

**As Introduced**

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

**S. B. No. 92**

**Senators Turner, Tavares**

**Cosponsor: Senator Brown**

—

**A B I L L**

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

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

**Section 1.** That sections 3314.03, 3326.11, 4111.04, 4111.05, 10  
4111.06, 4111.07, 4111.09, 4111.11, 4111.12, 4111.13, 4111.17, 11  
4111.99, and 4112.01 be amended and section 4111.17 (4112.16) of 12  
the Revised Code be amended for the purpose of adopting a new 13  
section number as indicated in parentheses, to read as follows: 14

**Sec. 3314.03.** A copy of every contract entered into under 15  
this section shall be filed with the superintendent of public 16  
instruction. The department of education shall make available on 17  
its web site a copy of every approved, executed contract filed 18  
with the superintendent under this section. 19

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

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

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

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

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

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

(4) Performance standards by which the success of the school will be evaluated by the sponsor;

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

(6)(a) Dismissal procedures;

(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.

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

(8) Requirements for financial audits by the auditor of

state. The contract shall require financial records of the school 50  
to be maintained in the same manner as are financial records of 51  
school districts, pursuant to rules of the auditor of state. 52  
Audits shall be conducted in accordance with section 117.10 of the 53  
Revised Code. 54

(9) The facilities to be used and their locations; 55

(10) Qualifications of teachers, including the following: 56

(a) A requirement that the school's classroom teachers be 57  
licensed in accordance with sections 3319.22 to 3319.31 of the 58  
Revised Code, except that a community school may engage 59  
noncertificated persons to teach up to twelve hours per week 60  
pursuant to section 3319.301 of the Revised Code; 61

(b) A requirement that each classroom teacher initially hired 62  
by the school on or after July 1, 2013, and employed to provide 63  
instruction in physical education hold a valid license issued 64  
pursuant to section 3319.22 of the Revised Code for teaching 65  
physical education. 66

(11) That the school will comply with the following 67  
requirements: 68

(a) The school will provide learning opportunities to a 69  
minimum of twenty-five students for a minimum of nine hundred 70  
twenty hours per school year. 71

(b) The governing authority will purchase liability 72  
insurance, or otherwise provide for the potential liability of the 73  
school. 74

(c) The school will be nonsectarian in its programs, 75  
admission policies, employment practices, and all other 76  
operations, and will not be operated by a sectarian school or 77  
religious institution. 78

(d) The school will comply with sections 9.90, 9.91, 109.65, 79

121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 3301.0711, 80  
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.608, 81  
3313.609, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643, 82  
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 83  
3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 84  
3313.716, 3313.718, 3313.719, 3313.80, 3313.814, 3313.816, 85  
3313.817, 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391, 86  
3319.41, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 87  
3321.19, 3321.191, 3327.10, ~~4111.17~~ 4112.16, 4113.52, and 5705.391 88  
and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 89  
4141., and 4167. of the Revised Code as if it were a school 90  
district and will comply with section 3301.0714 of the Revised 91  
Code in the manner specified in section 3314.17 of the Revised 92  
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, 3313.611, 96  
and 3313.614 of the Revised Code, except that for students who 97  
enter ninth grade for the first time before July 1, 2010, the 98  
requirement in sections 3313.61 and 3313.611 of the Revised Code 99  
that a person must successfully complete the curriculum in any 100  
high school prior to receiving a high school diploma may be met by 101  
completing the curriculum adopted by the governing authority of 102  
the community school rather than the curriculum specified in Title 103  
XXXIII of the Revised Code or any rules of the state board of 104  
education. Beginning with students who enter ninth grade for the 105  
first time on or after July 1, 2010, the requirement in sections 106  
3313.61 and 3313.611 of the Revised Code that a person must 107  
successfully complete the curriculum of a high school prior to 108  
receiving a high school diploma shall be met by completing the 109  
Ohio core curriculum prescribed in division (C) of section 110  
3313.603 of the Revised Code, unless the person qualifies under 111

division (D) or (F) of that section. Each school shall comply with 112  
the plan for awarding high school credit based on demonstration of 113  
subject area competency, adopted by the state board of education 114  
under division (J) of section 3313.603 of the Revised Code. 115

