

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

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**SENATE BILL 627**

Short Title: Annexation Reform. (Public)

Sponsors: Senators Davis, Apodaca; and Rabon.

Referred to: Finance.

April 19, 2011

A BILL TO BE ENTITLED  
AN ACT TO AMEND AND REFORM THE INVOLUNTARY ANNEXATION LAWS OF  
NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 160A-35 reads as rewritten:

**"§ 160A-35. Prerequisites to annexation; ability to serve; report and plans.**

A municipality exercising authority under this Part shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in G.S. 160A-37, prepare a report setting forth such plans to provide services to such area. The report shall include:

- (1) A map or maps of the municipality and adjacent territory to show the following information:
  - a. The present and proposed boundaries of the municipality.
  - b. The proposed extensions of water mains and sewer outfalls to serve the annexed area, if such utilities are operated by the municipality. The water and sewer map must bear the seal of a registered professional engineer or a licensed surveyor.
- (2) A statement showing that the area to be annexed meets the requirements of G.S. 160A-36.
- (3) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans shall:
  - a. Provide for extending police protection, fire protection, solid waste collection and street maintenance services to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation. A contract with a rural fire department to provide fire protection shall be an acceptable method of providing fire protection. If a water distribution system is not available in the area to be annexed, the plans must call for reasonably effective fire protection services until such time as waterlines are made available in such area under existing municipal policies for the extension of waterlines. A contract with a private firm to provide solid waste collection services shall be an acceptable method of providing solid waste collection services.



1           b.     Provide for extension of water ~~mains~~mains, waterlines, and sewer  
2           lines into the area to be annexed so that property owners in the area  
3           to be annexed will be able to secure public water and sewer services  
4           according to the policies in effect in such municipality ~~for extending~~  
5           ~~water and sewer lines to individual lots or subdivisions~~prior to  
6           annexation. If the municipality must, at its own expense, extend  
7           water and/or sewer mains into the area to be annexed before property  
8           owners in the area can, according to municipal policies, make such  
9           connection to such lines, then the plans must call for contracts to be  
10          let and construction to begin on such lines within one year following  
11          the effective date of annexation. In areas where the installation of  
12          sewer is not ~~economically~~fiscally feasible or would be  
13          environmentally damaging due to the unique topography or  
14          environmental qualities of the area, the municipality may agree to  
15          provide septic system maintenance and repair service until such time  
16          as sewer service is provided to properties similarly situated. In any  
17          event, the plans shall call for construction to be completed within two  
18          years of the effective date of the annexation.

19          c.     Set forth the method under which the municipality plans to finance  
20          extension of services into the area to be annexed.

21          (4)    A statement of the impact of the annexation on any rural fire department  
22          providing service in the area to be annexed and a statement of the impact of  
23          the annexation on fire protection and fire insurance rates in the area to be  
24          annexed, if the area where service is provided is in an insurance district  
25          designated under G.S. 153A-233, a rural fire protection district under Article  
26          3A of Chapter 69 of the General Statutes, or a fire service district under  
27          Article 16 of Chapter 153A of the General Statutes. The rural fire  
28          department shall make available to the city not later than 30 days following a  
29          written request from the city all information in its possession or control,  
30          including but not limited to operational, financial and budgetary information,  
31          necessary for preparation of a statement of impact. The rural fire department  
32          forfeits its rights under G.S. 160A-37.1 and G.S. 160A-37.2 if it fails to  
33          make a good faith response within 45 days following receipt of the written  
34          request for information from the city, provided that the city's written request  
35          so states by specific reference to this section.

36          (5)    A statement showing how the proposed annexation will affect the city's  
37          finances and services, including city revenue change estimates. This  
38          statement shall be delivered to the clerk of the board of county  
39          commissioners at least 30 days before the date of the public informational  
40          meeting on any annexation under this Part."

41          **SECTION 2.** G.S. 160A-36 reads as rewritten:

42          "**§ 160A-36. Character of area to be annexed.**

43          (a)    A municipal governing board may extend the municipal corporate limits to include  
44          any area which meets the general standards of subsection (b), and which meets the  
45          requirements of subsection (c).

46          (b)    The total area to be annexed must meet the following standards:

47          (1)    It must be adjacent or contiguous to the municipality's boundaries at the time  
48          the annexation proceeding is begun, except if the entire territory of a county  
49          water and sewer district created under G.S. 162A-86(b1) is being annexed,  
50          the annexation shall also include any noncontiguous pieces of the district as  
51          long as the part of the district with the greatest land area is adjacent or

- 1 contiguous to the municipality's boundaries at the time the annexation  
2 proceeding is begun.
- 3 (2) At least one eighth of the aggregate external boundaries of the area must  
4 coincide with the municipal boundary.
- 5 (3) No part of the area shall be included within the boundary of another  
6 incorporated municipality.
- 7 (c) The area to be annexed must be developed for urban purposes at the time of  
8 approval of the report provided for in G.S. 160A-35. For purposes of this section, a lot or tract  
9 shall not be considered in use for a commercial, industrial, institutional, or governmental  
10 purpose if the lot or tract is used only temporarily, occasionally, or on an incidental or  
11 insubstantial basis in relation to the size and character of the lot or tract. For purposes of this  
12 section, acreage in use for commercial, industrial, institutional, or governmental purposes shall  
13 include acreage actually occupied by buildings or other man-made structures together with all  
14 areas that are reasonably necessary and appurtenant to such facilities for purposes of parking,  
15 storage, ingress and egress, utilities, buffering, and other ancillary services and facilities. Area  
16 of streets and street rights-of-way shall not be used to determine total acreage under this  
17 section. An area developed for urban purposes is defined as:
- 18 (1) Any area which is so developed that at least ~~sixty percent (60%)~~sixty-five  
19 percent (65%) of the total number of lots and tracts in the area at the time of  
20 annexation are used for residential, commercial, industrial, institutional or  
21 governmental purposes, and is subdivided into lots and tracts such that at  
22 least sixty percent (60%) of the total acreage, not counting the acreage used  
23 at the time of annexation for commercial, industrial, governmental or  
24 institutional purposes, consists of lots and tracts three acres or less in size.
- 25 (2) An area so developed that, at the time of the approval of the annexation  
26 report, all tracts in the area to be annexed are used for commercial,  
27 industrial, governmental, or institutional purposes.
- 28 (3) The entire area of any county water and sewer district created under  
29 G.S. 162A-86(b1), but this subsection only applies to annexation by a  
30 municipality if that:
- 31 a. Municipality has provided in a contract with that district that the area  
32 is developed for urban purposes; and
- 33 b. Contract provides for the municipality to operate the sewer system of  
34 that county water and sewer district;
- 35 provided that the special categorization provided by this subsection only  
36 applies if the municipality is annexing in one proceeding the entire territory  
37 of the district not already within the corporate limits of a municipality.
- 38 (d) In fixing new municipal boundaries, a municipal governing board shall use recorded  
39 property lines and streets as boundaries. Some or all of the boundaries of a county water and  
40 sewer district may also be used when the entire district not already within the corporate limits  
41 of a municipality is being annexed.
- 42 (d1) As used in this subsection, "primary county" means in the case of a municipality  
43 located in only one county, the county in which it is located, and in the case of a municipality  
44 located in more than one county, the county in which the greatest part of its land area is located.  
45 No municipality may annex any territory in a county other than its primary county without the  
46 approval of the annexation by the board of commissioners of the county in which the  
47 annexation is proposed. Such approval may only be granted after a public hearing by that  
48 county board of commissioners, conducted at least 25 days after advertisement. Such approval  
49 may be obtained at any time prior to adoption of the annexation ordinance. This subsection  
50 does not authorize any annexation prohibited by local act. Approval under this subsection is in  
51 addition to any other requirement of this Part.

1 (e) The area of an abolished water and sewer district shall be considered to be a water  
2 and sewer district for the purpose of this section even after its abolition under  
3 G.S. 162A-87.2(b)."

