

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

S. B. No. 174

Senator Tavares

Cosponsors: Senators Thomas, Schiavoni

A BILL

To amend sections 3314.03, 3326.11, 4111.04, 1
4111.05, 4111.06, 4111.07, 4111.09, 4111.11, 2
4111.12, 4111.13, 4111.17, 4111.99, and 4112.01; 3
to amend, for the purpose of adopting a new 4
section number as indicated in parentheses, 5
section 4111.17 (4112.16) of the Revised Code to 6
enact the "Fair and Acceptable Income Required 7
(FAIR) Act" and to revise the enforcement of the 8
prohibitions against discrimination in the 9
payment of wages. 10

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

Section 1. That sections 3314.03, 3326.11, 4111.04, 11
4111.05, 4111.06, 4111.07, 4111.09, 4111.11, 4111.12, 4111.13, 12
4111.17, 4111.99, and 4112.01 be amended; and section 4111.17 13
(4112.16) of the Revised Code be amended for the purpose of 14
adopting a new section number as indicated in parentheses to 15
read as follows: 16

Sec. 3314.03. A copy of every contract entered into under 17
this section shall be filed with the superintendent of public 18

instruction. The department of education shall make available on 19
its web site a copy of every approved, executed contract filed 20
with the superintendent under this section. 21

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

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

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

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

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

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

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

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

(6) (a) Dismissal procedures;	47
(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.	48 49 50 51 52 53
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	54 55
(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.	56 57 58 59 60 61
(9) An addendum to the contract outlining the facilities to be used that contains at least the following information:	62 63
(a) A detailed description of each facility used for instructional purposes;	64 65
(b) The annual costs associated with leasing each facility that are paid by or on behalf of the school;	66 67
(c) The annual mortgage principal and interest payments that are paid by the school;	68 69
(d) The name of the lender or landlord, identified as such, and the lender's or landlord's relationship to the operator, if any.	70 71 72
(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance	73 74

with sections 3319.22 to 3319.31 of the Revised Code, except 75
that a community school may engage noncertificated persons to 76
teach up to twelve hours per week pursuant to section 3319.301 77
of the Revised Code. 78

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

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

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

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

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

4123., 4141., and 4167. of the Revised Code as if it were a 104
school district and will comply with section 3301.0714 of the 105
Revised Code in the manner specified in section 3314.17 of the 106
Revised Code. 107

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

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

(g) The school governing authority will submit within four 134
months after the end of each school year a report of its 135
activities and progress in meeting the goals and standards of 136
divisions (A) (3) and (4) of this section and its financial 137
status to the sponsor and the parents of all students enrolled 138
in the school. 139

(h) The school, unless it is an internet- or computer- 140
based community school, will comply with section 3313.801 of the 141
Revised Code as if it were a school district. 142

(i) If the school is the recipient of moneys from a grant 143
awarded under the federal race to the top program, Division (A), 144
Title XIV, Sections 14005 and 14006 of the "American Recovery 145
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 146
the school will pay teachers based upon performance in 147
accordance with section 3317.141 and will comply with section 148
3319.111 of the Revised Code as if it were a school district. 149

(j) If the school operates a preschool program that is 150
licensed by the department of education under sections 3301.52 151
to 3301.59 of the Revised Code, the school shall comply with 152
sections 3301.50 to 3301.59 of the Revised Code and the minimum 153
standards for preschool programs prescribed in rules adopted by 154
the state board under section 3301.53 of the Revised Code. 155

(k) The school will comply with sections 3313.6021 and 156
3313.6023 of the Revised Code as if it were a school district 157
unless it is either of the following: 158

(i) An internet- or computer-based community school; 159

(ii) A community school in which a majority of the 160
enrolled students are children with disabilities as described in 161
division (A) (4) (b) of section 3314.35 of the Revised Code. 162

