

As Introduced

136th General Assembly

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H. B. No. 694

Representative Young

To amend sections 154.07, 3345.12, 3345.74, and 1
3345.75; to enact sections 3345.123 and 2
3345.741; and to repeal sections 154.25 and 3
3333.59 of the Revised Code regarding liens on 4
state institutions of higher education 5
facilities and conservatorships for state 6
universities and colleges. 7

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

Section 1. That sections 154.07, 3345.12, 3345.74, and 8
3345.75 be amended and sections 3345.123 and 3345.741 of the 9
Revised Code be enacted to read as follows: 10

Sec. 154.07. For the respective purposes provided in 11
sections 154.20, 154.21, 154.22, 154.23, and 154.24, ~~and~~ 154.25 12
of the Revised Code, the issuing authority may issue obligations 13
of the state of Ohio as provided in Chapter 154. of the Revised 14
Code, provided that the holders or owners of obligations shall 15
have no right to have excises or taxes levied by the general 16
assembly for the payment of the bond service charges. The right 17
of holders and owners to payment of bond service charges shall 18
be limited to the revenues or receipts and funds pledged thereto 19
in accordance with Chapter 154. of the Revised Code, and each 20
obligation shall bear on its face a statement to that effect. 21

Chapter 154. of the Revised Code does not permit, and no provision of that chapter shall be applied to authorize or grant, a pledge of charges for the treatment or care of mental hygiene and retardation patients to bond service charges on obligations other than those issued for capital facilities for mental hygiene and retardation, or a pledge of any receipts of or on behalf of state supported or state assisted institutions of higher education to bond service charges on obligations other than those issued for capital facilities for state supported or state assisted institutions of higher education, or a pledge of receipts with respect to parks and recreation to bond service charges on obligations other than those issued for capital facilities for parks and recreation, or a pledge of revenues or receipts received by or on behalf of any state agency to bond service charges on obligations other than those issued for capital facilities which are in whole or in part useful to, constructed by, or financed by the state agency that receives the revenues or receipts so pledged. 22
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Sec. 3345.12. (A) As used in this section and sections 3345.07 and 3345.11 of the Revised Code, in other sections of the Revised Code that make reference to this section unless the context does not permit, and in related bond proceedings unless otherwise expressly provided: 40
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(1) "State university or college" means each of the state universities identified in section 3345.011 of the Revised Code and the northeast Ohio medical university, and includes its board of trustees. 45
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(2) "Institution of higher education" or "institution" means a state university or college, or a community college district, technical college district, university branch 49
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district, or state community college, and includes the 52
applicable board of trustees or, in the case of a university 53
branch district, any other managing authority. 54

(3) "Housing and dining facilities" means buildings, 55
structures, and other improvements, and equipment, real estate, 56
and interests in real estate therefor, to be used for or in 57
connection with dormitories or other living quarters and 58
accommodations, or related dining halls or other food service 59
and preparation facilities, for students, members of the 60
faculty, officers, or employees of the institution of higher 61
education, and their spouses and families. 62

(4) "Auxiliary facilities" means buildings, structures, 63
and other improvements, and equipment, real estate, and 64
interests in real estate therefor, to be used for or in 65
connection with student activity or student service facilities, 66
housing and dining facilities, dining halls, and other food 67
service and preparation facilities, vehicular parking 68
facilities, bookstores, athletic and recreational facilities, 69
faculty centers, auditoriums, assembly and exhibition halls, 70
hospitals, infirmaries and other medical and health facilities, 71
research, and continuing education facilities. 72

(5) "Education facilities" means buildings, structures, 73
and other improvements, and equipment, real estate, and 74
interests in real estate therefor, to be used for or in 75
connection with, classrooms or other instructional facilities, 76
libraries, administrative and office facilities, and other 77
facilities, other than auxiliary facilities, to be used directly 78
or indirectly for or in connection with the conduct of the 79
institution of higher education. 80

(6) "Facilities" means housing and dining facilities, 81

auxiliary facilities, or education facilities, and includes any 82
one, part of, or any combination of such facilities, and further 83
includes site improvements, utilities, machinery, furnishings, 84
and any separate or connected buildings, structures, 85
improvements, sites, open space and green space areas, utilities 86
or equipment to be used in, or in connection with the operation 87
or maintenance of, or supplementing or otherwise related to the 88
services or facilities to be provided by, such facilities. 89

(7) "Obligations" means bonds or notes or other evidences 90
of obligation, including interest coupons pertaining thereto, 91
authorized to be issued under this section or section 3345.07, 92
3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised 93
Code. 94

(8) "Bond service charges" means principal, including any 95
mandatory sinking fund or redemption requirements for the 96
retirement of obligations or assurances, interest, or interest 97
equivalent and other accreted amounts, and any call premium 98
required to be paid on obligations or assurances. 99

(9) "Bond proceedings" means the resolutions, trust 100
agreement, indenture, and other agreements and any credit 101
enhancement facilities established prior to the effective date 102
of this amendment, and amendments and supplements to the 103
foregoing, or any one or more or combination thereof, 104
authorizing, awarding, or providing for the terms and conditions 105
applicable to, or providing for the security or liquidity of, 106
obligations or assurances, and the provisions contained in those 107
obligations or assurances. 108

