

House Bill 498 (FLOOR SUBSTITUTE) (AM)

By: Representatives Murphy of the 18th and Epps of the 131st

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 3 of Title 31 of the Official Code of Georgia Annotated, relating to county
 2 boards of health, so as to authorize a county board of health to contract with the Department
 3 of Human Resources; to amend Title 37 of the Official Code of Georgia Annotated, relating
 4 to mental health, so as to change the regional mental health, mental retardation, and
 5 substance abuse boards and planning units and to create regional mental health, mental
 6 retardation, and substance abuse planning unit boards and to transfer functions, duties, and
 7 obligations; to provide for definitions; to provide for membership, terms, vacancies, and
 8 qualifications; to provide for county participation; to provide for obligations; to prohibit
 9 certain reprisals; to provide for orientation and annual training; to provide for staff and
 10 employees and rights thereof; to provide for resignations, vacancies, reimbursement, oaths,
 11 and conflicts of interest; to provide for boundaries and cessation of operation; to provide for
 12 fees and records; to provide for withholding state funds; to provide for statutory construction;
 13 to change the provisions relating to the distribution of funds relating to disability services;
 14 to change the provisions relating to personnel status and benefits; to change the provisions
 15 relating to annual and biennial plans for disability services; to change the provisions relating
 16 to open meetings and records; to change the provisions relating to venue; to change the
 17 provisions relating to access to records; to change the provisions in the state ombudsman
 18 complaint process; to provide for conforming amendments; to provide for related matters;
 19 to provide for effective dates; to repeal conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **SECTION 1.**

22 Chapter 3 of Title 31 of the Official Code of Georgia Annotated, relating to county boards
 23 of health, is amended by striking in its entirety Code Section 31-3-12.1, relating to board of
 24 health contracts with regional boards and community mental health, mental retardation, and
 25 substance abuse service boards, and inserting in its place the following:

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1 31-3-12.1.

2 In addition to any other power authorized by law, the county governing authority may
 3 authorize the county board of health to enter into a contract with ~~a regional~~ the department
 4 or a community mental health, mental retardation, and substance abuse service board
 5 created under Chapter 2 of Title 37 to provide certain mental health, mental retardation,
 6 and substance abuse services based on the contractual agreement between the parties.
 7 Further, a county governing authority may authorize a county board of health, wherever
 8 applicable, to serve as the community mental health, mental retardation, and substance
 9 abuse service board, provided that the county governing authority, the board of health, and
 10 any other affected county governing authority acts pursuant to subsection (e) of Code
 11 Section 37-2-6. In the event that the county governing authority exercises the authority
 12 granted by this Code section, Chapter 2 of Title 37, or Code Section 37-2-6, the county
 13 board of health shall appoint a director for mental health, mental retardation, and substance
 14 abuse or a supervisor of the specific service which is being provided by the county board
 15 of health, whichever is applicable, who shall meet the requirements established by the
 16 ~~regional mental health, mental retardation, and substance abuse service board~~ department.
 17 The director for mental health, mental retardation, and substance abuse, or the service
 18 supervisor, shall not be required to be a physician and shall be a person other than the
 19 director of the county board of health appointed pursuant to Code Section 31-3-11. Further,
 20 such director for mental health, mental retardation, and substance abuse or such supervisor
 21 of the specific service shall report directly to the community service board or the county
 22 board of health, whichever is applicable, and shall have no formal reporting relationship
 23 with the director of the county board of health. If a county board of health exercises the
 24 authority granted pursuant to this Code section and Chapter 2 of Title 37 to serve as a
 25 community service board, the membership of the county board of health shall constitute
 26 the community service board and, at any time that such members are exercising duties and
 27 powers related to mental health, mental retardation, and substance abuse, the community
 28 service board shall be an independent agency and shall operate in accordance with the
 29 provisions of Title 37 as a community service board. Notwithstanding any provisions of
 30 law to the contrary, a community service board and a county board of health which have
 31 the same membership may contract with each other, provided that any such contract is
 32 approved by the ~~appropriate regional board, as defined in Chapter 2 of Title 37,~~ department
 33 prior to adoption.

34 **SECTION 2.**

1 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
 2 striking paragraphs (1.1) and (6.2) of Code Section 37-1-1, relating to definitions, and
 3 inserting in their respective places the following:

4 (1.1) 'Community service board' means a public community mental health, mental
 5 retardation, and substance abuse service board established pursuant to Code Section
 6 ~~37-2-6, which governs the provision of certain~~ in accordance with Chapter 2 of this title
 7 to provide certain disability services not provided by other public or private providers
 8 under contract with the ~~regional board~~ department.

9 ~~(6.2) 'Regional board' means a regional mental health, mental retardation, and substance~~
 10 ~~abuse board established in accordance with Code Section 37-2-4.1.~~

11 SECTION 3.

12 Said title is further amended by striking paragraphs (3), (4), (8), (9), and (12) of subsection
 13 (b) of Code Section 37-1-20, relating to the Division of Mental Health, Mental Retardation,
 14 and Substance Abuse and its powers and duties, and inserting in their respective places the
 15 following:

16 (3) Have authority to contract for services with: public or private hospitals; hospital
 17 authorities; medical schools and training and educational institutions; departments and
 18 agencies of this state; ~~regional boards~~; county or municipal governments; any person,
 19 partnership, corporation, or association, whether public or private; the United States
 20 government or the government of any other state;

21 (4) Establish and support programs for the training of professional and technical
 22 personnel as well as regional planning unit boards and community service boards;"

23 ~~(8) Make and administer budget allocations to regional boards to fund the operation of~~
 24 ~~mental health, mental retardation, and substance abuse services in accordance with~~
 25 ~~approved regional programs and plans~~ Reserved;

26 (9) Coordinate in consultation with providers, professionals, and other experts the
 27 development of appropriate outcome measures for client centered service delivery
 28 systems and, in conjunction with and on behalf of ~~regional boards and other~~ providers,
 29 evaluate the efficacy of the state, ~~regional~~, and community service boards through the
 30 regular assessment of the impact of the programs upon individuals receiving treatment;

31 (12) Establish within the division ~~or under the jurisdiction of the regional boards or both~~
 32 a unit which shall receive and consider complaints from individuals receiving services,
 33 make recommendations to the director of the division regarding such complaints, and
 34 ensure that the rights of individuals receiving services are fully protected; and .

1 37-2-3.

2 (a) Based on recommendations of the State Commission on Mental Health, Mental
3 Retardation, and Substance Abuse Service Delivery submitted to the Board of Human
4 Resources pursuant to Code Section 37-2-34, the board shall designate boundaries for
5 mental health, mental retardation, and substance abuse regions, ~~which shall serve as the~~
6 ~~initial boundaries for establishment of the regional boards and units as prescribed in Code~~
7 ~~Section 37-2-4.1.~~

8 (b) The division, ~~with input from the regional boards and~~ with the approval of the
9 commissioner, shall designate Community Mental Health, Mental Retardation, and
10 Substance Abuse Service Areas, which, effective July 1, 1994, shall serve as boundaries
11 for the establishment and operation of community service boards within this state for the
12 purpose of delivering certain disability services. For the period through June 30, 1995, and
13 thereafter as the division deems appropriate, the boundaries for the areas and the operation
14 of community service boards shall be the same boundaries as the Community Mental
15 Health, Mental Retardation, and Substance Abuse Service Areas which were in effect as
16 of July 1, 1993. After July 1, 1995, the division, ~~with input from the regional boards,~~ shall
17 consider requests from a county or group of counties for recommended changes to the
18 boundaries of the community service boards.

19 (c) To the extent practicable, the boundaries for regional ~~boards and~~ planning units and
20 community service boards shall not subdivide any county unit or conflict with any districts
21 established by the department and the state relating to the planning for or delivery of health
22 services. In dividing the state into areas, the board, the department, and the division shall
23 take into consideration such factors as geographic boundaries, roads and other means of
24 transportation, population concentrations, city and county lines, other relevant community
25 services, and community economic and social relationships. Consideration shall also be
26 given to the existence of facilities and personnel available in the areas for the delivery of
27 disability services.

28 **SECTION 7.**

29 Said title is further amended by striking subsection (b) of Code Section 37-2-4, relating to
30 the Governor's Advisory Council on Mental Health, Mental Retardation, and Substance
31 Abuse, and inserting in its place the following:

32 (b) The Governor's council shall advise the Governor, the board, the department, and the
33 division as to the efficacy of the state disability services programs, the need for legislation
34 relating to the disabled, the need for expansion or reduction of specific disability services
35 programs, and the need for specific changes in the state disability services programs. The

1 Governor's council shall review and prepare written comments on proposed state plans and
 2 on standards, rules, and regulations promulgated by the division. Such comments shall be
 3 submitted to the director, the board, the commissioner of the department, and to any other
 4 individual or agency deemed appropriate. The Governor's council shall further receive and
 5 consider complaints and grievances submitted in writing by individuals, associations, or
 6 agencies involved with the delivery or receipt of disability services and, if deemed
 7 appropriate, shall make recommendations to the Governor, the board, the department, or
 8 the division with respect to such complaints or grievances. The Governor's council shall
 9 also provide guidance and assistance to the ~~regional boards~~, hospitals, community service
 10 boards, and other private or public providers in the performance of their duties.

