

House Bill 1223 (AS PASSED HOUSE AND SENATE)

By: Representatives Brown of the 69<sup>th</sup>, Cooper of the 41<sup>st</sup>, O`Neal of the 146<sup>th</sup>, Coleman of the 144<sup>th</sup>, Epps of the 128<sup>th</sup>, 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 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 provide for statutory construction; to  
15 provide for related matters; to provide for effective dates; to repeal conflicting laws; and for  
16 other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

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

23 "31-3-12.1.

24 (a) In addition to any other power authorized by law, the county governing authority may  
25 authorize the county board of health to enter into a contract with the department or a  
26 community mental health, developmental disabilities, and addictive diseases service board

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

20 (b) Pursuant to subsection (e) of Code Section 37-2-6, a county governing authority may  
 21 authorize the membership of a county board of health to serve as the membership of a  
 22 community mental health, developmental disabilities, and addictive diseases service board,  
 23 provided that the county governing authority, the county board of health, and any other  
 24 affected county governing authority act pursuant to subsection (e) of Code Section 37-2-6.

25 If the membership of a county board of health exercises the authority granted pursuant to  
 26 this ~~Code section~~ subsection and Chapter 2 of Title 37 to serve as the membership of a  
 27 community service board, the membership of the county board of health shall constitute  
 28 the membership of the community service board and, at any time that such members are  
 29 exercising duties and powers related to mental health, developmental disabilities, and  
 30 addictive diseases, the community service board shall be an independent agency and shall  
 31 operate in accordance with the provisions of Title 37 as a community service board.  
 32 Notwithstanding any provisions of law to the contrary, a community service board and a  
 33 county board of health which have the same membership may contract with each other,  
 34 provided that any such contract is approved by the department prior to adoption."





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 appointed as follows and the bylaws shall be amended accordingly:

27 (i) For community service boards whose community service board area contains 13  
 28 or fewer counties, the board shall be set at 13 members and appointments to the board  
 29 shall be made by the governing authority of each county within the community  
 30 service board area in descending order from the county with the largest population to  
 31 the county with the smallest population according to the most recent United States  
 32 decennial census and this method shall be repeated until all 13 members of the  
 33 community service board are appointed. If a county governing authority fails to make  
 34 an appointment within a reasonable time, the next descending county by population  
 35 shall make an appointment and the method shall continue; and

36 (ii) For community service boards whose community service board area contains  
 37 more than 13 counties, one member of the community service board shall be

1 appointed by the governing authority of each county within the community service  
 2 board area, so that the number of members on the board is equal to the number of  
 3 counties in the community service board area.

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

10 ~~(5)(2) The chief executive or a designee of the chief executive of each county governing~~  
 11 ~~authority or municipal governing authority which contributes funding or resources which~~  
 12 ~~equal or exceed one-half of 1 percent of the budget allocation from the division for~~  
 13 ~~disability services within the area governed by the community service board shall serve~~  
 14 ~~as an ex officio, voting member of the community service board; and~~ In addition to the  
 15 members appointed pursuant to paragraph (1) of this subsection, each community service  
 16 board may appoint up to three additional members in order to address variation in the  
 17 population sizes of counties or the financial contributions of counties within the  
 18 community service board area or may authorize the elected chief executive officer of a  
 19 county governing authority, by whatever name called, or an elected member of that  
 20 county governing authority to serve on the community service board while holding such  
 21 elective office. The bylaws of the community service board shall address the number of  
 22 such additional members, if any, and the purpose or purposes for which such positions  
 23 are created. The term of office of such additional members shall be the same as that of  
 24 other members as provided in subsection (h) of this Code section; except that the term of  
 25 office of a member in a position created to authorize the elected chief executive officer  
 26 of a county governing authority, by whatever name called, or an elected member of that  
 27 county governing authority to serve on the community service board shall be the same  
 28 term of office as the elective term of office of said chief executive officer or said member  
 29 of that county governing authority;

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

33 (A) A community service board which increases or reduces the number of its members  
 34 in accordance with paragraphs (1) and (2) of this subsection shall revise its bylaws  
 35 adopted in accordance with subsection (h) of this Code section to reflect such increases  
 36 or reductions. A community service board which reduces the number of its members  
 37 shall designate which position or positions are to be eliminated and shall make

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

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

17 ~~(6)~~(4)(A) A person shall not be eligible to be appointed to or serve on a community  
 18 service board if such person is:

- 19 (i) A member of the regional planning board which serves the region in which that  
 20 community service board is located;
- 21 (ii) An employee or board member of a public or private entity which contracts with  
 22 the division to provide mental health, developmental disabilities, and addictive  
 23 diseases services within the region; or
- 24 (iii) An employee of that community service board or employee or board member of  
 25 any private or public group, organization, or service provider which contracts with or  
 26 receives funds from that community service board.

