

House Bill 731

By: Representatives Welch of the 110<sup>th</sup> and Pak of the 108<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend various titles of the Official Code of Georgia Annotated so as to enact the "J.  
2 Calvin Hill, Jr., Act"; to repeal obsolete and outdated provisions; to repeal provisions which  
3 have been deemed unconstitutional; to update obsolete and outdated terminology; to repeal  
4 certain provisions relating to preclearance requirements; to provide for related matters; to  
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 PART I  
8 SECTION 1-1.

9 This Act shall be known and may be cited as the "J. Calvin Hill, Jr., Act."

10 PART II  
11 SECTION 2-1.

12 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural  
13 resources, is amended by repealing and reserving Code Section 12-5-41, relating to aid to  
14 pollution control and surface-water management – water and sewage treatment facilities or  
15 systems for eligible planned communities.

16 SECTION 2-2.

17 Said title is further amended by revising subsection (b) of Code Section 12-5-235, relating  
18 to the Shore Protection Committee, as follows:

19 "(b) The committee, ~~in the absence of an approved local shore protection program as~~  
20 ~~provided by this part, shall act as permit-issuing authority and~~ shall have the authority to  
21 issue orders and to grant, suspend, revoke, modify, extend, condition, or deny permits as  
22 provided in this part. Permits may, at the committee's discretion, be revoked, suspended,

23 or modified upon a finding that the permittee is not in compliance with permit conditions  
 24 or that the permittee is in violation of any rule or regulation promulgated pursuant to this  
 25 part."

26 **SECTION 2-3.**

27 Said title is further amended by repealing and reserving Code Section 12-5-241, relating to  
 28 local shore assistance programs.

29 **SECTION 2-4.**

30 Said title is further amended by revising subsections (d) and (g) of Code Section 12-5-287,  
 31 relating to the leasing of state owned marshland or water bottoms, as follows:

32 "(d) Each lease granted under this Code section shall be upon such provisions,  
 33 requirements, and conditions as the committee shall make and shall, except as provided in  
 34 ~~subsections (g) and~~ subsection (h) of this Code section, provide for a primary term of not  
 35 more than ten years. Each lease, except as provided in ~~subsections (g) and~~ subsection (h)  
 36 of this Code section, shall require the payment of an annual rental fee which, as of May 5,  
 37 2009, shall be \$1,000.00 per acre, which acreage shall consist of the covered area of dock  
 38 structures and a ten-foot buffer surrounding such dock structures; and the committee shall  
 39 in each calendar year thereafter adjust the amount of the annual rental fee per acre to reflect  
 40 the effect of annual inflation or deflation for the immediately preceding calendar year in  
 41 accordance with rules and regulations adopted by the board, which rules and regulations  
 42 may use for this purpose the Consumer Price Index as reported by the Bureau of Labor  
 43 Statistics of the United States Department of Labor or any other similar index established  
 44 by the federal government, if the board determines that such federal index reflects the  
 45 effect of inflation and deflation on the lessees. Except as provided in ~~subsections (g) and~~  
 46 subsection (h) of this Code section, an initial lease shall be for the annual fee in effect and  
 47 established by the committee at the time such lease is entered into. Such lease shall be  
 48 adjusted annually thereafter as provided in this subsection. Each lease may provide for two  
 49 renewal terms, each of which shall not be for a term of more than equal duration to the  
 50 primary term. Rental fees shall be paid in one installment to the department not later than  
 51 July 15 of each year. A penalty of 10 percent of the annual rental shall be assessed for late  
 52 payment. Failure to pay rental by August 1 of the year due shall result in the cancellation  
 53 of the lease."

54 ~~"(g) Upon application of any eligible person who either is the owner of a marina in~~  
 55 ~~existence on March 1, 1989, or holds a permit subsequently granted by the committee~~  
 56 ~~under this part on an application for a permit filed with the committee prior to March 1,~~  
 57 ~~1989, the committee shall grant to that eligible person a lease of the state owned marshland~~

58 ~~or water bottoms upon which such marina is actually located for a term of 20 years~~  
 59 ~~beginning March 1, 1989, with a nominal rental of \$1.00 per year; provided, however, that~~  
 60 ~~any extensions of the dock space or expansion of the area of state owned marshland or~~  
 61 ~~water bottoms actually used in conjunction with the marina shall be subject to the~~  
 62 ~~provisions of subsection (d) of this Code section; and provided, further, that any such~~  
 63 ~~application made on or after January 1, 1999, shall be subject to the provisions of~~  
 64 ~~subsection (d) of this Code section. Reserved.~~"

65 **SECTION 2-5.**

66 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
 67 revising Code Section 20-2-553, relating to powers of the Georgia Education Authority  
 68 (Schools), as follows:

69 "20-2-553.

