

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 218**

**Senator Tavares**

**Cosponsors: Senators Brown, Skindell, Thomas, Cafaro, Yuko, Williams**

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**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  
4111.99, and 4112.01 be amended; and section 4111.17 (4112.16) 13  
of the Revised Code be amended for the purpose of adopting a new 14  
section number as shown in parentheses to read as follows: 15

**Sec. 3314.03.** A copy of every contract entered into under 16  
this section shall be filed with the superintendent of public 17  
instruction. The department of education shall make available on 18

its web site a copy of every approved, executed contract filed	19
with the superintendent under this section.	20
(A) Each contract entered into between a sponsor and the	21
governing authority of a community school shall specify the	22
following:	23
(1) That the school shall be established as either of the	24
following:	25
(a) A nonprofit corporation established under Chapter	26
1702. of the Revised Code, if established prior to April 8,	27
2003;	28
(b) A public benefit corporation established under Chapter	29
1702. of the Revised Code, if established after April 8, 2003.	30
(2) The education program of the school, including the	31
school's mission, the characteristics of the students the school	32
is expected to attract, the ages and grades of students, and the	33
focus of the curriculum;	34
(3) The academic goals to be achieved and the method of	35
measurement that will be used to determine progress toward those	36
goals, which shall include the statewide achievement	37
assessments;	38
(4) Performance standards by which the success of the	39
school will be evaluated by the sponsor;	40
(5) The admission standards of section 3314.06 of the	41
Revised Code and, if applicable, section 3314.061 of the Revised	42
Code;	43
(6) (a) Dismissal procedures;	44
(b) A requirement that the governing authority adopt an	45

attendance policy that includes a procedure for automatically 46  
withdrawing a student from the school if the student without a 47  
legitimate excuse fails to participate in one hundred five 48  
consecutive hours of the learning opportunities offered to the 49  
student. 50

(7) The ways by which the school will achieve racial and 51  
ethnic balance reflective of the community it serves; 52

(8) Requirements for financial audits by the auditor of 53  
state. The contract shall require financial records of the 54  
school to be maintained in the same manner as are financial 55  
records of school districts, pursuant to rules of the auditor of 56  
state. Audits shall be conducted in accordance with section 57  
117.10 of the Revised Code. 58

(9) The facilities to be used and their locations; 59

(10) Qualifications of teachers, including a requirement 60  
that the school's classroom teachers be licensed in accordance 61  
with sections 3319.22 to 3319.31 of the Revised Code, except 62  
that a community school may engage noncertificated persons to 63  
teach up to twelve hours per week pursuant to section 3319.301 64  
of the Revised Code. 65

(11) That the school will comply with the following 66  
requirements: 67

(a) The school will provide learning opportunities to a 68  
minimum of twenty-five students for a minimum of nine hundred 69  
twenty hours per school year. 70

(b) The governing authority will purchase liability 71  
insurance, or otherwise provide for the potential liability of 72  
the school. 73

(c) The school will be nonsectarian in its programs, 74  
admission policies, employment practices, and all other 75  
operations, and will not be operated by a sectarian school or 76  
religious institution. 77

(d) The school will comply with sections 9.90, 9.91, 78  
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 79  
3301.0711, 3301.0712, 3301.0715, 3301.948, 3313.472, 3313.50, 80  
3313.536, 3313.539, 3313.608, 3313.609, 3313.6012, 3313.6013, 81  
3313.6014, 3313.6015, 3313.6020, 3313.643, 3313.648, 3313.6411, 82  
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 83  
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 84  
3313.718, 3313.719, 3313.7112, 3313.80, 3313.814, 3313.816, 85  
3313.817, 3313.86, 3313.89, 3313.96, 3319.073, 3319.321, 86  
3319.39, 3319.391, 3319.41, 3321.01, 3321.041, 3321.13, 3321.14, 87  
3321.17, 3321.18, 3321.19, 3321.191, 3327.10, ~~4111.17~~, 4113.52, 88  
and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 89  
4112., 4123., 4141., and 4167. of the Revised Code as if it were 90  
a school district and will comply with section 3301.0714 of the 91  
Revised Code in the manner specified in section 3314.17 of the 92  
Revised Code. 93

(e) The school shall comply with Chapter 102. and section 94  
2921.42 of the Revised Code. 95

