

House Bill 1223

By: Representatives Brown of the 69th, Cooper of the 41st, O`Neal of the 146th, Coleman of the 144th, Epps of the 128th, and others

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 revise certain provisions relating to contracts between county
3 boards and authorization for and provisions applicable to a county board of health serving
4 as a community service board; to amend Title 37 of the Official Code of Georgia Annotated,
5 relating to mental health, so as to revise and add certain definitions relating to community
6 service boards; to revise certain provisions relating to the designation of boundaries for
7 mental health, developmental disabilities, and addictive diseases regions; to revise certain
8 provisions relating to the creation, membership, participation, powers, and bylaws of
9 community mental health, developmental diseases, and addictive diseases service boards; to
10 revise certain provisions relating to the program director, staff, budget, and facilities of
11 community service boards; to provide for the ceasing of operations of a community service
12 board; to revise certain provisions relating to compliance by regional planning boards and
13 community service boards with laws as to open meeting and inspection of records; to revise
14 certain provisions relating to director's emergency powers upon failure of community service
15 board to establish and administer progress; to revise certain provisions relating to allocation
16 of available funds for services; to revise certain provisions relating to venue in actions
17 against community service boards; to add a definition relating to payment of expenses for
18 support, treatment, and care of patients in state institutions; to revise certain provisions
19 relating to inquiring into and determination of income and assets; to provide for construction;
20 to provide for related matters; to provide for effective dates; to repeal conflicting laws; and
21 for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 Chapter 3 of Title 31 of the Official Code of Georgia Annotated, relating to county boards
25 of health, is amended by striking Code Section 31-3-12.1, relating to contracts between

1 county boards and authorization for and provisions applicable to a county board of health
 2 serving as a community service board, in its entirety and inserting in its place the following:

3 "31-3-12.1.

4 (a) In addition to any other power authorized by law, the county governing authority may
 5 authorize the county board of health to enter into a contract with the department or a
 6 community mental health, developmental disabilities, and addictive diseases service board
 7 created under Chapter 2 of Title 37 to provide certain mental health, developmental
 8 disabilities, and addictive diseases services based on the contractual agreement between the
 9 parties. ~~Further, a county governing authority may authorize a county board of health,
 10 wherever applicable, to serve as the community mental health, developmental disabilities,
 11 and addictive diseases service board, provided that the county governing authority, the
 12 board of health, and any other affected county governing authority acts pursuant to
 13 subsection (e) of Code Section 37-2-6. In the event that the county governing authority
 14 exercises the authority granted by this Code section subsection, Chapter 2 of Title 37, or
 15 Code Section 37-2-6, the county board of health shall appoint a director for mental health,
 16 developmental disabilities, and addictive diseases or a supervisor of the specific service
 17 which is being provided by the county board of health, whichever is applicable, who shall
 18 meet the requirements established by this Code section subsection. The director for mental
 19 health, developmental disabilities, and addictive diseases, or the service supervisor, shall
 20 not be required to be a physician and shall be a person other than the director of the county
 21 board of health appointed pursuant to Code Section 31-3-11. Further, such director for
 22 mental health, developmental disabilities, and addictive diseases or such supervisor of the
 23 specific service shall report directly to ~~the community service board or the county board
 24 of health, whichever is applicable,~~ and shall have no formal reporting relationship with the
 25 director of the county board of health.~~

26 (b) Pursuant to subsection (e) of Code Section 37-2-6, a county governing authority may
 27 authorize the membership of a county board of health to serve as the membership of a
 28 community mental health, developmental disabilities, and addictive diseases service board,
 29 provided that the county governing authority, the county board of health, and any other
 30 affected county governing authority act pursuant to subsection (e) of Code Section 37-2-6.
 31 If the membership of a county board of health exercises the authority granted pursuant to
 32 this ~~Code section~~ subsection and Chapter 2 of Title 37 to serve as the membership of a
 33 community service board, the membership of the county board of health shall constitute
 34 the membership of the community service board and, at any time that such members are
 35 exercising duties and powers related to mental health, developmental disabilities, and
 36 addictive diseases, the community service board shall be an independent agency and shall
 37 operate in accordance with the provisions of Title 37 as a community service board.

1 Notwithstanding any provisions of law to the contrary, a community service board and a
 2 county board of health which have the same membership may contract with each other,
 3 provided that any such contract is approved by the department prior to adoption."

4 SECTION 2.

5 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
 6 striking paragraphs (4) and (20) of Code Section 37-1-1, relating to definitions regarding
 7 general provisions relative to mental health, in their entirety and inserting in their respective
 8 places the following:

9 "(4) 'Community service board' means a public mental health, developmental disabilities,
 10 and addictive diseases board established pursuant to Code Section 37-2-6 ~~which provides~~
 11 ~~one or more mental health, developmental disability, and addictive disease services through~~
 12 ~~contract with the department. Such community service board may enroll with the~~
 13 ~~department to become a provider of specific mental health, developmental disability, and~~
 14 ~~addictive disease services with such services being negotiated and contracted annually with~~
 15 ~~the department."~~

16 "~~(20) 'Service area' means a community service area."~~

17 SECTION 3.

18 Said title is further amended by striking paragraph (2) of Code Section 37-2-2, relating to
 19 definitions relative to the administration of mental health, developmental disabilities,
 20 addictive diseases, and other disability services, in its entirety and inserting in its place the
 21 following:

22 "(2) 'Community service board' means a public mental health, developmental disabilities,
 23 and addictive diseases board established pursuant to Code Section 37-2-6 ~~which provides~~
 24 ~~one or more mental health, developmental disabilities, and addictive diseases services~~
 25 ~~through contract with the department. Such community service board may enroll with~~
 26 ~~the department to become a provider of specific mental health, developmental disabilities,~~
 27 ~~and addictive diseases services with such services being negotiated and contracted~~
 28 ~~annually with the department.~~

29 (2.1) 'Community service board area' means an area inclusive of the counties which fall
 30 within the boundaries of a community service board as designated by the division
 31 pursuant to subsection (b) of Code Section 37-2-3 for the establishment of a community
 32 service board.

33 (2.2) 'Community service board service area' means a community service board area and
 34 any other county or portion thereof in which the community service board provides
 35 services."

SECTION 4.

Said title is further amended by striking subsection (b) of Code Section 37-2-3, relating to designation of boundaries for mental health, developmental disabilities, and addictive diseases regions, in its entirety and inserting in its place the following:

"(b) The division, with the approval of the commissioner, shall designate community service board areas, which shall serve as boundaries for the establishment ~~and operation~~ of community service boards within this state for the purpose of delivering disability services. The division shall be authorized to initiate the redesignation of such community service board area boundaries and may consider requests from a county or group of counties or a community service board or a group of community service boards for recommended changes to the boundaries of the community service board areas. The division, with the approval of the commissioner, is authorized to redesignate two or more contiguous community service board areas as a single community service board area upon the request of the community service boards serving such areas; and, if so authorized, the assets, equipment, and resources of such community service boards shall become the assets, equipment, and resources of the reconstituted community service board serving the successor single board area. It is the intent of the General Assembly not to limit a community service board to serving only those counties within the boundaries of its community service board area."

