

House Bill 252 (AS PASSED HOUSE AND SENATE)

By: Representatives Caldwell of the 20th, Welch of the 110th, Pak of the 108th, Ramsey of the 72nd, Hatchett of the 150th, and others

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2 Calvin Hill, Jr., Act"; to repeal obsolete and outdated provisions; to repeal provisions which
3 have been deemed unconstitutional; to update obsolete and outdated terminology; to repeal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 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
176 is amended by repealing and reserving Code Section 45-12-170, relating to the Office of
177 Planning and Budget performing planning and development functions, powers and duties
178 generally, and recommendations of planned communities for state development assistance.

179 **SECTION 2-9.**

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

183 **SECTION 2-10.**

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

186 "50-32-5.

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

194 ~~(b) In order to find practical, workable solutions to these problems, there is created the~~
195 ~~Transit Governance Study Commission to be composed of: four Senators from the Atlanta~~
196 ~~Regional Commission area to be appointed by the Lieutenant Governor, four~~
197 ~~Representatives from the Atlanta Regional Commission area to be appointed by the~~
198 ~~Speaker of the House of Representatives, the chairperson of the Metropolitan Atlanta Rapid~~
199 ~~Transit Oversight Committee, the chairperson of the Atlanta Regional Commission, the~~

200 chairperson of the Regional Transit Committee of the Atlanta Regional Commission, one
201 staff member from the Atlanta Regional Commission to be selected by the chairperson of
202 the Atlanta Regional Commission, the executive director of the Georgia Regional
203 Transportation Authority, the general manager of the Metropolitan Atlanta Rapid Transit
204 Authority, and the directors of any other county transit systems operating in the Atlanta
205 Regional Commission area.

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

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

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

226 (f) The Atlanta Regional Commission in conjunction with the Georgia Regional
227 Transportation Authority and the department's director of planning shall utilize federal and
228 state planning funds to continue the development of the Atlanta region's Concept 3 transit
229 proposal, including assessment of potential economic benefit to the region and the state,
230 prioritization of corridors based on highest potential economic benefit and lowest
231 environmental impact, and completion of environmental permitting. Any new transit
232 management instrumentality created as a result of the Transit Governance Study
233 Commission created pursuant to this Code section shall participate in the Concept 3
234 development activities that remain incomplete at the time of the creation of the new
235 regional transit body."

236

PART III

237

SECTION 3-1.

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

240

SECTION 3-2.

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

245

PART IV

246

SECTION 4-1.

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

250 (1) Code Section 10-2-2, relating to recognized systems of weights and measures;

251 (2) Code Section 10-2-3, relating to primary standards of weights and measures and
252 prescribing and verifying secondary standards;

253 (3) Code Section 10-2-4, relating to technical requirements for commercial weighing and
254 measuring devices;

255 (4) Code Section 10-2-5, relating to powers and duties of the Commissioner of Agriculture
256 generally; and

257 (5) Code Section 10-2-19, relating to manner of display of measurement of compressed
258 natural gas on dispensing devices.

259

SECTION 4-2.

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

263 "31-7-50.

264 The state is authorized to make grants to any county, municipality, or any combination
265 thereof or to any hospital authority to assist in the construction and modernization of
266 publicly owned and publicly operated medical facilities, auxiliary medical facilities, ~~mental~~
267 ~~retardation centers~~, and mental health centers as defined in Code Section 31-7-51. The

268 amount of the grant shall be determined in accordance with Code Sections 31-7-52 and
 269 31-7-53."

270 **SECTION 4-3.**

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

273 "31-7-51.

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

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

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

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

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

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

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

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

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

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

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

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

314 SECTION 4-4.

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

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

322 SECTION 4-5.

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

326 "31-7-54.

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

333 SECTION 4-6.

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

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

360 **SECTION 4-7.**

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

364 **SECTION 4-8.**

365 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
 366 revising Code Section 44-2-83, relating to conclusiveness of decrees relative to land
 367 registration, effect of disability on conclusiveness, and recourse of persons under a disability
 368 against assurance fraud, as follows:

369 "44-2-83.