11 SECTION 8.

12 Said title is further amended by striking Code Section 37-2-4.1, relating to regional mental
 13 health, mental retardation, and substance abuse planning units, and inserting in its place the
 14 following:

15 37-2-4.1.

16 (a) There are created within the division regional mental health, mental retardation, and
 17 substance abuse planning units. The number of those units and the regions within which
 18 they shall operate shall be established from time to time as necessary by the board. In
 19 accordance with Code Section 37-2-3, the board shall initially establish the boundaries of
 20 each region based on the recommendations of the State Commission on Mental Health,
 21 Mental Retardation, and Substance Abuse Service Delivery pursuant to Code Section 37-2-
 22 34; provided, however, that any county with a population of 400,000 or more as of the
 23 United States decennial census of 1990 or any future such census may not be combined
 24 with any other county for the purpose of creating such a region without the approval of the
 25 county governing authority.

26 (b) There is created a separate regional mental health, mental retardation, and substance
 27 abuse planning unit board ~~as the governing body~~ for each regional planning unit established
 28 under subsection (a) of this Code section. Each such board shall provide and facilitate
 29 coordinated and comprehensive planning ~~and service delivery~~ for its region in conformity
 30 with minimum standards and procedures established by the division. Each such board shall
 31 be designated with such identifying words before the term "regional mental health, mental
 32 retardation, and substance abuse planning unit board" as that regional board may, from time
 33 to time, choose and designate by official action.

34 (c) Effective July 1, 2001, the regional mental health, mental retardation, and substance
 35 abuse boards created by the prior provisions of this Code section shall become regional

1 mental health, mental retardation, and substance abuse planning unit boards. Except for
 2 the duties associated with planning, the department, on and after that date, shall succeed
 3 to the powers, duties, obligations, and functions of regional mental health, mental
 4 retardation, and substance abuse boards unless otherwise provided by this chapter. The
 5 rights, privileges, entitlements, and duties of parties to contracts, leases, agreements, and
 6 other transactions entered into before July 1, 2001, by any such regional board and which
 7 pertain to the powers, duties, obligations, and functions retained by the regional mental
 8 health, mental retardation, and substance abuse planning unit boards or transferred to the
 9 department by this chapter shall continue to exist; and none of these rights, privileges,
 10 entitlements, and duties are impaired or diminished by reason of such retention or transfer.
 11 In all such instances, the department shall be substituted for such regional board and the
 12 department shall succeed to the rights and duties under such contracts, leases, agreements,
 13 and other transactions.

14 SECTION 9.

15 Said title is further amended by striking Code Section 37-2-5, relating to regional boards
 16 establishing policy and direction for disability services and related matters, and inserting in
 17 its place the following:

18 37-2-5.

19 (a) Each regional planning unit board shall ~~establish policy and direction~~ plan for disability
 20 services ~~planning, delivery, and evaluation, including outcome evaluation, within the~~
 21 ~~region, and shall perform such other functions as may be provided or authorized by law.~~

22 (b) Membership on the regional planning unit board within an established region shall be
 23 determined as follows:

24 (1) Each county with a population of 50,000 or less according to the United States
 25 decennial census of 1990 or any future such census shall appoint one member to the
 26 board;

27 (2) Each county with a population of more than 50,000 according to the United States
 28 decennial census of 1990 or any future such census shall appoint one member for each
 29 population increment of 50,000 or any portion thereof;

30 (3) The appointment or appointments for each county shall be made by the county
 31 governing authority; and

32 (4) The county governing authority shall appoint a consumer of disability services, a
 33 family member of a consumer, an advocate for disability services, or a local leader or
 34 businessperson with an interest in mental health, mental retardation, and substance
 35 abuse; provided, however, that for counties with more than one appointment, the county

1 governing authority shall seek to ensure that such appointments represent various
2 groups and disability services.

3 (b.1) A county governing authority may appoint the school superintendent, a member of
4 the board of health, a member of the board of education, or any other elected or appointed
5 official to serve on the regional board provided that such person meets the qualifications
6 of paragraph (4) of subsection (b) of this Code section, such person does not serve on the
7 community service board, and such appointment does not violate the provisions of
8 Chapter 10 of Title 45.

9 (b.2)(1) A person shall not be eligible to be appointed to or serve on a community service
10 board if such person is:

11 (A) A member of the regional planning unit board which serves the region in which
12 that community service board is included; or

13 (B) An employee of that community service board or employee or board member of
14 any private or public group, organization, or service provider which contracts with or
15 receives funds from that community service board.

16 (2) A person shall not be eligible to be appointed to or serve on a community service
17 board if such person's spouse, parent, child, or sibling is a member of that community
18 service board or a member, employee, or planning unit board member specified in
19 subparagraph (A) or (B) of paragraph (1) of this subsection. With respect to appointments
20 by the same county governing authority, no person who has served a full term or more
21 on a community service board may be appointed to a regional planning unit board until
22 a period of at least two years have passed since the time such person served on the
23 community service board, and no person who has served a full term or more on a regional
24 planning unit board may be appointed to a community service board until a period of at
25 least two years have passed since the time such person served on the regional planning
26 unit board.

27 (c) In making appointments to the regional planning unit board, the various county
28 governing authorities shall ensure that appointments are reflective of the cultural and
29 social characteristics, including gender, race, ethnic, and age characteristics, of the
30 regional and county populations. The county governing authorities are further
31 encouraged to ensure that each disability group is viably represented on the regional
32 planning unit board, and in so doing the county governing authority may consider
33 suggestions for appointments from clinical professional associations as well as advocacy
34 groups, including but not limited to the Georgia Mental Health Consumer Network, the
35 Georgia Parent Support Network, the Georgia Alliance for the Mentally Ill, the American
36 Association for Retired Persons, Georgians for Children, the Association for Retarded

1 Citizens, the Mental Health Association of Georgia, the Georgia Network for People with
2 Mental Retardation/Developmental Disabilities, the Georgia Association for the
3 Prevention and Treatment of Substance Abuse, and their local chapters and affiliates.

4 (d) Members of the regional mental health, mental retardation, and substance abuse
5 board in office on June 30, 2001, shall become members of the regional planning unit
6 board on July 1, 2001, and shall serve out the balance of their terms and until their
7 successor is appointed and qualified. ~~Initial appointments to the regional board shall be~~
8 ~~made by August 1, 1993. Initial terms of the regional board shall be established in~~
9 ~~bylaws adopted pursuant to paragraph (e) of this Code section.~~ Thereafter, the term of
10 a member of the regional planning unit board shall be for a period of three years and until
11 the member's successor is appointed and qualified. A member may serve no more than
12 two consecutive terms. The term of a regional planning unit board member shall
13 terminate upon resignation, death, or inability to serve due to medical infirmity or other
14 incapacity, or such other reasonable condition as the regional planning unit board may
15 impose under their bylaws. Vacancies on the regional planning unit board shall be filled
16 in the same manner as the original appointment.

17 ~~(e) Prior to December 31, 1993, each~~ Each regional planning unit board shall adopt
18 bylaws governing its operation and management. At a minimum, the bylaws shall
19 provide for staggered initial terms of the initial board, requirements for an annual meeting
20 to elect officers, a mechanism for ensuring that consumers of disability services and
21 family members of consumers constitute at least approximately one-half of the
22 appointments to the regional planning unit board, and a mechanism for ensuring that each
23 disability service is equitably represented by appointments to the regional planning unit
24 board. Any regional planning unit board member who serves an initial term of less than
25 three years may be eligible to be reappointed for two full consecutive three-year terms.
26 The chair and vice chair of the regional planning unit board shall be elected from among
27 the members of the regional planning unit board; to serve a term of one year with the
28 option of reelection for an additional one-year term. The bylaws shall provide for any
29 other officers and their means of selection, as well as any necessary committees or
30 subcommittees of the regional planning unit board. The bylaws may also provide for the
31 appointment by the regional planning unit board of an advisory committee or advisory
32 committees to work with the regional planning unit board in addressing various issues.
33 Prior to their adoption by the regional planning unit board, the bylaws shall be submitted
34 to the division for review and approval. The regional planning unit board must have the
35 written approval of the director of the division prior to the adoption of bylaws.

1 (f) The regional planning unit board shall meet not less than once every two months,
 2 beginning on July 1 and continuing through the next June 30, which time frame shall be
 3 the fiscal year for each regional planning unit board.

4 (g) Each member of the regional planning unit board may, ~~upon regional board approval,~~
 5 receive reimbursement for actual expenses not to exceed the per diem allowed legislative
 6 members of interim study committees of the General Assembly and the same mileage
 7 allowance for use of a personal car as that received by all other state officials and
 8 employees or a travel allowance of actual transportation cost if traveling by public carrier.