(f) The school will comply with sections 3313.61, 96  
3313.611, and 3313.614 of the Revised Code, except that for 97  
students who enter ninth grade for the first time before July 1, 98  
2010, the requirement in sections 3313.61 and 3313.611 of the 99  
Revised Code that a person must successfully complete the 100  
curriculum in any high school prior to receiving a high school 101  
diploma may be met by completing the curriculum adopted by the 102  
governing authority of the community school rather than the 103

curriculum specified in Title XXXVIII of the Revised Code or any 104  
rules of the state board of education. Beginning with students 105  
who enter ninth grade for the first time on or after July 1, 106  
2010, the requirement in sections 3313.61 and 3313.611 of the 107  
Revised Code that a person must successfully complete the 108  
curriculum of a high school prior to receiving a high school 109  
diploma shall be met by completing the requirements prescribed 110  
in division (C) of section 3313.603 of the Revised Code, unless 111  
the person qualifies under division (D) or (F) of that section. 112  
Each school shall comply with the plan for awarding high school 113  
credit based on demonstration of subject area competency, 114  
adopted by the state board of education under division (J) of 115  
section 3313.603 of the Revised Code. 116

(g) The school governing authority will submit within four 117  
months after the end of each school year a report of its 118  
activities and progress in meeting the goals and standards of 119  
divisions (A) (3) and (4) of this section and its financial 120  
status to the sponsor and the parents of all students enrolled 121  
in the school. 122

(h) The school, unless it is an internet- or computer- 123  
based community school, will comply with section 3313.801 of the 124  
Revised Code as if it were a school district. 125

(i) If the school is the recipient of moneys from a grant 126  
awarded under the federal race to the top program, Division (A), 127  
Title XIV, Sections 14005 and 14006 of the "American Recovery 128  
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 129  
the school will pay teachers based upon performance in 130  
accordance with section 3317.141 and will comply with section 131  
3319.111 of the Revised Code as if it were a school district. 132

(12) Arrangements for providing health and other benefits 133

to employees;	134
(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.	135 136 137 138
(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;	139 140
(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year.	141 142 143
(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;	144 145 146 147
(17) Whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school, and if it is a converted public school or service center building, specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;	148 149 150 151 152 153 154 155 156 157 158
(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;	159 160 161
(19) A provision requiring the governing authority to	162

adopt a policy regarding the admission of students who reside 163  
outside the district in which the school is located. That policy 164  
shall comply with the admissions procedures specified in 165  
sections 3314.06 and 3314.061 of the Revised Code and, at the 166  
sole discretion of the authority, shall do one of the following: 167

(a) Prohibit the enrollment of students who reside outside 168  
the district in which the school is located; 169

(b) Permit the enrollment of students who reside in 170  
districts adjacent to the district in which the school is 171  
located; 172

(c) Permit the enrollment of students who reside in any 173  
other district in the state. 174

(20) A provision recognizing the authority of the 175  
department of education to take over the sponsorship of the 176  
school in accordance with the provisions of division (C) of 177  
section 3314.015 of the Revised Code; 178

(21) A provision recognizing the sponsor's authority to 179  
assume the operation of a school under the conditions specified 180  
in division (B) of section 3314.073 of the Revised Code; 181

(22) A provision recognizing both of the following: 182

(a) The authority of public health and safety officials to 183  
inspect the facilities of the school and to order the facilities 184  
closed if those officials find that the facilities are not in 185  
compliance with health and safety laws and regulations; 186

(b) The authority of the department of education as the 187  
community school oversight body to suspend the operation of the 188  
school under section 3314.072 of the Revised Code if the 189  
department has evidence of conditions or violations of law at 190

the school that pose an imminent danger to the health and safety 191  
of the school's students and employees and the sponsor refuses 192  
to take such action. 193

(23) A description of the learning opportunities that will 194  
be offered to students including both classroom-based and non- 195  
classroom-based learning opportunities that is in compliance 196  
with criteria for student participation established by the 197  
department under division (H) (2) of section 3314.08 of the 198  
Revised Code; 199

(24) The school will comply with sections 3302.04 and 200  
3302.041 of the Revised Code, except that any action required to 201  
be taken by a school district pursuant to those sections shall 202  
be taken by the sponsor of the school. However, the sponsor 203  
shall not be required to take any action described in division 204  
(F) of section 3302.04 of the Revised Code. 205

