

House Bill 1223 (FLOOR SUBSTITUTE) (AM)

By: Representative Brown of the 69<sup>th</sup>

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 director's emergency powers upon failure of  
13 community service board to establish and administer progress; to revise certain provisions  
14 relating to allocation of available funds for services; to revise certain provisions relating to  
15 venue in actions against community service boards; to add a definition relating to payment  
16 of expenses for support, treatment, and care of patients in state institutions; to provide for  
17 statutory construction; to provide for related matters; to provide for effective dates; to repeal  
18 conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 SECTION 1.

21 Chapter 3 of Title 31 of the Official Code of Georgia Annotated, relating to county boards  
22 of health, is amended by striking Code Section 31-3-12.1, relating to contracts between  
23 county boards and authorization for and provisions applicable to a county board of health  
24 serving as a community service board, in its entirety and inserting in its place the following:

1 "31-3-12.1.

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

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

1 county board of health which have the same membership may contract with each other,  
2 provided that any such contract is approved by the department prior to adoption."

## 3 SECTION 2.

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

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

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

## 16 SECTION 3.

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

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

28 (2.1) 'Community service board area' means an area inclusive of the counties which fall  
29 within the boundaries of a community service board as designated by the division  
30 pursuant to subsection (b) of Code Section 37-2-3 for the establishment of a community  
31 service board.

32 (2.2) 'Community service board service area' means a community service board area and  
33 any other county or portion thereof in which the community service board provides  
34 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

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

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

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

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

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

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

(i) One member of the community service board shall be appointed by the governing authority of each county within the community service board area. In the case that such method of appointment results in more than 13 members appointed to the community service board, appointments to the community service board shall be made by the governing authority of each county within the community service board area in descending order from the county with the largest population to the county with the smallest population according to the most recent United States decennial census until all 13 members of the community service board are appointed; and

(ii) If after such appointments are made, if one or more county governing authorities have failed to make an appointment and one or more membership positions remain

1 to be filled, the governing authorities of the counties within the community service  
2 board area in descending order from the county with the largest population to the  
3 county with the smallest population according to the most recent United States  
4 decennial census shall each appoint one member and such methods in division (i) and  
5 this division of this subparagraph shall be repeated until all of the remaining positions  
6 are filled;

7 (4) The county governing authority shall appoint as at least one of its appointments a  
8 consumer of disability services, a child psychiatrist, or a family member of a consumer;  
9 an advocate for disability services, or a local leader or businessperson with an interest  
10 in mental health, developmental disabilities, and addictive diseases; provided, however,  
11 that for counties with more than one appointment, the county governing authority shall  
12 seek to ensure that such appointments represent various groups and disability services;

13 ~~(5)(2) The chief executive or a designee of the chief executive of each county governing~~  
14 ~~authority or municipal governing authority which contributes funding or resources which~~  
15 ~~equal or exceed one-half of 1 percent of the budget allocation from the division for~~  
16 ~~disability services within the area governed by the community service board shall serve~~  
17 ~~as an ex officio, voting member of the community service board; and~~ In addition to the  
18 members appointed pursuant to paragraph (1) of this subsection, each community service  
19 board may appoint up to three additional members in order to address variation in the  
20 population sizes of counties or the financial contributions of counties within the  
21 community service board area or may authorize the elected chief executive officer of a  
22 county governing authority, by whatever name called, or an elected member of that  
23 county governing authority to serve on the community service board while holding such  
24 elective office. The bylaws of the community service board shall address the number of  
25 such additional members, if any, and the purpose or purposes for which such positions  
26 are created. The term of office of such additional members shall be the same as that of  
27 other members as provided in subsection (h) of this Code section; except that the term of  
28 office of a member in a position created to authorize the elected chief executive officer  
29 of a county governing authority, by whatever name called, or an elected member of that  
30 county governing authority to serve on the community service board shall be the same  
31 term of office as the elective term of office of said chief executive officer or said member  
32 of that county governing authority;

