

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1361\*  
Committee Substitute Favorable 6/24/98

Short Title: Annex & Incorporation Revision.

(Public)

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Sponsors:

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Referred to:

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May 20, 1998

1 A BILL TO BE ENTITLED  
2 AN ACT TO REVISE THE MUNICIPAL ANNEXATION LAWS AND TO CHANGE  
3 THE CRITERIA TO BE CONSIDERED BY THE JOINT LEGISLATIVE  
4 COMMISSION ON MUNICIPAL INCORPORATIONS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 105-277.4(b) reads as rewritten:

7 "(b) Appraisal at Present-use Value. – Upon receipt of a properly executed  
8 application, the assessor shall appraise the property at its present-use value as established  
9 in the schedule prepared pursuant to G.S. 105-317. In appraising the property at its  
10 present-use value, the assessor shall appraise the improvements located on qualifying  
11 land according to the schedules and standards used in appraising other similar  
12 improvements in the county. If all or any part of a qualifying tract of land is located  
13 within the limits of an incorporated city or town, or is property annexed subject to G.S.  
14 160A-37(f1) or G.S. 160A-49(f1), the assessor shall furnish a copy of the property record  
15 showing both the present-use appraisal and the valuation upon which the property would  
16 have been taxed in the absence of this classification to the collector of the city or town.  
17 He shall also notify the tax collector of any changes in the appraisals or in the eligibility  
18 of the property for the benefit of this classification. Upon a request for a certification  
19 pursuant to G.S. 160A-37(f1) or G.S.160A-49(f1), or any change in the certification, the

1 assessor for the county where the land subject to the annexation is located shall, within 30  
2 days, determine if the land meets the requirements of G.S. 160A-37(f1)(2) or G.S. 160A-  
3 49(f1)(2) and report the results of its findings to the city."

4 Section 2. G.S. 120-166 reads as rewritten:

5 **"§ 120-166. Additional criteria; nearness to another municipality.**

6 (a) The Commission may not make a positive recommendation if the proposed  
7 municipality is located within one mile of a municipality of 5,000 to 9,999, within three  
8 miles of a municipality of 10,000 to 24,999, within four miles of a municipality of 25,000  
9 to 49,999, or within five miles of a municipality of 50,000 or over, according to the most  
10 recent decennial federal census, or according to the most recent annual estimate of the  
11 Office of State Budget and Management if the municipality was incorporated since the  
12 return of that census.

13 (b) Subsection (a) of this section does not apply in the case of proximity to a  
14 specific municipality if:

- 15 (1) The proposed municipality is entirely on an island that the nearby city is  
16 not on;
- 17 (2) The proposed municipality is separated by a major river or other natural  
18 barrier from the nearby city, such that provision of municipal services  
19 by the nearby city to the proposed municipality is infeasible or the cost  
20 is prohibitive, and the Commission shall adopt policies to implement  
21 this subdivision;
- 22 (3) The nearby municipality-municipalities within the distances described in  
23 subsection (a) of this section by resolution expresses its-express their  
24 approval of the incorporation; or
- 25 (4) An area of at least fifty percent (50%) of the proposed municipality has  
26 petitioned for annexation to the nearby city under G.S. 160A-31 within  
27 the previous 12 months before the incorporation petition is submitted to  
28 the Commission but the annexation petition was not approved."

29 Section 3. Article 20 of Chapter 120 is amended by adding a new section to  
30 read:

31 **"§ 120-169.1. Additional criteria; level of development, services.**

32 (a) Level of Development. – The Commission may not make a positive  
33 recommendation unless the entire area proposed for incorporation meets the applicable  
34 criteria for development under G.S. 160A-36(c) or G.S. 160A-48(c).

35 (b) Services. – The Commission may not make a positive recommendation unless  
36 the area to be incorporated submits a plan for providing a reasonable level of municipal  
37 services. To meet the requirements of this subsection, the persons submitting the plan for  
38 incorporation must propose to provide at least two of the following services:

- 39 (1) Police protection.
- 40 (2) Fire protection.
- 41 (3) Garbage and refuse collection or disposal.
- 42 (4) Water distribution.
- 43 (5) Sewer collection or disposal.

1           (6) Street maintenance, construction, or right-of-way acquisition.

2           (7) Street lighting.

3           (8) Adoption of citywide planning and zoning."

4           Section 4. G.S. 160A-35 reads as rewritten:

5 **"§ 160A-35. Prerequisites to annexation; ability to serve; report and plans.**

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

10           (1) A map or maps of the municipality and adjacent territory to show the  
11 following information:

12           a. The present and proposed boundaries of the municipality.

13           b. The proposed extensions of water mains and sewer outfalls to  
14 serve the annexed area, if such utilities are operated by the  
15 municipality. The water and sewer map must bear the seal of a  
16 registered professional engineer or a licensed surveyor.

17           (2) A statement showing that the area to be annexed meets the requirements  
18 of G.S. 160A-36.

19           (3) A statement setting forth the plans of the municipality for extending to  
20 the area to be annexed each major municipal service performed within  
21 the municipality at the time of annexation. Specifically, such plans  
22 shall:

23           a. Provide for extending police protection, fire protection, solid  
24 waste collection and street maintenance services to the area to be  
25 annexed on the date of annexation on substantially the same basis  
26 and in the same manner as such services are provided within the  
27 rest of the municipality prior to annexation. A contract with a  
28 rural fire department to provide fire protection shall be an  
29 acceptable method of providing fire protection. If a water  
30 distribution system is not available in the area to be annexed, the  
31 plans must call for reasonably effective fire protection services  
32 until such time as waterlines are made available in such area  
33 under existing municipal policies for the extension of waterlines.  
34 A contract with a private firm to provide solid waste collection  
35 services shall be an acceptable method of providing solid waste  
36 collection services.

37           b. Provide for extension of water mains and sewer lines into the  
38 area to be annexed so that property owners in the area to be  
39 annexed will be able to secure public water and sewer services  
40 according to the policies in effect in such municipality for  
41 extending water and sewer lines to individual lots or  
42 subdivisions. If the municipality must, at its own expense,  
43 extend water and/or sewer mains into the area to be annexed

1 before property owners in the area can, according to municipal  
2 policies, make such connection to such lines, then the plans must  
3 call for contracts to be let and construction to begin on such lines  
4 within one year following the effective date of annexation. In  
5 areas where the installation of sewer is not economically feasible  
6 due to the unique topography of the area, the municipality may  
7 agree to provide septic system maintenance and repair service  
8 until such time as sewer service is provided to properties  
9 similarly situated.