(10) "Costs of facilities" means the costs of acquiring, 109
constructing, reconstructing, rehabilitating, remodeling, 110
renovating, enlarging, improving, equipping, or furnishing 111

facilities, and the financing thereof, including the cost of	112
clearance and preparation of the site and of any land to be used	113
in connection with facilities, the cost of any indemnity and	114
surety bonds and premiums on insurance, all related direct	115
administrative expenses and allocable portions of direct costs	116
of the institution of higher education or state agency, cost of	117
engineering, architectural services, design, plans,	118
specifications and surveys, estimates of cost, legal fees, fees	119
and expenses of trustees, depositories, bond registrars, and	120
paying agents for the obligations, cost of issuance of the	121
obligations and financing costs and fees and expenses of	122
financial advisers and consultants in connection therewith,	123
interest on the obligations from the date thereof to the time	124
when interest is to be covered by available receipts or other	125
sources other than proceeds of the obligations, amounts	126
necessary to establish reserves as required by the bond	127
proceedings, costs of audits, the reimbursements of all moneys	128
advanced or applied by or borrowed from the institution or	129
others, from whatever source provided, including any temporary	130
advances from state appropriations, for the payment of any item	131
or items of cost of facilities, and all other expenses necessary	132
or incident to planning or determining feasibility or	133
practicability with respect to facilities, and such other	134
expenses as may be necessary or incident to the acquisition,	135
construction, reconstruction, rehabilitation, remodeling,	136
renovation, enlargement, improvement, equipment, and furnishing	137
of facilities, the financing thereof and the placing of them in	138
use and operation, including any one, part of, or combination of	139
such classes of costs and expenses.	140
 (11) "Available receipts" means all moneys received by the	141
institution of higher education, including income, revenues, and	142

receipts from the operation, ownership, or control of facilities or entrepreneurial projects, grants, gifts, donations, and pledges and receipts therefrom, receipts from fees and charges, and the proceeds of the sale of obligations or assurances, including proceeds of obligations or assurances issued to refund obligations or assurances previously issued, but excluding any special fee, and receipts therefrom, charged pursuant to division (D) of section 154.21 of the Revised Code.	143 144 145 146 147 148 149 150
(12) "Credit enhancement facilities" has the meaning given in division (H) of section 133.01 of the Revised Code.	151 152
(13) "Financing costs" has the meaning given in division (K) of section 133.01 of the Revised Code.	153 154
(14) "Interest" or "interest equivalent" has the meaning given in division (R) of section 133.01 of the Revised Code.	155 156
(15) "Assurances" means bonds, notes, or other evidence of indebtedness, including interest coupons pertaining thereto, authorized to be issued under section 3345.36 of the Revised Code.	157 158 159 160
(16) "Entrepreneurial project" has the same meaning as in section 3345.36 of the Revised Code.	161 162
(17) "Costs of entrepreneurial projects" means any costs related to the establishment or development of entrepreneurial projects pursuant to a resolution adopted under section 3345.36 of the Revised Code.	163 164 165 166
(B) Obligations issued under section 3345.07 or 3345.11 of the Revised Code by a state university or college shall be authorized by resolution of its board of trustees. Obligations issued by any other institution of higher education shall be authorized by resolution of its board of trustees, or managing	167 168 169 170 171

directors in the case of certain university branch districts, as 172
applicable. Sections 9.96 and 9.98 to 9.983 of the Revised Code 173
apply to obligations and assurances. Obligations and assurances 174
may be issued to pay costs of facilities or entrepreneurial 175
projects even if the institution anticipates the possibility of 176
a future state appropriation to pay all or a portion of such 177
costs. 178

(C) Obligations and assurances shall be secured by a 179
pledge of and lien on all or such part of the available receipts 180
of the institution of higher education as it provides for in the 181
bond proceedings, excluding moneys raised by taxation and state 182
appropriations ~~except as permitted by section 3333.59 of the~~ 183
~~Revised Code~~. Such pledge and lien may be made prior to all 184
other expenses, claims, or payments, ~~excepting any pledge except~~ 185
in the case of any of the following: 186

(1) A lien filed in accordance with section 3345.123 of 187
the Revised Code; 188

(2) Any pledge of such available receipts previously made 189
to the contrary ~~and except as;~~ 190

(3) As provided by any existing restrictions on the use 191
~~thereof, or such.~~ 192

A pledge and lien may also be made subordinate to such 193
other expenses, claims, or payments, as provided in the bond 194
proceedings. Obligations or assurances may be additionally 195
secured by covenants of the institution to make, fix, adjust, 196
collect, and apply such charges, rates, fees, rentals, and other 197
items of available receipts as will produce pledged available 198
receipts sufficient to meet bond service charges, reserve, and 199
other requirements provided for in the bond proceedings. 200

Notwithstanding this and any other sections of the Revised Code,
the holders or owners of the obligations or assurances shall not
be given the right and shall have no right to have excises or
taxes levied by the general assembly for the payment of bond
service charges thereon, and each such obligation or assurance
shall bear on its face a statement to that effect and to the
effect that the right to such payment is limited to the
available receipts and special funds pledged to such purpose
under the bond proceedings.

