

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 304

Representatives Clites, Howse

**Cosponsors: Representatives Boggs, Brent, Crossman, Lepore-Hagan, Liston,
Miller, A., Miller, J., Miranda, O'Brien, Russo, Skindell, Smith, K., Sobecki,
Strahorn, Sweeney, Weinstein, West**

A BILL

To amend sections 4112.04 and 4117.08 and to enact 1
sections 9.79, 9.791, 9.792, 9.793, 9.794, 2
9.795, 9.796, 9.797, 9.798, 142.01, 142.02, 3
142.03, 142.04, 142.05, 142.06, 142.07, 142.08, 4
142.09, 142.10, 4113.12, 4113.42, and 4117.141 5
of the Revised Code to enact the Ohio Equal Pay 6
Act to require state contractors and economic 7
incentive recipients to obtain an equal pay 8
certificate, to require public employers to 9
establish a job evaluation system to identify 10
and eliminate sex-based wage disparities, to 11
prohibit employers from seeking a prospective 12
employee's wage or salary history, and to 13
prohibit employer retaliation against an 14
employee who discusses salary or wage rates with 15
another employee. 16

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

Section 1. That sections 4112.04 and 4117.08 be amended 17

and sections 9.79, 9.791, 9.792, 9.793, 9.794, 9.795, 9.796, 18
9.797, 9.798, 142.01, 142.02, 142.03, 142.04, 142.05, 142.06, 19
142.07, 142.08, 142.09, 142.10, 4113.12, 4113.42, and 4117.141 20
of the Revised Code be enacted to read as follows: 21

Sec. 9.79. As used in sections 9.79 to 9.798 of the 22
Revised Code: 23

(A) "Business entity" means a corporation, partnership, 24
association, firm, sole proprietorship, limited liability 25
corporation, limited liability partnership, or other entity 26
engaged in business. 27

(B) "Construction manager" and "construction manager at 28
risk" have the same meanings as in section 9.33 of the Revised 29
Code. 30

(C) "Contractor" means any person who undertakes to 31
construct, alter, erect, improve, repair, demolish, remove, dig, 32
or drill any part of a public improvement under a contract, and 33
includes a construction manager, construction manager at risk, 34
and design-build firm. 35

(D) "Design-build firm" has the same meaning as in section 36
153.65 of the Revised Code. 37

(E) "EEO-1 report" means the report required by the United 38
States equal employment opportunity commission under 29 C.F.R. 39
1602.7. 40

(F) "Public improvement" means any construction, 41
reconstruction, improvement, enlargement, alteration, 42
demolition, or repair of a building, highway, drainage system, 43
water system, road, street, alley, sewer, ditch, sewage disposal 44
plant, water works, and any other structure or work of any 45
nature by a state agency. 46

(G) "State agency" has the same meaning as in section 1.60 47
of the Revised Code. 48

Sec. 9.791. (A) (1) No state agency shall award a contract 49
for a public improvement to a contractor who employs four or 50
more full-time employees on any day in the prior twelve months 51
in the state where the contractor has the contractor's principal 52
place of business unless the contractor meets one of the 53
following conditions: 54

(a) The contractor has obtained an equal pay certificate 55
issued under section 9.792 of the Revised Code. 56

(b) The contractor has certified that the contractor is 57
exempt from obtaining a certificate pursuant to division (B) of 58
this section in accordance with rules adopted by the director of 59
administrative services. 60

(2) No state agency shall award a contract to provide 61
goods or services to a state agency to a person who employs four 62
or more full-time employees on any day in the prior twelve 63
months in the state where the person has the person's principal 64
place of business unless the person meets one of the following 65
conditions: 66

(a) The person has obtained an equal pay certificate 67
issued under section 9.792 of the Revised Code. 68

(b) The person has certified that the person is exempt 69
from obtaining a certificate pursuant to division (B) of this 70
section in accordance with rules adopted by the director. 71

(3) No state agency shall award a grant or other economic 72
incentive to a business entity that employs four or more full- 73
time employees on any day in the prior twelve months in the 74
state where the business entity has the business entity's 75

principal place of business, including if the award is being 76
made on recommendation of the nonprofit corporation formed under 77
section 187.01 of the Revised Code, unless the business entity 78
meets one of the following conditions: 79

(a) The business entity has obtained an equal pay 80
certificate issued under section 9.792 of the Revised Code. 81

(b) The business entity has certified that the business 82
entity is exempt from obtaining a certificate pursuant to 83
division (B) of this section in accordance with rules adopted by 84
the director. 85

(B) This section does not apply to a contractor, person, 86
or business entity described in division (A) of this section, 87
with respect to a specific contract for a public improvement, to 88
provide goods or services to a state agency, or to a specific 89
grant or other economic incentive, if the director determines 90
that compliance with division (A) of this section would cause 91
undue hardship to the contractor, person, or business entity. 92

(C) The director shall adopt rules in accordance with 93
Chapter 119. of the Revised Code to do all of the following: 94

(1) Establish procedures to apply for and requirements to 95
obtain an exemption described in division (B) of this section; 96