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

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

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

33 Section 5. G.S. 160A-35.1 reads as rewritten:

34 "**§ 160A-35.1. Limitation on change in financial participation prior to annexation.**

35 ~~No~~ For purposes of the extension of water and sewer services required under G.S.  
36 160A-35, no ordinance or policy substantially diminishing the financial participation of a  
37 municipality in the construction of water or sewer facilities required under this Article  
38 may apply to an area being annexed unless the ordinance or policy became effective at  
39 least 180 days prior to the date of adoption by the municipality of the resolution giving  
40 notice of intent to consider annexing the area under G.S. 160A-37(a)."

41 Section 6. G.S. 160A-36 reads as rewritten:

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

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

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

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

12 (2) At least one eighth of the aggregate external boundaries of the area must  
13 coincide with the municipal boundary.

14 (3) No part of the area shall be included within the boundary of another  
15 incorporated municipality.

16 (c) The area to be annexed must be developed for urban ~~purposes~~ purposes at the  
17 time of approval of the report provided for in G.S. 160A-35. For purposes of this section,  
18 a lot or tract shall not be considered in use for a commercial, industrial, institutional, or  
19 governmental purpose if the lot or tract is used only temporarily, occasionally, or on an  
20 incidental or insubstantial basis in relation to the size and character of the lot or tract. For  
21 purposes of this section, acreage in use for commercial, industrial, institutional, or  
22 governmental purposes shall include acreage actually occupied by buildings or other  
23 man-made structures together with all areas that are reasonably necessary and  
24 appurtenant to such facilities for purposes of parking, storage, ingress and egress,  
25 utilities, buffering, and other ancillary services and facilities. Area of streets and street  
26 rights-of-way shall not be used to determine total acreage under this section. An area  
27 developed for urban purposes is defined as any as:

28 (1) Any area which is so developed that at least sixty percent (60%) of the  
29 total number of lots and tracts in the area at the time of annexation are  
30 used for residential, commercial, industrial, institutional or  
31 governmental purposes, and is subdivided into lots and tracts such that  
32 at least sixty percent (60%) of the total acreage, not counting the  
33 acreage used at the time of annexation for commercial, industrial,  
34 governmental or institutional purposes, consists of lots and tracts ~~five~~  
35 three acres or less in size.

36 (2) An area so developed that, at the time of the approval of the annexation  
37 report, all tracts in the area to be annexed are used for commercial,  
38 industrial, governmental, or institutional purposes.

39 (3) ~~An area developed for urban purposes is also the~~ The entire area of any  
40 county water and sewer district created under G.S. 162A-86(b1), but  
41 this ~~sentence~~ subsection only applies to annexation by a municipality if  
42 that:

1                   (1)a.           Municipality has provided in a contract with that district  
2                                   that the area is developed for urban purposes; and  
3                   (2)b.           Contract provides for the municipality to operate the  
4                                   sewer system of that county water and sewer district;  
5                   provided that the special categorization provided by this ~~sentene~~  
6                   subsection only applies if the municipality is annexing in one  
7                   proceeding the entire territory of the district not already within the  
8                   corporate limits of a municipality.

9           (d)   In fixing new municipal boundaries, a municipal governing board ~~shall,~~  
10 ~~wherever practical, use natural topographic features such as ridge lines and streams and~~  
11 ~~creeks as boundaries, and may use streets as boundaries.~~ shall use recorded property lines  
12 and streets as boundaries. Some or all of the boundaries of a county water and sewer  
13 district may also be used when the entire district not already within the corporate limits of  
14 a municipality is being annexed.

15           (e)   The area of an abolished water and sewer district shall be considered to be a  
16 water and sewer district for the purpose of this section even after its abolition under G.S.  
17 162A-87.2(b)."

18           Section 7. G.S. 160A-37 reads as rewritten:

19 "**§ 160A-37. Procedure for annexation.**

20           (a)   Notice of Intent. – Any municipal governing board desiring to annex territory  
21 under the provisions of this Part shall first pass a resolution stating the intent of the  
22 municipality to consider annexation. Such resolution shall describe the boundaries of the  
23 area under ~~consideration~~ consideration, fix a date for the public informational meeting,  
24 and fix a date for a public hearing on the question of annexation, the annexation. The date  
25 for the public informational meeting shall be not less than 45 days and not more than 55  
26 days following passage of the resolution. The date for ~~such~~ the public hearing to be not  
27 less than 45-60 days and not more than 90 days following passage of the resolution.

28           (b)   Notice of Public Hearing. – The notice of public hearing shall:

- 29                   (1)   Fix the date, hour and place of the public informational meeting and the  
30                                   date, hour, and place of the public hearing.  
31                   (2)   Describe clearly the boundaries of the area under consideration, and  
32                                   include a legible map of the area.  
33                   (3)   State that the report required in G.S. 160A-35 will be available at the  
34                                   office of the municipal clerk at least 30 days prior to the date of the  
35                                   public ~~hearing~~ informational meeting.  
36                   (4)   Include an explanation of an owner's rights pursuant to subsection (f1)  
37                                   and (f2) of this section.

38           Such notice shall be given by publication once a week for at least two successive  
39 weeks prior to the date of the ~~hearing~~ informational meeting in a newspaper having  
40 general circulation in the municipality and, in addition thereto, if the area to be annexed  
41 lies in a county containing less than fifty percent (50%) of the land area of the  
42 municipality, in a newspaper having general circulation in the area of proposed  
43 annexation. The period from the date of the first publication to the date of the last

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

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

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

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

38 (d) Public Hearing. – At the public hearing a representative of the municipality  
39 shall first make an explanation of the report required in G.S. 160A-35. Following such  
40 explanation, all persons resident or owning property in the territory described in the  
41 notice of public hearing, and all residents of the municipality, shall be given an  
42 opportunity to be heard.