(25) Beginning in the 2006-2007 school year, the school 206  
will open for operation not later than the thirtieth day of 207  
September each school year, unless the mission of the school as 208  
specified under division (A) (2) of this section is solely to 209  
serve dropouts. In its initial year of operation, if the school 210  
fails to open by the thirtieth day of September, or within one 211  
year after the adoption of the contract pursuant to division (D) 212  
of section 3314.02 of the Revised Code if the mission of the 213  
school is solely to serve dropouts, the contract shall be void. 214

(26) Whether the school's governing authority is planning 215  
to seek designation for the school as a STEM school equivalent 216  
under section 3326.032 of the Revised Code. 217

(B) The community school shall also submit to the sponsor 218  
a comprehensive plan for the school. The plan shall specify the 219



following:	220
(1) The process by which the governing authority of the school will be selected in the future;	221 222
(2) The management and administration of the school;	223
(3) If the community school is a currently existing public school or educational service center building, alternative arrangements for current public school students who choose not to attend the converted school and for teachers who choose not to teach in the school or building after conversion;	224 225 226 227 228
(4) The instructional program and educational philosophy of the school;	229 230
(5) Internal financial controls.	231
(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a 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 oversight and monitoring 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.	232 233 234 235 236 237 238 239 240 241
(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:	242 243 244 245 246
(1) Monitor the community school's compliance with all	247

laws applicable to the school and with the terms of the	248
contract;	249
(2) Monitor and evaluate the academic and fiscal	250
performance and the organization and operation of the community	251
school on at least an annual basis;	252
(3) Report on an annual basis the results of the	253
evaluation conducted under division (D) (2) of this section to	254
the department of education and to the parents of students	255
enrolled in the community school;	256
(4) Provide technical assistance to the community school	257
in complying with laws applicable to the school and terms of the	258
contract;	259
(5) Take steps to intervene in the school's operation to	260
correct problems in the school's overall performance, declare	261
the school to be on probationary status pursuant to section	262
3314.073 of the Revised Code, suspend the operation of the	263
school pursuant to section 3314.072 of the Revised Code, or	264
terminate the contract of the school pursuant to section 3314.07	265
of the Revised Code as determined necessary by the sponsor;	266
(6) Have in place a plan of action to be undertaken in the	267
event the community school experiences financial difficulties or	268
closes prior to the end of a school year.	269
(E) Upon the expiration of a contract entered into under	270
this section, the sponsor of a community school may, with the	271
approval of the governing authority of the school, renew that	272
contract for a period of time determined by the sponsor, but not	273
ending earlier than the end of any school year, if the sponsor	274
finds that the school's compliance with applicable laws and	275
terms of the contract and the school's progress in meeting the	276

academic goals prescribed in the contract have been 277  
satisfactory. Any contract that is renewed under this division 278  
remains subject to the provisions of sections 3314.07, 3314.072, 279  
and 3314.073 of the Revised Code. 280

(F) If a community school fails to open for operation 281  
within one year after the contract entered into under this 282  
section is adopted pursuant to division (D) of section 3314.02 283  
of the Revised Code or permanently closes prior to the 284  
expiration of the contract, the contract shall be void and the 285  
school shall not enter into a contract with any other sponsor. A 286  
school shall not be considered permanently closed because the 287  
operations of the school have been suspended pursuant to section 288  
3314.072 of the Revised Code. 289

**Sec. 3326.11.** Each science, technology, engineering, and 290  
mathematics school established under this chapter and its 291  
governing body shall comply with sections 9.90, 9.91, 109.65, 292  
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 293  
3301.0714, 3301.0715, 3301.948, 3313.14, 3313.15, 3313.16, 294  
3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 295  
3313.482, 3313.50, 3313.536, 3313.539, 3313.608, 3313.6012, 296  
3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.61, 3313.611, 297  
3313.614, 3313.615, 3313.643, 3313.648, 3313.6411, 3313.66, 298  
3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 299  
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 300  
3313.719, 3313.7112, 3313.80, 3313.801, 3313.814, 3313.816, 301  
3313.817, 3313.86, 3313.89, 3313.96, 3319.073, 3319.21, 3319.32, 302  
3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3321.01, 303  
3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 304  
3327.10, ~~4111.17~~, 4113.52, and 5705.391 and Chapters 102., 117., 305  
1347., 2744., 3307., 3309., 3365., 3742., 4112., 4123., 4141., 306  
and 4167. of the Revised Code as if it were a school district. 307