4 **SECTION 3.** G.S. 160A-37 reads as rewritten:

5 "**§ 160A-37. Procedure for annexation.**

6 (a) ~~Notice of Intent.~~ Resolution of Consideration. – Any municipal governing board  
7 desiring to annex territory under the provisions of this Part shall first pass a resolution  
8 identifying the area as being under consideration for annexation. The resolution of  
9 consideration may have a metes and bounds description or a map and shall remain effective for  
10 two years after adoption and shall be filed with the city clerk. A new resolution of  
11 consideration adopted before expiration of the two-year period for a previously adopted  
12 resolution covering the same area shall relate back to the date of the previous resolution.  
13 Adoption of a resolution of consideration shall not confer prior jurisdiction over the area as to  
14 any other city. A notice of adoption of the resolution of consideration shall be published once a  
15 week for two successive weeks, with each publication being on the same day of the week, in a  
16 newspaper having general circulation in the municipality. The second publication shall be no  
17 more than 30 days following adoption of the resolution. The notice shall contain a map or  
18 description of the area under consideration and a summary of the annexation process and time  
19 lines.

20 (a1) Resolution of Intent. – At least one year after adoption of the resolution of  
21 consideration, the municipal governing body may adopt a resolution stating the intent of the  
22 municipality to ~~consider annexation.~~ proceed with annexation of some or all of the area  
23 described in the resolution of consideration. Such resolution of intent shall describe the  
24 boundaries of the area ~~under consideration,~~ intended for annexation, fix a date for the public  
25 informational meeting, and fix a date for a public hearing on the question of annexation. The  
26 date for the public informational meeting shall be not less than 45 days and not more than 55  
27 days following passage of the resolution. The date for the public hearing to be not less than 60  
28 days and not more than 90 days following passage of the ~~resolution.~~ resolution of intent.

29 (b) Notice of Public Information Meeting and Public Hearing. – The notice of public  
30 information meeting and public hearing ~~shall:~~ shall be a combined notice that includes at least  
31 all of the following information:

- 32 (1) Fix the date, hour and place of the public informational meeting and the  
33 date, hour, and place of the public hearing.
- 34 (2) Describe clearly the boundaries of the area under consideration, and include  
35 a legible map of the area.
- 36 (3) State that the report required in G.S. 160A-35 will be available at the office  
37 of the municipal clerk at least 30 days prior to the date of the public  
38 informational meeting.
- 39 (4) Include an explanation of an owner's rights pursuant to subsection (f1) and  
40 (f2) of this section.
- 41 (5) Include information on how to request to become a customer of the water  
42 service or sewer service, the cost of requesting that service along with the  
43 option of paying that cost in accordance with G.S. 160A-232(c), and any  
44 forms to request that service.
- 45 (6) Describe clearly the distinction between the public informational meeting  
46 and the public hearing.

47 Such notice shall be given by publication once a week for at least two successive weeks  
48 prior to the date of the informational ~~meeting~~ meeting, with each publication being on the same  
49 day of the week, in a newspaper having general circulation in the municipality and, in addition  
50 thereto, if the area to be annexed lies in a county containing less than fifty percent (50%) of the  
51 land area of the municipality, in a newspaper having general circulation in the area of proposed

1 annexation. ~~The period from the date of the first publication to the date of the last publication,~~  
2 ~~both dates inclusive, shall be not less than eight days including Sundays, and the date of the last~~  
3 ~~publication shall be not more than seven days preceding the date of public informational~~  
4 ~~meeting.~~ If there be no such newspaper, the municipality shall post the notice in at least five  
5 public places within the municipality and at least five public places in the area to be annexed  
6 for 30 days prior to the date of public informational meeting. In addition, notice shall be mailed  
7 at least four weeks prior to date of the informational meeting, by ~~first class mail, postage~~  
8 ~~prepaid~~ certified mail to the owners as shown by the tax records of the county of all freehold  
9 interests in real property located within the area to be annexed. The person or persons mailing  
10 such notices shall certify to the governing board that fact, and such certificate shall become a  
11 part of the record of the annexation proceeding and shall be deemed conclusive in the absence  
12 of fraud. If the notice is returned to the city by the postal service by the tenth day before the  
13 informational meeting, a copy of the notice shall be sent by certified mail, return receipt  
14 requested, at least seven days before the informational meeting. Failure to comply with the  
15 mailing requirement of this subsection shall not invalidate the annexation unless it is shown  
16 that the requirements were not substantially complied with.

17 If the governing board by resolution finds that the tax records are not adequate to identify  
18 the owners of some or all of the parcels of real property within the area it may in lieu of the  
19 mail procedure as to those parcels where the owners could not be so identified, post the notice  
20 at least 30 days prior to the date of public informational meeting on all buildings on such  
21 parcels, and in at least five other places within the area to be annexed. In any case where  
22 notices are placed on property, the person placing the notice shall certify that fact to the  
23 governing board.

24 (c) Action Prior to Informational Meeting. – At least 30 days before the date of the  
25 public informational meeting, the governing board shall approve the report provided for in  
26 G.S. 160A-35, and shall make it available to the public at the office of the municipal clerk. In  
27 addition, the municipality may prepare a summary of the full report for public distribution. In  
28 addition, the city shall post in the office of the city clerk at least 30 days before the public  
29 informational meeting a legible map of the area to be annexed and a list of the persons holding  
30 freehold interests in property in the area to be annexed that it has identified.

31 (c1) Public Informational Meeting. – At the public informational meeting a  
32 representative of the municipality shall first make an explanation of the report required in  
33 G.S. 160A-35. Following such explanation, all persons resident or owning property in the  
34 territory described in the notice of public hearing, and all residents of the municipality, shall be  
35 given the opportunity to ask questions and receive answers regarding the proposed annexation.

36 (d) Public Hearing. – At the public hearing a representative of the municipality shall  
37 first make an explanation of the report required in G.S. 160A-35. Following such explanation,  
38 all persons resident or owning property in the territory described in the notice of public hearing,  
39 and all residents of the municipality, shall be given an opportunity to be heard. A summary of  
40 the annexation process and time lines, a summary of available statutory remedies for contesting  
41 the annexation and the failure to provide services, and the form for requesting the extension of  
42 water and sewer lines to individual lots shall be distributed at the public hearing.

43 (e) Passage of the Annexation Ordinance. – The municipal governing board shall take  
44 into consideration facts presented at the public hearing and shall have authority to amend the  
45 report required by G.S. 160A-35 to make changes in the plans for serving the area proposed to  
46 be annexed so long as such changes meet the requirements of G.S. 160A-35. At any regular or  
47 special meeting held no sooner than the tenth day following the public hearing and not later  
48 than 90 days following such public hearing, the governing board shall have authority to adopt  
49 an ordinance extending the corporate limits of the municipality to include all, or such part, of  
50 the area described in the notice of public hearing which meets the requirements of

1 G.S. 160A-36 and which the governing board has concluded should be annexed. The ordinance  
2 shall:

- 3 (1) Contain specific findings showing that the area to be annexed meets the  
4 requirements of G.S. 160A-36. The external boundaries of the area to be  
5 annexed shall be described by metes and bounds. In showing the application  
6 of G.S. 160A-36(c) and (d) to the area, the governing board may refer to  
7 boundaries set forth on a map of the area and incorporate same by reference  
8 as a part of the ordinance.
- 9 (2) A statement of the intent of the municipality to provide services to the area  
10 being annexed as set forth in the report required by G.S. 160A-35.
- 11 (3) A specific finding that on the effective date of annexation the municipality  
12 will have funds appropriated in sufficient amount to finance construction of  
13 any water and sewer lines found necessary in the report required by  
14 G.S. 160A-35 to extend the basic water and/or sewer system of the  
15 municipality into the area to be annexed, or that on the effective date of  
16 annexation the municipality will have authority to issue bonds in an amount  
17 sufficient to finance such construction. If authority to issue such bonds must  
18 be secured from the electorate of the municipality prior to the effective date  
19 of annexation, then the effective date of annexation shall be no earlier than  
20 the day following the statement of the successful result of the bond election.
- 21 (4) Fix the effective date for annexation. The effective date of annexation ~~may~~  
22 ~~be fixed for any date not less than 40 days nor more than 400 days from the~~  
23 ~~date of passage shall be June 30 next following adoption~~ of the ordinance.