9 (h) Each regional planning unit board which is composed of members who are appointed
 10 thereto by the governing authority of only one county shall have a minimum of six
 11 members, notwithstanding the provisions of subsection (b) of this Code section, which
 12 members shall in all other respects be appointed as provided in this Code section.

13 SECTION 10.

14 Said title is further amended by striking Code Section 37-2-5.1, relating to regional boards
 15 and executive director, staff and personnel, and related matters, and inserting in its place the
 16 following:

17 37-2-5.1.

18 (a) Each mental health, mental retardation, and substance abuse regional planning unit
 19 board shall be served by an executive director, who shall be duly qualified and appointed
 20 by the director of the division ~~with the approval of the regional board~~. The executive
 21 director shall serve as the director of the regional mental health, mental retardation, and
 22 substance abuse planning unit, which shall be a unit of the division ~~and shall be governed~~
 23 ~~by the regional board~~. The executive director shall serve at the pleasure of the division
 24 director. ~~An executive director may be appointed to serve the regional board only with~~
 25 ~~such board's approval. At any time during the tenure of the executive director, the regional~~
 26 ~~board may for good cause vote to request the removal of the executive director. Should~~
 27 ~~such a vote for removal be taken and be approved by a majority of the full board~~
 28 ~~membership, the board shall submit its request to the director of the division who shall in~~
 29 ~~turn comply with the request of the board. The director of the division shall be authorized~~
 30 ~~to appoint for a period not to exceed 12 months an interim executive director at any time~~
 31 ~~that the position of executive director is vacant and prior to the appointment of a duly~~
 32 ~~qualified and approved successor.~~

33 (b) The executive director of the regional board may appoint such other staff and personnel
 34 to work for the unit as that executive director ~~and board deem~~ deems necessary and
 35 appropriate. The executive director and such staff and personnel shall be employees of the
 36 division. Expenses for the regional mental health, mental retardation, and substance abuse

1 planning unit board, the employment of the executive director, other staff and personnel,
 2 and the operation of the unit office shall be charged against the funding allocated to the
 3 regional ~~board~~ planning unit for planning ~~and service delivery~~ within the established
 4 region. The department and the division may impose limits on the administrative and
 5 operating expenditures of the regional mental health, mental retardation, and substance
 6 abuse planning unit board and the unit.

7 ~~(c)(1)(a)~~ State, federal, and other funds appropriated to the department, the division, or
 8 both, and available for the purpose of funding the planning and delivery of disability
 9 services shall be distributed in accordance with this subsection. ~~After July 1, 1995, all~~
 10 ~~funds associated with services to clients residing within a given region shall be allocated~~
 11 ~~through the appropriate regional board, "all funds" shall include funding for hospitals,~~
 12 ~~community service boards, private and public contracts, and any contracts relating to~~
 13 ~~service delivery for clients within the given region; provided, however, that nothing shall~~
 14 ~~prohibit the allocation of funds through any regional board prior to July 1, 1995.~~ The
 15 division shall establish a minimum funding amount for ~~regional boards~~ each region
 16 conditioned upon the amount of funds appropriated and a supplemental funding formula
 17 to be used for the distribution of available state funds in excess of the minimum funding
 18 amount. The minimum funding amount shall be determined, in part, based on consumer
 19 service needs, service and program history, population based funding needs, infrastructure
 20 mandates, program efficiency and effectiveness, geographic distances, and other factors
 21 affecting the cost and level of service needs within each region.

22 ~~(2)(b)~~ The division shall establish guidelines to ensure that funding is allocated to
 23 community service boards and local services based on client population, past and future
 24 service delivery needs and capabilities, and in consideration of special needs populations,
 25 such as homeless and transient populations. The division shall ensure that funds are
 26 allocated based primarily on services to clients and in compliance with all federal, state,
 27 and regulatory requirements.

28 ~~(3)(c)~~ The division, in compliance with the provisions of the appropriations Act and other
 29 applicable laws, is authorized to move funds to and between community and institutional
 30 programs based on need, and the division shall ensure that ~~the regional boards develop~~
 31 appropriate allocation and accounting mechanisms are developed to move funds in a
 32 planned and rational manner between hospitals, community service boards, and other
 33 providers based on client needs and utilization.

34 SECTION 11.

35 Said title is further amended by striking Code Section 37-2-5.2, relating to regional boards
 36 and their duties and functions and related matters, and inserting in its place the following:

H. B. 498 (SUB)

1 37-2-5.2.

2 (a) ~~Each regional board~~ The division shall have the following duties and functions:

3 (1) To prepare, in consultation with the regional planning unit boards, consumers and
 4 families, community programs, hospitals, other public and private providers, and
 5 appropriate advisory and advocacy groups, an annual plan and mechanism for the
 6 funding and provision of all disability services in ~~the~~ each region. ~~The plan shall be~~
 7 ~~submitted to the division at a time and in the manner specified by the division so as to~~
 8 ~~ensure that the plan is a basis for the annual appropriations request.~~ The division shall
 9 provide technical and professional expertise to the regional planning unit board upon
 10 request. Such plan may include, by way of illustration without limitation, the
 11 following:

12 (A) An estimate categorized by age group of the number of citizens residing in ~~the~~
 13 each region who require disability services and an estimate of the range of services
 14 needed for these citizens;

15 (B) A description of all facilities and programs, both public and private, which are
 16 available or which should be developed to provide adequate disability services in
 17 ~~the~~ each area;

18 (C) An analysis of the ~~regional~~ availability of professional and other staff personnel
 19 trained in providing disability services in each region and, if necessary, a proposal
 20 for recruitment and retention;

21 (D) A list of all public and private providers currently providing or available to
 22 provide disability services in ~~the~~ each region;

23 (E) A description in order of priority of all proposed programs and disability
 24 services to be provided in ~~the~~ each region, and the funds associated with the
 25 provision of these services, which description shall specifically address the
 26 interrelationship of programs and services and the mechanisms for ensuring
 27 effective client transition between and among such programs and services;

28 (F) A comprehensive plan for regular meetings, consultations, and coordinated
 29 planning efforts with and among all service providers, such as community
 30 programs, hospitals, and private contractors, and professionals in ~~the~~ each region,
 31 which plan shall at a minimum address appropriate methods for sharing resources
 32 and expertise among service providers and professionals, mechanisms for resolving
 33 conflicts and resource allocation problems, and a process for ensuring ongoing
 34 dialogue among all providers regarding the most effective ways of meeting
 35 individual and community client needs;

36 (G) An analysis of the opportunities for coordination of disability services with
 37 other ~~regional boards~~, agencies, and organizations as required in Code Section

1 37-2-9, which analysis shall include an overview of those specialized services and
 2 programs offered in ~~other regions~~ each region which may provide the most
 3 cost-effective means of meeting specific client needs; and therefore would be
 4 utilized by ~~in a regional board~~ region which did not have such specialized services
 5 or programs;

6 (H) A statement of the anticipated administrative and operating budget for the
 7 regional planning unit board, the executive director, and the staff of the unit;

8 (I) A detailed financial plan showing the costs of providing necessary disability
 9 services and all sources of revenue in each region; and

10 (J) A consumer satisfaction survey conducted during the previous year in a manner
 11 consistent with policies established by the division;

12 (2) To provide, as funds become available, for client assessment and service
 13 authorization and coordination for each client receiving services within ~~the~~ each
 14 region or funded by the ~~regional board~~ department;

15 (3) To exercise responsibility and authority within ~~the~~ each region in all matters
 16 relating to the funding and delivery of disability services; ~~provided, however, that~~
 17 ~~with the exception of services authorized under paragraph (2) of this subsection the~~
 18 ~~regional board may not engage in the direct delivery of goods or services to individual~~
 19 ~~consumers and is prohibited from providing on its own, without the use of an agent~~
 20 ~~or agents, any direct disability services to consumers;~~

21 (4) To receive and administer grants, gifts, moneys, and donations for purposes
 22 pertaining to the mental health, mental retardation, substance abuse, and other
 23 disability services;

24 (5) To make contracts with any hospital, community service board, or other public
 25 or private providers without regard to regional or state boundaries for the provision
 26 of disability services, and to make and enter into all contracts necessary or incidental
 27 to the performance of duties and functions of the ~~regional board and the unit~~ division;

28 (6) To encourage the development, ~~in cooperation with the division~~, of private and
 29 public providers of programs and disability services which respond to the needs of
 30 consumers and families of consumers within ~~the~~ each region;

31 (7) To submit annual reports to ~~the division~~, the Governor's council; and such other
 32 agencies or individuals deemed appropriate, which reports shall evaluate the
 33 efficiency and effectiveness of disability services in ~~the~~ each region;

34 (8) To serve as the representative of the citizens of ~~the~~ each area in regard to
 35 disability services;

36 (9) To receive and consider complaints and grievances submitted in writing by
 37 individuals, associations, or agencies involved with the delivery or receipt of

1 disability services and, if deemed appropriate, to seek resolution, through processes
 2 which may include impartial mediation and alternate dispute resolution, of such
 3 complaints and grievances with the appropriate hospital, community service board,
 4 or other private or public provider of service;

5 (10) To assure the highest achievable level of public awareness and understanding
 6 of both available and needed disability services; and

7 (11) To visit regularly disability services facilities and programs which serve ~~the~~ each
 8 region in order to evaluate the effectiveness and appropriateness of the facilities and
 9 programs in delivering services.

