

As Introduced

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S. B. No. 142

Senator Hicks-Hudson

Cosponsors: Senators DeMora, Ingram, Antonio

To amend sections 4111.06, 4111.14, 5122.28, 1
5123.022, 5123.023, 5123.87, 5747.98, and 2
5751.98 and to enact sections 3304.45, 4111.061, 3
5747.87, and 5751.56 of the Revised Code to 4
phase out the subminimum wage for individuals 5
with physical or mental disabilities, to 6
authorize a tax credit for purchases made from 7
nonprofit corporations that hire such 8
individuals, and to name this act the Ohio 9
Employment First and Greater Opportunities for 10
Persons with Disabilities Act. 11

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

Section 1. That sections 4111.06, 4111.14, 5122.28, 12
5123.022, 5123.023, 5123.87, 5747.98, and 5751.98 be amended and 13
sections 3304.45, 4111.061, 5747.87, and 5751.56 of the Revised 14
Code be enacted to read as follows: 15

Sec. 3304.45. (A) As used in this section: 16

(1) "Qualified vendor" means a nonprofit corporation that 17
is certified under division (D) of this section as meeting all 18
of the following requirements: 19

(a) The nonprofit corporation is exempt from federal 20
income taxation pursuant to section 501(a) as an organization 21
described in section 501(c)(3) of the Internal Revenue Code. 22

(b) At least twenty per cent of the individuals employed 23
by the nonprofit corporation are individuals with disabilities, 24
and those individuals are employed in an integrated setting, as 25
defined in section 5123.022 of the Revised Code. 26

(c) One or more of the following applies: 27

(i) The nonprofit corporation offers to contribute at 28
least seventy-five per cent of the premium cost for individual 29
health insurance coverage for each eligible employee. 30

(ii) The nonprofit corporation offers an eligible 31
employer-sponsored insurance plan under the Affordable Care Act 32
for each eligible employee. 33

(iii) The nonprofit corporation does not offer an 34
employer-sponsored insurance plan, but pays the penalty required 35
by 26 U.S.C. 4980H for each eligible employee who purchases 36
health insurance through an exchange, as defined in section 37
3905.01 of the Revised Code. 38

(iv) The nonprofit corporation is not subject to the 39
employer mandate under 26 U.S.C. 4980H, but offers assistance to 40
eligible employees to cover at least seventy-five per cent of 41
the employees' health insurance costs through a health savings 42
account or other similar method. 43

(d) The nonprofit corporation does not employ individuals 44
under a certificate issued by the United States secretary of 45
labor under 29 U.S.C. 214(c). 46

(2) "Individuals with disabilities" means individuals 47

having a physical or mental impairment that constitutes a 48
substantial impediment to employment, as certified by a health 49
care provider who is qualified to make such a determination or 50
by a state or federal agency having the function of making such 51
a determination. 52

(3) "Physical or mental impairment" and "substantial 53
impediment to employment" have the same meanings as in section 54
3304.11 of the Revised Code. 55

(4) "Affordable Care Act" means the "Patient Protection 56
and Affordable Care Act," 42 U.S.C. 18031 (2011). 57

(5) "Internal Revenue Code" has the same meaning as in 58
section 5747.01 of the Revised Code. 59

(6) "Eligible employer-sponsored health plan" has the same 60
meaning as in section 5166.40 of the Revised Code. 61

(7) "Eligible employee" has the same meaning as in section 62
3924.01 of the Revised Code. 63

(8) "Price" has the same meaning as in section 5739.01 of 64
the Revised Code. 65

(B) A person may apply to the executive director of the 66
opportunities for Ohioans with disabilities agency for a 67
nonrefundable credit against the tax levied under section 68
5747.02 or 5751.02 of the Revised Code for purchases made by the 69
person from a qualified vendor. 70

A person may submit an application after the first day and 71
before the twenty-first day of January of the year following the 72
year in which the purchases are made. The executive director 73
shall prescribe the form and manner of filing such applications. 74
In the application, the person shall specify the tax against 75

which the person proposes to claim the credit. 76

The executive director shall review applications in the 77
order in which they are received. Subject to the limits 78
described in division (C) of this section, the executive 79
director shall issue a tax credit certificate authorizing the 80
applicant to claim a credit if the executive director determines 81
that the applicant made one or more purchases from a qualified 82
vendor. The certificate shall include a unique identifying 83
number and state the amount of credit for which the executive 84
director determines the applicant is eligible and the tax 85
against which the person may claim the credit. 86

Subject to division (C) of this section, the amount of the 87
credit shall equal fifteen per cent of the price of purchases 88
made by the applicant from the qualified vendor. 89

(C) The executive director of the opportunities for 90
Ohioans with disabilities agency shall not issue tax credit 91
certificates that would authorize more than eight million 92
dollars of tax credits to be claimed in any calendar year and 93
shall not issue a certificate authorizing more than five hundred 94
thousand dollars of tax credits to be claimed in any calendar 95
year on the basis of purchases from the same qualified vendor. 96

(D) The executive director of the opportunities for 97
Ohioans with disabilities agency shall certify nonprofit 98
corporations as qualified vendors. An entity may apply to the 99
executive director for certification, and the executive director 100
shall provide the certification if the executive director 101
determines that the nonprofit corporation meets all of the 102
requirements described in divisions (A) (1) (a) to (d) of this 103
section. A nonprofit corporation shall notify the executive 104
director if the nonprofit corporation no longer meets all of 105

those requirements. The executive director shall revoke a 106
certification upon receiving such notice or if the executive 107
director otherwise determines that a nonprofit corporation no 108
longer meets those requirements. 109

(E) The executive director of the opportunities for 110
Ohioans with disabilities agency shall annually submit to the 111
general assembly a report in accordance with division (B) of 112
section 101.68 of the Revised Code that includes the number of 113
tax credit certificates issued in the preceding year, the amount 114
of credits awarded with respect to those certificates, and any 115
other information the executive director considers relevant for 116
the review of the effectiveness of the credit authorized under 117
this section. 118