(2) Define "undue hardship" for purposes of division (B) 97
of this section; 98

(3) Establish procedures to renew a certificate. 99

(D) The director shall provide technical assistance to a 100
contractor, person, or business entity who requests assistance 101
regarding compliance with sections 9.79 to 9.798 of the Revised 102
Code. 103

Sec. 9.792. (A) A contractor wishing to be awarded a 104
contract for a public improvement, a person wishing to provide 105
goods or services to a state agency, or a business entity 106
wishing to be awarded a grant or other economic incentive shall 107
apply for a certificate required by section 9.791 of the Revised 108
Code by submitting a twenty-five-dollar filing fee and an equal 109
pay compliance statement described in this section to the 110
director of administrative services. An equal pay compliance 111
statement shall be signed by the contractor, person, or the 112
chief executive officer of the business entity and contain all 113
of the following information: 114

(1) That the contractor, person, or business entity is in 115
compliance with Title VII of the Civil Rights Act of 1964, 42 116
U.S.C. 2000e et seq., the Equal Pay Act of 1963, 29 U.S.C. 117
206(d), Chapter 4112. of the Revised Code, and section 4111.17 118
of the Revised Code; 119

(2) That the average compensation for female employees is 120
not consistently below the average compensation for male 121
employees within each of the major job categories in the 122
contractor's, person's, or business entity's EEO-1 report, if 123
the contractor, person, or business entity is required to file 124
that report, taking into account all of the following factors: 125

(a) Length of service; 126

(b) Requirements of specific jobs; 127

(c) Experience; 128

(d) Skill; 129

(e) Effort; 130

(f) Responsibility; 131

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| <u>(g) Working conditions of the job;</u> | 132 |
| <u>(h) Other mitigating factors.</u> | 133 |
| <u>(3) That employees of one sex are not restricted to certain job classifications;</u> | 134 135 |
| <u>(4) That the contractor, person, or business entity makes retention and promotion decisions without regard to sex;</u> | 136 137 |
| <u>(5) That compensation and benefit disparities are corrected when identified;</u> | 138 139 |
| <u>(6) The frequency in which compensation and benefits are evaluated to ensure compliance with the laws listed in division (A) (1) of this section;</u> | 140 141 142 |
| <u>(7) Which of the following approaches a contractor, person, or business entity uses in setting compensation and benefits:</u> | 143 144 145 |
| <u>(a) Market pricing;</u> | 146 |
| <u>(b) State prevailing wage or labor organization contract requirements;</u> | 147 148 |
| <u>(c) A performance pay system;</u> | 149 |
| <u>(d) Internal analysis;</u> | 150 |
| <u>(e) An alternative approach as described by the contractor, person, or business entity.</u> | 151 152 |
| <u>(8) That employees of the contractor, person, or business entity are able to contact the contractor's, person's, or business entity's human resources department and request to see how the employee's compensation compares with other employees with jobs of "comparable skill, effort, responsibility, and working conditions."</u> | 153 154 155 156 157 158 |

(B) Receipt of an equal pay compliance statement by the 159
director does not establish a contractor's, person's, or 160
business entity's compliance with the laws listed in division 161
(A) (1) of this section. 162

(C) The director shall reject an application only if the 163
statement described in division (A) of this section submitted by 164
the contractor, person, or business entity does not comply with 165
the requirements of that division or the contractor, person, or 166
business entity fails to submit the required fee. The director 167
shall issue a certificate or, if the director rejects an 168
application, a statement explaining the reason for the 169
rejection, to a contractor, person, or business entity within 170
fifteen days after receiving an application submitted under this 171
section. A certificate issued under this section is valid for a 172
period of four years and may be renewed in accordance with rules 173
adopted by the director. 174

Sec. 9.793. (A) (1) The director of administrative 175
services, in accordance with Chapter 119. of the Revised Code, 176
may suspend or revoke a certificate issued under section 9.792 177
of the Revised Code for any of the following reasons: 178

(a) The contractor, person, or business entity fails to 179
comply with the laws listed in division (A) (1) of section 9.792 180
of the Revised Code. 181

(b) The contractor, person, or business entity has 182
multiple violations of the laws listed in division (A) (1) of 183
section 9.792 of the Revised Code. 184

(c) The contractor, person, or business entity fails to 185
comply with section 9.791 of the Revised Code. 186

(2) The director shall provide a contractor, person, or 187

business entity an opportunity to comply with section 9.791 or 188
9.792 of the Revised Code before suspending or revoking the 189
contractor's, person's, or business entity's certificate. 190

(B) A state agency, in accordance with Chapter 119. of the 191
Revised Code, may abridge or terminate a contract with a 192
contractor or person or revoke a grant or other economic 193
incentive from a business entity on notice that the director has 194
suspended or revoked the certificate issued to a contractor, 195
person, or business entity. 196

(C) The director may void a contract or revoke a grant or 197
other economic incentive on behalf of a state agency if a 198
contractor, person, or business entity is not in compliance with 199
section 9.791 or 9.792 of the Revised Code. 200

(D) The director shall notify a state agency that has an 201
agreement with a contractor or person or has awarded a grant or 202
other economic incentive to a business entity before the 203
director voids the contract or revokes the grant or other 204
economic incentive under division (C) of this section. 205