10 (b) In addition to its duties and functions, ~~each regional board~~ the division shall also
 11 have the following power and authority:

12 (1) To utilize the services of ~~the Department of Administrative Services, the State~~
 13 ~~Merit System of Personnel Administration, the state auditor, or any other agency of~~
 14 state, local, or federal government;

15 (2) To participate with ~~other regional boards, the division, the department,~~ local,
 16 state, or federal government agencies, educational institutions, and public and private
 17 organizations in the coordination of planning, research, service development, and
 18 evaluation activities;

19 (3) To work cooperatively with all units of county and local government, including
 20 the county boards of health, within ~~the~~ each region;

21 (4) To establish goals and objectives, ~~not inconsistent with those established by the~~
 22 ~~division and the development,~~ for its each region; and

23 (5) To participate in the establishment and operation of a data base and network;
 24 ~~coordinated by the division,~~ to serve as a comprehensive management information
 25 system for disability services and programs.

26 (c) It is the express intent of this chapter to confer upon the ~~regional board~~ division
 27 through the department the flexibility and authority necessary to contract with a wide
 28 range of public and private providers to ensure that clients are afforded cost-effective,
 29 locally based, and quality disability services. ~~Regional boards are~~ The division is
 30 specifically authorized to contract directly with any county governing authority, or any
 31 disability services organization created or designated by such county governing
 32 authority, any county board of health, any private or public provider, or any hospital for
 33 the provision of disability services. Such contracts may be made directly between the
 34 ~~regional board~~ division and the contractor and shall not be required to go through the
 35 community service board.

1 ~~(d) The regional board may delegate any power, authority, duty, or function to its~~
 2 ~~executive director or other staff. The executive director or other staff is authorized to~~
 3 ~~exercise any such power, authority, duty, or function on behalf of the regional board.~~

4 ~~(e) Each regional board shall keep books of account reflecting all funds received,~~
 5 ~~expended, and administered by the regional board which shall be independently~~
 6 ~~audited, by an auditor approved by the division, at least once in each fiscal year. The~~
 7 ~~auditor's report shall be presented to the regional board, the division, and any other~~
 8 ~~interested parties. The books of account shall be kept in a standard, uniform format to~~
 9 ~~be determined by the state auditor and the department. Each regional board shall~~
 10 ~~update its books of account on at least a quarterly basis and shall present the quarterly~~
 11 ~~update to the division and any other interested parties. The division shall conduct a~~
 12 ~~performance audit of each regional board at least once every three years.~~

13 37-2-5.3.

14 (a) Except as provided in subsection (b) of this Code section, each community service
 15 board created pursuant to Code Section 37-2-6 and existing on January 1, 2001, shall
 16 continue in existence on and after July 1, 2001, but on and after July 1, 2001, shall
 17 become a CSB and shall:

18 (1) Be constituted as provided in this Code section;

19 (2) Provide disability services within the same area served by that community service
 20 board immediately prior to its becoming a CSB, until that CSB area is changed
 21 pursuant to law;

22 (3) Be a public corporation and an instrumentality of the state; and

23 (4) Have the powers and duties provided in the provisions of this Code section other
 24 than subsection (b).

25 (b) A community service board established under Code Section 37-2-6 may elect to
 26 continue to be constituted as provided by that Code section and governed by that Code
 27 section by adopting a resolution to that effect and submitting a copy thereof, prior to
 28 May 1, 2001, to the division and the governing authority of each county within the
 29 boundaries of the area in which that board governs the provision of disability services.
 30 A community service board which exercises such election may thereafter elect to
 31 become a CSB by adopting a resolution to that effect and submitting a copy thereof, no
 32 later than March 31 of any year after 2001, to the division and the governing authority
 33 of each county within the boundaries of the area in which that board governs the
 34 provision of disability services, whereupon that board shall become a CSB on and after
 35 July 1 of the year of such submission.

1 (c) CSBs shall provide certain disability services not provided by other public or
2 private providers under contract with the department within the boundaries of their CSB
3 areas. CSBs are created for nonprofit and public purposes to exercise essential
4 governmental functions; provided, however, the liabilities, debts, and obligations of a
5 CSB shall not constitute liabilities, debts, and obligations of the state or any county or
6 any municipal corporation within the boundaries of the CSB area, and neither the state
7 or any county or municipal corporation shall be liable for any liability, debt, or
8 obligation of a CSB. CSBs shall have the same immunity as provided for community
9 service boards under Code Section 37-2-11.1.

10 (d)(1) Except as provided in paragraph (2) of this subsection, the membership of a
11 CSB shall consist of three public officials designated in accordance with subsection
12 (e) of this Code section and eight or more other members not then holding elective
13 public office appointed by a county governing authority as provided in subsection (f)
14 of this Code section.

15 (2) A community service board in existence on January 1, 2001, the membership of
16 which is the membership of a lead county board of health as provided in subsection
17 (e) of Code Section 37-2-6 may continue to be constituted as provided in that
18 subsection (e) even though it becomes a CSB pursuant to this Code section if such
19 board adopts a resolution to that effect and submits a copy thereof, prior to May 1,
20 2001, to the division and the governing authority of each county within the boundaries
21 of the area in which that board governs the provision of disability services. A CSB
22 so constituted as a lead county board of health may thereafter elect to become
23 constituted as provided in paragraph (1) of this subsection if such board adopts a
24 resolution to that effect and submits a copy thereof, no later than March 31 of any
25 year after 2001, to the division and the governing authority of each county within the
26 boundaries of the area in which that board governs the provision of disability services,
27 whereupon that board shall become constituted as provided in paragraph (1) of this
28 subsection on and after July 1 of the year of such submission. Nothing in this Code
29 section shall be construed to repeal the provisions of Code Section 31-3-12.1 or to
30 limit or prohibit a county board of health from exercising the authority to provide
31 mental health, mental retardation, or substance abuse services pursuant to Code
32 Section 31-3-12.1.

33 (e) The three CSB members who are public officials shall be determined as follows:

34 (1) The chief executive officer of each county within the CSB area, or a member of
35 the governing authority of the county designated by said officer, shall serve as a
36 member of the CSB unless that CSB area:

1 (A) Has four or more counties within its boundaries, in which case the chief
 2 executive officer of each of the three counties that contributed the largest amount
 3 of funds and resources to the community service board during the fiscal year
 4 immediately preceding that community service board's becoming a CSB, or a
 5 member of the governing authority of each such county designated by said officer,
 6 shall serve as a member of the CSB. To the extent there are fewer than three such
 7 contributing counties, this subparagraph shall apply to the noncontributing counties
 8 with the largest populations in descending order according to the United States
 9 decennial census of 1990 or any future such census to the extent needed to increase
 10 to three the number of county governing authorities represented on the CSB; or

11 (B) Has fewer than three counties within its boundaries, in which case any
 12 remaining membership positions required to constitute three public official positions
 13 on the CSB shall be filled by appointment of a public official designated by the
 14 chief executive officer of the county which contributed the larger amount of funds
 15 and resources to the CSB during the fiscal year immediately preceding that
 16 community service board's becoming a CSB. If no county contributed such funds
 17 or resources or both contributed equal amounts, any remaining member shall be a
 18 public official designated by the chief executive officer of the county having the
 19 larger population according to the United States decennial census of 1990 or any
 20 future such census; and

21 (2) If the chief executive officer of a county and all members of the governing
 22 authority of that county decline to serve on a CSB when authorized and designated
 23 to serve thereon or if a chief executive officer is authorized to designate any other
 24 public official to serve on a CSB, that chief executive officer shall only designate
 25 from any of the following public officials, whose designation as CSB member has
 26 been approved by the governing authority of the county in which such official holds
 27 office:

28 (A) The chief executive officer, or a member of the governing authority designated
 29 by said officer, of another county within the CSB area;

30 (B) The chief executive officer, or a member of the governing authority designated
 31 by said officer, of a municipality lying wholly or partially within the CSB area, but
 32 only if such designated person resides in such area;

33 (C) The superintendent of schools or a member of the board of education of a
 34 county or independent school system serving a school district lying wholly or
 35 partially within the CSB area, but only if such designated person resides in such
 36 area; or

37 (D) The sheriff of a county within the CSB area.