Sec. 4111.06. (A) As used in this section and section 119
4111.061 of the Revised Code, "employer" and "employee" have the 120
same meanings as in section 4111.02 of the Revised Code. 121

(B) In order to prevent curtailment of opportunities for 122
employment, to avoid undue hardship, and to safeguard the 123
minimum wage rates under sections 4111.01 to 4111.17 of the 124
Revised Code, the director of commerce, subject to divisions (C) 125
to (E) of this section, shall adopt rules under section 4111.05 126
of the Revised Code, permitting employment in any occupation at 127
wages lower than the wage rates applicable under sections 128
4111.01 to 4111.17 of the Revised Code, of individuals whose 129
earning capacity is impaired by physical or mental disabilities 130
or injuries. ~~The~~ Except as provided in divisions (C) to (E) of 131
this section, the rules shall provide for licenses to be issued 132
authorizing employment at the wages of specific individuals or 133
groups of employees, or by specific employers or groups of 134
employers, pursuant to the rules. The rules shall not conflict 135

with the "Americans with Disabilities Act of 1990," 104 Stat. 136
328, 42 U.S.C.A. 12111, et seq. 137

(C) Beginning ninety days after the effective date of this 138
amendment, the director shall not issue any new, or renew any 139
existing, licenses authorizing employment at wages lower than 140
the wage rates applicable under sections 4111.01 to 4111.17 of 141
the Revised Code. 142

(D) (1) Except as provided in division (D) (2) of this 143
section, beginning ninety days after the effective date of this 144
amendment, no employer shall pay an employee whose earning 145
capacity is impaired by a physical or mental disability or 146
injury at wages lower than the wage rates applicable under 147
sections 4111.01 to 4111.17 of the Revised Code. 148

(2) For the time period ending on the date that is five 149
years after the effective date of this amendment, an employer 150
may pay an employee whose earning capacity is impaired by a 151
physical or mental disability or injury at wages lower than the 152
wage rates applicable under sections 4111.01 to 4111.17 of the 153
Revised Code if both of the following apply: 154

(a) The employer employs that employee on and after the 155
date that is ninety days after the effective date of this 156
amendment. 157

(b) The employer, on the date that is ninety days after 158
the effective date of this amendment, holds an unexpired license 159
issued in accordance with division (B) of this section. 160

(3) For purposes of division (D) (2) of this section, an 161
unexpired license held by an employer as described in division 162
(D) (2) (b) of this section is valid for the time period ending on 163
the date that is five years after the effective date of this 164

amendment. 165

(E) Beginning on and after the date that is five years 166
after the effective date of this amendment, no employer shall 167
pay any employee whose earning capacity is impaired by a 168
physical or mental disability or injury at a wage lower than the 169
wage rates applicable under sections 4111.01 to 4111.17 of the 170
Revised Code. 171

Sec. 4111.061. (A) As used in this section: 172

(1) "Competitive employment" has the same meaning as in 173
section 5123.022 of the Revised Code. 174

(2) "Department" has the same meaning as in section 121.01 175
of the Revised Code, except that it also includes the bureau of 176
workers' compensation, department of higher education, 177
department of taxation, and public utilities commission of Ohio. 178

(3) "Disability" means, with respect to an individual, a 179
physical or mental impairment that substantially limits one or 180
more of major life activities, a record of a physical or mental 181
impairment, being regarded as having a physical or mental 182
impairment, or any condition that would be considered a 183
disability under the "Americans with Disabilities Act of 1990," 184
42 U.S.C. 12101, et seq. 185

(4) "Federal certificate" means a special certificate 186
issued in accordance with section 14(c) of the "Fair Labor 187
Standards Act," 29 U.S.C. 214(c). 188

(5) "State license" means a license issued pursuant to 189
division (B) of section 4111.06 of the Revised Code or division 190
(C) of section 4111.14 of the Revised Code, as that division 191
existed before the effective date of this section. 192

(6) "Subminimum wage" means a wage paid to an employee 193
with a disability that is lower than the wage rates applicable 194
under sections 4111.01 to 4111.17 of the Revised Code. 195

(B) Not later than fifteen months after the effective date 196
of this section, each employer that holds a state license or 197
federal certificate shall submit to the director of 198
developmental disabilities a transition plan that addresses how 199
the employer intends to do both of the following: 200

(1) Phase out subminimum wages not later than the date 201
that is five years after the effective date of this section; 202

(2) Support individuals with disabilities in pursuing 203
competitive, integrated employment. 204

(C) The director of developmental disabilities, in 205
consultation with the executive director of the opportunities 206
for Ohioans with disabilities agency, shall assist employers 207
with phasing out subminimum wages not later than the date that 208
is five years after the effective date of this section and shall 209
do all of the following: 210

(1) Identify and develop protections to ensure 211
competitive, integrated employment for employees with 212
disabilities while phasing out subminimum wages; 213

(2) Identify and collaborate with employees, employers, 214
organizations, agencies, and stakeholders impacted by the phase 215
out of subminimum wages to assist them with implementing the 216
transition plans submitted under division (B) of this section 217
and creating sustainable, competitive employment; 218

(3) Collect data on employers that hold state licenses or 219
federal certificates until the date that is five years after the 220
effective date of this section; 221

(4) Propose a plan to establish and evaluate benchmarks 222
for measuring progress with respect to implementing the 223
transition plans each year until subminimum wages are eliminated 224
beginning on the date that is five years after the effective 225
date of this section; 226

(5) Propose a plan to monitor and track the outcomes of 227
employees with disabilities; 228

(6) Identify initiatives, investments, training, and 229
services designed to improve wages, reduce unemployment rates, 230
and provide support and sustainable work opportunities for 231
individuals with disabilities; 232

(7) Identify and make recommendations for sustainable 233
support, funding, and resources to assist individuals with 234
disabilities with respect to phasing out subminimum wages, such 235
as financing for the cost to implement and provide employment 236
services, training, and support; 237