70 (a) The authority shall have the power:

- 71 (1) To have a seal and alter it at pleasure;
- 72 (2) To acquire by purchase, lease, or otherwise and to hold, lease, sell, and dispose of  
 73 real and personal property of every kind and character for its corporate purposes;
- 74 (3) To acquire in its own name by purchase, on such terms and conditions, and in such  
 75 manner as it may deem proper, or by condemnation in accordance with any and all  
 76 existing laws applicable to the condemnation of property for public use, real property or  
 77 rights of easements therein or franchises necessary or convenient for its corporate  
 78 purposes and to use them so long as its corporate existence shall continue and to lease or  
 79 make contracts for the use of or dispose of them in any manner it deems to the best  
 80 advantage of the authority, the authority being under no obligation to accept and pay for  
 81 any property condemned under this part, except from the funds provided under the  
 82 authority of this part. In any proceedings to condemn, such orders may be made by the  
 83 court having jurisdiction of the action or proceeding as may be just to the authority and  
 84 to the owners of the property to be condemned; and no property shall be acquired under  
 85 this part upon which any lien or other encumbrance exists unless at the time such  
 86 property is so acquired a sufficient sum of money is deposited in trust to pay and redeem  
 87 the fair value of such lien or encumbrance. If the authority shall deem it expedient to  
 88 construct any project on lands which are subject to the control of the public school system  
 89 of the state or of any county board of education, city board of education, or governing  
 90 body of an independent or quasi-independent district or system or local unit of  
 91 administration, the Governor, in the case of the state, or the boards of education of  
 92 counties or cities, or the equivalent governing authorities of independent school districts  
 93 or systems are authorized to execute for and in behalf of the state or the various county

94 boards of education, city boards of education, or governing bodies of independent  
95 districts or systems, as the case may be, a lease upon such lands to the authority for such  
96 parcel or parcels as shall be needed for a period not to exceed 50 years, at a nominal  
97 rental of \$1.00 per year. If the authority shall deem it expedient to construct any project  
98 on any other lands the title to which shall then be in the state, the Governor is authorized  
99 to convey, for and in behalf of the state, title to such lands to the authority, upon payment  
100 into the state treasury for the credit of the general fund of the state of the reasonable value  
101 of such lands, such value to be determined by three appraisers to be agreed upon by the  
102 Governor and the chairperson of the authority. Further, if the authority shall deem it  
103 expedient to construct any project on any other lands the title to which shall then be in  
104 any county, municipality, or other governmental subdivision of the state, the proper  
105 authorities of such county, municipality, or governmental subdivision are authorized to  
106 convey, for and in behalf of such county, municipality, or governmental subdivision, title  
107 to such lands to the authority, upon payment to the proper fiscal officer of the county,  
108 municipality, or other governmental subdivision of the reasonable value of such lands,  
109 such value to be determined by three appraisers to be agreed upon between such  
110 governmental authorities and the chairperson of the authority;

111 (4) To appoint and select officers, agents, and employees, including engineering,  
112 architectural, and construction experts, fiscal agents, and attorneys, and to fix their  
113 compensation;

114 (5) To make contracts, agreements of sale, and leases and to execute all instruments  
115 necessary or convenient, including contracts for construction of projects, agreements for  
116 the sale of projects, and leases of projects or contracts for the use of projects which the  
117 authority causes to be erected or acquired; and any and all political subdivisions,  
118 departments, institutions, or agencies of the state are authorized to enter into contracts,  
119 leases, or agreements with the authority upon such terms and for such purposes as they  
120 deem advisable. Without limiting the generality of the foregoing, authority is specifically  
121 granted to the county boards of education, city boards of education, or governing bodies  
122 of independent districts or systems, for and on behalf of the units and institutions within  
123 their respective counties, cities, or districts, and to the authority to enter into contracts,  
124 agreements of sale, and lease agreements for the purchase or use of any structure,  
125 building, or facilities of the authority for a term not exceeding 50 years; and the board of  
126 education or equivalent governing body for and on behalf of the respective political  
127 subdivision may obligate itself and its successors to use only such structure, building, or  
128 facility and none other and so long as such property is used by such political subdivision  
129 to pay an amount to be determined from year to year for the use of such property so  
130 leased and also to obligate itself and its successors as a part of the lease contract to pay

131 the cost of maintaining, repairing, and operating the property so leased from the  
132 authority;

133 (6) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve,  
134 equip, operate, and manage projects, as defined in paragraph (4) of subsection (a) of Code  
135 Section 20-2-551, to be located on property owned by or leased by the authority, the cost  
136 of any such project to be paid in whole or in part from the proceeds of revenue bonds of  
137 the authority, from such proceeds and any grant from the United States or any agency or  
138 instrumentality thereof, or from any other source;

139 (7) To accept loans or grants of money or materials or property of any kind from the  
140 United States or any agency or instrumentality thereof upon such terms and conditions  
141 as the United States or such agency or instrumentality may impose;

142 (8) To borrow money for any of its corporate purposes and to issue negotiable revenue  
143 bonds payable solely from funds pledged for that purpose and to provide for the payment  
144 of such bonds and for the rights of the holders thereof;

145 (9) To exercise any power usually possessed by private corporations performing similar  
146 functions which is not in conflict with the Constitution and laws of this state;