(g) The school governing authority will submit within four 116  
months after the end of each school year a report of its 117  
activities and progress in meeting the goals and standards of 118  
divisions (A)(3) and (4) of this section and its financial status 119  
to the sponsor and the parents of all students enrolled in the 120  
school. 121

(h) The school, unless it is an internet- or computer-based 122  
community school, will comply with section 3313.801 of the Revised 123  
Code as if it were a school district. 124

(i) If the school is the recipient of moneys from a grant 125  
awarded under the federal race to the top program, Division (A), 126  
Title XIV, Sections 14005 and 14006 of the "American Recovery and 127  
Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the 128  
school will pay teachers based upon performance in accordance with 129  
section 3317.141 and will comply with section 3319.111 of the 130  
Revised Code as if it were a school district. 131

(12) Arrangements for providing health and other benefits to 132  
employees; 133

(13) The length of the contract, which shall begin at the 134  
beginning of an academic year. No contract shall exceed five years 135  
unless such contract has been renewed pursuant to division (E) of 136  
this section. 137

(14) The governing authority of the school, which shall be 138  
responsible for carrying out the provisions of the contract; 139

(15) A financial plan detailing an estimated school budget 140  
for each year of the period of the contract and specifying the 141  
total estimated per pupil expenditure amount for each such year. 142

The plan shall specify for each year the base formula amount that 143  
will be used for purposes of funding calculations under section 144  
3314.08 of the Revised Code. This base formula amount for any year 145  
shall not exceed the formula amount defined under section 3317.02 146  
of the Revised Code. The plan may also specify for any year a 147  
percentage figure to be used for reducing the per pupil amount of 148  
the subsidy calculated pursuant to section 3317.029 of the Revised 149  
Code the school is to receive that year under section 3314.08 of 150  
the Revised Code. 151

(16) Requirements and procedures regarding the disposition of 152  
employees of the school in the event the contract is terminated or 153  
not renewed pursuant to section 3314.07 of the Revised Code; 154

(17) Whether the school is to be created by converting all or 155  
part of an existing public school or educational service center 156  
building or is to be a new start-up school, and if it is a 157  
converted public school or service center building, specification 158  
of any duties or responsibilities of an employer that the board of 159  
education or service center governing board that operated the 160  
school or building before conversion is delegating to the 161  
governing authority of the community school with respect to all or 162  
any specified group of employees provided the delegation is not 163  
prohibited by a collective bargaining agreement applicable to such 164  
employees; 165

(18) Provisions establishing procedures for resolving 166  
disputes or differences of opinion between the sponsor and the 167  
governing authority of the community school; 168

(19) A provision requiring the governing authority to adopt a 169  
policy regarding the admission of students who reside outside the 170  
district in which the school is located. That policy shall comply 171  
with the admissions procedures specified in sections 3314.06 and 172  
3314.061 of the Revised Code and, at the sole discretion of the 173  
authority, shall do one of the following: 174

(a) Prohibit the enrollment of students who reside outside the district in which the school is located;	175 176
(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;	177 178
(c) Permit the enrollment of students who reside in any other district in the state.	179 180
(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;	181 182 183 184
(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;	185 186 187
(22) A provision recognizing both of the following:	188
(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;	189 190 191 192
(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action.	193 194 195 196 197 198 199
(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised	200 201 202 203 204