<b>Sec. 4111.04.</b> The director of commerce may:	308
(A) Investigate and ascertain the wages of persons	309
employed in any occupation in the state;	310
(B) Enter and inspect the place of business or employment	311
of any employer for the purpose of inspecting any books,	312
registers, payrolls, or other records of the employer that in	313
any way relate to the question of wages, hours, and other	314
conditions of employment of any employees, and may question the	315
employees for the purpose of ascertaining whether sections	316
4111.01 to <del>4111.17</del> <u>4111.14</u> and <u>4112.16</u> of the Revised Code, and	317
the rules adopted thereunder, have been and are being obeyed. In	318
conducting an inspection of the records of an employer, the	319
director shall make every effort to coordinate the inspection	320
with those conducted by the federal agency responsible for	321
enforcement of the "Fair Labor Standards Act of 1938," 52 Stat.	322
1060, 29 U.S.C.A. 201, as amended. If the federal agency has	323
completed an audit or examination of the employer's records	324
within the sixty days prior to the date the director notifies	325
the employer of the director's intent to examine the employer's	326
records, the director shall accept in lieu of the director's own	327
inspection, a report from the federal agency that the employer	328
is in compliance with the federal act, unless the director has	329
reasonable grounds for believing that the report is inaccurate	330
or incomplete for the purposes of sections 4111.01 to 4111.13 of	331
the Revised Code, or that events occurring since the audit give	332
the director reasonable grounds for believing that a violation	333
of sections 4111.01 to 4111.13 of the Revised Code has occurred.	334
(C) In the event the director is prohibited by any	335
employer from carrying out the intent of this section, the	336
director may issue subpoenas and compel attendance of witnesses	337

and production of papers, books, accounts, payrolls, documents, 338  
records, and testimony relating and relevant to the director's 339  
investigation. 340

**Sec. 4111.05.** The director of commerce shall adopt rules 341  
in accordance with Chapter 119. of the Revised Code as the 342  
director considers appropriate to carry out the purposes of 343  
sections 4111.01 to ~~4111.17~~4111.14 of the Revised Code. The 344  
rules may be amended from time to time and may include, but are 345  
not limited to, rules defining and governing apprentices, their 346  
number, proportion, and length of service; bonuses and special 347  
pay for special or extra work; permitted deductions or charges 348  
to employees for board, lodging, apparel, or other facilities or 349  
services customarily furnished by employers to employees; 350  
inclusion of ascertainable gratuities in wages paid; allowances 351  
for unascertainable gratuities or for other special conditions 352  
or circumstances which may be usual in particular employer- 353  
employee relationships; and the method of computation or the 354  
period of time over which wages may be averaged to determine 355  
whether the minimum wage or overtime rate has been paid. 356

**Sec. 4111.06.** In order to prevent curtailment of 357  
opportunities for employment, to avoid undue hardship, and to 358  
safeguard the minimum wage rates under sections 4111.01 to 359  
~~4111.17~~4111.14 of the Revised Code, the director of commerce 360  
shall adopt rules under section 4111.05 of the Revised Code, 361  
permitting employment in any occupation at wages lower than the 362  
wage rates applicable under sections 4111.01 to ~~4111.17~~4111.14 363  
of the Revised Code, of individuals whose earning capacity is 364  
impaired by physical or mental deficiencies or injuries. The 365  
rules shall provide for licenses to be issued authorizing 366  
employment at the wages of specific individuals or groups of 367  
employees, or by specific employers or groups of employers, 368

pursuant to the rules. The rules shall not conflict with the 369  
"Americans with Disabilities Act of 1990," 104 Stat. 328, 42 370  
U.S.C.A. 12111, et seq. 371

**Sec. 4111.07.** The director of commerce may adopt rules 372  
under section 4111.05 of the Revised Code, permitting employment 373  
of apprentices at a wage rate not less than eighty-five per cent 374  
of the minimum wage rate applicable under sections 4111.01 to 375  
~~4111.17-4111.14~~ of the Revised Code. The rules shall provide for 376  
licenses to be issued for periods not to exceed ninety days and 377  
authorizing employment at the wages of specific individuals or 378  
groups of employees, or by specific employers or groups of 379  
employers, pursuant to the rules. 380