24 (f) Effect of Annexation Ordinance. – No annexation ordinance may take effect until a  
25 vote of the registered voters in the area to be annexed has been conducted by the appropriate  
26 board of elections, and the results certified indicate that more than fifty percent (50%) of the  
27 voters approve the annexation. Except as provided in subsection (f1) of this section, from and  
28 after the effective date of the annexation ordinance, the territory and its citizens and property  
29 shall be subject to all debts, laws, ordinances and regulations in force in such municipality and  
30 shall be entitled to the same privileges and benefits as other parts of such municipality. ~~Real~~  
31 ~~and personal property in the newly annexed territory on the January 1 immediately preceding~~  
32 ~~the beginning of the fiscal year in which the annexation becomes effective is subject to~~  
33 ~~municipal taxes as provided in G.S. 160A 58.10. If the effective date of annexation falls~~  
34 ~~between June 1 and June 30, and the effective date of the privilege license tax ordinance of the~~  
35 ~~annexing municipality is June 1, then businesses in the area to be annexed shall be liable for~~  
36 ~~taxes imposed in such ordinance from and after the effective date of annexation.~~

37 (f1) Property Subject to Present-Use Value Appraisal. – If an area described in an  
38 annexation ordinance includes agricultural land, horticultural land, or forestland that meets  
39 either of the conditions listed below on the effective date of annexation, then the annexation  
40 becomes effective as to that property pursuant to subsection (f2) of this section:

- 41 (1) The land is being taxed at present-use value pursuant to G.S. 105-277.4.
- 42 (2) The land meets both of the following conditions:
- 43 a. On the date of the resolution of intent for annexation it was being  
44 used for actual production and is eligible for present-use value  
45 taxation under G.S. 105-277.4, but the land had not been in use for  
46 actual production for the required time under G.S. 105-277.3.
- 47 b. The assessor for the county where the land subject to annexation is  
48 located has certified to the city that the land meets the requirements  
49 of this subdivision.

1 (f2) Effective Date of Annexation for Certain Property. – Annexation of property subject  
2 to annexation under subsection (f1) of this section becomes effective as provided in this  
3 subsection:

4 (1) Upon the effective date of the annexation ordinance, the property is  
5 considered part of the city only (i) for the purpose of establishing city  
6 boundaries for additional annexations pursuant to this Article and (ii) for the  
7 exercise of city authority pursuant to Article 19 of this Chapter.

8 (2) For all other purposes, the annexation becomes effective as to each tract of  
9 the property or part thereof on the last day of the month in which that tract or  
10 part thereof becomes ineligible for classification pursuant to G.S. 105-277.4  
11 or no longer meets the requirements of subdivision (f1)(2) of this section.  
12 Until annexation of a tract or a part of a tract becomes effective pursuant to  
13 this subdivision, the tract or part of a tract is not subject to taxation by the  
14 city under Article 12 of Chapter 105 of the General Statutes nor is the tract  
15 or part of a tract entitled to services provided by the city.

16 (g) Simultaneous Annexation Proceedings. – If a municipality is considering the  
17 annexation of two or more areas which are all adjacent to the municipal boundary but are not  
18 adjacent to one another, it may undertake simultaneous proceedings under authority of this Part  
19 for the annexation of such areas.

20 (h) Remedies for Failure to Provide Services. – If, not earlier than one year from the  
21 effective date of annexation, and not later than 15 months from the effective date of annexation,  
22 any person owning property in the annexed territory shall believe that the municipality has not  
23 followed through on its service plans adopted under the provisions of G.S. 160A-35(3) and  
24 subsection (e) of this section, the person may apply for a writ of mandamus under the  
25 provisions of Article 40, Chapter 1 of the General Statutes. Relief may be granted by the judge  
26 of superior court

27 (1) If the municipality has not provided the services set forth in its plan  
28 submitted under the provisions of G.S. 160A-35(3)a on substantially the  
29 same basis and in the same manner as such services were provided within  
30 the rest of the municipality prior to the effective date of annexation, and

31 (2) If at the time the writ is sought such services set forth in the plan submitted  
32 under the provisions of G.S. 160A-35(3)a are still being provided on  
33 substantially the same basis and in the same manner as on the date of  
34 annexation of the municipality.

35 Relief may also be granted by the judge of superior court

36 (1) If the plans submitted under the provisions of G.S. 160A-35(3)b. require the  
37 construction of major trunk water mains and sewer outfall lines and

38 (2) If contracts for such construction have not yet been let.

39 If a writ is issued, costs in the action, including a reasonable attorney's fee for such  
40 aggrieved person, shall be charged to the municipality.

41 ~~(i) No resolution of intent may be adopted under subsection (a) of this section unless~~  
42 ~~the city council (or a planning agency created or designated under either G.S. 160A-361 or the~~  
43 ~~charter) has, by resolution adopted at least one year prior to adoption of the resolution of intent,~~  
44 ~~identified the area as being under consideration for annexation and included a statement in the~~  
45 ~~resolution notifying persons subject to the annexation of their rights under subsections (f1) and~~  
46 ~~(f2) of this section; provided, adoption of such resolution of consideration shall not confer prior~~  
47 ~~jurisdiction over the area as to any other city. The area described under the resolution of intent~~  
48 ~~may comprise a smaller area than that identified by the resolution of consideration. The~~  
49 ~~resolution of consideration may have a metes and bounds description or a map, shall remain~~  
50 ~~effective for two years after adoption, and shall be filed with the city clerk. A new resolution of~~

1 ~~consideration adopted before expiration of the two year period for a previously adopted~~  
2 ~~resolution covering the same area shall relate back to the date of the previous resolution.~~

3 ~~(j) Subsection (i) of this section shall not apply to the annexation of any area if the~~  
4 ~~resolution of intent describing the area and the ordinance annexing the area both provide that~~  
5 ~~the effective date of the annexation shall be at least one year from the date of passage of the~~  
6 ~~annexation ordinance.~~

7 (k) If a city fails to deliver police protection, fire protection, solid waste or street  
8 maintenance services as provided for in G.S. 160A-35(3)a. within 60 days after the effective  
9 date of the annexation, the owner of the property may petition the Local Government  
10 Commission for abatement of taxes to be paid to the city for taxes that have been levied as of  
11 the end of the 60-day period, if the petition is filed not more than 90 days after the expiration of  
12 the 60-day period. If the Local Government Commission finds that services were not extended  
13 by the end of the 60-day period, it shall enter an order directing the city not to levy any further  
14 ad valorem taxes on the property until the fiscal year commencing after extension of the  
15 municipal services.

16 **"§ 160A-38. Appeal.**

17 (a) Within 60 days following the passage of an annexation ordinance under authority of  
18 this Part, any person owning property in the annexed territory who shall believe that he will  
19 suffer material injury by reason of the failure of the municipal governing board to comply with  
20 the procedure set forth in this Part or to meet the requirements set forth in G.S. 160A-36 as they  
21 apply to his property may file a petition in the superior court of the county in which the  
22 municipality is located seeking review of the action of the governing board.

23 (b) Such petition shall explicitly state what exceptions are taken to the action of the  
24 governing board and what relief the petitioner seeks. Within 10 days after the petition is filed  
25 with the court, the person seeking review shall serve copies of the petition by registered mail,  
26 return receipt requested, upon the municipality.

27 (c) Within 15 days after receipt of the copy of the petition for review, or within such  
28 additional time as the court may allow, the municipality shall transmit to the reviewing court

29 (1) A transcript of the portions of the municipal journal or minute book in which  
30 the procedure for annexation has been set forth and

31 (2) A copy of the report setting forth the plans for extending services to the  
32 annexed area as required in G.S. 160A-35.

33 (d) If two or more petitions for review are submitted to the court, the court may  
34 consolidate all such petitions for review at a single hearing, and the municipality shall be  
35 required to submit only one set of minutes and one report as required in subsection (c).

36 (e) At any time before or during the review proceeding, any petitioner or petitioners  
37 may apply to the reviewing court for an order staying the operation of the annexation ordinance  
38 pending the outcome of the review. The court may grant or deny the stay in its discretion upon  
39 such terms as it deems proper, and it may permit annexation of any part of the area described in  
40 the ordinance concerning which no question for review has been raised.