(12) Arrangements for providing health and other benefits	163
to employees;	164
(13) The length of the contract, which shall begin at the	165
beginning of an academic year. No contract shall exceed five	166
years unless such contract has been renewed pursuant to division	167
(E) of this section.	168
(14) The governing authority of the school, which shall be	169
responsible for carrying out the provisions of the contract;	170
(15) A financial plan detailing an estimated school budget	171
for each year of the period of the contract and specifying the	172
total estimated per pupil expenditure amount for each such year.	173
(16) Requirements and procedures regarding the disposition	174
of employees of the school in the event the contract is	175
terminated or not renewed pursuant to section 3314.07 of the	176
Revised Code;	177
(17) Whether the school is to be created by converting all	178
or part of an existing public school or educational service	179
center building or is to be a new start-up school, and if it is	180
a converted public school or service center building,	181
specification of any duties or responsibilities of an employer	182
that the board of education or service center governing board	183
that operated the school or building before conversion is	184
delegating to the governing authority of the community school	185
with respect to all or any specified group of employees provided	186
the delegation is not prohibited by a collective bargaining	187
agreement applicable to such employees;	188
(18) Provisions establishing procedures for resolving	189
disputes or differences of opinion between the sponsor and the	190
governing authority of the community school;	191

(19) A provision requiring the governing authority to	192
adopt a policy regarding the admission of students who reside	193
outside the district in which the school is located. That policy	194
shall comply with the admissions procedures specified in	195
sections 3314.06 and 3314.061 of the Revised Code and, at the	196
sole discretion of the authority, shall do one of the following:	197
(a) Prohibit the enrollment of students who reside outside	198
the district in which the school is located;	199
(b) Permit the enrollment of students who reside in	200
districts adjacent to the district in which the school is	201
located;	202
(c) Permit the enrollment of students who reside in any	203
other district in the state.	204
(20) A provision recognizing the authority of the	205
department of education to take over the sponsorship of the	206
school in accordance with the provisions of division (C) of	207
section 3314.015 of the Revised Code;	208
(21) A provision recognizing the sponsor's authority to	209
assume the operation of a school under the conditions specified	210
in division (B) of section 3314.073 of the Revised Code;	211
(22) A provision recognizing both of the following:	212
(a) The authority of public health and safety officials to	213
inspect the facilities of the school and to order the facilities	214
closed if those officials find that the facilities are not in	215
compliance with health and safety laws and regulations;	216
(b) The authority of the department of education as the	217
community school oversight body to suspend the operation of the	218
school under section 3314.072 of the Revised Code if the	219

department has evidence of conditions or violations of law at 220
the school that pose an imminent danger to the health and safety 221
of the school's students and employees and the sponsor refuses 222
to take such action. 223

(23) A description of the learning opportunities that will 224
be offered to students including both classroom-based and non- 225
classroom-based learning opportunities that is in compliance 226
with criteria for student participation established by the 227
department under division (H) (2) of section 3314.08 of the 228
Revised Code; 229

(24) The school will comply with sections 3302.04 and 230
3302.041 of the Revised Code, except that any action required to 231
be taken by a school district pursuant to those sections shall 232
be taken by the sponsor of the school. However, the sponsor 233
shall not be required to take any action described in division 234
(F) of section 3302.04 of the Revised Code. 235

(25) Beginning in the 2006-2007 school year, the school 236
will open for operation not later than the thirtieth day of 237
September each school year, unless the mission of the school as 238
specified under division (A) (2) of this section is solely to 239
serve dropouts. In its initial year of operation, if the school 240
fails to open by the thirtieth day of September, or within one 241
year after the adoption of the contract pursuant to division (D) 242
of section 3314.02 of the Revised Code if the mission of the 243
school is solely to serve dropouts, the contract shall be void. 244

(26) Whether the school's governing authority is planning 245
to seek designation for the school as a STEM school equivalent 246
under section 3326.032 of the Revised Code; 247

(27) That the school's attendance and participation 248

policies will be available for public inspection;	249
(28) That the school's attendance and participation	250
records shall be made available to the department of education,	251
auditor of state, and school's sponsor to the extent permitted	252
under and in accordance with the "Family Educational Rights and	253
Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended,	254
and any regulations promulgated under that act, and section	255
3319.321 of the Revised Code;	256
(29) If a school operates using the blended learning	257
model, as defined in section 3301.079 of the Revised Code, all	258
of the following information:	259
(a) An indication of what blended learning model or models	260
will be used;	261
(b) A description of how student instructional needs will	262
be determined and documented;	263
(c) The method to be used for determining competency,	264
granting credit, and promoting students to a higher grade level;	265
(d) The school's attendance requirements, including how	266
the school will document participation in learning	267
opportunities;	268
(e) A statement describing how student progress will be	269
monitored;	270
(f) A statement describing how private student data will	271
be protected;	272
(g) A description of the professional development	273
activities that will be offered to teachers.	274
(30) A provision requiring that all moneys the school's	275

operator loans to the school, including facilities loans or cash 276
flow assistance, must be accounted for, documented, and bear 277
interest at a fair market rate; 278

