

Senate Bill 349

By: Senators Bethel of the 54th, Sims of the 12th, Jackson of the 24th and Miller of the 49th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so  
2 as to provide for changes to the powers and duties of the Department of Behavioral Health  
3 and Developmental Disabilities; to provide for changes to the administration of mental  
4 health, developmental disabilities, addictive diseases, and other disability services; to define  
5 a term; to revise provisions pertaining to the designation of boundaries for mental health,  
6 developmental disabilities, and addictive diseases regions and community service board  
7 areas; to provide for the re-creation of community service boards; to change provisions for  
8 the community mental health, developmental disabilities, and addictive diseases service  
9 boards including re-creation, membership, participation of counties, transfer of powers and  
10 duties, alternate method of establishment, bylaws, and reprisals; to change certain provisions  
11 relating to a community service board's program director, staff, budget, facilities, and powers  
12 and duties; to provide changes to provisions relating to a community service board as a  
13 public body, debts, obligations, and liabilities; to provide for revisions to certain  
14 redesignation of boundaries of the community service board areas; to provide for revision  
15 of the commissioner's emergency powers upon failure of a community service board to  
16 establish and administer programs; to provide for related matters; to provide for an effective  
17 date; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by  
21 revising Code Section 37-1-20, relating to obligations of the Department of Behavioral  
22 Health and Developmental Disabilities, as follows:

23 "37-1-20.

24 The department shall:

25 (1) Establish, administer, and supervise the state programs for mental health,  
26 developmental disabilities, and addictive diseases;

- 27 (2) Direct, supervise, and control the medical and physical care and treatment; recovery;  
28 and social, employment, housing, and community supports and services based on single  
29 or co-occurring diagnoses provided by the institutions, contractors, and programs under  
30 its control, management, or supervision;
- 31 (3) Plan for and implement the coordination of mental health, developmental disability,  
32 and addictive disease services with physical health services, and the prevention of any of  
33 these diseases or conditions, and develop and promulgate rules and regulations to require  
34 that all health services be coordinated and that the public and private providers of any of  
35 these services that receive state support notify other providers of services to the same  
36 patients of the conditions, treatment, and medication regimens each provider is  
37 prescribing and delivering;
- 38 (4) Ensure that providers of mental health, developmental disability, or addictive disease  
39 services coordinate with providers of primary and specialty health care so that treatment  
40 of conditions of the brain and the body can be integrated to promote recovery, health, and  
41 well-being;
- 42 (5) Have authority to contract, including performance based contracts which may include  
43 financial incentives or consequences based on the results achieved by a contractor as  
44 measured by output, quality, or outcome measures, for services with community service  
45 boards, private agencies, and other public entities for the provision of services within a  
46 service area so as to provide an adequate array of services and choice of providers for  
47 consumers and to comply with the applicable federal laws and rules and regulations  
48 related to public or private hospitals; hospital authorities; medical schools and training  
49 and educational institutions; departments and agencies of this state; county or municipal  
50 governments; any person, partnership, corporation, or association, whether public or  
51 private; and the United States government or the government of any other state;
- 52 (6) Establish and support programs for the training of professional and technical  
53 personnel as well as regional planning boards and community service boards;
- 54 (7) Have authority to conduct research into the causes and treatment of disability and  
55 into the means of effectively promoting mental health and addictive disease recovery;
- 56 (8) Assign specific responsibility to one or more units of the department for the  
57 development of a disability prevention program. The objectives of such program shall  
58 include, but are not limited to, monitoring of completed and ongoing research related to  
59 the prevention of disability, implementation of programs known to be preventive, and  
60 testing, where practical, of those measures having a substantive potential for the  
61 prevention of disability;
- 62 (9) Establish a system for regional administration of mental health, developmental  
63 disability, and addictive disease services in institutions and in the community;

- 64 (10) Make and administer budget allocations to regional offices established by the board  
65 pursuant to Code Section 37-2-4.1 to fund the operation of mental health, developmental  
66 disabilities, and addictive diseases facilities and programs;
- 67 (11) Coordinate in consultation with providers, professionals, and other experts the  
68 development of appropriate outcome measures for client centered service delivery  
69 systems;
- 70 (12) Establish, operate, supervise, and staff programs and facilities for the treatment of  
71 disabilities throughout this state;
- 72 (13) Disseminate information about available services and the facilities through which  
73 such services may be obtained;
- 74 (14) Supervise the regional office's exercise of its responsibility and authority concerning  
75 funding and delivery of disability services;
- 76 (15) Supervise the regional offices concerning the receipt and administration of grants,  
77 gifts, moneys, and donations for purposes pertaining to mental health, developmental  
78 disabilities, and addictive diseases;
- 79 (16) Supervise the administration of contracts with any hospital, community service  
80 board, or any public or private providers without regard to regional or state boundaries  
81 for the provision of disability services and in making and entering into all contracts  
82 necessary or incidental to the performance of the duties and functions of the department  
83 and the regional offices;
- 84 (17) Regulate the delivery of care, including behavioral interventions and medication  
85 administration by licensed staff, or certified staff as determined by the department, within  
86 residential settings serving only persons who are receiving services authorized or  
87 financed, in whole or in part, by the department;
- 88 (18) Classify host homes for persons whose services are financially supported, in whole  
89 or in part, by funds authorized through the department. As used in this Code section, the  
90 term 'host home' means a private residence in a residential area in which the occupant  
91 owner or lessee provides housing and provides or arranges for the provision of food, one  
92 or more personal services, supports, care, or treatment exclusively for one or two persons  
93 who are not related to the occupant owner or lessee by blood or marriage. A host home  
94 shall be occupied by the owner or lessee, who shall not be an employee of the same  
95 community provider which provides the host home services by contract with the  
96 department. The department shall approve and enter into agreements with community  
97 providers which, in turn, contract with host homes. The occupant owner or lessee shall  
98 not be the guardian of any person served or of their property nor the agent in such  
99 person's advance directive for health care. The placement determination for each person  
100 placed in a host home shall be made according to such person's choice as well as the

101 individual needs of such person in accordance with the requirements of Code  
 102 Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person;

103 (19) Provide guidelines for and oversight of host homes, which may include, but not be  
 104 limited to, criteria to become a host home, requirements relating to physical plants and  
 105 supports, placement procedures, and ongoing oversight requirements;

106 (20) Establish a unit of the department which shall receive and consider complaints from  
 107 individuals receiving services, make recommendations to the commissioner regarding  
 108 such complaints, and ensure that the rights of individuals receiving services are fully  
 109 protected;

110 (21) With respect to housing opportunities for persons with mental illness and  
 111 co-occurring disorders:

112 (A) Coordinate the department's programs and services with other state agencies and  
 113 housing providers;