All pledged available receipts and funds and the proceeds
of obligations or assurances are trust funds and, subject to the
provisions of this section and the applicable bond proceedings,
shall be held, deposited, invested, reinvested, disbursed,
applied, and used to such extent, in such manner, at such times,
and for such purposes, as are provided in the bond proceedings.

(D) The bond proceedings for obligations or assurances
shall provide for the purpose thereof and the principal amount
or maximum principal amount, and provide for or authorize the
manner of determining the principal maturity or maturities, the
sale price including any permitted discount, the interest rate
or rates, which may be a variable rate or rates, or the maximum
interest rate, the date of the obligations or assurances and the
date or dates of payment of interest thereon, their
denominations, the manner of sale thereof, and the establishment
within or without the state of a place or places of payment of
bond service charges. The bond proceedings also shall provide
for a pledge of and lien on available receipts of the
institution of higher education as provided in division (C) of
this section, and a pledge of and lien on such fund or funds
provided in the bond proceedings arising from available
receipts, which pledges and liens may provide for parity with

obligations or assurances theretofore or thereafter issued by 232
the institution. The available receipts so pledged and 233
thereafter received by the institution and the funds so pledged 234
are immediately subject to the lien of such pledge without any 235
physical delivery thereof or further act, and the lien of any 236
such pledge is valid and binding against all parties having 237
claims of any kind against the institution, irrespective of 238
whether such parties have notice thereof, and shall create a 239
perfected security interest for all purposes of Chapter 1309. of 240
the Revised Code, without the necessity for separation or 241
delivery of funds or for the filing or recording of the bond 242
proceedings by which such pledge is created or any certificate, 243
statement, or other document with respect thereto; and the 244
pledge of such available receipts and funds shall be effective 245
and the money therefrom and thereof may be applied to the 246
purposes for which pledged without necessity for any act of 247
appropriation. 248

(E) The bond proceedings may contain additional provisions 249
customary or appropriate to the financing or to the obligations 250
or assurances or to particular obligations and assurances, 251
including: 252

(1) The acquisition, construction, reconstruction, 253
equipment, furnishing, improvement, operation, alteration, 254
enlargement, maintenance, insurance, and repair of facilities or 255
entrepreneurial projects, and the duties of the institution of 256
higher education with reference thereto; 257

(2) The terms of the obligations or assurances, including 258
provisions for their redemption prior to maturity at the option 259
of the institution of higher education at such price or prices 260
and under such terms and conditions as are provided in the bond 261

proceedings;	262
(3) Limitations on the purposes to which the proceeds of the obligations or assurances may be applied;	263 264
(4) The rates or rentals or other charges for the use of or right to use the facilities or entrepreneurial projects financed by the obligations or assurances, or other properties the revenues or receipts from which are pledged to the obligations or assurances, and rules for assuring any applicable use and occupancy thereof, including limitations upon the right to modify such rates, rentals, other charges, or regulations;	265 266 267 268 269 270 271
(5) The use and expenditure of the pledged available receipts in such manner and to such extent as shall be determined, which may include provision for the payment of the expenses of operation, maintenance, and repair of facilities or entrepreneurial projects so that such expenses, or part thereof, shall be paid or provided as a charge prior or subsequent to the payment of bond service charges and any other payments required to be made by the bond proceedings;	272 273 274 275 276 277 278 279
(6) Limitations on the issuance of additional obligations or assurances;	280 281
(7) The terms of any trust agreement or indenture securing the obligations or assurances or under which the same may be issued;	282 283 284
(8) The deposit, investment, and application of funds, and the safeguarding of funds on hand or on deposit without regard to Chapter 131. or 135. of the Revised Code, and any bank or trust company or other financial institution that acts as depository of any moneys under the bond proceedings shall furnish such indemnifying bonds or pledge such securities as	285 286 287 288 289 290

required by the bond proceedings or otherwise by the institution of higher education;	291 292
(9) The binding effect of any or every provision of the bond proceedings upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;	293 294 295 296 297 298
(10) Any provision that may be made in a trust agreement or indenture;	299 300
(11) Any other or additional agreements with respect to the facilities of the institution of higher education or its entrepreneurial projects, their operation, the available receipts and funds pledged, and insurance of facilities or entrepreneurial projects and of the institution, its officers and employees.	301 302 303 304 305 306
(F) Such obligations or assurances may have the seal of the institution of higher education or a facsimile thereof affixed thereto or printed thereon and shall be executed by such officers as are designated in the bond proceedings, which execution may be by facsimile signatures. Any obligations or assurances may be executed by an officer who, on the date of execution, is the proper officer although on the date of such obligations or assurances such person was not the proper officer. In case any officer whose signature or a facsimile of whose signature appears on any such obligation or assurance ceases to be such officer before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the person had remained such officer until such delivery; and in case the seal of the institution has been	307 308 309 310 311 312 313 314 315 316 317 318 319 320

changed after a facsimile of the seal has been imprinted on such 321
obligations or assurances, such facsimile seal continues to be 322
sufficient as to such obligations or assurances and obligations 323
or assurances issued in substitution or exchange therefor. 324