Sec. 9.794. (A) The director of administrative services 206
shall notify a contractor, person, or business entity that holds 207
a certificate issued under section 9.792 of the Revised Code by 208
certified mail of the director's decision to suspend or revoke a 209
contractor's, person's, or business entity's certificate under 210
section 9.793 of the Revised Code. 211

(B) A state agency shall notify a contractor, person, or 212
business entity by certified mail of the state agency's decision 213
to abridge or terminate a contractor's or person's contract or 214
to revoke a business entity's grant or other economic incentive 215
under section 9.793 of the Revised Code. 216

Sec. 9.795. The director of administrative services may 217
audit a contractor, person, or business entity described in 218
section 9.791 of the Revised Code to determine whether the 219
contractor, person, or business entity is in compliance with 220
section 9.791 or 9.792 of the Revised Code. As part of an audit, 221
a contractor, person, or business entity shall provide to the 222
director information for all employees expected to perform work 223
under the contract, grant, or other economic incentive for each 224
of the major job categories included in the contractor's, 225
person's, or business entity's EEO-1 report if the contractor, 226
person, or business entity is required to file that report. As a 227
part of an audit, the contractor, person, or business entity 228
shall provide all of the following information to the director: 229

(A) Number of male employees; 230

(B) Number of female employees; 231

(C) Average length of service for male employees and for 232
female employees within each major job category; 233

(D) Average annualized salaries paid to male employees and 234
to female employees within each major job category, in the 235
manner most consistent with the compensation system identified 236
by the contractor, person, or business entity under division (A) 237
(7) of section 9.792 of the Revised Code; 238

(E) Performance payments, benefits, or other elements of 239
compensation, in the manner most consistent with the 240
compensation system identified by the contractor, person, or 241
business entity under division (A) (7) of section 9.792 of the 242
Revised Code; 243

(F) Other information identified by the director as 244
necessary to determine compliance with division (A) of section 245

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| <u>9.792 of the Revised Code.</u> | 246 |
| <u>Sec. 9.796. Any data on individuals submitted to the</u> | 247 |
| <u>director of administrative services under division (A) of</u> | 248 |
| <u>section 9.792 of the Revised Code shall be confidential and is</u> | 249 |
| <u>not a public record under section 149.43 of the Revised Code.</u> | 250 |
| <u>A record of the director's decision to issue, not issue,</u> | 251 |
| <u>revoke, or suspend a certificate is a public record.</u> | 252 |
| <u>Sec. 9.797. Not later than January 31, 2020, and every two</u> | 253 |
| <u>years thereafter, the director of administrative services shall</u> | 254 |
| <u>submit a report of the activities of the department of</u> | 255 |
| <u>administrative services regarding certificates issued under</u> | 256 |
| <u>section 9.792 of the Revised Code to the governor and the</u> | 257 |
| <u>general assembly. The report shall contain all of the following</u> | 258 |
| <u>information:</u> | 259 |
| <u>(A) The number of certificates issued;</u> | 260 |
| <u>(B) The number of audits conducted under section 9.795 of</u> | 261 |
| <u>the Revised Code;</u> | 262 |
| <u>(C) The processes contractors for public improvements,</u> | 263 |
| <u>persons wishing to provide goods or services to a state agency,</u> | 264 |
| <u>or business entities awarded a grant or other economic incentive</u> | 265 |
| <u>use to ensure compliance with division (A) of section 9.792 of</u> | 266 |
| <u>the Revised Code;</u> | 267 |
| <u>(D) A summary of the director's auditing efforts under</u> | 268 |
| <u>section 9.795 of the Revised Code.</u> | 269 |
| <u>Sec. 9.798. There is hereby created in the state treasury</u> | 270 |
| <u>the equal pay certificate fund. The fund shall consist of all</u> | 271 |
| <u>certificate filing fees collected by the director of</u> | 272 |
| <u>administrative services under division (A) of section 9.792 of</u> | 273 |

the Revised Code. Money in the fund shall be used by the 274
department of administrative services to administer sections 275
9.79 to 9.798 of the Revised Code. Investment earnings of the 276
fund shall be credited to the fund. 277

Sec. 142.01. As used in this chapter: 278

(A) "Balanced class" means any class in which both of the 279
following conditions apply: 280

(1) Not more than eighty per cent of the members are male. 281

(2) Not more than seventy per cent of the members are 282
female. 283

(B) "Comparable work value" means the value of work 284
measured by skill, effort, responsibility, and working 285
conditions normally required in the performance of the work. 286

(C) "Class" means one or more positions in public 287
employment that have similar duties, responsibilities, and 288
general qualifications necessary to perform the duties, with 289
comparable selection procedures used to recruit employees, and 290
use of the same compensation schedule. 291

(D) "Equitable compensation relationship" means that the 292
compensation for female-dominated classes is not consistently 293
below the compensation for male-dominated classes of comparable 294
work value, as determined under section 142.04 of the Revised 295
Code, for each public employer. 296

(E) "Exclusive representative" has the same meaning as in 297
section 4117.01 of the Revised Code. 298

(F) "Female-dominated class" means any class in which 299
seventy per cent or more of the members are female. 300

(G) "Male-dominated class" means any class in which eighty 301
per cent or more of the members are male. 302