147 (10) To issue various types of bonds with various federal tax consequences and to apply  
148 for and participate in any federal program which provides financial or other benefits or  
149 is supportive of functions of the authority. For purposes of federal law and without  
150 limiting the powers of the authority to issue other types of bonds and to participate in  
151 federal programs, the authority may act as the state education agency and may issue  
152 Qualified Zone Academy Bonds, Qualified School Construction Bonds, or Build America  
153 Bonds or, in its discretion, permit other authorized governmental bodies to issue  
154 Qualified Zone Academy Bonds, Qualified School Construction Bonds, or Build America  
155 Bonds. In participating in any federal program, the authority may apply for and receive  
156 funds, make certifications and designations, and do all other things necessary or  
157 convenient in the opinion of the authority to participate in or obtain the benefits of federal  
158 programs, including programs of bond finance provided under federal law;

159 (11) Deposit, or arrange for, federal funds in any form to be deposited into the sinking  
160 fund provided for in Code Section 20-2-567; and

161 (12) To do all things necessary or convenient to carry out the powers expressly given in  
162 this part.

163 ~~(b) The validity of any bonds issued by the authority for projects certified as eligible for~~  
164 ~~state development assistance under Code Section 45-12-170 and issued prior to the time~~  
165 ~~the first general obligation debt was incurred under Article VII, Section III, Paragraph I of~~  
166 ~~the Constitution of 1945 shall not be impaired; but no future such bonds shall be issued."~~

167 **SECTION 2-6.**

168 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,  
169 is amended by repealing and reserving Code Section 32-5-24, relating to authorization of  
170 expenditures for public roads serving planned communities.

171 **SECTION 2-7.**

172 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,  
173 is amended by repealing and reserving Chapter 32, relating to peddlers and itinerant traders.

174 **SECTION 2-8.**

175 Said title is further amended by repealing and reserving Article 5 of Chapter 34, relating to  
176 use of marijuana for treatment of cancer and glaucoma.

177 **SECTION 2-9.**

178 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
179 is amended by repealing and reserving Code Section 45-12-170, relating to the Office of  
180 Planning and Budget performing planning and development functions, powers and duties  
181 generally, and recommendations of planned communities for state development assistance.

182 **SECTION 2-10.**

183 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
184 by repealing and reserving Code Section 50-9-6, relating to authorization for projects and  
185 facilities on Confederate Soldiers' Home property.

186 **SECTION 2-11.**

187 Said title is further amended by revising Code Section 50-32-5, relating to the Transit  
188 Governance Study Commission, as follows:

189 "50-32-5.

190 ~~(a) The State of Georgia, particularly the metropolitan Atlanta region, faces a number of~~  
191 ~~critical issues relating to its transportation system and ever-increasing traffic congestion.~~  
192 ~~In light of the dwindling resources available to help solve the problems, it is imperative that~~  
193 ~~all available resources be used to maximum efficiency in order to alleviate the gridlock in~~  
194 ~~and around the metropolitan Atlanta region. There exists a need for a thorough~~  
195 ~~examination of our current transportation system and the methodical development of~~  
196 ~~legislative proposals for a regional transit governing authority in Georgia.~~

197 ~~(b) In order to find practical, workable solutions to these problems, there is created the~~  
198 ~~Transit Governance Study Commission to be composed of: four Senators from the Atlanta~~

199 ~~Regional Commission area to be appointed by the Lieutenant Governor, four~~  
200 ~~Representatives from the Atlanta Regional Commission area to be appointed by the~~  
201 ~~Speaker of the House of Representatives, the chairperson of the Metropolitan Atlanta Rapid~~  
202 ~~Transit Oversight Committee, the chairperson of the Atlanta Regional Commission, the~~  
203 ~~chairperson of the Regional Transit Committee of the Atlanta Regional Commission, one~~  
204 ~~staff member from the Atlanta Regional Commission to be selected by the chairperson of~~  
205 ~~the Atlanta Regional Commission, the executive director of the Georgia Regional~~  
206 ~~Transportation Authority, the general manager of the Metropolitan Atlanta Rapid Transit~~  
207 ~~Authority, and the directors of any other county transit systems operating in the Atlanta~~  
208 ~~Regional Commission area.~~

209 ~~(c) The commission shall elect, by a majority vote, one of its legislative members to serve~~  
210 ~~as chairperson of the commission and such other officers as the commission deems~~  
211 ~~appropriate. The commission shall meet at least quarterly at the call of the chairperson.~~  
212 ~~The commission may conduct such meetings and hearings at such places and at such times~~  
213 ~~as it may deem necessary or convenient to enable it to exercise fully and effectively its~~  
214 ~~powers, perform its duties, and accomplish its objectives and purposes as contained in this~~  
215 ~~Code section.~~

216 ~~(d) All officers and agencies of the three branches of state government are directed to~~  
217 ~~provide all appropriate information and assistance as requested by the commission.~~