Code;	205
(24) The school will comply with sections 3302.04 and	206
3302.041 of the Revised Code, except that any action required to	207
be taken by a school district pursuant to those sections shall be	208
taken by the sponsor of the school. However, the sponsor shall not	209
be required to take any action described in division (F) of	210
section 3302.04 of the Revised Code.	211
(25) Beginning in the 2006-2007 school year, the school will	212
open for operation not later than the thirtieth day of September	213
each school year, unless the mission of the school as specified	214
under division (A)(2) of this section is solely to serve dropouts.	215
In its initial year of operation, if the school fails to open by	216
the thirtieth day of September, or within one year after the	217
adoption of the contract pursuant to division (D) of section	218
3314.02 of the Revised Code if the mission of the school is solely	219
to serve dropouts, the contract shall be void.	220
(B) The community school shall also submit to the sponsor a	221
comprehensive plan for the school. The plan shall specify the	222
following:	223
(1) The process by which the governing authority of the	224
school will be selected in the future;	225
(2) The management and administration of the school;	226
(3) If the community school is a currently existing public	227
school or educational service center building, alternative	228
arrangements for current public school students who choose not to	229
attend the converted school and for teachers who choose not to	230
teach in the school or building after conversion;	231
(4) The instructional program and educational philosophy of	232
the school;	233
(5) Internal financial controls.	234



(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.

(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 school pursuant to section 3314.072 of the Revised Code, or terminate the contract

of the school pursuant to section 3314.07 of the Revised Code as 266  
determined necessary by the sponsor; 267

(6) Have in place a plan of action to be undertaken in the 268  
event the community school experiences financial difficulties or 269  
closes prior to the end of a school year. 270

(E) Upon the expiration of a contract entered into under this 271  
section, the sponsor of a community school may, with the approval 272  
of the governing authority of the school, renew that contract for 273  
a period of time determined by the sponsor, but not ending earlier 274  
than the end of any school year, if the sponsor finds that the 275  
school's compliance with applicable laws and terms of the contract 276  
and the school's progress in meeting the academic goals prescribed 277  
in the contract have been satisfactory. Any contract that is 278  
renewed under this division remains subject to the provisions of 279  
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 280

(F) If a community school fails to open for operation within 281  
one year after the contract entered into under this section is 282  
adopted pursuant to division (D) of section 3314.02 of the Revised 283  
Code or permanently closes prior to the expiration of the 284  
contract, the contract shall be void and the school shall not 285  
enter into a contract with any other sponsor. A school shall not 286  
be considered permanently closed because the operations of the 287  
school have been suspended pursuant to section 3314.072 of the 288  
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, 3313.14, 3313.15, 3313.16, 3313.18, 294  
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 295  
3313.536, 3313.539, 3313.608, 3313.6012, 3313.6013, 3313.6014, 296

3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 297  
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 298  
3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 299  
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 300  
3313.816, 3313.817, 3313.86, 3313.88, 3313.96, 3319.073, 3319.21, 301  
3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 302  
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 303  
3321.191, 3327.10, ~~4111.17~~ 4112.16, 4113.52, and 5705.391 and 304  
Chapters 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 305  
4112., 4123., 4141., and 4167. of the Revised Code as if it were a 306  
school district. 307

**Sec. 4111.04.** The director of commerce may: 308

(A) Investigate and ascertain the wages of persons employed 309  
in any occupation in the state; 310

(B) Enter and inspect the place of business or employment of 311  
any employer for the purpose of inspecting any books, registers, 312  
payrolls, or other records of the employer that in any way relate 313  
to the question of wages, hours, and other conditions of 314  
employment of any employees, and may question the employees for 315  
the purpose of ascertaining whether sections 4111.01 to ~~4111.17~~ 316  
4111.14 and 4112.16 of the Revised Code, and the rules adopted 317  
thereunder, have been and are being obeyed. In conducting an 318  
inspection of the records of an employer, the director shall make 319  
every effort to coordinate the inspection with those conducted by 320  
the federal agency responsible for enforcement of the "Fair Labor 321  
Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 201, as 322  
amended. If the federal agency has completed an audit or 323  
examination of the employer's records within the sixty days prior 324  
to the date the director notifies the employer of the director's 325  
intent to examine the employer's records, the director shall 326  
accept in lieu of the director's own inspection, a report from the 327