(G) All such obligations or assurances are negotiable 325
instruments and securities under Chapter 1308. of the Revised 326
Code, subject to the provisions of the bond proceedings as to 327
registration. The obligations or assurances may be issued in 328
coupon or in registered form, or both. Provision may be made for 329
the registration of any obligations or assurances with coupons 330
attached thereto as to principal alone or as to both principal 331
and interest, their exchange for obligations or assurances so 332
registered, and for the conversion or reconversion into 333
obligations or assurances with coupons attached thereto of any 334
obligations or assurances registered as to both principal and 335
interest, and for reasonable charges for such registration, 336
exchange, conversion, and reconversion. 337

(H) Pending preparation of definitive obligations or 338
assurances, the institution of higher education may issue 339
interim receipts or certificates which shall be exchanged for 340
such definitive obligations or assurances. 341

(I) Such obligations or assurances may be secured 342
additionally by a trust agreement or indenture between the 343
institution of higher education and a corporate trustee, which 344
may be any trust company or bank having the powers of a trust 345
company within or without this state but authorized to exercise 346
trust powers within this state. Any such agreement or indenture 347
may contain the resolution authorizing the issuance of the 348
obligations or assurances, any provisions that may be contained 349
in the bond proceedings as authorized by this section, and other 350

provisions which are customary or appropriate in an agreement or indenture of such type, including:	351 352
(1) Maintenance of each pledge, trust agreement, and indenture, or other instrument comprising part of the bond proceedings until the institution of higher education has fully paid the bond service charges on the obligations or assurances secured thereby, or provision therefor has been made;	353 354 355 356 357
(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the institution of higher education made as a part of the contract under which the obligations or assurances were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;	358 359 360 361 362 363 364
(3) The rights and remedies of the holders of obligations or assurances and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations or assurances;	365 366 367 368
(4) The replacement of any obligations or assurances that become mutilated or are destroyed, lost, or stolen;	369 370
(5) Such other provisions as the trustee and the institution of higher education agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.	371 372 373 374
(J) Each duty of the institution of higher education and its officers or employees, undertaken pursuant to the bond proceedings or any related agreement or lease made under authority of law, is hereby established as a duty of such institution, and of each such officer or employee having	375 376 377 378 379

authority to perform such duty, specially enjoined by law 380
resulting from an office, trust, or station within the meaning 381
of section 2731.01 of the Revised Code. The persons who are at 382
the time the members of the board of trustees or the managing 383
directors of the institution or its officers or employees are 384
not liable in their personal capacities on such obligations or 385
assurances, or lease, or other agreement of the institution. 386

(K) The authority to issue obligations or assurances 387
includes authority to: 388

(1) Issue obligations or assurances in the form of bond 389
anticipation notes and to renew them from time to time by the 390
issuance of new notes. Such notes are payable solely from the 391
available receipts and funds that may be pledged to the payment 392
of such bonds, or from the proceeds of such bonds or renewal 393
notes, or both, as the institution of higher education provides 394
in its resolution authorizing such notes. Such notes may be 395
additionally secured by covenants of the institution to the 396
effect that it will do such or all things necessary for the 397
issuance of such bonds or renewal notes in appropriate amount, 398
and either exchange such bonds or renewal notes therefor or 399
apply the proceeds thereof to the extent necessary, to make full 400
payment of the bond service charges on such notes at the time or 401
times contemplated, as provided in such resolution. Subject to 402
the provisions of this division, all references to obligations 403
or assurances in this section apply to such anticipation notes. 404

(2) Issue obligations or assurances to refund, including 405
funding and retirement of, obligations or assurances previously 406
issued to pay costs of facilities or entrepreneurial projects. 407
Such obligations or assurances may be issued in amounts 408
sufficient for payment of the principal amount of the 409

obligations or assurances to be so refunded, any redemption	410
premiums thereon, principal maturities of any obligations or	411
assurances maturing prior to the redemption of any other	412
obligations or assurances on a parity therewith to be so	413
refunded, interest accrued or to accrue to the maturity date or	414
dates of redemption of such obligations or assurances, and any	415
expenses incurred or to be incurred in connection with such	416
refunding or the issuance of the obligations or assurances.	417
(L) Obligations and assurances are lawful investments for	418
banks, societies for savings, savings and loan associations,	419
deposit guarantee associations, trust companies, trustees,	420
fiduciaries, insurance companies, including domestic for life	421
and domestic not for life, trustees or other officers having	422
charge of sinking and bond retirement or other special funds of	423
political subdivisions and taxing districts of this state, the	424
commissioners of the sinking fund, the administrator of workers'	425
compensation in accordance with the investment policy approved	426
by the bureau of workers' compensation board of directors	427
pursuant to section 4121.12 of the Revised Code, the state	428
teachers retirement system, the public employees retirement	429
system, the school employees retirement system, and the Ohio	430
police and fire pension fund, notwithstanding any other	431
provisions of the Revised Code or rules adopted pursuant thereto	432
by any state agency with respect to investments by them, and are	433
also acceptable as security for the deposit of public moneys.	434
(M) All facilities or entrepreneurial projects purchased,	435
acquired, constructed, or owned by an institution of higher	436
education, or financed in whole or in part by obligations or	437
assurances issued by an institution, and used for the purposes	438
of the institution or other publicly owned and controlled	439
college or university, is public property used exclusively for a	440