41 (f) The court shall fix the date for review of annexation proceedings under this Chapter,  
42 which review date shall preferably be within 30 days following the last day for receiving  
43 petitions to the end that review shall be expeditious and without unnecessary delays. The  
44 review shall be conducted by the court without a jury. The court may hear oral arguments and  
45 receive written briefs, and may take evidence intended to show either

46 (1) That the statutory procedure was not followed or

47 (2) That the provisions of G.S. 160A-35 were not met, or

48 (3) That the provisions of G.S. 160A-36 have not been met.

49 (g) The court may affirm the action of the governing board without change, or it may



- 1 (1) Remand the ordinance to the municipal governing board for further  
2 proceedings if procedural irregularities are found to have materially  
3 prejudiced the substantive rights of any of the petitioners.
- 4 (2) Remand the ordinance to the municipal governing board for amendment of  
5 the boundaries to conform to the provisions of G.S. 160A-36 if it finds that  
6 the provisions of G.S. 160A-36 have not been met; provided, that the court  
7 cannot remand the ordinance to the municipal governing board with  
8 directions to add area to the municipality which was not included in the  
9 notice of public hearing and not provided for in plans for service.
- 10 (3) Remand the report to the municipal governing board for amendment of the  
11 plans for providing services to the end that the provisions of G.S. 160A-35  
12 are satisfied.
- 13 (4) Declare the ordinance null and void, if the court finds that the ordinance  
14 cannot be corrected by remand as provided in subdivisions (1), (2), or (3) of  
15 this subsection.

16 If any municipality shall fail to take action in accordance with the court's instructions upon  
17 remand within 90 days following entry of the order embodying the court's instructions, the  
18 annexation proceeding shall be deemed null and void.

19 (h) Any party to the review proceedings, including the municipality, may appeal to the  
20 Court of Appeals from the final judgment of the superior court under rules of procedure  
21 applicable in other civil cases. The superior court may, with the agreement of the municipality,  
22 permit annexation to be effective with respect to any part of the area concerning which no  
23 appeal is being made and which can be incorporated into the city without regard to any part of  
24 the area concerning which an appeal is being made.

25 (i) If part or all of the area annexed under the terms of an annexation ordinance is the  
26 subject of an appeal to the superior court, Court of Appeals or Supreme Court on the effective  
27 date of the ordinance, then the ordinance shall be deemed amended to make the effective date  
28 with respect to such area the last day of the next full calendar month following the date of the  
29 final judgment of the superior court, Court of Appeals or Supreme Court, whichever is  
30 appropriate, or the date the municipal governing board completes action to make the ordinance  
31 conform to the court's instructions in the event of remand. For the purposes of this subsection, a  
32 denial of a petition for a rehearing or for discretionary review shall be treated as a final  
33 judgment.

34 (j) The provisions of subsection (i) of this section shall apply to any judicial review  
35 authorized in whole or in part by G.S. 160A-37.1(i) or G.S. 160A-37.3(g).

36 (k) In any proceeding related to an annexation ordinance appeal under this section, a  
37 city shall not state a claim for lost property tax revenue caused by the appeal. Nothing in this  
38 Article shall be construed to mean that as a result of an appeal a municipality may assert a  
39 claim for property tax revenue lost during the pendency of the appeal.

40 (l) Any settlement agreed to by all parties in an appeal under this section may be  
41 presented to the superior court in the county in which the municipality is located. If the superior  
42 court, in its discretion, approves the settlement, it shall be binding on all parties without the  
43 need for approval by the General Assembly."

44 **SECTION 4.** G.S. 160A-38(a) reads as rewritten:

45 "(a) Within ~~60~~90 days following the passage of an annexation ordinance under authority  
46 of this Part, any person owning property in the annexed territory who shall believe that he will  
47 suffer material injury by reason of the failure of the municipal governing board to comply with  
48 the procedure set forth in this Part or to meet the requirements set forth in G.S. 160A-36 as they  
49 apply to his property may file a petition in the superior court of the county in which the  
50 municipality is located seeking review of the action of the governing board."

51 **SECTION 5.** G.S. 160A-47 reads as rewritten:

**"§ 160A-47. Prerequisites to annexation; ability to serve; report and plans.**

A municipality exercising authority under this Part shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in G.S. 160A-49, prepare a report setting forth such plans to provide services to such area. The report shall include:

- (1) A map or maps of the municipality and adjacent territory to show the following information:
  - a. The present and proposed boundaries of the municipality.
  - b. The present major trunk water mains and sewer interceptors and outfalls, and the proposed extensions of such mains and outfalls as required in subdivision (3) of this section. The water and sewer map must bear the seal of a registered professional engineer.
  - c. The general land use pattern in the area to be annexed.
- (2) A statement showing that the area to be annexed meets the requirements of G.S. 160A-48.
- (3) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans shall:
  - a. Provide for extending police protection, fire protection, solid waste collection and street maintenance services to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation. A contract with a rural fire department to provide fire protection shall be an acceptable method of providing fire protection. If a water distribution system is not available in the area to be annexed, the plans must call for reasonably effective fire protection services until such time as waterlines are made available in such area under existing municipal policies for the extension of waterlines. A contract with a private firm to provide solid waste collection services shall be an acceptable method of providing solid waste collection services.
  - b. Provide for extension of major trunk water mains and sewer outfall ~~lines~~ lines and waterlines into the area to be annexed so that when such lines are constructed, property owners in the area to be annexed will be able to secure public water and sewer service, according to the policies in effect in such municipality ~~for extending water and sewer lines to individual lots or subdivisions~~ prior to annexation. If requested by the owner of an occupied dwelling unit or an operating commercial or industrial property in writing on a form provided by the municipality, which form acknowledges that such extension or extensions will be made according to the current financial policies of the municipality for making such extensions, and if such form is received by the city clerk no later than five days after the public hearing, provide for extension of water and sewer lines to the property or to a point on a public street or road right-of-way adjacent to the property according to the financial policies in effect in such municipality for extending water and sewer lines. If any such requests are timely made, the municipality shall at the time of adoption of the annexation ordinance amend its report and plan for services to reflect and accommodate such requests, if an amendment is necessary. In areas where the municipality is required to extend

1 sewer service according to its policies, but the installation of sewer is  
2 not ~~economically~~fiscally feasible or would be environmentally  
3 damaging due to the unique topography or environmental qualities of  
4 the area, the municipality shall provide septic system maintenance  
5 and repair service until such time as sewer service is provided to  
6 properties similarly situated. In any event, the plans shall call for  
7 construction to be completed within two years of the effective date of  
8 the annexation.

9 c. If extension of major trunk water mains, sewer outfall lines, sewer  
10 lines and water lines is necessary, set forth a proposed timetable for  
11 construction of such mains, outfalls and lines as soon as possible  
12 following the effective date of annexation. In any event, the plans  
13 shall call for construction to be completed within two years of the  
14 effective date of annexation.

15 d. Set forth the method under which the municipality plans to finance  
16 extension of services into the area to be annexed.

17 (4) A statement of the impact of the annexation on any rural fire department  
18 providing service in the area to be annexed and a statement of the impact of  
19 the annexation on fire protection and fire insurance rates in the area to be  
20 annexed, if the area where service is provided is in an insurance district  
21 designated under G.S. 153A-233, a rural fire protection district under Article  
22 3A of Chapter 69 of the General Statutes, or a fire service district under  
23 Article 16 of Chapter 153A of the General Statutes. The rural fire  
24 department shall make available to the city not later than 30 days following a  
25 written request from the city all information in its possession or control,  
26 including but not limited to operational, financial and budgetary information,  
27 necessary for preparation of a statement of impact. The rural fire department  
28 forfeits its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to  
29 make a good faith response within 45 days following receipt of the written  
30 request for information from the city, provided that the city's written request  
31 so states by specific reference to this section.

32 (5) A statement showing how the proposed annexation will affect the city's  
33 finances and services, including city revenue change estimates. This  
34 statement shall be delivered to the clerk of the board of county  
35 commissioners at least 30 days before the date of the public informational  
36 meeting on any annexation under this Part."

37 **SECTION 6.** G.S. 160A-48 reads as rewritten:

38 **"§ 160A-48. Character of area to be annexed.**

39 (a) A municipal governing board may extend the municipal corporate limits to include  
40 any area

41 (1) Which meets the general standards of subsection (b), and

42 (2) Every part of which meets the requirements of either subsection (c) or  
43 subsection (d).