**Sec. 4111.09.** Every employer subject to sections 4111.01 381  
to ~~4111.17-4111.14~~ and 4112.16 of the Revised Code, or to any 382  
rules issued thereunder, shall keep a summary of the sections, 383  
approved by the director of commerce, and copies of any 384  
applicable rules issued thereunder, or a summary of the rules, 385  
posted in a conspicuous and accessible place in or about the 386  
premises wherein any person subject thereto is employed. The 387  
director of commerce shall make the summary described in this 388  
section available on the web site of the department of commerce. 389  
The director shall update this summary as necessary, but not 390  
less than annually, in order to reflect changes in the minimum 391  
wage rate as required under Section 34a of Article II, Ohio 392  
Constitution. Employees and employers shall be furnished copies 393  
of the summaries and rules by the state, on request, without 394  
charge. 395

**Sec. 4111.11.** Any standards relating to minimum wages, 396  
overtime compensation, or other working conditions in effect 397  
under any other law of this state on the effective date of 398

sections 4111.01 to ~~4111.17~~4111.14 of the Revised Code, which 399  
are more favorable to employees than those applicable to 400  
employees under sections or regulations issued hereunder, are 401  
not amended, rescinded, or otherwise affected by said sections, 402  
but continue in full force and effect, and may be enforced as 403  
provided by law until they are specifically superseded by 404  
standards more favorable to the employees by operation of or in 405  
accordance with regulations issued under said sections. 406

**Sec. 4111.12.** Nothing in sections 4111.01 to ~~4111.17~~ 407  
4111.14 of the Revised Code interferes with, impedes, or in any 408  
way diminishes the right of employees to bargain collectively 409  
with their employers through representatives of their own 410  
choosing in order to establish wages or other conditions of work 411  
in excess of the applicable minimum under sections 4111.01 to 412  
~~4111.17~~4111.14 of the Revised Code. 413

**Sec. 4111.13.** (A) No employer shall hinder or delay the 414  
director of commerce in the performance of the director's duties 415  
in the enforcement of sections 4111.01 to ~~4111.17~~4111.14 of the 416  
Revised Code, or refuse to admit the director to any place of 417  
employment, or fail to make, keep, and preserve any records as 418  
required under those sections, or falsify any of those records, 419  
or refuse to make them accessible to the director upon demand, 420  
or refuse to furnish them or any other information required for 421  
the proper enforcement of those sections to the director upon 422  
demand, or fail to post a summary of those sections or a copy of 423  
any applicable rules as required by section 4111.09 of the 424  
Revised Code. Each day of violation constitutes a separate 425  
offense. 426

(B) No employer shall discharge or in any other manner 427  
discriminate against any employee because the employee has made 428

any complaint to the employee's employer, or to the director, 429  
that the employee has not been paid wages in accordance with 430  
sections 4111.01 to ~~4111.17~~4111.14 of the Revised Code, or 431  
because the employee has made any complaint or is about to cause 432  
to be instituted any proceeding under or related to those 433  
sections, or because the employee has testified or is about to 434  
testify in any proceeding. 435

(C) No employer shall pay or agree to pay wages at a rate 436  
less than the rate applicable under sections 4111.01 to ~~4111.17~~ 437  
4111.14 of the Revised Code. Each week or portion thereof for 438  
which the employer pays any employee less than the rate 439  
applicable under those sections constitutes a separate offense 440  
as to each employer. 441

(D) No employer shall otherwise violate sections 4111.01 442  
to ~~4111.17~~4111.14 of the Revised Code, or any rule adopted 443  
thereunder. Each day of violation constitutes a separate 444  
offense. 445

**Sec. 4111.99.** (A) Whoever violates division (A) or (D) of 446  
section 4111.13 of the Revised Code is guilty of a misdemeanor 447  
of the fourth degree. 448

(B) Whoever violates division (B) or (C) of section 449  
4111.13 of the Revised Code is guilty of a misdemeanor of the 450  
third degree. 451

~~(C) Whoever violates section 4111.17 of the Revised Code~~ 452  
~~is guilty of a minor misdemeanor.~~ 453

**Sec. 4112.01.** (A) As used in this chapter: 454

(1) "Person" includes one or more individuals, 455  
partnerships, associations, organizations, corporations, legal 456  
representatives, trustees, trustees in bankruptcy, receivers, 457



and other organized groups of persons. "Person" also includes, 458  
but is not limited to, any owner, lessor, assignor, builder, 459  
manager, broker, salesperson, appraiser, agent, employee, 460  
lending institution, and the state and all political 461  
subdivisions, authorities, agencies, boards, and commissions of 462  
the state. 463