(31) A provision requiring that, if the governing 279
authority contracts with an attorney, accountant, or entity 280
specializing in audits, the attorney, accountant, or entity 281
shall be independent from the operator with which the school has 282
contracted. 283

(B) The community school shall also submit to the sponsor 284
a comprehensive plan for the school. The plan shall specify the 285
following: 286

(1) The process by which the governing authority of the 287
school will be selected in the future; 288

(2) The management and administration of the school; 289

(3) If the community school is a currently existing public 290
school or educational service center building, alternative 291
arrangements for current public school students who choose not 292
to attend the converted school and for teachers who choose not 293
to teach in the school or building after conversion; 294

(4) The instructional program and educational philosophy 295
of the school; 296

(5) Internal financial controls. 297

When submitting the plan under this division, the school 298
shall also submit copies of all policies and procedures 299
regarding internal financial controls adopted by the governing 300
authority of the school. 301

(C) A contract entered into under section 3314.02 of the 302
Revised Code between a sponsor and the governing authority of a 303

community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for monitoring, oversight, and technical assistance of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;

(3) Report on an annual basis the results of the evaluation conducted under division (D) (2) of this section to the department of education and to the parents of students enrolled in the community school;

(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;

(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section

3314.073 of the Revised Code, suspend the operation of the 333
school pursuant to section 3314.072 of the Revised Code, or 334
terminate the contract of the school pursuant to section 3314.07 335
of the Revised Code as determined necessary by the sponsor; 336

(6) Have in place a plan of action to be undertaken in the 337
event the community school experiences financial difficulties or 338
closes prior to the end of a school year. 339

(E) Upon the expiration of a contract entered into under 340
this section, the sponsor of a community school may, with the 341
approval of the governing authority of the school, renew that 342
contract for a period of time determined by the sponsor, but not 343
ending earlier than the end of any school year, if the sponsor 344
finds that the school's compliance with applicable laws and 345
terms of the contract and the school's progress in meeting the 346
academic goals prescribed in the contract have been 347
satisfactory. Any contract that is renewed under this division 348
remains subject to the provisions of sections 3314.07, 3314.072, 349
and 3314.073 of the Revised Code. 350

(F) If a community school fails to open for operation 351
within one year after the contract entered into under this 352
section is adopted pursuant to division (D) of section 3314.02 353
of the Revised Code or permanently closes prior to the 354
expiration of the contract, the contract shall be void and the 355
school shall not enter into a contract with any other sponsor. A 356
school shall not be considered permanently closed because the 357
operations of the school have been suspended pursuant to section 358
3314.072 of the Revised Code. 359

Sec. 3326.11. Each science, technology, engineering, and 360
mathematics school established under this chapter and its 361
governing body shall comply with sections 9.90, 9.91, 109.65, 362

121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 363
3301.0714, 3301.0715, 3301.0729, 3301.948, 3313.14, 3313.15, 364
3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 365
3313.481, 3313.482, 3313.50, 3313.536, 3313.539, 3313.5310, 366
3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 367
3313.6021, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 368
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 369
3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 3313.673, 370
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 371
3313.721, 3313.80, 3313.801, 3313.814, 3313.816, 3313.817, 372
3313.86, 3313.89, 3313.96, 3319.073, 3319.21, 3319.32, 3319.321, 373
3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3319.46, 3321.01, 374
3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 375
3327.10, ~~4111.17~~, 4113.52, and 5705.391 and Chapters 102., 117., 376
1347., 2744., 3307., 3309., 3365., 3742., 4112., 4123., 4141., 377
and 4167. of the Revised Code as if it were a school district. 378

Sec. 4111.04. The director of commerce may: 379

(A) Investigate and ascertain the wages of persons 380
employed in any occupation in the state; 381

