

As Introduced

134th General Assembly

Regular Session

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H. B. No. 232

Representatives Howse, Miranda

Cosponsors: Representatives Boyd, Miller, J., Smith, K., West, Blackshear, Sobecki, Brown, Lightbody, Ingram, Leland, Galonski, O'Brien, Brent, Crawley, Sykes, Robinson, Sweeney, Boggs, Denson, Jarrells, Upchurch, Skindell, Crossman, Smith, M., Miller, A., Liston, Russo, Kelly, Weinstein, Hicks-Hudson, Lepore-Hagan, Sheehy

A BILL

To amend sections 4112.04 and 4117.08 and to enact
sections 142.01, 142.02, 142.03, 142.04, 142.05,
142.06, 142.07, 142.08, 142.09, 142.10, 4113.12,
4113.42, 4117.141, 4145.01, 4145.02, 4145.03,
4145.04, 4145.05, 4145.06, 4145.07, 4145.08, and
4145.09 of the Revised Code to enact the Ohio
Equal Pay Act to address wage disparities in
public and private employment.

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

Section 1. That sections 4112.04 and 4117.08 be amended
and sections 142.01, 142.02, 142.03, 142.04, 142.05, 142.06,
142.07, 142.08, 142.09, 142.10, 4113.12, 4113.42, 4117.141,
4145.01, 4145.02, 4145.03, 4145.04, 4145.05, 4145.06, 4145.07,
4145.08, and 4145.09 of the Revised Code be enacted to read as
follows:

Sec. 142.01. As used in this chapter:

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

(I) "Political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state. 43
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(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, agency, institution, or other entity established by the laws of the state for the exercise of any function of state government. 50
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Sec. 142.02. Subject to Chapter 4117. and sections 4115.03 to 4115.21 and 4115.99 of the Revised Code, but notwithstanding any other law to the contrary, every public employer shall establish equitable compensation relationships between female-dominated, male-dominated, and balanced classes of employees to eliminate sex-based wage disparities in public employment in this state. A public employer shall make the comparable work value of a position in relationship to other employee positions a primary consideration in negotiating, establishing, recommending, and approving compensation. 53
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Nothing in this chapter limits the ability of the parties to collectively bargain in good faith. 63
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Sec. 142.03. (A) The director of administrative services, in establishing the job classification plan and assigning pay ranges pursuant to section 124.14 of the Revised Code, and any other public employer with the authority to determine compensation for the employees of the public employer, shall assure all of the following, as applicable: 65
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(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 101
evaluation system established by the public employer to account 102
for both of the following: 103

(a) New employee classes; 104

(b) Changes in factors affecting the comparable work value 105
of existing classes. 106

(2) A public employer that substantially modifies the 107
public employer's job evaluation system or adopts a new job 108
evaluation system shall notify the director of budget and 109
management. 110

Sec. 142.05. Every public employer shall submit a report 111
containing the results of the job evaluation system conducted 112
under section 142.04 of the Revised Code to the exclusive 113
representative selected by the public employer's employees under 114
section 4117.05 of the Revised Code to be used by both parties 115
in negotiations for collective bargaining agreements. The report 116
shall contain the following information: 117

(A) The female-dominated classes of a public employer for 118
which compensation inequity exists, based on the comparable work 119
value; 120

(B) All data not on individuals used to support the 121
findings in division (A) of this section. 122

Sec. 142.06. (A) (1) Each public employer shall submit an 123
implementation report to the director of budget and management 124
that contains all of the following information, as of the 125
thirty-first day of December of the preceding year: 126

(a) A list of all job classes of the public employer; 127

<u>(b) The number of employees in each class listed in</u>	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>(B) A state agency that fails to submit an implementation</u>	154
<u>report is subject to the penalty described in section 142.07 of</u>	155

the Revised Code. 156

Sec. 142.07. (A) The director of budget and management 157
shall review the implementation reports the director receives 158
under section 142.06 of the Revised Code to determine whether a 159
public employer has established equitable compensation 160
relationships as required under section 142.02 of the Revised 161
Code. The director shall notify a public employer in writing if 162
the director determines that the public employer has complied 163
with the requirement of that section. 164

(B) If the director finds that a public employer did not 165
comply with that section, the director shall issue a statement 166
to the public employer in writing containing the following 167
information: 168