218 ~~(e) The commission shall undertake a study of the issues described in this Code section~~  
219 ~~and recommend specific legislation which the commission deems necessary or appropriate.~~  
220 ~~Specifically, the commission shall prepare a preliminary report on the feasibility of~~  
221 ~~combining all of the regional public transportation entities into an integrated regional~~  
222 ~~transit body. This preliminary report shall be completed on or before December 31, 2010,~~  
223 ~~and be delivered to the Governor, the Lieutenant Governor, and the Speaker of the House~~  
224 ~~of Representatives. The commission shall make a final report of its findings and~~  
225 ~~recommendations, with specific language for proposed legislation, if any, on or before~~  
226 ~~August 1, 2011, to the Governor, the Lieutenant Governor, and the Speaker of the House~~  
227 ~~of Representatives. The commission shall stand abolished on August 1, 2011, unless~~  
228 ~~extended by subsequent Act of the General Assembly.~~

229 ~~(f) The Atlanta Regional Commission in conjunction with the Georgia Regional~~  
230 ~~Transportation Authority and the department's director of planning shall utilize federal and~~  
231 ~~state planning funds to continue the development of the Atlanta region's Concept 3 transit~~  
232 ~~proposal, including assessment of potential economic benefit to the region and the state,~~  
233 ~~prioritization of corridors based on highest potential economic benefit and lowest~~  
234 ~~environmental impact, and completion of environmental permitting. Any new transit~~  
235 ~~management instrumentality created as a result of the Transit Governance Study~~

236 ~~Commission created pursuant to this Code section shall participate in the Concept 3~~  
 237 ~~development activities that remain incomplete at the time of the creation of the new~~  
 238 ~~regional transit body."~~

239 **PART III**

240 **SECTION 3-1.**

241 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 242 amended by repealing and reserving Code Section 16-11-40, relating to criminal defamation.

243 **SECTION 3-2.**

244 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
 245 is amended by repealing and reserving Code Sections 45-2-7 and 45-2-8, relating to general  
 246 prohibitions and exceptions and officials subject to removal for violation, respectively, with  
 247 regard to the employment of aliens.

248 **PART IV**

249 **SECTION 4-1.**

250 The following Code sections of the Official Code of Georgia Annotated are amended by  
 251 replacing "National Bureau of Standards" wherever such term occurs with "National Institute  
 252 of Standards and Technology":

- 253 (1) Code Section 10-2-2, relating to recognized systems of weights and measures;
- 254 (2) Code Section 10-2-3, relating to primary standards of weights and measures and  
 255 prescribing and verifying secondary standards;
- 256 (3) Code Section 10-2-4, relating to technical requirements for commercial weighing and  
 257 measuring devices;
- 258 (4) Code Section 10-2-5, relating to powers and duties of the Commissioner of Agriculture  
 259 generally; and
- 260 (5) Code Section 10-2-19, relating to manner of display of measurement of compressed  
 261 natural gas on dispensing devices.

262 **SECTION 4-2.**

263 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising  
 264 Code Section 31-7-50, relating to authorization of grants-in-aid for construction and  
 265 modernization of medical facilities, as follows:

266 "31-7-50.

267 The state is authorized to make grants to any county, municipality, or any combination  
 268 thereof or to any hospital authority to assist in the construction and modernization of  
 269 publicly owned and publicly operated medical facilities, auxiliary medical facilities, ~~mental~~  
 270 ~~retardation centers~~, and mental health centers as defined in Code Section 31-7-51. The  
 271 amount of the grant shall be determined in accordance with Code Sections 31-7-52 and  
 272 31-7-53."

273 **SECTION 4-3.**

274 Said title is further amended by revising Code Section 31-7-51, relating to definitions relative  
 275 to grants for construction and modernization of medical facilities, as follows:

276 "31-7-51.

277 (a) As used in this article, the term:

278 (1) 'Auxiliary medical facilities' means diagnostic and treatment facilities, nursing  
 279 homes, chronic illness hospitals, and rehabilitation centers.

280 (2) 'Construction project' means a program for the construction of any medical facility  
 281 or auxiliary medical facility, ~~mental retardation center~~, or mental health center, as  
 282 evidenced by the approval of a project under Title VI or Title VII; of the federal Public  
 283 Health Service Act, as now or hereafter amended.

284 (3) 'Hospital authority' means any hospital authority created under the 'Hospital  
 285 Authorities Law,' Article 4 of this chapter, as now or hereafter amended.

286 (4) 'Medical facilities' means general hospitals, psychiatric hospitals, nurse training  
 287 facilities, tuberculosis hospitals, and public health centers.

288 (5) 'Mental health center' means a facility providing services for the prevention or  
 289 diagnosis of mental illness, or care and treatment of mentally ill patients, or rehabilitation  
 290 of such persons, which services are provided principally for persons residing in a  
 291 particular community or communities in or near which the facility is situated.

292 (6) ~~'Mental retardation center' means a facility specially designed for the diagnosis,~~  
 293 ~~treatment, education, training, or custodial care of the mentally retarded, including~~  
 294 ~~facilities for training specialists and sheltered workshops for the mentally retarded but~~  
 295 ~~only if such workshops are part of the facilities which provide or will provide~~  
 296 ~~comprehensive services for the mentally retarded.~~ Reserved.

297 (7) 'Modernization project' means the alteration, major repair, remodeling, replacement,  
 298 and renovation of existing buildings (including original equipment thereof) and  
 299 replacement of obsolete, built-in equipment of existing buildings, as evidenced by the  
 300 approval of a project under Title VI or Title VII of the federal Public Health Service Act,  
 301 as now or hereafter amended.