(2) "Employer" includes the state, any political 464  
subdivision of the state, any person employing four or more 465  
persons within the state, and any person acting directly or 466  
indirectly in the interest of an employer. 467

(3) "Employee" means an individual employed by any 468  
employer but does not include any individual employed in the 469  
domestic service of any person. 470

(4) "Labor organization" includes any organization that 471  
exists, in whole or in part, for the purpose of collective 472  
bargaining or of dealing with employers concerning grievances, 473  
terms or conditions of employment, or other mutual aid or 474  
protection in relation to employment. 475

(5) "Employment agency" includes any person regularly 476  
undertaking, with or without compensation, to procure 477  
opportunities to work or to procure, recruit, refer, or place 478  
employees. 479

(6) "Commission" means the Ohio civil rights commission 480  
created by section 4112.03 of the Revised Code. 481

(7) "Discriminate" includes segregate or separate. 482

(8) "Unlawful discriminatory practice" means any act 483  
prohibited by section 4112.02, 4112.021, or 4112.022 of the 484  
Revised Code. 485

(9) "Place of public accommodation" means any inn, 486  
restaurant, eating house, barbershop, public conveyance by air, 487  
land, or water, theater, store, other place for the sale of 488  
merchandise, or any other place of public accommodation or 489  
amusement of which the accommodations, advantages, facilities, 490  
or privileges are available to the public. 491

(10) "Housing accommodations" includes any building or 492  
structure, or portion of a building or structure, that is used 493  
or occupied or is intended, arranged, or designed to be used or 494  
occupied as the home residence, dwelling, dwelling unit, or 495  
sleeping place of one or more individuals, groups, or families 496  
whether or not living independently of each other; and any 497  
vacant land offered for sale or lease. "Housing accommodations" 498  
also includes any housing accommodations held or offered for 499  
sale or rent by a real estate broker, salesperson, or agent, by 500  
any other person pursuant to authorization of the owner, by the 501  
owner, or by the owner's legal representative. 502

(11) "Restrictive covenant" means any specification 503  
limiting the transfer, rental, lease, or other use of any 504  
housing accommodations because of race, color, religion, sex, 505  
military status, familial status, national origin, disability, 506  
or ancestry, or any limitation based upon affiliation with or 507  
approval by any person, directly or indirectly, employing race, 508  
color, religion, sex, military status, familial status, national 509  
origin, disability, or ancestry as a condition of affiliation or 510  
approval. 511

(12) "Burial lot" means any lot for the burial of deceased 512  
persons within any public burial ground or cemetery, including, 513  
but not limited to, cemeteries owned and operated by municipal 514  
corporations, townships, or companies or associations 515

incorporated for cemetery purposes. 516

(13) "Disability" means a physical or mental impairment 517  
that substantially limits one or more major life activities, 518  
including the functions of caring for one's self, performing 519  
manual tasks, walking, seeing, hearing, speaking, breathing, 520  
learning, and working; a record of a physical or mental 521  
impairment; or being regarded as having a physical or mental 522  
impairment. 523

(14) Except as otherwise provided in section 4112.021 of 524  
the Revised Code, "age" means at least forty years old. 525

(15) "Familial status" means either of the following: 526

(a) One or more individuals who are under eighteen years 527  
of age and who are domiciled with a parent or guardian having 528  
legal custody of the individual or domiciled, with the written 529  
permission of the parent or guardian having legal custody, with 530  
a designee of the parent or guardian; 531

(b) Any person who is pregnant or in the process of 532  
securing legal custody of any individual who is under eighteen 533  
years of age. 534

(16) (a) Except as provided in division (A) (16) (b) of this 535  
section, "physical or mental impairment" includes any of the 536  
following: 537

(i) Any physiological disorder or condition, cosmetic 538  
disfigurement, or anatomical loss affecting one or more of the 539  
following body systems: neurological; musculoskeletal; special 540  
sense organs; respiratory, including speech organs; 541  
cardiovascular; reproductive; digestive; genito-urinary; hemic 542  
and lymphatic; skin; and endocrine; 543