(1) A detailed description of the basis of the finding of 169
noncompliance; 170

(2) Specific recommended actions the public employer is 171
required to take to comply with that section; 172

(3) An estimate of the cost to the public employer to 173
comply with that section. 174

(C) (1) A public employer shall notify the director in 175
writing of a disagreement with a finding of the director under 176
division (B) of this section. The director shall provide the 177
public employer a specified time period in which to submit 178
additional evidence to support the employer's claim of 179
compliance with the requirements of section 142.02 of the 180
Revised Code. That evidence may include any of the following: 181

(a) Recruitment difficulties; 182

(b) Retention difficulties; 183

(c) Recent conciliation awards made under section 4117.14 184
of the Revised Code that are inconsistent with equitable 185
compensation relationships under section 142.02 of the Revised 186
Code; 187

(d) Information that demonstrates that the employer made a 188
good faith effort to comply with section 142.02 of the Revised 189
Code, including constraints faced by the employer; 190

(e) A plan for the employer to comply with that section. 191

(2) The public employer shall specify with the evidence a 192
date for additional review by the director. 193

(D)(1) If a state agency does not make changes to comply 194
with the requirements of section 142.02 of the Revised Code 195
within a reasonable time period established by the director, the 196
director shall assess a fine of one hundred dollars for each day 197
the state agency remains noncompliant. The penalty remains in 198
effect until the state agency demonstrates that the state agency 199
has complied with section 142.02 of the Revised Code. 200

(2) The director may suspend the penalty imposed on a 201
state agency under division (D)(1) of this section for any of 202
the following reasons: 203

(a) The state agency's failure to comply was attributable 204
to circumstances beyond the control of the state agency. 205

(b) The state agency's failure to comply was attributable 206
to severe hardship of the state agency. 207

(c) The noncompliance is a result of factors unrelated to 208
the sex of the members of the affected classes, and the state 209
agency is taking steps to comply with the requirements of 210
section 142.02 of the Revised Code to the extent possible. 211

(E) A state agency may appeal a penalty imposed under 212
division (D) (1) of this section to the director within thirty 213
days after the director assesses the penalty. The director shall 214
not impose the penalty on a state agency while an appeal is 215
pending. 216

Sec. 142.08. On or before the first day of January 217
immediately following the effective date of this section, and on 218
or before the first day of January thereafter, the director of 219
budget and management shall submit a results-based 220
accountability report on the status of compliance of public 221
employers with section 142.02 of the Revised Code to the general 222
assembly. The report shall contain all of the following 223
information: 224

(A) A list of the public employers in compliance with the 225
requirements of section 142.02 of the Revised Code; 226

(B) The estimated cost of each public employer to be 227
compliant with those requirements; 228

(C) A list of the public employers the director found to 229
be not in compliance with section 142.02 of the Revised Code; 230

(D) The basis for the director's finding in division (C) 231
of this section; 232

(E) The list of recommended changes the public employers 233
listed in division (C) of this section must make to comply with 234
section 142.02 of the Revised Code; 235

(F) The estimated cost for each public employer to become 236
compliant with section 142.02 of the Revised Code; 237

(G) A list of the public employers who did not comply with 238
the reporting requirements in section 142.06 of the Revised 239

<u>Code;</u>	240
<u>(H) The number of female employees in each public</u>	241
<u>employer's job class listed in division (A)(1)(a) of section</u>	242
<u>142.06 of the Revised Code;</u>	243
<u>(I) Any additional information the director determines the</u>	244
<u>general assembly needs to know from a public employer.</u>	245
Sec. 142.09. <u>Notwithstanding division (A) of section</u>	246
<u>4117.11 of the Revised Code, it is not an unfair labor practice</u>	247
<u>for a public employer to specify an amount of funds to be used</u>	248
<u>solely to correct inequitable compensation relationships.</u>	249
<u>This chapter does not diminish the duty of a public</u>	250
<u>employer to bargain in good faith under Chapter 4117. of the</u>	251
<u>Revised Code.</u>	252
Sec. 142.10. <u>The Ohio civil rights commission or any court</u>	253
<u>of this state may use either of the following as evidence in any</u>	254
<u>proceeding or action alleging that an unlawful discriminatory</u>	255
<u>practice, as defined in section 4112.01 of the Revised Code, has</u>	256
<u>been committed:</u>	257
<u>(A) The results of any job evaluation system established</u>	258
<u>under section 142.04 of the Revised Code;</u>	259
<u>(B) A report compiled by a public employer under section</u>	260
<u>142.05 of the Revised Code.</u>	261
Sec. 4112.04. (A) The commission shall do all of the	262
following:	263
(1) Establish and maintain a principal office in the city	264
of Columbus and any other offices within the state that it	265
considers necessary;	266