(B) Enter and inspect the place of business or employment 382
of any employer for the purpose of inspecting any books, 383
registers, payrolls, or other records of the employer that in 384
any way relate to the question of wages, hours, and other 385
conditions of employment of any employees, and may question the 386
employees for the purpose of ascertaining whether sections 387
4111.01 to ~~4111.17~~ 4111.14 and 4112.16 of the Revised Code, and 388
the rules adopted thereunder, have been and are being obeyed. In 389
conducting an inspection of the records of an employer, the 390
director shall make every effort to coordinate the inspection 391
with those conducted by the federal agency responsible for 392

enforcement of the "Fair Labor Standards Act of 1938," 52 Stat. 393
1060, 29 U.S.C.A. 201, as amended. If the federal agency has 394
completed an audit or examination of the employer's records 395
within the sixty days prior to the date the director notifies 396
the employer of the director's intent to examine the employer's 397
records, the director shall accept in lieu of the director's own 398
inspection, a report from the federal agency that the employer 399
is in compliance with the federal act, unless the director has 400
reasonable grounds for believing that the report is inaccurate 401
or incomplete for the purposes of sections 4111.01 to 4111.13 of 402
the Revised Code, or that events occurring since the audit give 403
the director reasonable grounds for believing that a violation 404
of sections 4111.01 to 4111.13 of the Revised Code has occurred. 405

(C) In the event the director is prohibited by any 406
employer from carrying out the intent of this section, the 407
director may issue subpoenas and compel attendance of witnesses 408
and production of papers, books, accounts, payrolls, documents, 409
records, and testimony relating and relevant to the director's 410
investigation. 411

Sec. 4111.05. The director of commerce shall adopt rules 412
in accordance with Chapter 119. of the Revised Code as the 413
director considers appropriate to carry out the purposes of 414
sections 4111.01 to ~~4111.17~~4111.14 of the Revised Code. The 415
rules may be amended from time to time and may include, but are 416
not limited to, rules defining and governing apprentices, their 417
number, proportion, and length of service; bonuses and special 418
pay for special or extra work; permitted deductions or charges 419
to employees for board, lodging, apparel, or other facilities or 420
services customarily furnished by employers to employees; 421
inclusion of ascertainable gratuities in wages paid; allowances 422
for unascertainable gratuities or for other special conditions 423

or circumstances which may be usual in particular employer- 424
employee relationships; and the method of computation or the 425
period of time over which wages may be averaged to determine 426
whether the minimum wage or overtime rate has been paid. 427

Sec. 4111.06. In order to prevent curtailment of 428
opportunities for employment, to avoid undue hardship, and to 429
safeguard the minimum wage rates under sections 4111.01 to 430
~~4111.17-4111.14~~ of the Revised Code, the director of commerce 431
shall adopt rules under section 4111.05 of the Revised Code, 432
permitting employment in any occupation at wages lower than the 433
wage rates applicable under sections 4111.01 to ~~4111.17-4111.14~~ 434
of the Revised Code, of individuals whose earning capacity is 435
impaired by physical or mental deficiencies or injuries. The 436
rules shall provide for licenses to be issued authorizing 437
employment at the wages of specific individuals or groups of 438
employees, or by specific employers or groups of employers, 439
pursuant to the rules. The rules shall not conflict with the 440
"Americans with Disabilities Act of 1990," 104 Stat. 328, 42 441
U.S.C.A. 12111, et seq. 442

Sec. 4111.07. The director of commerce may adopt rules 443
under section 4111.05 of the Revised Code, permitting employment 444
of apprentices at a wage rate not less than eighty-five per cent 445
of the minimum wage rate applicable under sections 4111.01 to 446
~~4111.17-4111.14~~ of the Revised Code. The rules shall provide for 447
licenses to be issued for periods not to exceed ninety days and 448
authorizing employment at the wages of specific individuals or 449
groups of employees, or by specific employers or groups of 450
employers, pursuant to the rules. 451