(H) "Position" means a group of current duties and 303
responsibilities assigned or delegated by a supervisor to an 304
employee. 305

(I) "Political subdivision" means a county, township, 306
municipal corporation, or any other body corporate and politic 307
that is responsible for government activities in a geographic 308
area smaller than that of the state. 309

(J) "Public employer" means either of the following: 310

(1) A state agency; 311

(2) A political subdivision. 312

(K) "State agency" means any organized body, office, 313
agency, institution, or other entity established by the laws of 314
the state for the exercise of any function of state government. 315

Sec. 142.02. Subject to Chapter 4117. and sections 4115.03 316
to 4115.21 and 4115.99 of the Revised Code, but notwithstanding 317
any other law to the contrary, every public employer shall 318
establish equitable compensation relationships between female- 319
dominated, male-dominated, and balanced classes of employees to 320
eliminate sex-based wage disparities in public employment in 321
this state. A public employer shall make the comparable work 322
value of a position in relationship to other employee positions 323
a primary consideration in negotiating, establishing, 324
recommending, and approving compensation. 325

Nothing in this chapter limits the ability of the parties 326
to collectively bargain in good faith. 327

Sec. 142.03. (A) The director of administrative services, 328

in establishing the job classification plan and assigning pay 329
ranges pursuant to section 124.14 of the Revised Code, and any 330
other public employer with the authority to determine 331
compensation for the employees of the public employer, shall 332
assure all of the following, as applicable: 333

(1) That compensation for positions in the classified 334
civil service and unclassified civil service bear reasonable 335
relationship to one another; 336

(2) That compensation for positions bears a reasonable 337
relationship to similar positions outside of that particular 338
public employer; 339

(3) That compensation for positions within the public 340
employer's workforce bears a reasonable relationship among 341
various classes and among various levels within the same 342
occupation group. 343

(B) For purposes of division (A) of this section, 344
compensation for a position bears a "reasonable relationship" to 345
another position if both of the following conditions are 346
satisfied: 347

(1) Compensation for positions that require comparable 348
skill, effort, responsibility, working conditions, and other 349
relevant work-related criteria is comparable. 350

(2) Compensation for positions that require differing 351
skill, effort, responsibility, working conditions, and other 352
relevant work-related criteria is proportional to the skill, 353
effort, responsibility, working conditions, and other relevant 354
work-related criteria required. 355

Sec. 142.04. (A) Every public employer shall establish a 356
job evaluation system and use that system to determine the 357

comparable work value of the work performed by each class of the 358
public employer's employees. A public employer may adopt the job 359
evaluation system established by any other public employer. 360

A public employer shall meet and confer with the exclusive 361
representative of the public employer's employees on the 362
development or selection of a job evaluation system. 363

(B) (1) A public employer shall maintain and update a job 364
evaluation system established by the public employer to account 365
for both of the following: 366

(a) New employee classes; 367

(b) Changes in factors affecting the comparable work value 368
of existing classes. 369

(2) A public employer that substantially modifies the 370
public employer's job evaluation system or adopts a new job 371
evaluation system shall notify the director of budget and 372
management. 373

Sec. 142.05. Every public employer shall submit a report 374
containing the results of the job evaluation system conducted 375
under section 142.04 of the Revised Code to the exclusive 376
representative selected by the public employer's employees under 377
section 4117.05 of the Revised Code to be used by both parties 378
in negotiations for collective bargaining agreements. The report 379
shall contain the following information: 380

(A) The female-dominated classes of a public employer for 381
which compensation inequity exists, based on the comparable work 382
value; 383

(B) All data not on individuals used to support the 384
findings in division (A) of this section. 385

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| <u>Sec. 142.06. (A) (1) Each public employer shall submit an</u> | 386 |
| <u>implementation report to the director of budget and management</u> | 387 |
| <u>that contains all of the following information, as of the</u> | 388 |
| <u>thirty-first day of December of the preceding year:</u> | 389 |
| <u>(a) A list of all job classes of the public employer;</u> | 390 |
| <u>(b) The number of employees in each class listed in</u> | 391 |
| <u>division (A) (1) (a) of this section;</u> | 392 |
| <u>(c) The number of female employees in each class listed in</u> | 393 |
| <u>division (A) (1) (a) of this section;</u> | 394 |
| <u>(d) An identification of each class listed in division (A)</u> | 395 |
| <u>(1) (a) of this section as male-dominated, female-dominated, or</u> | 396 |
| <u>balanced;</u> | 397 |
| <u>(e) The comparable work value of each class listed in</u> | 398 |
| <u>division (A) (1) (a) of this section as determined by the job</u> | 399 |
| <u>evaluation system used by the public employer under section</u> | 400 |
| <u>142.04 of the Revised Code;</u> | 401 |
| <u>(f) The minimum and maximum salary for each class listed</u> | 402 |
| <u>in division (A) (1) (a) of this section, if salary ranges have</u> | 403 |
| <u>been established, and the amount of time in employment required</u> | 404 |
| <u>to qualify for the maximum salary;</u> | 405 |
| <u>(g) Any additional cash compensation paid to members of a</u> | 406 |
| <u>class listed in division (A) (1) (a) of this section;</u> | 407 |
| <u>(h) Any additional information requested by the director.</u> | 408 |
| <u>(2) The director shall adopt rules in accordance with</u> | 409 |
| <u>Chapter 119. of the Revised Code to establish a schedule to</u> | 410 |
| <u>stagger the submission of the implementation reports required by</u> | 411 |
| <u>division (A) (1) of this section. Each public employer shall</u> | 412 |
| <u>submit a report every three years, with the first set of reports</u> | 413 |

due to the director not later than the thirty-first day of 414
January immediately following the effective date of this 415
section. 416