1 Only one municipal official, one school official, or one sheriff may be appointed to
2 the CSB.

3 (f) The remaining members of the CSB shall be persons who do not hold other elective
4 public office. An employee of the department or a county board of health may not
5 serve as a member of a CSB. The county governing authority of each county within a
6 CSB area consisting of eight or more counties shall appoint one member, pursuant to
7 this subsection, to the CSB. In a CSB area that consists of fewer than eight counties,
8 there shall be eight members appointed to such CSB pursuant to this subsection with
9 the governing authority of each county appointing one member, pursuant to this
10 subsection, to the CSB. The distribution of any additional memberships needed to
11 increase to eight the number of members of the CSB appointed pursuant to this
12 subsection shall be allocated among the counties in such area by allocating one such
13 membership to each county in descending order from the county with the largest
14 population to the county with the smallest population according to the United States
15 decennial census of 1990 or any future such census and repeating such allocations as
16 are necessary until all membership positions have been so allocated. In making
17 appointments to the CSB, the various county governing authorities shall endeavor to
18 ensure that the resulting appointments:

19 (1) Are reflective of the cultural and social characteristics, including gender, race,
20 ethnic, and age characteristics of the area and county populations;

21 (2) Include at least one person appointed pursuant to this subsection who is trained
22 or certified in performing financial audits;

23 (3) Include individuals who are actively engaged in business, professional, and
24 community activities; and

25 (4) Are reflective of each disability group and that each such group is viably,
26 capably, and equitably represented on the CSB; provided, however, consumers and
27 members of the families of consumers shall constitute a majority of the membership
28 of the CSB.

29 (g)(1) The term of office of a member of a CSB who is a chief executive officer
30 pursuant to paragraph (1) of subsection (e) of this Code section or who is designated
31 by or authorized to be designated by the elected chief executive officer of a county
32 governing authority shall run concurrent with the term of office of the chief executive
33 officer so serving as or designating or authorized to designate said member.

34 (2) After the initial terms of office established in the bylaws of a CSB, regular terms
35 of office of CSB members, except for those members specified in paragraph (1) of
36 this subsection, shall be for three years from the expiration of the previous term and
37 until a successor is appointed and qualified.

1 (3) Vacancies in office in a CSB membership position to which a person has been
2 appointed, whether occurring by expiration of term or any other reason, shall be filled
3 in the same manner as the original appointment, unless that position is one which may
4 be held by a chief executive officer of a county under paragraph (1) of subsection (e)
5 of this Code section, in which event that chief executive officer shall succeed to such
6 membership position or appoint another public officer to succeed thereto as
7 authorized in that subsection. If the chief executive officer or governing authority of
8 a county so authorized to fill a vacancy in the office of a CSB member does not fill
9 that vacancy within 120 days after such expiration of term or vacancy occurs, the
10 members of the General Assembly whose House or Senate districts include any part
11 of that county shall meet in caucus, no sooner than 121 days and no later than 150
12 days after the vacancy occurs, to designate, by majority vote, a person to fill such
13 vacancy and who meets the requirements for CSB membership in the vacated position
14 under this Code section. Persons appointed to fill a vacancy in office in a CSB, other
15 than one occurring by expiration of term, shall serve out the remainder of the term of
16 office and until a successor is appointed, or otherwise authorized to take office, and
17 qualified.

18 (4) The terms of office of the members of a community service board which becomes
19 a CSB on July 1 of any year shall expire at the end of June 30 immediately preceding
20 that July 1. The chief executive officer or governing authority of a county that is
21 otherwise authorized to designate CSB members may do so no sooner than May 1 of
22 that year, but any person so designated shall not take office until July 1 of that year.
23 If a membership position on that CSB is not filled by July 1 of that year, a vacancy
24 in that position shall be deemed to have occurred on July 1 of that year.

25 (h) Each county within the boundaries of a CSB area shall be required to participate
26 with such CSB and the operation of the disability services program through the CSB.
27 Each community service board in existence and functioning on June 30 of any year that
28 becomes a CSB on July 1 of that year shall automatically be succeeded by the CSB for
29 the same CSB area as of July 1 of that year and each such CSB shall be governed from
30 and after July 1 of that year by this Code section. All contractual obligations, including
31 but not limited to real estate leases, rentals, and other property agreements, other duties,
32 obligations, rights, and benefits of such community service board shall automatically
33 become duties, obligations, rights, and benefits of its respective successor CSB.

34 (i) Each CSB shall be responsible for adopting bylaws and operational policies and
35 guidelines. The bylaws shall address board appointment procedures, initial terms of
36 board members, quorum, the staggering of terms of office, a mechanism for ensuring
37 that consumers of disability services and family members of such consumers constitute

1 a majority of the board members, and a mechanism for ensuring equitable
2 representation of the various disability groups. Bylaws and operational policies and
3 guidelines promulgated by the predecessor community service board of a CSB and not
4 in conflict with this Code section shall remain in effect for that CSB until amended,
5 repealed, superceded, or nullified by the successor CSB or as otherwise provided by
6 law.

7 (j) No officer of a CSB who has authority to take, direct others to take, recommend, or
8 approve any personnel action shall take or threaten against any employee of a CSB as
9 a reprisal for making a complaint or disclosing information concerning the possible
10 existence of any activity constituting fraud, waste, or abuse in or relating to the
11 programs, operations, or client services of the board to the board or to a member of the
12 General Assembly unless the complaint was made or the information was disclosed
13 with the knowledge that it was false or with willful disregard for its truth or falsity.
14 Any action taken in violation of this subsection shall give the public employee a right
15 to have such action set aside in a proceeding instituted in the superior court.

16 (k)(1) The department shall provide an annual training program of at least ten hours
17 for members of CSBs which shall include an initial orientation for members of CSBs,
18 the contents of which can be administered by a CSB member or a member of its
19 professional staff.

20 (2) The department may appoint an advisory committee that includes, but is not
21 limited to, CSB members and executive directors, consumers and members of
22 consumers' families, advocates, and training professionals to develop guidelines for
23 training members of CSBs.

24 (3) A member of a CSB, who after notice that said member has failed to complete the
25 required initial orientation prescribed by the department and continues such failure
26 for 30 days, may be removed from office by the remaining members of the CSB. A
27 member of a CSB, who after notice that said member has failed to complete the
28 required annual training prescribed by the department and continues such failure for
29 30 days, may be removed from office by the remaining members of the CSB.

30 (l) Each CSB shall employ an executive director to serve as its chief executive officer.
31 Such executive director shall be appointed and removed by the CSB and shall appoint
32 other necessary staff pursuant to an annual budget adopted by the board, which budget
33 shall provide for the securing of appropriate facilities, sites, and professionals necessary
34 for the provision of disability services. The CSB may delegate any power, authority,
35 duty, or function to its executive director or other staff. The executive director or other
36 staff is authorized to exercise any power, authority, duty, or function on behalf of the
37 CSB. Subject to the general policy established by the CSB, the executive director shall

1 supervise, direct, account for, organize, plan, administer, and execute the powers,
2 duties, authority, functions, and responsibilities vested in the CSB. The executive
3 director shall delegate authority for clinical decisions to appropriately licensed clinical
4 professionals.

5 (m) Each CSB, under the jurisdiction of its board members, shall perform duties,
6 responsibilities, and functions, and may exercise power and authority described in this
7 subsection. Each CSB may exercise the following power and authority:

8 (1) To adopt bylaws for the conduct of its affairs; provided however, the CSB shall
9 meet not less than once every two months beginning on July 1 and continuing through
10 the next June 30, which time shall be the fiscal year of the CSB; provided, further,
11 that all such meetings and any bylaws shall be open to the public, as otherwise
12 prescribed under Georgia law;

13 (2) To elect a chairperson and vice chairperson from among its membership, and the
14 bylaws of the CSB shall provide for any other officers of such board and their means
15 of selection, the terms of office of the officers, and an annual meeting to elect
16 officers;

17 (3) To make and enter into all contracts necessary and incidental to the performance
18 of its duties and functions, including, but not limited to, contracts to utilize the
19 services of the Department of Administrative Services, the state auditor, or any other
20 agency of the state, local, or federal government;

21 (4) To acquire by purchase, gift, lease, or otherwise, and to own, hold, improve, use,
22 and to sell, convey, exchange, transfer, lease, sublease, and dispose of real and
23 personal property of every kind and character, or any interest therein, for its corporate
24 purposes;

25 (5) To have a seal and alter the same;

26 (6) To cooperate with all units of local government within the CSB area as well as
27 neighboring regions and with the programs of other departments and agencies;

28 (7) To contract with the State Personnel Board regarding those CSB personnel who
29 remain in the classified service;

30 (8) To establish fees for the provision of disability services according to Department
31 of Human Resources and Department of Community Health state-wide standards;

32 (9) To receive and administer grants, gifts, contracts, moneys, and donations for
33 purposes pertaining to the delivery of disability services;

34 (10) To accept appropriations, loans of funds, facilities, equipment, and supplies from
35 the local governmental entities within its boundaries;

36 (11) To borrow money for any corporate purpose, and, when approved by the
37 department, to incur debt, liabilities, and obligations for any corporate purpose. No

debt, liability, or obligation incurred by a CSB shall be considered a debt, liability, or obligation of the state or any county or any municipality or any political subdivision of the state. A CSB may not borrow money as permitted by this Code section if the highest aggregate annual debt service requirements for the then current fiscal year or any subsequent year for outstanding borrowings of the CSB, including the proposed borrowing, exceed 15 percent of the total revenues of the CSB in its fiscal year immediately preceding the fiscal year in which such debt is to be incurred. Interest paid upon such borrowings shall be exempt from taxation by the state or its political subdivisions;

(12) To carry forward without lapse fund balances and to establish operating, capital, and debt reserve accounts from revenues and grants derived from state, county, and all other sources. The total of all such reserves shall not exceed two months of the annual operating budget for the fiscal year for which those funds were obtained;

(13) To operate, establish, or operate and establish facilities deemed by the CSB as necessary and convenient for the administration, operation, or provision of disability services by the CSB. For such purposes, a CSB may construct, reconstruct, improve, alter, repair, and equip facilities;

(14) To establish fees, rates, rents, and charges for the use of facilities of the CSB for the provision of disability services when approved by the department;

(n) Nothing shall prohibit a CSB from contracting with any county or municipal governing authority, private or public provider, or hospital for the provision of disability services.

