operation of the community	335

school on at least an annual basis;	336
(3) Report on an annual basis the results of the	337
evaluation conducted under division (D) (2) of this section to	338
the department of education and to the parents of students	339
enrolled in the community school;	340
(4) Provide technical assistance to the community school	341
in complying with laws applicable to the school and terms of the	342
contract;	343
(5) Take steps to intervene in the school's operation to	344
correct problems in the school's overall performance, declare	345
the school to be on probationary status pursuant to section	346
3314.073 of the Revised Code, suspend the operation of the	347
school pursuant to section 3314.072 of the Revised Code, or	348
terminate the contract of the school pursuant to section 3314.07	349
of the Revised Code as determined necessary by the sponsor;	350
(6) Have in place a plan of action to be undertaken in the	351
event the community school experiences financial difficulties or	352
closes prior to the end of a school year.	353
(E) Upon the expiration of a contract entered into under	354
this section, the sponsor of a community school may, with the	355
approval of the governing authority of the school, renew that	356
contract for a period of time determined by the sponsor, but not	357
ending earlier than the end of any school year, if the sponsor	358
finds that the school's compliance with applicable laws and	359
terms of the contract and the school's progress in meeting the	360
academic goals prescribed in the contract have been	361
satisfactory. Any contract that is renewed under this division	362
remains subject to the provisions of sections 3314.07, 3314.072,	363
and 3314.073 of the Revised Code.	364

(F) If a community school fails to open for operation 365
within one year after the contract entered into under this 366
section is adopted pursuant to division (D) of section 3314.02 367
of the Revised Code or permanently closes prior to the 368
expiration of the contract, the contract shall be void and the 369
school shall not enter into a contract with any other sponsor. A 370
school shall not be considered permanently closed because the 371
operations of the school have been suspended pursuant to section 372
3314.072 of the Revised Code. 373

Sec. 3326.11. Each science, technology, engineering, and 374
mathematics school established under this chapter and its 375
governing body shall comply with sections 9.90, 9.91, 109.65, 376
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 377
3301.0714, 3301.0715, 3301.0729, 3301.948, 3313.14, 3313.15, 378
3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 379
3313.481, 3313.482, 3313.50, 3313.536, 3313.539, 3313.5310, 380
3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 381
3313.6021, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 382
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 383
3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 3313.673, 384
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 385
3313.721, 3313.80, 3313.801, 3313.814, 3313.816, 3313.817, 386
3313.86, 3313.89, 3313.96, 3319.073, 3319.21, 3319.32, 3319.321, 387
3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3319.46, 3321.01, 388
3321.041, 3321.05, 3321.13, 3321.14, 3321.141, 3321.17, 3321.18, 389
3321.19, 3321.191, 3327.10, ~~4111.17~~, 4113.52, and 5705.391 and 390
Chapters 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 391
4112., 4123., 4141., and 4167. of the Revised Code as if it were 392
a school district. 393

Sec. 4111.04. The director of commerce may: 394

(A) Investigate and ascertain the wages of persons 395
employed in any occupation in the state; 396

(B) Enter and inspect the place of business or employment 397
of any employer for the purpose of inspecting any books, 398
registers, payrolls, or other records of the employer that in 399
any way relate to the question of wages, hours, and other 400
conditions of employment of any employees, and may question the 401
employees for the purpose of ascertaining whether sections 402
4111.01 to ~~4111.17~~ 4111.14 and 4112.17 of the Revised Code, and 403
the rules adopted thereunder, have been and are being obeyed. In 404
conducting an inspection of the records of an employer, the 405
director shall make every effort to coordinate the inspection 406
with those conducted by the federal agency responsible for 407
enforcement of the "Fair Labor Standards Act of 1938," 52 Stat. 408
1060, 29 U.S.C.A. 201, as amended. If the federal agency has 409
completed an audit or examination of the employer's records 410
within the sixty days prior to the date the director notifies 411
the employer of the director's intent to examine the employer's 412
records, the director shall accept in lieu of the director's own 413
inspection, a report from the federal agency that the employer 414
is in compliance with the federal act, unless the director has 415
reasonable grounds for believing that the report is inaccurate 416
or incomplete for the purposes of sections 4111.01 to 4111.13 of 417
the Revised Code, or that events occurring since the audit give 418
the director reasonable grounds for believing that a violation 419
of sections 4111.01 to 4111.13 of the Revised Code has occurred. 420

