



H.B. 316

123rd General Assembly
(As Introduced)

Reps. Sutton, Logan, Sykes, Pringle, Sullivan, Barrett, Harshman-Ferderber, Smith, Allen, Boyd, Perry, Ford, D. Miller, Opfer, Hartnett, Flannery, Ogg, Barnes, R. Miller, James, Healy, Sulzer, Britton, Verich, Bender, Metelsky, Wilson, Patton, Vesper, DePiero, Grendell, Callender

BILL SUMMARY

- Makes it an "unlawful employment practice" (as distinguished from an "unlawful discriminatory practice" used generally throughout the Ohio Civil Rights Law) for an employer to discriminate between employees on the basis of sex, race, or national origin by doing either of the following: (1) paying wages to employees at a rate less than the rate paid to employees of the opposite sex or of a different race or national origin for work in "equivalent jobs," (2) paying wages to employees in a job that is dominated by employees of a particular sex, race, or national origin at a wage rate less than the rate at which the employer pays wages to employees in another job that is dominated by employees of the opposite sex or of a different race or national origin, for work on equivalent jobs.
- Defines "equivalent jobs" as jobs or occupations that are equal within the meaning of the federal Equal Pay Act of 1963, or jobs or occupations that are dissimilar except that the requirements for the jobs or occupations are equivalent when viewed as a composite of effort, responsibility, and working conditions.
- Specifies that nothing prohibits an employer from paying different wage rates to employees where payments are made pursuant to a bona fide seniority system that measures earnings by a bona fide factor other than sex, race, or national origin.
- Specifies that a bona fide factor does not include wage differentials based on varying market rates for equivalent jobs or the differing economic benefits to the employer of equivalent jobs.

- Prohibits an employer from retaliating against an employee who exercises the employee's rights.
- Requires the Ohio Civil Rights Commission to establish guidelines specifying criteria for determining whether a job is dominated by a particular group of people.
- Requires employers to keep records of employee wage rates and methods of calculations of those wage rates.
- Specifies that the rights and remedies under the bill are in addition to any other remedy available at law or equity.
- Allows any person to file charges with the Ohio Civil Rights Commission alleging an unlawful employment practice within one year of the alleged occurrence.
- Allows an aggrieved person to file a civil action in the appropriate court alleging an unlawful employment practice within one year of the alleged occurrence.
- Declares an emergency.

CONTENT AND OPERATION

Unlawful employment practices

Under the bill, it is an "unlawful employment practice" for an employer to discriminate between employees on the basis of sex, race, or national origin, by doing any of the following: (1) paying wages to employees at a rate less than the rate paid to employees of the opposite sex or of a different race or national origin for work in "equivalent jobs," (2) paying wages to employees in a job that is dominated by employees of a particular sex, race, or national origin at a wage rate less than the rate at which that employer pays wages to employees in another job that is dominated by employees of the opposite sex or of a different race or national origin, for work on equivalent jobs. (Sec. 4112.22(A).) The bill defines "equivalent jobs" as jobs or occupations that are equal within the meaning of the federal Equal Pay Act of 1963, or jobs or occupations that are dissimilar except

that the requirements for the jobs or occupations are equivalent when viewed as a composite of effort, responsibility, and working conditions.¹ (Sec. 4112.21(C).)

The bill also specifies that an employer engages in an unlawful employment practice when the employer does the following:

(1) Takes adverse actions or discriminates against any individual because that individual opposed any unlawful act or practice, sought to enforce rights, or participated in an investigation, hearing or other proceeding to enforce rights protected under the bill;

(2) Discharges or discriminates against, coerces, intimidates, threatens, or interferes with any employee or any other person because the employee inquired about, disclosed, compared, or otherwise discussed the employee's wages or the wages of any other employee, or because the employee exercised, enjoyed, aided, or encouraged any other person to exercise or enjoy any right protected or granted under the bill. (Sec. 4112.23.)