370 Every decree rendered as provided in this article shall bind the land and bar all persons
 371 claiming title thereto or interest therein, shall quiet the title thereto, and shall be forever

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

378 **SECTION 4-9.**

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

381 "44-5-170.

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

387 **SECTION 4-10.**

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

390 "44-6-161.

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

397 **SECTION 4-11.**

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

400 "44-6-162.

401 The party applying for the writ of partition shall give the other parties concerned at least
 402 20 days' notice of his or her intention to make the application. If any of the other parties
 403 is a minor, a mentally ill or ~~retarded~~ intellectually disabled person, or a beneficiary of a
 404 trust, the 20 days' notice shall be served on the guardian of such minor, the guardian of
 405 such mentally ill or ~~retarded~~ intellectually disabled person, or the trustee of such

406 beneficiary. If any of the parties reside outside of this state, the court may order service
407 by publication as in its judgment is right in each case."

408 **SECTION 4-12.**

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

412 "44-6-171.

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

430 **SECTION 4-13.**

431 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
432 by revising subsection (i) of Code Section 49-4-193, relating to established drug testing,
433 ineligibility for benefits based upon positive tests, drug treatment, impact of drug use by
434 parents on children, confidentiality, and exceptions relative to temporary assistance for needy
435 families, as follows:

436 "(i) No testing shall be required by the provisions of this Code section for any person
437 whom the department determines is significantly hindered, because of a physical or mental
438 handicap or developmental disability, from doing so or for any person enrolled in an
439 enhanced primary care case management program operated by the Department of
440 Community Health, Division of Medical Assistance to serve frail elderly and disabled

441 beneficiaries to improve the health outcomes of persons with chronic health conditions by
 442 linking primary medical care with home and community based services. In addition, no
 443 testing shall be required by the provisions of this Code section for any individuals receiving
 444 or on a waiting list for long-term services and supports through a non-Medicaid home and
 445 community based services program or for any individual residing in a facility such as a
 446 nursing home, personal care home, assisted living community, intermediate care facility
 447 for the ~~mentally retarded~~ intellectually or developmentally disabled, community living
 448 arrangement, or host home."

449 **SECTION 4-14.**

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

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

455 (A) An ambulatory surgical center;

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

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

458 (C) An institution providing emergency medical services;

459 (D) A hospice;

460 (E) A hospital;

461 (F) A hospital system;

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

464 (H) A nursing home."

465 **SECTION 4-15.**

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

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

469 (2) Code Section 9-3-90, relating to persons under disability or imprisoned when cause of
 470 action accrues;

471 (3) Code Section 9-4-4, relating to declaratory judgments involving fiduciaries;

472 (4) Code Section 15-9-30, relating to subject matter jurisdiction, powers and duties
 473 generally, and furnishing a copy of the Official Code of Georgia Annotated for each judge;

474 (5) Code Section 15-12-163, relating to challenges for cause, hearing of evidence, and
 475 when objection may be made; and

476 (6) Code Section 34-9-361, relating to employer's knowledge of employee's preexisting
477 permanent impairment.

478 **SECTION 4-16.**

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

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

483 **SECTION 4-17.**

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

487 (1) Code Section 13-3-24, relating to insane, mentally ill, mentally retarded, or mentally
488 incompetent persons' capacity to enter into contracts; and

489 (2) Code Section 48-8-3, relating to exemptions from sales and use taxes.

490 **SECTION 4-18.**

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

493 (1) Code Section 9-11-34, relating to the production of documents and things and entry
494 upon land for inspection and other purposes, applicability to nonparties, and
495 confidentiality;

496 (2) Code Section 10-1-850, relating to definitions relative to unfair or deceptive practices
497 toward the elderly; and

498 (3) Code Section 43-10A-3, relating to definitions relative to professional counselors,
499 social workers, and marriage and family therapists.

500 **PART V**

501 **SECTION 5-1.**

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

505 "16-11-7.

506 The Governor, with the concurrence of the Attorney General, is authorized and directed to
507 appoint a special assistant attorney general for investigating and prosecuting subversive

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

520 **SECTION 5-2.**

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

523 "16-11-10.