(o) Each CSB exists for nonprofit and public purposes and it is found and declared that the carrying out of the purposes of each such CSB is exclusively for public benefit and its property is public property. No CSB shall be required to pay any state or local ad valorem, sales, use, or income tax.

(p) A CSB shall not have the power to tax, the power to issue general obligation bonds or revenue bonds or revenue certificates, or the power to financially obligate the state or any county or any municipal corporation.

(q) A CSB shall not operate any facility for profit. Consistent with this limitation, a CSB shall have authority to fix fees, rents, rates, and charges that are reasonably expected to produce revenues, which, together with all other funds of the CSB, will be sufficient to administer, operate, and provide the disability services that such board is required to pay, or undertakes to provide, the cost of acquiring, constructing, equipping, maintaining, repairing, and the operating of its facilities; and to create and maintain reserves sufficient to meet principal and interest payments due on any obligation of the CSB. The CSB may provide reasonable reserves for the improvement, replacement,

1 or expansion of its facilities and services. Reserves under this subsection shall be
2 subject to the limitations in paragraph (12) of subsection (m) of this Code section.

3 (r) Each county and municipal corporation of this state is authorized to convey or lease
4 property of such county or municipal corporation to a CSB for its public purposes. Any
5 property conveyed or leased to a CSB by a county or municipal corporation shall be
6 operated by the CSB to which the same is conveyed or leased in accordance with this
7 chapter and the terms of the CSBs agreements with the county or municipal corporation
8 providing such conveyance or lease.

9 (s) Each CSB shall keep books of account reflecting all funds received, expended, and
10 administered by the CSB, which shall be independently audited annually.

11 (t) A CSB may not create, form, or become a member of a nonprofit corporation,
12 limited liability company, or other profit or nonprofit entity.

13 (u) Employees of each community service board which becomes constituted as a CSB
14 shall retain all existing rights under the State Merit System of Personnel Administration
15 and under the Employees' Retirement System of Georgia or other public retirement
16 systems as existed immediately prior to that community service board's being
17 constituted as a CSB in the same manner as such rights were retained by employees
18 transferred to community service boards under subsection (a) of Code Section 37-2-6.2.
19 Only those CSB employees who were in a classified position under the State Merit
20 System of Personnel Administration immediately prior to their employing community
21 service board's being constituted as CSBs shall continue to be classified employees
22 under that system so long as they remain in a classified position in the CSB.

23 (v) CSBs shall not be a state public authority for purposes of inclusion under the
24 Employees' Retirement System of Georgia pursuant to Code Section 47-2-70.1 except
25 to the extent required for CSB employees whose rights in that system are retained
26 pursuant to subsection (u) of this Code section.

27 (w) CSBs shall comply with all applicable state and federal laws and regulations,
28 including but not limited to the federal antitrust laws and shall be subject to Article 3
29 of Chapter 6 of Title 31, relating to certificate of need.

30 (x) Beginning January 1, 2002, and every six months thereafter, each CSB shall be
31 required to file a written report with the state auditor providing information concerning
32 the CSB's activities and expenditures during the previous six months including but not
33 limited to the following: a list of the CSB's then current membership and a certification
34 that each such member has completed the initial orientation and annual training
35 required in subsection (k) of this Code section; any real property acquired, monies
36 borrowed, and facilities established or operated; any contracts entered into with private
37 or public providers or hospitals as authorized in subsection (n) of this Code section;

1 steps taken by the CSB to comply with the limitation in subsection (q) of this Code
 2 section that it not operate any facility for profit; and the specified amount of disability
 3 services provided by the CSB to indigent patients and the specific steps taken by the
 4 CSB to ensure that it serves people regardless of their ability to pay.

5 SECTION 12.

6 Said title is further amended by striking subsection (a) of Code Section 37-2-6, relating to
 7 the creation of community mental health, mental retardation, and substance abuse service
 8 boards and related matters, and inserting in its place the following:

9 (a)(1) As used in this Code section, Code Section 37-2-6.1, and paragraph (1) of
 10 subsection (c) of Code Section 37-2-11.1, the term 'community service board' means a
 11 community service board created under paragraph (2) of this subsection, other than a
 12 CSB.

13 (2) There shall be created community mental health, mental retardation, and substance
 14 abuse service boards, in conformity with the areas established pursuant to the subsection
 15 (b) of Code Section 37-2-3, which shall govern publicly funded programs for the purpose
 16 of providing provide certain disability services not provided by other public or private
 17 providers under contract with the regional board department except that CSBs shall
 18 provide those services in those areas in which those CSBs are constituted pursuant to
 19 Code Section 37-2-5.3 as provided in subsection (c) of Code Section 37-2-5.3. The
 20 programs Such disability services shall be governed provided by the community service
 21 boards, which shall be established as public agencies.

22 SECTION 13.

23 Said title is further amended by striking paragraphs (4), (5), and (6) of subsection (b) of Code
 24 Section 37-2-6, relating to the creation of community mental health, mental retardation, and
 25 substance abuse service boards and related matters, and inserting in their respective places
 26 the following:

27 (4) The county governing authority shall appoint a consumer of disability services, a
 28 family member of a consumer, an advocate for disability services, or a local leader or
 29 businessperson with an interest in mental health, mental retardation, and substance abuse;
 30 provided, however, that for counties with more than one appointment, the county
 31 governing authority shall seek to ensure that such appointments represent various groups
 32 and disability services; and

33 (5) The chief executive or a designee of the chief executive of each county governing
 34 authority or municipal governing authority which contributes funding or resources which
 35 equal or exceed one-half of 1 percent of the budget allocation from the regional board

1 department for disability services within the area governed by the community service
 2 board shall serve as an ex officio, voting member of the community service board; ~~and~~
 3 ~~(6) A member of the regional board may not also serve as a member of the community~~
 4 ~~service board.~~

5 **SECTION 14.**

6 Said title is further amended by striking subsection (h) of Code Section 37-2-6, relating to
 7 the creation of community mental health, mental retardation, and substance abuse service
 8 boards and related matters, and inserting in its place the following:

9 (h) Each community service board shall be responsible for adopting bylaws and
 10 operational policies and guidelines in conformity with procedures established by the
 11 division ~~and the regional board~~. Those bylaws shall address board appointment procedures,
 12 initial terms of board members, the staggering of terms, a mechanism for ensuring that
 13 consumers of disability services and family members of consumers constitute a majority
 14 of the appointed board members, and a mechanism for ensuring equitable representation
 15 of the various disability groups. The regular term of office for each community service
 16 board member shall be two years. Vacancies on such board shall be filled in the same
 17 manner as the original appointment.

18 **SECTION 15.**

19 Said title is further amended by striking paragraphs (6) and (9) of subsection (b) of Code
 20 Section 37-2-6.1, relating to community service boards and program director, staff, budget,
 21 powers and duties and related matters, and inserting in their respective places the following:

22 (6) Each community service board may cooperate with all units of local government
 23 within the boundaries of the community service board as well as neighboring regions and
 24 with the programs of other departments, agencies, and regional commissions ~~and boards~~;

25 (9) Each community service board may make contracts and establish fees for the
 26 provision of disability services; provided, however, that such contract and fees shall be
 27 in compliance with guidelines established by the division ~~and the regional board~~; and .

28 **SECTION 16.**

29 Said title is further amended by striking paragraph (1) of subsection (a) and subsection (b)
 30 of Code Section 37-2-6.2, relating to employment and benefit status of certain personnel and
 31 related matters, and inserting in their respective places the following:

32 (a)(1) Those employees whose job descriptions, duties, or functions as of June 30, 1994,
 33 included the performance of employment duties or functions which will become
 34 employment duties or functions of the personnel of a community service board on July

1 1, 1994, shall become employees of the applicable community service boards on and after
 2 July 1, 1994. Such employees shall be subject to the employment practices and policies
 3 of the applicable community service board on and after July 1, 1994. Employees who are
 4 subject to the State Merit System of Personnel Administration and who are transferred
 5 to a community service board shall retain all existing rights under the State Merit System
 6 of Personnel Administration. Retirement rights of such transferred employees existing
 7 under the Employees' Retirement System of Georgia or other public retirement systems
 8 on June 30, 1994, shall not be impaired or interrupted by the transfer of such employees
 9 and membership in any such retirement system shall continue in the same status
 10 possessed by the transferred employees on June 30, 1994, without any interruption in
 11 membership service and without the loss of any creditable service. For purposes of
 12 coverage under the Employees' Retirement System of Georgia, such employees
 13 transferred to the community service boards on July 1, 1994, shall be deemed to be state
 14 employees. Accrued annual and sick leave possessed by said employees on June 30,
 15 1994, shall be retained by said employees as employees of the community service board.
 16 Any person who is granted employment rights and benefits as a member of a community
 17 service board pursuant to this subsection and who later becomes employed, without any
 18 break in service, by the division, a hospital thereof, another community service board, or
 19 a county board of health for which such person provides services pursuant to this title, ~~or~~
 20 ~~a regional board~~ shall retain, in that later employment position, all such rights and
 21 benefits. Such rights and benefits shall also be retained by any person who is employed
 22 on June 30, 1994, by the division, a hospital thereof, or a county board of health for
 23 which such person provides services pursuant to this title, ~~or a regional board~~ and who
 24 later becomes employed, without any break in service, by a community service board.