44 (b) The total area to be annexed must meet the following standards:

45 (1) It must be adjacent or contiguous to the municipality's boundaries at the time  
46 the annexation proceeding is begun, except if the entire territory of a county  
47 water and sewer district created under G.S. 162A-86(b1) is being annexed,  
48 the annexation shall also include any noncontiguous pieces of the district as  
49 long as the part of the district with the greatest land area is adjacent or  
50 contiguous to the municipality's boundaries at the time the annexation  
51 proceeding is begun.

- 1 (2) At least one eighth of the aggregate external boundaries of the area must  
2 coincide with the municipal boundary.
- 3 (3) No part of the area shall be included within the boundary of another  
4 incorporated municipality.
- 5 (c) Part or all of the area to be annexed must be developed for urban purposes at the  
6 time of approval of the report provided for in G.S. 160A-47. Area of streets and street  
7 rights-of-way shall not be used to determine total acreage under this section. An area developed  
8 for urban purposes is defined as any area which meets any one of the following standards:
- 9 (1) Has a total resident population equal to at least ~~two and three tenths~~three  
10 persons for each acre of land included within its boundaries; or
- 11 (2) Has a total resident population equal to at least one person for each acre of  
12 land included within its boundaries, and is subdivided into lots and tracts  
13 such that at least sixty percent (60%) of the total acreage consists of lots and  
14 tracts ~~three two~~ acres or less in size and such that at least ~~sixty five percent~~  
15 ~~(65%)~~seventy percent (70%) of the total number of lots and tracts are one  
16 acre or less in size; or
- 17 (3) Is so developed that at least ~~sixty percent (60%)~~sixty-five percent (65%) of  
18 the total number of lots and tracts in the area at the time of annexation are  
19 used for residential, commercial, industrial, institutional or governmental  
20 purposes, and is subdivided into lots and tracts such that at least sixty  
21 percent (60%) of the total acreage, not counting the acreage used at the time  
22 of annexation for commercial, industrial, governmental or institutional  
23 purposes, consists of lots and tracts three acres or less in size. For purposes  
24 of this section, a lot or tract shall not be considered in use for a commercial,  
25 industrial, institutional, or governmental purpose if the lot or tract is used  
26 only temporarily, occasionally, or on an incidental or insubstantial basis in  
27 relation to the size and character of the lot or tract. For purposes of this  
28 section, acreage in use for commercial, industrial, institutional, or  
29 governmental purposes shall include acreage actually occupied by buildings  
30 or other man-made structures together with all areas that are reasonably  
31 necessary and appurtenant to such facilities for purposes of parking, storage,  
32 ingress and egress, utilities, buffering, and other ancillary services and  
33 facilities; or
- 34 (4) Is the entire area of any county water and sewer district created under  
35 G.S. 162A-86(b1), but this subdivision only applies to annexation by a  
36 municipality if that:
- 37 a. Municipality has provided in a contract with that district that the area  
38 is developed for urban purposes; and
- 39 b. Contract provides for the municipality to operate the sewer system of  
40 that county water and sewer district;
- 41 provided that the special categorization provided by this subdivision only  
42 applies if the municipality is annexing in one proceeding the entire territory  
43 of the district not already within the corporate limits of a municipality; or
- 44 (5) Is so developed that, at the time of the approval of the annexation report, all  
45 tracts in the area to be annexed are used for commercial, industrial,  
46 governmental, or institutional purposes.
- 47 (d) In addition to areas developed for urban purposes, a governing board may include in  
48 the area to be annexed any area which does not meet the requirements of subsection (c) if such  
49 area either:
- 50 (1) Lies between the municipal boundary and an area developed for urban  
51 purposes so that the area developed for urban purposes is either not adjacent

1 to the municipal boundary or cannot be served by the municipality without  
2 extending services and/or water and/or sewer lines through such sparsely  
3 developed area; or

- 4 (2) Is adjacent, on at least sixty percent (60%) of its external boundary, to any  
5 combination of the municipal boundary and the boundary of an area or areas  
6 developed for urban purposes as defined in subsection (c).

7 The purpose of this subsection is to permit municipal governing boards to extend corporate  
8 limits to include all nearby areas developed for urban purposes and where necessary to include  
9 areas which at the time of annexation are not yet developed for urban purposes but which  
10 constitute necessary land connections between the municipality and areas developed for urban  
11 purposes or between two or more areas developed for urban purposes. For purposes of this  
12 subsection, "necessary land connection" means an area that does not exceed twenty-five percent  
13 (25%) of the total area to be annexed.

14 (d1) No municipality may annex any territory in a county other than its primary county  
15 without the approval of the annexation by the board of commissioners of the county in which  
16 the annexation is proposed. Such approval may only be granted after a public hearing by that  
17 county board of commissioners, conducted at least 25 days after advertisement. Such approval  
18 may be obtained at any time prior to adoption of the annexation ordinance. This subsection  
19 does not authorize any annexation prohibited by local act. Approval under this subsection is in  
20 addition to any other requirement of this Part. As used in this subsection, "primary county"  
21 means in the case of a municipality located in only one county, the county in which it is  
22 located, and in the case of a municipality located in more than one county, the county in which  
23 the greatest part of its land area is located.

24 (e) In fixing new municipal boundaries, a municipal governing board shall use recorded  
25 property lines and streets as boundaries. Some or all of the boundaries of a county water and  
26 sewer district may also be used when the entire district not already within the corporate limits  
27 of a municipality is being annexed.

28 (f) The area of an abolished water and sewer district shall be considered to be a water  
29 and sewer district for the purpose of this section even after its abolition under  
30 G.S. 162A-87.2(b)."

31 **SECTION 7.** G.S. 160A-49 reads as rewritten:

32 **"§ 160A-49. Procedure for annexation.**

33 (a) ~~Notice of Intent.~~ Resolution of Consideration. – Any municipal governing board  
34 desiring to annex territory under the provisions of this Part shall first pass a resolution  
35 identifying the area as being under consideration for annexation. The resolution of  
36 consideration may have a metes and bounds description or a map and shall remain effective for  
37 two years after adoption and shall be filed with the city clerk. A new resolution of  
38 consideration adopted before expiration of the two-year period for a previously adopted  
39 resolution covering the same area shall relate back to the date of the previous resolution.  
40 Adoption of a resolution of consideration shall not confer prior jurisdiction over the area as to  
41 any other city. A notice of adoption of the resolution of consideration shall be published once a  
42 week for two successive weeks, with each publication being on the same day of the week, in a  
43 newspaper having general circulation in the municipality. The second publication shall be no  
44 more than 30 days following adoption of the resolution. The notice shall contain a map or  
45 description of the area under consideration and a summary of the annexation process and time  
46 lines.

47 (a1) Resolution of Intent. – At least one year after adoption of the resolution of  
48 consideration, the municipal governing body may adopt a resolution stating the intent of the  
49 municipality to ~~consider annexation.~~ proceed with annexation of some or all of the area  
50 described in the resolution of consideration. Such resolution of intent shall describe the  
51 boundaries of the area ~~under consideration,~~ intended for annexation, fix a date for a public

1 informational meeting, and fix a date for a public hearing on the question of annexation. The  
2 date for the public informational meeting shall be not less than 45 days and not more than 55  
3 days following passage of the resolution. The date for the public hearing to be not less than 60  
4 days and not more than 90 days following passage of the ~~resolution~~-resolution of intent.

5 (b) Notice of Public Information Meeting and Public Hearing. – The notice of public  
6 information meeting and public hearing shall-shall be a combined notice that includes at least  
7 all of the following information:

- 8 (1) Fix the date, hour and place of the public informational meeting and the  
9 date, hour, and place of the public hearing.
- 10 (2) Describe clearly the boundaries of the area under consideration, and include  
11 a legible map of the area.
- 12 (3) State that the report required in G.S. 160A-47 will be available at the office  
13 of the municipal clerk at least 30 days prior to the date of the public  
14 informational meeting.
- 15 (4) Include a notice of a property owner's rights to request to become a customer  
16 of the water and sewer service in accordance with G.S. 160A-47. the policies  
17 in effect in the municipality for such services, the cost of requesting that  
18 service along with the option of paying that cost in accordance with  
19 G.S. 160A-232(c), and any forms to request that service.
- 20 (5) Include an explanation of a property owner's rights pursuant to subsections  
21 (f1) and (f2) of this section.
- 22 (6) Describe clearly the distinction between the public informational meeting  
23 and the public hearing.