114 (B) Facilitate partnerships with local communities;

115 (C) Educate the public on the need for supportive housing;

116 (D) Collect information on the need for supportive housing and monitor the benefit of  
 117 such housing; and

118 (E) Identify and determine best practices for the provision of services connected to  
 119 housing;

120 (22) Exercise all powers and duties provided for in this title or which may be deemed  
 121 necessary to effectuate the purposes of this title;

122 (23) Assign specific responsibility to one or more units of the department for the  
 123 development of programs designed to serve disabled infants, children, and youth. To the  
 124 extent practicable, such units shall cooperate with the Georgia Department of Education  
 125 and the University System of Georgia in developing such programs; ~~and~~

126 (24) Have the right to designate private institutions as state institutions; to contract with  
 127 such private institutions for such activities, in carrying out this title, as the department  
 128 may deem necessary from time to time; and to exercise such supervision and cooperation  
 129 in the operation of such designated private institutions as the department may deem  
 130 necessary; and

131 (25) Establish policies and procedures governing fiscal standards and practices of  
 132 community service boards and their respective governing boards."

133 **SECTION 2.**

134 Said title is further amended by revising Code Section 37-2-2, relating to definitions relative  
 135 to administration of mental health, developmental disabilities, addictive diseases, and other  
 136 disability services, as follows:

137 "37-2-2.

138 As used in this chapter, the term:

139 (1) 'Community service board' means a public mental health, developmental disabilities,  
140 and addictive diseases board established pursuant to Code Section 37-2-6.

141 (2) 'Community service board area' means an area inclusive of the counties which fall  
142 within the boundaries of a community service board as designated by the department  
143 pursuant to subsection (b) of Code Section 37-2-3 for the establishment of a community  
144 service board.

145 (3) 'Community service board service area' means a community service board area and  
146 any other county or portion thereof in which the community service board provides  
147 services.

148 (4) 'Council' means the Behavioral Health Coordinating Council established pursuant to  
149 Code Section 37-2-4.

150 (5) 'Governing board' means the governing board of a community service board  
151 established pursuant to subsection (b) of Code Section 37-2-6.

152 ~~(5)~~(6) 'Health services' means any education or service provided by the department, the  
153 Department of Public Health, or the Department of Human Services, either directly or by  
154 contract.

155 ~~(6)~~(7) 'Hospital' means a state owned or state operated facility providing services which  
156 include, but are not limited to, inpatient care and the diagnosis, care, and treatment or  
157 habilitation of the disabled. Such hospital may also provide or manage state owned or  
158 operated programs in the community."

159 **SECTION 3.**

160 Said title is further amended by revising Code Section 37-2-3, relating to designation of  
161 boundaries for mental health, development disabilities, and addictive diseases regions, and  
162 community service board areas, as follows:

163 "37-2-3.

164 (a) The board shall designate boundaries for mental health, developmental disabilities, and  
165 addictive diseases regions and may modify the boundaries of such regions from time to  
166 time as deemed necessary by the board.

167 (b) The department, with the approval of the commissioner, shall designate community  
168 service board areas, which shall serve as boundaries for the establishment of community  
169 service boards within this state for the purpose of delivering disability services. The  
170 department shall be authorized to initiate the redesignation of such community service  
171 board area boundaries and may consider requests from a county or group of counties or a  
172 community service board or a group of community service boards for recommended

173 changes to the boundaries of the community service board areas. The department, with the  
 174 approval of the commissioner, is authorized to redesignate two or more ~~contiguous~~  
 175 community service board areas as a single community service board area, ~~upon the request~~  
 176 ~~of the community service boards serving such areas; and, if so authorized~~ Two or more  
 177 community service boards may request that the department, with the approval of the  
 178 commissioner, merge the community service board areas served by such boards into a  
 179 single community service board area. If the department, with the approval of the  
 180 commissioner, authorizes the redesignation or merging of community services board areas  
 181 pursuant to this paragraph, the assets, equipment, and resources of such community service  
 182 boards shall become the assets, equipment, and resources of the reconstituted community  
 183 service board serving the successor single board area. It is the intent of the General  
 184 Assembly not to limit a community service board to serving only those counties within the  
 185 boundaries of its community service board area.

186 (c) To the extent practicable, the boundaries for regional planning boards and offices and  
 187 community service areas shall not subdivide any county unit ~~or conflict with any districts~~  
 188 ~~established by the Department of Public Health and the state relating to the planning for,~~  
 189 ~~or delivery of, health services.~~ In dividing the state into areas, the board and the  
 190 department shall take into consideration such factors as geographic boundaries, roads and  
 191 other means of transportation, population concentrations, city and county lines, other  
 192 relevant community services, and community economic and social relationships.  
 193 Consideration shall also be given to the existence of facilities and personnel available in  
 194 the areas for the delivery of disability services."

195 **SECTION 4.**

196 Said title is further amended by revising Code Section 37-2-6, relating to community mental  
 197 health, developmental disabilities, and addictive diseases service boards creation,  
 198 membership, participation of counties, transfer of powers and duties, alternate method of  
 199 establishment, bylaws, and reprisals prohibited, as follows:

200 "37-2-6.

201 (a) Community service boards in existence on June 30, ~~2006~~ 2014, are re-created effective  
 202 July 1, ~~2006~~ 2014, to provide mental health, developmental disabilities, and addictive  
 203 diseases services. ~~Effective July 1, 2009, such~~ Such community service boards may enroll  
 204 and contract with the department, the Department of Human Services, the Department of  
 205 Public Health, or the Department of Community Health to become a provider of mental  
 206 health, developmental disabilities, and addictive diseases services or health, recovery,  
 207 housing, or other supportive services. Such boards shall be considered public agencies.  
 208 Each community service board shall be a public corporation and an instrumentality of the

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

218 (b) ~~Each~~ The governing board of each community service board shall consist of members  
 219 appointed by the governing authorities of the counties within the community service board  
 220 area. Membership on such ~~community service~~ governing board shall be determined as  
 221 follows:

222 (1)(A) The governing authority of each county within the community service board  
 223 area:

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

226 (ii) With a population of more than 50,000 according to the most recent United States  
 227 decennial census shall appoint one member for each population increment of 50,000  
 228 or any portion thereof; or

229 (B) In the event that the number of ~~community service~~ governing board member  
 230 positions established in accordance with subparagraph (A) of this paragraph would  
 231 exceed ~~13~~ nine, the membership of such ~~community service~~ governing board pursuant  
 232 to this subsection shall be appointed as follows and the bylaws shall be amended  
 233 accordingly:

234 (i) For community service boards whose community service board area contains ~~13~~  
 235 nine or fewer counties, the membership of the board shall be set at ~~13~~ nine members  
 236 and appointments to the board shall be made by the governing authority of each  
 237 county within the community service board area in descending order from the county  
 238 with the largest population to the county with the smallest population according to the  
 239 most recent United States decennial census and this method shall be repeated until  
 240 all ~~13~~ nine members of the governing board of the community service board are  
 241 appointed. If a county governing authority fails to make an appointment within a  
 242 reasonable time, the next descending county by population shall make an appointment  
 243 and the method shall continue; and

244 (ii) For community service boards whose community service board area contains  
 245 more than ~~13~~ nine counties, one member of the governing board of the community

246 service board shall be appointed by the governing authority of each county within the  
 247 community service board area, so that the number of members on the governing board  
 248 is equal to the number of counties in the community service board area.