(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.	267 268 269 270
(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;	271 272 273
(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;	274 275 276
(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;	277 278 279
(6) Receive, investigate, and pass upon written charges made under oath of unlawful discriminatory practices;	280 281
(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;	282 283 284 285 286
(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 the other work performed by it, which report shall include a copy of any surveys prepared pursuant to division (A) (7) of this section and shall include the recommendations of the commission as to legislative or other remedial action;	287 288 289 290 291 292 293 294
(9) Prepare a comprehensive educational program, in	295

cooperation with the department of education, for the students 296
of the public schools of this state and for all other residents 297
of this state that is designed to eliminate prejudice on the 298
basis of race, color, religion, sex, military status, familial 299
status, national origin, disability, age, or ancestry in this 300
state, to further good will among those groups, and to emphasize 301
the origin of prejudice against those groups, its harmful 302
effects, and its incompatibility with American principles of 303
equality and fair play; 304

(10) Receive progress reports from agencies, 305
instrumentalities, institutions, boards, commissions, and other 306
entities of this state or any of its political subdivisions and 307
their agencies, instrumentalities, institutions, boards, 308
commissions, and other entities regarding affirmative action 309
programs for the employment of persons against whom 310
discrimination is prohibited by this chapter, or regarding any 311
affirmative housing accommodations programs developed to 312
eliminate or reduce an imbalance of race, color, religion, sex, 313
military status, familial status, national origin, disability, 314
or ancestry. All agencies, instrumentalities, institutions, 315
boards, commissions, and other entities of this state or its 316
political subdivisions, and all political subdivisions, that 317
have undertaken affirmative action programs pursuant to a 318
conciliation agreement with the commission, an executive order 319
of the governor, any federal statute or rule, or an executive 320
order of the president of the United States shall file progress 321
reports with the commission annually on or before the first day 322
of November. The commission shall analyze and evaluate the 323
progress reports and report its findings annually to the general 324
assembly on or before the thirtieth day of January of the year 325
immediately following the receipt of the reports. 326

(11) Notify a person who files a charge pursuant to 327
section 4112.051 of the Revised Code that under division (A) of 328
section 4112.052 of the Revised Code, the person is prohibited 329
from bringing a civil action under this chapter unless one of 330
the following applies: 331

(a) The conditions stated in division (B)(1) of section 332
4112.052 of the Revised Code are satisfied; 333

(b) An exception specified in division (B)(2) of section 334
4112.052 of the Revised Code applies. 335

(12) Comply with divisions (D) to (G) of section 4113.12 336
of the Revised Code. 337

(B) The commission may do any of the following: 338

(1) Meet and function at any place within the state; 339

(2) Initiate and undertake on its own motion 340
investigations of problems of employment or housing 341
accommodations discrimination; 342

(3) Hold hearings, subpoena witnesses, compel their 343
attendance, administer oaths, take the testimony of any person 344
under oath, require the production for examination of any books 345
and papers relating to any matter under investigation or in 346
question before the commission, and make rules as to the 347
issuance of subpoenas by individual commissioners. 348

(a) In conducting a hearing or investigation, the 349
commission shall have access at all reasonable times to 350
premises, records, documents, individuals, and other evidence or 351
possible sources of evidence and may examine, record, and copy 352
the premises, records, documents, and other evidence or possible 353
sources of evidence and take and record the testimony or 354

statements of the individuals as reasonably necessary for the 355
furtherance of the hearing or investigation. In investigations, 356
the commission shall comply with the fourth amendment to the 357
United States Constitution relating to unreasonable searches and 358
seizures. The commission or a member of the commission may issue 359
subpoenas to compel access to or the production of premises, 360
records, documents, and other evidence or possible sources of 361
evidence or the appearance of individuals, and may issue 362
interrogatories to a respondent, to the same extent and subject 363
to the same limitations as would apply if the subpoenas or 364
interrogatories were issued or served in aid of a civil action 365
in a court of common pleas. 366