federal agency that the employer is in compliance with the federal 328  
act, unless the director has reasonable grounds for believing that 329  
the report is inaccurate or incomplete for the purposes of 330  
sections 4111.01 to 4111.13 of the Revised Code, or that events 331  
occurring since the audit give the director reasonable grounds for 332  
believing that a violation of sections 4111.01 to 4111.13 of the 333  
Revised Code has occurred. 334

(C) In the event the director is prohibited by any employer 335  
from carrying out the intent of this section, the director may 336  
issue subpoenas and compel attendance of witnesses and production 337  
of papers, books, accounts, payrolls, documents, records, and 338  
testimony relating and relevant to the director's investigation. 339

**Sec. 4111.05.** The director of commerce shall adopt rules in 340  
accordance with Chapter 119. of the Revised Code as the director 341  
considers appropriate to carry out the purposes of sections 342  
4111.01 to ~~4111.17~~ 4111.14 of the Revised Code. The rules may be 343  
amended from time to time and may include, but are not limited to, 344  
rules defining and governing apprentices, their number, 345  
proportion, and length of service; bonuses and special pay for 346  
special or extra work; permitted deductions or charges to 347  
employees for board, lodging, apparel, or other facilities or 348  
services customarily furnished by employers to employees; 349  
inclusion of ascertainable gratuities in wages paid; allowances 350  
for unascertainable gratuities or for other special conditions or 351  
circumstances which may be usual in particular employer-employee 352  
relationships; and the method of computation or the period of time 353  
over which wages may be averaged to determine whether the minimum 354  
wage or overtime rate has been paid. 355

**Sec. 4111.06.** In order to prevent curtailment of 356  
opportunities for employment, to avoid undue hardship, and to 357  
safeguard the minimum wage rates under sections 4111.01 to ~~4111.17~~ 358

4111.14 of the Revised Code, the director of commerce shall adopt 359  
rules under section 4111.05 of the Revised Code, permitting 360  
employment in any occupation at wages lower than the wage rates 361  
applicable under sections 4111.01 to ~~4111.17~~ 4111.14 of the 362  
Revised Code, of individuals whose earning capacity is impaired by 363  
physical or mental deficiencies or injuries. The rules shall 364  
provide for licenses to be issued authorizing employment at the 365  
wages of specific individuals or groups of employees, or by 366  
specific employers or groups of employers, pursuant to the rules. 367  
The rules shall not conflict with the "Americans with Disabilities 368  
Act of 1990," 104 Stat. 328, 42 U.S.C.A. 12111, et seq. 369

**Sec. 4111.07.** The director of commerce may adopt rules under 370  
section 4111.05 of the Revised Code, permitting employment of 371  
apprentices at a wage rate not less than eighty-five per cent of 372  
the minimum wage rate applicable under sections 4111.01 to ~~4111.17~~ 373  
4111.14 of the Revised Code. The rules shall provide for licenses 374  
to be issued for periods not to exceed ninety days and authorizing 375  
employment at the wages of specific individuals or groups of 376  
employees, or by specific employers or groups of employers, 377  
pursuant to the rules. 378

**Sec. 4111.09.** Every employer subject to sections 4111.01 to 379  
~~4111.17~~ 4111.14 and 4112.16 of the Revised Code, or to any rules 380  
issued thereunder, shall keep a summary of the sections, approved 381  
by the director of commerce, and copies of any applicable rules 382  
issued thereunder, or a summary of the rules, posted in a 383  
conspicuous and accessible place in or about the premises wherein 384  
any person subject thereto is employed. The director of commerce 385  
shall make the summary described in this section available on the 386  
web site of the department of commerce. The director shall update 387  
this summary as necessary, but not less than annually, in order to 388  
reflect changes in the minimum wage rate as required under Section 389