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

531 **SECTION 5-3.**

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

535 "45-3-11.

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

542 **SECTION 5-4.**

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

545 "45-3-13.

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

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

552 **PART VI**553 **SECTION 6-1.**

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

557 **SECTION 6-2.**

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

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

574 **SECTION 6-3.**

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

578 **SECTION 6-4.**

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

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

588 **SECTION 6-5.**

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

592 ~~"(f) The provisions of this article with regard to annexation of unincorporated islands is~~
 593 ~~severable as to each city and to the annexation of each unincorporated island therein. The~~
 594 ~~implementation of each annexation pursuant to this article is contingent upon preclearance~~
 595 ~~of each annexation by the U.S. Justice Department pursuant to Section 5 of the Voting~~
 596 ~~Rights Act of 1965, 42 U.S.C. 1973(c). Any city annexing an unincorporated island~~
 597 ~~pursuant to this article shall submit such annexation to the U.S. Justice Department for~~
 598 ~~preclearance not later than 90 days following the date of adoption of the annexation~~
 599 ~~ordinance by the municipal governing authority."~~

600 **SECTION 6-6.**

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

604 **SECTION 6-7.**

605 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
 606 is amended by repealing Code Section 45-15-35.1, relating to the Governor's power to seek

607 preclearance of any change affecting voting pursuant to Section 5 of the federal Voting
608 Rights Act of 1965.

609 **PART VII**
610 **SECTION 7-1.**

611 Code Section 37-2-6.1 of the Official Code of Georgia Annotated, relating to the executive
612 director of community service boards, is amended by revising subsections (a), (b), and (g)
613 as follows:

614 "(a)(1) ~~Each~~ The governing board of each community service board shall employ an
615 executive director to serve as its chief executive officer and shall prescribe the duties
616 thereof. The selection of the executive director and all terms of compensation shall be
617 set by the governing board of each community service board and shall be subject to
618 review and approval by the commissioner prior to any offer of employment or at any
619 point thereafter where the terms of compensation are proposed to be substantially altered.
620 Such contracts shall be reviewed by the commissioner every five years. Further, the
621 commissioner shall be required to review and approve the selection of the executive
622 director of each community service board for adherence to minimum qualifications for
623 the position as prescribed by the department. The executive director shall direct the
624 day-to-day operations of the community service board. Such executive director shall be
625 appointed and removed by the community service board pursuant to this subsection and
626 shall appoint other necessary staff pursuant to an annual budget adopted by the board,
627 which budget shall provide for securing appropriate facilities, sites, and professionals
628 necessary for the provision of disability and health services. Notwithstanding any other
629 provision of law to the contrary, the governing board of the community service board
630 may delegate any power, authority, duty, or function to its executive director or other
631 staff. The executive director or other staff is authorized to exercise any power, authority,
632 duty, or function on behalf of the governing board of the community service board.

633 ~~(1)~~(2) The executive director or any full-time or part-time employee of a community
634 service board shall have a responsibility to avoid any conflict of interest in a manner that
635 is consistent with the declarations found in Code Section ~~45-10-2~~ 45-10-21. Such
636 employees shall not transact any business with that community service board as
637 prohibited in Code Section 45-10-23 unless any such transaction falls under the
638 exceptions granted in Code Section 45-10-25. Transactions that fall under such
639 exceptions shall be disclosed to the governing board of the community service board in
640 the manner as such governing board shall determine and yearly to the Georgia
641 Government Transparency and Campaign Finance Commission as prescribed in Code

642 Section 45-10-26. The governing board of the community service board shall promulgate
 643 policies and procedures governing executive director and employee conflicts of interest
 644 and establish a code of ethics for the executive director and employees of the community
 645 service board.