(C) In the event the director is prohibited by any 421
employer from carrying out the intent of this section, the 422
director may issue subpoenas and compel attendance of witnesses 423
and production of papers, books, accounts, payrolls, documents, 424
records, and testimony relating and relevant to the director's 425

investigation. 426

Sec. 4111.05. The director of commerce shall adopt rules 427
in accordance with Chapter 119. of the Revised Code as the 428
director considers appropriate to carry out the purposes of 429
sections 4111.01 to ~~4111.17~~4111.14 of the Revised Code. The 430
rules may be amended from time to time and may include, but are 431
not limited to, rules defining and governing apprentices, their 432
number, proportion, and length of service; bonuses and special 433
pay for special or extra work; permitted deductions or charges 434
to employees for board, lodging, apparel, or other facilities or 435
services customarily furnished by employers to employees; 436
inclusion of ascertainable gratuities in wages paid; allowances 437
for unascertainable gratuities or for other special conditions 438
or circumstances which may be usual in particular employer- 439
employee relationships; and the method of computation or the 440
period of time over which wages may be averaged to determine 441
whether the minimum wage or overtime rate has been paid. 442

Sec. 4111.06. In order to prevent curtailment of 443
opportunities for employment, to avoid undue hardship, and to 444
safeguard the minimum wage rates under sections 4111.01 to 445
~~4111.17~~4111.14 of the Revised Code, the director of commerce 446
shall adopt rules under section 4111.05 of the Revised Code, 447
permitting employment in any occupation at wages lower than the 448
wage rates applicable under sections 4111.01 to ~~4111.17~~4111.14 449
of the Revised Code, of individuals whose earning capacity is 450
impaired by physical or mental deficiencies or injuries. The 451
rules shall provide for licenses to be issued authorizing 452
employment at the wages of specific individuals or groups of 453
employees, or by specific employers or groups of employers, 454
pursuant to the rules. The rules shall not conflict with the 455
"Americans with Disabilities Act of 1990," 104 Stat. 328, 42 456

U.S.C.A. 12111, et seq. 457

Sec. 4111.07. The director of commerce may adopt rules 458
under section 4111.05 of the Revised Code, permitting employment 459
of apprentices at a wage rate not less than eighty-five per cent 460
of the minimum wage rate applicable under sections 4111.01 to 461
~~4111.17-4111.14~~ of the Revised Code. The rules shall provide for 462
licenses to be issued for periods not to exceed ninety days and 463
authorizing employment at the wages of specific individuals or 464
groups of employees, or by specific employers or groups of 465
employers, pursuant to the rules. 466

Sec. 4111.09. Every employer subject to sections 4111.01 467
to ~~4111.17-4111.14~~ and ~~4112.17~~ of the Revised Code, or to any 468
rules issued thereunder, shall keep a summary of the sections, 469
approved by the director of commerce, and copies of any 470
applicable rules issued thereunder, or a summary of the rules, 471
posted in a conspicuous and accessible place in or about the 472
premises wherein any person subject thereto is employed. The 473
director of commerce shall make the summary described in this 474
section available on the web site of the department of commerce. 475
The director shall update this summary as necessary, but not 476
less than annually, in order to reflect changes in the minimum 477
wage rate as required under Section 34a of Article II, Ohio 478
Constitution. Employees and employers shall be furnished copies 479
of the summaries and rules by the state, on request, without 480
charge. 481