24 Such notice shall be given by publication once a week for at least two successive weeks  
25 prior to the date of the informational ~~meeting~~-meeting, with each publication being on the same  
26 day of the week, in a newspaper having general circulation in the municipality and, in addition  
27 thereto, if the area to be annexed lies in a county containing less than fifty percent (50%) of the  
28 land area of the municipality, in a newspaper having general circulation in the area of proposed  
29 annexation. ~~The period from the date of the first publication to the date of the last publication,~~  
30 ~~both dates inclusive, shall be not less than eight days including Sundays, and the date of the last~~  
31 ~~publication shall be not more than seven days preceding the date of public informational~~  
32 ~~meeting.~~ If there be no such newspaper, the municipality shall post the notice in at least five  
33 public places within the municipality and at least five public places in the area to be annexed  
34 for 30 days prior to the date of public informational meeting. In addition, notice shall be mailed  
35 at least four weeks prior to date of the informational meeting by ~~first class mail, postage~~  
36 ~~prepaid~~-certified mail to the owners as shown by the tax records of the county of all freehold  
37 interests in real property located within the area to be annexed. The person or persons mailing  
38 such notices shall certify to the governing board that fact, and such certificate shall become a  
39 part of the record of the annexation proceeding and shall be deemed conclusive in the absence  
40 of fraud. If the notice is returned to the city by the postal service by the tenth day before the  
41 informational meeting, a copy of the notice shall be sent by certified mail, return receipt  
42 requested, at least seven days before the informational meeting. Failure to comply with the  
43 mailing requirements of this subsection shall not invalidate the annexation unless it is shown  
44 that the requirements were not substantially complied with. If the governing board by  
45 resolution finds that the tax records are not adequate to identify the owners of some or all of the  
46 parcels of real property within the area it may in lieu of the mail procedure as to those parcels  
47 where the owners could not be so identified, post the notice at least 30 days prior to the date of  
48 public informational meeting on all buildings on such parcels, and in at least five other places  
49 within the area to be annexed. In any case where notices are placed on property, the person  
50 placing the notices shall certify that fact to the governing board.

1 (c) Action Prior to Informational Meeting. – At least 30 days before the date of the  
2 public informational meeting, the governing board shall approve the report provided for in  
3 G.S. 160A-47, and shall make it available to the public at the office of the municipal clerk. In  
4 addition, the municipality may prepare a summary of the full report for public distribution. In  
5 addition, the city shall post in the office of the city clerk, at least 30 days before the public  
6 informational meeting, a legible map of the area to be annexed and a list of persons holding  
7 freehold interests in property in the area to be annexed that it has identified.

8 (c1) Public Informational Meeting. – At the public informational meeting a  
9 representative of the municipality shall first make an explanation of the report required in  
10 G.S. 160A-47. Following such explanation, all persons resident or owning property in the  
11 territory described in the notice of public hearing, and all residents of the municipality, shall be  
12 given the opportunity to ask questions and receive answers regarding the proposed annexation.

13 (d) Public Hearing. – At the public hearing a representative of the municipality shall  
14 first make an explanation of the report required in G.S. 160A-47. Following such explanation,  
15 all persons resident or owning property in the territory described in the notice of public hearing,  
16 and all residents of the municipality, shall be given an opportunity to be heard. A summary of  
17 the annexation process and time lines, a summary of available statutory remedies for contesting  
18 the annexation and the failure to provide services, and the form for requesting the extension of  
19 water and sewer lines to individual lots shall be distributed at the public hearing.

20 (e) Passage of the Annexation Ordinance. – The municipal governing board shall take  
21 into consideration facts presented at the public hearing and shall have authority to amend the  
22 report required by G.S. 160A-47 to make changes in the plans for serving the area proposed to  
23 be annexed so long as such changes meet the requirements of G.S. 160A-47, provided that if  
24 the annexation report is amended to show additional subsections of G.S. 160A-48(c) or (d)  
25 under which the annexation qualifies that were not listed in the original report, the city must  
26 hold an additional public hearing on the annexation not less than 30 nor more than 90 days after  
27 the date the report is amended, and notice of such new hearing shall be given at the first public  
28 hearing. At any regular or special meeting held no sooner than the tenth day following the  
29 public hearing and not later than 90 days following such public hearing, the governing board  
30 shall have authority to adopt an ordinance extending the corporate limits of the municipality to  
31 include all, or such part, of the area described in the notice of public hearing which meets the  
32 requirements of G.S. 160A-48 and which the governing board has concluded should be  
33 annexed. The ordinance shall:

- 34 (1) Contain specific findings showing that the area to be annexed meets the  
35 requirements of G.S. 160A-48. The external boundaries of the area to be  
36 annexed shall be described by metes and bounds. In showing the application  
37 of G.S. 160A-48(c) and (d) to the area, the governing board may refer to  
38 boundaries set forth on a map of the area and incorporate same by reference  
39 as a part of the ordinance.
- 40 (2) A statement of the intent of the municipality to provide services to the area  
41 being annexed as set forth in the report required by G.S. 160A-47.
- 42 (3) A specific finding that on the effective date of annexation the municipality  
43 will have funds appropriated in sufficient amount to finance construction of  
44 any major trunk water ~~mains and~~ mains, sewer outfalls and ~~such~~ water and  
45 sewer lines as ~~required in G.S. 160A-47(3)b found necessary~~ stated in the  
46 report required by G.S. 160A-47 to extend the basic water and/or sewer  
47 system of the municipality into the area to be annexed, or that on the  
48 effective date of annexation the municipality will have authority to issue  
49 bonds in an amount sufficient to finance such construction. If authority to  
50 issue such bonds must be secured from the electorate of the municipality  
51 prior to the effective date of annexation, then the effective date of

1 annexation shall be no earlier than the day following the statement of the  
2 successful result of the bond election.

- 3 (4) Fix the effective date for annexation. The effective date of annexation ~~may~~  
4 shall be fixed as the June 30 next following the adoption of the ordinance.~~for~~  
5 ~~any date not less than 70 days nor more than 400 days from the date of~~  
6 ~~passage of the ordinance.~~

7 (f) Effect of Annexation Ordinance. – No annexation ordinance may take effect until a  
8 vote of the registered voters in the area to be annexed has been conducted by the appropriate  
9 board of elections, and the results certified indicate that more than fifty percent (50%) of the  
10 voters approve the annexation. Except as provided in subsection (f1) of this section, from and  
11 after the effective date of the annexation ordinance, the territory and its citizens and property  
12 shall be subject to all debts, laws, ordinances and regulations in force in such municipality and  
13 shall be entitled to the same privileges and benefits as other parts of such municipality. Real  
14 and personal property in the newly annexed territory on the January 1 immediately preceding  
15 the beginning of the fiscal year in which the annexation becomes effective is subject to  
16 municipal taxes as provided in G.S. 160A-58.10. Provided that annexed property which is a  
17 part of a sanitary district, which has installed water and sewer lines, paid for by the residents of  
18 said district, shall not be subject to that part of the municipal taxes levied for debt service for  
19 the first five years after the effective date of annexation. If this proviso should be declared by a  
20 court of competent jurisdiction to be in violation of any provision of the federal or State  
21 Constitution, the same shall not affect the remaining provisions of this Part. If the effective date  
22 of annexation falls between June 1 and June 30, and the effective date of the privilege license  
23 tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed  
24 shall be liable for taxes imposed in such ordinances from and after the effective date of  
25 annexation.

26 (f1) Property Subject to Present-Use Value Appraisal. – If an area described in an  
27 annexation ordinance includes agricultural land, horticultural land, or forestland that on the  
28 effective date of annexation is:

- 29 (1) Land that is being taxed at present-use value pursuant to G.S. 105-277.4; or  
30 (2) Land that:  
31 a. Was on the date of the resolution of intent for annexation being used  
32 for actual production and is eligible for present-use value taxation  
33 under G.S. 105-277.4, but the land has not been in use for actual  
34 production for the required time under G.S. 105-277.3; and  
35 b. The assessor for the county where the land subject to annexation is  
36 located has certified to the city that the land meets the requirements  
37 of this subdivision

38 the annexation becomes effective as to that property pursuant to subsection (f2) of this section.