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

36 (A) A community service board which increases or reduces the number of its members  
37 in accordance with paragraphs (1) and (2) of this subsection shall revise its bylaws

adopted in accordance with subsection (h) of this Code section to reflect such increases or reductions. A community service board which reduces the number of its members shall designate which position or positions are to be eliminated and shall make reasonable efforts to eliminate any position or positions of members whose terms expire on or before June 30, 2006; provided, however, that members serving on a community service board whose terms do not expire on or before June 30, 2006, shall continue to serve out the terms of office to which they were appointed, regardless of whether this causes a board to temporarily exceed the maximum number of members. Any additional positions created in conformity with such paragraphs (1) and (2) may be filled on July 1, 2006, and the governing authority of a county that is otherwise authorized to appoint such additional community service board member or members may do so no sooner than May 1, 2006, but any person so appointed shall not take office until July 1, 2006. If a position on such community service board is not filled on July 1, 2006, a vacancy in that position shall be deemed to have occurred on that date. A community service board is authorized to make whatever changes necessary in the terms of office of its members in order to achieve the staggering of terms required by subsection (h) of this Code section; and

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

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

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

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

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

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

board may be appointed to a community service board until a period of at least two years has passed since the time such person has served on the regional planning board.

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

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

(c) In making appointments to the community service board, the ~~various~~ county governing authorities shall ensure that such appointments are reflective of the cultural and social characteristics, including gender, race, ethnic, and age characteristics, of the ~~regional~~ community service board area and county populations. The county governing authorities are further encouraged to ensure that each disability group is ~~viable and capable~~ represented on the community service board, and in making ~~nominations~~ for such appointments the ~~board of health shall~~ county governing authorities may consider suggestions from clinical professional associations as well as advocacy groups, ~~including but not limited to the Georgia Mental Health Consumer Network, People First of Georgia, the Georgia Parent Support Network, National Alliance for the Mentally Ill Georgia, the American Association for Retired Persons, Georgians for Children, the National Mental Health Association of Georgia, Georgia ARC Network, and the Georgia Council on Substance Abuse and their local chapters and affiliates.~~ For the purposes of this subsection, 'advocacy groups' means any organizations or associations that advocate for, promote, or have an interest in disability services and are exempted as a charitable organization from federal income tax pursuant to Section 501(c) of the Internal Revenue Code; provided, however, that 'advocacy groups' shall not mean paid providers of disability services.

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



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

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

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

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

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

(3) The lead county board of health qualifying as such under paragraph (1) or (2) of this subsection agrees in writing to appoint a director for mental health, mental retardation, and substance abuse other than the director of the county board of health as stipulated in Code Section 31-3-12.1, to appoint an advisory council on mental health, mental retardation, and substance abuse consisting of consumers, families of consumers, and representatives from each of the counties within the boundaries of the community service

1 board, and to comply with all other provisions relating to the delivery of disability  
2 services pursuant to this chapter.

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

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

19 (h) Each community service board shall adopt bylaws and operational policies and  
20 guidelines in conformity with ~~procedures established by the division~~ the provisions of this  
21 chapter. Those bylaws shall address board appointment procedures, initial terms of board  
22 members, the staggering of terms, quorum, a mechanism for ensuring that consumers of  
23 disability services and family members of consumers constitute ~~a majority~~ no less than 50  
24 percent of the ~~appointed~~ board members appointed pursuant to subsection (b) of this Code  
25 section, and a mechanism for ensuring equitable representation of the various disability  
26 groups. A quorum for the transaction of any business and for the exercise of any power or  
27 function of the community service board shall consist of a majority of the total number of  
28 filled board member positions appointed pursuant to subsection (b) of this Code section.  
29 A vote of the majority of such quorum shall be the act of the governing board of the  
30 community service board except where the bylaws of the community service board may  
31 require a greater vote. The regular term of office for each community service board  
32 member shall be three years. Vacancies on such board shall be filled in the same manner  
33 as the original appointment. For the purposes of this subsection, 'equitable representation  
34 of the various disability groups' shall mean that consumers and family members of such  
35 consumers who constitute no less than 50 percent of the board members holding  
36 membership pursuant to subsection (b) of this Code section shall be appointed so as to

1 assure that an equal number of such members to the fullest extent possible represents  
2 mental health, developmental disabilities, and addictive diseases interests.