(8) Ensure that the transition plans protect the rights of 238
individuals with disabilities and complies with the "Americans 239
with Disabilities Act of 1990," 42 U.S.C. 12111, et seq. and 240
Chapter 4112. of the Revised Code. 241

(D) Not later than the first day of January that first 242
occurs following the effective date of this section, and not 243
later than the first day of January of each year thereafter 244
until the date that is five years after the effective date of 245
this section, the director of developmental disabilities shall 246
submit to the governor and the general assembly a report that 247
includes the information described in division (C) of this 248
section. 249

(E) The director of developmental disabilities, in 250

consultation with the executive director of the opportunities 251
for Ohioans with disabilities agency, shall solicit assistance 252
from all of the following in carrying out the director's duties 253
under this section: 254

(1) The employment first task force established under 255
section 5123.023 of the Revised Code; 256

(2) Stakeholders who have expertise regarding the 257
employment of individuals with disabilities, at least twenty per 258
cent of whom are individuals with disabilities; 259

(3) Family members of individuals with disabilities; 260

(4) Organizations that advocate on behalf of individuals 261
with disabilities; 262

(5) Providers of services to individuals with 263
disabilities; 264

(6) Local governments; 265

(7) Business associations. 266

(F) Each department that employs or provides employment 267
services to individuals with disabilities shall do both of the 268
following: 269

(1) Coordinate and collaborate with other departments to 270
ensure that state programs, policies, procedures, and funding 271
contribute toward the competitive, integrated employment of 272
individuals with disabilities; 273

(2) Share nonconfidential data and other information with 274
other departments to track progress with respect to phasing out 275
subminimum wages not later than the date that is five years 276
after the effective date of this section. 277

Sec. 4111.14. (A) Pursuant to the general assembly's 278
authority to establish a minimum wage under Section 34 of 279
Article II, Ohio Constitution, this section is in implementation 280
of Section 34a of Article II, Ohio Constitution. In implementing 281
Section 34a of Article II, Ohio Constitution, the general 282
assembly hereby finds that the purpose of Section 34a of Article 283
II, Ohio Constitution, is to: 284

(1) Ensure that Ohio employees, as defined in division (B) 285
(1) of this section, are paid the wage rate required by Section 286
34a of Article II, Ohio Constitution; 287

(2) Ensure that covered Ohio employers maintain certain 288
records that are directly related to the enforcement of the wage 289
rate requirements in Section 34a of Article II, Ohio 290
Constitution; 291

(3) Ensure that Ohio employees who are paid the wage rate 292
required by Section 34a of Article II, Ohio Constitution, may 293
enforce their right to receive that wage rate in the manner set 294
forth in Section 34a of Article II, Ohio Constitution; and 295

(4) Protect the privacy of Ohio employees' pay and 296
personal information specified in Section 34a of Article II, 297
Ohio Constitution, by restricting an employee's access, and 298
access by a person acting on behalf of that employee, to the 299
employee's own pay and personal information. 300

(B) In accordance with Section 34a of Article II, Ohio 301
Constitution, the terms "employer," "employee," "employ," 302
"person," and "independent contractor" have the same meanings as 303
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 304
U.S.C. 203, as amended. In construing the meaning of these 305
terms, due consideration and great weight shall be given to the 306

United States department of labor's and federal courts' 307
interpretations of those terms under the Fair Labor Standards 308
Act and its regulations. As used in division (B) of this 309
section: 310

(1) "Employee" means individuals employed in Ohio, but 311
does not mean individuals who are excluded from the definition 312
of "employee" under 29 U.S.C. 203(e) or individuals who are 313
exempted from the minimum wage requirements in 29 U.S.C. 213 and 314
from the definition of "employee" in this chapter. 315

(2) "Employ" and "employee" do not include any person 316
acting as a volunteer. In construing who is a volunteer, 317
"volunteer" shall have the same meaning as in sections 553.101 318
to 553.106 of Title 29 of the Code of Federal Regulations, as 319
amended, and due consideration and great weight shall be given 320
to the United States department of labor's and federal courts' 321
interpretations of the term "volunteer" under the Fair Labor 322
Standards Act and its regulations. 323

(3) "Employer" does not include a franchisor with respect 324
to the franchisor's relationship with a franchisee or an 325
employee of a franchisee, unless the franchisor agrees to assume 326
that role in writing or a court of competent jurisdiction 327
determines that the franchisor exercises a type or degree of 328
control over the franchisee or the franchisee's employees that 329
is not customarily exercised by a franchisor for the purpose of 330
protecting the franchisor's trademark, brand, or both. For 331
purposes of this division, "franchisor" and "franchisee" have 332
the same meanings as in 16 C.F.R. 436.1. 333

(4) Subject to division (B)(5) of this section, "employee" 334
does not include an individual who operates a vehicle or vessel 335
in the performance of services for or on behalf of a motor 336

carrier transporting property and to whom all of the following 337
factors apply: 338

(a) The individual owns the vehicle or vessel that is used 339
in performing the services for or on behalf of the carrier, or 340
the individual leases the vehicle or vessel under a bona fide 341
lease agreement that is not a temporary replacement lease 342
agreement. For purposes of this division, a bona fide lease 343
agreement does not include an agreement between the individual 344
and the motor carrier transporting property for which, or on 345
whose behalf, the individual provides services. 346

(b) The individual is responsible for supplying the 347
necessary personal services to operate the vehicle or vessel 348
used to provide the service. 349

(c) The compensation paid to the individual is based on 350
factors related to work performed, including on a mileage-based 351
rate or a percentage of any schedule of rates, and not solely on 352
the basis of the hours or time expended. 353

(d) The individual substantially controls the means and 354
manner of performing the services, in conformance with 355
regulatory requirements and specifications of the shipper. 356

(e) The individual enters into a written contract with the 357
carrier for whom the individual is performing the services that 358
describes the relationship between the individual and the 359
carrier to be that of an independent contractor and not that of 360
an employee. 361