(b) Upon written application by a party to a hearing under 367
division (B) of section 4112.05 or division (G) of section 368
4112.051 of the Revised Code, the commission shall issue 369
subpoenas in its name to the same extent and subject to the same 370
limitations as subpoenas issued by the commission. Subpoenas 371
issued at the request of a party shall show on their face the 372
name and address of the party and shall state that they were 373
issued at the party's request. 374

(c) Witnesses summoned by subpoena of the commission are 375
entitled to the witness and mileage fees provided for under 376
section 119.094 of the Revised Code. 377

(d) Within five days after service of a subpoena upon any 378
person, the person may petition the commission to revoke or 379
modify the subpoena. The commission shall grant the petition if 380
it finds that the subpoena requires an appearance or attendance 381
at an unreasonable time or place, that it requires production of 382
evidence that does not relate to any matter before the 383
commission, that it does not describe with sufficient 384

particularity the evidence to be produced, that compliance would 385
be unduly onerous, or for other good reason. 386

(e) In case of contumacy or refusal to obey a subpoena, 387
the commission or person at whose request it was issued may 388
petition for its enforcement in the court of common pleas in the 389
county in which the person to whom the subpoena was addressed 390
resides, was served, or transacts business. 391

(4) Create local or statewide advisory agencies and 392
conciliation councils to aid in effectuating the purposes of 393
this chapter. The commission may itself, or it may empower these 394
agencies and councils to, do either or both of the following: 395

(a) Study the problems of discrimination in all or 396
specific fields of human relationships when based on race, 397
color, religion, sex, military status, familial status, national 398
origin, disability, age, or ancestry; 399

(b) Foster through community effort, or otherwise, good 400
will among the groups and elements of the population of the 401
state. 402

The agencies and councils may make recommendations to the 403
commission for the development of policies and procedures in 404
general. They shall be composed of representative citizens who 405
shall serve without pay, except that reimbursement for actual 406
and necessary traveling expenses shall be made to citizens who 407
serve on a statewide agency or council. 408

(5) Issue any publications and the results of 409
investigations and research that in its judgment will tend to 410
promote good will and minimize or eliminate discrimination 411
because of race, color, religion, sex, military status, familial 412
status, national origin, disability, age, or ancestry. 413

Sec. 4113.12. (A) As used in this section, "employer" has 414
the same meaning as in section 4112.01 of the Revised Code. 415

(B) Except as provided in division (C) of this section, no 416
employer shall do either of the following: 417

(1) Request information regarding or seek a prospective 418
employee's wage or salary history from the prospective employee 419
or the prospective employee's current or former employer; 420

(2) Require that a prospective employee's prior wage or 421
salary history satisfy certain criteria. 422

(C) An employer may request information regarding, seek, 423
or confirm a prospective employee's wage or salary history under 424
either of the following circumstances: 425

(1) The prospective employee has voluntarily disclosed to 426
the employer the prospective employee's wage or salary history. 427

(2) The employer has made an offer of employment with 428
compensation to the prospective employee. 429

(D) A prospective employee who has reasonable cause to 430
believe an employer has violated this section may file a written 431
complaint with the Ohio civil rights commission. On receiving a 432
complaint, the commission may investigate an employer to 433
determine whether it is probable that the employer has violated 434
this section. If after an investigation the commission 435
determines it is probable that the employer has violated this 436
section, the commission shall proceed in accordance with the 437
notice and hearing requirements prescribed in Chapter 119. of 438
the Revised Code. 439

After a hearing conducted under Chapter 119. of the 440
Revised Code, if the commission determines that the employer has 441

violated this section, it shall order the offending employer to 442
complete successfully a remedial training course conducted by 443
the commission to educate the employer on appropriate hiring 444
practices in accordance with this section. The employer shall 445
complete the course not later than six months after the date on 446
which the employer receives the order. 447