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

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

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

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

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

36 (d) Each county ~~within the boundaries established for~~ in which the governing authority of  
 37 the county is authorized to appoint members to the community service board shall



1 participate with the board in the operation of the program through the community service  
 2 board. All contractual obligations, including but not limited to real estate leases, rentals,  
 3 and other property agreements, other duties, rights, and benefits of the mental health,  
 4 developmental disabilities, and addictive diseases service areas in existence on ~~December~~  
 5 ~~31, 2002~~ June 30, 2006, shall continue to exist along with the new powers granted to the  
 6 community service boards effective ~~January 1, 2003~~ July 1, 2006.

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

10 (1) A board of health of a county desiring to be the lead county board of health for that  
 11 county submits a written agreement to the division before July 1, 1993, to serve as the  
 12 community service board and to continue providing disability services in that county after  
 13 July 1, 1994, and the governing authority for that county adopts a resolution stating its  
 14 desire to continue the provision of disability services through its board of health after July  
 15 1, 1994, and submits a copy of such resolution to the division before July 1, 1993; or

16 (2)(A) The lead county board of health for a community mental health, mental  
 17 retardation, and substance abuse service area, as designated by the division on July 15,  
 18 1993, but which area excludes any county which meets the requirements of paragraph  
 19 (1) of this subsection, submits a written agreement to the division and to all counties  
 20 within such service area to serve as the community service board for that area and to  
 21 continue providing disability services after July 1, 1994, which agreement shall be  
 22 submitted between July 31, 1993, and December 31, 1993; and

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

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

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

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

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

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

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

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

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

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

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

1 STATE OF GEORGIA

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

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

6 I do further swear or affirm:

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

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

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

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

15 \_\_\_\_\_  
16 Signature of member of  
17 \_\_\_\_\_ Community Service Board

18 \_\_\_\_\_  
19 Typed name of member of  
20 \_\_\_\_\_ Community Service Board

21 Sworn and subscribed  
22 before me this \_\_\_\_\_ day  
23 of \_\_\_\_\_, \_\_\_\_\_.  
24 (SEAL)"

25 **SECTION 6.**

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

29 "37-2-6.1.

30 (a) Each community service board shall employ an executive director to serve as its chief  
31 executive officer who shall direct the day-to-day operations of the community service  
32 board. Such executive director shall be appointed and removed by the community service  
33 board and shall appoint other necessary staff pursuant to an annual budget adopted by the  
34 board, which budget shall provide for securing appropriate facilities, sites, and

1 professionals necessary for the provision of disability services. The community service  
 2 board may delegate any power, authority, duty, or function to its executive director or other  
 3 staff. The executive director or other staff is authorized to exercise any power, authority,  
 4 duty, or function on behalf of the community service board.

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

8 (1) Each community service board may adopt bylaws for the conduct of its affairs;  
 9 provided, however, that the community service board shall meet at least quarterly, and  
 10 that all such meetings and any bylaws shall be open to the public, as otherwise required  
 11 under Georgia law;

12 (2) Each community service board may make and enter into all contracts necessary and  
 13 incidental to the performance of its duties and functions;

14 (3) Each community service board may acquire by purchase, gift, lease, or otherwise and  
 15 may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease, and  
 16 dispose of real and personal property of every kind and character, or any interest therein,  
 17 for its corporate purposes;

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

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

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

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

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

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

34 (6) Each community service board may cooperate with all units of local government  
 35 ~~within the boundaries of~~ in the counties where the community service board provides  
 36 services as well as neighboring regions and with the programs of other departments,  
 37 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.