(B) A state agency that fails to submit an implementation 417
report is subject to the penalty described in section 142.07 of 418
the Revised Code. 419

Sec. 142.07. (A) The director of budget and management 420
shall review the implementation reports the director receives 421
under section 142.06 of the Revised Code to determine whether a 422
public employer has established equitable compensation 423
relationships as required under section 142.02 of the Revised 424
Code. The director shall notify a public employer in writing if 425
the director determines that the public employer has complied 426
with the requirement of that section. 427

(B) If the director finds that a public employer did not 428
comply with that section, the director shall issue a statement 429
to the public employer in writing containing the following 430
information: 431

(1) A detailed description of the basis of the finding of 432
noncompliance; 433

(2) Specific recommended actions the public employer is 434
required to take to comply with that section; 435

(3) An estimate of the cost to the public employer to 436
comply with that section. 437

(C) (1) A public employer shall notify the director in 438
writing of a disagreement with a finding of the director under 439
division (B) of this section. The director shall provide the 440
public employer a specified time period in which to submit 441
additional evidence to support the employer's claim of 442

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| <u>compliance with the requirements of section 142.02 of the</u> | 443 |
| <u>Revised Code. That evidence may include any of the following:</u> | 444 |
| <u>(a) Recruitment difficulties;</u> | 445 |
| <u>(b) Retention difficulties;</u> | 446 |
| <u>(c) Recent conciliation awards made under section 4117.14</u> | 447 |
| <u>of the Revised Code that are inconsistent with equitable</u> | 448 |
| <u>compensation relationships under section 142.02 of the Revised</u> | 449 |
| <u>Code;</u> | 450 |
| <u>(d) Information that demonstrates that the employer made a</u> | 451 |
| <u>good faith effort to comply with section 142.02 of the Revised</u> | 452 |
| <u>Code, including constraints faced by the employer;</u> | 453 |
| <u>(e) A plan for the employer to comply with that section.</u> | 454 |
| <u>(2) The public employer shall specify with the evidence a</u> | 455 |
| <u>date for additional review by the director.</u> | 456 |
| <u>(D) (1) If a state agency does not make changes to comply</u> | 457 |
| <u>with the requirements of section 142.02 of the Revised Code</u> | 458 |
| <u>within a reasonable time period established by the director, the</u> | 459 |
| <u>director shall assess a fine of one hundred dollars for each day</u> | 460 |
| <u>the state agency remains noncompliant. The penalty remains in</u> | 461 |
| <u>effect until the state agency demonstrates that the state agency</u> | 462 |
| <u>has complied with section 142.02 of the Revised Code.</u> | 463 |
| <u>(2) The director may suspend the penalty imposed on a</u> | 464 |
| <u>state agency under division (D) (1) of this section for any of</u> | 465 |
| <u>the following reasons:</u> | 466 |
| <u>(a) The state agency's failure to comply was attributable</u> | 467 |
| <u>to circumstances beyond the control of the state agency.</u> | 468 |
| <u>(b) The state agency's failure to comply was attributable</u> | 469 |

to severe hardship of the state agency. 470

(c) The noncompliance is a result of factors unrelated to 471
the sex of the members of the affected classes, and the state 472
agency is taking steps to comply with the requirements of 473
section 142.02 of the Revised Code to the extent possible. 474

(E) A state agency may appeal a penalty imposed under 475
division (D) (1) of this section to the director within thirty 476
days after the director assesses the penalty. The director shall 477
not impose the penalty on a state agency while an appeal is 478
pending. 479

Sec. 142.08. On or before the first day of January 480
immediately following the effective date of this section, and on 481
or before the first day of January thereafter, the director of 482
budget and management shall submit a report on the status of 483
compliance of public employers with section 142.02 of the 484
Revised Code to the general assembly. The report shall contain 485
all of the following information: 486

(A) A list of the public employers in compliance with the 487
requirements of section 142.02 of the Revised Code; 488

(B) The estimated cost of each public employer to be 489
compliant with those requirements; 490

(C) A list of the public employers the director found to 491
be not in compliance with section 142.02 of the Revised Code; 492

(D) The basis for the director's finding in division (C) 493
of this section; 494

(E) The list of recommended changes the public employers 495
listed in division (C) of this section must make to comply with 496
section 142.02 of the Revised Code; 497

