

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 494

Short Title: Annexation/Meaningful Services and Oversight. (Public)

Sponsors: Senator Shaw.

Referred to: State and Local Government.

March 10, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE ANNEXATION LAWS TO REQUIRE MEANINGFUL  
3 SERVICES AND MEANINGFUL OVERSIGHT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Part 2 of Article 4A of Chapter 160A of the General Statutes is  
6 repealed.

7 **SECTION 2.** Part 3 of Article 4A of Chapter 160A of the General Statutes reads as  
8 rewritten:

9 "Part 3. Annexation by ~~Cities of 5,000 or More~~ Cities.

10 **"§ 160A-45. Declaration of policy.**

11 It is hereby declared as a matter of State policy:

- 12 (1) That sound urban development is essential to the continued economic  
13 development of North Carolina;
- 14 (2) That municipalities are created to provide the governmental services  
15 essential for sound urban development and for the protection of health,  
16 safety and welfare in areas being intensively used for residential,  
17 commercial, industrial, institutional and governmental purposes or in areas  
18 undergoing such development;
- 19 (3) That municipal boundaries should be extended in accordance with legislative  
20 standards applicable throughout the State, to include such areas and to  
21 provide the high quality of meaningful governmental services if needed  
22 therein for the public health, safety and welfare;
- 23 (4) ~~That new urban development in and around municipalities having a~~  
24 ~~population of 5,000 or more persons is more scattered than in and around~~  
25 ~~smaller municipalities, and that such larger municipalities have greater~~  
26 ~~difficulty in expanding municipal utility systems and other service facilities~~  
27 ~~to serve such scattered development, so that the legislative standards~~  
28 ~~governing annexation by larger municipalities must take these facts into~~  
29 ~~account if the objectives set forth in this section are to be attained;~~ That city  
30 initiated annexation of unincorporated land has significant affects on the  
31 land use and finances of county government and county landowners and  
32 therefore requires review and approval by all parties affected.
- 33 (5) That areas annexed to municipalities in accordance with such uniform  
34 legislative standards should receive ~~the~~ meaningful services provided by the  
35 annexing municipality in accordance with G.S. 160A-47(3).

36 **"§ 160A-46. Authority to annex.**



1 The governing board of any municipality ~~having a population of 5,000 or more persons~~  
2 ~~according to the last federal decennial census~~ may extend the corporate limits of such  
3 municipality to include contiguous areas in need of meaningful urban services which cannot be  
4 resolved without extension of municipal services under the procedure set forth in this Part.

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

6 A municipality exercising authority under this Part shall show that previous annexations  
7 made under this Part are successfully completed and shall make plans for the extension of  
8 meaningful services to the area in need of meaningful services proposed to be annexed and  
9 shall, prior to the public hearing provided for in G.S. 160A-49, prepare a report setting forth  
10 such plans to provide services to such ~~area~~ area and shall deliver this report to the board of  
11 commissioners of the county where the territory being considered for annexation under this  
12 Part is located. The report shall include:

- 13 (1) A map or maps of the municipality and adjacent territory to show the  
14 following information:
  - 15 a. The present and proposed boundaries of the municipality.
  - 16 b. The present major trunk water ~~mains~~ mains, ~~and~~ sewer interceptors  
17 and outfalls, sewer lines and waterlines, and the proposed extensions  
18 of such mains and outfalls and all necessary sewer lines and  
19 waterlines as required in subdivision (3) of this section. The water  
20 and sewer map must bear the seal of a registered professional  
21 engineer.
  - 22 c. The general land use pattern in the area to be annexed.
- 23 (2) A statement showing that the area to be annexed meets the requirements of  
24 G.S. 160A-48.
- 25 (3) A statement setting forth the plans of the municipality for extending to the  
26 area to be annexed each major municipal service performed within the  
27 municipality at the time of annexation. Specifically, such plans shall:
  - 28 a. Provide for extending water and sewer services, police protection,  
29 fire protection, solid waste collection and street maintenance services  
30 to the area to be annexed on the date of annexation on ~~substantially~~  
31 the same basis and in the same manner as such services are provided  
32 within the rest of the municipality prior to annexation. A contract  
33 with the sheriff for additional police patrol by the sheriff's  
34 department shall not qualify as provision of police protection for the  
35 purpose of this Part. A contract with a rural fire department to  
36 provide fire protection shall be an acceptable method of providing  
37 fire protection. ~~If a water distribution system is not available in the~~  
38 ~~area to be annexed, the plans must call for reasonably effective fire~~  
39 ~~protection services~~ protection only until such time as waterlines are  
40 made available in such area under existing municipal policies for the  
41 extension of waterlines. A contract with a private firm to provide  
42 solid waste collection services shall be an acceptable method of  
43 providing solid waste collection ~~services~~ service only if such  
44 contract is the method of solid waste collection services throughout  
45 the municipality at the time of the resolution of consideration to  
46 annex.
  - 47 b. Provide for extension of major trunk water mains and sewer outfall  
48 ~~lines~~ lines, and all necessary sewer lines and waterlines, into the area  
49 to be annexed so that when such lines are constructed, property  
50 owners in the area to be annexed will be able to secure public water  
51 and sewer service, according to the policies in effect in such

