

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 96**

**Representative Strahorn**

**Cosponsors: Representatives Foley, Hagan, R., Driehaus, Antonio, Boyd,  
Lundy, Ramos, Patterson, Phillips, Cera, Mallory, Reece, Pillich, Letson,  
Ashford, Stinziano, Fedor**

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**A B I L L**

To amend sections 4117.01 and 4117.03 of the Revised 1  
Code to eliminate an exemption from the Public 2  
Employees' Collective Bargaining Law for specified 3  
educational employees. 4

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

**Section 1.** That sections 4117.01 and 4117.03 of the Revised 5  
Code be amended to read as follows: 6

**Sec. 4117.01.** As used in this chapter: 7

(A) "Person," in addition to those included in division (C) 8  
of section 1.59 of the Revised Code, includes employee 9  
organizations, public employees, and public employers. 10

(B) "Public employer" means the state or any political 11  
subdivision of the state located entirely within the state, 12  
including, without limitation, any municipal corporation with a 13  
population of at least five thousand according to the most recent 14  
federal decennial census; county; township with a population of at 15  
least five thousand in the unincorporated area of the township 16

according to the most recent federal decennial census; school 17  
district; governing authority of a community school established 18  
under Chapter 3314. of the Revised Code; college preparatory 19  
boarding school established under Chapter 3328. of the Revised 20  
Code or its operator; state institution of higher learning; public 21  
or special district; state agency, authority, commission, or 22  
board; or other branch of public employment. "Public employer" 23  
does not include the nonprofit corporation formed under section 24  
187.01 of the Revised Code. 25

(C) "Public employee" means any person holding a position by 26  
appointment or employment in the service of a public employer, 27  
including any person working pursuant to a contract between a 28  
public employer and a private employer and over whom the national 29  
labor relations board has declined jurisdiction on the basis that 30  
the involved employees are employees of a public employer, except: 31

(1) Persons holding elective office; 32

(2) Employees of the general assembly and employees of any 33  
other legislative body of the public employer whose principal 34  
duties are directly related to the legislative functions of the 35  
body; 36

(3) Employees on the staff of the governor or the chief 37  
executive of the public employer whose principal duties are 38  
directly related to the performance of the executive functions of 39  
the governor or the chief executive; 40

(4) Persons who are members of the Ohio organized militia, 41  
while training or performing duty under section 5919.29 or 5923.12 42  
of the Revised Code; 43

(5) Employees of the state employment relations board, 44  
including those employees of the state employment relations board 45  
utilized by the state personnel board of review in the exercise of 46  
the powers and the performance of the duties and functions of the 47

state personnel board of review;	48
(6) Confidential employees;	49
(7) Management level employees;	50
(8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;	51 52 53
(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;	54 55 56
(10) Supervisors;	57
<del>(11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part time public employees less than fifty per cent of the normal year in the employee's bargaining unit;</del>	58 59 60 61 62
<del>(12)</del> Employees of county boards of election;	63
<del>(13)</del> <u>(12)</u> Seasonal and casual employees as determined by the state employment relations board;	64 65
<del>(14)</del> Part time faculty members of an institution of higher education;	66 67
<del>(15)</del> <u>(13)</u> Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;	68 69 70 71 72 73 74
<del>(16)</del> <u>(14)</u> Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;	75 76 77

~~(17)~~(15) Employees of community-based correctional facilities 78  
and district community-based correctional facilities created under 79  
sections 2301.51 to 2301.58 of the Revised Code who are not 80  
subject to a collective bargaining agreement on June 1, 2005. 81

(D) "Employee organization" means any labor or bona fide 82  
organization in which public employees participate and that exists 83  
for the purpose, in whole or in part, of dealing with public 84  
employers concerning grievances, labor disputes, wages, hours, 85  
terms, and other conditions of employment. 86

(E) "Exclusive representative" means the employee 87  
organization certified or recognized as an exclusive 88  
representative under section 4117.05 of the Revised Code. 89