Sec. 4111.09. Every employer subject to sections 4111.01 452
to ~~4111.17-4111.14~~ and 4112.16 of the Revised Code, or to any 453

rules issued thereunder, shall keep a summary of the sections, 454
approved by the director of commerce, and copies of any 455
applicable rules issued thereunder, or a summary of the rules, 456
posted in a conspicuous and accessible place in or about the 457
premises wherein any person subject thereto is employed. The 458
director of commerce shall make the summary described in this 459
section available on the web site of the department of commerce. 460
The director shall update this summary as necessary, but not 461
less than annually, in order to reflect changes in the minimum 462
wage rate as required under Section 34a of Article II, Ohio 463
Constitution. Employees and employers shall be furnished copies 464
of the summaries and rules by the state, on request, without 465
charge. 466

Sec. 4111.11. Any standards relating to minimum wages, 467
overtime compensation, or other working conditions in effect 468
under any other law of this state on the effective date of 469
sections 4111.01 to ~~4111.17~~4111.14 of the Revised Code, which 470
are more favorable to employees than those applicable to 471
employees under sections or regulations issued hereunder, are 472
not amended, rescinded, or otherwise affected by said sections, 473
but continue in full force and effect, and may be enforced as 474
provided by law until they are specifically superseded by 475
standards more favorable to the employees by operation of or in 476
accordance with regulations issued under said sections. 477

Sec. 4111.12. Nothing in sections 4111.01 to ~~4111.17~~ 478
4111.14 of the Revised Code interferes with, impedes, or in any 479
way diminishes the right of employees to bargain collectively 480
with their employers through representatives of their own 481
choosing in order to establish wages or other conditions of work 482
in excess of the applicable minimum under sections 4111.01 to 483
~~4111.17~~4111.14 of the Revised Code. 484

Sec. 4111.13. (A) No employer shall hinder or delay the 485
director of commerce in the performance of the director's duties 486
in the enforcement of sections 4111.01 to ~~4111.17~~4111.14 of the 487
Revised Code, or refuse to admit the director to any place of 488
employment, or fail to make, keep, and preserve any records as 489
required under those sections, or falsify any of those records, 490
or refuse to make them accessible to the director upon demand, 491
or refuse to furnish them or any other information required for 492
the proper enforcement of those sections to the director upon 493
demand, or fail to post a summary of those sections or a copy of 494
any applicable rules as required by section 4111.09 of the 495
Revised Code. Each day of violation constitutes a separate 496
offense. 497

(B) No employer shall discharge or in any other manner 498
discriminate against any employee because the employee has made 499
any complaint to the employee's employer, or to the director, 500
that the employee has not been paid wages in accordance with 501
sections 4111.01 to ~~4111.17~~4111.14 of the Revised Code, or 502
because the employee has made any complaint or is about to cause 503
to be instituted any proceeding under or related to those 504
sections, or because the employee has testified or is about to 505
testify in any proceeding. 506

(C) No employer shall pay or agree to pay wages at a rate 507
less than the rate applicable under sections 4111.01 to ~~4111.17~~4111.14 508
of the Revised Code. Each week or portion thereof for 509
which the employer pays any employee less than the rate 510
applicable under those sections constitutes a separate offense 511
as to each employer. 512

(D) No employer shall otherwise violate sections 4111.01 513
to ~~4111.17~~4111.14 of the Revised Code, or any rule adopted 514

thereunder. Each day of violation constitutes a separate 515
offense. 516

Sec. 4111.99. (A) Whoever violates division (A) or (D) of 517
section 4111.13 of the Revised Code is guilty of a misdemeanor 518
of the fourth degree. 519

(B) Whoever violates division (B) or (C) of section 520
4111.13 of the Revised Code is guilty of a misdemeanor of the 521
third degree. 522

~~(C) Whoever violates section 4111.17 of the Revised Code~~ 523
~~is guilty of a minor misdemeanor.~~ 524

Sec. 4112.01. (A) As used in this chapter: 525

(1) "Person" includes one or more individuals, 526
partnerships, associations, organizations, corporations, legal 527
representatives, trustees, trustees in bankruptcy, receivers, 528
and other organized groups of persons. "Person" also includes, 529
but is not limited to, any owner, lessor, assignor, builder, 530
manager, broker, salesperson, appraiser, agent, employee, 531
lending institution, and the state and all political 532
subdivisions, authorities, agencies, boards, and commissions of 533
the state. 534