SECTION 5.

Said title is further amended by striking Code Section 37-2-6, relating to the creation, membership, participation, powers, and bylaws of community mental health, developmental diseases, and addictive diseases service boards, in its entirety and inserting in its place the following:

"37-2-6.

(a) Community service boards, ~~created in conformity with the service areas established pursuant to subsection (b) of Code Section 37-2-3, shall~~ in existence on June 30, 2006, are re-created effective July 1, 2006, to provide ~~one or more~~ mental health, developmental ~~disability~~ disabilities, and addictive ~~disease~~ diseases services ~~through contract with the department~~. Such community service boards may enroll and contract with the department to become a provider of ~~specific~~ mental health, developmental disabilities, and addictive diseases services ~~with such services being negotiated and contracted annually with the department~~. Such boards shall be considered public agencies. Each community service board shall be a public corporation and an instrumentality of the state ~~within the boundaries determined under subsection (b) of Code Section 37-2-3 served by the community service board~~; provided, however, the liabilities, debts, and obligations of a community service

1 board shall not constitute liabilities, debts, or obligations of the state or any county or
 2 municipal corporation and neither the state nor any county or municipal corporation shall
 3 be liable for any liability, debt, or obligation of a community service board. Each
 4 community service board re-created pursuant to this Code section is created for nonprofit
 5 and public purposes to exercise essential governmental functions. The re-creation of
 6 community service boards pursuant to this Code section shall not alter the provisions of
 7 Code Section 37-2-6.2 which shall apply to those re-created community service boards and
 8 their employees covered by that Code section and those employees' rights are retained.

9 (b) Each community service board shall consist of members appointed by the ~~county~~
 10 governing authorities of the counties within the community service board area from
 11 nominations by the ~~boards of health of the counties within the boundaries of the~~
 12 community service board. Membership on such community service board shall be
 13 determined as follows:

14 (1)(A) ~~Each~~ The governing authority of each county within the community service
 15 board area: with

16 (i) With a population of 50,000 or less according to the most recent United States
 17 decennial census of ~~1990 or any future such census~~ shall appoint one member to the
 18 board; and

19 (2)(ii) ~~Each county with~~ With a population of more than 50,000 according to the most
 20 recent United States decennial census of ~~1990 or any future such census~~ shall appoint
 21 one member for each population increment of 50,000 or any portion thereof; or

22 (3)(B) ~~The appointment or appointments for each county shall be made by the county~~
 23 ~~governing authority;~~ In the event that the number of community service board member
 24 positions established in accordance with subparagraph (A) of this paragraph would
 25 exceed 13, the membership of such community service board pursuant to this
 26 subsection shall be set at 13 members and shall be appointed as follows and the bylaws
 27 shall be amended accordingly:

28 (i) One member of the community service board shall be appointed by the governing
 29 authority of each county within the community service board area contributing funds
 30 and resources to the community service board in the fiscal year immediately
 31 preceding July 1, 2006, or thereafter during the fiscal year immediately preceding the
 32 reconstitution of the community service board pursuant to the most recent United
 33 States decennial census. In the case that such method of appointment results in more
 34 than 13 members appointed to the community service board, appointments to the
 35 community service board shall be made by the governing authority of such
 36 contributing counties in descending order from the county that contributed the largest
 37 amount of such funds and resources to the county that contributed the least amount

1 of such funds and resources until all 13 members of the community service board are
 2 appointed; and

3 (ii) If after such appointments are made, if one or more county governing authorities
 4 have failed to make an appointment within 60 days of a nomination, or if there is no
 5 county that contributed funds or resources to the community service board, and one
 6 or more membership positions remain to be filled, the governing authorities of the
 7 counties within the community service board area which did not contribute any funds
 8 or resources to the community service board in descending order from the county with
 9 the largest population to the county with the smallest population according to the most
 10 recent United States decennial census shall each appoint one member and such
 11 methods in division (i) and this division of this subparagraph shall be repeated until
 12 all of the remaining positions are filled;

13 (4) The community service board shall nominate and the county governing authority
 14 shall appoint as at least one of its appointments a consumer of disability services, a
 15 family member of a consumer, an advocate for disability services, or a local leader or
 16 businessperson with an interest in mental health, developmental disabilities, and
 17 addictive diseases; provided, however, that for counties with more than one
 18 appointment, the community service board shall seek to ensure that such nominations
 19 and the county governing authority shall seek to ensure that such appointments
 20 represent various groups and disability services;

21 ~~(5)(2) The chief executive or a designee of the chief executive of each county governing~~
 22 ~~authority or municipal governing authority which contributes funding or resources which~~
 23 ~~equal or exceed one-half of 1 percent of the budget allocation from the division for~~
 24 ~~disability services within the area governed by the community service board shall serve~~
 25 ~~as an ex officio, voting member of the community service board; and~~ In addition to the
 26 members appointed pursuant to paragraph (1) of this subsection, each community service
 27 board may appoint up to three additional members in order to address variation in the
 28 population sizes of counties or the financial contributions of counties within the
 29 community service board area, or may authorize the elected chief executive officer of a
 30 county governing authority, by whatever name called, or an elected member of that
 31 county governing authority to serve on the community service board while holding such
 32 elective office. The bylaws of the community service board shall address the number of
 33 such additional members, if any, and the purpose or purposes for which such positions
 34 are created. The term of office of such additional members shall be the same as that of
 35 other members as provided in subsection (h) of this Code section; except that the term of
 36 office of a member in a position created to authorize the elected chief executive officer
 37 of a county governing authority, by whatever name called, or an elected member of that

1 county governing authority to serve on the community service board shall be the same
 2 term of office as the elective term of office of said chief executive officer or said member
 3 of that county governing authority;

4 (3) Each community service board in existence on June 30, 2006, shall reconstitute its
 5 membership in accordance with the provisions of paragraphs (1) and (2) of this
 6 subsection, effective July 1, 2006, as follows:

7 (A) A community service board which increases or reduces the number of its members
 8 in accordance with paragraphs (1) and (2) of this subsection shall revise its bylaws
 9 adopted in accordance with subsection (h) of this Code section to reflect such increases
 10 or reductions. A community service board which reduces the number of its members
 11 shall designate which position or positions are to be eliminated and shall make
 12 reasonable efforts to eliminate any position or positions of members whose terms expire
 13 on June 30, 2006, prior to eliminating positions of members whose terms do not expire
 14 on June 30, 2006. Any additional positions created in conformity with such paragraphs
 15 (1) and (2) may be filled on July 1, 2006, and the community service board is
 16 authorized to nominate and the governing authority of a county that is otherwise
 17 authorized to appoint such additional community service board member or members
 18 may do so no sooner than May 1, 2006, but any person so nominated and appointed
 19 shall not take office until July 1, 2006. If a position on such community service board
 20 is not filled on July 1, 2006, a vacancy in that position shall be deemed to have occurred
 21 on that date. A community service board is authorized to make whatever changes
 22 necessary in the terms of office of its members in order to achieve the staggering of
 23 terms required by subsection (h) of this Code section; and

24 (B) The term of office of an ex officio, voting member of a community service board
 25 holding membership on June 30, 2006, shall expire on June 30, 2006; and

26 ~~(6)~~(4)(A) A person shall not be eligible to be appointed to or serve on a community
 27 service board if such person is:

28 (i) A member of the regional planning board which serves the region in which that
 29 community service board is located;

30 (ii) An employee or board member of a public or private entity which contracts with
 31 the division to provide mental health, developmental disabilities, and addictive
 32 diseases services within the region; or

33 (iii) An employee of that community service board or employee or board member of
 34 any private or public group, organization, or service provider which contracts with or
 35 receives funds from that community service board; provided, however, an employee
 36 of any private group or organization which contracts with or receives funds from that
 37 community service board for materials or services other than disability services and

1 who has no responsibility for or influence over the execution or administration of any
 2 contract with or receipt of funds from that community service board may be eligible
 3 to be appointed to serve on that community service board; and provided, further, if
 4 appointed to that community service board, such employee shall not participate in any
 5 discussion about or attempt to influence in any way any contract or receipt of funds
 6 or any other matter related to the private group or organization where such employee
 7 is employed when such contract, receipt of funds, or matter is considered by that
 8 community service board.

9 (B) A person shall not be eligible to be appointed to or serve on a community service
 10 board if such person's spouse, parent, child, or sibling is a member of that community
 11 service board or a member, employee, or board member specified in division (i), (ii),
 12 or (iii) of subparagraph (A) of this paragraph. With respect to appointments by the
 13 same county governing authority, no person who has served a full term or more on a
 14 community service board may be appointed to a regional planning board until a period
 15 of at least two years has passed since the time such person served on the community
 16 service board, and no person who has served a full term or more on a regional planning
 17 board may be appointed to a community service board until a period of at least two
 18 years has passed since the time such person has served on the regional planning board.

19 (5) A community service board created in accordance with this subsection shall
 20 reconstitute its membership in conformity with the most recent United States decennial
 21 census in accordance with subparagraph (d)(2)(C) of Code Section 1-3-1.

22 (b.1) A community service board may nominate and a county governing authority may
 23 appoint the school superintendent, a member of the board of health, a member of the board
 24 of education, or any other elected or appointed official to serve on the community service
 25 board provided that such person meets the qualifications of paragraph ~~(4)~~ (1) of subsection
 26 (b) of this Code section and such appointment does not violate the provisions of Chapter
 27 10 of Title 45. For terms of office which begin July 1, 1994, or later, an employee of the
 28 Department of Human Resources or an employee of a county board of health may not serve
 29 on a community service board.

30 (c) In making nominations and appointments to the community service board, the various
 31 community service boards and county governing authorities shall ensure that such
 32 nominations and appointments are reflective of the cultural and social characteristics,
 33 including gender, race, ethnic, and age characteristics, of the ~~regional~~ community service
 34 board area and county populations. The community service boards and county governing
 35 authorities are further encouraged to ensure that each disability group is ~~viable and capable~~
 36 represented on the community service board, and in making nominations for such
 37 appointments the ~~board of health shall~~ community service board may consider suggestions

1 from clinical professional associations as well as advocacy groups, ~~including but not~~
 2 ~~limited to the Georgia Mental Health Consumer Network, People First of Georgia, the~~
 3 ~~Georgia Parent Support Network, National Alliance for the Mentally Ill Georgia, the~~
 4 ~~American Association for Retired Persons, Georgians for Children, the National Mental~~
 5 ~~Health Association of Georgia, Georgia ARC Network, and the Georgia Council on~~
 6 ~~Substance Abuse and their local chapters and affiliates. For the purposes of this~~
 7 subsection, 'advocacy groups' means any organizations or associations that advocate for,
 8 promote, or have an interest in disability services and are exempted as a charitable
 9 organization from federal income tax pursuant to Section 501(c) of the Internal Revenue
 10 Code.

11 (c.1) A community service board in making nominations to the county governing
 12 authorities shall ensure and a county governing authority in making appointments to the
 13 community service board shall take into consideration that at least one member of the
 14 community service board is an individual who is trained or certified in finance or
 15 accounting; provided, however, if after a reasonable effort at recruitment by the community
 16 service board, there is no person trained or certified in finance or accounting within the
 17 community service board area who is willing and able to serve, the community service
 18 board may nominate and a county governing authority may consider for appointment any
 19 other person having a familiarity with and concern for financial or accounting practices.

20 (d) Each county ~~within the boundaries established for~~ in which the governing authority of
 21 the county is authorized to appoint members to the community service board shall
 22 participate with the board in the operation of the program through the community service
 23 board. All contractual obligations, including but not limited to real estate leases, rentals,
 24 and other property agreements, other duties, rights, and benefits of the mental health,
 25 developmental disabilities, and addictive diseases service areas in existence on ~~December~~
 26 ~~31, 2002~~ June 30, 2006, shall continue to exist along with the new powers granted to the
 27 community service boards effective ~~January 1, 2003~~ July 1, 2006.

28 (e) Notwithstanding any other provision of this chapter, a community service board may
 29 be constituted in a method other than that outlined in subsection (b) of this Code section
 30 if:

31 (1) A board of health of a county desiring to be the lead county board of health for that
 32 county submits a written agreement to the division before July 1, 1993, to serve as the
 33 community service board and to continue providing disability services in that county after
 34 July 1, 1994, and the governing authority for that county adopts a resolution stating its
 35 desire to continue the provision of disability services through its board of health after July
 36 1, 1994, and submits a copy of such resolution to the division before July 1, 1993; or

1 (2)(A) The lead county board of health for a community mental health, mental
2 retardation, and substance abuse service area, as designated by the division on July 15,
3 1993, but which area excludes any county which meets the requirements of paragraph
4 (1) of this subsection, submits a written agreement to the division and to all counties
5 within such service area to serve as the community service board for that area and to
6 continue providing disability services after July 1, 1994, which agreement shall be
7 submitted between July 31, 1993, and December 31, 1993; and

8 (B) Each county governing authority which is within the service area of a lead county
9 board of health which has submitted an agreement pursuant to subparagraph (A) of this
10 paragraph adopts a resolution stating its desire to continue the provision of disability
11 services through such lead county board of health after July 1, 1994, and submits a copy
12 of that resolution to the division, the regional board, and the lead county board of health
13 between July 31, 1993, and December 31, 1993; and

14 (3) The lead county board of health qualifying as such under paragraph (1) or (2) of this
15 subsection agrees in writing to appoint a director for mental health, mental retardation,
16 and substance abuse other than the director of the county board of health as stipulated in
17 Code Section 31-3-12.1, to appoint an advisory council on mental health, mental
18 retardation, and substance abuse consisting of consumers, families of consumers, and
19 representatives from each of the counties within the boundaries of the community service
20 board, and to comply with all other provisions relating to the delivery of disability
21 services pursuant to this chapter.