(f) The individual is responsible for substantially all of 362
the principal operating costs of the vehicle or vessel and 363
equipment used to provide the services, including maintenance, 364
fuel, repairs, supplies, vehicle or vessel insurance, and 365

personal expenses, except that the individual may be paid by the 366
carrier the carrier's fuel surcharge and incidental costs, 367
including tolls, permits, and lump sum fees. 368

(g) The individual is responsible for any economic loss or 369
economic gain from the arrangement with the carrier. 370

(5) A motor carrier may elect to consider an individual 371
described in division (B) (4) of this section as an employee for 372
purposes of this section. 373

(6) "Motor carrier" has the same meaning as in section 374
4923.01 of the Revised Code. 375

~~(C) In accordance with Section 34a of Article II, Ohio~~ 376
~~Constitution, the state may issue licenses to employers~~ 377
~~authorizing payment of a wage below that required by Section 34a~~ 378
~~of Article II, Ohio Constitution, to individuals with mental or~~ 379
~~physical disabilities that may otherwise adversely affect their~~ 380
~~opportunity for employment. In issuing such licenses, the state~~ 381
~~shall abide by the rules adopted pursuant to section 4111.06 of~~ 382
~~the Revised Code.~~ 383

~~(D) (1)~~ (C) (1) In accordance with Section 34a of Article 384
II, Ohio Constitution, individuals employed in or about the 385
property of an employer or an individual's residence on a casual 386
basis are not included within the coverage of Section 34a of 387
Article II, Ohio Constitution. As used in division ~~(D)~~ (C) of 388
this section: 389

(a) "Casual basis" means employment that is irregular or 390
intermittent and that is not performed by an individual whose 391
vocation is to be employed in or about the property of the 392
employer or individual's residence. In construing who is 393
employed on a "casual basis," due consideration and great weight 394

shall be given to the United States department of labor's and 395
federal courts' interpretations of the term "casual basis" under 396
the Fair Labor Standards Act and its regulations. 397

(b) "An individual employed in or about the property of an 398
employer or individual's residence" means an individual employed 399
on a casual basis or an individual employed in or about a 400
residence on a casual basis, respectively. 401

(2) In accordance with Section 34a of Article II, Ohio 402
Constitution, employees of a solely family-owned and operated 403
business who are family members of an owner are not included 404
within the coverage of Section 34a of Article II, Ohio 405
Constitution. As used in division ~~(D)~~ (2) ~~(C)~~ (2) of this section, 406
"family member" means a parent, spouse, child, stepchild, 407
sibling, grandparent, grandchild, or other member of an owner's 408
immediate family. 409

~~(E)~~ (D) In accordance with Section 34a of Article II, Ohio 410
Constitution, an employer shall at the time of hire provide an 411
employee with the employer's name, address, telephone number, 412
and other contact information and update such information when 413
it changes. As used in division ~~(E)~~ (D) of this section: 414

(1) "Other contact information" may include, where 415
applicable, the address of the employer's internet site on the 416
world wide web, the employer's electronic mail address, fax 417
number, or the name, address, and telephone number of the 418
employer's statutory agent. "Other contact information" does not 419
include the name, address, telephone number, fax number, 420
internet site address, or electronic mail address of any 421
employee, shareholder, officer, director, supervisor, manager, 422
or other individual employed by or associated with an employer. 423

(2) "When it changes" means that the employer shall 424
provide its employees with the change in its name, address, 425
telephone number, or other contact information within sixty 426
business days after the change occurs. The employer shall 427
provide the changed information by using any of its usual 428
methods of communicating with its employees, including, but not 429
limited to, listing the change on the employer's internet site 430
on the world wide web, internal computer network, or a bulletin 431
board where it commonly posts employee communications or by 432
insertion or inclusion with employees' paychecks or pay stubs. 433

~~(F)~~ (E) In accordance with Section 34a of Article II, Ohio 434
Constitution, an employer shall maintain a record of the name, 435
address, occupation, pay rate, hours worked for each day worked, 436
and each amount paid an employee for a period of not less than 437
three years following the last date the employee was employed by 438
that employer. As used in division ~~(F)~~ (E) of this section: 439

(1) "Address" means an employee's home address as 440
maintained in the employer's personnel file or personnel 441
database for that employee. 442

(2) (a) With respect to employees who are not exempt from 443
the overtime pay requirements of the Fair Labor Standards Act or 444
this chapter, "pay rate" means an employee's base rate of pay. 445

(b) With respect to employees who are exempt from the 446
overtime pay requirements of the Fair Labor Standards Act or 447
this chapter, "pay rate" means an employee's annual base salary 448
or other rate of pay by which the particular employee qualifies 449
for that exemption under the Fair Labor Standards Act or this 450
chapter, but does not include bonuses, stock options, 451
incentives, deferred compensation, or any other similar form of 452
compensation. 453

(3) "Record" means the name, address, occupation, pay rate, hours worked for each day worked, and each amount paid an employee in one or more documents, databases, or other paper or electronic forms of record-keeping maintained by an employer. No one particular method or form of maintaining such a record or records is required under this division. An employer is not required to create or maintain a single record containing only the employee's name, address, occupation, pay rate, hours worked for each day worked, and each amount paid an employee. An employer shall maintain a record or records from which the employee or person acting on behalf of that employee could reasonably review the information requested by the employee or person.

An employer is not required to maintain the records specified in division ~~(F) (3)~~ (E) (3) of this section for any period before January 1, 2007. On and after January 1, 2007, the employer shall maintain the records required by division ~~(F) (3)~~ (E) (3) of this section for three years from the date the hours were worked by the employee and for three years after the date the employee's employment ends.

(4) (a) Except for individuals specified in division ~~(F) (4)~~ (E) (4) (b) of this section, "hours worked for each day worked" means the total amount of time worked by an employee in whatever increments the employer uses for its payroll purposes during a day worked by the employee. An employer is not required to keep a record of the time of day an employee begins and ends work on any given day. As used in division ~~(F) (4)~~ (E) (4) of this section, "day" means a fixed period of twenty-four consecutive hours during which an employee performs work for an employer.