(2) "Employer" includes the state, any political 535
subdivision of the state, any person employing four or more 536
persons within the state, and any person acting directly or 537
indirectly in the interest of an employer. 538

(3) "Employee" means an individual employed by any 539
employer but does not include any individual employed in the 540
domestic service of any person. 541

(4) "Labor organization" includes any organization that 542

exists, in whole or in part, for the purpose of collective 543
bargaining or of dealing with employers concerning grievances, 544
terms or conditions of employment, or other mutual aid or 545
protection in relation to employment. 546

(5) "Employment agency" includes any person regularly 547
undertaking, with or without compensation, to procure 548
opportunities to work or to procure, recruit, refer, or place 549
employees. 550

(6) "Commission" means the Ohio civil rights commission 551
created by section 4112.03 of the Revised Code. 552

(7) "Discriminate" includes segregate or separate. 553

(8) "Unlawful discriminatory practice" means any act 554
prohibited by section 4112.02, 4112.021, or 4112.022 of the 555
Revised Code. 556

(9) "Place of public accommodation" means any inn, 557
restaurant, eating house, barbershop, public conveyance by air, 558
land, or water, theater, store, other place for the sale of 559
merchandise, or any other place of public accommodation or 560
amusement of which the accommodations, advantages, facilities, 561
or privileges are available to the public. 562

(10) "Housing accommodations" includes any building or 563
structure, or portion of a building or structure, that is used 564
or occupied or is intended, arranged, or designed to be used or 565
occupied as the home residence, dwelling, dwelling unit, or 566
sleeping place of one or more individuals, groups, or families 567
whether or not living independently of each other; and any 568
vacant land offered for sale or lease. "Housing accommodations" 569
also includes any housing accommodations held or offered for 570
sale or rent by a real estate broker, salesperson, or agent, by 571

any other person pursuant to authorization of the owner, by the 572
owner, or by the owner's legal representative. 573

(11) "Restrictive covenant" means any specification 574
limiting the transfer, rental, lease, or other use of any 575
housing accommodations because of race, color, religion, sex, 576
military status, familial status, national origin, disability, 577
or ancestry, or any limitation based upon affiliation with or 578
approval by any person, directly or indirectly, employing race, 579
color, religion, sex, military status, familial status, national 580
origin, disability, or ancestry as a condition of affiliation or 581
approval. 582

(12) "Burial lot" means any lot for the burial of deceased 583
persons within any public burial ground or cemetery, including, 584
but not limited to, cemeteries owned and operated by municipal 585
corporations, townships, or companies or associations 586
incorporated for cemetery purposes. 587

(13) "Disability" means a physical or mental impairment 588
that substantially limits one or more major life activities, 589
including the functions of caring for one's self, performing 590
manual tasks, walking, seeing, hearing, speaking, breathing, 591
learning, and working; a record of a physical or mental 592
impairment; or being regarded as having a physical or mental 593
impairment. 594

(14) Except as otherwise provided in section 4112.021 of 595
the Revised Code, "age" means at least forty years old. 596

(15) "Familial status" means either of the following: 597

(a) One or more individuals who are under eighteen years 598
of age and who are domiciled with a parent or guardian having 599
legal custody of the individual or domiciled, with the written 600

permission of the parent or guardian having legal custody, with 601
a designee of the parent or guardian; 602

(b) Any person who is pregnant or in the process of 603
securing legal custody of any individual who is under eighteen 604
years of age. 605

(16) (a) Except as provided in division (A) (16) (b) of this 606
section, "physical or mental impairment" includes any of the 607
following: 608

(i) Any physiological disorder or condition, cosmetic 609
disfigurement, or anatomical loss affecting one or more of the 610
following body systems: neurological; musculoskeletal; special 611
sense organs; respiratory, including speech organs; 612
cardiovascular; reproductive; digestive; genito-urinary; hemic 613
and lymphatic; skin; and endocrine; 614

(ii) Any mental or psychological disorder, including, but 615
not limited to, intellectual disability, organic brain syndrome, 616
emotional or mental illness, and specific learning disabilities; 617

(iii) Diseases and conditions, including, but not limited 618
to, orthopedic, visual, speech, and hearing impairments, 619
cerebral palsy, autism, epilepsy, muscular dystrophy, multiple 620
sclerosis, cancer, heart disease, diabetes, human 621
immunodeficiency virus infection, intellectual disability, 622
emotional illness, drug addiction, and alcoholism. 623