302 (8) 'Publicly operated' means operated by a county, municipality, hospital authority, or  
 303 any combination thereof.

304 (9) 'Publicly owned' means that a county, municipality, hospital authority, or any  
 305 combination thereof holds title to or has a long-term lease acceptable to the state agency  
 306 on the property on which the construction or modernization is proposed.

307 (10) 'State agency' means the State Health Planning and Development Agency or any  
 308 successor designated as the agency of state government to administer the state  
 309 construction and modernization plan and receive funds pursuant to Titles VI and VII of  
 310 the federal Public Health Service Act, as amended.

311 (b) The terms 'hospital,' 'psychiatric hospital,' 'nurse training facilities,' 'public health  
 312 center,' 'rehabilitation facility,' 'nursing home,' 'chronic illness hospital,' 'long-term care  
 313 facility,' '~~mental-retardation center~~,' 'mental health center,' 'construction,' 'cost of  
 314 construction,' 'modernization,' and 'cost of modernization' shall have meanings consistent  
 315 with those respectively ascribed to them in Titles VI and VII of the federal Public Health  
 316 Service Act, as now or hereafter amended."

#### 317 SECTION 4-4.

318 Said title is further amended by revising subsection (c) of Code Section 31-7-53, relating to  
 319 matching formula, priority system, use of earnings, and approval of federal grants for  
 320 construction and modernization of medical facilities, as follows:

321 "(c) No part of the net earnings of publicly owned and publicly operated medical facilities,  
 322 auxiliary medical facilities, ~~mental-retardation centers~~, and mental health centers  
 323 constructed with the assistance of a grant under this article shall inure to the benefit of any  
 324 private corporation or individual."

#### 325 SECTION 4-5.

326 Said title is further amended by revising Code Section 31-7-54, relating to manner of  
 327 expenditure of construction funds for grants for construction and modernization of medical  
 328 facilities, as follows:

329 "31-7-54.

330 In order to assist the several counties, municipalities, or any combination thereof or any  
 331 hospital authorities created under the 'Hospital Authorities Law,' Article 4 of this chapter,  
 332 such funds as are appropriated for each fiscal year for the construction of publicly owned  
 333 and publicly operated medical facilities, auxiliary medical facilities, ~~mental-retardation~~  
 334 ~~centers~~, and mental health centers shall be expended in accordance with the provisions of  
 335 this article."

336 **SECTION 4-6.**

337 Said title is further amended by revising subsection (d) of Code Section 31-7-57, relating to  
 338 procedures for grants to sponsors of construction projects and injunction of operation by  
 339 transferee in violation of article, as follows:

340 "(d) If any publicly owned and publicly operated medical facility, auxiliary medical  
 341 facility, ~~mental retardation center~~, or mental health center for which funds have been paid  
 342 under this Code section shall be leased to any corporation, person, organization, or body  
 343 other than one eligible to receive a grant under this article or shall be sold or used for any  
 344 purpose contrary to the provision under which the grant was made, at any time within 20  
 345 years after completion of construction, and such change in lease, sale, or use is not  
 346 approved by the state agency, such agency may bring an equitable proceeding for writ of  
 347 injunction against any person, firm, corporation, or organization operating in violation of  
 348 this article. The proceedings shall be filed in the county in which such persons reside or,  
 349 in the case of a firm or corporation, where such firm or corporation maintains its principal  
 350 office; and, unless it is shown that such person, firm, or corporation which has leased such  
 351 medical facility, auxiliary medical facility, ~~mental retardation center~~, or mental health  
 352 center would have been eligible to accept the grant-in-aid from the state in the first instance  
 353 and the lease has been approved by the state agency or the sale or use has been approved  
 354 by such agency, the writ of injunction shall issue and such person, firm, or corporation  
 355 shall be perpetually enjoined throughout the state from operating in violation of the  
 356 provisions ~~set out above~~ of this subsection. It shall not be necessary in order to obtain the  
 357 equitable relief provided in this subsection that the state agency show that such person,  
 358 firm, or corporation is ineligible nor to prove that there is no adequate remedy at law. In  
 359 addition, the state agency shall be entitled to bring an action and recover from the  
 360 transferor and transferee of any facility specified ~~above~~ in this subsection such percentage  
 361 of the value of the facility as the state grant bore toward the total construction cost of that  
 362 facility as determined by agreement of the parties or by action brought in court."

363 **SECTION 4-7.**

364 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by  
 365 repealing Code Section 37-5-10, relating to the timetable for implementation of Chapter 5,  
 366 relating to community services for the developmentally disabled.

367 **SECTION 4-8.**

368 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by  
 369 revising Code Section 44-2-83, relating to conclusiveness of decrees relative to land

370 registration, effect of disability on conclusiveness, and recourse of persons under a disability  
371 against assurance fraud, as follows:

372 "44-2-83.