(b) An employer is not required to keep records of "hours

worked for each day worked" for individuals for whom the 484
employer is not required to keep those records under the Fair 485
Labor Standards Act and its regulations or individuals who are 486
not subject to the overtime pay requirements specified in 487
section 4111.03 of the Revised Code. 488

(5) "Each amount paid an employee" means the total gross 489
wages paid to an employee for each pay period. As used in 490
division ~~(F) (5)~~ (E) (5) of this section, "pay period" means the 491
period of time designated by an employer to pay an employee the 492
employee's gross wages in accordance with the employer's payroll 493
practices under section 4113.15 of the Revised Code. 494

~~(G)~~ (F) In accordance with Section 34a of Article II, Ohio 495
Constitution, an employer must provide such information without 496
charge to an employee or person acting on behalf of an employee 497
upon request. As used in division ~~(G)~~ (F) of this section: 498

(1) "Such information" means the name, address, 499
occupation, pay rate, hours worked for each day worked, and each 500
amount paid for the specific employee who has requested that 501
specific employee's own information and does not include the 502
name, address, occupation, pay rate, hours worked for each day 503
worked, or each amount paid of any other employee of the 504
employer. "Such information" does not include hours worked for 505
each day worked by individuals for whom an employer is not 506
required to keep that information under the Fair Labor Standards 507
Act and its regulations or individuals who are not subject to 508
the overtime pay requirements specified in section 4111.03 of 509
the Revised Code. 510

(2) "Acting on behalf of an employee" means a person 511
acting on behalf of an employee as any of the following: 512

(a) The certified or legally recognized collective 513
bargaining representative for that employee under the applicable 514
federal law or Chapter 4117. of the Revised Code; 515

(b) The employee's attorney; 516

(c) The employee's parent, guardian, or legal custodian. 517

A person "acting on behalf of an employee" must be 518
specifically authorized by an employee in order to make a 519
request for that employee's own name, address, occupation, pay 520
rate, hours worked for each day worked, and each amount paid to 521
that employee. 522

(3) "Provide" means that an employer shall provide the 523
requested information within thirty business days after the date 524
the employer receives the request, unless either of the 525
following occurs: 526

(a) The employer and the employee or person acting on 527
behalf of the employee agree to some alternative time period for 528
providing the information. 529

(b) The thirty-day period would cause a hardship on the 530
employer under the circumstances, in which case the employer 531
must provide the requested information as soon as practicable. 532

(4) A "request" made by an employee or a person acting on 533
behalf of an employee means a request by an employee or a person 534
acting on behalf of an employee for the employee's own 535
information. The employer may require that the employee provide 536
the employer with a written request that has been signed by the 537
employee and notarized and that reasonably specifies the 538
particular information being requested. The employer may require 539
that the person acting on behalf of an employee provide the 540
employer with a written request that has been signed by the 541

employee whose information is being requested and notarized and 542
that reasonably specifies the particular information being 543
requested. 544

~~(H)~~ (G) In accordance with Section 34a of Article II, Ohio 545
Constitution, an employee, person acting on behalf of one or 546
more employees, and any other interested party may file a 547
complaint with the state for a violation of any provision of 548
Section 34a of Article II, Ohio Constitution, or any law or 549
regulation implementing its provisions. Such complaint shall be 550
promptly investigated and resolved by the state. The employee's 551
name shall be kept confidential unless disclosure is necessary 552
to resolution of a complaint and the employee consents to 553
disclosure. As used in division ~~(H)~~ (G) of this section: 554

(1) "Complaint" means a complaint of an alleged violation 555
pertaining to harm suffered by the employee filing the 556
complaint, by a person acting on behalf of one or more 557
employees, or by an interested party. 558

(2) "Acting on behalf of one or more employees" has the 559
same meaning as "acting on behalf of an employee" in division 560
~~(G) (2)~~ (F) (2) of this section. Each employee must provide a 561
separate written and notarized authorization before the person 562
acting on that employee's or those employees' behalf may request 563
the name, address, occupation, pay rate, hours worked for each 564
day worked, and each amount paid for the particular employee. 565

(3) "Interested party" means a party who alleges to be 566
injured by the alleged violation and who has standing to file a 567
complaint under common law principles of standing. 568

(4) "Resolved by the state" means that the complaint has 569
been resolved to the satisfaction of the state. 570

(5) "Shall be kept confidential" means that the state
shall keep the name of the employee confidential as required by
division ~~(H)~~ (G) of this section.

~~(I)~~ (H) In accordance with Section 34a of Article II, Ohio
Constitution, the state may on its own initiative investigate an
employer's compliance with Section 34a of Article II, Ohio
Constitution, and any law or regulation implementing Section 34a
of Article II, Ohio Constitution. The employer shall make
available to the state any records related to such investigation
and other information required for enforcement of Section 34a of
Article II, Ohio Constitution or any law or regulation
implementing Section 34a of Article II, Ohio Constitution. The
state shall investigate an employer's compliance with this
section in accordance with the procedures described in section
4111.04 of the Revised Code. All records and information related
to investigations by the state are confidential and are not a
public record subject to section 149.43 of the Revised Code.
This division does not prevent the state from releasing to or
exchanging with other state and federal wage and hour regulatory
authorities information related to investigations.

~~(J)~~ (I) In accordance with Section 34a of Article II, Ohio
Constitution, damages shall be calculated as an additional two
times the amount of the back wages and in the case of a
violation of an anti-retaliation provision an amount set by the
state or court sufficient to compensate the employee and deter
future violations, but not less than one hundred fifty dollars
for each day that the violation continued. The "not less than
one hundred fifty dollar" penalty specified in division ~~(J)~~ (I)
of this section shall be imposed only for violations of the
anti-retaliation provision in Section 34a of Article II, Ohio
Constitution.

~~(K)~~—(J) In accordance with Section 34a of Article II, Ohio
Constitution, an action for equitable and monetary relief may be
brought against an employer by the attorney general and/or an
employee or person acting on behalf of an employee or all
similarly situated employees in any court of competent
jurisdiction, including the court of common pleas of an
employee's county of residence, for any violation of Section 34a
of Article II, Ohio Constitution, or any law or regulation
implementing its provisions within three years of the violation
or of when the violation ceased if it was of a continuing
nature, or within one year after notification to the employee of
final disposition by the state of a complaint for the same
violation, whichever is later.