22 (f) If the conditions enumerated in subsection (e) of this Code section are not met prior to
23 or on December 31, 1993, a community service board as provided in subsection (b) shall
24 be established and appointed by January 31, 1994, to govern the provision of disability
25 services within the boundaries of the community service board. Such community service
26 board shall have the authority to adopt bylaws and undertake organizational and contractual
27 activities after January 31, 1994; provided, however, that the community service board
28 established pursuant to this Code section may not begin providing services to clients until
29 July 1, 1994.

30 (g) If a community service board is established pursuant to paragraph (2) of subsection (e)
31 of this Code section, such community service board must operate as established at least
32 until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996,
33 the counties included under the jurisdiction of such a community service board may vote
34 to reconstitute the community service board pursuant to the provisions of subsection (b)
35 of this Code section by passage of a resolution by a majority of the county governing
36 authorities within the jurisdiction of the community service board prior to January 1, 1997,
37 or each year thereafter.

1 (h) Each community service board shall adopt bylaws and operational policies and
 2 guidelines in conformity with ~~procedures established by the division~~ the provisions of this
 3 chapter. Those bylaws shall address board appointment procedures, initial terms of board
 4 members, the staggering of terms, quorum, a mechanism for ensuring that consumers of
 5 disability services and family members of consumers constitute ~~a majority~~ no less than 50
 6 percent of the ~~appointed~~ board members appointed pursuant to subsection (b) of this Code
 7 section, and a mechanism for ensuring equitable representation of the various disability
 8 groups. A quorum for the transaction of any business and for the exercise of any power or
 9 function of the community service board shall consist of a majority of the total number of
 10 filled board member positions appointed pursuant to subsection (b) of this Code section.
 11 A vote of the majority of such quorum shall be the act of the governing board of the
 12 community service board except where the bylaws of the community service board may
 13 require a greater vote. The regular term of office for each community service board
 14 member shall be three years. Vacancies on such board shall be filled in the same manner
 15 as the original appointment. For the purposes of this subsection, 'equitable representation
 16 of the various disability groups' shall mean that consumers and family members of such
 17 consumers who constitute no less than 50 percent of the board members holding
 18 membership pursuant to subsection (b) of this Code section shall be nominated and
 19 appointed so as to assure that an equal number of such members to the fullest extent
 20 possible represents mental health, developmental disabilities, and addictive diseases
 21 interests.

22 (i) Each community service board which is composed of members who are appointed
 23 thereto by the governing authority of only one county shall have a minimum of six and no
 24 more than 13 members, not including ~~ex officio~~ any additional members appointed
 25 pursuant to paragraph (2) of subsection (b) of this Code section, notwithstanding the
 26 provisions of subsection (b) of this Code section, which members in all other respects shall
 27 be appointed as provided in this Code section.

28 (j) No officer or employee of a community service board who has authority to take, direct
 29 others to take, recommend, or approve any personnel action shall take or threaten action
 30 against any employee of a community service board as a reprisal for making a complaint
 31 or disclosing information concerning the possible existence of any activity constituting
 32 fraud, waste, or abuse in or relating to the programs, operations, or client services of the
 33 board to the board or to a member of the General Assembly unless the complaint was made
 34 or the information was disclosed with the knowledge that it was false or with willful
 35 disregard for its truth or falsity. Any action taken in violation of this subsection shall give
 36 the public employee a right to have such action set aside in a proceeding instituted in the
 37 superior court.

1 (k) A member of a community service board who after notice that such member has failed
2 to complete any required training prescribed by the department pursuant to paragraph (4)
3 of subsection (b) of Code Section 37-1-20 continues such failure for 30 days may be
4 removed from office by the remaining members of the community service board.

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

13 (m) The office of a member of a community service board shall be vacated upon such
14 member’s resignation, death, or inability to serve due to medical infirmity or other
15 incapacity, removal by the community service board as authorized in this Code section or
16 upon such other reasonable condition as the community service board may impose under
17 its bylaws.

18 (n) A member of a community service board may not enter upon the duties of office until
19 such member takes the following oath of office:

20 STATE OF GEORGIA

21 COUNTY OF _____

22 I, _____, do solemnly swear or affirm that I will truly perform the
23 duties of a member of the _____ Community Service Board to the
24 best of my ability.

25 I do further swear or affirm:

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

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

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

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

34 _____
35 Signature of member of

36 _____ Community Service Board

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Typed name of member of

Community Service Board

Sworn and subscribed
before me this _____ day
of _____, _____.
(SEAL)"

SECTION 6.

Said title is further amended by striking Code Section 37-2-6.1, relating to the program director, staff, budget, and facilities of community service boards, in its entirety and inserting in its place the following:

"37-2-6.1.

(a) Each community service board shall employ an executive director to serve as its chief executive officer who shall direct the day-to-day operations of the community service board. Such executive director shall be appointed and removed by the community service board and shall appoint other necessary staff pursuant to an annual budget adopted by the board, which budget shall provide for securing appropriate facilities, sites, and professionals necessary for the provision of disability services. The community service board may delegate any power, authority, duty, or function to its executive director or other staff. The executive director or other staff is authorized to exercise any power, authority, duty, or function on behalf of the community service board.