No employee organization or its agents representing employees of an employer having employees subject to the bill's provisions is permitted to cause or attempt to cause an employer to discriminate against an employee in violation of the bill (sec. 4112.22(D)).

Wage rates

The bill stipulates that an employer is not prohibited from paying different wage rates to employees when payments are made pursuant to:

(1) A bona fide seniority system;

(2) A system that measures earnings by quantity or quality of production;
or

(3) Any bona fide factor other than sex, race, or national origin, provided, that age differentials based on varying market rates for equivalent jobs or the

¹ *The federal Equal Pay Act prohibits employers from discriminating between employees on the basis of sex by paying different wages to employees of the opposite sex for equal work on jobs that requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except when payment of wages is based on a merit or seniority system or any other system based on factors other than an employee's sex. 77 Stat. 56 (1963), 29 U.S.C.A. 206(d).*

differing economic benefits to the employer of equivalent jobs are not considered differentials based on bona fide factors other than sex, race, or national origin.

Also, the bill specifies that no employer is allowed to reduce the wage rate of any employee to comply with the bill's provisions. (Sec. 4112.22(B) and (C).)

Duties of the Ohio Civil Rights Commission

Under the bill, the Ohio Civil Rights Commission must establish guidelines specifying the criteria for determining whether a job is dominated by employees of a particular sex, race, or national origin. The criteria specifically must not include a list of jobs. The bill specifies that the criteria must include the following factors:

(1) Whether the job has ever been formally classified as or traditionally considered to be a "male" or "female" or "white" or "minority" job;

(2) Whether there is a history of discrimination against women or people of color with regard to wages, assignment or access to jobs, or other terms and conditions of employment;

(3) The demographic composition of the work force in equivalent jobs. (Sec. 4112.22(E).)

The rules adopted by the Commission relating to the form of reports that must be made and preserved by employers, described below in "**Employer duties**," must provide for privacy of employees and must prohibit the reports from including the names or other identifying information from which readers could discern the identities of the employees. The Commission may identify the circumstances that warrant a prohibition on disclosure of reports or information identifying the employer. The bill gives the Commission discretion to use the information and data it collects from employer reports for statistical and research purposes and the Commission may compile and publish studies, analyses, reports, and surveys based on the information and data, as it considers appropriate. (Sec. 4112.24(C) and (D).) The Commission also is required to prescribe regulations necessary to carry out the bill no later than 120 days after the effective date of the bill (Section 3).

Employer duties

Under the bill, every employer must provide to an employee, a written statement sufficient to inform the employee of the employee's job title, wage rate, and the method of wage calculation when the employee starts employment with the employer and at least once annually thereafter. The bill requires the employer to supplement the notice when the employee is promoted or reassigned to a different

position with the employer, unless the temporary reassignment is for a period of time not greater than three months. The bill also requires that every employer make and preserve records that document the wages paid to employees and document and support the method, system, calculations, and other bases used to establish, adjust, and determine the wage rates paid to employees. Under the bill the employer is required to preserve the wage data for a period of time prescribed by the Ohio Civil Rights Commission. (Sec. 4112.24.)

Remedies

The bill specifies that the rights created in the bill are enforceable under the existing remedies for civil rights violations in addition to any other remedy available at law or in equity (sec. 4112.25). The bill allows any person to file a charge with the Ohio Civil Rights Commission alleging that another person has engaged or is engaging in an unlawful employment practice up to one year after the alleged unlawful employment practice occurred (sec. 4112.05). Furthermore, the bill allows an aggrieved person to file a civil action in the court of common pleas of the county in which the alleged unlawful employment practice occurred within one year after it allegedly occurred (sec. 4112.051).

Applicability

The bill covers all permanent employees, whether full-time or part-time, and all temporary employees employed by the employer for a period of at least three months. The bill does not cover any individual employed by the individual's parents, spouse, or child. (Sec. 4112.21(B).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-28-99	p. 490

H0316-I.123/jc