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| <u>(F) The estimated cost for each public employer to become</u> | 498 |
| <u>compliant with section 142.02 of the Revised Code;</u> | 499 |
| <u>(G) A list of the public employers who did not comply with</u> | 500 |
| <u>the reporting requirements in section 142.06 of the Revised</u> | 501 |
| <u>Code;</u> | 502 |
| <u>(H) Any additional information the director determines the</u> | 503 |
| <u>general assembly needs to know from a public employer.</u> | 504 |
| Sec. 142.09. <u>Notwithstanding division (A) of section</u> | 505 |
| <u>4117.11 of the Revised Code, it is not an unfair labor practice</u> | 506 |
| <u>for a public employer to specify an amount of funds to be used</u> | 507 |
| <u>solely to correct inequitable compensation relationships.</u> | 508 |
| <u>This chapter does not diminish the duty of a public</u> | 509 |
| <u>employer to bargain in good faith under Chapter 4117. of the</u> | 510 |
| <u>Revised Code.</u> | 511 |
| Sec. 142.10. <u>The Ohio civil rights commission or any court</u> | 512 |
| <u>of this state may use either of the following as evidence in any</u> | 513 |
| <u>proceeding or action alleging that an unlawful discriminatory</u> | 514 |
| <u>practice, as defined in section 4112.01 of the Revised Code, has</u> | 515 |
| <u>been committed:</u> | 516 |
| <u>(A) The results of any job evaluation system established</u> | 517 |
| <u>under section 142.04 of the Revised Code;</u> | 518 |
| <u>(B) A report compiled by a public employer under section</u> | 519 |
| <u>142.05 of the Revised Code.</u> | 520 |
| Sec. 4112.04. (A) The commission shall do all of the | 521 |
| following: | 522 |
| (1) Establish and maintain a principal office in the city | 523 |
| of Columbus and any other offices within the state that it | 524 |
| considers necessary; | 525 |

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| (2) Appoint an executive director who shall serve at the pleasure of the commission and be its principal administrative officer. The executive director shall be paid a salary fixed pursuant to Chapter 124. of the Revised Code. | 526 527 528 529 |
| (3) Appoint hearing examiners and other employees and agents who it considers necessary and prescribe their duties subject to Chapter 124. of the Revised Code; | 530 531 532 |
| (4) Adopt, promulgate, amend, and rescind rules to effectuate the provisions of this chapter and the policies and practice of the commission in connection with this chapter; | 533 534 535 |
| (5) Formulate policies to effectuate the purposes of this chapter and make recommendations to agencies and officers of the state or political subdivisions to effectuate the policies; | 536 537 538 |
| (6) Receive, investigate, and pass upon written charges made under oath of unlawful discriminatory practices; | 539 540 |
| (7) Make periodic surveys of the existence and effect of discrimination because of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry on the enjoyment of civil rights by persons within the state; | 541 542 543 544 545 |
| (8) Report, from time to time, but not less than once a year, to the general assembly and the governor, describing in detail the investigations, proceedings, and hearings it has conducted and their outcome, the decisions it has rendered, and the other work performed by it, which report shall include a copy of any surveys prepared pursuant to division (A) (7) of this section and shall include the recommendations of the commission as to legislative or other remedial action; | 546 547 548 549 550 551 552 553 |
| (9) Prepare a comprehensive educational program, in | 554 |

cooperation with the department of education, for the students 555
of the public schools of this state and for all other residents 556
of this state that is designed to eliminate prejudice on the 557
basis of race, color, religion, sex, military status, familial 558
status, national origin, disability, age, or ancestry in this 559
state, to further good will among those groups, and to emphasize 560
the origin of prejudice against those groups, its harmful 561
effects, and its incompatibility with American principles of 562
equality and fair play; 563

(10) Receive progress reports from agencies, 564
instrumentalities, institutions, boards, commissions, and other 565
entities of this state or any of its political subdivisions and 566
their agencies, instrumentalities, institutions, boards, 567
commissions, and other entities regarding affirmative action 568
programs for the employment of persons against whom 569
discrimination is prohibited by this chapter, or regarding any 570
affirmative housing accommodations programs developed to 571
eliminate or reduce an imbalance of race, color, religion, sex, 572
military status, familial status, national origin, disability, 573
or ancestry. All agencies, instrumentalities, institutions, 574
boards, commissions, and other entities of this state or its 575
political subdivisions, and all political subdivisions, that 576
have undertaken affirmative action programs pursuant to a 577
conciliation agreement with the commission, an executive order 578
of the governor, any federal statute or rule, or an executive 579
order of the president of the United States shall file progress 580
reports with the commission annually on or before the first day 581
of November. The commission shall analyze and evaluate the 582
progress reports and report its findings annually to the general 583
assembly on or before the thirtieth day of January of the year 584
immediately following the receipt of the reports. 585