Sec. 4111.11. Any standards relating to minimum wages, 482
overtime compensation, or other working conditions in effect 483
under any other law of this state on the effective date of 484
sections 4111.01 to ~~4111.17-4111.14~~ of the Revised Code, which 485
are more favorable to employees than those applicable to 486

employees under sections or regulations issued hereunder, are 487
not amended, rescinded, or otherwise affected by said sections, 488
but continue in full force and effect, and may be enforced as 489
provided by law until they are specifically superseded by 490
standards more favorable to the employees by operation of or in 491
accordance with regulations issued under said sections. 492

Sec. 4111.12. Nothing in sections 4111.01 to ~~4111.17~~ 493
4111.14 of the Revised Code interferes with, impedes, or in any 494
way diminishes the right of employees to bargain collectively 495
with their employers through representatives of their own 496
choosing in order to establish wages or other conditions of work 497
in excess of the applicable minimum under sections 4111.01 to 498
~~4111.17~~4111.14 of the Revised Code. 499

Sec. 4111.13. (A) No employer shall hinder or delay the 500
director of commerce in the performance of the director's duties 501
in the enforcement of sections 4111.01 to ~~4111.17~~4111.14 of the 502
Revised Code, or refuse to admit the director to any place of 503
employment, or fail to make, keep, and preserve any records as 504
required under those sections, or falsify any of those records, 505
or refuse to make them accessible to the director upon demand, 506
or refuse to furnish them or any other information required for 507
the proper enforcement of those sections to the director upon 508
demand, or fail to post a summary of those sections or a copy of 509
any applicable rules as required by section 4111.09 of the 510
Revised Code. Each day of violation constitutes a separate 511
offense. 512

(B) No employer shall discharge or in any other manner 513
discriminate against any employee because the employee has made 514
any complaint to the employee's employer, or to the director, 515
that the employee has not been paid wages in accordance with 516

sections 4111.01 to ~~4111.17~~4111.14 of the Revised Code, or 517
because the employee has made any complaint or is about to cause 518
to be instituted any proceeding under or related to those 519
sections, or because the employee has testified or is about to 520
testify in any proceeding. 521

(C) No employer shall pay or agree to pay wages at a rate 522
less than the rate applicable under sections 4111.01 to ~~4111.17~~ 523
4111.14 of the Revised Code. Each week or portion thereof for 524
which the employer pays any employee less than the rate 525
applicable under those sections constitutes a separate offense 526
as to each employer. 527

(D) No employer shall otherwise violate sections 4111.01 528
to ~~4111.17~~4111.14 of the Revised Code, or any rule adopted 529
thereunder. Each day of violation constitutes a separate 530
offense. 531

Sec. 4111.99. (A) Whoever violates division (A) or (D) of 532
section 4111.13 of the Revised Code is guilty of a misdemeanor 533
of the fourth degree. 534

(B) Whoever violates division (B) or (C) of section 535
4111.13 of the Revised Code is guilty of a misdemeanor of the 536
third degree. 537

~~(C) Whoever violates section 4111.17 of the Revised Code~~ 538
~~is guilty of a minor misdemeanor.~~ 539

Sec. 4112.01. (A) As used in this chapter: 540

(1) "Person" includes one or more individuals, 541
partnerships, associations, organizations, corporations, legal 542
representatives, trustees, trustees in bankruptcy, receivers, 543
and other organized groups of persons. "Person" also includes, 544
but is not limited to, any owner, lessor, assignor, builder, 545

manager, broker, salesperson, appraiser, agent, employee, 546
lending institution, and the state and all political 547
subdivisions, authorities, agencies, boards, and commissions of 548
the state. 549

(2) "Employer" includes the state, any political 550
subdivision of the state, any person employing four or more 551
persons within the state, and any person acting directly or 552
indirectly in the interest of an employer. 553

(3) "Employee" means an individual employed by any 554
employer but does not include any individual employed in the 555
domestic service of any person. 556

(4) "Labor organization" includes any organization that 557
exists, in whole or in part, for the purpose of collective 558
bargaining or of dealing with employers concerning grievances, 559
terms or conditions of employment, or other mutual aid or 560
protection in relation to employment. 561

(5) "Employment agency" includes any person regularly 562
undertaking, with or without compensation, to procure 563
opportunities to work or to procure, recruit, refer, or place 564
employees. 565