(b) Each community service board, under the jurisdiction of its board, shall perform duties, responsibilities, and functions and may exercise power and authority described in this subsection. Each program may exercise the following power and authority:

- (1) Each community service board may adopt bylaws for the conduct of its affairs; provided, however, that the community service board shall meet at least quarterly, and that all such meetings and any bylaws shall be open to the public, as otherwise required under Georgia law;
- (2) Each community service board may make and enter into all contracts necessary and incidental to the performance of its duties and functions;
- (3) Each community service board may acquire by purchase, gift, lease, or otherwise and may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease, and dispose of real and personal property of every kind and character, or any interest therein, for its corporate purposes;

1 (4) Each community service board may contract to utilize the services of the Department
 2 of Administrative Services, the State Merit System of Personnel Administration, the state
 3 auditor, or any other agency of state, local, or federal government;

4 (5) Each community service board may provide, either independently or through contract
 5 with appropriate state or local governmental entities, the following benefits to its
 6 employees, their dependents, and survivors, in addition to any compensation or other
 7 benefits provided to such persons:

8 (A) Retirement, pension, disability, medical, and hospitalization benefits, through the
 9 purchase of insurance or otherwise, but medical and hospitalization benefits may only
 10 be provided through the Department of Community Health under the same conditions
 11 as provided for such benefits to state employees, and the Department of Community
 12 Health shall so provide if requested;

13 (B) Life insurance coverage and coverage under federal old age and survivors'
 14 insurance programs;

15 (C) Sick leave, annual leave, and holiday leave; and

16 (D) Any other similar benefits including, but not limited to, death benefits;

17 (6) Each community service board may cooperate with all units of local government
 18 ~~within the boundaries of~~ in the counties where the community service board provides
 19 services as well as neighboring regions and with the programs of other departments,
 20 agencies, and regional commissions and regional planning boards;

21 (7) Each community service board shall establish and maintain a personnel program for
 22 its employees and fix the compensation and terms of compensation of its employees;
 23 provided, however, each community service board shall comply with the provisions of
 24 Chapter 20 of Title 45, relating to state personnel administration, for as long as and to the
 25 extent that each employee of such board ~~shall be~~ who is a covered employee as defined
 26 in Code Section 45-20-2; and is subject to the rules and regulations of the ~~state merit~~
 27 ~~system~~ State Merit System of Personnel Administration remains in a covered position or
 28 as otherwise provided by law;

29 (8) Each community service board may receive and administer grants, gifts, contracts,
 30 moneys, and donations for purposes pertaining to the delivery of disability services;

31 (9) Each community service board may establish fees for the provision of disability
 32 services according to the terms of contracts entered into with the Department of Human
 33 Resources and the Department of Community Health incorporating state-wide standards;

34 (10) Each community service board may accept appropriations, loans of funds, facilities,
 35 equipment, and supplies from ~~the~~ local governmental entities ~~within its boundaries~~ in the
 36 counties where the community service board provides services;

1 (11) Each member of the community service board may, upon approval of the executive
2 director, receive reimbursement for actual expenses incurred in carrying out the duties
3 of such office; provided, however, such reimbursement shall not exceed the in
4 ~~conformance with~~ rates and allowances set for state employees by the Office of Planning
5 and Budget ~~and the same mileage or the mileage~~ allowance for use of a personal car as that
6 received by all other state officials and employees or a travel allowance of actual
7 transportation cost if traveling by public carrier;

8 (12) Each community service board shall elect a chairperson and vice chairperson from
9 among its membership; ~~and the~~. The members shall also elect a secretary and treasurer
10 from among its membership or may designate the executive director of the community
11 service board to serve in one or both offices. Such officers shall serve for such terms as
12 shall be prescribed in the bylaws of the community service board or until their respective
13 successors are elected and qualified. No member shall hold more than one office of the
14 community service board; except that the same person may serve as secretary and
15 treasurer. The bylaws of the community service board shall provide for any other officers
16 of such board and the means of their selection, the terms of office of the officers, and an
17 annual meeting to elect officers;

18 (13) Each community service board may have a seal and alter it;

19 (14) Each community service board may contract with the State Merit System of
20 Personnel Administration regarding its personnel who remain in the classified service;

21 (15) Each community service board may establish fees, rates, rents, and charges for the
22 use of facilities of the community service board for the provision of disability services
23 ~~when approved by~~ in accordance with the terms of contracts entered into with the
24 department;

25 (16) Each community service board may borrow money for any business purpose and
26 may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or
27 obligation incurred by a community service board shall not be considered a debt, liability,
28 or obligation of the state or any county or any municipality or any political subdivision
29 of the state. A community service board may not borrow money as permitted by this
30 Code section if the highest aggregate annual debt service requirements of the then current
31 fiscal year or any subsequent year for outstanding borrowings of the community service
32 board, including the proposed borrowing, exceed 15 percent of the total revenues of the
33 community service board in its fiscal year immediately preceding the fiscal year in which
34 such debt is to be incurred. Interest paid upon such borrowings shall be exempt from
35 taxation by the state or its political subdivisions. ~~A state contract with a community~~
36 ~~service board shall not be used or accepted as security or collateral for a debt, liability,~~

1 ~~or obligation of a community service board without the prior written approval of the~~
 2 ~~commissioner;~~

3 (17) Each community service board, to the extent authorized by law and the contract for
 4 the funds involved, may carry forward without lapse fund balances and establish
 5 operating, capital, and debt reserve accounts from revenues and grants derived from state,
 6 county, and all other sources; ~~and~~

7 (18) Each community service board may operate, establish, or operate and establish
 8 facilities deemed by the community service board as necessary and convenient for the
 9 administration, operation, or provision of disability services by the community service
 10 board and may construct, reconstruct, improve, alter, repair, and equip such facilities to
 11 the extent authorized by state and federal law;

12 (19) Each community service board may exercise any power usually possessed by
 13 private corporations performing similar functions that is not in conflict with the
 14 Constitution and laws of this state; and

15 (20) Each community service board may do all things necessary and convenient to carry
 16 out the powers conferred upon it.

17 (c) Nothing shall prohibit a community service board from contracting with any county
 18 governing authority, private or other public provider, or hospital for the provision of
 19 disability services.

20 (d) Each community service board exists for nonprofit and public purposes, and it is found
 21 and declared that the carrying out of the purposes of each community service board is
 22 exclusively for public benefit and its property is public property. Thus, no community
 23 service board shall be required to pay any state or local ad valorem, sales, use, or income
 24 taxes.

25 (e) A community service board does not have the power to tax, the power to issue general
 26 obligation bonds or revenue bonds or revenue certificates, or the power to financially
 27 obligate the state or any county or any municipal corporation.

28 (f) A community service board shall not operate any facility for profit. A community
 29 service board may fix fees, rents, rates, and charges that are reasonably expected to produce
 30 revenues, which, together with all other funds of the community service board, will be
 31 sufficient to administer, operate, and provide the following:

32 (1) Disability services;

33 (2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating
 34 its facilities; and

35 (3) The creation and maintenance of reserves sufficient to meet principal and interest
 36 payments due on any obligation of the community service board.

1 (g) Each community service board may provide reasonable reserves for the improvement,
2 replacement, or expansion of its facilities and services. Reserves under this subsection
3 shall be subject to the limitations in paragraph (16) of subsection (b) of this Code section.