1 (e) Passage of the Annexation Ordinance. – The municipal governing board shall  
2 take into consideration facts presented at the public hearing and shall have authority to  
3 amend the report required by G.S. 160A-35 to make changes in the plans for serving the  
4 area proposed to be annexed so long as such changes meet the requirements of G.S.  
5 160A-35. At any regular or special meeting held no sooner than the tenth day following  
6 the public hearing and not later than 90 days following such public hearing, the  
7 governing board shall have authority to adopt an ordinance extending the corporate limits  
8 of the municipality to include all, or such part, of the area described in the notice of  
9 public hearing which meets the requirements of G.S. 160A-36 and which the governing  
10 board has concluded should be annexed. The ordinance shall:

11 (1) Contain specific findings showing that the area to be annexed meets the  
12 requirements of G.S. 160A-36. The external boundaries of the area to be  
13 annexed shall be described by metes and bounds. In showing the  
14 application of G.S. 160A-36(c) and (d) to the area, the governing board  
15 may refer to boundaries set forth on a map of the area and incorporate  
16 same by reference as a part of the ordinance.

17 (2) A statement of the intent of the municipality to provide services to the  
18 area being annexed as set forth in the report required by G.S. 160A-35.

19 (3) A specific finding that on the effective date of annexation the  
20 municipality will have funds appropriated in sufficient amount to  
21 finance construction of any water and sewer lines found necessary in the  
22 report required by G.S. 160A-35 to extend the basic water and/or sewer  
23 system of the municipality into the area to be annexed, or that on the  
24 effective date of annexation the municipality will have authority to issue  
25 bonds in an amount sufficient to finance such construction. If authority  
26 to issue such bonds must be secured from the electorate of the  
27 municipality prior to the effective date of annexation, then the effective  
28 date of annexation shall be no earlier than the day following the  
29 statement of the successful result of the bond election.

30 (4) Fix the effective date for annexation. The effective date of annexation  
31 may be fixed for any date not less than 40 days nor more than 400 days  
32 from the date of passage of the ordinance.

33 (f) Effect of Annexation Ordinance. – Except as provided in subsection (f1) of this  
34 section, from ~~From~~ and after the effective date of the annexation ordinance, the territory  
35 and its citizens and property shall be subject to all debts, laws, ordinances and regulations  
36 in force in such municipality and shall be entitled to the same privileges and benefits as  
37 other parts of such municipality. Real and personal property in the newly annexed  
38 territory on the January 1 immediately preceding the beginning of the fiscal year in which  
39 the annexation becomes effective is subject to municipal taxes as provided in G.S. 160A-  
40 58.10. If the effective date of annexation falls between June 1 and June 30, and the  
41 effective date of the privilege license tax ordinance of the annexing municipality is June  
42 1, then businesses in the area to be annexed shall be liable for taxes imposed in such  
43 ordinance from and after the effective date of annexation.



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

4            (1) Land that is being taxed at present-use value pursuant to G.S. 105-  
5 277.4; or

6            (2) Land that:

7            a. Was on the date of the resolution of intent for annexation being  
8 used for actual production and is eligible for present-use value  
9 taxation under G.S. 105-277.4, but the land has not been in use  
10 for actual production for the required time under G.S. 105-277.3;  
11 and

12            b. The assessor for the county where the land subject to annexation  
13 is located has certified to the city that the land meets the  
14 requirements of this subdivision

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

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

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

23            (2) For all other purposes, the annexation becomes effective as to each tract  
24 of such property or part thereof on the last day of the month in which  
25 that tract or part thereof becomes ineligible for classification pursuant to  
26 G.S. 105-227.4 or no longer meets the requirements of subdivision  
27 (f1)(2) of this section. Until annexation of a tract or a part of a tract  
28 becomes effective pursuant to this subdivision, the tract or part of a tract  
29 is not subject to taxation by the city under Article 12 of Chapter 105 of  
30 the General Statutes nor is the tract or part of a tract entitled to services  
31 provided by the city.

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

36        (h) Remedies for Failure to Provide Services. – If, not earlier than one year from  
37 the effective date of annexation, and not later than 15 months from the effective date of  
38 annexation, any person owning property in the annexed territory shall believe that the  
39 municipality has not followed through on its service plans adopted under the provisions  
40 of G.S. 160A-35(3) and 160A-37(e), such person may apply for a writ of mandamus  
41 under the provisions of Article 40, Chapter 1 of the General Statutes. Relief may be  
42 granted by the judge of superior court

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

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

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

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

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

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

16 (i) No resolution of intent may be adopted under subsection (a) of this section  
17 unless the city council (or a planning agency created or designated under either G.S.  
18 160A-361 or the charter) has, by resolution adopted at least one year prior to adoption of  
19 the resolution of intent, identified the area as being under consideration for ~~annexation~~;  
20 annexation and included a statement in the resolution notifying persons subject to the  
21 annexation of their rights under subsections (f1) and (f2) of this section; provided,  
22 adoption of such resolution of consideration shall not confer prior jurisdiction over the  
23 area as to any other city. The area described under the resolution of intent may comprise  
24 a smaller area than that identified by the resolution of consideration. The resolution of  
25 consideration may have a metes and bounds description or a map, shall remain effective  
26 for two years after adoption, and shall be filed with the city clerk. A new resolution of  
27 consideration adopted before expiration of the two-year period for a previously adopted  
28 resolution covering the same area shall relate back to the date of the previous resolution.

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

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

42 Section 8. G.S. 160A-37.2 reads as rewritten:

43 "**§ 160A-37.2. Assumption of debt.**

1 (a) If the city has annexed any area which is served by a rural fire department and  
2 which is in an insurance district defined under G.S. 153A-233, a rural fire protection  
3 district under Article 3A of Chapter 69 of the General Statutes or a fire service district  
4 under Article 17 of Chapter 153A of the General Statutes, then upon the effective date of  
5 annexation if the city has not contracted with the rural fire department for fire protection,  
6 or when the rural fire department ceases to provide fire protection under contract, then  
7 the city shall pay annually a proportionate share of any payments due on any debt  
8 (including principal and interest) relating to facilities or equipment of the rural fire  
9 department, if the debt was existing at the time of adoption of the resolution of intent,  
10 with the payments in the same proportion that the assessed valuation of the area of the  
11 district annexed bears to the assessed valuation of the entire district on the date the  
12 annexation ordinance becomes ~~effective~~ effective or another date for valuation mutually  
13 agreed upon by the city and the fire department.

14 (b) The city and rural fire department shall jointly present a payment schedule to  
15 the Local Government Commission for approval and no payment may be made until such  
16 schedule is approved.”