(6) "Commission" means the Ohio civil rights commission 566
created by section 4112.03 of the Revised Code. 567

(7) "Discriminate" includes segregate or separate. 568

(8) "Unlawful discriminatory practice" means any act 569
prohibited by section 4112.02, 4112.021, or 4112.022 of the 570
Revised Code. 571

(9) "Place of public accommodation" means any inn, 572
restaurant, eating house, barbershop, public conveyance by air, 573

land, or water, theater, store, other place for the sale of 574
merchandise, or any other place of public accommodation or 575
amusement of which the accommodations, advantages, facilities, 576
or privileges are available to the public. 577

(10) "Housing accommodations" includes any building or 578
structure, or portion of a building or structure, that is used 579
or occupied or is intended, arranged, or designed to be used or 580
occupied as the home residence, dwelling, dwelling unit, or 581
sleeping place of one or more individuals, groups, or families 582
whether or not living independently of each other; and any 583
vacant land offered for sale or lease. "Housing accommodations" 584
also includes any housing accommodations held or offered for 585
sale or rent by a real estate broker, salesperson, or agent, by 586
any other person pursuant to authorization of the owner, by the 587
owner, or by the owner's legal representative. 588

(11) "Restrictive covenant" means any specification 589
limiting the transfer, rental, lease, or other use of any 590
housing accommodations because of race, color, religion, sex, 591
military status, familial status, national origin, disability, 592
or ancestry, or any limitation based upon affiliation with or 593
approval by any person, directly or indirectly, employing race, 594
color, religion, sex, military status, familial status, national 595
origin, disability, or ancestry as a condition of affiliation or 596
approval. 597

(12) "Burial lot" means any lot for the burial of deceased 598
persons within any public burial ground or cemetery, including, 599
but not limited to, cemeteries owned and operated by municipal 600
corporations, townships, or companies or associations 601
incorporated for cemetery purposes. 602

(13) "Disability" means a physical or mental impairment 603

that substantially limits one or more major life activities, 604
including the functions of caring for one's self, performing 605
manual tasks, walking, seeing, hearing, speaking, breathing, 606
learning, and working; a record of a physical or mental 607
impairment; or being regarded as having a physical or mental 608
impairment. 609

(14) Except as otherwise provided in section 4112.021 of 610
the Revised Code, "age" means at least forty years old. 611

(15) "Familial status" means either of the following: 612

(a) One or more individuals who are under eighteen years 613
of age and who are domiciled with a parent or guardian having 614
legal custody of the individual or domiciled, with the written 615
permission of the parent or guardian having legal custody, with 616
a designee of the parent or guardian; 617

(b) Any person who is pregnant or in the process of 618
securing legal custody of any individual who is under eighteen 619
years of age. 620

(16) (a) Except as provided in division (A) (16) (b) of this 621
section, "physical or mental impairment" includes any of the 622
following: 623

(i) Any physiological disorder or condition, cosmetic 624
disfigurement, or anatomical loss affecting one or more of the 625
following body systems: neurological; musculoskeletal; special 626
sense organs; respiratory, including speech organs; 627
cardiovascular; reproductive; digestive; genito-urinary; hemic 628
and lymphatic; skin; and endocrine; 629

(ii) Any mental or psychological disorder, including, but 630
not limited to, intellectual disability, organic brain syndrome, 631
emotional or mental illness, and specific learning disabilities; 632