373 Every decree rendered as provided in this article shall bind the land and bar all persons  
374 claiming title thereto or interest therein, shall quiet the title thereto, and shall be forever  
375 binding and conclusive upon and against all persons, including this state, whether  
376 mentioned by name in the order of publication or included under the general description  
377 'whom it may concern.' It shall not be an exception to the conclusiveness of the decree that  
378 the person is a minor, is incompetent by reason of mental illness or ~~retardation~~ intellectual  
379 disability, or is under any other disability; but said person may have an action against the  
380 assurance fund provided for in Part 6 of this article."

381 **SECTION 4-9.**

382 Said title is further amended by revising Code Section 44-5-170, relating to effect of  
383 disabilities on commencement of prescription, as follows:

384 "44-5-170.

385 Prescription shall not run against the rights of a minor during his or her minority, a person  
386 incompetent by reason of mental illness or ~~retardation~~ as intellectual disability so long as  
387 the mental illness or ~~retardation~~ intellectual disability lasts, or a person imprisoned during  
388 his or her imprisonment. After any such disability is removed, prescription shall run  
389 against the person holding a claim to realty or personalty."

390 **SECTION 4-10.**

391 Said title is further amended by revising Code Section 44-6-161, relating to who may apply  
392 for partition, as follows:

393 "44-6-161.

394 If the party desiring the writ of partition is of full age and free from disability, he or she  
395 may make the application either in person or by his or her agent or attorney in fact or at  
396 law. An application may be made for the benefit of a minor, a mentally ill or ~~retarded~~  
397 intellectually disabled person, or the beneficiary of a trust by the guardian of such minor,  
398 the guardian of such mentally ill or ~~retarded~~ intellectually disabled person, or the trustee  
399 of such beneficiary, as the case may be."

400 **SECTION 4-11.**

401 Said title is further amended by revising Code Section 44-6-162, relating to notice of  
402 intention to apply for writ of partition, as follows:

403 "44-6-162.

404 The party applying for the writ of partition shall give the other parties concerned at least  
 405 20 days' notice of his or her intention to make the application. If any of the other parties  
 406 is a minor, a mentally ill or ~~retarded~~ intellectually disabled person, or a beneficiary of a  
 407 trust, the 20 days' notice shall be served on the guardian of such minor, the guardian of  
 408 such mentally ill or ~~retarded~~ intellectually disabled person, or the trustee of such  
 409 beneficiary. If any of the parties reside outside of this state, the court may order service  
 410 by publication as in its judgment is right in each case."

411 **SECTION 4-12.**

412 Said title is further amended by revising Code Section 44-6-171, relating to setting aside  
 413 judgment by parties under disability, absent, or not notified, time limitations, conclusiveness  
 414 of judgment, and effect of proceedings on bona fide purchaser, as follows:

415 "44-6-171.

416 When proceedings have been instituted and judgment of the partition has been rendered  
 417 according to the regulations prescribed in this part and if any one of the parties in interest  
 418 is a minor or a mentally ill or ~~retarded~~ intellectually disabled person who has no guardian,  
 419 or is absent from the state during such proceeding, or has not been notified thereof, such  
 420 minor or mentally ill or ~~retarded~~ intellectually disabled person may, within 12 months after  
 421 coming of age, after restoration of mind, or after having a guardian appointed, as the case  
 422 may be, and such absent or unnotified party may, at any time within 12 months after  
 423 rendition of the judgment, move the court to set aside the judgment on any of the grounds  
 424 upon which a party notified and free from disabilities might have resisted the judgment  
 425 upon the hearing as authorized by Code Section 44-6-165. The issue shall be tried and the  
 426 subsequent proceedings shall be the same as is provided for in cases of objections filed to  
 427 the return of the partitioners before judgment. If such motion to set aside the judgment is  
 428 not made within the time specified in this Code section, such judgment shall be as binding  
 429 and conclusive upon such minor, mentally ill or ~~retarded~~ intellectually disabled person, or  
 430 absent or unnotified party as if he or she had been notified, present, or free from disability.  
 431 In no event shall such subsequent proceedings affect the title of a bona fide purchaser under  
 432 a sale ordered by the court."

433 **SECTION 4-13.**

434 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
 435 by revising subsection (i) of Code Section 49-4-193, relating to established drug testing,  
 436 ineligibility for benefits based upon positive tests, drug treatment, impact of drug use by

437 parents on children, confidentiality, and exceptions relative to temporary assistance for needy  
438 families, as follows:

439 "(i) No testing shall be required by the provisions of this Code section for any person  
440 whom the department determines is significantly hindered, because of a physical or mental  
441 handicap or developmental disability, from doing so or for any person enrolled in an  
442 enhanced primary care case management program operated by the Department of  
443 Community Health, Division of Medical Assistance to serve frail elderly and disabled  
444 beneficiaries to improve the health outcomes of persons with chronic health conditions by  
445 linking primary medical care with home and community based services. In addition, no  
446 testing shall be required by the provisions of this Code section for any individuals receiving  
447 or on a waiting list for long-term services and supports through a non-Medicaid home and  
448 community based services program or for any individual residing in a facility such as a  
449 nursing home, personal care home, assisted living community, intermediate care facility  
450 for the ~~mentally retarded~~ intellectually or developmentally disabled, community living  
451 arrangement, or host home."