249 The county governing authority shall appoint as at least one of its appointments a  
 250 consumer of disability services; a ~~child~~ psychiatrist, a ~~child~~ psychologist, or other  
 251 behavioral health or development disabilities professional; a law enforcement officer;  
 252 a family member of a consumer; an advocate for disability services; a parent of a child  
 253 with mental illness or addictive disease; or a local leader or businessperson with an  
 254 interest in mental health, developmental disabilities, and addictive diseases; provided,  
 255 however, that for counties with more than one appointment, the county governing  
 256 authority shall seek to ensure that such appointments represent various groups and  
 257 disability services;

258 (2) In addition to the members appointed pursuant to paragraph (1) of this subsection,  
 259 ~~each the governing board of each~~ community service board may appoint ~~up to three~~ one  
 260 additional ~~members~~ member in order to address variation in the population sizes of  
 261 counties or the financial contributions of counties within the community service board  
 262 area ~~or may authorize the elected chief executive officer of a county governing authority,~~  
 263 ~~by whatever name called, or an elected member of that county governing authority to~~  
 264 ~~serve on the community service board while holding such elective office.~~ The bylaws of  
 265 the community service board shall address the ~~number~~ establishment of ~~such the~~  
 266 additional ~~members~~ governing board membership position, if any established, and the  
 267 purpose or purposes for which such ~~positions are~~ position is created. The term of office  
 268 of such additional ~~members~~ member shall be the same as that of other members of the  
 269 governing board of the community service board as provided in subsection (h) of this  
 270 Code section; ~~except that the term of office of a member in a position created to authorize~~  
 271 ~~the elected chief executive officer of a county governing authority, by whatever name~~  
 272 ~~called, or an elected member of that county governing authority to serve on the~~  
 273 ~~community service board shall be the same term of office as the elective term of office~~  
 274 ~~of said chief executive officer or said member of that county governing authority;~~

275 (3) In addition to the members appointed pursuant to paragraphs (1) and (2) of this  
 276 subsection, each governing board of a community service board shall have additional  
 277 members who shall serve on such governing board while concurrently holding elective  
 278 or appointive office and who shall be appointed by a county governing authority as  
 279 follows:

280 (A) The number of elected or appointed officials serving on the governing board of a  
 281 community service board shall be equal to one-third, defined herein as 33 percent or  
 282 0.33, of the number of the members of such board appointed in accordance with

283 paragraph (1) of this subsection. In the event the calculation of such percentage yields  
284 a whole number and a fraction of a whole number, then the number of members to be  
285 appointed shall be equal to the nearest whole number; however, a fraction equal to 50  
286 percent or greater shall be rounded to the next highest whole number;

287 (B) The governing authority of each county in the community service board area  
288 making the largest cash or in-kind financial contribution in descending order to the  
289 community service board in the county fiscal year immediately prior to the time of such  
290 appointment shall make one appointment of an elected or appointed official to the  
291 community service board until the number of such appointments required by this  
292 paragraph is reached. For community service boards whose community service board  
293 areas contains fewer counties than the number of appointments made pursuant to this  
294 paragraph, the membership appointments of elected or appointed officials to the  
295 governing board shall be made in the descending order prescribed in this paragraph and  
296 this method shall be repeated until all members who hold elective or appointive office  
297 are appointed to the governing board of the community service board. In the event that  
298 the number of such county governing authorities making a cash or in-kind financial  
299 contribution to the community service board does not result in the number of  
300 appointments required by this paragraph, the remaining appointment or appointments  
301 shall be made by the governing authority or authorities of the county or counties in the  
302 community service board area with the largest population in descending order  
303 according to the most recent United States decennial census until the number of  
304 appointments required by this paragraph is reached. For community service boards  
305 whose community service board area contains three or fewer counties, the membership  
306 appointments of elected or appointed officials to the governing board shall be made in  
307 the descending order prescribed in this paragraph and this method shall be repeated  
308 until all members who hold elective or appointive office are appointed to the governing  
309 board of the community service board. In the event there is no county in the  
310 community service board area where the governing authority made a cash or in-kind  
311 financial contribution to the community service board in the county fiscal year  
312 immediately prior to the time of such appointment, the appointments required by this  
313 paragraph shall be made by the governing authority or authorities of the county or  
314 counties in the community service board area with the largest population in descending  
315 order according to the most recent United States decennial census until the number of  
316 appointments required by this paragraph is reached;

317 (C) As used in this paragraph, the term 'elective or appointive office' or 'elected or  
318 appointed official' means:

319 (i) The elected chief executive officer, by whatever name called, of the county  
 320 governing authority making the appointment to the governing board of the community  
 321 service board;

322 (ii) An elected member of such county governing authority;

323 (iii) The county manager of such county governing authority where such position  
 324 exists as defined in Code Section 36-5-22;

325 (iv) The sheriff of such county;

326 (v) The elected chief executive officer, by whatever named called, an elected member  
 327 of the governing authority, or an appointed city manager of any municipality lying  
 328 wholly or partially within such county;

329 (vi) A member of the board of education of such county or a member of the  
 330 governing board of any municipal school system lying wholly or partially within such  
 331 county;

332 (vii) The school superintendent of such county or the superintendent of any  
 333 municipal school system lying wholly or partially within such county;

334 (viii) The appointed public safety commissioner, police chief, or fire chief of such  
 335 county or any municipality lying wholly or partially within such county; or

336 (ix) Any other elected official from within such county;

337 (D) No member of the governing board of the community service board appointed  
 338 pursuant to this paragraph shall continue to serve on the governing board if such  
 339 member no longer holds the elective or appointive office which made him or her  
 340 eligible for appointment to such board; and

341 (E) As used in this paragraph, the term 'in-kind financial contribution' means the most  
 342 current dollar value of any physical facilities or buildings and equipment, including  
 343 vehicles, of all kinds provided at no cost by the county governing authority for use by  
 344 the community service board.