(E) If an offending employer fails to successfully 448
complete the remedial training course within the time period 449
specified in division (D) of this section, or if the commission 450
determines it is probable after an investigation that an 451
offending employer has committed a second or subsequent 452
violation of this section within two years after a first 453
violation, the commission may refer the matter to the attorney 454
general for commencement of a civil action in a court of common 455
pleas. The attorney general may seek any relief the attorney 456
general considers necessary to enforce this section and costs. 457

(F) The commission shall adopt rules, in accordance with 458
Chapter 119. of the Revised Code, to develop and administer the 459
remedial training course conducted under division (D) of this 460
section. The commission shall maintain indefinitely a list of 461
offending employers that have successfully completed the course. 462

(G) The decision and order of the commission is final, 463
subject to review in the manner provided in Chapter 119. of the 464
Revised Code and appeal to the court of common pleas of Franklin 465
county. 466

Sec. 4113.42. As used in this section, "employee" and 467
"employer" have the same meanings as in section 4113.51 of the 468
Revised Code. 469

No employer shall discharge or otherwise retaliate against 470

an employee because the employee has discussed the employee's 471
salary or wage rate with another employee. 472

Sec. 4117.08. (A) All matters pertaining to wages, hours, 473
or terms and other conditions of employment and the 474
continuation, modification, or deletion of an existing provision 475
of a collective bargaining agreement are subject to collective 476
bargaining between the public employer and the exclusive 477
representative, except as otherwise specified in this section 478
and division (E) of section 4117.03 of the Revised Code. 479

(B) The conduct and grading of civil service examinations, 480
the rating of candidates, the establishment of eligible lists 481
from the examinations, and the original appointments from the 482
eligible lists are not appropriate subjects for collective 483
bargaining. 484

(C) Unless a public employer agrees otherwise in a 485
collective bargaining agreement, nothing in Chapter 4117. of the 486
Revised Code impairs the right and responsibility of each public 487
employer to: 488

(1) Determine matters of inherent managerial policy which 489
include, but are not limited to, areas of discretion or policy 490
such as the functions and programs of the public employer, 491
standards of services, its overall budget, utilization of 492
technology, and organizational structure; 493

(2) Direct, supervise, evaluate, or hire employees; 494

(3) Maintain and improve the efficiency and effectiveness 495
of governmental operations; 496

(4) Determine the overall methods, process, means, or 497
personnel by which governmental operations are to be conducted; 498

(5) Suspend, discipline, demote, or discharge for just cause, or lay off, transfer, assign, schedule, promote, or retain employees;

(6) Determine the adequacy of the work force;

(7) Determine the overall mission of the employer as a unit of government;

(8) Effectively manage the work force;

(9) Take actions to carry out the mission of the public employer as a governmental unit.

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.

(D) (1) A public employer shall assure that all of the following occur in preparation for negotiating a collective bargaining agreement, if applicable:

(a) That compensation for positions in the classified civil service and unclassified civil service bear reasonable relationship to one another;

(b) That compensation for positions bears a reasonable relationship to similar positions outside of that particular public employer;

(c) That compensation for positions within the public employer's workforce bears a reasonable relationship among

various classes and among various levels within the same 527
occupation group. 528

(2) As used in division (D)(1) of this section, 529
"reasonable relationship" has the same meaning as in section 530
142.03 of the Revised Code. 531

Sec. 4117.141. (A) As used in this section, "balanced 532
class" has the same meaning as in section 142.01 of the Revised 533
Code. 534

(B) A fact-finding panel or a conciliator appointed under 535
section 4117.14 of the Revised Code shall consider all of the 536
following in any settlement of a dispute involving a class other 537
than a balanced class under Chapter 142. of the Revised Code: 538

(1) The equitable compensation relationship standards 539
established in section 142.02 of the Revised Code; 540

(2) The reasonable compensation relationships established 541
under section 142.03 of the Revised Code; 542

(3) The results of a job evaluation system conducted under 543
section 142.04 of the Revised Code; 544

(4) Any employee objections to the job evaluation system. 545

(C) In settlements of disputes involving a balanced class, 546
the fact-finding panel or conciliator shall consider similar 547
classifications of other public employers. The fact-finding 548
panel or conciliator also may consider the standards established 549
under section 142.02 of the Revised Code and the results of, and 550
any employee objections to, a job evaluation system conducted 551
under section 142.04 of the Revised Code. 552