39 (f2) Effective Date of Annexation for Certain Property. – Annexation of property subject  
40 to annexation under subsection (f1) of this section shall become effective:

- 41 (1) Upon the effective date of the annexation ordinance, the property is  
42 considered part of the city only (i) for the purpose of establishing city  
43 boundaries for additional annexations pursuant to this Article and (ii) for the  
44 exercise of city authority pursuant to Article 19 of this Chapter.  
45 (2) For all other purposes, the annexation becomes effective as to each tract of  
46 such property or part thereof on the last day of the month in which that tract  
47 or part thereof becomes ineligible for classification pursuant to  
48 G.S. 105-277.4 or no longer meets the requirements of subdivision (f1)(2) of  
49 this section. Until annexation of a tract or a part of a tract becomes effective  
50 pursuant to this subdivision, the tract or part of a tract is not subject to  
51 taxation by the city under Article 12 of Chapter 105 of the General Statutes



1 nor is the tract or part of a tract entitled to services provided by the city.  
2 Upon the effective date of annexation, taxation of real and personal property  
3 is subject to the provisions of G.S. 160A-58.10.

4 (g) Simultaneous Annexation Proceedings. – If a municipality is considering the  
5 annexation of two or more areas which are all adjacent to the municipal boundary but are not  
6 adjacent to one another, it may undertake simultaneous proceedings under authority of this Part  
7 for the annexation of such areas.

8 (h) Remedies for Failure to Provide Services. – If, not earlier than one year from the  
9 effective date of annexation, and not later than 15 months from the effective date of annexation,  
10 any person owning property in the annexed territory shall believe that the municipality has not  
11 followed through on its service plans adopted under the provisions of G.S. 160A-47(3) and  
12 160A-49(e), for any required service other than water and sewer services such person may  
13 apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the General  
14 Statutes. Relief may be granted by the judge of superior court

15 (1) If the municipality has not provided the services set forth in its plan  
16 submitted under the provisions of ~~G.S. 160A-47(3)a~~ G.S. 160A-47(3)a, on  
17 substantially the same basis and in the same manner as such services were  
18 provided within the rest of the municipality prior to the effective date of  
19 annexation, and

20 (2) If at the time the writ is sought such services set forth in the plan submitted  
21 under the provisions of ~~G.S. 160A-47(3)a~~ G.S. 160A-47(3)a, are still being  
22 provided on substantially the same basis and in the same manner as on the  
23 date of annexation of the municipality.

24 If, not earlier than 24 months from the effective date of the annexation, and not later than  
25 27 months from the effective date of the annexation, any person owning property in the  
26 annexed area can show that the plans submitted under the provisions of ~~G.S. 160A-47(3)e~~  
27 G.S. 160A-47(3)c, require the construction of major trunk water mains and sewer outfall lines  
28 and if construction has not been completed within two years of the effective date of the  
29 annexation, relief may also be granted by the superior court by an order to the municipality to  
30 complete such lines and outfalls within a certain time. ~~Similar relief may be granted by the~~  
31 ~~superior court to any owner of property who made a timely request for a water or sewer line, or~~  
32 ~~both, pursuant to G.S. 160A-47(3)b and such lines have not been completed within two years~~  
33 ~~from the effective date of annexation in accordance with applicable city policies and through no~~  
34 ~~fault of the owner, if such owner petitions for such relief not earlier than 24 months following~~  
35 ~~the effective date of annexation and not later than 27 months following the effective date of~~  
36 ~~annexation.~~

37 If a writ is issued, costs in the action, including a reasonable attorney's fee for such  
38 aggrieved person, shall be charged to the municipality.

39 ~~(i) No resolution of intent may be adopted under subsection (a) of this section unless~~  
40 ~~the city council (or planning agency created or designated under either G.S. 160A-361 or the~~  
41 ~~charter) has, by resolution adopted at least one year prior to adoption of the resolution of intent,~~  
42 ~~identified the area as being under consideration for annexation and included a statement in the~~  
43 ~~resolution notifying persons subject to the annexation of their rights under subsections (f1) and~~  
44 ~~(f2) of this section; provided, adoption of such resolution of consideration shall not confer prior~~  
45 ~~jurisdiction over the area as to any other city. The area described under the resolution of intent~~  
46 ~~may comprise a smaller area than that identified by the resolution of consideration. The~~  
47 ~~resolution of consideration may have a metes and bounds description or a map and shall remain~~  
48 ~~effective for two years after adoption, and shall be filed with the city clerk. A new resolution of~~  
49 ~~consideration adopted before expiration of the two year period for a previously adopted~~  
50 ~~resolution covering the same area shall relate back to the date of the previous resolution.~~

1       (j) ~~Subsection (i) of this section shall not apply to the annexation of any area if the~~  
2 ~~resolution of intent describing the area and the ordinance annexing the area both provide that~~  
3 ~~the effective date of the annexation shall be at least one year from the date of passage of the~~  
4 ~~annexation ordinance.~~

5       (k) The city shall report to the Local Government Commission as to whether the  
6 extension of water and sewer lines was completed within the two-year time period specified in  
7 G.S. 160A-47(3)c. If a valid request for extension of a water or sewer line has been made under  
8 G.S. 160A-47(3)b, and the extension is not complete at the end of two years after the effective  
9 date of the annexation ordinance, the owner of the property may petition the Local Government  
10 Commission for abatement of taxes to be paid to the city which have not been levied as of the  
11 expiration date of the two-year period, if such petition is filed not more than 60/120 days after  
12 the expiration of the two-year period. If the Local Government Commission finds that the  
13 extension to the property was not complete by the end of the two-year period, it shall enter an  
14 order directing the city not to levy any further ad valorem taxes on the property until the fiscal  
15 year commencing after completion of the extension. In addition, if the Local Government  
16 Commission found that the extension to the property was not completed by the end of the  
17 two-year period, and if it finds that for any fiscal year during the period beginning with the first  
18 day of the fiscal year in which the annexation ordinance became effective and ending the last  
19 day of the fiscal year in which the two-year period expired, the city made an appropriation for  
20 construction, operation or maintenance of a water or sewer system (other than payments the  
21 city made as a customer of the system) from the fund or funds for which ad valorem taxes are  
22 levied, then the Local Government Commission shall order the city to release or refund an  
23 amount of the petitioner's property taxes for that year in question in proportion to the  
24 percentage of appropriations in the fund made for water and sewer services. By way of  
25 illustration, if a net amount of one hundred thousand dollars (\$100,000) was appropriated for  
26 water or sewer construction, operation or maintenance from a fund which had total  
27 expenditures of ten million dollars (\$10,000,000) and the petitioner's tax levy was one thousand  
28 dollars (\$1,000), the amount of release or refund shall be ten dollars (\$10.00).

29       (l) The city shall report to the Local Government Commission as to whether police  
30 protection, fire protection, solid waste, or street maintenance services were provided in  
31 accordance with G.S. 160A-47(3)a. within 60 days after the effective date of the annexation.  
32 Such report shall be filed no more than 30 days following the expiration of the 60-day period. If  
33 a city fails to deliver police protection, fire protection, solid waste or street maintenance  
34 services as provided for in G.S. 160A-47(3)a. within 60 days after the effective date of the  
35 annexation, the owner of the property may petition the Local Government Commission for  
36 abatement of taxes to be paid to the city for taxes that have been levied as of the end of the  
37 60-day period, if the petition is filed not more than ~~90 days~~ 120 days after the expiration of the  
38 60-day period. If the Local Government Commission finds that services were not extended by  
39 the end of the 60-day period, it shall enter an order directing the city not to levy any further ad  
40 valorem taxes on the property until the fiscal year commencing after extension of the municipal  
41 services."

42       **SECTION 8.** G.S. 160A-50(a) reads as rewritten:

43       "(a) Within ~~60~~ 90 days following the passage of an annexation ordinance under authority  
44 of this Part, any person owning property in the annexed territory who shall believe that he will  
45 suffer material injury by reason of the failure of the municipal governing board to comply with  
46 the procedure set forth in this Part or to meet the requirements set forth in G.S. 160A-48 as they  
47 apply to his property may file a petition in the superior court of the county in which the  
48 municipality is located seeking review of the action of the governing board."