345 ~~(3)~~(4) Each community service board in existence on June 30, ~~2006~~ 2014, shall  
 346 reconstitute its ~~the~~ membership of its governing board in accordance with the provisions  
 347 of paragraphs ~~(1)~~ (2) and ~~(2)~~ (3) of this subsection, effective July 1, 2014. ~~2006~~, as  
 348 follows:

349 ~~(A)~~ A community service board which increases or reduces the number of its members  
 350 of its governing board in accordance with paragraphs ~~(1)~~ (2) and ~~(2)~~ (3) of this  
 351 subsection shall revise its bylaws adopted in accordance with subsection (h) of this  
 352 Code section to reflect such increases or reductions. A community service board which  
 353 reduces the number of ~~its~~ members of its governing board shall designate which  
 354 position or positions are to be eliminated and shall make reasonable efforts to eliminate  
 355 any position or positions of governing board members whose terms expire on or before

356 June 30, ~~2006~~ 2014; provided, however, that members serving on a the governing board  
 357 of a community service board whose terms do not expire on or before June 30, ~~2006~~  
 358 2014, shall continue to serve out the terms of office to which they were appointed,  
 359 regardless of whether this causes a governing board to temporarily exceed the  
 360 maximum number of members. Any additional positions created in conformity with  
 361 such paragraphs ~~(1)~~ (2) and ~~(2)~~ (3) may be filled on July 1, ~~2006~~ 2014, and the  
 362 governing authority of a county that is otherwise authorized to appoint such additional  
 363 member or members to the governing board of a community service board ~~member or~~  
 364 ~~members~~ may do so no sooner than May 1, ~~2006~~ 2014, but any person so appointed  
 365 shall not take office until July 1, ~~2006~~ 2014. If a position on such governing board of  
 366 the community service board is not filled on July 1, ~~2006~~ 2014, a vacancy in that  
 367 position shall be deemed to have occurred on that date. A governing board of the  
 368 community service board is authorized to make whatever changes necessary in the  
 369 terms of office of its members in order to achieve the staggering of terms required by  
 370 subsection (h) of this Code section; ~~and~~

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

373 ~~(4)(5)(A)~~ (A) A person shall not be eligible to be appointed to or serve on a governing  
 374 board of a community service board if such person is:

- 375 (i) A member of the regional planning board which serves the region in which that  
 376 community service board is located;
- 377 (ii) An employee or board member of a public or private entity which contracts with  
 378 the department, ~~the Department of Human Services, the Department of Public Health,~~  
 379 ~~or the Department of Community Health~~ to provide mental health, developmental  
 380 disabilities, and addictive diseases services ~~or health services~~ within the region  
 381 community service board area served by that community service board; or
- 382 (iii) An employee of that community service board or employee or board member of  
 383 any private or public group, organization, or service provider which contracts with or  
 384 receives funds from that community service board; or
- 385 (iv) A former employee of that community service board until a period of at least two  
 386 years has passed since the time such person was employed by that community service  
 387 board.

388 (B) A person shall not be eligible to be appointed to or serve on a governing board of  
 389 a community service board if such person's spouse, parent, child, or sibling is a member  
 390 of that ~~community service board~~ governing board or a member, employee, or board  
 391 member specified in this paragraph. With respect to appointments by the same county  
 392 governing authority, no person who has served a full term or more on a governing

393 board of a community service board may be appointed to a regional planning board  
 394 until a period of at least two years has passed since the time such person served on the  
 395 governing board of a community service board, and no person who has served a full  
 396 term or more on a regional planning board may be appointed to the governing board of  
 397 a community service board until a period of at least two years has passed since the time  
 398 such person has served on the regional planning board; and

399 ~~(5)~~(6) A governing board of a community service board created in accordance with this  
 400 subsection shall reconstitute its governing board membership in conformity with the most  
 401 recent United States decennial census in accordance with subparagraph (d)(2)(C) of Code  
 402 Section 1-3-1.

403 (b.1) A county governing authority may appoint ~~the school superintendent,~~ a member of  
 404 the county board of health, ~~a member of the board of education, or any other elected or~~  
 405 ~~appointed official~~ to serve on the governing board of the community service board  
 406 provided that such person meets the qualifications of paragraph (1) or (2) of subsection (b)  
 407 of this Code section and such appointment does not violate the provisions of Chapter 10  
 408 of Title 45. For terms of office which begin July 1, 1994, or later, an employee of the  
 409 Department of Human Resources (now known as the Department of Behavioral Health and  
 410 Developmental Disabilities for these purposes) or an employee of a county board of health  
 411 shall not serve on a governing board of a community service board. For terms of office  
 412 which begin July 1, 2009, or later, an employee of the department, the Department of  
 413 Human Services, the Department of Public Health, or the Department of Community  
 414 Health or a board member of the respective boards of each department shall not serve on  
 415 a governing board of a community service board.

416 (c) In making appointments to the governing board of a community service board, the  
 417 county governing authorities shall ensure that such appointments are reflective of the  
 418 cultural and social characteristics, including gender, race, ethnic, and age characteristics,  
 419 of the community service board area and county populations. The county governing  
 420 authorities are further encouraged to ensure that each disability group is represented on the  
 421 governing board of the community service board, and in making such appointments the  
 422 county governing authorities may consider suggestions from clinical professional  
 423 associations as well as advocacy groups. For the purposes of this subsection, the term  
 424 'advocacy groups' means any organizations or associations that advocate for, promote, or  
 425 have an interest in disability services and are exempted as a charitable organization from  
 426 federal income tax pursuant to Section 501(c) of the Internal Revenue Code; provided,  
 427 however, that 'advocacy groups' shall not mean paid providers of disability services or  
 428 health services.

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

437 (d) Each county in which the governing authority of the county is authorized to appoint  
438 members to the governing board of the community service board shall participate with the  
439 board in the operation of the program through the community service board. All  
440 contractual obligations, including but not limited to real estate leases, rentals, and other  
441 property agreements, other duties, rights, and benefits of the mental health, developmental  
442 disabilities, and addictive diseases service areas in existence on June 30, ~~2006~~ 2014, shall  
443 continue to exist along with the new powers granted to the community service boards  
444 effective July 1, ~~2006~~ 2014.