(D) In collective bargaining involving a balanced class, 553
the parties shall consider similar classifications of other 554

public employers. The parties also may consider the equitable 555
compensation relationship standards established under section 556
142.02 of the Revised Code and the results of a job evaluation 557
system conducted under section 142.04 of the Revised Code. 558

Sec. 4145.01. As used in this chapter: 559

(A) "Business entity" means a corporation, partnership, 560
association, firm, sole proprietorship, limited liability 561
corporation, limited liability partnership, or other entity 562
engaged in business. 563

(B) "Construction manager" and "construction manager at 564
risk" have the same meanings as in section 9.33 of the Revised 565
Code. 566

(C) "Contractor" means any person who undertakes to 567
construct, alter, erect, improve, repair, demolish, remove, dig, 568
or drill any part of a public improvement under a contract, and 569
includes a construction manager, construction manager at risk, 570
and design-build firm. 571

(D) "Design-build firm" has the same meaning as in section 572
153.65 of the Revised Code. 573

(E) "EEO-1 report" means the report required by the United 574
States equal employment opportunity commission under 29 C.F.R. 575
1602.7. 576

(F) "Public improvement" means any construction, 577
reconstruction, improvement, enlargement, alteration, 578
demolition, or repair of a building, highway, drainage system, 579
water system, road, street, alley, sewer, ditch, sewage disposal 580
plant, water works, and any other structure or work of any 581
nature by a state agency. 582

(G) "State agency" has the same meaning as in section 1.60 583
of the Revised Code. 584

Sec. 4145.02. (A) (1) No state agency shall award a 585
contract for a public improvement to a contractor who employs 586
four or more full-time employees on any day in the prior twelve 587
months in the state where the contractor has the contractor's 588
principal place of business unless the contractor meets one of 589
the following conditions: 590

(a) The contractor has obtained an equal pay certificate 591
issued under section 4145.03 of the Revised Code. 592

(b) The contractor has certified that the contractor is 593
exempt from obtaining a certificate pursuant to division (B) of 594
this section in accordance with rules adopted by the director of 595
administrative services. 596

(2) No state agency shall award a contract to provide 597
goods or services to a state agency to a person who employs four 598
or more full-time employees on any day in the prior twelve 599
months in the state where the person has the person's principal 600
place of business unless the person meets one of the following 601
conditions: 602

(a) The person has obtained an equal pay certificate 603
issued under section 4145.03 of the Revised Code. 604

(b) The person has certified that the person is exempt 605
from obtaining a certificate pursuant to division (B) of this 606
section in accordance with rules adopted by the director. 607

(3) No state agency shall award a grant or other economic 608
incentive to a business entity that employs four or more full- 609
time employees on any day in the prior twelve months in the 610
state where the business entity has the business entity's 611

principal place of business, including if the award is being 612
made on recommendation of the nonprofit corporation formed under 613
section 187.01 of the Revised Code, unless the business entity 614
meets one of the following conditions: 615

(a) The business entity has obtained an equal pay 616
certificate issued under section 4145.03 of the Revised Code. 617

(b) The business entity has certified that the business 618
entity is exempt from obtaining a certificate pursuant to 619
division (B) of this section in accordance with rules adopted by 620
the director. 621

(B) This section does not apply to a contractor, person, 622
or business entity described in division (A) of this section, 623
with respect to a specific contract for a public improvement, to 624
provide goods or services to a state agency, or to a specific 625
grant or other economic incentive, if the director determines 626
that compliance with division (A) of this section would cause 627
undue hardship to the contractor, person, or business entity. 628

(C) The director shall adopt rules in accordance with 629
Chapter 119. of the Revised Code to do all of the following: 630

(1) Establish procedures to apply for and requirements to 631
obtain an exemption described in division (B) of this section; 632

(2) Define "undue hardship" for purposes of division (B) 633
of this section; 634

(3) Establish procedures to renew a certificate. 635

(D) The director shall provide technical assistance to a 636
contractor, person, or business entity who requests assistance 637
regarding compliance with this chapter. 638

Sec. 4145.03. (A) A contractor wishing to be awarded a 639

contract for a public improvement, a person wishing to provide 640
goods or services to a state agency, or a business entity 641
wishing to be awarded a grant or other economic incentive shall 642
apply for a certificate required by section 4145.02 of the 643
Revised Code by submitting a twenty-five-dollar filing fee and 644
an equal pay compliance statement described in this section to 645
the director of administrative services. An equal pay compliance 646
statement shall be signed by the contractor, person, or the 647
chief executive officer of the business entity and contain all 648
of the following information: 649