(ii) Any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;	544 545 546
(iii) Diseases and conditions, including, but not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction, and alcoholism.	547 548 549 550 551 552
(b) "Physical or mental impairment" does not include any of the following:	553 554
(i) Homosexuality and bisexuality;	555
(ii) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;	556 557 558 559
(iii) Compulsive gambling, kleptomania, or pyromania;	560
(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages.	561 562 563
(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.	564 565
(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.	566 567 568 569 570 571

(19) "Public use areas" means interior or exterior rooms	572
or spaces of a privately or publicly owned building that are	573
made available to the general public.	574
(20) "Controlled substance" has the same meaning as in	575
section 3719.01 of the Revised Code.	576
(21) "Disabled tenant" means a tenant or prospective	577
tenant who is a person with a disability.	578
(22) "Military status" means a person's status in "service	579
in the uniformed services" as defined in section 5923.05 of the	580
Revised Code.	581
(23) "Aggrieved person" includes both of the following:	582
(a) Any person who claims to have been injured by any	583
unlawful discriminatory practice described in division (H) of	584
section 4112.02 of the Revised Code;	585
(b) Any person who believes that the person will be	586
injured by, any unlawful discriminatory practice described in	587
division (H) of section 4112.02 of the Revised Code that is	588
about to occur.	589
(B) For the purposes of divisions (A) to (F) of section	590
4112.02 of the Revised Code, the terms "because of sex" and "on	591
the basis of sex" include, but are not limited to, because of or	592
on the basis of pregnancy, any illness arising out of and	593
occurring during the course of a pregnancy, childbirth, or	594
related medical conditions. Women affected by pregnancy,	595
childbirth, or related medical conditions shall be treated the	596
same for all employment-related purposes, including receipt of	597
benefits under fringe benefit programs, as other persons not so	598
affected but similar in their ability or inability to work, and	599
nothing in division (B) of section <del>4111.17</del> <u>4112.16</u> of the	600

Revised Code shall be interpreted to permit otherwise. This 601  
division shall not be construed to require an employer to pay 602  
for health insurance benefits for abortion, except where the 603  
life of the mother would be endangered if the fetus were carried 604  
to term or except where medical complications have arisen from 605  
the abortion, provided that nothing in this division precludes 606  
an employer from providing abortion benefits or otherwise 607  
affects bargaining agreements in regard to abortion. 608

**Sec. ~~4111.17~~ 4112.16.** (A) No employer, including the state 609  
and political subdivisions thereof, shall discriminate in the 610  
payment of wages on the basis of race, color, religion, sex, 611  
~~age, national origin, or age, ancestry, sexual orientation, or~~ 612  
gender identity by paying wages to any employee at a rate less 613  
than the rate at which the employer pays wages to another 614  
employee for equal work on jobs the performance of which 615  
requires equal skill, effort, and responsibility, and which are 616  
performed under similar conditions. 617

(B) Nothing in this section prohibits an employer from 618  
paying wages to one employee at a rate different from that at 619  
which the employer pays another employee for the performance of 620  
equal work under similar conditions on jobs requiring equal 621  
skill, effort, and responsibility, when the payment is made 622  
pursuant to any of the following: 623

(1) A seniority system; 624

(2) A merit system; 625

(3) A system which measures earnings by the quantity or 626  
quality of production; 627

(4) A wage rate differential determined by any bona fide 628  
~~factor other than race, color, religion, sex, age, national~~ 629

origin, or ancestry, such as education, training, or experience 630  
that meets the criteria described in division (C) of this 631  
section. 632

(C) (1) An employer may defend a wage rate differential 633  
made under division (B) (4) of this section only if the employer 634  
can demonstrate all of the following: 635

(a) The difference is based on a factor substantially 636  
related to the employee's position and performance, such as 637  
education, training, or experience. 638

(b) The difference is not related to the employee's race, 639  
color, religion, sex, national origin, age, ancestry, sexual 640  
orientation, or gender identity. 641

(c) The difference is consistent with business necessity. 642

(2) The defense described in division (C) (1) of this 643  
section shall be rebutted if an employee making an allegation of 644  
wage discrimination or the commission demonstrates both of the 645  
following: 646

(a) An alternative employment practice exists that would 647  
serve the same business purpose without producing the wage rate 648  
differential. 649