4 (h) Each county and municipal corporation of this state is authorized to convey or lease
5 property of such county or municipal corporation to a community service board for its
6 public purposes. Any property conveyed or leased to a community services board by a
7 county or municipal corporation shall be operated by such community service board in
8 accordance with this chapter and the terms of the community service board's agreements
9 with the county or municipal corporation providing such conveyance or lease.

10 (i) Each community service board shall keep books of account reflecting all funds
11 received, expended, and administered by the community service board which shall be
12 independently audited annually.

13 (j)(1) ~~When approved by the commissioner, a~~ A community service board may create,
14 form, or become a member of a nonprofit corporation, limited liability company, or other
15 nonprofit entity, the voting membership of which shall be limited to community service
16 boards, governmental entities, nonprofit corporations, or a combination thereof, if such
17 entity is created for purposes that are within the powers of the community service board,
18 for the cooperative functioning of its members, or a combination thereof.

19 (2) A community service board may incorporate one or more nonprofit corporations for
20 the purpose of carrying out any of the powers of the community service board and to
21 accomplish any of the purposes of the community service board. Any nonprofit
22 corporations created pursuant to this power shall be created pursuant to Chapter 3 of Title
23 14, the 'Georgia Nonprofit Corporation Code,' and the Secretary of State shall be
24 authorized to accept such filings. The members of the board of directors of the
25 community service board shall appoint the members of the board of directors of a
26 nonprofit corporation created in accordance with this subsection; provided, however, the
27 members of the board of directors of the community service board may constitute all or
28 a portion of the membership of the board of directors of such nonprofit corporation, and
29 service as a director of such nonprofit corporation shall not constitute a conflict of interest
30 by a member of the board of directors of a community service board. Upon dissolution
31 of any nonprofit corporation of the community service board, any assets shall revert to
32 the community service board or to any successor of the community service board or,
33 failing such succession, to the State of Georgia. The community service board shall not
34 be liable for the debts or obligations of any nonprofit corporation or for the actions or
35 omissions to act of any nonprofit corporation incorporated by that community service
36 board unless that community service board expressly so consents and unless otherwise
37 provided by law.

1 (3) No community service board, whether or not it exercises the power powers
2 authorized by paragraph (1) or (2) of this subsection, shall be relieved of compliance with
3 Chapter 14 of Title 50, relating to open and public meetings, and Article 4 of Chapter 18
4 of Title 50, relating to inspection of public records, unless otherwise provided by law.

5 (k) No community service board shall employ or retain in employment, either directly or
6 indirectly through contract, any person who is receiving a retirement benefit from the
7 Employees' Retirement System of Georgia except in accordance with the provisions of
8 subsection (c) of Code Section 47-2-110; provided, however, that any such person who is
9 employed as of July 1, 2004, may continue to be employed.

10 (l) A community service board may join or form and operate, either directly or indirectly,
11 one or more networks of community service boards, disability professionals, and other
12 providers of disability services to arrange for the provision of disability services through
13 such networks; to contract either directly or through such networks with the Department
14 of Community Health to provide services to Medicaid beneficiaries; to provide disability
15 services in an efficient and cost-effective manner on a prepaid, capitation, or other
16 reimbursement basis; and to undertake other disability related managed care activities. For
17 purposes of this subsection only and notwithstanding Code Section 33-3-3 or any other
18 provision of law, a community service board shall be permitted to and shall comply with
19 the requirements of Chapter 20A of Title 33 to the extent that such requirements apply to
20 the activities undertaken by the community service board or by a community service board
21 under this subsection or paragraph (1) or (2) of subsection (j) of this Code section. No
22 community service board, whether or not it exercises the powers authorized by this
23 subsection, shall be relieved of compliance with Article 4 of Chapter 18 of Title 50,
24 relating to inspection of public records, unless otherwise provided by law. Any licensed
25 health care provider shall be eligible to apply to become a participating provider under such
26 a plan or network that provides coverage for health care or disability services which are
27 within the lawful scope of the provider's license, but nothing in this Code section shall be
28 construed to require any such plan or network to provide coverage for any specific health
29 care or disability service.

30 (m) It is declared by the General Assembly of Georgia that in the exercise of the power
31 and authority granted to community service boards by this title, community service boards
32 shall be immune from antitrust liability under state law and to the same degree and extent
33 as enjoyed by the State of Georgia with respect to any claims arising under federal antitrust
34 laws."

SECTION 7.

Said title is further amended by adding after Code Section 37-2-6.4, relating to reconstituting or converting of organizational structure, a new Code section to read as follows:

"37-2-6.5.

(a) By joint action of the membership of a community service board created pursuant to Code Section 37-2-6 and the governing authority of each county that contributes funds or resources to such board, such community service board may cease operations; provided, however, such community service board shall notify the commissioner at least 90 days in advance of the meeting of the community service board in which such action is to be taken.

Such joint action shall indicate the date on which the community service board shall cease operations.

(b) Upon receipt of notification that a community service board intends to cease operations, the commissioner shall notify the chairperson and executive director of such community service board and the governing authority of each county within the community service board area of such board that:

(1) The department, after securing the approval of the Governor, intends to appoint a manager or management team to manage and operate the programs and services of the community service board in accordance with the provisions of paragraph (1) of subsection (c) of Code Section 37-2-10 until the division shall determine:

(A) That such community service board should continue in operation, provided one or more members appointed to such board in accordance with subsection (b) of Code Section 37-2-6 shall be removed in accordance with subparagraph (c)(3)(H) of Code Section 37-2-10, and the division, acting on behalf of the membership of the community service board, nominates a successor to a removed member and advises the county governing authority that appointed such removed member to appoint a successor;

(B) That all of the members of such community service board appointed in accordance with subsection (b) of Code Section 37-2-6 shall be removed and such community service board shall be reconstituted; and that the division shall assist the county governing authorities in making appointments to the new community service board; or

(C) In the case where the membership of such community service board is the membership of a county board of health designated in accordance with Code Section 31-3-12.1 or subsection (e) of Code Section 37-2-6, that the entire membership of the community service board should be removed and the membership of the community service board be reconstituted in accordance with subsection (b) of Code Section 37-2-6;

1 (2) The division, with the approval of the commissioner, intends to redesignate the
2 boundaries of the community service board area served by such board pursuant to
3 paragraph (1) of subsection (b) of Code Section 37-2-3 by expanding the boundaries of
4 an adjacent community service board area served by another community service board
5 to include the counties in the community service board area served by the community
6 service board that intends to cease operations so that the community service board
7 serving such adjacent area may assume responsibility for the provision of disability
8 services within such counties;

9 (3) The department intends to request pursuant to Code Section 31-3-12.1 that the
10 governing authority of a county within the community service board area of such board
11 authorize the membership of the board of health of such county to serve as the
12 membership of such community service board; or

13 (4) The department seeks to request the approval of such community service board and
14 all of the governing authorities of the counties within the community service board area
15 of such board to reconstitute or convert the organizational structure of such community
16 service board in accordance with the provisions of subsection (a) of Code Section
17 37-2-6.4 by converting such community service board to a private, nonprofit corporation,
18 a unit of a county government within the community service board service area of such
19 board, or a component of a hospital authority operating within the boundaries of the
20 community service board area of such board.