(1) As used in division ~~(K)~~—(J) of this section,
"notification" means the date on which the notice was sent to
the employee by the state.

(2) No employee shall join as a party plaintiff in any
civil action that is brought under division ~~(K)~~—(J) of this
section by an employee, person acting on behalf of an employee,
or person acting on behalf of all similarly situated employees
unless that employee first gives written consent to become such
a party plaintiff and that consent is filed with the court in
which the action is brought.

(3) A civil action regarding an alleged violation of this
section shall be maintained only under division ~~(K)~~—(J) of this
section. This division does not preclude the joinder in a single
civil action of an action under this division and an action
under section 4111.10 of the Revised Code.

(4) Any agreement between an employee and employer to work
for less than the wage rate specified in Section 34a of Article

II, Ohio Constitution, is no defense to an action under this 632
section. 633

~~(L)~~ (K) In accordance with Section 34a of Article II, Ohio 634
Constitution, there shall be no exhaustion requirement, no 635
procedural, pleading, or burden of proof requirements beyond 636
those that apply generally to civil suits in order to maintain 637
such action and no liability for costs or attorney's fees on an 638
employee except upon a finding that such action was frivolous in 639
accordance with the same standards that apply generally in civil 640
suits. Nothing in division ~~(L)~~ (K) of this section affects the 641
right of an employer and employee to agree to submit a dispute 642
under this section to alternative dispute resolution, including, 643
but not limited to, arbitration, in lieu of maintaining the 644
civil suit specified in division ~~(K)~~ (J) of this section. 645
Nothing in this division limits the state's ability to 646
investigate or enforce this section. 647

~~(M)~~ (L) An employer who provides such information 648
specified in Section 34a of Article II, Ohio Constitution, shall 649
be immune from any civil liability for injury, death, or loss to 650
person or property that otherwise might be incurred or imposed 651
as a result of providing that information to an employee or 652
person acting on behalf of an employee in response to a request 653
by the employee or person, and the employer shall not be subject 654
to the provisions of Chapters 1347. and 1349. of the Revised 655
Code to the extent that such provisions would otherwise apply. 656
As used in division ~~(M)~~ (L) of this section, "such information," 657
"acting on behalf of an employee," and "request" have the same 658
meanings as in division ~~(G)~~ (F) of this section. 659

~~(N)~~ (M) As used in this section, "the state" means the 660
director of commerce. 661

Sec. 5122.28. No patient of a hospital for persons with 662
mental illnesses shall be compelled to perform labor which 663
involves the operation, support, or maintenance of the hospital 664
or for which the hospital is under contract with an outside 665
organization. Privileges or release from the hospital shall not 666
be conditional upon the performance of such labor. Patients who 667
volunteer to perform such labor shall be compensated at a rate 668
derived from the value of work performed, having reference to 669
the prevailing wage rate for comparable work ~~or wage rates~~ 670
~~established under section 4111.06 of the Revised Code.~~ 671

A patient may be required to perform therapeutic tasks 672
which do not involve the operation, support, or maintenance of 673
the hospital if those tasks are an integrated part of the 674
patient's treatment plan and supervised by a person qualified to 675
oversee the therapeutic aspects of the activity. 676

A patient may be required to perform tasks of a personal 677
housekeeping nature. 678

Sec. 5123.022. (A) As used in this section and in section 679
5123.023 of the Revised Code: 680

(1) "Community employment" means competitive employment 681
that takes place in an integrated setting. 682

(2) "Competitive employment" means full-time or part-time 683
work in the competitive labor market in which payment is at or 684
above the minimum wage but not less than the customary wage and 685
level of benefits paid by the employer for the same or similar 686
work performed by persons who are not disabled. 687

(3) "Integrated setting" means a setting typically found 688
in the community where individuals with developmental 689
disabilities interact with individuals who do not have 690

disabilities to the same extent that individuals in comparable 691
positions who are not disabled interact with other individuals, 692
including in employment settings in which employees interact 693
with the community through technology. 694

(B) It is hereby declared to be the policy of this state 695
that employment services for individuals with developmental 696
disabilities be directed at community employment. Every 697
individual with a developmental disability is presumed capable 698
of community employment. 699

The departments of developmental disabilities, education 700
and workforce, medicaid, job and family services, and mental 701
health and addiction services; the opportunities for Ohioans 702
with disabilities agency; and each other state agency that 703
provides employment services to individuals with developmental 704
disabilities shall implement the policy of this state and ensure 705
that it is followed whenever employment services are provided to 706
individuals with developmental disabilities. 707

The department of developmental disabilities shall 708
coordinate the actions taken by state agencies to comply with 709
the state's policy. Agencies shall collaborate within their 710
divisions and with each other to ensure that state programs, 711
policies, procedures, and funding support competitive and 712
integrated employment of individuals with developmental 713
disabilities. State agencies shall share information with the 714
department, and the department shall track progress toward full 715
implementation of the policy. The department, in coordination 716
with any task force established by the governor, shall compile 717
data and annually submit to the governor a report on 718
implementation of the policy. 719

The department and state agencies may adopt rules to 720

implement the state's policy. 721

(C) The state's policy articulated in this section is 722
intended to promote the right of each individual with a 723
developmental disability to informed choice; however, nothing in 724
this section requires any employer to give preference in hiring 725
to an individual because the individual has a disability. 726

(D) Each political subdivision that provides employment 727
services to individuals with developmental disabilities shall 728
implement a policy that complies with the policy of this state 729
and ensure that it is followed whenever employment services are 730
provided to individuals with developmental disabilities. 731