34a of Article II, Ohio Constitution. Employees and employers 390  
shall be furnished copies of the summaries and rules by the state, 391  
on request, without charge. 392

**Sec. 4111.11.** Any standards relating to minimum wages, 393  
overtime compensation, or other working conditions in effect under 394  
any other law of this state on the effective date of sections 395  
4111.01 to ~~4111.17~~ 4111.14 of the Revised Code, which are more 396  
favorable to employees than those applicable to employees under 397  
sections or regulations issued hereunder, are not amended, 398  
rescinded, or otherwise affected by said sections, but continue in 399  
full force and effect, and may be enforced as provided by law 400  
until they are specifically superseded by standards more favorable 401  
to the employees by operation of or in accordance with regulations 402  
issued under said sections. 403

**Sec. 4111.12.** Nothing in sections 4111.01 to ~~4111.17~~ 4111.14 404  
of the Revised Code interferes with, impedes, or in any way 405  
diminishes the right of employees to bargain collectively with 406  
their employers through representatives of their own choosing in 407  
order to establish wages or other conditions of work in excess of 408  
the applicable minimum under sections 4111.01 to ~~4111.17~~ 4111.14 409  
of the Revised Code. 410

**Sec. 4111.13.** (A) No employer shall hinder or delay the 411  
director of commerce in the performance of the director's duties 412  
in the enforcement of sections 4111.01 to ~~4111.17~~ 4111.14 of the 413  
Revised Code, or refuse to admit the director to any place of 414  
employment, or fail to make, keep, and preserve any records as 415  
required under those sections, or falsify any of those records, or 416  
refuse to make them accessible to the director upon demand, or 417  
refuse to furnish them or any other information required for the 418  
proper enforcement of those sections to the director upon demand, 419

or fail to post a summary of those sections or a copy of any applicable rules as required by section 4111.09 of the Revised Code. Each day of violation constitutes a separate offense.

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

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

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

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

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

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

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

(1) "Person" includes one or more individuals, partnerships, 450  
associations, organizations, corporations, legal representatives, 451  
trustees, trustees in bankruptcy, receivers, and other organized 452  
groups of persons. "Person" also includes, but is not limited to, 453  
any owner, lessor, assignor, builder, manager, broker, 454  
salesperson, appraiser, agent, employee, lending institution, and 455  
the state and all political subdivisions, authorities, agencies, 456  
boards, and commissions of the state. 457

(2) "Employer" includes the state, any political subdivision 458  
of the state, any person employing four or more persons within the 459  
state, and any person acting directly or indirectly in the 460  
interest of an employer. 461

(3) "Employee" means an individual employed by any employer 462  
but does not include any individual employed in the domestic 463  
service of any person. 464

(4) "Labor organization" includes any organization that 465  
exists, in whole or in part, for the purpose of collective 466  
bargaining or of dealing with employers concerning grievances, 467  
terms or conditions of employment, or other mutual aid or 468  
protection in relation to employment. 469

(5) "Employment agency" includes any person regularly 470  
undertaking, with or without compensation, to procure 471  
opportunities to work or to procure, recruit, refer, or place 472  
employees. 473

(6) "Commission" means the Ohio civil rights commission 474  
created by section 4112.03 of the Revised Code. 475

(7) "Discriminate" includes segregate or separate. 476

(8) "Unlawful discriminatory practice" means any act 477  
prohibited by section 4112.02, 4112.021, or 4112.022 of the 478  
Revised Code. 479



(9) "Place of public accommodation" means any inn, 480  
restaurant, eating house, barbershop, public conveyance by air, 481  
land, or water, theater, store, other place for the sale of 482  
merchandise, or any other place of public accommodation or 483  
amusement of which the accommodations, advantages, facilities, or 484  
privileges are available to the public. 485