21 (c) If a community service board ceases operation and is succeeded by another community
22 service board pursuant to paragraph (2), a county board of health pursuant to paragraph (3),
23 or a unit of county government or a hospital authority pursuant to paragraph (4) of
24 subsection (b) of this Code section, the division shall make a determination about the
25 disposition of all assets, equipment, and resources purchased with state or federal funding
26 in the possession of the predecessor community service board.

27 (d) If a community service board ceases operation by converting to a private nonprofit
28 corporation pursuant to paragraph (4) of subsection (b) of this Code section, the department
29 shall petition the superior court of the county in which the principal office of that
30 community service board was located for appointment of a receiver of the assets of the
31 community service board for the protection of the board's creditors and the public. The
32 receiver shall be authorized to marshal and sell or transfer assets of the board, and, after
33 payment of the costs, expenses, and approved fees of the proceeding, to pay the liabilities
34 of the community service board. The court shall then decree that the board be dissolved.
35 Upon completion of the liquidation, any surplus remaining after paying all costs of the
36 liquidation shall be distributed, as determined by the court, to the agencies or entities
37 providing disability services in the community service board area formerly served by the

1 community service board which ceased operations. At no time shall any community
 2 service board upon ceasing operations convey any of its property, except as may be
 3 otherwise authorized by a superior court in this subsection, to any private person,
 4 association, or corporation."

5 SECTION 8.

6 Said title is further amended by striking Code Section 37-2-9.1, relating to compliance by
 7 regional planning boards and community service boards with laws as to open meetings and
 8 inspection of records, in its entirety and inserting in its place the following:

9 "37-2-9.1.

10 (a) Each regional planning board and community service board shall comply with the
 11 provisions of Chapter 14 of Title 50, relating to open and public meetings, and Article 4
 12 of Chapter 18 of Title 50, relating to inspection of public records, except as provided in
 13 subsection (c) of this Code section or where records or proceedings are expressly made
 14 confidential pursuant to other provisions of law.

15 (b) Each regional office and community service board and other public and private
 16 providers are authorized to establish one or more advisory boards for the purpose of
 17 ensuring coordination with various agencies and organizations and providing professional
 18 and other expert guidance.

19 (c) Notwithstanding any other provision of law to the contrary, no agency, as that term is
 20 defined by and used in Article 4 of Chapter 18 of Title 50, shall be required to disclose or
 21 make open for personal public inspection any public record regarding any potentially
 22 commercially valuable plan, proposal, or strategy that may be of unfair competitive
 23 advantage and which has not been made public by the community service board. This
 24 exemption shall terminate at such time as such plan, proposal, or strategy has been
 25 approved or rejected by the governing board of the community service board."

26 SECTION 9.

27 Said title is further amended by striking Code Section 37-2-10, relating to director's
 28 emergency powers upon failure of community service board to establish and administer
 29 progress, in its entirety and inserting in its place the following:

30 "37-2-10.

31 (a) Notwithstanding any other provisions of the law, the director with the concurrence of
 32 the commissioner and the Governor is authorized to establish and administer community
 33 programs on an emergency basis in the event one or more community service boards fail
 34 to assume responsibility for the establishment and implementation of an adequate range of
 35 disability services or to provide appropriate disability services as determined by the

1 division or substantially breach their contracts with the department pursuant to this chapter.

2 (b) Upon notification by a community service board of an inability to provide an adequate
3 range of disability services or to provide appropriate services, the director, with
4 concurrence of the commissioner and the Governor, may:

5 (1) Assume responsibility for the administration and operation of all of the community
6 programs operated by or through such board and, in which case, the programs shall
7 become department programs; the department shall acquire the assets of the community
8 service board; and the community service board employees shall become employees of
9 the department; or

10 (2) Assume responsibility for the administration and operation of one or more of the
11 community programs operated by or through such board, in which case, such program
12 or programs shall become a department program or programs; the department shall
13 acquire those assets of the community service board assigned to such program or
14 programs; and the employees of such program or programs shall become employees of
15 the department. Any community service board programs not transferred to the
16 department shall continue to be operated by the community service board and the
17 employees for such programs shall remain community service board employees; ~~or,~~

18 ~~(3)(c)(1) Notwithstanding any other provisions of the law, the director with the~~
19 ~~concurrence of the commissioner and the Governor is authorized to~~ Appoint appoint a
20 manager or management team to manage and operate the programs and services of the
21 community service board ~~until such time as a determination has been made that the~~
22 ~~circumstances or conditions causing the appointment of a manager or management team~~
23 ~~have been sufficiently corrected. Upon such a determination, the authority to manage and~~
24 ~~operate the programs and services of the community service board shall be returned to~~
25 ~~the community service board.~~ if the director finds that the community service board:

26 (A) Provides notice pursuant to Code Section 37-2-6.5 that such board intends to cease
27 operations;

28 (B) Intentionally, recklessly, or negligently failed to discharge its duties pursuant to a
29 contract with the department;

30 (C) Misused state or federal funds;

31 (D) Engaged in a fraudulent act, transaction, practice, or course of business;

32 (E) Endangered the life, safety, or health of a consumer served by the community
33 service board;

34 (F) Failed to keep fiscal records and maintain proper control over its assets;

35 (G) Failed to respond to a substantial deficiency in a review or audit; or

36 (H) Otherwise substantially failed to comply with this chapter or the rules or standards
37 of the department or division.

1 (2) In order to carry out the provisions of paragraph (1) of this subsection, the director
2 shall give written notice to the community service board regarding the appointment of a
3 manager or management team and the circumstances on which the appointment is based.
4 The director may require the community service board to pay costs incurred by the
5 manager or management team.

6 (3) Subject to the determination of the director, a manager or management team
7 appointed pursuant to this subsection may:

8 (A) Evaluate, redesign, modify, administer, supervise, or monitor a procedure,
9 operation, or the management of the community service board;

10 (B) Hire, supervise, discipline, reassign, or terminate the employment of an employee
11 of the community service board;

12 (C) Reallocate the resources and manage the assets of the community service board;

13 (D) Require that a financial transaction, expenditure, or contract for goods and services
14 be approved by the manager or management team;

15 (E) Redesign, modify, or terminate a program or service of the community service
16 board;

17 (F) Direct the members of the community service board, the executive director, chief
18 financial officer, or any other administrative or program manager to take an action;

19 (G) Exercise a power, duty, authority, or function of the community service board as
20 authorized by this chapter;

21 (H) Recommend to the director the removal of a member or the executive director of
22 the community service board; and the provisions of any law to the contrary
23 notwithstanding, the director may remove such member or executive director from
24 office; and

25 (I) Report at least monthly to the director on actions taken.