(1) That the contractor, person, or business entity is in 650
compliance with Title VII of the Civil Rights Act of 1964, 42 651
U.S.C. 2000e et seq., the Equal Pay Act of 1963, 29 U.S.C. 652
206(d), Chapter 4112. of the Revised Code, and section 4111.17 653
of the Revised Code; 654

(2) That the average compensation for female employees is 655
not consistently below the average compensation for male 656
employees within each of the major job categories in the 657
contractor's, person's, or business entity's EEO-1 report, if 658
the contractor, person, or business entity is required to file 659
that report, taking into account all of the following factors: 660

(a) Length of service; 661

(b) Requirements of specific jobs; 662

(c) Experience; 663

(d) Skill; 664

(e) Effort; 665

(f) Responsibility; 666

(g) Working conditions of the job; 667

<u>(h) Other mitigating factors.</u>	668
<u>(3) That employees of one sex are not restricted to certain job classifications;</u>	669 670
<u>(4) That the contractor, person, or business entity makes retention and promotion decisions without regard to sex;</u>	671 672
<u>(5) That compensation and benefit disparities are corrected when identified;</u>	673 674
<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>	675 676 677
<u>(7) Which of the following approaches a contractor, person, or business entity uses in setting compensation and benefits:</u>	678 679 680
<u>(a) Market pricing;</u>	681
<u>(b) State prevailing wage or labor organization contract requirements;</u>	682 683
<u>(c) A performance pay system;</u>	684
<u>(d) Internal analysis;</u>	685
<u>(e) An alternative approach as described by the contractor, person, or business entity.</u>	686 687
<u>(8) That employees of the contractor, person, or business entity are able to contact the contractor's, person's, or business entity's human resources department and request to see how the employee's compensation compares with other employees with jobs of "comparable skill, effort, responsibility, and working conditions."</u>	688 689 690 691 692 693
<u>(B) Receipt of an equal pay compliance statement by the</u>	694

director does not establish a contractor's, person's, or 695
business entity's compliance with the laws listed in division 696
(A) (1) of this section. 697

(C) The director shall reject an application only if the 698
statement described in division (A) of this section submitted by 699
the contractor, person, or business entity does not comply with 700
the requirements of that division or the contractor, person, or 701
business entity fails to submit the required fee. The director 702
shall issue a certificate or, if the director rejects an 703
application, a statement explaining the reason for the 704
rejection, to a contractor, person, or business entity within 705
fifteen days after receiving an application submitted under this 706
section. A certificate issued under this section is valid for a 707
period of four years and may be renewed in accordance with rules 708
adopted by the director. 709

Sec. 4145.04. (A) (1) The director of administrative 710
services, in accordance with Chapter 119. of the Revised Code, 711
may suspend or revoke a certificate issued under section 4145.03 712
of the Revised Code for any of the following reasons: 713

(a) The contractor, person, or business entity fails to 714
comply with the laws listed in division (A) (1) of section 715
4145.03 of the Revised Code. 716

(b) The contractor, person, or business entity has 717
multiple violations of the laws listed in division (A) (1) of 718
section 4145.03 of the Revised Code. 719

(c) The contractor, person, or business entity fails to 720
comply with section 4145.02 of the Revised Code. 721

(2) The director shall provide a contractor, person, or 722
business entity an opportunity to comply with section 4145.02 or 723

4145.03 of the Revised Code before suspending or revoking the 724
contractor's, person's, or business entity's certificate. 725

(B) A state agency, in accordance with Chapter 119. of the 726
Revised Code, may abridge or terminate a contract with a 727
contractor or person or revoke a grant or other economic 728
incentive from a business entity on notice that the director has 729
suspended or revoked the certificate issued to a contractor, 730
person, or business entity. 731

(C) The director may void a contract or revoke a grant or 732
other economic incentive on behalf of a state agency if a 733
contractor, person, or business entity is not in compliance with 734
section 4145.02 or 4145.03 of the Revised Code. 735