(b) "Physical or mental impairment" does not include any 624
of the following: 625

(i) Homosexuality and bisexuality; 626

(ii) Transvestism, transsexualism, pedophilia, 627
exhibitionism, voyeurism, gender identity disorders not 628

resulting from physical impairments, or other sexual behavior disorders;	629 630
(iii) Compulsive gambling, kleptomania, or pyromania;	631
(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages.	632 633 634
(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.	635 636
(18) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.	637 638 639 640 641 642
(19) "Public use areas" means interior or exterior rooms or spaces of a privately or publicly owned building that are made available to the general public.	643 644 645
(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	646 647
(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability.	648 649
(22) "Military status" means a person's status in "service in the uniformed services" as defined in section 5923.05 of the Revised Code.	650 651 652
(23) "Aggrieved person" includes both of the following:	653
(a) Any person who claims to have been injured by any unlawful discriminatory practice described in division (H) of	654 655

section 4112.02 of the Revised Code; 656

(b) Any person who believes that the person will be 657
injured by, any unlawful discriminatory practice described in 658
division (H) of section 4112.02 of the Revised Code that is 659
about to occur. 660

(B) For the purposes of divisions (A) to (F) of section 661
4112.02 of the Revised Code, the terms "because of sex" and "on 662
the basis of sex" include, but are not limited to, because of or 663
on the basis of pregnancy, any illness arising out of and 664
occurring during the course of a pregnancy, childbirth, or 665
related medical conditions. Women affected by pregnancy, 666
childbirth, or related medical conditions shall be treated the 667
same for all employment-related purposes, including receipt of 668
benefits under fringe benefit programs, as other persons not so 669
affected but similar in their ability or inability to work, and 670
nothing in division (B) of section ~~4111.17~~4112.16 of the 671
Revised Code shall be interpreted to permit otherwise. This 672
division shall not be construed to require an employer to pay 673
for health insurance benefits for abortion, except where the 674
life of the mother would be endangered if the fetus were carried 675
to term or except where medical complications have arisen from 676
the abortion, provided that nothing in this division precludes 677
an employer from providing abortion benefits or otherwise 678
affects bargaining agreements in regard to abortion. 679

Sec. ~~4111.17~~4112.16. (A) No employer, including the state 680
and political subdivisions thereof, shall discriminate in the 681
payment of wages on the basis of race, color, religion, sex, 682
~~age,~~ national origin, ~~or age,~~ ancestry, sexual orientation, or 683
gender identity by paying wages to any employee at a rate less 684
than the rate at which the employer pays wages to another 685

employee for equal work on jobs the performance of which 686
requires equal skill, effort, and responsibility, and which are 687
performed under similar conditions. 688

(B) Nothing in this section prohibits an employer from 689
paying wages to one employee at a rate different from that at 690
which the employer pays another employee for the performance of 691
equal work under similar conditions on jobs requiring equal 692
skill, effort, and responsibility, when the payment is made 693
pursuant to any of the following: 694

(1) A seniority system; 695

(2) A merit system; 696

(3) A system which measures earnings by the quantity or 697
quality of production; 698

(4) A wage rate differential determined by any bona fide 699
~~factor other than race, color, religion, sex, age, national~~ 700
~~origin, or ancestry,~~ such as education, training, or experience 701
that meets the criteria described in division (C) of this 702
section. 703

(C) (1) An employer may defend a wage rate differential 704
made under division (B) (4) of this section only if the employer 705
can demonstrate all of the following: 706

(a) The difference is based on a factor substantially 707
related to the employee's position and performance, such as 708
education, training, or experience. 709

(b) The difference is not related to the employee's race, 710
color, religion, sex, national origin, age, ancestry, sexual 711
orientation, or gender identity. 712

(c) The difference is consistent with business necessity. 713

(2) The defense described in division (C)(1) of this 714
section shall be rebutted if an employee making an allegation of 715
wage discrimination or the commission demonstrates both of the 716
following: 717

(a) An alternative employment practice exists that would 718
serve the same business purpose without producing the wage rate 719
differential. 720