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| <u>(11) Comply with divisions (D) to (G) of section 4113.12</u> | 586 |
| <u>of the Revised Code.</u> | 587 |
| (B) The commission may do any of the following: | 588 |
| (1) Meet and function at any place within the state; | 589 |
| (2) Initiate and undertake on its own motion | 590 |
| investigations of problems of employment or housing | 591 |
| accommodations discrimination; | 592 |
| (3) Hold hearings, subpoena witnesses, compel their | 593 |
| attendance, administer oaths, take the testimony of any person | 594 |
| under oath, require the production for examination of any books | 595 |
| and papers relating to any matter under investigation or in | 596 |
| question before the commission, and make rules as to the | 597 |
| issuance of subpoenas by individual commissioners. | 598 |
| (a) In conducting a hearing or investigation, the | 599 |
| commission shall have access at all reasonable times to | 600 |
| premises, records, documents, individuals, and other evidence or | 601 |
| possible sources of evidence and may examine, record, and copy | 602 |
| the premises, records, documents, and other evidence or possible | 603 |
| sources of evidence and take and record the testimony or | 604 |
| statements of the individuals as reasonably necessary for the | 605 |
| furtherance of the hearing or investigation. In investigations, | 606 |
| the commission shall comply with the fourth amendment to the | 607 |
| United States Constitution relating to unreasonable searches and | 608 |
| seizures. The commission or a member of the commission may issue | 609 |
| subpoenas to compel access to or the production of premises, | 610 |
| records, documents, and other evidence or possible sources of | 611 |
| evidence or the appearance of individuals, and may issue | 612 |
| interrogatories to a respondent, to the same extent and subject | 613 |
| to the same limitations as would apply if the subpoenas or | 614 |

interrogatories were issued or served in aid of a civil action 615
in a court of common pleas. 616

(b) Upon written application by a party to a hearing under 617
division (B) of section 4112.05 of the Revised Code, the 618
commission shall issue subpoenas in its name to the same extent 619
and subject to the same limitations as subpoenas issued by the 620
commission. Subpoenas issued at the request of a party shall 621
show on their face the name and address of the party and shall 622
state that they were issued at the party's request. 623

(c) Witnesses summoned by subpoena of the commission are 624
entitled to the witness and mileage fees provided for under 625
section 119.094 of the Revised Code. 626

(d) Within five days after service of a subpoena upon any 627
person, the person may petition the commission to revoke or 628
modify the subpoena. The commission shall grant the petition if 629
it finds that the subpoena requires an appearance or attendance 630
at an unreasonable time or place, that it requires production of 631
evidence that does not relate to any matter before the 632
commission, that it does not describe with sufficient 633
particularity the evidence to be produced, that compliance would 634
be unduly onerous, or for other good reason. 635

(e) In case of contumacy or refusal to obey a subpoena, 636
the commission or person at whose request it was issued may 637
petition for its enforcement in the court of common pleas in the 638
county in which the person to whom the subpoena was addressed 639
resides, was served, or transacts business. 640

(4) Create local or statewide advisory agencies and 641
conciliation councils to aid in effectuating the purposes of 642
this chapter. The commission may itself, or it may empower these 643

agencies and councils to, do either or both of the following: 644

(a) Study the problems of discrimination in all or 645
specific fields of human relationships when based on race, 646
color, religion, sex, military status, familial status, national 647
origin, disability, age, or ancestry; 648

(b) Foster through community effort, or otherwise, good 649
will among the groups and elements of the population of the 650
state. 651

The agencies and councils may make recommendations to the 652
commission for the development of policies and procedures in 653
general. They shall be composed of representative citizens who 654
shall serve without pay, except that reimbursement for actual 655
and necessary traveling expenses shall be made to citizens who 656
serve on a statewide agency or council. 657

(5) Issue any publications and the results of 658
investigations and research that in its judgment will tend to 659
promote good will and minimize or eliminate discrimination 660
because of race, color, religion, sex, military status, familial 661
status, national origin, disability, age, or ancestry. 662

Sec. 4113.12. (A) As used in this section, "employer" has 663
the same meaning as in section 4112.01 of the Revised Code. 664

(B) Except as provided in division (C) of this section, no 665
employer shall do either of the following: 666

(1) Request information regarding or seek a prospective 667
employee's wage or salary history from the prospective employee 668
or the prospective employee's current or former employer; 669

(2) Require that a prospective employee's prior wage or 670
salary history satisfy certain criteria. 671

(C) An employer may request information regarding, seek, 672
or confirm a prospective employee's wage or salary history under 673
either of the following circumstances: 674

(1) The prospective employee has voluntarily disclosed to 675
the employer the prospective employee's wage or salary history. 676

(2) The employer has made an offer of employment with 677
compensation to the prospective employee. 678

(D) A prospective employee who has reasonable cause to 679
believe an employer has violated this section may file a written 680
complaint with the Ohio civil rights commission. On receiving a 681
complaint, the commission may investigate an employer to 682
determine whether it is probable that the employer has violated 683
this section. If after an investigation the commission 684
determines it is probable that the employer has violated this 685
section, the commission shall proceed in accordance with the 686
notice and hearing requirements prescribed in Chapter 119. of 687
the Revised Code. 688

After a hearing conducted under Chapter 119. of the 689
Revised Code, if the commission determines that the employer has 690
violated this section, it shall order the offending employer to 691
complete successfully a remedial training course conducted by 692
the commission to educate the employer on appropriate hiring 693
practices in accordance with this section. The employer shall 694
complete the course not later than six months after the date on 695
which the employer receives the order. 696

(E) If an offending employer fails to successfully 697
complete the remedial training course within the time period 698
specified in division (D) of this section, or if the commission 699
determines it is probable after an investigation that an 700

offending employer has committed a second or subsequent 701
violation of this section within two years after a first 702
violation, the commission may refer the matter to the attorney 703
general for commencement of a civil action in a court of common 704
pleas. The attorney general may seek any relief the attorney 705
general considers necessary to enforce this section and costs. 706