public purpose, and such property and the income therefrom is 441
exempt from all taxation and assessment within this state, 442
including ad valorem and excise taxes. The obligations or 443
assurances, the transfer thereof, and the income therefrom, 444
including any profit made on the sale thereof, are at all times 445
free from taxation within the state. The transfer of tangible 446
personal property by lease under authority of this section or 447
section 3345.07, 3345.11, 3345.36, 3354.121, 3355.091, 3357.112, 448
or 3358.10 of the Revised Code is not a sale as used in Chapter 449
5739. of the Revised Code. 450

(N) The authority granted by this section is cumulative 451
with the authority granted to institutions of higher education 452
under Chapter 154. of the Revised Code, and nothing in this 453
section impairs or limits the authority granted by Chapter 154. 454
of the Revised Code. In any lease, agreement, or commitment made 455
by an institution of higher education under Chapter 154. of the 456
Revised Code, it may agree to restrict or subordinate any pledge 457
it may thereafter make under authority of this section. 458

(O) Title to lands acquired under this section and 459
sections 3345.07 and 3345.11 of the Revised Code by a state 460
university or college shall be taken in the name of the state. 461

(P) Except where costs of facilities or entrepreneurial 462
projects are to be paid in whole or in part from funds 463
appropriated by the general assembly, section 125.81 of the 464
Revised Code and the requirement for certification with respect 465
thereto under section 153.04 of the Revised Code do not apply to 466
such facilities or entrepreneurial projects. 467

(Q) A state university or college may sell or lease lands 468
or interests in land owned by it or by the state for its use, or 469
facilities authorized to be acquired or constructed by it under 470

section 3345.07 or 3345.11 of the Revised Code, to permit the 471
purchasers or lessees thereof to acquire, construct, equip, 472
furnish, reconstruct, alter, enlarge, remodel, renovate, 473
rehabilitate, improve, maintain, repair, or maintain and operate 474
thereon and to provide by lease or otherwise to such 475
institution, facilities authorized in section 3345.07 or 3345.11 476
of the Revised Code or entrepreneurial projects authorized under 477
section 3345.36 of the Revised Code. Such land or interests 478
therein shall be sold for such appraised value, or leased, and 479
on such terms as the board of trustees determines. All deeds or 480
other instruments relating to such sales or leases shall be 481
executed by such officer of the state university or college as 482
the board of trustees designates. The state university or 483
college shall hold, invest, or use the proceeds of such sales or 484
leases for the same purposes for which proceeds of borrowings 485
may be used under sections 3345.07 and 3345.11 of the Revised 486
Code or, if the proceeds relate to the sale or lease of 487
entrepreneurial projects, for purposes of section 3345.36 of the 488
Revised Code. 489

(R) An institution of higher education may pledge 490
available receipts, to the extent permitted by division (C) of 491
this section with respect to obligations, to secure the payments 492
to be made by it under any lease, lease with option to purchase, 493
or lease-purchase agreement authorized under this section or 494
section 3345.07, 3345.11, 3345.36, 3354.121, 3355.091, 3357.112, 495
or 3358.10 of the Revised Code. 496

Sec. 3345.123. (A) As used in this section:

(1) "Facilities" has the same meaning as in section 498
3345.12 of the Revised Code but does not include a facility that 499
is funded solely by federal or private sources. 500

<u>(2) "State institution of higher education" and "state university"</u> have the same meanings as in section 3345.011 of the Revised Code.	501 502 503
<u>(B) The Ohio facilities construction commission shall have a lien upon all facilities of state institutions of higher education and state universities constructed, reconstructed, enlarged, remodeled, renovated, improved, furnished, or equipped, or any combination thereof, with state funds or financed by the Ohio public facilities construction commission, the Ohio facilities construction commission, or any other state entity on or after the effective date of this section.</u>	504 505 506 507 508 509 510 511
<u>(C) A lien provided under this section shall be:</u>	512
<u>(1) For the amount of the actual project costs covered by the entity;</u>	513 514
<u>(2) Filed and recorded by the Ohio facilities construction commission in the office of the county recorder in the county in which the facility is located.</u>	515 516 517
<u>(D) In the event a facility upon which the commission has a lien provided under this section closes, is sold, or no longer operates as a facility, the lien has priority over any lien created pursuant to section 3345.12 of the Revised Code.</u>	518 519 520 521
<u>(E) A lien provided under this section continues in force for thirty years after it is recorded or until the amount of the lien is repaid, whichever occurs first. If an action is brought to enforce the lien within that time, the lien continues in force until final adjudication thereof.</u>	522 523 524 525 526
<u>(F) An action to enforce a lien provided by this section may be brought by the attorney general.</u>	527 528