(b) The employer has refused to adopt the alternative 650  
practice. 651

(D) No employer shall reduce the wage rate of any employee 652  
in order to comply with this section. 653

~~(D)~~ (E) The director of commerce commission shall carry 654  
out, administer, and enforce this section. Any employee 655  
discriminated against in violation of this section may sue in 656  
any court of competent jurisdiction to recover two times the 657

amount of the difference between the wages actually received and 658  
the wages received by a person performing equal work for the 659  
employer, from the date of the commencement of the violation, 660  
and for costs, including attorney fees. Notwithstanding the 661  
definitions of "tort action" in sections 2315.18 to 2315.21 of 662  
the Revised Code, such an action shall be considered a tort 663  
action for the purposes of those sections and shall be subject 664  
to sections 2315.18 to 2315.21 of the Revised Code, except to 665  
the extent those sections conflict with this section. The 666  
director-commission may take an assignment of any such wage 667  
claim in trust for such employee and sue in the employee's 668  
behalf. In any civil action under this section, two or more 669  
employees of the same employer may join as co-plaintiffs in one 670  
action. The director-commission may sue in one action for claims 671  
assigned to the director-commission by two or more employees of 672  
the same employer. No agreement to work for a discriminatory 673  
wage constitutes a defense for any civil or criminal action to 674  
enforce this section. ~~No employer shall discriminate against any~~ 675  
~~employee because such employee makes a complaint or institutes,~~ 676  
~~or testifies in, any proceeding under this section.~~ 677

~~(E)~~ (F) Any action arising under this section shall be 678  
initiated within one year after the date of violation. 679

(G) (1) No employer shall discriminate against any employee 680  
because the employee makes a complaint, or institutes or 681  
testifies in any proceeding, under this section. 682

(2) No employer shall discriminate against an employee for 683  
inquiring about, discussing, or disclosing the wages of the 684  
employee or another employee in response to a complaint or 685  
charge, or in furtherance of a discrimination investigation, 686  
proceeding, hearing, or action, or an investigation conducted by 687



the employer. 688

(3) Any person discriminated against in violation of 689  
division (G) (1) or (2) of this section may sue in any court of 690  
competent jurisdiction to recover damages, injunctive relief, or 691  
any other appropriate relief. 692

(H) In addition to any other award made under this 693  
section, the court or jury may award punitive or exemplary 694  
damages in accordance with section 2315.21 of the Revised Code 695  
in an amount sufficient to deter future violations. 696

(I) As used in this section: 697

(1) "Sexual orientation" means heterosexuality, 698  
homosexuality, or bisexuality, whether actual or perceived. 699

(2) "Gender identity" means an individual's self- 700  
perception, or perception of that person by another, of the 701  
individual's identity as male or female as realized through the 702  
person's appearance, behavior, or physical characteristics, 703  
regardless of whether such appearance, behavior, or physical 704  
characteristics are in accord with or opposed to the person's 705  
physical anatomy, chromosomal sex, or sex at birth. 706

**Section 2.** That existing sections 3314.03, 3326.11, 707  
4111.04, 4111.05, 4111.06, 4111.07, 4111.09, 4111.11, 4111.12, 708  
4111.13, 4111.17, 4111.99, and 4112.01 of the Revised Code are 709  
hereby repealed. 710

**Section 3.** The General Assembly, in enacting this 711  
legislation, hereby declares its intent to ensure equal pay for 712  
women in Ohio and to correct the historical wage disparity that 713  
has occurred between the sexes. 714

**Section 4.** This act shall be known as the "Fair and 715

Acceptable Income Required (FAIR) Act."	716
<b>Section 5.</b> The General Assembly, applying the principle	717
stated in division (B) of section 1.52 of the Revised Code that	718
amendments are to be harmonized if reasonably capable of	719
simultaneous operation, finds that the following sections,	720
presented in this act as composites of the sections as amended	721
by the acts indicated, are the resulting versions of the	722
sections in effect prior to the effective date of the sections	723
as presented in this act:	724
Section 3314.03 of the Revised Code, as amended by Sub.	725
H.B. 264, Sub. H.B. 362, Sub. H.B. 393, and Am. Sub. H.B. 487,	726
all of the 130th General Assembly.	727
Section 3326.11 of the Revised Code, as amended by Sub.	728
H.B. 264, Sub. H.B. 393, and Am. Sub. H.B. 487, all of the 130th	729
General Assembly.	730