(b) The employer has refused to adopt the alternative 721
practice. 722

(D) No employer shall reduce the wage rate of any employee 723
in order to comply with this section. 724

~~(D)~~ (E) The director of commerce commission shall carry 725
out, administer, and enforce this section. Any employee 726
discriminated against in violation of this section may sue in 727
any court of competent jurisdiction to recover two times the 728
amount of the difference between the wages actually received and 729
the wages received by a person performing equal work for the 730
employer, from the date of the commencement of the violation, 731
and for costs, including attorney fees. Notwithstanding the 732
definitions of "tort action" in sections 2315.18 to 2315.21 of 733
the Revised Code, such an action shall be considered a tort 734
action for the purposes of those sections and shall be subject 735
to sections 2315.18 to 2315.21 of the Revised Code, except to 736
the extent those sections conflict with this section. The 737
director commission may take an assignment of any such wage 738
claim in trust for such employee and sue in the employee's 739
behalf. In any civil action under this section, two or more 740
employees of the same employer may join as co-plaintiffs in one 741
action. The director commission may sue in one action for claims 742
assigned to the director commission by two or more employees of 743

the same employer. No agreement to work for a discriminatory 744
wage constitutes a defense for any civil or criminal action to 745
enforce this section. ~~No employer shall discriminate against any~~ 746
~~employee because such employee makes a complaint or institutes,~~ 747
~~or testifies in, any proceeding under this section.~~ 748

~~(E)~~ (F) Any action arising under this section shall be 749
initiated within one year after the date of violation. 750

(G) (1) No employer shall discriminate against any employee 751
because the employee makes a complaint, or institutes or 752
testifies in any proceeding, under this section. 753

(2) No employer shall discriminate against an employee for 754
inquiring about, discussing, or disclosing the wages of the 755
employee or another employee in response to a complaint or 756
charge, or in furtherance of a discrimination investigation, 757
proceeding, hearing, or action, or an investigation conducted by 758
the employer. 759

(3) Any person discriminated against in violation of 760
division (G) (1) or (2) of this section may sue in any court of 761
competent jurisdiction to recover damages, injunctive relief, or 762
any other appropriate relief. 763

(H) In addition to any other award made under this 764
section, the court or jury may award punitive or exemplary 765
damages in accordance with section 2315.21 of the Revised Code 766
in an amount sufficient to deter future violations. 767

(I) As used in this section: 768

(1) "Sexual orientation" means heterosexuality, 769
homosexuality, or bisexuality, whether actual or perceived. 770

(2) "Gender identity" means an individual's self- 771

perception, or perception of that person by another, of the 772
individual's identity as male or female as realized through the 773
person's appearance, behavior, or physical characteristics, 774
regardless of whether such appearance, behavior, or physical 775
characteristics are in accord with or opposed to the person's 776
physical anatomy, chromosomal sex, or sex at birth. 777

Section 2. That existing sections 3314.03, 3326.11, 778
4111.04, 4111.05, 4111.06, 4111.07, 4111.09, 4111.11, 4111.12, 779
4111.13, 4111.17, 4111.99, and 4112.01 of the Revised Code are 780
hereby repealed. 781

Section 3. The General Assembly, in enacting this 782
legislation, hereby declares its intent to ensure equal pay for 783
women in Ohio and to correct the historical wage disparity that 784
has occurred between the sexes. 785

Section 4. This act shall be known as the "Fair and 786
Acceptable Income Required (FAIR) Act." 787

Section 5. The General Assembly, applying the principle 788
stated in division (B) of section 1.52 of the Revised Code that 789
amendments are to be harmonized if reasonably capable of 790
simultaneous operation, finds that the following sections, 791
presented in this act as composites of the sections as amended 792
by the acts indicated, are the resulting versions of the 793
sections in effect prior to the effective date of the sections 794
as presented in this act: 795

Section 3314.03 of the Revised Code as amended by Am. Sub. 796
H.B. 410, Sub. S.B. 3, and Am. Sub. S.B. 252, all of the 131st 797
General Assembly. 798

Section 3326.11 of the Revised Code as amended by Am. Sub. 799
H.B. 410, Sub. S.B. 3, and Am. Sub. S.B. 252, all of the 131st 800

General Assembly.

801