Sec. 5123.023. (A) The director of developmental 732
disabilities shall establish an employment first task force 733
consisting of the departments of developmental disabilities, 734
education and workforce, medicaid, job and family services, and 735
mental health and addiction services; and the opportunities for 736
Ohioans with disabilities agency. The purpose of the task force 737
shall be to improve the coordination of the state's efforts to 738
address the needs of individuals with developmental disabilities 739
who seek community employment ~~as defined in section 5123.022 of~~ 740
~~the Revised Code.~~ 741

(B) The department of developmental disabilities may enter 742
into interagency agreements with any of the government entities 743
on the task force. The interagency agreements may specify either 744
or both of the following: 745

(1) The roles and responsibilities of the government 746
entities that are members of the task force, including any money 747
to be contributed by those entities; 748

(2) The projects and activities of the task force. 749

- (C) The task force shall do all of the following: 750
- (1) Review the transition plans submitted by employers 751
under section 4111.061 of the Revised Code and develop long-term 752
strategies to assist those employers in phasing out subminimum 753
wages as defined in that section not later than the date that is 754
five years after the effective date of this amendment; 755
- (2) Review and develop recommendations to transition 756
individuals with developmental disabilities from subminimum 757
wages and to support these individuals in seeking competitive 758
employment; 759
- (3) Work with interagency partners to ensure developmental 760
disability services that align with national models are 761
available for individuals with developmental disabilities; 762
- (4) Use data available to the department of developmental 763
disabilities to identify opportunities for improving health 764
outcomes for individuals with developmental disabilities. 765
- (D) Not later than the first day of March immediately 766
after the effective date of this amendment, and on the first day 767
of March of each even-numbered year thereafter, the task force, 768
in consultation with the department of developmental 769
disabilities, shall submit to the general assembly a report that 770
includes all of the following: 771
- (1) Information regarding the outcomes, best practices, 772
and challenges with respect to individuals with developmental 773
disabilities; 774
- (2) Information regarding opportunities to support 775
individuals with developmental disabilities; 776
- (3) Legislative recommendations for creating a better 777

system of care for individuals with developmental disabilities. 778

(E) There is hereby created in the state treasury the 779
employment first taskforce fund. Any money received by the task 780
force from its members shall be credited to the fund. The 781
department of developmental disabilities shall use the fund to 782
support the work of the task force. 783

Sec. 5123.87. (A) No resident of an institution for 784
persons with intellectual disabilities shall be compelled to 785
perform labor that involves the operation, support, or 786
maintenance of the institution or for which the institution is 787
under contract with an outside organization. Privileges or 788
release from the institution shall not be conditional upon the 789
performance of such labor. Residents who volunteer to perform 790
such labor shall be compensated at a rate derived from the value 791
of the work performed, having reference to the prevailing wage 792
rate for comparable work ~~or wage rates established under section~~ 793
~~4111.06 of the Revised Code.~~ 794

(B) A resident may be required to perform habilitative 795
tasks that do not involve the operation, support, or maintenance 796
of the institution if those tasks are an integrated part of the 797
resident's habilitation plan and supervised by a member of the 798
institution's professional staff who is designated by the chief 799
program director. 800

(C) A resident may be required to perform tasks of a 801
personal housekeeping nature. 802

Sec. 5747.87. (A) As used in this section, "qualified 803
vendor" has the same meaning as in section 3304.45 of the 804
Revised Code. 805

(B) There is allowed a nonrefundable credit against a 806

taxpayer's aggregate tax liability under section 5747.02 of the 807
Revised Code for a taxpayer issued a tax credit certificate 808
under section 3304.45 of the Revised Code for purchases made 809
from a qualified vendor. The credit shall equal the dollar 810
amount indicated on the certificate and shall be claimed for the 811
taxable year in which the certificate is issued. 812

The credit shall be claimed in the order required under 813
section 5747.98 of the Revised Code. If the credit exceeds the 814
taxpayer's aggregate tax due under section 5747.02 of the 815
Revised Code for that taxable year after allowing for credits 816
that precede the credit under this section in that order, such 817
excess shall be allowed as a credit in each of the ensuing four 818
taxable years, but the amount of any excess credit allowed in 819
any such taxable year shall be deducted from the balance carried 820
forward to the ensuing taxable year. 821

A taxpayer claiming a credit pursuant to this section 822
shall submit a copy of the certificate with the taxpayer's 823
return. Nothing in this section limits or disallows pass-through 824
treatment of the credit. 825

Sec. 5747.98. (A) To provide a uniform procedure for 826
calculating a taxpayer's aggregate tax liability under section 827
5747.02 of the Revised Code, a taxpayer shall claim any credits 828
to which the taxpayer is entitled in the following order: 829

Either the retirement income credit under division (B) of 830
section 5747.055 of the Revised Code or the lump sum retirement 831
income credits under divisions (C), (D), and (E) of that 832
section; 833

Either the senior citizen credit under division (F) of 834
section 5747.055 of the Revised Code or the lump sum 835

distribution credit under division (G) of that section;	836
The dependent care credit under section 5747.054 of the	837
Revised Code;	838
The credit for displaced workers who pay for job training	839
under section 5747.27 of the Revised Code;	840
The campaign contribution credit under section 5747.29 of	841
the Revised Code;	842
The twenty-dollar personal exemption credit under section	843
5747.022 of the Revised Code;	844
The joint filing credit under division (G) of section	845
5747.05 of the Revised Code;	846
The earned income credit under section 5747.71 of the	847
Revised Code;	848
The nonrefundable credit for education expenses under	849
section 5747.72 of the Revised Code;	850
The nonrefundable credit for donations to scholarship	851
granting organizations under section 5747.73 of the Revised	852
Code;	853
The nonrefundable credit for tuition paid to a	854
nonchartered nonpublic school under section 5747.75 of the	855
Revised Code;	856
The nonrefundable vocational job credit under section	857
5747.057 of the Revised Code;	858
The nonrefundable job retention credit under division (B)	859
of section 5747.058 of the Revised Code;	860
The enterprise zone credit under section 5709.66 of the	861
Revised Code;	862