49       **SECTION 9.(a)** G.S. 160A-360 is amended by adding a new subsection to read:

50       "(k) A 'bona fide farm' as defined in G.S. 153A-340 is exempt from a municipality's  
51 extraterritorial jurisdiction under this Article."

1           **SECTION 9.(b)** G.S. 153A-340(b)(2) reads as rewritten:

2           "(b) (2) Except as provided in G.S. 106-743.4 for farms that are subject to a  
3           conservation agreement under G.S. 106-743.2, bona fide farm purposes  
4           include the production and activities relating or incidental to the production  
5           of crops, fruits, vegetables, ornamental and flowering plants, dairy,  
6           livestock, poultry, and all other forms of ~~agricultural products~~ agriculture as  
7           defined in ~~G.S. 106-581.1~~ having a domestic or foreign market.  
8           G.S. 106-581.1. For purposes of this subdivision, the production of a  
9           nonfarm product that the Department of Agriculture and Consumer Services  
10          recognizes as a 'Goodness Grows in North Carolina' product that is produced  
11          on a farm subject to a conservation agreement under G.S. 106-743.2 is a  
12          bona fide farm purpose."

13           **SECTION 10.** Article 4A of Chapter 160A of the General Statutes is amended by  
14          adding a new section to read:

15          "**§ 160A-58.29. No annexation of farms.**

16          No land being used for bona fide farm purposes, as defined in G.S. 153A-340 on the date of  
17          the resolution of intent to consider annexation, shall be annexed without the written consent of  
18          the owner or owners of the property."

19           **SECTION 11.** Part 5 of Article 4A of Chapter 160A of the General Statutes is  
20          amended by adding a new section to read:

21          "**§ 160A-58.12. Local Government Commission oversight of annexation.**

22          (a) The Local Government Commission shall provide oversight of annexation under  
23          Part 2 and Part 3 of this Article. In carrying out that responsibility, the Local Government  
24          Commission shall do all of the following:

25           (1) Assess the fiscal feasibility of all proposed annexations, by determining  
26           whether the projected expenses to be incurred as a result of the annexation,  
27           including the amount of proposed debt, are reasonable for the purposes for  
28           which the expenses are to be incurred and by determining the extent to  
29           which the probable net revenues resulting from the annexation and other  
30           revenue sources proposed by the municipality will be sufficient to meet  
31           these expenses and service any proposed debt.

32           (2) Prohibit further annexation by any municipality that has not provided  
33           services in accordance with statutory requirements to any other area annexed  
34           by that municipality with an effective date more than 12 months prior to the  
35           proposed annexation until such time as the municipality demonstrates to the  
36           Commission that such requirements have been met.

37           (3) Prohibit further annexation by the municipality and abate all ad valorem  
38           property taxes levied on the newly annexed territory if the municipality has  
39           not provided services as stated in the annexation ordinance within two years  
40           of the effective date of the annexation ordinance, until such time as the  
41           municipality demonstrates to the Commission that such requirements have  
42           been met.

43          (b) Following approval of the report required under G.S. 160A-35 or G.S. 160A-47, the  
44          municipality shall submit it to the Commission for review. The Commission shall make an  
45          administrative determination regarding the fiscal feasibility of the proposed annexation. The  
46          Commission shall report findings regarding the fiscal feasibility of the proposed annexation  
47          within 60 days of receipt of the report.

48          (c) In order to effectuate the purposes of this section, the Commission may delegate its  
49          authority and responsibilities under this section to the staff of the State and Local Government  
50          Finance Division of the Department of State Treasurer.

1        (d) The Commission may charge a reasonable fee to recover the cost for services  
2 rendered in connection with the fiscal feasibility review required by subdivision (1) of  
3 subsection (a) of this section.

4        (e) The Local Government Commission shall report to the regular session of the  
5 General Assembly every two years, on or before the date of convening set in G.S. 120-11.1, the  
6 following information:

7            (1) The number of involuntary annexations proposed each year.

8            (2) The number of involuntary annexations for which the assessment of the  
9 fiscal feasibility showed that the involuntary annexation was not fiscally  
10 feasible.

11           (3) The number and character of reports made to the Local Government  
12 Commission under G.S. 160A-37(k).

13           (4) The number and character of reports made to the Local Government  
14 Commission under G.S. 160A-49(k) and the number of abatements granted  
15 under that statute.

16           (5) The number of reports made to the Local Government Commission under  
17 G.S. 160A-49(l).

18           (6) The number of prohibitions on further annexation issued by the Local  
19 Government Commission.

20           (7) The number of abatement of taxes under subdivision (3) of subsection (a) of  
21 this section."

22        **SECTION 12.** Any municipality that annexes property on or after July 1, 2012,  
23 must hold the county harmless from a reduction in sales tax distribution under Subchapter VIII  
24 of Chapter 105 of the General Statutes. Revenues initially allocated under this Subchapter to a  
25 municipality that annexes property on or after this date must be redistributed to the county in  
26 which the municipality is located. The amount that must be redistributed by the municipality to  
27 the county is the amount of revenue it received less the amount of revenue it would have  
28 received based upon the municipality's boundaries as of June 30, 2012.

29        **SECTION 13.** Article 4A of Chapter 160A of the General Statutes is amended by  
30 adding a new Part to read:

31                            "Part 8. City-County Utility Service Plans.

32        **"§ 160A-58.31. Purpose.**

33        It is the purpose of this Part to authorize counties and cities to enter into binding agreements  
34 concerning provision of utility services in future annexation areas in which the county is  
35 providing county-owned utility services, in order to ensure provision of utility services by such  
36 counties and cities to residents and property owners in future annexation areas.

37        **"§ 160A-58.32. Definitions.**

38        The words defined in this section shall have the meanings indicated when used in this Part:

39            (1) "Agreement" means any written agreement authorized by this Part.

40            (2) "Annexation" means any extension of a city's corporate limits as authorized  
41 by this Article, the charter of the city, or any local act applicable to the city,  
42 as such statutory authority exists now or is hereafter amended.

43            (3) "Participating city" means any city which is a party to an agreement.

44            (4) "Participating county" means any county which is a party to an agreement.

45            (5) "Utility services" shall mean water and sewer services.

46        **"§ 160A-58.33. Utility service plans authorized.**

47        (a) A city must enter into a utility services agreement with a county which shall be  
48 approved by ordinance of each government board, if the city desires to annex any territory in  
49 which the county is providing county-owned utility services.

50        (b) The agreement may be reviewed and updated as necessary, but at a minimum, shall  
51 be reviewed every five years.

**"§ 160A-58.34. Contents of agreements; procedure.**

(a) The utility services agreement shall contain at least all of the following:

(1) State the duration of the agreement.

(2) Describe the area subject to the utility services agreement.

(3) Describe the territory within which each jurisdiction may provide utility services.

(4) Describe how the city and county will address compensation and ownership of any infrastructure already in place in the proposed annexation area.

(5) Any other matter necessary to provide for the provision of utility services in the area subject to the agreement.

(b) No agreement may be entered into under this Part unless each participant to the agreement has held a public hearing on the agreement prior to adopting the ordinance approving the agreement. The governing boards of the participants to the agreement may hold a joint public hearing if desired. Notice of the public hearing or hearings shall be given as provided in G.S. 160A-31(c) or by electronic means.

(c) Any agreement entered into under this Part may be modified or terminated by a subsequent agreement entered into by all the participating cities to that agreement. The subsequent agreement shall be approved by ordinance after a public hearing or hearings as provided in subsection (b) of this section or by electronic means.

**"§ 160A-58.35. Limitation on annexation.**

No municipality may annex in an area in which the county is providing county owned utility services unless one of the following applies:

(1) The county waives its authority to initiate a negotiation over the formation of a utility services agreement with one or more cities.

(2) The utility services agreement has been adopted by the parties and has not been repealed by the annexing municipality or the county.

**"§ 160A-58.36. Effect of utility services agreement.**

From and after the effective date of the utility services agreement, participants in the utility services agreement are limited to establishing utility services in the area covered by the utility services agreement only as described in that agreement."

**SECTION 14.** This act becomes effective July 1, 2012.