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

448 (1) A board of health of a county desiring to be the lead county board of health for that  
449 county submits a written agreement to the former Division of Mental Health,  
450 Developmental Disabilities, and Addictive Diseases (now known as the Department of  
451 Behavioral Health and Developmental Disabilities) of the former Department of Human  
452 Resources before July 1, 1993, to serve as the community service board and to continue  
453 providing disability services in that county after July 1, 1994, and the governing authority  
454 for that county adopted a resolution stating its desire to continue the provision of  
455 disability services through its board of health after July 1, 1994, and submitted a copy of  
456 such resolution to the former division before July 1, 1993; or

457 (2)(A) The lead county board of health for a community mental health, mental  
458 retardation, and substance abuse service area, as designated by the former Division of  
459 Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the  
460 Department of Behavioral Health and Developmental Disabilities) of the former  
461 Department of Human Resources on July 15, 1993, but which area excludes any county  
462 which meets the requirements of paragraph (1) of this subsection, submitted a written  
463 agreement to the former division and to all counties within such service area to serve  
464 as the community service board for that area and to continue providing disability

465 services after July 1, 1994, which agreement was submitted between July 31, 1993, and  
466 December 31, 1993; and

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

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

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

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

497 (h) The governing board of each ~~Each~~ community service board shall adopt bylaws and  
498 operational policies and guidelines in conformity with the provisions of this chapter. Those  
499 bylaws shall address governing board appointment procedures, initial terms of governing  
500 board members, the staggering of terms, quorum, a mechanism for ensuring that consumers  
501 of disability services and family members of consumers constitute no less than 50 percent

502 of the governing board members appointed pursuant to subsection (b) of this Code section,  
 503 and a mechanism for ensuring equitable representation of the various disability groups. A  
 504 quorum for the transaction of any business and for the exercise of any power or function  
 505 of the governing board of the community service board shall consist of a majority of the  
 506 total number of filled governing board member positions appointed pursuant to subsection  
 507 (b) of this Code section. A vote of the majority of such quorum shall be the act of the  
 508 governing board of the community service board except where the bylaws of the  
 509 community service board may require a greater vote. The regular term of office for each  
 510 member of the governing board of a community service board ~~member~~ shall be three years.  
 511 Vacancies on such governing board shall be filled in the same manner as the original  
 512 appointment. For the purposes of this subsection, 'equitable representation of the various  
 513 disability groups' shall mean that consumers and family members of such consumers who  
 514 constitute no less than 50 percent of the governing board members holding membership  
 515 pursuant to subsection (b) of this Code section shall be appointed so as to assure that an  
 516 equal number of such members to the fullest extent possible represents mental health,  
 517 developmental disabilities, and addictive diseases interests.

518 (i) ~~The governing board of each~~ Each community service board which is composed of  
 519 members who are appointed thereto by the governing authority of only one county shall  
 520 have a minimum of ~~six~~ seven and no more than ~~13~~ nine members, not including any  
 521 additional members appointed pursuant to ~~paragraph~~ paragraphs (2) and (3) of subsection  
 522 (b) of this Code section, notwithstanding the provisions of subsection (b) of this Code  
 523 section, which members in all other respects shall be appointed as provided in this Code  
 524 section.

525 (j) No governing board member, officer, or employee of a community service board who  
 526 has authority to take, direct others to take, recommend, or approve any personnel action  
 527 shall take or threaten action against any employee of a community service board as a  
 528 reprisal for making a complaint or disclosing information concerning the possible existence  
 529 of any activity constituting fraud, waste, or abuse in or relating to the programs, operations,  
 530 or client services of the ~~board to the board or~~ community service board, to the governing  
 531 board of the community service board, to a member of the General Assembly, or to the  
 532 department unless the complaint was made or the information was disclosed with the  
 533 knowledge that it was false or with willful disregard for its truth or falsity. Any action  
 534 taken in violation of this subsection shall give the public employee a right to have such  
 535 action set aside in a proceeding instituted in the superior court.

536 (k) A member of a governing board of a community service board who after notice that  
 537 such member has failed to complete any required training prescribed by the department  
 538 pursuant to paragraph (6) of Code Section 37-1-20 continues such failure for 30 days may

539 be removed from office by the remaining members of the governing board of the  
540 community service board.

541 (l) A member of a governing board of a community service board may resign from office  
542 by giving written notice to the executive director of the community service board. The  
543 resignation is irrevocable after delivery to such executive director but shall become  
544 effective upon the date on which the notice is received or on the effective date given by the  
545 member in the notice, whichever date is later. The executive director, upon receipt of the  
546 resignation, shall give notice of the resignation to the remaining members of the governing  
547 board of the community service board and to the chief executive officer or governing  
548 authority of the county that appointed the member.

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

554 (n) Each member of the governing board of a community service board shall comply with  
555 the code of ethics for members of boards, commissions, and authorities as set forth in Code  
556 Section 45-10-3. A governing board member who fails to comply with such code may be  
557 subject to removal from office by the remaining members of the governing board of the  
558 community service board or by the commissioner as authorized in Code Section 37-2-10.  
559 The governing board of the community service board shall revise the bylaws of the  
560 community service board adopted in accordance with subsection (h) of this Code section  
561 to reflect the requirements of this subsection.

562 (o) A member of the governing board of a community service board shall have a fiduciary  
563 responsibility to avoid any conflict of interest in a manner that is consistent with the  
564 declarations found in Code Section 45-10-2. When such governing board is to decide an  
565 issue about which a member has an unavoidable conflict of interest, such member shall  
566 absent herself or himself from not only the vote, but also from any deliberation on such  
567 issue. Members of the governing board of a community service board shall not use their  
568 positions to obtain employment with or contracts from the community service board, its  
569 funding sources, or its suppliers of goods and services for themselves, family members, or  
570 close associates. Should such member desire such employment, such member shall first  
571 resign. No person who has served as a member of the governing board of a community  
572 service board may be employed by that community service board, either directly or by  
573 contract, until a period of at least two years has passed since the time such person served  
574 as a member of the governing board of that community service board. A governing board  
575 member or a member of the governing board member's family may obtain disability or

576 health services from the community service board in the ordinary course of the community  
 577 service board's provision of such disability or health services on the same terms and under  
 578 the same conditions applicable to any member of the public. An individual governing  
 579 board member shall not exercise individual authority over the community service board's  
 580 operations, affairs, property, or personnel, except when such member's action is explicitly  
 581 permitted by action of the governing board of the community service board by policy or  
 582 by resolution. The governing board of the community service board shall revise the bylaws  
 583 of the community service board adopted in accordance with subsection (h) of this Code  
 584 section to reflect the requirements of this subsection.

585 ~~(n)~~ (p) A member of a governing board of a community service board may not enter upon  
 586 the duties of office until such member takes the following oath of office:

587 STATE OF GEORGIA

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

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

592 I do further swear or affirm:

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

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

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

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

601 \_\_\_\_\_  
 602 Signature of member of  
 603 the governing board of the  
 604 \_\_\_\_\_ Community Service Board

605 \_\_\_\_\_  
 606 Typed name of member of  
 607 the governing board of the  
 608 \_\_\_\_\_ Community Service Board

609 Sworn and subscribed  
 610 before me this \_\_\_\_\_ day

611 of \_\_\_\_\_, \_\_\_\_.