(10) "Housing accommodations" includes any building or 486  
structure, or portion of a building or structure, that is used or 487  
occupied or is intended, arranged, or designed to be used or 488  
occupied as the home residence, dwelling, dwelling unit, or 489  
sleeping place of one or more individuals, groups, or families 490  
whether or not living independently of each other; and any vacant 491  
land offered for sale or lease. "Housing accommodations" also 492  
includes any housing accommodations held or offered for sale or 493  
rent by a real estate broker, salesperson, or agent, by any other 494  
person pursuant to authorization of the owner, by the owner, or by 495  
the owner's legal representative. 496

(11) "Restrictive covenant" means any specification limiting 497  
the transfer, rental, lease, or other use of any housing 498  
accommodations because of race, color, religion, sex, military 499  
status, familial status, national origin, disability, or ancestry, 500  
or any limitation based upon affiliation with or approval by any 501  
person, directly or indirectly, employing race, color, religion, 502  
sex, military status, familial status, national origin, 503  
disability, or ancestry as a condition of affiliation or approval. 504

(12) "Burial lot" means any lot for the burial of deceased 505  
persons within any public burial ground or cemetery, including, 506  
but not limited to, cemeteries owned and operated by municipal 507  
corporations, townships, or companies or associations incorporated 508  
for cemetery purposes. 509

(13) "Disability" means a physical or mental impairment that 510  
substantially limits one or more major life activities, including 511

the functions of caring for one's self, performing manual tasks, 512  
walking, seeing, hearing, speaking, breathing, learning, and 513  
working; a record of a physical or mental impairment; or being 514  
regarded as having a physical or mental impairment. 515

(14) Except as otherwise provided in section 4112.021 of the 516  
Revised Code, "age" means at least forty years old. 517

(15) "Familial status" means either of the following: 518

(a) One or more individuals who are under eighteen years of 519  
age and who are domiciled with a parent or guardian having legal 520  
custody of the individual or domiciled, with the written 521  
permission of the parent or guardian having legal custody, with a 522  
designee of the parent or guardian; 523

(b) Any person who is pregnant or in the process of securing 524  
legal custody of any individual who is under eighteen years of 525  
age. 526

(16)(a) Except as provided in division (A)(16)(b) of this 527  
section, "physical or mental impairment" includes any of the 528  
following: 529

(i) Any physiological disorder or condition, cosmetic 530  
disfigurement, or anatomical loss affecting one or more of the 531  
following body systems: neurological; musculoskeletal; special 532  
sense organs; respiratory, including speech organs; 533  
cardiovascular; reproductive; digestive; genito-urinary; hemic and 534  
lymphatic; skin; and endocrine; 535

(ii) Any mental or psychological disorder, including, but not 536  
limited to, mental retardation, organic brain syndrome, emotional 537  
or mental illness, and specific learning disabilities; 538

(iii) Diseases and conditions, including, but not limited to, 539  
orthopedic, visual, speech, and hearing impairments, cerebral 540  
palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, 541

cancer, heart disease, diabetes, human immunodeficiency virus 542  
infection, mental retardation, emotional illness, drug addiction, 543  
and alcoholism. 544

(b) "Physical or mental impairment" does not include any of 545  
the following: 546

(i) Homosexuality and bisexuality; 547

(ii) Transvestism, transsexualism, pedophilia, exhibitionism, 548  
voyeurism, gender identity disorders not resulting from physical 549  
impairments, or other sexual behavior disorders; 550

(iii) Compulsive gambling, kleptomania, or pyromania; 551

(iv) Psychoactive substance use disorders resulting from the 552  
current illegal use of a controlled substance or the current use 553  
of alcoholic beverages. 554

(17) "Dwelling unit" means a single unit of residence for a 555  
family of one or more persons. 556