(iii) Diseases and conditions, including, but not limited	633
to, orthopedic, visual, speech, and hearing impairments,	634
cerebral palsy, autism, epilepsy, muscular dystrophy, multiple	635
sclerosis, cancer, heart disease, diabetes, human	636
immunodeficiency virus infection, intellectual disability,	637
emotional illness, drug addiction, and alcoholism.	638
(b) "Physical or mental impairment" does not include any	639
of the following:	640
(i) Homosexuality and bisexuality;	641
(ii) Transvestism, transsexualism, pedophilia,	642
exhibitionism, voyeurism, gender identity disorders not	643
resulting from physical impairments, or other sexual behavior	644
disorders;	645
(iii) Compulsive gambling, kleptomania, or pyromania;	646
(iv) Psychoactive substance use disorders resulting from	647
the current illegal use of a controlled substance or the current	648
use of alcoholic beverages.	649
(17) "Dwelling unit" means a single unit of residence for	650
a family of one or more persons.	651
(18) "Common use areas" means rooms, spaces, or elements	652
inside or outside a building that are made available for the use	653
of residents of the building or their guests, and includes, but	654
is not limited to, hallways, lounges, lobbies, laundry rooms,	655
refuse rooms, mail rooms, recreational areas, and passageways	656
among and between buildings.	657
(19) "Public use areas" means interior or exterior rooms	658
or spaces of a privately or publicly owned building that are	659
made available to the general public.	660

(20) "Controlled substance" has the same meaning as in 661
section 3719.01 of the Revised Code. 662

(21) "Disabled tenant" means a tenant or prospective 663
tenant who is a person with a disability. 664

(22) "Military status" means a person's status in "service 665
in the uniformed services" as defined in section 5923.05 of the 666
Revised Code. 667

(23) "Aggrieved person" includes both of the following: 668

(a) Any person who claims to have been injured by any 669
unlawful discriminatory practice described in division (H) of 670
section 4112.02 of the Revised Code; 671

(b) Any person who believes that the person will be 672
injured by, any unlawful discriminatory practice described in 673
division (H) of section 4112.02 of the Revised Code that is 674
about to occur. 675

(B) For the purposes of divisions (A) to (F) of section 676
4112.02 of the Revised Code, the terms "because of sex" and "on 677
the basis of sex" include, but are not limited to, because of or 678
on the basis of pregnancy, any illness arising out of and 679
occurring during the course of a pregnancy, childbirth, or 680
related medical conditions. Women affected by pregnancy, 681
childbirth, or related medical conditions shall be treated the 682
same for all employment-related purposes, including receipt of 683
benefits under fringe benefit programs, as other persons not so 684
affected but similar in their ability or inability to work, and 685
nothing in division (B) of section ~~4111.17~~4112.17 of the 686
Revised Code shall be interpreted to permit otherwise. This 687
division shall not be construed to require an employer to pay 688
for health insurance benefits for abortion, except where the 689

life of the mother would be endangered if the fetus were carried 690
to term or except where medical complications have arisen from 691
the abortion, provided that nothing in this division precludes 692
an employer from providing abortion benefits or otherwise 693
affects bargaining agreements in regard to abortion. 694

Sec. ~~4111.17~~4112.17. (A) No employer, including the state 695
and political subdivisions thereof, shall discriminate in the 696
payment of wages on the basis of race, color, religion, sex, 697
~~age, national origin, or age, ancestry, sexual orientation, or~~ 698
gender identity by paying wages to any employee at a rate less 699
than the rate at which the employer pays wages to another 700
employee for equal work on jobs the performance of which 701
requires equal skill, effort, and responsibility, and which are 702
performed under similar conditions. 703

(B) Nothing in this section prohibits an employer from 704
paying wages to one employee at a rate different from that at 705
which the employer pays another employee for the performance of 706
equal work under similar conditions on jobs requiring equal 707
skill, effort, and responsibility, when the payment is made 708
pursuant to any of the following: 709

(1) A seniority system; 710

(2) A merit system; 711

(3) A system which measures earnings by the quantity or 712
quality of production; 713

(4) A wage rate differential determined by any bona fide 714
~~factor other than race, color, religion, sex, age, national-~~ 715
~~origin, or ancestry, such as education, training, or experience~~ 716
that meets the criteria described in division (C) of this 717
section. 718

(C) (1) An employer may defend a wage rate differential 719
made under division (B) (4) of this section only if the employer 720
can demonstrate all of the following: 721

(a) The difference is based on a factor substantially 722
related to the employee's position and performance, such as 723
education, training, or experience. 724