612 (SEAL)''

613 **SECTION 5.**

614 Said title is further amended by revising Code Section 37-2-6.1, relating to community  
615 service boards program director, staff, budget facilities, powers and duties, and exemption  
616 from state and local taxation, as follows:

617 "37-2-6.1.

618 (a) Each governing board of each community service board shall employ an executive  
619 director to serve as its chief executive officer ~~who~~ and shall prescribe the duties thereof.  
620 The selection of the executive director and all terms of compensation shall be set by the  
621 governing board of each community service board and shall be subject to review and  
622 approval by the commissioner prior to any offer of employment or at any point thereafter  
623 where the terms of compensation are proposed to be substantially altered. Such contracts  
624 shall be reviewed by the commissioner every five years. Further, the commissioner shall  
625 be required to review and approve the selection of the executive director of each  
626 community service board for adherence to minimum qualifications for the position as  
627 prescribed by the department. The executive director shall direct the day-to-day operations  
628 of the community service board. Such executive director shall be appointed and removed  
629 by the community service board pursuant to this subsection and shall appoint other  
630 necessary staff pursuant to an annual budget adopted by the board, which budget shall  
631 provide for securing appropriate facilities, sites, and professionals necessary for the  
632 provision of disability and health services. ~~The~~ Notwithstanding any other provision of law  
633 to the contrary, the governing board of the community service board may delegate any  
634 power, authority, duty, or function to its executive director or other staff. The executive  
635 director or other staff is authorized to exercise any power, authority, duty, or function on  
636 behalf of the governing board of the community service board.

637 (1) The executive director or any full-time or part-time employee of a community service  
638 board shall have a responsibility to avoid any conflict of interest in a manner that is  
639 consistent with the declarations found in Code Section 45-10-2. Such employees shall  
640 not transact any business with that community service board as prohibited in Code  
641 Section 45-10-23 unless any such transaction falls under the exceptions granted in Code  
642 Section 45-10-25. Transactions that fall under such exceptions shall be disclosed to the  
643 governing board of the community service board in the manner as such governing board  
644 shall determine and yearly to the Georgia Government Transparency and Campaign  
645 Finance Commission as prescribed in Code Section 45-10-26. The governing board of  
646 the community service board shall promulgate policies and procedures governing

647 executive director and employee conflicts of interest and establish a code of ethics for the  
 648 executive director and employees of the community service board.

649 (b) Each governing board of a community service board or each community service board,  
 650 under the jurisdiction of its governing board, shall perform duties, responsibilities, and  
 651 functions and may exercise power and authority described in this subsection. ~~Each~~  
 652 ~~program may exercise the following power and authority:~~

653 (1) Each governing board of a community service board may shall adopt bylaws for the  
 654 conduct of its affairs and the affairs of their respective community service boards;  
 655 provided, however, that the governing board of a community service board shall meet at  
 656 least quarterly, and that all such meetings and any bylaws shall be open to the public, as  
 657 otherwise required under Georgia law;

658 (2) Each governing board of a community service board shall be required to review and  
 659 approve the annual budget of the community service board and shall be required to  
 660 establish the general policies related to such budget to be followed by the community  
 661 service board;

662 (3) Each community service board shall provide an adequate range of disability services  
 663 as prescribed by the department;

664 ~~(2)~~(4) Each community service board may make and enter into all contracts necessary  
 665 and incidental to the performance of its duties and functions;

666 ~~(3)~~(5) Each community service board may acquire by purchase, gift, lease, or otherwise  
 667 and may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease,  
 668 and dispose of real and personal property of every kind and character, or any interest  
 669 therein, for its corporate purposes;

670 ~~(4)~~(6) Each community service board may contract to utilize the services of the  
 671 Department of Administrative Services, the state auditor, or any other agency of state,  
 672 local, or federal government;

673 ~~(5)~~(7) Each community service board may provide, either independently or through  
 674 contract with appropriate state or local governmental entities, the following benefits to  
 675 its employees, their dependents, and survivors, in addition to any compensation or other  
 676 benefits provided to such persons:

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

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

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

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

686 ~~(6)~~(8) Each community service board may cooperate with all units of local government  
687 in the counties where the community service board provides services as well as  
688 neighboring regions and with the programs of other departments, agencies, and regional  
689 commissions and regional planning boards;

690 ~~(7)~~(9) Each community service board shall establish and maintain a personnel program  
691 for its employees and fix the compensation and terms of compensation of its employees;  
692 provided, however, that each community service board shall comply with the provisions  
693 of Chapter 20 of Title 45, for so long as and to the extent that each employee of such  
694 board remains subject to the rules and regulations of the State Personnel Board or as  
695 otherwise provided by law;

696 ~~(8)~~(10) Each community service board may receive and administer grants, gifts,  
697 contracts, moneys, and donations for purposes pertaining to the delivery of disability  
698 services or of health services;

699 ~~(9)~~(11) Each community service board may establish fees for the provision of disability  
700 services or health services according to the terms of contracts entered into with the  
701 department, Department of Human Services, Department of Public Health, or Department  
702 of Community Health, as appropriate; provided, however, that all fees collected shall be  
703 used solely in accordance with the statutory nonprofit and public purposes of community  
704 service boards as prescribed in Article 1 of Chapter 2 of Title 37;

705 ~~(10)~~(12) Each community service board may accept appropriations, loans of funds,  
706 facilities, equipment, and supplies from local governmental entities in the counties where  
707 the community service board provides services;

708 ~~(11)~~(13) Each member of the governing board of a community service board may, upon  
709 approval of the executive director, receive reimbursement for actual expenses incurred  
710 in carrying out the duties of such office; provided, however, that such reimbursement  
711 shall not exceed the rates and allowances set for state employees by the Office of  
712 Planning and Budget or the mileage allowance for use of a personal car as that received  
713 by all other state officials and employees or a travel allowance of actual transportation  
714 cost if traveling by public carrier;

715 ~~(12)~~(14) Each governing board of a community service board shall elect a chairperson  
716 and vice chairperson from among its membership. The governing board members shall  
717 also elect a secretary and treasurer from among its membership or may designate the  
718 executive director of the community service board to serve in one or both offices. Such  
719 officers shall serve for such terms as shall be prescribed in the bylaws of the community  
720 service board or until their respective successors are elected and qualified. No governing

721 board member shall hold more than one office of the governing board of a community  
 722 service board; except that the same person may serve as secretary and treasurer. The  
 723 bylaws of the governing board of a community service board shall provide for any other  
 724 officers of such board and the means of their selection, the terms of office of the officers,  
 725 and an annual meeting to elect officers;

726 ~~(13)~~(15) Each community service board may have a seal and alter it;