(18) "Common use areas" means rooms, spaces, or elements 557  
inside or outside a building that are made available for the use 558  
of residents of the building or their guests, and includes, but is 559  
not limited to, hallways, lounges, lobbies, laundry rooms, refuse 560  
rooms, mail rooms, recreational areas, and passageways among and 561  
between buildings. 562

(19) "Public use areas" means interior or exterior rooms or 563  
spaces of a privately or publicly owned building that are made 564  
available to the general public. 565

(20) "Controlled substance" has the same meaning as in 566  
section 3719.01 of the Revised Code. 567

(21) "Disabled tenant" means a tenant or prospective tenant 568  
who is a person with a disability. 569

(22) "Military status" means a person's status in "service in 570  
the uniformed services" as defined in section 5923.05 of the 571

Revised Code. 572

(23) "Aggrieved person" includes both of the following: 573

(a) Any person who claims to have been injured by any 574  
unlawful discriminatory practice described in division (H) of 575  
section 4112.02 of the Revised Code; 576

(b) Any person who believes that the person will be injured 577  
by, any unlawful discriminatory practice described in division (H) 578  
of section 4112.02 of the Revised Code that is about to occur. 579

(B) For the purposes of divisions (A) to (F) of section 580  
4112.02 of the Revised Code, the terms "because of sex" and "on 581  
the basis of sex" include, but are not limited to, because of or 582  
on the basis of pregnancy, any illness arising out of and 583  
occurring during the course of a pregnancy, childbirth, or related 584  
medical conditions. Women affected by pregnancy, childbirth, or 585  
related medical conditions shall be treated the same for all 586  
employment-related purposes, including receipt of benefits under 587  
fringe benefit programs, as other persons not so affected but 588  
similar in their ability or inability to work, and nothing in 589  
division (B) of section ~~4111.17~~ 4112.16 of the Revised Code shall 590  
be interpreted to permit otherwise. This division shall not be 591  
construed to require an employer to pay for health insurance 592  
benefits for abortion, except where the life of the mother would 593  
be endangered if the fetus were carried to term or except where 594  
medical complications have arisen from the abortion, provided that 595  
nothing in this division precludes an employer from providing 596  
abortion benefits or otherwise affects bargaining agreements in 597  
regard to abortion. 598

**Sec. ~~4111.17~~ 4112.16.** (A) No employer, including the state 599  
and political subdivisions thereof, shall discriminate in the 600  
payment of wages on the basis of race, color, religion, sex, ~~age,~~ 601  
national origin, ~~or age,~~ ancestry, sexual orientation, or gender 602

identity by paying wages to any employee at a rate less than the 603  
rate at which the employer pays wages to another employee for 604  
equal work on jobs the performance of which requires equal skill, 605  
effort, and responsibility, and which are performed under similar 606  
conditions. 607

(B) Nothing in this section prohibits an employer from paying 608  
wages to one employee at a rate different from that at which the 609  
employer pays another employee for the performance of equal work 610  
under similar conditions on jobs requiring equal skill, effort, 611  
and responsibility, when the payment is made pursuant to any of 612  
the following: 613

(1) A seniority system; 614

(2) A merit system; 615

(3) A system which measures earnings by the quantity or 616  
quality of production; 617

(4) A wage rate differential determined by any bona fide 618  
~~factor other than race, color, religion, sex, age, national~~ 619  
~~origin, or ancestry, such as education, training, or experience~~ 620  
that meets the criteria described in division (C) of this section. 621

(C)(1) An employer may defend a wage rate differential made 622  
under division (B)(4) of this section only if the employer can 623  
demonstrate all of the following: 624

(a) The difference is based on a factor substantially related 625  
to the employee's position and performance, such as education, 626  
training, or experience. 627

(b) The difference is not related to the employee's race, 628  
color, religion, sex, national origin, age, ancestry, sexual 629  
orientation, or gender identity. 630