26 (4) A manager or management team appointed pursuant to this subsection may not use
27 or dispose of any asset or funds contributed to the community service board by the
28 governing authority of a county or municipal corporation without the approval of such
29 governing authority.

30 (5) Upon a determination that the conditions that gave rise to the appointment of a
31 manager or management team pursuant to this subsection have been met and that such
32 manager or management team is no longer necessary, the director shall terminate the
33 authority delegated to such manager or management team and restore authority to the
34 community service board to manage and operate the services and programs of the
35 community service board.

36 (6) Nothing in this subsection shall be construed to prohibit the department from
37 canceling a contract with a community service board."

SECTION 10.

Said title is further amended by striking subsections (b) and (c) of Code Section 37-2-11, relating to allocation of available funds for services, in their entirety and inserting in their respective places the following:

"(b) Fees generated, if any, by hospitals, community service boards, and other private and public providers, providing services under contract or purview of the ~~regional offices division~~, shall be reported to the ~~regional offices division~~ and applied wherever appropriate against the cost of providing, and increasing the quantity and quality of, disability services; provided, however, that income to a community service board derived from fees may be used to further the purposes of such community service board as found in Code Section 37-3-6.1, subject to appropriations. The division shall be responsible for developing procedures to properly account for the collection, remittance, and reporting of generated fees. The ~~regional offices division~~ shall work with the community service boards and other public or private providers to develop an appropriate mechanism for accounting for the funds and resources contributed to local disability services by counties and municipalities within the area. Such contributions are not required to be submitted to either the community service boards or the ~~regional offices division~~; however, appropriate documentation and accounting entries shall make certain that the county or municipality is credited, and if necessary compensated, appropriately for such contribution of funds or resources.

(c) No person shall be denied disability services provided by the state as defined in this chapter based on age, gender, race, ethnic origin, or inability to pay; provided, however, the provisions of this subsection to the contrary notwithstanding, a community service board may deny nonemergency disability services to any person who refuses to pay unless the division requires a copayment from such person as a condition for receiving a nonemergency service or has promulgated a state-wide sliding fee scale, in which case a community service board may only deny nonemergency services to any person who refuses to pay such copayment or to pay in accordance with such state-wide sliding fee scale. The division shall promulgate standards that define those emergency disability services which a community service board must provide to any person regardless of ability to pay."

SECTION 11.

Said title is further amended by striking paragraph (1) of subsection (c) of Code Section 37-2-11.1, relating to venue in actions against community service boards, in its entirety and inserting in its place the following:

"(c)(1) The community service boards shall be public bodies but shall not be considered agencies of the state or any specific county or municipality. Such community service

1 boards are public agencies in their own right and shall have the same immunity as
 2 ~~provided for counties.~~ the State of Georgia. Claims against community service boards
 3 and officers and employees thereof shall be governed by Article 2 of Chapter 20 of Title
 4 50, the 'Georgia Tort Claims Act.' No county shall be liable for any action, error, or
 5 omission of a community service board. Notwithstanding any provisions of law to the
 6 contrary, and regardless of any provisions of law which grant employees of the
 7 community service boards benefits under programs operated by the state or which deem
 8 them to be state employees only for purposes of those benefits, employees of the
 9 community service boards shall not be employees of the state but shall be employees of
 10 the community service boards and, further, the state shall not be liable for any action,
 11 error, or omission of such employees."

12 SECTION 12.

13 Said title is further amended by adding a paragraph to Code Section 37-9-2, relating to
 14 definitions regarding payment of expenses for support, treatment, and care of patients in state
 15 institutions generally, to read as follows:

16 "(1.5) 'Community service board' means a public mental health, developmental
 17 disabilities, and addictive diseases board established pursuant to Code Section 37-2-6."

18 SECTION 13.

19 Said title is further amended by striking subsection (c) of Code Section 37-9-7, relating to
 20 inquiring into and determination of income and assets, in its entirety and inserting in its place
 21 the following:

22 "(c) The department, through its duly authorized agents, shall have access to Georgia
 23 income tax records for the purpose of obtaining necessary information to enforce this
 24 chapter. Upon the request of the department or its duly authorized agents, the state revenue
 25 commissioner and his or her agents or employees shall disclose such income tax
 26 information contained in any report or return required under Georgia law as may be
 27 necessary to enforce the provisions of this chapter. Any tax information secured from the
 28 federal government by the Department of Revenue pursuant to express provisions of
 29 Section 6103 of the Internal Revenue Code may not be disclosed by the Department of
 30 Revenue pursuant to this subsection. Any person receiving any tax information or tax
 31 returns under the authority of this subsection shall be considered either an officer or
 32 employee as those terms are used in subsection (a) of Code Section 48-7-60; and as such
 33 an officer or employee, any person receiving any tax information or returns under the
 34 authority of this subsection shall be subject to Code Section 48-7-61. For the purposes of
 35 this subsection, and only when designated and authorized in writing by the department, a

1 community service board shall be considered a duly authorized agent of the department for
2 the purpose of determining, pursuant to subsection (c) of Code Section 37-2-11, the ability
3 of a consumer of disability services to pay the full cost for services provided by such
4 community service board or a portion thereof, including but not limited to compliance with
5 any copayments or state-wide sliding fee scale promulgated by the department. Such
6 designation and authorization shall be considered as consistent with the purposes of this
7 subsection. The department shall assess the capability of each community service board
8 seeking such designation and authorization to safeguard carefully any Georgia income tax
9 information or tax returns disclosed by the Department of Revenue pursuant to this
10 subsection. The department may withdraw such designation and authorization from a
11 community service board at any time and for any reason, and shall give written notice to
12 the Department of Revenue and such community service board of its decision to withdraw
13 such designation and authorization."

14 **SECTION 14.**

15 Nothing in this Act shall be construed to affect or abate any right accrued or vested prior to
16 July 1, 2006, or any action or proceeding commenced prior to July 1, 2006, under any law
17 amended or repealed by this Act.

18 **SECTION 15.**

19 This Act shall become effective July 1, 2006, except that those provisions which authorize
20 community service boards to amend their bylaws and authorize such boards to nominate and
21 county governing authorities to appoint no sooner than May 1, 2006, any community service
22 board members to take office on July 1, 2006, shall become effective upon the approval of
23 this Act by the Governor or upon its becoming law without such approval.

24 **SECTION 16.**

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