(F) "Supervisor" means any individual who has authority, in 90  
the interest of the public employer, to hire, transfer, suspend, 91  
lay off, recall, promote, discharge, assign, reward, or discipline 92  
other public employees; to responsibly direct them; to adjust 93  
their grievances; or to effectively recommend such action, if the 94  
exercise of that authority is not of a merely routine or clerical 95  
nature, but requires the use of independent judgment, provided 96  
that: 97

(1) Employees of school districts who are department 98  
chairpersons or consulting teachers shall not be deemed 99  
supervisors; 100

(2) With respect to members of a police or fire department, 101  
no person shall be deemed a supervisor except the chief of the 102  
department or those individuals who, in the absence of the chief, 103  
are authorized to exercise the authority and perform the duties of 104  
the chief of the department. Where prior to June 1, 1982, a public 105  
employer pursuant to a judicial decision, rendered in litigation 106  
to which the public employer was a party, has declined to engage 107  
in collective bargaining with members of a police or fire 108

department on the basis that those members are supervisors, those 109  
members of a police or fire department do not have the rights 110  
specified in this chapter for the purposes of future collective 111  
bargaining. The state employment relations board shall decide all 112  
disputes concerning the application of division (F)(2) of this 113  
section. 114

(3) With respect to faculty members of a state institution of 115  
higher education, heads of departments or divisions are 116  
supervisors; however, no other faculty member or group of faculty 117  
members is a supervisor solely because the faculty member or group 118  
of faculty members participate in decisions with respect to 119  
courses, curriculum, personnel, or other matters of academic 120  
policy; 121

(4) No teacher as defined in section 3319.09 of the Revised 122  
Code shall be designated as a supervisor or a management level 123  
employee unless the teacher is employed under a contract governed 124  
by section 3319.01, 3319.011, or 3319.02 of the Revised Code and 125  
is assigned to a position for which a license deemed to be for 126  
administrators under state board rules is required pursuant to 127  
section 3319.22 of the Revised Code. 128

(G) "To bargain collectively" means to perform the mutual 129  
obligation of the public employer, by its representatives, and the 130  
representatives of its employees to negotiate in good faith at 131  
reasonable times and places with respect to wages, hours, terms, 132  
and other conditions of employment and the continuation, 133  
modification, or deletion of an existing provision of a collective 134  
bargaining agreement, with the intention of reaching an agreement, 135  
or to resolve questions arising under the agreement. "To bargain 136  
collectively" includes executing a written contract incorporating 137  
the terms of any agreement reached. The obligation to bargain 138  
collectively does not mean that either party is compelled to agree 139  
to a proposal nor does it require the making of a concession. 140

(H) "Strike" means continuous concerted action in failing to 141  
report to duty; willful absence from one's position; or stoppage 142  
of work in whole from the full, faithful, and proper performance 143  
of the duties of employment, for the purpose of inducing, 144  
influencing, or coercing a change in wages, hours, terms, and 145  
other conditions of employment. "Strike" does not include a 146  
stoppage of work by employees in good faith because of dangerous 147  
or unhealthful working conditions at the place of employment that 148  
are abnormal to the place of employment. 149

(I) "Unauthorized strike" includes, but is not limited to, 150  
concerted action during the term or extended term of a collective 151  
bargaining agreement or during the pendency of the settlement 152  
procedures set forth in section 4117.14 of the Revised Code in 153  
failing to report to duty; willful absence from one's position; 154  
stoppage of work; slowdown, or abstinence in whole or in part from 155  
the full, faithful, and proper performance of the duties of 156  
employment for the purpose of inducing, influencing, or coercing a 157  
change in wages, hours, terms, and other conditions of employment. 158  
"Unauthorized strike" includes any such action, absence, stoppage, 159  
slowdown, or abstinence when done partially or intermittently, 160  
whether during or after the expiration of the term or extended 161  
term of a collective bargaining agreement or during or after the 162  
pendency of the settlement procedures set forth in section 4117.14 163  
of the Revised Code. 164