(D) The director shall notify a state agency that has an 736
agreement with a contractor or person or has awarded a grant or 737
other economic incentive to a business entity before the 738
director voids the contract or revokes the grant or other 739
economic incentive under division (C) of this section. 740

Sec. 4145.05. (A) The director of administrative services 741
shall notify a contractor, person, or business entity that holds 742
a certificate issued under section 4145.03 of the Revised Code 743
by certified mail of the director's decision to suspend or 744
revoke a contractor's, person's, or business entity's 745
certificate under section 4145.04 of the Revised Code. 746

(B) A state agency shall notify a contractor, person, or 747
business entity by certified mail of the state agency's decision 748
to abridge or terminate a contractor's or person's contract or 749
to revoke a business entity's grant or other economic incentive 750
under section 4145.04 of the Revised Code. 751

Sec. 4145.06. The director of administrative services may 752

audit a contractor, person, or business entity described in 753
section 4145.02 of the Revised Code to determine whether the 754
contractor, person, or business entity is in compliance with 755
section 4145.02 or 4145.03 of the Revised Code. As part of an 756
audit, a contractor, person, or business entity shall provide to 757
the director information for all employees expected to perform 758
work under the contract, grant, or other economic incentive for 759
each of the major job categories included in the contractor's, 760
person's, or business entity's EEO-1 report if the contractor, 761
person, or business entity is required to file that report. As a 762
part of an audit, the contractor, person, or business entity 763
shall provide all of the following information to the director: 764

(A) Number of male employees; 765

(B) Number of female employees; 766

(C) Average length of service for male employees and for 767
female employees within each major job category; 768

(D) Average annualized salaries paid to male employees and 769
to female employees within each major job category, in the 770
manner most consistent with the compensation system identified 771
by the contractor, person, or business entity under division (A) 772
(7) of section 4145.03 of the Revised Code; 773

(E) Performance payments, benefits, or other elements of 774
compensation, in the manner most consistent with the 775
compensation system identified by the contractor, person, or 776
business entity under division (A) (7) of section 4145.03 of the 777
Revised Code; 778

(F) Other information identified by the director as 779
necessary to determine compliance with division (A) of section 780
4145.03 of the Revised Code. 781

Sec. 4145.07. Any data on individuals submitted to the 782
director of administrative services under division (A) of 783
section 4145.03 of the Revised Code shall be confidential and is 784
not a public record under section 149.43 of the Revised Code. 785

A record of the director's decision to issue, not issue, 786
revoke, or suspend a certificate is a public record. 787

Sec. 4145.08. Not later than January 31, 2022, and every 788
two years thereafter, the director of administrative services 789
shall submit a results-based accountability report of the 790
activities of the department of administrative services 791
regarding certificates issued under section 4145.03 of the 792
Revised Code to the governor and the general assembly. The 793
report shall contain all of the following information: 794

(A) The number of certificates issued; 795

(B) The name of each contractor, person, and chief 796
executive officer who signed an equal pay compliance statement 797
pursuant to section 4145.03 of the Revised Code; 798

(C) For each year, the number of contracts awarded to a 799
contractor for a public improvement, contracts awarded to a 800
person to provide goods or services to a state agency, and 801
grants or other economic incentives awarded to a business 802
entity; 803

(D) The number of females employed by each contractor, 804
person, or business entity to which the director issued a 805
certificate; 806

(E) The number of audits conducted under section 4145.06 807
of the Revised Code; 808

(F) The processes contractors for public improvements, 809

persons wishing to provide goods or services to a state agency, 810
or business entities awarded a grant or other economic incentive 811
use to ensure compliance with division (A) of section 4145.03 of 812
the Revised Code; 813

(G) A summary of the director's auditing efforts under 814
section 4145.06 of the Revised Code. 815

Sec. 4145.09. The equal pay certificate fund is created in 816
the state treasury. The fund consists of all certificate filing 817
fees collected by the director of administrative services under 818
division (A) of section 4145.03 of the Revised Code. Money in 819
the fund shall be used by the department of administrative 820
services to administer this chapter. Investment earnings of the 821
fund shall be credited to the fund. 822

Section 2. That existing sections 4112.04 and 4117.08 of 823
the Revised Code are hereby repealed. 824

Section 3. This act shall be known as the "Ohio Equal Pay 825
Act." 826