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

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

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

23 (l) A member of a community service board may resign from office by giving written  
24 notice to the executive director of the community service board. The resignation is  
25 irrevocable after delivery to such executive director but shall become effective upon the  
26 date on which the notice is received or on the effective date given by the member in the  
27 notice, whichever date is later. The executive director, upon receipt of the resignation,  
28 shall give notice of the resignation to the remaining members of the community service  
29 board and to the chief executive officer or governing authority of the county that appointed  
30 the member.

31 (m) The office of a member of a community service board shall be vacated upon such  
32 member's resignation, death, or inability to serve due to medical infirmity or other  
33 incapacity, removal by the community service board as authorized in this Code section or  
34 upon such other reasonable condition as the community service board may impose under  
35 its bylaws.

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

STATE OF GEORGIA

COUNTY OF \_\_\_\_\_

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

I do further swear or affirm:

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

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

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

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

\_\_\_\_\_  
Signature of member of

\_\_\_\_\_  
Community Service Board

\_\_\_\_\_  
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;

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

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

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

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

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

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

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

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

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

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

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

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

24 (12) Each community service board shall elect a chairperson and vice chairperson from  
25 among its membership; ~~and the~~. The members shall also elect a secretary and treasurer  
26 from among its membership or may designate the executive director of the community  
27 service board to serve in one or both offices. Such officers shall serve for such terms as  
28 shall be prescribed in the bylaws of the community service board or until their respective  
29 successors are elected and qualified. No member shall hold more than one office of the  
30 community service board; except that the same person may serve as secretary and  
31 treasurer. The bylaws of the community service board shall provide for any other officers  
32 of such board and the means of their selection, the terms of office of the officers, and an  
33 annual meeting to elect officers;

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

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

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

5 (16) Each community service board may borrow money for any business purpose and  
6 may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or  
7 obligation incurred by a community service board shall not be considered a debt, liability,  
8 or obligation of the state or any county or any municipality or any political subdivision  
9 of the state. A community service board may not borrow money as permitted by this  
10 Code section if the highest aggregate annual debt service requirements of the then current  
11 fiscal year or any subsequent year for outstanding borrowings of the community service  
12 board, including the proposed borrowing, exceed 15 percent of the total revenues of the  
13 community service board in its fiscal year immediately preceding the fiscal year in which  
14 such debt is to be incurred. Interest paid upon such borrowings shall be exempt from  
15 taxation by the state or its political subdivisions. A state contract with a community  
16 service board shall not be used or accepted as security or collateral for a debt, liability,  
17 or obligation of a community service board without the prior written approval of the  
18 commissioner;

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

23 (18) Each community service board may operate, establish, or operate and establish  
24 facilities deemed by the community service board as necessary and convenient for the  
25 administration, operation, or provision of disability services by the community service  
26 board and may construct, reconstruct, improve, alter, repair, and equip such facilities to  
27 the extent authorized by state and federal law.

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

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

(e) A community service board does 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.

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

(1) Disability services;

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

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

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

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

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

(j) ~~When approved by the commissioner,~~ a community service board may create, form, or become a member of a nonprofit corporation, limited liability company, or other nonprofit entity, the voting membership of which shall be limited to community service boards, governmental entities, nonprofit corporations, or a combination thereof, if such entity is created for purposes that are within the powers of the community service board, for the cooperative functioning of its members, or a combination thereof. No community service board, whether or not it exercises the power authorized by this subsection, shall be relieved of compliance with Chapter 14 of Title 50, relating to open and public meetings, and Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless otherwise provided by law.