Sec. 3345.74. (A) The chancellor of higher education at least annually shall apply the indicators and standards adopted under division (A) of section 3345.73 of the Revised Code to determine whether a state university or college under a fiscal watch is experiencing sufficient fiscal difficulties to warrant the appointment of a conservator under this section or if the board of trustees of a state university or college has taken any action related to pausing or stopping enrollment, submitted a withdrawal of accreditation, or taken any other action indicating it will no longer offer educational activity or will undergo a wind down and dissolution of existence. Upon making a determination that appointment of a conservator is warranted, the chancellor shall request from the office of budget and management, which shall provide, certification that sufficient fiscal difficulties exist to warrant appointment of a conservator. The chancellor shall then certify this determination to the governor and, for the purposes of section 3345.741 of the Revised Code, the speaker of the house of representatives and the president of the senate.

Notwithstanding section 3333.021 of the Revised Code, that section does not apply to certification by the chancellor under this section or to the declaration of a fiscal watch under section 3345.72 of the Revised Code.

A determination by the chancellor under this division that sufficient fiscal difficulties exist or do not exist to warrant appointing a conservator is final and conclusive and not appealable.

(B) The~~If~~ a conservator is determined necessary under divisions (B) and (C) of section 3345.741 of the Revised Code, the governor may appoint a conservator for any state university

or college under a fiscal watch, ~~upon certification by the~~
~~chancellor under division (A) of this section that the~~
~~appointment is warranted. The governor shall appoint a~~
~~conservator from the list of recommended candidates selected~~
~~under division (C) of section 3345.741 of the Revised Code. The~~
governor shall consult with the speaker and minority leader of
the house of representatives and the president and minority
leader of the senate before making the appointment. From the
time a conservator is appointed until the time the governor
issues an order terminating the governance authority under
division (B) of section 3345.76 of the Revised Code, the
governor may remove any member of the board of trustees of the
state university or college from office and not fill the
vacancy.

(C) Upon appointment of a conservator under this section
for a state university or college, all of the following shall
occur effective immediately:

(1) All duties, responsibilities, and powers of the board
of trustees of the university or college are suspended;

(2) The management and control of the state university or
college is assumed by the conservator;

(3) Notwithstanding any section of the Revised Code, all
duties, responsibilities, and powers assigned by law to the
board of trustees are assigned to the conservator, and the
conservator becomes the successor to, assumes the lawful
obligations of, and otherwise constitutes the continuation of
the board of trustees for purposes of all pending legal actions,
contracts or other agreements, and obligations of the university
or college;

(4) Wherever the board of trustees is referred to in any contract or legal document, the reference is deemed to refer to the conservator. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the assumption of the board's authority by the conservator under this section and any such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the conservator. No action or proceeding pending on the effective date of the assumption by the conservator of the board's authority is affected by that assumption and any such action or proceeding shall be prosecuted or defended in the name of the conservator. 588
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(5) The conservator assumes custody of all equipment, records, files, effects, and all other property real or personal of the state university or college; 600
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(6) All authority and duties of the president or chief executive officer, and the pay of the president or chief executive officer, are suspended. 603
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(D) The conservator for a state university or college shall conduct a preliminary performance evaluation of the president or chief executive officer of the university or college and provide a copy of findings and any recommendations to the governance authority established for the university or college under section 3345.75 of the Revised Code. 606
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(E) A conservator appointed under this section shall be immune, indemnified, and held harmless from civil liability, including any cause of action, legal, equitable, or otherwise, for any action taken or duties performed by the conservator in good faith and in furtherance of the performance of the duties of the conservator under this section. 612
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(F) The <u>governor</u> <u>chancellor</u> , in consultation with the	618
<u>higher education committees</u> , shall set the compensation for a	619
conservator appointed for a state university or college. The	620
expenses and compensation of the conservator and others employed	621
by the conservator shall be paid out of the operating funds and	622
revenues of that university or college.	623
(G) A conservator appointed for a state university or	624
<u>college shall report at least quarterly to the higher education</u>	625
<u>committees for as long as the conservator is performing duties</u>	626
<u>under this section.</u>	627
(H) As used in this section, "higher education committees"	628
<u>means the committee established under division (A) of section</u>	629
<u>3345.741 of the Revised Code and the standing committee of the</u>	630
<u>senate that considers higher education legislation.</u>	631
Sec. 3345.741. (A) Upon certification by the chancellor of	632
<u>higher education that the appointment of a conservator for a</u>	633
<u>state university or college is warranted under division (A) of</u>	634
<u>section 3345.74 of the Revised Code, the speaker of the house of</u>	635
<u>representatives shall establish a committee to consider the</u>	636
<u>appointment of a conservator for that state university or</u>	637
<u>college. The committee shall consist of the following members of</u>	638
<u>the house of representatives:</u>	639
(1) The speaker of the house of representatives or the	640
<u>speaker's designee;</u>	641
(2) The chairperson of the standing committee of the house	642
<u>of representatives that considers higher education legislation;</u>	643
(3) The chairperson of the finance committee of the house	644
<u>of representatives.</u>	645
The speaker of the house of representatives shall	646