646 (b) ~~Each~~ The governing board of a each community service board or each community
 647 service board, under the jurisdiction of its governing board, shall perform duties,
 648 responsibilities, and functions and may exercise power and authority described in this
 649 subsection as follows:

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

655 (2) ~~Each~~ The governing board of a each community service board shall be required to
 656 review and approve the annual budget of the community service board and shall be
 657 required to establish the general policies related to such budget to be followed by the
 658 community service board;

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

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

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

667 (6) Each community service board may contract to utilize the services of the Department
 668 of Administrative Services, the state auditor, or any other agency of state, local, or federal
 669 government;

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

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

- 679 (B) Life insurance coverage and coverage under federal old age and survivors'
680 insurance programs;
- 681 (C) Sick leave, annual leave, and holiday leave; and
- 682 (D) Any other similar benefits including, but not limited to, death benefits;
- 683 (8) Each community service board may cooperate with all units of local government in
684 the counties where the community service board provides services as well as neighboring
685 regions and with the programs of other departments, agencies, and regional commissions
686 and regional planning boards;
- 687 (9) Each community service board shall establish and maintain a personnel program for
688 its employees and fix the compensation and terms of compensation of its employees;
689 provided, however, that each community service board shall comply with the provisions
690 of Chapter 20 of Title 45, for so long as and to the extent that each employee of such
691 board remains subject to the rules and regulations of the State Personnel Board or as
692 otherwise provided by law;
- 693 (10) Each community service board may receive and administer grants, gifts, contracts,
694 moneys, and donations for purposes pertaining to the delivery of disability services or of
695 health services;
- 696 (11) Each community service board may establish fees for the provision of disability
697 services or health services according to the terms of contracts entered into with the
698 department, Department of Human Services, Department of Public Health, or Department
699 of Community Health, as appropriate; provided, however, that all fees collected shall be
700 used solely in accordance with the statutory nonprofit and public purposes of community
701 service boards as prescribed in Article 1 of Chapter 2 of Title 37;
- 702 (12) Each community service board may accept appropriations, loans of funds, facilities,
703 equipment, and supplies from local governmental entities in the counties where the
704 community service board provides services;
- 705 (13) Each member of the governing board of a community service board may, upon
706 approval of the executive director, receive reimbursement for actual expenses incurred
707 in carrying out the duties of such office; provided, however, that such reimbursement
708 shall not exceed the rates and allowances set for state employees by the Office of
709 Planning and Budget or the mileage allowance for use of a personal car as that received
710 by all other state officials and employees or a travel allowance of actual transportation
711 cost if traveling by public carrier;
- 712 (14) ~~Each~~ The governing board of a each community service board shall elect a
713 chairperson and vice chairperson from among its membership. The governing board
714 members shall also elect a secretary and treasurer from among its membership or may
715 designate the executive director of the community service board to serve in one or both

716 offices. Such officers shall serve for such terms as shall be prescribed in the bylaws of
717 the community service board or until their respective successors are elected and qualified.
718 No governing board member shall hold more than one office of the governing board of
719 a community service board; except that the same person may serve as secretary and
720 treasurer. The bylaws of the governing board of a community service board shall provide
721 for any other officers of such board and the means of their selection, the terms of office
722 of the officers, and an annual meeting to elect officers;

723 (15) Each community service board may have a seal and alter it;

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

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

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

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

752 "(g) Each community service board may provide reasonable reserves for the improvement,
 753 replacement, or expansion of its facilities and services. Reserves under this subsection
 754 shall be subject to the limitations in paragraph ~~(15)~~ (17) of subsection (b) of this Code
 755 section."

756 **SECTION 7-2.**

757 Code Section 37-2-10 of the Official Code of Georgia Annotated, relating to the
 758 commissioner's emergency powers upon failure of a community service board, is amended
 759 by revising paragraph (5) of subsection (c) as follows:

760 "(5) A manager or management team ~~appoint~~ appointed pursuant to this subsection shall
 761 be free from all liability, joint or several, for the manager or management team's acts,
 762 omissions, and conduct and for the acts, omissions, and conduct of their duly constituted
 763 agents in the administration of the community service board or its programs. The state
 764 shall indemnify and save them, and each of them, harmless from the effects and
 765 consequences of their acts, omissions, and conduct in their official capacity, except to the
 766 extent that such effects and consequences shall result from their own willful misconduct."

767 **PART VIII**

768 **SECTION 8-1.**

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