17 Section 9. G.S.160A-37.3 is amended by adding a new subsection to read:

18 "(h) A firm which has given notice under subsection (a) of this section that it  
19 desires to contract, and any firm that the city believes is eligible to give such notice, shall  
20 make available to the city not later than ~~five-10 business~~ days following a written request  
21 of the ~~city-city~~, sent by certified mail return receipt requested, all information in its  
22 possession or control, including but not limited to operational, financial and budgetary  
23 information, necessary for the city to determine if the firm qualifies for the benefits of  
24 this section and to determine the nature and scope of the potential contract and/or  
25 economic loss. The firm forfeits its rights under this section if it fails to make a good faith  
26 response within 10 business days following receipt of the written request for information  
27 from the city, provided that the city's written request states that statutory rights will be  
28 forfeited in the absence of a timely response and includes a specific reference to this  
29 section."

30 Section 10. G.S. 160A-38 reads as rewritten:

31 "**§ 160A-38. Appeal.**

32 (a) Within ~~30 days-60 days~~ following the passage of an annexation ordinance under  
33 authority of this Part, any person owning property in the annexed territory who shall  
34 believe that he will suffer material injury by reason of the failure of the municipal  
35 governing board to comply with the procedure set forth in this Part or to meet the  
36 requirements set forth in G.S. 160A-36 as they apply to his property may file a petition in  
37 the superior court of the county in which the municipality is located seeking review of the  
38 action of the governing board.

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

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

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

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

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

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

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

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

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

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

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

27 (1) Remand the ordinance to the municipal governing board for further  
28 proceedings if procedural irregularities are found to have materially  
29 prejudiced the substantive rights of any of the petitioners.

30 (2) Remand the ordinance to the municipal governing board for amendment  
31 of the boundaries to conform to the provisions of G.S. 160A-36 if it  
32 finds that the provisions of G.S. 160A-36 have not been met; provided,  
33 that the court cannot remand the ordinance to the municipal governing  
34 board with directions to add area to the municipality which was not  
35 included in the notice of public hearing and not provided for in plans for  
36 service.

37 (3) Remand the report to the municipal governing board for amendment of  
38 the plans for providing services to the end that the provisions of G.S.  
39 160A-35 are satisfied.

40 (4) Declare the ordinance null and void, if the court finds that the ordinance  
41 cannot be corrected by remand as provided in subdivisions (1), (2), or  
42 (3) of this subsection.

1 If any municipality shall fail to take action in accordance with the court's instructions  
2 upon remand within three months from receipt of such instructions, the annexation  
3 proceeding shall be deemed null and void.

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

10 (i) If part or all of the area annexed under the terms of an annexation ordinance is  
11 the subject of an appeal to the superior court, Court of Appeals or Supreme Court on the  
12 effective date of the ordinance, then the ordinance shall be deemed amended to make the  
13 effective date with respect to such area the last day of the next full calendar month  
14 following the date of the final judgment of the superior court, Court of Appeals or  
15 Supreme Court, whichever is appropriate, or the date the municipal governing board  
16 completes action to make the ordinance conform to the court's instructions in the event of  
17 remand. For the purposes of this subsection, a denial of a petition for a rehearing or for  
18 discretionary review shall be treated as a final judgement.

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

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

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

29 Section 11. G.S. 160A-42 reads as rewritten:

30 "**§ 160A-42. Land estimates.**

31 In determining degree of land subdivision for purposes of meeting the requirements of  
32 G.S. 160A-36, the municipality shall use methods calculated to provide reasonably  
33 accurate results. In determining whether the standards set forth in G.S. 160A-36 have  
34 been met on appeal to the superior court under G.S. 160A-38, the reviewing court shall  
35 accept the estimates of the ~~municipality~~ municipality as provided in this section unless the  
36 actual total area or degree of subdivision falls below the standards in G.S. 160A-36:

37 (1) As to total area if the estimate is based on an actual survey, or on  
38 county tax maps or records, or on aerial photographs, or on some other  
39 reasonably reliable map used for official purposes by a governmental  
40 agency unless the petitioners on appeal demonstrate that such estimates  
41 are in error in the amount of five percent (5%) or more.

42 (2) As to degree of land subdivision, if the estimates are based on an actual  
43 survey, or on county tax maps or records, or on aerial photographs, or

1 on some other reasonably reliable source, unless the petitioners on  
2 appeal show that such estimates are in error in the amount of five  
3 percent (5%) or more."

4 Section 12. G.S. 160A-47 reads as rewritten:

5 **"§ 160A-47. Prerequisites to annexation; ability to serve; report and plans.**

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

10 (1) A map or maps of the municipality and adjacent territory to show the  
11 following information:

12 a. The present and proposed boundaries of the municipality.

13 b. The present major trunk water mains and sewer interceptors and  
14 outfalls, and the proposed extensions of such mains and outfalls  
15 as required in subdivision (3) of this section. The water and  
16 sewer map must bear the seal of a registered professional  
17 engineer.

18 c. The general land use pattern in the area to be annexed.

19 (2) A statement showing that the area to be annexed meets the requirements  
20 of G.S. 160A-48.

21 (3) A statement setting forth the plans of the municipality for extending to  
22 the area to be annexed each major municipal service performed within  
23 the municipality at the time of annexation. Specifically, such plans  
24 shall:

25 a. Provide for extending police protection, fire protection, solid  
26 waste collection and street maintenance services to the area to be  
27 annexed on the date of annexation on substantially the same basis  
28 and in the same manner as such services are provided within the  
29 rest of the municipality prior to annexation. A contract with a  
30 rural fire department to provide fire protection shall be an  
31 acceptable method of providing fire protection. If a water  
32 distribution system is not available in the area to be annexed, the  
33 plans must call for reasonably effective fire protection services  
34 until such time as waterlines are made available in such area  
35 under existing municipal policies for the extension of waterlines.  
36 A contract with a private firm to provide solid waste collection  
37 services shall be an acceptable method of providing solid waste  
38 collection services.