(J) "Professional employee" means any employee engaged in 165  
work that is predominantly intellectual, involving the consistent 166  
exercise of discretion and judgment in its performance and 167  
requiring knowledge of an advanced type in a field of science or 168  
learning customarily acquired by a prolonged course in an 169  
institution of higher learning or a hospital, as distinguished 170  
from a general academic education or from an apprenticeship; or an 171  
employee who has completed the courses of specialized intellectual 172

instruction and is performing related work under the supervision 173  
of a professional person to become qualified as a professional 174  
employee. 175

(K) "Confidential employee" means any employee who works in 176  
the personnel offices of a public employer and deals with 177  
information to be used by the public employer in collective 178  
bargaining; or any employee who works in a close continuing 179  
relationship with public officers or representatives directly 180  
participating in collective bargaining on behalf of the employer. 181

(L) "Management level employee" means an individual who 182  
formulates policy on behalf of the public employer, who 183  
responsibly directs the implementation of policy, or who may 184  
reasonably be required on behalf of the public employer to assist 185  
in the preparation for the conduct of collective negotiations, 186  
administer collectively negotiated agreements, or have a major 187  
role in personnel administration. Assistant superintendents, 188  
principals, and assistant principals whose employment is governed 189  
by section 3319.02 of the Revised Code are management level 190  
employees. With respect to members of a faculty of a state 191  
institution of higher education, no person is a management level 192  
employee because of the person's involvement in the formulation or 193  
implementation of academic or institution policy. 194

(M) "Wages" means hourly rates of pay, salaries, or other 195  
forms of compensation for services rendered. 196

(N) "Member of a police department" means a person who is in 197  
the employ of a police department of a municipal corporation as a 198  
full-time regular police officer as the result of an appointment 199  
from a duly established civil service eligibility list or under 200  
section 737.15 or 737.16 of the Revised Code, a full-time deputy 201  
sheriff appointed under section 311.04 of the Revised Code, a 202  
township constable appointed under section 509.01 of the Revised 203  
Code, or a member of a township or joint police district police 204

department appointed under section 505.49 of the Revised Code.	205
(O) "Members of the state highway patrol" means highway patrol troopers and radio operators appointed under section 5503.01 of the Revised Code.	206 207 208
(P) "Member of a fire department" means a person who is in the employ of a fire department of a municipal corporation or a township as a fire cadet, full-time regular firefighter, or promoted rank as the result of an appointment from a duly established civil service eligibility list or under section 505.38, 709.012, or 737.22 of the Revised Code.	209 210 211 212 213 214
(Q) "Day" means calendar day.	215
<b>Sec. 4117.03.</b> (A) Public employees have the right to:	216
(1) Form, join, assist, or participate in, or refrain from forming, joining, assisting, or participating in, except as otherwise provided in Chapter 4117. of the Revised Code, any employee organization of their own choosing;	217 218 219 220
(2) Engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection;	221 222
(3) Representation by an employee organization;	223
(4) Bargain collectively with their public employers to determine wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, and enter into collective bargaining agreements;	224 225 226 227 228
(5) Present grievances and have them adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and as long as the bargaining representatives have the opportunity to be present at the adjustment.	229 230 231 232 233 234



(B) Persons on active duty or acting in any capacity as 235  
members of the organized militia do not have collective bargaining 236  
rights. 237

(C) Except as provided in division (D) of this section, 238  
nothing in Chapter 4117. of the Revised Code prohibits public 239  
employers from electing to engage in collective bargaining, to 240  
meet and confer, to hold discussions, or to engage in any other 241  
form of collective negotiations with public employees who are not 242  
subject to Chapter 4117. of the Revised Code pursuant to division 243  
(C) of section 4117.01 of the Revised Code. 244

(D) A public employer shall not engage in collective 245  
bargaining or other forms of collective negotiations with the 246  
employees of county boards of elections referred to in division 247  
(C) ~~(12)~~ (11) of section 4117.01 of the Revised Code. 248

(E) Employees of public schools may bargain collectively for 249  
health care benefits. 250

**Section 2.** That existing sections 4117.01 and 4117.03 of the 251  
Revised Code are hereby repealed. 252