The credit for beginning farmers who participate in a	863
financial management program under division (B) of section	864
5747.77 of the Revised Code;	865
<u>The credit for purchases made from a qualified vendor</u>	866
<u>under section 5747.87 of the Revised Code;</u>	867
The credit for commercial vehicle operator training	868
expenses under section 5747.82 of the Revised Code;	869
The nonrefundable welcome home Ohio (WHO) program credit	870
under section 122.633 of the Revised Code;	871
The credit for selling or renting agricultural assets to	872
beginning farmers under division (A) of section 5747.77 of the	873
Revised Code;	874
The credit for purchases of qualifying grape production	875
property under section 5747.28 of the Revised Code;	876
The small business investment credit under section 5747.81	877
of the Revised Code;	878
The nonrefundable lead abatement credit under section	879
5747.26 of the Revised Code;	880
The opportunity zone investment credit under section	881
5747.86 of the Revised Code;	882
The enterprise zone credits under section 5709.65 of the	883
Revised Code;	884
The research and development credit under section 5747.331	885
of the Revised Code;	886
The credit for rehabilitating a historic building under	887
section 5747.76 of the Revised Code;	888
The nonrefundable Ohio low-income housing tax credit under	889

section 5747.83 of the Revised Code;	890
The nonrefundable affordable single-family home credit	891
under section 5747.84 of the Revised Code;	892
The nonresident credit under division (A) of section	893
5747.05 of the Revised Code;	894
The credit for a resident's out-of-state income under	895
division (B) of section 5747.05 of the Revised Code;	896
The refundable motion picture and Broadway theatrical	897
production credit under section 5747.66 of the Revised Code;	898
The refundable credit for film and theater capital	899
improvement projects under section 5747.67 of the Revised Code;	900
The refundable jobs creation credit or job retention	901
credit under division (A) of section 5747.058 of the Revised	902
Code;	903
The refundable credit for taxes paid by a qualifying	904
entity granted under section 5747.059 of the Revised Code;	905
The refundable credits for taxes paid by a qualifying	906
pass-through entity granted under division (I) of section	907
5747.08 of the Revised Code;	908
The refundable credit under section 5747.80 of the Revised	909
Code for losses on loans made to the Ohio venture capital	910
program under sections 150.01 to 150.10 of the Revised Code;	911
The refundable credit for rehabilitating a historic	912
building under section 5747.76 of the Revised Code;	913
The refundable credit under section 5747.39 of the Revised	914
Code for taxes levied under section 5747.38 of the Revised Code	915
paid by an electing pass-through entity.	916

(B) For any credit, except the refundable credits 917
enumerated in this section and the credit granted under division 918
(H) of section 5747.08 of the Revised Code, the amount of the 919
credit for a taxable year shall not exceed the taxpayer's 920
aggregate amount of tax due under section 5747.02 of the Revised 921
Code, after allowing for any other credit that precedes it in 922
the order required under this section. Any excess amount of a 923
particular credit may be carried forward if authorized under the 924
section creating that credit. Nothing in this chapter shall be 925
construed to allow a taxpayer to claim, directly or indirectly, 926
a credit more than once for a taxable year. 927

Sec. 5751.56. (A) As used in this section, "qualified 928
vendor" has the same meaning as in section 3304.45 of the 929
Revised Code. 930

(B) There is allowed a nonrefundable credit against the 931
tax imposed by section 5751.02 of the Revised Code for a 932
taxpayer that is issued a tax credit certificate under section 933
3304.45 of the Revised Code for purchases made from a qualified 934
vendor. The credit shall equal the dollar amount indicated on 935
the certificate and shall be claimed for the tax period in which 936
the certificate is issued. 937

The credit shall be claimed in the order required under 938
section 5751.98 of the Revised Code. If the credit exceeds the 939
taxpayer's aggregate tax due under section 5751.02 of the 940
Revised Code for the tax period after allowing for credits that 941
precede the credit under this section in that order, such excess 942
may be carried forward for up to fifteen tax periods, but the 943
amount of any excess credit allowed in any such tax period shall 944
be deducted from the balance carried forward to the ensuing tax 945
period. 946

A taxpayer claiming a credit pursuant to this section 947
shall submit a copy of the certificate with the taxpayer's 948
return. 949

Sec. 5751.98. (A) To provide a uniform procedure for 950
calculating the amount of tax due under this chapter, a taxpayer 951
shall claim any credits to which it is entitled in the following 952
order: 953

The nonrefundable jobs retention credit under division (B) 954
of section 5751.50 of the Revised Code; 955

The nonrefundable credit for purchases made from a 956
qualified vendor under section 5751.56 of the Revised Code; 957

The nonrefundable credit for qualified research expenses 958
under division (B) of section 5751.51 of the Revised Code; 959

The nonrefundable credit for a borrower's qualified 960
research and development loan payments under division (B) of 961
section 5751.52 of the Revised Code; 962

The nonrefundable credit for calendar years 2010 to 2029 963
for unused net operating losses under division (B) of section 964
5751.53 of the Revised Code; 965

The refundable motion picture and Broadway theatrical 966
production credit under section 5751.54 of the Revised Code; 967

The refundable credit for film and theater capital 968
improvement projects under section 5751.55 of the Revised Code; 969

The refundable jobs creation credit or job retention 970
credit under division (A) of section 5751.50 of the Revised 971
Code; 972

The refundable credit for calendar year 2030 for unused 973

net operating losses under division (C) of section 5751.53 of 974
the Revised Code. 975

(B) For any credit except the refundable credits 976
enumerated in this section, the amount of the credit for a tax 977
period shall not exceed the tax due after allowing for any other 978
credit that precedes it in the order required under this 979
section. Any excess amount of a particular credit may be carried 980
forward if authorized under the section creating the credit. 981

Section 2. That existing sections 4111.06, 4111.14, 982
5122.28, 5123.022, 5123.023, 5123.87, 5747.98, and 5751.98 of 983
the Revised Code are hereby repealed. 984

Section 3. This act shall be known as the Ohio Employment 985
First and Greater Opportunities for Persons with Disabilities 986
Act. 987