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

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

8 (1) Disability services;

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

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

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

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

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

25 (j) ~~When approved by the commissioner, a~~ A community service board may create, form,  
 26 or become a member of a nonprofit corporation, limited liability company, or other  
 27 nonprofit entity, the voting membership of which shall be limited to community service  
 28 boards, governmental entities, nonprofit corporations, or a combination thereof, if such  
 29 entity is created for purposes that are within the powers of the community service board,  
 30 for the cooperative functioning of its members, or a combination thereof; provided,  
 31 however, that no funds provided pursuant to a contract between the department and the  
 32 community service board may be used in the formation or operation of the nonprofit  
 33 corporation, limited liability company, or other nonprofit entity. No community service  
 34 board, whether or not it exercises the power authorized by this subsection, shall be relieved  
 35 of compliance with Chapter 14 of Title 50, relating to open and public meetings, and  
 36 Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless  
 37 otherwise provided by law.



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

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

## 25 SECTION 7.

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

28 "37-2-6.5.

29 (a) By joint action of the membership of a community service board created pursuant to  
 30 Code Section 37-2-6 and the governing authority of each county ~~that contributes funds or~~  
 31 ~~resources to such board~~ within the community service board area, such community service  
 32 board may cease operations; provided, however, such community service board shall notify  
 33 the commissioner at least 90 days in advance of the meeting of the community service  
 34 board in which such action is to be taken. Such joint action shall indicate the date on which  
 35 the community service board shall cease operations.

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

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

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

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

20 (C) In the case where the membership of such community service board is the  
21 membership of a county board of health designated in accordance with Code Section  
22 31-3-12.1 or subsection (e) of Code Section 37-2-6, that the entire membership of the  
23 community service board should be removed and the membership of the community  
24 service board be reconstituted in accordance with subsection (b) of Code Section  
25 37-2-6;

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

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

1 (4) 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 until such time as arrangements can be made to secure one or  
 4 more alternate service providers to assume responsibility for the provision of services  
 5 previously provided by the community service board.

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

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

## 28 SECTION 8.

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

32 "37-2-10.

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

1 disability services or to provide appropriate disability services as determined by the  
2 division or substantially breach their contracts with the department pursuant to this chapter.

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

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

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

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

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

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

32 (C) Misused state or federal funds;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (A) Upon a determination that the conditions that gave rise to the appointment of a  
 2 manager or management team pursuant to this subsection have been met and that such  
 3 manager or management team is no longer necessary, terminate the authority delegated  
 4 to such manager or management team and restore authority to the community service  
 5 board to manage and operate the services and programs of the community service  
 6 board; or

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

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

#### 15 SECTION 9.

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

19 "(b) Fees generated, if any, by hospitals, community service boards, and other private and  
 20 public providers, providing services under contract or purview of the ~~regional offices~~  
 21 division, shall be reported to the ~~regional offices~~ division and applied wherever appropriate  
 22 against the cost of providing, and increasing the quantity and quality of, disability services;  
 23 provided, however, that income to a community service board derived from fees may be  
 24 used to further the purposes of such community service board as found in Code Section  
 25 37-3-6.1, subject to appropriations. The division shall be responsible for developing  
 26 procedures to properly account for the collection, remittance, and reporting of generated  
 27 fees. The ~~regional offices~~ division shall work with the community service boards and other  
 28 public or private providers to develop an appropriate mechanism for accounting for the  
 29 funds and resources contributed to local disability services by counties and municipalities  
 30 within the area. Such contributions are not required to be submitted to either the  
 31 community service boards or the ~~regional offices~~ division; however, appropriate  
 32 documentation and accounting entries shall make certain that the county or municipality  
 33 is credited, and if necessary compensated, appropriately for such contribution of funds or  
 34 resources.

35 (c) No person shall be denied disability services provided by the state as defined in this  
 36 chapter based on age, gender, race, ethnic origin, or inability to pay; provided, however,

1 unless otherwise prohibited by law or contract, providers of disability services may deny  
2 nonemergency disability services to any person who is able to pay, but who refuses to pay.  
3 The division shall develop a state-wide sliding fee scale for the provision of disability  
4 services and shall promulgate standards that define emergency disability services and  
5 refusal to pay."

6 **SECTION 10.**

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

10 **SECTION 11.**

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

16 **SECTION 12.**

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