designate one member of the committee to serve as its 647
chairperson. 648

(B) (1) The committee established under division (A) of 649
this section shall hold at least one public hearing to determine 650
if appointing a conservator is necessary and, if so, to consider 651
candidates to serve as conservator. The committee shall solicit 652
the advice of the chancellor of higher education and the 653
governor on these matters and may request that the chancellor, 654
or the chancellor's designee, and the governor, or the 655
governor's designee, participate in the public hearing. 656

(2) If the committee determines appointing a conservator 657
is not necessary, the chairperson of the committee shall notify 658
the chancellor, governor, speaker of the house of 659
representatives, and president of the senate of that 660
determination, and no conservator shall be appointed for the 661
state university or college under section 3345.74 of the Revised 662
Code. 663

(3) If the committee determines appointing a conservator 664
is necessary, the committee shall select at least three 665
candidates to recommend to serve as conservator for the state 666
university or college. The chairperson of the committee shall 667
notify the chancellor, governor, speaker of the house of 668
representatives, president of the senate, and chairperson of the 669
standing committee of the senate that considers higher education 670
legislation of that determination and the list of recommended 671
candidates. 672

(C) (1) If the chairperson of the standing committee of the 673
senate that considers higher education legislation receives 674
notice under division (B) (3) of this section, the chairperson 675
shall hold at least one public hearing about whether to appoint 676

<u>a conservator for the state university or college and the list</u>	677
<u>of candidates to serve as conservator provided by the house of</u>	678
<u>representatives. The standing committee shall solicit the advice</u>	679
<u>of the chancellor and the governor on these matters and may</u>	680
<u>request that the chancellor, or the chancellor's designee, and</u>	681
<u>the governor, or the governor's designee, participate in the</u>	682
<u>public hearing.</u>	683
<u>(2) If the standing committee determines appointing a</u>	684
<u>conservator is not necessary, the chairperson of the standing</u>	685
<u>committee shall notify the chancellor, governor, speaker of the</u>	686
<u>house of representatives, and president of the senate of that</u>	687
<u>fact and no conservator shall be appointed for the state</u>	688
<u>university or college under section 3345.74 of the Revised Code.</u>	689
<u>(3) If the standing committee determines appointing a</u>	690
<u>conservator is necessary, the standing committee shall select,</u>	691
<u>from the list of recommended candidates provided by the house of</u>	692
<u>representatives, at least three candidates to recommend to serve</u>	693
<u>as conservator for the state university or college. The</u>	694
<u>chairperson of the standing committee shall notify the</u>	695
<u>chancellor, governor, speaker of the house of representatives,</u>	696
<u>and president of the senate of that determination and the list</u>	697
<u>of recommended candidates.</u>	698
<u>(D) In considering candidates to serve as conservator for</u>	699
<u>a state university or college, the committee established under</u>	700
<u>division (A) of this section and the standing committee of the</u>	701
<u>senate that considers higher education legislation shall give</u>	702
<u>priority consideration to candidates who have extensive</u>	703
<u>experience in governmental matters, including capital budgets,</u>	704
<u>debt issuance, and debt service, facilities, and orderly closure</u>	705
<u>of public entities.</u>	706

Sec. 3345.75. (A) Not later than thirty days after the
date of the appointment of a conservator for a state university
or college under section 3345.74 of the Revised Code, the
governor shall appoint, with the advice and consent of the
senate, a governance authority for the university or college
consisting of five members, of which one shall have expertise in
academic affairs and accreditation and one shall have expertise
in either state agency budgets or state university or college
finances. The members shall serve at the pleasure of the
governor and any vacancies shall be filled in the same manner as
an original appointment.

The governor shall designate one of the members of the
governance authority as the chairperson and shall call the first
meeting of the authority. A majority of the members of a
governance authority constitutes a quorum and the affirmative
vote of a majority of the members shall be necessary for any
action taken by an authority. Meetings of a governance authority
shall be called in the manner and at the times prescribed by the
authority, but the authority shall meet at least four times
annually and at other times necessary for the best interest of
the university or college. A governance authority may adopt
procedures for the conduct of its business.

The members of a governance authority shall not receive
compensation for their services, but shall be paid their
reasonable and necessary expenses while engaged in the discharge
of their official duties.

A governance authority shall report at least quarterly to
the higher education committees, as defined in section 3345.74
of the Revised Code, for as long as the governance authority is
in existence.