39 b. Provide for extension of major trunk water mains and sewer  
40 outfall lines into the area to be annexed so that when such lines  
41 are constructed, property owners in the area to be annexed will  
42 be able to secure public water and sewer service, according to the  
43 policies in effect in such municipality for extending water and

- 1 sewer lines to individual lots or subdivisions. If requested by the  
2 owner of an occupied dwelling unit or an operating commercial  
3 or industrial property in writing on a form provided by the  
4 municipality, which form acknowledges that such extension or  
5 extensions will be made according to the current financial  
6 policies of the municipality for making such extensions, and if  
7 such form is received by the city clerk ~~not less than 30 days before~~  
8 ~~adoption of the annexation ordinance,~~ no later than five days after  
9 the public hearing, provide for extension of water and sewer lines  
10 to the property or to a point on a public street or road right-of-  
11 way adjacent to the property according to the financial policies in  
12 effect in such municipality for extending water and sewer lines.  
13 If any such requests are timely made, the municipality shall at the  
14 time of adoption of the annexation ordinance amend its report  
15 and plan for services to reflect and accommodate such ~~requests.~~  
16 requests, if an amendment is necessary. In areas where the  
17 municipality is required to extend sewer service according to its  
18 policies, but the installation of sewer is not economically feasible  
19 due to the unique topography of the area, the municipality shall  
20 provide septic system maintenance and repair service until such  
21 time as sewer service is provided to properties similarly situated.  
22 c. If extension of major trunk water mains, sewer outfall lines,  
23 sewer lines and water lines is necessary, set forth a proposed  
24 timetable for construction of such mains, outfalls and lines as  
25 soon as possible following the effective date of annexation. In  
26 any event, the plans shall call for construction to be completed  
27 within two years of the effective date of annexation.  
28 d. Set forth the method under which the municipality plans to  
29 finance extension of services into the area to be annexed.  
30 (4) A statement of the impact of the annexation on any rural fire department  
31 providing service in the area to be annexed and a statement of the  
32 impact of the annexation on fire protection and fire insurance rates in  
33 the area to be annexed, if the area where service is provided is in an  
34 insurance district designated under G.S. 153A-233, a rural fire  
35 protection district under Article 3A of Chapter 69 of the General  
36 Statutes, or a fire service district under Article 16 of Chapter 153A of  
37 the General Statutes. The rural fire department shall make available to  
38 the city not later than 30 days following a written request from the city  
39 all information in its possession or control, including but not limited to  
40 operational, financial and budgetary information, necessary for  
41 preparation of a statement of impact. The rural fire department forfeits  
42 its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to make a  
43 good faith response within 45 days following receipt of the written

1 request for information from the city, provided that the city's written  
2 request so states by specific reference to this section.

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

8 Section 13. G.S. 160A-47.1 reads as rewritten:

9 **"§ 160A-47.1. Limitation on change in financial participation prior to annexation.**

10 ~~No~~ For purposes of the extension of water and sewer services required under G.S.  
11 160A-47, no ordinance or policy substantially diminishing the financial participation of a  
12 municipality in the construction of water or sewer facilities required under this Article  
13 may apply to an area being annexed unless the ordinance or policy became effective at  
14 least 180 days prior to the date of adoption by the municipality of the resolution giving  
15 notice of intent to consider annexing the area under G.S. 160A-49(a)."

16 Section 14. G.S. 160A-48 reads as rewritten:

17 **"§ 160A-48. Character of area to be annexed.**

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

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

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

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

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

31 (2) At least one eighth of the aggregate external boundaries of the area must  
32 coincide with the municipal boundary.

33 (3) No part of the area shall be included within the boundary of another  
34 incorporated municipality.

35 (c) Part or all of the area to be annexed must be developed for urban ~~purposes.~~  
36 purposes at the time of approval of the report provided for in G.S. 160A-47. Area of  
37 streets and street rights-of-way shall not be used to determine total acreage under this  
38 section. An area developed for urban purposes is defined as any area which meets any  
39 one of the following standards:

40 (1) Has a total resident population equal to at least ~~two~~ two and three-tenths  
41 persons for each acre of land included within its boundaries; or

42 (2) Has a total resident population equal to at least one person for each acre  
43 of land included within its boundaries, and is subdivided into lots and



1 tracts such that at least sixty percent (60%) of the total acreage consists  
2 of lots and tracts ~~five-three~~ acres or less in size and such that at least  
3 sixty-five percent (65%) of the total number of lots and tracts are one  
4 acre or less in size; or

- 5 (3) Is so developed that at least sixty percent (60%) of the total number of  
6 lots and tracts in the area at the time of annexation are used for  
7 residential, commercial, industrial, institutional or governmental  
8 purposes, and is subdivided into lots and tracts such that at least sixty  
9 percent (60%) of the total acreage, not counting the acreage used at the  
10 time of annexation for commercial, industrial, governmental or  
11 institutional purposes, consists of lots and tracts ~~five-three~~ acres or less  
12 in size; ~~or size~~. For purposes of this section, a lot or tract shall not be  
13 considered in use for a commercial, industrial, institutional, or  
14 governmental purpose if the lot or tract is used only temporarily,  
15 occasionally, or on an incidental or insubstantial basis in relation to the  
16 size and character of the lot or tract. For purposes of this section,  
17 acreage in use for commercial, industrial, institutional, or governmental  
18 purposes shall include acreage actually occupied by buildings or other  
19 man-made structures together with all areas that are reasonably  
20 necessary and appurtenant to such facilities for purposes of parking,  
21 storage, ingress and egress, utilities, buffering, and other ancillary  
22 services and facilities; or

- 23 (4) Is the entire area of any county water and sewer district created under  
24 G.S. 162A-86(b1), but this subdivision only applies to annexation by a  
25 municipality if that:  
26 a. Municipality has provided in a contract with that district that the  
27 area is developed for urban purposes; and  
28 b. Contract provides for the municipality to operate the sewer  
29 system of that county water and sewer district;  
30 provided that the special categorization provided by this subdivision  
31 only applies if the municipality is annexing in one proceeding the entire  
32 territory of the district not already within the corporate limits of a  
33 ~~municipality~~. municipality; or

- 34 (5) Is so developed that, at the time of the approval of the annexation report,  
35 all tracts in the area to be annexed are used for commercial, industrial,  
36 governmental, or institutional purposes.

37 (d) In addition to areas developed for urban purposes, a governing board may  
38 include in the area to be annexed any area which does not meet the requirements of  
39 subsection (c) if such area either:

- 40 (1) Lies between the municipal boundary and an area developed for urban  
41 purposes so that the area developed for urban purposes is either not  
42 adjacent to the municipal boundary or cannot be served by the

1 municipality without extending services and/or water and/or sewer lines  
2 through such sparsely developed area; or

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

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

13 (e) In fixing new municipal boundaries, a municipal governing board ~~shall,~~  
14 ~~wherever practical, use natural topographic features such as ridge lines and streams and~~  
15 ~~creeks as boundaries, and may use streets as boundaries.~~ shall use recorded property lines  
16 and streets as boundaries. Some or all of the boundaries of a county water and sewer  
17 district may also be used when the entire district not already within the corporate limits of  
18 a municipality is being annexed.