727 ~~(14)~~(16) Each community service board may establish fees, rates, rents, and charges for  
 728 the use of facilities of the community service board for the provision of disability services  
 729 or of health services, in accordance with the terms of contracts entered into with the  
 730 department, Department of Human Services, Department of Public Health, or Department  
 731 of Community Health, as appropriate;

732 ~~(15)~~(17) Each community service board may borrow money for any business purpose  
 733 and may incur debt, liabilities, and obligations for any business purpose. A debt, liability,  
 734 or obligation incurred by a community service board shall not be considered a debt,  
 735 liability, or obligation of the state or any county or any municipality or any political  
 736 subdivision of the state. A community service board may not borrow money as permitted  
 737 by this Code section if the highest aggregate annual debt service requirements of the then  
 738 current fiscal year or any subsequent year for outstanding borrowings of the community  
 739 service board, including the proposed borrowing, exceed 15 percent of the total revenues  
 740 of the community service board in its fiscal year immediately preceding the fiscal year  
 741 in which such debt is to be incurred. Interest paid upon such borrowings shall be exempt  
 742 from taxation by the state or its political subdivisions. A state contract with a community  
 743 service board shall not be used or accepted as security or collateral for a debt, liability,  
 744 or obligation of a community service board without the prior written approval of the  
 745 commissioner;

746 ~~(16)~~(18) Each community service board, to the extent authorized by law and the contract  
 747 for the funds involved, may carry forward without lapse fund balances and establish  
 748 operating, capital, and debt reserve accounts from revenues and grants derived from state,  
 749 county, and all other sources; and

750 ~~(17)~~(19) Each community service board may operate, establish, or operate and establish  
 751 facilities deemed by the community service board as necessary and convenient for the  
 752 administration, operation, or provision of disability services or of health services by the  
 753 community service board and may construct, reconstruct, improve, alter, repair, and equip  
 754 such facilities to the extent authorized by state and federal law.

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

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

763 (e) A community service board shall not have the power to tax, the power to issue general  
 764 obligation bonds or revenue bonds or revenue certificates, or the power to financially  
 765 obligate the state or any county or any municipal corporation.

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

770 (1) Disability services or health services;

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

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

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

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

784 (i) Each community service board and any entity created or formed by such community  
 785 service board pursuant to subsection (j) of this Code section shall keep books of account  
 786 reflecting all funds received, expended, and administered by the community service board  
 787 which shall be independently audited annually in accordance with generally accepted  
 788 accounting principles. The community service board and an entity created or formed by  
 789 such community service board, if any, pursuant to subsection (j) of this Code section shall  
 790 assure the inclusion in its annual audit any information or procedures required by the  
 791 department. The community service board and an entity created or formed by such  
 792 community service board, if any, pursuant to subsection (j) of this Code section shall rotate  
 793 audit firms at least once every five years. Copies of the annual audit and all findings shall  
 794 be submitted to the department and the governing board of the community service board,

795 or in the case of an entity created or formed by the community service board, if any, to the  
 796 governing board of the community service board, the governing board of such entity, and  
 797 the department within 60 days of completion of the audit.

798 (j) Subject to the approval of the commissioner and the governing board of the community  
 799 service board, a ~~A~~ community service board may create, form, or become a member of a  
 800 nonprofit corporation, limited liability company, or other nonprofit entity, the voting  
 801 membership of which shall be limited to community service boards, governmental entities,  
 802 nonprofit corporations, or a combination thereof, if such entity is created for purposes that  
 803 are within the powers of the community service board, for the cooperative functioning of  
 804 its members, or a combination thereof; provided, however, that no funds provided pursuant  
 805 to a contract between the department and the community service board may be used in the  
 806 formation or operation of the nonprofit corporation, limited liability company, or other  
 807 nonprofit entity. No community service board, whether or not it exercises the power  
 808 authorized by this subsection, shall be relieved of compliance with Chapter 14 of Title 50,  
 809 relating to open and public meetings, and Article 4 of Chapter 18 of Title 50, relating to  
 810 inspection of public records, unless otherwise provided by law. The provisions of this  
 811 subsection relating to the approval of the commissioner to the contrary notwithstanding,  
 812 nothing in this subsection shall prohibit a community service board from creating, forming,  
 813 or becoming a member of a national, regional, or state trade association or business league  
 814 as defined for tax exempt purposes by the United States Internal Revenue Service for the  
 815 benefit of member community service boards and similar organizations.

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

821 (l) A community service board may join or form and operate, either directly or indirectly,  
 822 one or more networks of community service boards, disability or health service  
 823 professionals, and other providers of disability services or health services to arrange for the  
 824 provision of disability services or health services through such networks; to contract either  
 825 directly or through such networks with the Department of Community Health to provide  
 826 services to Medicaid beneficiaries; to provide disability services or health services in an  
 827 efficient and cost-effective manner on a prepaid, capitation, or other reimbursement basis;  
 828 and to undertake other disability or health services related managed care activities. For  
 829 purposes of this subsection only and notwithstanding Code Section 33-3-3 or any other  
 830 provision of law, a community service board shall be permitted to and shall comply with  
 831 the requirements of Chapter 20A of Title 33 to the extent that such requirements apply to

832 the activities undertaken by the community service board or by a community service board  
 833 under this subsection or subsection (j) of this Code section. No community service board,  
 834 whether or not it exercises the powers authorized by this subsection, shall be relieved of  
 835 compliance with Article 4 of Chapter 18 of Title 50, relating to inspection of public  
 836 records, unless otherwise provided by law. Any licensed health care provider shall be  
 837 eligible to apply to become a participating provider under such a plan or network that  
 838 provides coverage for health care, disability services, or health services which are within  
 839 the lawful scope of the provider's license, but nothing in this Code section shall be  
 840 construed to require any such plan or network to provide coverage for any specific health  
 841 care, disability service, or health service."

842 **SECTION 6.**

843 Said title is further amended by revising Code Section 37-2-6.3, relating to the public body,  
 844 debts, obligations, and liabilities, as follows:

845 "37-2-6.3.

846 (a) A community service board is a public body as provided in paragraph (1) of  
 847 subsection (c) of Code Section 37-2-11.1.

848 (b) A community service board has the power to bring an action in its own name and, to  
 849 the extent otherwise authorized by law and to the extent not immune from suit, may be  
 850 sued in its own name. The state and the counties in which the community service board  
 851 operates shall not be considered a party to or liable under any such litigation.

852 (c) The governing board of a community service board as well as the community service  
 853 board itself shall be prohibited from bringing any action against the state.

854 ~~(c)~~(d) Debts, obligations, and liabilities of a community service board are not debts,  
 855 obligations, or liabilities of the state or of the counties in which such board operates. A  
 856 community service board is prohibited from entering into debts, obligations, or liabilities  
 857 which are also debts, obligations, or liabilities of the state or of any county."