452 **SECTION 4-14.**

453 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by revising  
454 paragraph (8) of subsection (a) of Code Section 51-1-29.5, relating to definitions, limitation  
455 on health care liability claim to gross negligence in emergency medical care, and factors for  
456 jury consideration, as follows:

457 "(8) 'Health care institution' means:

458 (A) An ambulatory surgical center;

459 (B) A personal care home licensed under Chapter 7 of Title 31;

460 (B.1) An assisted living community licensed under Chapter 7 of Title 31;

461 (C) An institution providing emergency medical services;

462 (D) A hospice;

463 (E) A hospital;

464 (F) A hospital system;

465 (G) An intermediate care facility for the ~~mentally retarded~~ intellectually or  
466 developmentally disabled; or

467 (H) A nursing home."

468 **SECTION 4-15.**

469 The following Code sections of the Official Code of Georgia Annotated are amended by  
470 replacing "mental retardation" wherever such term occurs with "intellectual disability":

471 (1) Code Section 9-3-73, relating to certain disabilities and exceptions applicable;

- 472 (2) Code Section 9-3-90, relating to persons under disability or imprisoned when cause of  
 473 action accrues;
- 474 (3) Code Section 9-4-4, relating to declaratory judgments involving fiduciaries;
- 475 (4) Code Section 15-9-30, relating to subject matter jurisdiction, powers and duties  
 476 generally, and furnishing a copy of the Official Code of Georgia Annotated for each judge;
- 477 (5) Code Section 15-12-163, relating to challenges for cause, hearing of evidence, and  
 478 when objection may be made; and
- 479 (6) Code Section 34-9-361, relating to employer's knowledge of employee's preexisting  
 480 permanent impairment.

481 **SECTION 4-16.**

482 The following Code section of the Official Code of Georgia Annotated is amended by  
 483 replacing "mental retardation" wherever such term occurs with "intellectual disabilities":

- 484 (1) Code Section 34-6A-2, relating to definitions relative to the "Georgia Equal  
 485 Employment for Persons With Disabilities Code."

486 **SECTION 4-17.**

487 The following Code sections of the Official Code of Georgia Annotated are amended by  
 488 replacing "a mentally retarded" and "mentally retarded" wherever either such term occurs  
 489 with "an intellectually disabled" and "intellectually disabled," respectively:

- 490 (1) Code Section 13-3-24, relating to insane, mentally ill, mentally retarded, or mentally  
 491 incompetent persons' capacity to enter into contracts; and
- 492 (2) Code Section 48-8-3, relating to exemptions from sales and use taxes.

493 **SECTION 4-18.**

494 The following Code sections of the Official Code of Georgia Annotated are amended by  
 495 replacing "mental retardation" wherever such term occurs with "developmental disability":

- 496 (1) Code Section 9-11-34, relating to the production of documents and things and entry  
 497 upon land for inspection and other purposes, applicability to nonparties, and  
 498 confidentiality;
- 499 (2) Code Section 10-1-850, relating to definitions relative to unfair or deceptive practices  
 500 toward the elderly; and
- 501 (3) Code Section 43-10A-3, relating to definitions relative to professional counselors,  
 502 social workers, and marriage and family therapists.

503

## PART V

504

**SECTION 5-1.**

505 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 506 amended by revising Code Section 16-11-7, relating to special assistant attorney general for  
 507 investigation and prosecution of subversive activities, as follows:

508 "16-11-7.

509 The Governor, with the concurrence of the Attorney General, is authorized and directed to  
 510 appoint a special assistant attorney general for investigating and prosecuting subversive  
 511 activities, whose responsibility it shall be, under the supervision of the Attorney General,  
 512 to assemble, arrange, and deliver to the district attorney of any county, together with a list  
 513 of necessary witnesses for presentation to the next grand jury in the county, all information  
 514 and evidence of matters within the county which have come to his or her attention relating  
 515 in any manner to the acts prohibited by this part and relating generally to the purpose,  
 516 processes, and activities of ~~communists and any other or related~~ subversive organizations,  
 517 associations, groups, or persons. Such evidence may be presented by the Attorney General  
 518 or the special assistant attorney general to the grand jury of any county directly, and he or  
 519 she may represent the state on the trial of such a case, should he or she feel the ends of  
 520 justice would be best served thereby, and the special assistant attorney general ~~herein~~  
 521 ~~provided~~ may testify before any grand jury as to matters referred to in this part as to which  
 522 he or she may have information."

523

**SECTION 5-2.**

524 Said title is further amended by revising Code Section 16-11-10, relating to grand jury  
 525 investigations regarding subversive activities, as follows:

526 "16-11-10.

527 The judge of any court exercising general criminal jurisdiction, when in his or her  
 528 discretion it appears appropriate or when informed by the Attorney General or district  
 529 attorney that there is information or evidence of the character described in Code Section  
 530 16-11-7 to be considered by the grand jury, shall charge the grand jury to inquire into  
 531 violations of this part for the purpose of proper action and further to inquire generally into  
 532 the purposes, processes, and activities, and any other matters affecting ~~communists or any~~  
 533 ~~related or other~~ subversive organizations, associations, groups, or persons."