(F) The commission shall adopt rules, in accordance with 707
Chapter 119. of the Revised Code, to develop and administer the 708
remedial training course conducted under division (D) of this 709
section. The commission shall maintain indefinitely a list of 710
offending employers that have successfully completed the course. 711

(G) The decision and order of the commission is final, 712
subject to review in the manner provided in Chapter 119. of the 713
Revised Code and appeal to the court of common pleas of Franklin 714
county. 715

Sec. 4113.42. As used in this section, "employee" and 716
"employer" have the same meanings as in section 4113.51 of the 717
Revised Code. 718

No employer shall discharge or otherwise retaliate against 719
an employee because the employee has discussed the employee's 720
salary or wage rate with another employee. 721

Sec. 4117.08. (A) All matters pertaining to wages, hours, 722
or terms and other conditions of employment and the 723
continuation, modification, or deletion of an existing provision 724
of a collective bargaining agreement are subject to collective 725
bargaining between the public employer and the exclusive 726
representative, except as otherwise specified in this section 727
and division (E) of section 4117.03 of the Revised Code. 728

(B) The conduct and grading of civil service examinations, 729

the rating of candidates, the establishment of eligible lists 730
from the examinations, and the original appointments from the 731
eligible lists are not appropriate subjects for collective 732
bargaining. 733

(C) Unless a public employer agrees otherwise in a 734
collective bargaining agreement, nothing in Chapter 4117. of the 735
Revised Code impairs the right and responsibility of each public 736
employer to: 737

(1) Determine matters of inherent managerial policy which 738
include, but are not limited to, areas of discretion or policy 739
such as the functions and programs of the public employer, 740
standards of services, its overall budget, utilization of 741
technology, and organizational structure; 742

(2) Direct, supervise, evaluate, or hire employees; 743

(3) Maintain and improve the efficiency and effectiveness 744
of governmental operations; 745

(4) Determine the overall methods, process, means, or 746
personnel by which governmental operations are to be conducted; 747

(5) Suspend, discipline, demote, or discharge for just 748
cause, or lay off, transfer, assign, schedule, promote, or 749
retain employees; 750

(6) Determine the adequacy of the work force; 751

(7) Determine the overall mission of the employer as a 752
unit of government; 753

(8) Effectively manage the work force; 754

(9) Take actions to carry out the mission of the public 755
employer as a governmental unit. 756

The employer is not required to bargain on subjects reserved to the management and direction of the governmental unit except as affect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. A public employee or exclusive representative may raise a legitimate complaint or file a grievance based on the collective bargaining agreement.

(D) (1) A public employer shall assure that all of the following occur in preparation for negotiating a collective bargaining agreement, if applicable:

(a) That compensation for positions in the classified civil service and unclassified civil service bear reasonable relationship to one another;

(b) That compensation for positions bears a reasonable relationship to similar positions outside of that particular public employer;

(c) That compensation for positions within the public employer's workforce bears a reasonable relationship among various classes and among various levels within the same occupation group.

(2) As used in division (D) (1) of this section, "reasonable relationship" has the same meaning as in section 142.03 of the Revised Code.

Sec. 4117.141. (A) As used in this section, "balanced class" has the same meaning as in section 142.01 of the Revised Code.

(B) A fact-finding panel or a conciliator appointed under section 4117.14 of the Revised Code shall consider all of the

following in any settlement of a dispute involving a class other 786
than a balanced class under Chapter 142. of the Revised Code; 787

(1) The equitable compensation relationship standards 788
established in section 142.02 of the Revised Code; 789

(2) The reasonable compensation relationships established 790
under section 142.03 of the Revised Code; 791

(3) The results of a job evaluation system conducted under 792
section 142.04 of the Revised Code; 793

(4) Any employee objections to the job evaluation system. 794

(C) In settlements of disputes involving a balanced class, 795
the fact-finding panel or conciliator shall consider similar 796
classifications of other public employers. The fact-finding 797
panel or conciliator also may consider the standards established 798
under section 142.02 of the Revised Code and the results of, and 799
any employee objections to, a job evaluation system conducted 800
under section 142.04 of the Revised Code. 801

(D) In collective bargaining involving a balanced class, 802
the parties shall consider similar classifications of other 803
public employers. The parties also may consider the equitable 804
compensation relationship standards established under section 805
142.02 of the Revised Code and the results of a job evaluation 806
system conducted under section 142.04 of the Revised Code. 807

Section 2. That existing sections 4112.04 and 4117.08 of 808
the Revised Code are hereby repealed. 809

Section 3. This act shall be known as the "Ohio Equal Pay 810
Act." 811

Section 4. Section 4112.04 of the Revised Code is 812
presented in this act as a composite of the section as amended 813

by both Am. Sub. H.B. 525 of the 127th General Assembly and Am. 814
Sub. H.B. 1 of the 128th General Assembly. The General Assembly, 815
applying the principle stated in division (B) of section 1.52 of 816
the Revised Code that amendments are to be harmonized if 817
reasonably capable of simultaneous operation, finds that the 818
composite is the resulting version of the section in effect 819
prior to the effective date of the section as presented in this 820
act. 821