(k) No community service board shall employ or retain in employment, either directly or indirectly through contract, any person who is receiving a retirement benefit from the Employees' Retirement System of Georgia except in accordance with the provisions of



subsection (c) of Code Section 47-2-110; provided, however, that any such person who is employed as of July 1, 2004, may continue to be employed.

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

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

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

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

16 (C) In the case where the membership of such community service board is the  
17 membership of a county board of health designated in accordance with Code Section  
18 31-3-12.1 or subsection (e) of Code Section 37-2-6, that the entire membership of the  
19 community service board should be removed and the membership of the community  
20 service board be reconstituted in accordance with subsection (b) of Code Section  
21 37-2-6;

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

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

34 (4) The department, after securing the approval of the Governor, intends to appoint a  
35 manager or management team to manage and operate the programs and services of the  
36 community service board until such time as arrangements can be made to secure one or

1 more alternate service providers to assume responsibility for the provision of services  
2 previously provided by the community service board.

3 (c) If a community service board ceases operation and is succeeded by another community  
4 service board pursuant to paragraph (2), a county board of health pursuant to paragraph (3),  
5 or a manager or management team pursuant to paragraph (4) of subsection (b) of this Code  
6 section, the division shall make a determination about the disposition of all assets,  
7 equipment, and resources purchased with state or federal funding in the possession of the  
8 predecessor community service board.

9 (d) If a community service board ceases operation and one or more alternate service  
10 providers assume responsibility for the provision of services previously provided by the  
11 community service board pursuant to paragraph (4) of subsection (b) of this Code section,  
12 the department shall petition the superior court of the county in which the principal office  
13 of that community service board was located for appointment of a receiver of the assets of  
14 the community service board for the protection of the board's creditors and the public. The  
15 receiver shall be authorized to marshal and sell or transfer assets of the board, and, after  
16 payment of the costs, expenses, and approved fees of the proceeding, to pay the liabilities  
17 of the community service board. The court shall then decree that the board be dissolved.  
18 Upon completion of the liquidation, any surplus remaining after paying all costs of the  
19 liquidation shall be distributed, as determined by the court, to the agencies, entities, or  
20 providers providing disability services in the community service board area formerly  
21 served by the community service board which ceased operations. At no time shall any  
22 community service board upon ceasing operations convey any of its property, except as  
23 may be otherwise authorized by a superior court in this subsection, to any private person,  
24 association, or corporation."

## 25 **SECTION 8.**

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

29 "37-2-10.

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

36 (b) Upon notification by a community service board of an inability to provide an adequate

range of disability services or to provide appropriate services, the director, with concurrence of the commissioner and the Governor, may:

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

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

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

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

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

(C) Misused state or federal funds;

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

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

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

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

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

1 (I) No longer has the fiscal ability to continue to provide contracted services and  
2 without the intervention of the department, continued provision of disability services  
3 to consumers in the service area is in immediate jeopardy.

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

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

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

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

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

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

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

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

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

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

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

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

33 (5) If a manager or management team is appointed pursuant to this Code section, the  
34 department may:

35 (A) Upon a determination that the conditions that gave rise to the appointment of a  
36 manager or management team pursuant to this subsection have been met and that such  
37 manager or management team is no longer necessary, terminate the authority delegated

to such manager or management team and restore authority to the community service board to manage and operate the services and programs of the community service board; or

(B) Operate and manage the programs of the community service board until such time as arrangements can be made to secure one or more alternative service providers to assume responsibility for the provision of services previously provided by the community service board. If this option is exercised, the department shall petition the appropriate superior court for appointment of a receiver pursuant to subsection (d) of Code Section 37-2-6.5.

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

## **SECTION 9.**

Said title is further amended by striking subsection (b) of Code Section 37-2-11, relating to allocation of available funds for services, in its entirety and inserting in its place 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."

## **SECTION 10.**

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

## SECTION 11.

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

“(1.5) ‘Community service board’ means a public mental health, developmental disabilities, and addictive diseases board established pursuant to Code Section 37-2-6.”

## SECTION 12.

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

## SECTION 13.

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

## SECTION 14.

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