19 (f) The area of an abolished water and sewer district shall be considered to be a  
20 water and sewer district for the purpose of this section even after its abolition under G.S.  
21 162A-87.2(b)."

22 Section 15. G.S. 160A-49 reads as rewritten:

23 "**§ 160A-49. Procedure for annexation.**

24 (a) Notice of Intent. – Any municipal governing board desiring to annex territory  
25 under the provisions of this Part shall first pass a resolution stating the intent of the  
26 municipality to consider annexation. Such resolution shall describe the boundaries of the  
27 area under ~~consideration~~ consideration, fix a date for a public informational meeting, and  
28 fix a date for a public hearing on the question of annexation, the annexation. The date for  
29 the public informational meeting shall be not less than 45 days and not more than 55 days  
30 following passage of the resolution. The date for such the public hearing to be not less  
31 than 45-60 days and not more than 90 days following passage of the resolution.

32 (b) Notice of Public Hearing. – The notice of public hearing shall:

- 33 (1) Fix the date, hour and place of the public informational meeting and the  
34 date, hour, and place of the public hearing.  
35 (2) Describe clearly the boundaries of the area under consideration, and  
36 include a legible map of the area.  
37 (3) State that the report required in G.S. 160A-47 will be available at the  
38 office of the municipal clerk at least 30 days prior to the date of the  
39 public ~~hearing~~ informational meeting.  
40 (4) Include a notice of a property owner's rights to request water and sewer  
41 service in accordance with G.S. 160A-47.  
42 (5) Include an explanation of a property owner's rights pursuant to  
43 subsections (f1) and (f2) of this section.

1 Such notice shall be given by publication once a week for at least two successive  
2 weeks prior to the date of the ~~hearing~~informational meeting in a newspaper having  
3 general circulation in the municipality and, in addition thereto, if the area to be annexed  
4 lies in a county containing less than fifty percent (50%) of the land area of the  
5 municipality, in a newspaper having general circulation in the area of proposed  
6 annexation. The period from the date of the first publication to the date of the last  
7 publication, both dates inclusive, shall be not less than eight days including Sundays, and  
8 the date of the last publication shall be not more than seven days preceding the date of  
9 public ~~hearing~~informational meeting. If there be no such newspaper, the municipality  
10 shall post the notice in at least five public places within the municipality and at least five  
11 public places in the area to be annexed for 30 days prior to the date of public ~~hearing~~informational meeting.  
12 In addition, notice shall be mailed at least four weeks prior to date of the ~~hearing~~informational meeting  
13 by first class mail, postage prepaid to the owners as shown by the tax records of the county of all freehold interests in real property  
14 located within the area to be annexed. The person or persons mailing such notices shall  
15 certify to the governing board that fact, and such certificate shall become a part of the  
16 record of the annexation proceeding and shall be deemed conclusive in the absence of  
17 fraud. If the notice is returned to the city by the postal service by the tenth day before the  
18 ~~hearing~~informational meeting, a copy of the notice shall be sent by certified mail, return  
19 receipt requested, at least seven days before the ~~hearing~~informational meeting. Failure  
20 to comply with the mailing requirements of this subsection shall not invalidate the  
21 annexation unless it is shown that the requirements were not substantially complied with.  
22 If the governing board by resolution finds that the tax records are not adequate to identify  
23 the owners of some or all of the parcels of real property within the area it may in lieu of  
24 the mail procedure as to those parcels where the owners could not be so identified, post  
25 the notice at least 30 days prior to the date of public ~~hearing~~informational meeting on all  
26 buildings on such parcels, and in at least five other places within the area to be annexed.  
27 In any case where notices are placed on property, the person placing the notices shall  
28 certify that fact to the governing board.

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

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

1 (d) Public Hearing. – At the public hearing a representative of the municipality  
2 shall first make an explanation of the report required in G.S. 160A-47. Following such  
3 explanation, all persons resident or owning property in the territory described in the  
4 notice of public hearing, and all residents of the municipality, shall be given an  
5 opportunity to be heard.

6 (e) Passage of the Annexation Ordinance. – The municipal governing board shall  
7 take into consideration facts presented at the public hearing and shall have authority to  
8 amend the report required by G.S. 160A-47 to make changes in the plans for serving the  
9 area proposed to be annexed so long as such changes meet the requirements of G.S.  
10 160A-47, provided that if the annexation report is amended to show additional  
11 subsections of G.S. 160A-48(c) or (d) under which the annexation qualifies that were not  
12 listed in the original report, the city must hold an additional public hearing on the  
13 annexation not less than 30 nor more than 90 days after the date the report is amended,  
14 and notice of such new hearing shall be given at the first public hearing. At any regular or  
15 special meeting held no sooner than the tenth day following the public hearing and not  
16 later than 90 days following such public hearing, the governing board shall have authority  
17 to adopt an ordinance extending the corporate limits of the municipality to include all, or  
18 such part, of the area described in the notice of public hearing which meets the  
19 requirements of G.S. 160A- 48 and which the governing board has concluded should be  
20 annexed. The ordinance shall:

- 21 (1) Contain specific findings showing that the area to be annexed meets the  
22 requirements of G.S. 160A-48. The external boundaries of the area to be  
23 annexed shall be described by metes and bounds. In showing the  
24 application of G.S. 160A- 48(c) and (d) to the area, the governing board  
25 may refer to boundaries set forth on a map of the area and incorporate  
26 same by reference as a part of the ordinance.
- 27 (2) A statement of the intent of the municipality to provide services to the  
28 area being annexed as set forth in the report required by G.S. 160A-47.
- 29 (3) A specific finding that on the effective date of annexation the  
30 municipality will have funds appropriated in sufficient amount to  
31 finance construction of any major trunk water mains and sewer outfalls  
32 and such water and sewer lines as required in G.S. 160A-47(3)(b) found  
33 necessary in the report required by G.S. 160A-47 to extend the basic  
34 water and/or sewer system of the municipality into the area to be  
35 annexed, or that on the effective date of annexation the municipality  
36 will have authority to issue bonds in an amount sufficient to finance  
37 such construction. If authority to issue such bonds must be secured from  
38 the electorate of the municipality prior to the effective date of  
39 annexation, then the effective date of annexation shall be no earlier than  
40 the day following the statement of the successful result of the bond  
41 election.