858 **SECTION 7.**

859 Said title is further amended by revising paragraph (2) of subsection (b) of Code Section  
 860 37-2-6.5, relating to cessation of operations by community service board, notification, and  
 861 continuation of operations by successor board, county board of health, or outside manager,  
 862 as follows:

863 "(2) The department, with the approval of the commissioner, intends to redesignate the  
 864 boundaries of the community service board area served by such board pursuant to  
 865 paragraph (1) of subsection (b) of Code Section 37-2-3 by expanding the boundaries of  
 866 ~~an adjacent~~ a community service board area served by another community service board

867 to include the counties in the community service board area served by the community  
 868 service board that intends to cease operations so that the community service board  
 869 serving such ~~adjacent~~ area may assume responsibility for the provision of disability  
 870 services within such counties;"

871 **SECTION 8.**

872 Said title is further amended by revising Code Section 37-2-10, relating to the  
 873 commissioner's emergency powers upon failure of a community service board to establish  
 874 and administer programs, as follows:

875 "37-2-10.

876 (a) Notwithstanding any other provisions of the law, the commissioner with the  
 877 concurrence of the Governor is authorized to establish and administer community programs  
 878 on an emergency basis in the event one or more community service boards or their  
 879 respective governing boards fail to assume responsibility for the establishment and  
 880 implementation of an adequate range of disability services or to provide appropriate  
 881 disability services as determined by the department or substantially breach their contracts  
 882 with the department pursuant to this chapter.

883 (b) Upon notification by a governing board of a community service board of an inability  
 884 to provide an adequate range of disability services or to provide appropriate services, the  
 885 commissioner, with concurrence of the Governor, may:

886 (1) Assume responsibility for the administration and operation of all of the community  
 887 programs operated by or through such board and, in which case, the programs shall  
 888 become department programs; the department shall acquire the assets of the community  
 889 service board; ~~and~~ the community service board employees shall become employees of  
 890 the department; and the governing board of the community service board shall be  
 891 dissolved; or

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

901 (c)(1) Notwithstanding any other provisions of the law, ~~in extenuating circumstances~~, the  
 902 commissioner with the concurrence of the Governor is authorized to appoint a manager

- 903 or management team to manage and operate the programs and services of the community  
 904 service board if the commissioner finds that the community service board:
- 905 (A) Provides notice pursuant to Code Section 37-2-6.5 that ~~such~~ the community service  
 906 board intends to cease operations;
  - 907 (B) Intentionally, recklessly, or negligently failed to discharge its duties pursuant to a  
 908 contract with the department;
  - 909 (C) Misused state or federal funds;
  - 910 (D) Engaged in a fraudulent act, transaction, practice, or course of business;
  - 911 (E) Endangered the life, safety, or health of a consumer served by the community  
 912 service board;
  - 913 (F) Failed to keep fiscal records and maintain proper control over its assets;
  - 914 (G) Failed to respond to a substantial deficiency in a review or audit;
  - 915 (H) Otherwise substantially failed to comply with this chapter or the rules or standards  
 916 of the department; or
  - 917 (I) No longer has the fiscal ability to continue to provide contracted services and,  
 918 without the intervention of the department, continued provision of disability services  
 919 or health services to consumers in the service area is in immediate jeopardy.
- 920 (2) In order to carry out the provisions of paragraph (1) of this subsection, the  
 921 commissioner shall give written notice to the governing board of the community service  
 922 board regarding the appointment of a manager or management team and the  
 923 circumstances on which the appointment is based. The governing board of the  
 924 community service board shall be immediately suspended upon the appointment of a  
 925 manager or management team by the commissioner. The commissioner may require the  
 926 community service board to pay costs incurred by the manager or management team.
- 927 (3) Subject to the determination of the commissioner, a manager or management team  
 928 appointed pursuant to this subsection may:
- 929 (A) Evaluate, redesign, modify, administer, supervise, or monitor a procedure,  
 930 operation, or the management of the community service board;
  - 931 (B) Hire, supervise, discipline, reassign, or terminate the employment of an employee  
 932 of the community service board;
  - 933 (C) Reallocate the resources and manage the assets of the community service board;
  - 934 (D) Require that a financial transaction, expenditure, or contract for goods and services  
 935 be approved by the manager or management team;
  - 936 (E) Redesign, modify, or terminate a program or service of the community service  
 937 board;

938 (F) Direct ~~the members of the community service board~~, the executive director, chief  
 939 financial officer, or any other administrative or program manager, employee, or agent  
 940 to take an action;

941 (G) Exercise a power, duty, authority, or function of the community service board or  
 942 its governing board as authorized by this chapter;

943 (H) Recommend to the commissioner the removal of a member or members of the  
 944 governing board of the community service board or the executive director of the  
 945 community service board; and the provisions of any law to the contrary  
 946 notwithstanding, the commissioner may remove such member or executive director  
 947 from office. If the commissioner removes a member or members of the governing  
 948 board of the community service board pursuant to this subparagraph, the member or  
 949 members so removed shall be replaced pursuant to Code Section 37-2-6; and

950 (I) Report at least monthly to the commissioner on actions taken.

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

955 (5) A manager or management team appoint pursuant to this subsection shall be free  
 956 from all liability, joint or several, for the manager or management team's acts, omissions,  
 957 and conduct and for the acts, omissions, and conduct of their duly constituted agents in  
 958 the administration of the community service board or its programs. The state shall  
 959 indemnify and save them, and each of them, harmless from the effects and consequences  
 960 of their acts, omissions, and conduct in their official capacity, except to the extent that  
 961 such effects and consequences shall result from their own willful misconduct.

962 ~~(5)~~(6) If a manager or management team is appointed pursuant to this Code section, the  
 963 department may:

964 (A) Upon a determination that the conditions that gave rise to the appointment of a  
 965 manager or management team pursuant to this subsection have been met and that such  
 966 manager or management team is no longer necessary, terminate the authority delegated  
 967 to such manager or management team and restore authority to the governing board of  
 968 the community service board to manage and operate the services and programs of the  
 969 community service board; or

970 (B) Operate and manage the programs of the community service board until such time  
 971 as arrangements can be made to secure one or more alternate service providers to  
 972 assume responsibility for the provision of services previously provided by the  
 973 community service board. If this option is exercised, the department shall petition the

974 appropriate superior court for appointment of a receiver pursuant to subsection (d) of  
975 Code Section 37-2-6.5.  
976 ~~(6)~~(7) Nothing in this subsection shall be construed to prohibit the department from  
977 canceling a contract with a community service board."

978 **SECTION 9.**

979 This Act shall become effective upon its approval by the Governor or upon its becoming law  
980 without such approval.

981 **SECTION 10.**

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