25 (b) As to those persons employed by the division, or a hospital thereof, ~~or a regional board~~
 26 on June 30, 1994, any termination from state employment after that date of any such person
 27 who is a member of the classified service shall not result from the anticipated or actual
 28 employment or utilization by:

29 (1) The department;

30 ~~(2) A regional board;~~

31 ~~(3)~~(2) A community service board;

32 ~~(4)~~(3) A hospital; or

33 ~~(5)~~(4) Any private provider of disability services

34 of any person who is not an employee of the state or a political subdivision thereof to
 35 perform the duties and functions of such terminated state personnel unless such termination
 36 and utilization is the result of a reduction in appropriations for such duties or functions or
 37 is the result of a reduction in force caused by any other state department or agency which

1 has ceased to contract with the department for the services which had been provided by the
 2 terminated state personnel.

3 **SECTION 16.1.**

4 Said title is further amended by adding after Code Section 37-2-6.2, relating to community
 5 service board employees, a new Code section to read as follows:

6 37-2-6.3.

7 (a) This Code section shall apply to all community service boards whether or not they are
 8 CSBs.

9 (b) A member of a community service board may resign from office by giving written
 10 notice of such resignation to the executive director or program director, as applicable, of
 11 the community service board. The resignation is irrevocable after delivery to such director
 12 but shall become effective upon the date on which the notice is received or on the effective
 13 date given by the member in the notice, whichever date is later. That director, upon receipt
 14 of the resignation, shall give notice of the resignation to the remaining members of the
 15 community service board and to the chief executive officer or governing authority of the
 16 county that appointed the member.

17 (c) The office of a member of a community service board shall be vacated upon the
 18 member's resignation, death, or inability to serve due to medical infirmity or other
 19 incapacity, removal by the community service board as authorized in this chapter, or upon
 20 such other reasonable condition as the community service board may impose under its
 21 bylaws.

22 (d) Each member of a community service board may, upon the approval of the community
 23 service board, receive reimbursement for actual expenses incurred in carrying out the duties
 24 of such office in conformance with rates and allowances set for state employees by the
 25 Office of Planning and Budget and the same mileage allowance for use of a personal car
 26 that is received by all state officials and employees or a travel allowance of actual
 27 transportation cost if traveling by public carrier.

28 (e) A member of a community service board is a public officer and may not first enter
 29 upon the duties of office on or after the date this Code section first becomes effective in
 30 2001 until such member takes the following oath of office before an official qualified to
 31 administer such oaths:

32 'STATE OF GEORGIA

33 COUNTY OF _____

1 I, _____, do solemnly swear or affirm that I will truly perform the
2 duties of a Member of the _____ Community Service Board, to the best of my
3 ability.

4 I do further swear or affirm:

5 (1) That I am not the holder of any unaccounted for public money due this state or any
6 political subdivision or authority thereof;

7 (2) That I am not the holder of any office of trust under the government of the United
8 States, any other state, or any foreign state which I am by the laws of the State of
9 Georgia prohibited from holding;

10 (3) That I am otherwise qualified to hold said office according to the Constitution and
11 the laws of Georgia; and

12 (4) That I will support the Constitution of the United States and this state.

13 _____
14 (Signature of Member of _____ Community Service Board)

15 _____
16 (Typed Name of Member of _____ Community Service Board)

17 Sworn and Subscribed before this
18 ____ day of _____, 20__.

19 _____

20 {SEAL}'

21 (f) A community service board shall keep the department informed of the names,
22 addresses, and terms of office of its members.

23 (g) A member of a community service board shall not vote on or seek to influence the
24 outcome of any matter that comes before such board involving:

25 (1) A contract by the community service board or the department with, or the award of
26 funds by the community service board or the department to, or any action affecting a
27 license or permit of:

28 (A) Any private individual who is a member of that board, or a spouse, child, spouse
29 of a child, parent, sibling, or spouse of a sibling of that member; or

30 (B) Any private individual or organization or entity if said member, or the spouse, a
31 child, a spouse of a child, a parent, a sibling, or a spouse of a sibling is a shareholder,
32 director, officer, partner, manager, or member entitled to share in the capital, profits,

1 or distributions, employer or employee, or principal or agent of the private individual
2 or private organization or entity; or

3 (2) A contract by the community service board or the department with, or the award of
4 funds by the community service board or the department to, any public official or public
5 agency if such member, or the spouse, a child, a spouse of a child, a parent, a sibling, or
6 a spouse of a sibling of the member will personally derive any personal financial benefit
7 from such contract or award of funds.

8 (h) The boundaries for the establishment and operation of community service boards
9 existing on January 1, 2001, shall continue as the boundaries of the community service
10 boards constituted under Code Section 37-2-5.3 or Code Section 37-2-6 until changed
11 pursuant to Code Section 37-2-3.

12 (i) If a community service board ceases operations, then the governing authority of the
13 counties lying within the area served by the board or the department may petition the
14 superior court of the county in which the principal office of that community service board
15 is located for appointment of a receiver of the assets of the community service board for
16 the protection of the board's creditors and the public. The receiver shall be authorized to
17 marshal and sell or transfer assets of the board, and, after payment of the costs, expenses,
18 and approved fees of the proceeding, to pay the liabilities of the community service board.
19 The court shall then decree that the board be dissolved. Upon completion of the
20 liquidation, any surplus remaining after paying all costs of the liquidation shall be
21 distributed, as shall be determined by the court, to the community service boards, agencies,
22 or entities providing disability services in the service area formerly served by the
23 community service board which ceased operations.

24 (j) The department may withhold state funds from any community service board which the
25 department determines to be in violation of this chapter or any other law.

26 SECTION 17.

27 Said title is further amended by striking Code Section 37-2-7, relating to a state plan for
28 disability services, and inserting in its place the following:

29 37-2-7.

30 (a) The division shall formulate and publish biennially a state plan for disability services
31 which shall take into account the disability services plans ~~submitted by the regional boards~~
32 as required by Code Section 37-2-5.2. The state disability services plan shall be
33 comprehensive and shall include public and private institutional and community services
34 to the disabled. In developing the state plan, the division shall request input from the
35 regional planning unit boards, the community service boards, hospitals, and other public
36 and private providers. The plan shall include an overview of current services and programs

1 and shall also present information on future program, service, educational, and training
2 needs.

3 (b) The plan shall address ways of eliminating, to the extent possible, detrimental delays
4 and interruptions in the administration of disability services when moving an individual
5 from one element of service to another in order to ensure continuity of care and treatment
6 for persons receiving such services.

7 (b.1)(1) The plan shall include state-wide guidelines for short-term and long-term
8 planning lists for the provision of requested disability services for persons whose
9 disability is mental retardation or another neurologically disabling condition which
10 requires treatment similar to that for the mentally retarded, when such services are not
11 available at the time of such request. The guidelines shall provide for the
12 commencement of services, as soon as practicable but no later than 180 days following
13 a request, to such persons who are placed on a short-term planning list. The guidelines
14 shall also include criteria under which a person named on a planning list may obtain
15 priority to receive the requested services when they become available and under which
16 such persons not named on a planning list may receive requested services in
17 emergencies.

18 (2) The plan shall include state-wide guidelines for a registry of persons who have been
19 diagnosed with mental retardation or another neurologically disabling condition which
20 requires treatment similar to that for the mentally retarded and wish to make such
21 diagnosis known to the division ~~and regional boards~~, but who have not yet requested
22 disability services. The requirements of this subsection shall become effective only
23 when funds are specifically appropriated for the purposes of this subsection in an
24 appropriations Act making specific reference to this subsection.

25 (c) The plan shall further set forth the proposed annual budget of the division ~~and the~~
26 ~~regional boards~~ taking into account all financial data supplied pursuant to subparagraph
27 ~~(a)(1)(F)~~ (a)(1)(H) of Code Section 37-2-5.2.

28 (d) The plan shall be submitted to the department, the Governor, the General Assembly,
29 the Governor's council, the regional planning unit boards, the hospitals, the community
30 service boards, and any other public or private provider requesting a copy of the plan.