1 (4) Fix the effective date for annexation. The effective date of annexation  
2 may be fixed for any date not less than ~~40 days~~ 70 days nor more than  
3 400 days from the date of passage of the ordinance.

4 (f) Effect of Annexation Ordinance. – Except as provided in subsection (f1) of this  
5 section, from ~~From~~ and after the effective date of the annexation ordinance, the (f) Effect  
6 of Annexation Ordinance. – From and after the effective date of the annexation  
7 ordinance, the territory and its citizens and property shall be subject to all debts, laws,  
8 ordinances and regulations in force in such municipality and shall be entitled to the same  
9 privileges and benefits as other parts of such municipality. Real and personal property in  
10 the newly annexed territory on the January 1 immediately preceding the beginning of the  
11 fiscal year in which the annexation becomes effective is subject to municipal taxes as  
12 provided in G.S. 160A-58.10. Provided that annexed property which is a part of a  
13 sanitary district, which has installed water and sewer lines, paid for by the residents of  
14 said district, shall not be subject to that part of the municipal taxes levied for debt service  
15 for the first five years after the effective date of annexation. If this proviso should be  
16 declared by a court of competent jurisdiction to be in violation of any provision of the  
17 federal or State Constitution, the same shall not affect the remaining provisions of this  
18 Part. If the effective date of annexation falls between June 1 and June 30, and the  
19 effective date of the privilege license tax ordinance of the annexing municipality is June  
20 1, then businesses in the area to be annexed shall be liable for taxes imposed in such  
21 ordinances from and after the effective date of annexation.

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

25 (1) Land that is being taxed at present-use value pursuant to G.S. 105-  
26 277.4; or

27 (2) Land that:

28 a. Was on the date of the resolution of intent for annexation being  
29 used for actual production and is eligible for present-use value  
30 taxation under G.S. 105-277.4, but the land has not been in use  
31 for actual production for the required time under G.S. 105-277.3;  
32 and

33 b. The assessor for the county where the land subject to annexation  
34 is located has certified to the city that the land meets the  
35 requirements of this subdivision

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

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

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

1           (2)   For all other purposes, the annexation becomes effective as to each tract  
2           of such property or part thereof on the last day of the month in which  
3           that tract or part thereof becomes ineligible for classification pursuant to  
4           G.S. 105-227.4 or no longer meets the requirements of subdivision  
5           (f1)(2) of this section. Until annexation of a tract or a part of a tract  
6           becomes effective pursuant to this subdivision, the tract or part of a tract  
7           is not subject to taxation by the city under Article 12 of Chapter 105 of  
8           the General Statutes nor is the tract or part of a tract entitled to services  
9           provided by the city.

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

14       (h)   Remedies for Failure to Provide Services. – If, not earlier than one year from  
15 the effective date of annexation, and not later than 15 months from the effective date of  
16 annexation, any person owning property in the annexed territory shall believe that the  
17 municipality has not followed through on its service plans adopted under the provisions  
18 of G.S. 160A-47(3) and 160A-49(e), for any required service other than water and sewer  
19 services such person may apply for a writ of mandamus under the provisions of Article  
20 40, Chapter 1 of the General Statutes. Relief may be granted by the judge of superior  
21 court

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

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

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

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

3 (i) No resolution of intent may be adopted under subsection (a) of this section  
4 unless the city council (or planning agency created or designated under either G.S. 160A-  
5 361 or the charter) has, by resolution adopted at least one year prior to adoption of the  
6 resolution of intent, identified the area as being under consideration for ~~annexation;~~  
7 annexation and included a statement in the resolution notifying persons subject to the  
8 annexation of their rights under subsections (f1) and (f2) of this section; provided,  
9 adoption of such resolution of consideration shall not confer prior jurisdiction over the  
10 area as to any other city. The area described under the resolution of intent may comprise  
11 a smaller area than that identified by the resolution of consideration. The resolution of  
12 consideration may have a metes and bounds description or a map and shall remain  
13 effective for two years after adoption, and shall be filed with the city clerk. A new  
14 resolution of consideration adopted before expiration of the two-year period for a  
15 previously adopted resolution covering the same area shall relate back to the date of the  
16 previous resolution.

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

21 (k) If a valid request for extension of a water or sewer line has been made under  
22 G.S. 160A-47(3)b, and the extension is not complete at the end of two years after the  
23 effective date of the annexation ordinance, the owner of the property may petition the  
24 Local Government Commission for abatement of taxes to be paid to the city which have  
25 not been levied as of the expiration date of the two-year period, if such petition is filed  
26 not more than 60 days after the expiration of the two-year period. If the Local  
27 Government Commission finds that the extension to the property was not complete by the  
28 end of the two-year period, it shall enter an order directing the city not to levy any further  
29 ad valorem taxes on the property until the fiscal year commencing after completion of the  
30 extension. In addition, if the Local Government Commission found that the extension to  
31 the property was not completed by the end of the two-year period, and if it finds that for  
32 any fiscal year during the period beginning with the first day of the fiscal year in which  
33 the annexation ordinance became effective and ending the last day of the fiscal year in  
34 which the two-year period expired, the city made an appropriation for construction,  
35 operation or maintenance of a water or sewer system (other than payments the city made  
36 as a customer of the system) from the fund or funds for which ad valorem taxes are  
37 levied, then the Local Government Commission shall order the city to release or refund  
38 an amount of the petitioner's property taxes for that year in question in proportion to the  
39 percentage of appropriations in the fund made for water and sewer services. By way of  
40 illustration, if a net amount of one hundred thousand dollars (\$100,000) was appropriated  
41 for water or sewer construction, operation or maintenance from a fund which had total  
42 expenditures of ten million dollars (\$10,000,000) and the petitioner's tax levy was one  
43 thousand dollars (\$1,000), the amount of release or refund shall be ten dollars (\$10.00).

1       (l) If a city fails to deliver police protection, fire protection, solid waste or street  
2 maintenance services as provided for in G.S. 160A-47(3)a. within 60 days after the  
3 effective date of the annexation, the owner of the property may petition the Local  
4 Government Commission for abatement of taxes to be paid to the city for taxes that have  
5 been levied as of the end of the 60-day period, if the petition is filed not more than 90  
6 days after the expiration of the 60-day period. If the Local Government Commission  
7 finds that services were not extended by the end of the 60-day period, it shall enter an  
8 order directing the city not to levy any further ad valorem taxes on the property until the  
9 fiscal year commencing after extension of the municipal services."