534 **SECTION 5-3.**

535 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
536 is amended by revising Code Section 45-3-11, relating to persons required to take the loyalty  
537 oath, as follows:

538 "45-3-11.

539 All persons who are employed by and are on the payroll of the state and are the recipients  
540 of wages, per diem, or salary of the state or its departments and agencies, with the  
541 exception of pages employed by the General Assembly, and all counties and cities, school  
542 districts, and local educational systems throughout the entire state, are required to take an  
543 oath that they will support the Constitution of the United States and the Constitution of  
544 Georgia, ~~and that they are not members of the Communist Party."~~

545 **SECTION 5-4.**

546 Said title is further amended by revising Code Section 45-3-13, relating to the form of the  
547 loyalty oath, as follows:

548 "45-3-13.

549 The oath prescribed in Code Section 45-3-11 shall be in the following form:

550 I, \_\_\_\_\_ (Name) a citizen of \_\_\_\_\_ and being an employee of  
551 \_\_\_\_\_ and the recipient of public funds for services rendered as such  
552 employee, do hereby solemnly swear and affirm that I will support the Constitution of the  
553 United States and the Constitution of Georgia, ~~and that I am not a member of the~~  
554 ~~Communist Party."~~

555 **PART VI**

556 **SECTION 6-1.**

557 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
558 repealing Code Section 20-2-75, relating to the failure of local school board members to  
559 fulfill certain obligations relating to preclearance.

560 **SECTION 6-2.**

561 Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended by  
562 revising subsection (c) of Code Section 21-2-226, relating to duties of county board in  
563 determining eligibility of voters, maps of municipal boundaries, notice of ineligibility,  
564 issuance of registration cards, and reimbursement for postage cost, as follows:

565 "(c) It shall be the duty of each incorporated municipality located wholly or partially  
566 within the boundaries of a county to provide a detailed map showing the municipal

567 boundaries, municipal precinct boundaries, and voting district boundaries to the county  
 568 board of registrars no later than January 1, 1995, and within 15 days after the preclearance  
 569 of any changes in such municipal boundaries, precinct boundaries, or voting district  
 570 boundaries pursuant to Section 5 of the federal Voting Rights Act of 1965 (42 U.S.C.  
 571 Section 1973c), as amended. Upon receiving any changes in municipal boundaries, the  
 572 county board of registrars shall provide to the municipal registrar a list of all voters affected  
 573 by such changes with the street addresses of such electors for the purpose of verifying the  
 574 changes with the municipality. Upon receiving the list of electors affected by changes in  
 575 municipal boundaries, the municipal registrar shall immediately review the information  
 576 provided by the county registrars and advise the county registrars of any discrepancies."

577 **SECTION 6-3.**

578 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
 579 by repealing and reserving Code Section 36-31-6, relating to the responsibility of the  
 580 Attorney General for preclearances.

581 **SECTION 6-4.**

582 Said title is further amended by revising subsection (f) of Code Section 36-36-3, relating to  
 583 report identifying annexed property, maps and surveys, technical assistance to municipalities,  
 584 and preclearance, as follows:

585 "~~(f) The clerk, city attorney, or other person designated by the governing authority of any~~  
 586 ~~municipality annexing property shall also file a copy of the transmittal letter to the United~~  
 587 ~~States Department of Justice seeking preclearance, without the attachments to such letter,~~  
 588 ~~with the Department of Community Affairs and with the governing authority of the county~~  
 589 ~~in which the property being annexed is located. This subsection shall apply so long as a~~  
 590 ~~filing with the United States Department of Justice is required. Reserved.~~"

591 **SECTION 6-5.**

592 Said title is further amended by revising subsection (f) of Code Section 36-36-92, relating  
 593 to annexation of unincorporated islands, procedures, provision of municipal services, and  
 594 preclearance by the U.S. Justice Department, as follows:

595 "(f) The provisions of this article with regard to annexation of unincorporated islands is  
 596 severable as to each city and to the annexation of each unincorporated island therein. ~~The~~  
 597 ~~implementation of each annexation pursuant to this article is contingent upon preclearance~~  
 598 ~~of each annexation by the U.S. Justice Department pursuant to Section 5 of the Voting~~  
 599 ~~Rights Act of 1965, 42 U.S.C. 1973(c). Any city annexing an unincorporated island~~  
 600 ~~pursuant to this article shall submit such annexation to the U.S. Justice Department for~~

601 ~~preclearance not later than 90 days following the date of adoption of the annexation~~  
602 ~~ordinance by the municipal governing authority."~~

603 **SECTION 6-6.**

604 Said title is further amended by repealing and reserving Code Section 36-60-11, relating to  
605 the Attorney General to receive a copy of any submission to the United States Department  
606 of Justice pursuant to the federal Voting Rights Act of 1965.

607 **SECTION 6-7.**

608 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
609 is amended by repealing Code Section 45-15-35.1, relating to the Governor's power to seek  
610 preclearance of any change affecting voting pursuant to Section 5 of the federal Voting  
611 Rights Act of 1965.

612 **PART VII**

613 **SECTION 7-1.**

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