(b) The difference is not related to the employee's race, 725
color, religion, sex, national origin, age, ancestry, sexual 726
orientation, or gender identity. 727

(c) The difference is consistent with business necessity. 728

(2) The defense described in division (C) (1) of this 729
section shall be rebutted if an employee making an allegation of 730
wage discrimination or the commission demonstrates both of the 731
following: 732

(a) An alternative employment practice exists that would 733
serve the same business purpose without producing the wage rate 734
differential. 735

(b) The employer has refused to adopt the alternative 736
practice. 737

(D) No employer shall reduce the wage rate of any employee 738
in order to comply with this section. 739

~~(D)~~ (E) The director of commerce—Ohio civil rights 740
commission shall carry out, administer, and enforce this 741
section. Any employee discriminated against in violation of this 742
section may sue in any court of competent jurisdiction to 743
recover two times the amount of the difference between the wages 744
actually received and the wages received by a person performing 745
equal work for the employer, from the date of the commencement 746

of the violation, and for costs, including attorney fees. 747

Notwithstanding the definitions of "tort action" in sections 748
2315.18 to 2315.21 of the Revised Code, such an action shall be 749
considered a tort action for the purposes of those sections and 750
shall be subject to sections 2315.18 to 2315.21 of the Revised 751
Code, except to the extent those sections conflict with this 752
section. The ~~director-commission~~ may take an assignment of any 753
such wage claim in trust for such employee and sue in the 754
employee's behalf. In any civil action under this section, two 755
or more employees of the same employer may join as co-plaintiffs 756
in one action. The ~~director-commission~~ may sue in one action for 757
claims assigned to the ~~director-commission~~ by two or more 758
employees of the same employer. No agreement to work for a 759
discriminatory wage constitutes a defense for any civil ~~or~~ 760
~~criminal~~ action to enforce this section. ~~No employer shall~~ 761
~~discriminate against any employee because such employee makes a~~ 762
~~complaint or institutes, or testifies in, any proceeding under~~ 763
~~this section.~~ 764

~~(E)~~ (F) Any action arising under this section shall be 765
initiated within one year after the date of violation. 766

(G) (1) No employer shall discriminate against any employee 767
because the employee makes a complaint, or institutes or 768
testifies in any proceeding, under this section. 769

(2) No employer shall discriminate against an employee for 770
inquiring about, discussing, or disclosing the wages of the 771
employee or another employee in response to a complaint or 772
charge, or in furtherance of a discrimination investigation, 773
proceeding, hearing, or action, or an investigation conducted by 774
the employer. 775

(3) Any person discriminated against in violation of 776

division (G) (1) or (2) of this section may sue in any court of 777
competent jurisdiction to recover damages, injunctive relief, or 778
any other appropriate relief. 779

(H) In addition to any other award made under this 780
section, the court or jury may award punitive or exemplary 781
damages in accordance with section 2315.21 of the Revised Code 782
in an amount sufficient to deter future violations. 783

(I) As used in this section: 784

(1) "Sexual orientation" means heterosexuality, 785
homosexuality, or bisexuality, whether actual or perceived. 786

(2) "Gender identity" means an individual's self- 787
perception, or perception of that person by another, of the 788
individual's identity as male or female as realized through the 789
person's appearance, behavior, or physical characteristics, 790
regardless of whether such appearance, behavior, or physical 791
characteristics are in accord with or opposed to the person's 792
physical anatomy, chromosomal sex, or sex at birth. 793

(J) The general assembly, in amending this section, 794
declares its intent to ensure equal pay for women in Ohio and to 795
correct the historical wage disparity that has occurred between 796
the sexes. 797

Section 2. That existing sections 3314.03, 3326.11, 798
4111.04, 4111.05, 4111.06, 4111.07, 4111.09, 4111.11, 4111.12, 799
4111.13, 4111.17, 4111.99, and 4112.01 of the Revised Code are 800
hereby repealed. 801

Section 3. This act shall be known as the "Fair and 802
Acceptable Income Required (FAIR) Act." 803