31 (e) At such time as the state plan is submitted, the division shall further submit an analysis
32 of services provided, programs instituted, progress made, and the extent of implementation
33 of the previous biennial plan. Such analysis shall measure the effectiveness and the
34 efficiency of the methods of delivering services which ameliorate or prevent disability and
35 restore health. This analysis shall further address the efforts of the division in coordinating
36 services in accordance with Code Section 37-2-9.

1 (b) Fees generated, if any, by hospitals, community service boards, and other private and
 2 public providers, providing services under contract or purview of the ~~regional board~~
 3 division, shall be reported to the ~~regional board~~ division and applied wherever appropriate
 4 against the cost of providing, and increasing the quantity and quality of, disability services;
 5 provided, however, that income to a CSB established pursuant to Code Section 37-2-5.3
 6 derived from fees may be used to further the purposes of such CSB as found in said Code
 7 section. The ~~regional boards with guidance from the~~ division shall be responsible for
 8 developing procedures to properly account for the collection, remittance, and reporting of
 9 generated fees. The ~~regional boards~~ division shall work with the community service boards
 10 and other public or private providers to develop an appropriate mechanism for accounting
 11 for the funds and resources contributed to local disability services by counties and
 12 municipalities within the area. Such contributions are not required to be submitted to either
 13 the community service board or the ~~regional board~~ division; however, appropriate
 14 documentation and accounting entries shall make certain that the county or municipality
 15 is credited, and if necessary compensated, appropriately for such contribution of funds or
 16 resources.

17 SECTION 21.

18 Said title is further amended by striking subsections (a) and (b) of Code Section 37-2-11.1,
 19 relating to venue in actions against regional boards or community service boards, and
 20 inserting in their respective places the following:

21 (a) Venue for the purpose of any action against a ~~regional board~~ or community service
 22 board shall be the county in which the principal office of such ~~regional board~~ or community
 23 program service board is located. For purposes of this Code section, 'principal office' shall
 24 be defined as the facility which houses the executive director or other such top
 25 administrator for the ~~regional~~ or community service board.

26 (b) ~~In any legal proceeding, a regional board and the regional unit shall be considered a~~
 27 ~~unit of the division and shall be afforded the assistance of legal counsel from the Attorney~~
 28 ~~General~~ Reserved.

29 SECTION 22.

30 Said title is further amended by striking Code Section 37-2-11.2, relating to access by the
 31 Department of Human Resources or regional board to records of any program receiving
 32 public funds and related matters, and inserting in its place the following:

33 37-2-11.2.

34 (a) Notwithstanding any other law to the contrary, to ensure the quality and integrity of
 35 patient and client care, any program receiving any public funds from, or subject to

1 licensing, certification, or facility approval by, the Department of Human Resources ~~or a~~
 2 ~~regional board~~ shall be required to provide the department ~~or the appropriate regional board~~
 3 ~~or both~~, upon request, complete access to, including but not limited to authorization to
 4 examine and reproduce, any records required to be maintained in accordance with
 5 contracts, standards, or rules and regulations of the Department of Human Resources or
 6 pursuant to the provisions of this title.

7 (b) Records obtained pursuant to subsection (a) of this Code section shall not be
 8 considered public records and shall not be released by the department ~~or any regional board~~
 9 unless otherwise specifically authorized by law.

10 (c) The community service board shall maintain a clinical record for each consumer
 11 receiving treatment or habilitation services from such board. The treatment of clinical
 12 records of consumers in treatment for mental illness shall be governed by the provisions
 13 of Code Section 37-3-166. The treatment of clinical records of consumers receiving
 14 habilitation services for mental retardation shall be governed by the provisions of Code
 15 Section 37-4-125. The treatment of clinical records of consumers in treatment for the abuse
 16 of, or dependency on, alcohol, narcotics, or other drugs shall be governed by the provisions
 17 of Code Section 37-7-166.

18 SECTION 23.

19 Said title is further amended by striking paragraphs (5) and (6) of Code Section 37-2-30,
 20 relating to definitions, and inserting in their respective places the following:

21 (5) 'Service recipient' means a person with a disability who receives or is eligible to
 22 receive disability services from a services provider which provides disability services in
 23 a ~~regional board district~~ region in which the program is operated.

24 (6) 'Services provider' means a community service board or state or local governmental
 25 entity, ~~but not a regional board~~, which provides disability services to service recipients
 26 in a ~~regional board district~~ region in which the program is operated or which contracts for
 27 the provision of those services or any person, corporation, or business which provides
 28 disability services to service recipients in a ~~regional board district~~ region in which the
 29 program is operated.

30 SECTION 24.

31 Said title is further amended by striking Code Section 37-2-32, relating to a community
 32 ombudsman program, and inserting in its place the following:

33 37-2-32.

34 The state ombudsman shall contract with one or more nonprofit corporations to operate a
 35 community ombudsman program in one or more ~~regional board districts~~ regions in this

1 state. A nonprofit corporation shall not be eligible for such contract unless that corporation
 2 has experience in complaint resolution for service recipients and secures as community
 3 ombudsmen only such persons as are certified as such by the state ombudsman. The state
 4 ombudsman may certify community ombudsmen and such certified ombudsmen shall have
 5 the powers and duties set forth in this article. The state ombudsman shall require such
 6 community ombudsmen to receive appropriate training as determined and approved by the
 7 state ombudsman prior to certification.

8 **SECTION 25.**

9 Said title is further amended by striking Code Section 37-2-36, relating to investigations, and
 10 inserting in its place the following:

11 37-2-36.

12 (a) Following an investigation, the state ombudsman or community ombudsman may
 13 report his or her opinions or recommendations to the party or parties affected thereby and
 14 shall attempt to resolve the complaint using, whenever possible, informal techniques of
 15 mediation, conciliation, and persuasion. With respect to a complaint against the services
 16 provider, the ombudsman may first notify the administrator or person in charge of that
 17 provider in writing and give such person a reasonable opportunity to correct any alleged
 18 defect. If so notified and the administrator or person in charge fails to take corrective action
 19 after a reasonable amount of time or if the defect seriously threatens the safety or
 20 well-being of any service recipient, the state ombudsman or community ombudsman may
 21 refer the complaint to the ~~appropriate regional board~~ division and any other appropriate
 22 agency.

23 (b) Complaints or conditions adversely affecting service recipients which cannot be
 24 resolved in the manner described in subsection (a) of this Code section shall, whenever
 25 possible, be referred by the state ombudsman or community ombudsman to the ~~appropriate~~
 26 ~~regional board~~ division and any other appropriate agency.

27 (c) A community ombudsman shall not disclose to the public, either directly or indirectly,
 28 the identity of any services provider which is the subject of an investigation unless and until
 29 the matter has been reviewed by the office of the state ombudsman and the matter has been
 30 referred to the ~~appropriate regional board~~ division and any other appropriate governmental
 31 agency for action.

SECTION 26.

Said title is further amended by striking Code Section 37-2-39, relating to preparation and distribution of written notice of program and related matters, and inserting in its place the following:

37-2-39.

The state ombudsman shall prepare and distribute to each services provider in the state and ~~regional board in which the program is operated~~ the division a written notice describing the program and the procedure to follow in making a complaint, including the address and telephone number of the state ombudsman and community ombudsman. The administrator or person in charge of such provider shall give the written notice required by this Code section to each service recipient who receives disability services from such provider and his or her legally appointed guardian, if any, upon first providing such services. The administrator or person in charge shall also post such written notice in conspicuous public places in the facility, premises, or property in which disability services are provided in accordance with procedures provided by the state ombudsman and shall give such notice to any service recipient and his or her legally appointed guardian, if any, who did not receive it upon the service recipient's first receiving disability services. The failure to provide the notices required by this Code section shall be a ground upon which the director of the division may impose the civil penalty authorized by paragraph (2) of subsection (c) of Code Section 37-2-40 under the conditions specified in subsection (d) of Code Section 37-2-40.

SECTION 27.

Said title is further amended by striking subsections (b) and (d) of Code Section 37-2-40, relating to discrimination or retaliation and sanctions, and inserting in their respective places the following:

(b) A member of a ~~regional board~~ or community service board who violates subsection (a) of this Code section shall be subject to permanent removal from such board by the director of the division.

(d) An action against a member of a ~~regional board~~, community service board, or services provider under this Code section shall be a contested case within Article 1 of Chapter 13 of Title 50, relating to administrative procedure.

SECTION 28.

Nothing in this Act shall be construed to affect or abate any right accrued or vested prior to July 1, 2001, or any action or proceeding commenced prior to July 1, 2001, under any law amended or repealed by this Act.

1

SECTION 29.

2 This Act shall become effective July 1, 2001, except that those provisions which authorize
3 community service boards to elect not to become CSBs prior to May 1, 2001, which
4 authorize appointments to CSBs after April 30, 2001, or which authorize CSBs to elect to
5 continue to be constituted as lead county boards of health shall become effective upon the
6 approval of this Act by the Governor or upon its becoming law without such approval.

7

SECTION 30.

8 All laws and parts of laws in conflict with this Act are repealed.