(B) (1) A governance authority established under this
section shall appoint an executive director who shall serve at
the pleasure of the authority and with the compensation and
other terms and conditions established by it. With the approval
of the chairperson of the authority, the executive director may
appoint additional personnel as the director considers
appropriate. The executive director shall oversee the day-to-day
operation of the university or college under the direction and
supervision of the authority.

(2) The governance authority shall conduct a final
performance evaluation of the president or chief executive
officer of the university or college. Following the evaluation,
the governance authority may reinstate any duties, authority, or
pay previously suspended under division (C) (6) of section
3345.74 of the Revised Code, or may terminate the president or
chief executive officer in accordance with the terms of the
person's employment contract.

(C) Upon appointment of all members of a governance
authority under this section and upon the effective date for the
commencement of the duties of the executive director appointed
by that authority under this section, all authority,
responsibilities, duties, and references assumed by or conferred
upon the conservator under divisions (C) (2) to (6) of section
3345.74 of the Revised Code terminate and all of the following
shall occur, effective immediately:

(1) The management and control of the state university or
college is assumed by the governance authority;

(2) Notwithstanding any section of the Revised Code, all
duties, responsibilities, and powers assigned by law to the
board of trustees or to the conservator are assigned to the

governance authority and the governance authority becomes the
successor to, assumes the lawful obligations of, and otherwise
constitutes the continuation of the board of trustees and the
conservator for purposes of all pending legal actions, contracts
or other agreements, and obligations of the university or
college; 772

(3) Wherever the board of trustees or conservator is
referred to in any contract or legal document, the reference is
deemed to refer to the governance authority. No validation,
cure, right, privilege, remedy, obligation, or liability is lost
or impaired by reason of the assumption of the authority of the
board of trustees and the conservator by the governance
authority under this section and any such validation, cure,
right, privilege, remedy, obligation, or liability shall be
administered by the governance authority. No action or
proceeding pending on the effective date of the assumption by
the governance authority of the authority of the board of
trustees and the conservator is affected by that assumption and
any such action or proceeding shall be prosecuted or defended in
the name of the governance authority. 786

(4) The governance authority assumes custody of all
equipment, records, files, effects, and all other property real
or personal of the state university or college. 789

(D) A governance authority and executive director
appointed under this section shall be immune, indemnified, and
held harmless from civil liability, including any cause of
action, legal, equitable, or otherwise, for any action taken or
duties performed by the governance authority and executive
director in good faith and in furtherance of the performance of
the duties of the governance authority and executive director 796

under this section. 797

(E) The expenses of a governance authority and the 798
expenses and compensation of an executive director appointed for 799
a state university or college under this section and others 800
employed by the executive director under this section shall be 801
paid out of the operating funds and revenues of that university 802
or college. 803

(F) A governance authority appointed under this section 804
shall prepare, in accordance with rules adopted by the office of 805
budget and management, and submit to the chancellor of higher 806
education, the governor, the speaker and minority leader of the 807
house of representatives, and the president and minority leader 808
of the senate a quarterly report setting forth all of the 809
following: 810

(1) The general condition of the university or college; 811

(2) The amounts of receipts and disbursements and the 812
items for which the disbursements were made; 813

(3) The numbers of professors, officers, teachers, and 814
other employees and the position and compensation of each and 815
the numbers of students by courses of instruction; 816

(4) An estimate of expenses for the ensuing quarter; 817

(5) A statement of the general progress of the university 818
or college with indication of any improvements and specification 819
of any experiments with institutional reform and the costs and 820
results of those experiments; 821

(6) If the governance authority determines closure is 822
necessary or is appointed to facilitate an orderly closure as 823
determined to be necessary by the board of trustees prior to the 824

governance authority's appointment, all matters related to	825
compliance with the requirements of a closure of an institution	826
of higher education as specified by the chancellor;	827
(7) Any other matters the governance authority considers	828
useful to report.	829
(G) The attorney general shall be the legal adviser to the	830
conservator and the governance authority, and the attorney	831
general may employ special counsel to aid the conservator or	832
governance authority with respect to any legal matter on behalf	833
of the institution. The conservator and the governance authority	834
may as otherwise provided by law request the attorney general to	835
bring or defend suits or proceedings in the name of the	836
institution.	837
Section 2. That existing sections 154.07, 3345.12,	838
3345.74, and 3345.75 of the Revised Code are hereby repealed.	839
Section 3. That sections 154.25 and 3333.59 of the Revised	840
Code are hereby repealed.	841
Section 4. On and after the effective date of this	842
section, the Chancellor of Higher Education shall no longer	843
approve any requests under sections 154.25 or 3333.59 of the	844
Revised Code, as those sections existed before their repeal by	845
Section 3 of this act, to enter into an agreement providing for	846
the withholding and deposit of an institution's allocated state	847
share of instruction under a credit enhancement agreement, for	848
the payment of bond service charges on obligations. The	849
Chancellor, with the advice and consent of the Office of Budget	850
and Management, may adopt reasonable rules for the treatment of	851
any credit enhancement agreement that existed prior to the	852
effective date of this section that directly conflicts with any	853

lien filed in accordance with section 3345.123 of the Revised Code.	854
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