(c) The difference is consistent with business necessity. 631

(2) The defense described in division (C)(1) of this section 632

shall be rebutted if an employee making an allegation of wage 633  
discrimination or the commission demonstrates both of the 634  
following: 635

(a) An alternative employment practice exists that would 636  
serve the same business purpose without producing the wage rate 637  
differential. 638

(b) The employer has refused to adopt the alternative 639  
practice. 640

(D) No employer shall reduce the wage rate of any employee in 641  
order to comply with this section. 642

~~(D)~~(E) The ~~director of commerce~~ commission shall carry out, 643  
administer, and enforce this section. Any employee discriminated 644  
against in violation of this section may sue in any court of 645  
competent jurisdiction to recover two times the amount of the 646  
difference between the wages actually received and the wages 647  
received by a person performing equal work for the employer, from 648  
the date of the commencement of the violation, and for costs, 649  
including attorney fees. Notwithstanding the definitions of "tort 650  
action" in sections 2315.18 to 2315.21 of the Revised Code, such 651  
an action shall be considered a tort action for the purposes of 652  
those sections and shall be subject to sections 2315.18 to 2315.21 653  
of the Revised Code, except to the extent those sections conflict 654  
with this section. The ~~director~~ commission may take an assignment 655  
of any such wage claim in trust for such employee and sue in the 656  
employee's behalf. In any civil action under this section, two or 657  
more employees of the same employer may join as co-plaintiffs in 658  
one action. The ~~director~~ commission may sue in one action for 659  
claims assigned to the ~~director~~ commission by two or more 660  
employees of the same employer. No agreement to work for a 661  
discriminatory wage constitutes a defense for any civil or 662  
criminal action to enforce this section. No employer shall 663  
discriminate against any employee because such employee makes a 664

complaint or institutes, or testifies in, any proceeding under 665  
this section. 666

~~(E)~~(F) Any action arising under this section shall be 667  
initiated within one year after the date of violation. 668

(G)(1) No employer shall discriminate against any employee 669  
because the employee makes a complaint, or institutes or testifies 670  
in any proceeding, under this section. 671

(2) No employer shall discriminate against an employee for 672  
inquiring about, discussing, or disclosing the wages of the 673  
employee or another employee in response to a complaint or charge, 674  
or in furtherance of a discrimination investigation, proceeding, 675  
hearing, or action, or an investigation conducted by the employer. 676

(3) Any person discriminated against in violation of division 677  
(G)(1) or (2) of this section may sue in any court of competent 678  
jurisdiction to recover damages, injunctive relief, or any other 679  
appropriate relief. 680

(H) In addition to any other award made under this section, 681  
the court or jury may award punitive or exemplary damages in 682  
accordance with section 2315.21 of the Revised Code in an amount 683  
sufficient to deter future violations. 684

(I) As used in this section: 685

(1) "Sexual orientation" means heterosexuality, 686  
homosexuality, or bisexuality, whether actual or perceived. 687

(2) "Gender identity" means an individual's self-perception, 688  
or perception of that person by another, of the individual's 689  
identity as male or female as realized through the person's 690  
appearance, behavior, or physical characteristics, regardless of 691  
whether such appearance, behavior, or physical characteristics are 692  
in accord with or opposed to the person's physical anatomy, 693  
chromosomal sex, or sex at birth. 694

**Section 2.** That existing sections 3314.03, 3326.11, 4111.04, 695  
4111.05, 4111.06, 4111.07, 4111.09, 4111.11, 4111.12, 4111.13, 696  
4111.17, 4111.99, and 4112.01 of the Revised Code are hereby 697  
repealed. 698

**Section 3.** The General Assembly, in enacting this 699  
legislation, hereby declares its intent to ensure equal pay for 700  
women in Ohio and to correct the historical wage disparity that 701  
has occurred between the sexes. 702

**Section 4.** This act shall be known as the "Fair and 703  
Acceptable Income Required (FAIR) Act." 704