10               Section 16. G.S. 160A-49.2 reads as rewritten:

11 **"§ 160A-49.2. Assumption of debt.**

12       (a) If the city has annexed any area which is served by a rural fire department and  
13 which is in an insurance district defined under G.S. 153A-233, a rural fire protection  
14 district under Article 3A of Chapter 69 of the General Statutes or a fire service district  
15 under Article 16 of Chapter 153A of the General Statutes, then upon the effective date of  
16 annexation if the city has not contracted with the rural fire department for fire protection,  
17 or when the rural fire department ceases to provide fire protection under contract, then  
18 the city shall pay annually a proportionate share of any payments due on any debt  
19 (including principal and interest) relating to facilities or equipment of the rural fire  
20 department, if the debt was existing at the time of adoption of the resolution of intent,  
21 with the payments in the same proportion that the assessed valuation of the area of the  
22 district annexed bears to the assessed valuation of the entire district on the date the  
23 annexation ordinance becomes ~~effective~~-effective or another date for valuation mutually  
24 agreed upon by the city and the fire department.

25       (b) The city and rural fire department shall jointly present a payment schedule to  
26 the Local Government Commission for approval and no payment may be made until such  
27 schedule is approved."

28               Section 17. G.S. 160A-49.3(h) reads as rewritten:

29       "(h) A firm which has given notice under subsection (a) of this section that it  
30 desires to contract, and any firm that the city believes is eligible to give such notice, shall  
31 make available to the city not later than ~~five~~-10 business days following a written request  
32 of the ~~city~~-city, sent by certified mail return receipt requested, all information in its  
33 possession or control, including but not limited to operational, financial and budgetary  
34 information, necessary for the city to determine if the firm qualifies for the benefits of  
35 this section and to determine the nature and scope of the potential contract and/or  
36 economic loss. The firm forfeits its rights under this section if it fails to make a good faith  
37 response within 10 business days following receipt of the written request for information  
38 from the city, provided that the city's written request so states by specific reference to this  
39 section."

40               Section 18. G.S. 160A-50 reads as rewritten:

41 **"§ 160A-50. Appeal.**

42       (a) Within ~~30 days~~-60 days following the passage of an annexation ordinance  
43 under authority of this Part, any person owning property in the annexed territory who



1 shall believe that he will suffer material injury by reason of the failure of the municipal  
2 governing board to comply with the procedure set forth in this Part or to meet the  
3 requirements set forth in G.S. 160A-48 as they apply to his property may file a petition in  
4 the superior court of the county in which the municipality is located seeking review of the  
5 action of the governing board.

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

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

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

15 (2) A copy of the report setting forth the plans for extending services to the  
16 annexed area as required in G.S. 160A-47.

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

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

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

31 (1) That the statutory procedure was not followed, or

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

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

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

36 (1) Remand the ordinance to the municipal governing board for further  
37 proceedings if procedural irregularities are found to have materially  
38 prejudiced the substantive rights of any of the petitioners.

39 (2) Remand the ordinance to the municipal governing board for amendment  
40 of the boundaries to conform to the provisions of G.S. 160A-48 if it  
41 finds that the provisions of G.S. 160A-48 have not been met; provided,  
42 that the court cannot remand the ordinance to the municipal governing  
43 board with directions to add area to the municipality which was not

1 included in the notice of public hearing and not provided for in plans for  
2 service.

3 (3) Remand the report to the municipal governing board for amendment of  
4 the plans for providing services to the end that the provisions of G.S.  
5 160A-47 are satisfied.

6 (4) Declare the ordinance null and void, if the court finds that the ordinance  
7 cannot be corrected by remand as provided in subdivisions (1), (2), or  
8 (3) of this subsection.

9 If any municipality shall fail to take action in accordance with the court's instructions  
10 upon remand within three months from receipt of such instructions, the annexation  
11 proceeding shall be deemed null and void.

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

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

27 (j) If a petition for review is filed under subsection (a) of this section or an appeal  
28 is filed under G.S. 160A-49.1(g) or G.S. 160A-49.3(g), and a stay is granted, then the  
29 time periods of two years, 24 months or 27 months provided in G.S. 160A-47(3)c, 160A-  
30 49(h), or 160A-49(j) are each extended by the lesser of the length of the stay or one year  
31 for that annexation.

32 (k) The provisions of subsection (i) of this section shall apply to any judicial  
33 review authorized in whole or in part by G.S. 160A-49.1(i) or G.S. 160A-49.3(g).

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

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

42 Section 19. G.S. 160A-54 reads as rewritten:

43 "**§ 160A-54. Population and land estimates.**

1 In determining population and degree of land subdivision for purposes of meeting the  
2 requirements of G.S. 160A-48, the municipality shall use methods calculated to provide  
3 reasonably accurate results. In determining whether the standards set forth in G.S. 160A-  
4 48 have been met on appeal to the superior court under G.S. 160A-50, the reviewing  
5 court shall accept the estimates of the ~~municipality~~ municipality unless the actual  
6 population, total area, or degree of land subdivision falls below the standards in G.S.  
7 160A-48:

- 8 (1) As to population, if the estimate is based on the number of dwelling  
9 units in the area multiplied by the average family size in such area, or in  
10 the township or townships of which such area is a part, as determined by  
11 the last preceding federal decennial census; or if it is based on a new  
12 enumeration carried out under reasonable rules and regulations by the  
13 annexing municipality; provided, that the court shall not accept such  
14 estimates if the petitioners demonstrate that such estimates are in error  
15 in the amount of ten percent (10%) or more.
- 16 (2) As to total area if the estimate is based on an actual survey, or on county  
17 tax maps or records, or on aerial photographs, or on some other  
18 reasonably reliable map used for official purposes by a governmental  
19 agency, unless the petitioners on appeal demonstrate that such estimates  
20 are in error in the amount of five percent (5%) or more.
- 21 (3) As to degree of land subdivision, if the estimates are based on an actual  
22 survey, or on county tax maps or records, or on aerial photographs, or  
23 on some other reasonably reliable source, unless the petitioners on  
24 appeal show that such estimates are in error in the amount of five  
25 percent (5%) or more."

26 Section 20. This act becomes effective November 1, 1998, and applies to  
27 annexations for which the resolution of intent is adopted on or after that date. Sections 2  
28 and 3 shall not apply to any incorporation proposal originally presented to the Joint  
29 Legislative Commission on Municipal Incorporations prior to the effective date.