- 1                    ~~municipality municipality. for extending water and sewer lines to~~  
2                    ~~individual lots or subdivisions. If requested by the owner of an~~  
3                    ~~occupied dwelling unit or an operating commercial or industrial~~  
4                    ~~property in writing on a form provided by the municipality, which~~  
5                    ~~form acknowledges that such extension or extensions will be made~~  
6                    ~~according to the current financial policies of the municipality for~~  
7                    ~~making such extensions, and if such form is received by the city~~  
8                    ~~clerk no later than five days after the public hearing, provide for~~  
9                    ~~extension of water and sewer lines to the property or to a point on a~~  
10                  ~~public street or road right of way adjacent to the property according~~  
11                  ~~to the financial policies in effect in such municipality for extending~~  
12                  ~~water and sewer lines. If any such requests are timely made, the~~  
13                  ~~municipality shall at the time of adoption of the annexation ordinance~~  
14                  ~~amend its report and plan for services to reflect and accommodate~~  
15                  ~~such requests, if an amendment is necessary. In areas where the~~  
16                  ~~municipality is required to extend sewer service according to its~~  
17                  ~~policies, but the installation of sewer is not economically physically~~  
18                  ~~feasible or would be environmentally damaging due to the unique~~  
19                  ~~topography or environmental qualities of the area, the municipality~~  
20                  ~~shall 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, sewer  
23                  lines and water lines is necessary, set forth a proposed timetable for  
24                  construction of such mains, outfalls and lines as soon as possible  
25                  following the effective date of annexation. In any event, the plans  
26                  shall call for construction to be completed within ~~two~~ three years of  
27                  the effective date of annexation. A contract with a county authority  
28                  or other third party water and/or sewer authority shall not qualify  
29                  under this Part as provision of meaningful services by the  
30                  municipality considering annexation.  
31                  d.                  Set forth the method under which the municipality plans to finance  
32                  extension of all meaningful urban services into the area to be  
33                  annexed.  
34                  (4)                A statement of the impact of the annexation on any rural fire department  
35                  providing service in the area to be annexed and a statement of the impact of  
36                  the annexation on fire protection and fire insurance rates in the area to be  
37                  annexed, if the area where service is provided is in an insurance district  
38                  designated under G.S. 153A-233, a rural fire protection district under Article  
39                  3A of Chapter 69 of the General Statutes, or a fire service district under  
40                  Article 16 of Chapter 153A of the General Statutes. The rural fire  
41                  department shall make available to the city not later than 30 days following a  
42                  written request from the city all information in its possession or control,  
43                  including but not limited to operational, financial and budgetary information,  
44                  necessary for preparation of a statement of impact. The rural fire department  
45                  forfeits its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to  
46                  make a good faith response within 45 days following receipt of the written  
47                  request for information from the city, provided that the city's written request  
48                  so states by specific reference to this section.  
49                  (5)                A statement showing how the proposed annexation will affect the city's  
50                  finances and services, including city revenue change estimates. This  
51                  statement shall be delivered to the clerk of the board of county

1 commissioners at least 30 days before the date of the public informational  
2 meeting on any annexation under this Part.

3 **"§ 160A-47.1. Limitation on change in financial participation prior to annexation.**

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

10 **"§ 160A-48. Character of area to be annexed.**

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

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

14 (2) Every part of which meets the requirements of ~~either~~ subsection (c) ~~or~~ and if  
15 needed, subsection (d).

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

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

24 (2) At least ~~one-eighth~~ one-third of the aggregate external boundaries of the area  
25 must coincide with the municipal boundary.

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

28 (4) A majority of property owners have existing water service, sewer or septic  
29 service, police protection, or fire protection that is inadequate and clearly  
30 poses a threat to the health and safety of the area, and the property owners  
31 could not reasonably address the threat themselves through private or public  
32 means.

33 (c) Part or all of the area to be annexed must be developed for urban purposes at the  
34 time of approval of the report provided for in G.S. ~~160A-47~~ 160A-47 and must be in need of  
35 meaningful urban services as defined in G.S. 160A-53(4). Area of streets and street  
36 rights-of-way shall not be used to determine total acreage under this section. An area developed  
37 for urban purposes is defined as any area which meets any one of the following standards:

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

40 (2) Has a total resident population equal to at least ~~one person~~ four persons for  
41 each acre of land included within its boundaries, and is subdivided into lots  
42 and tracts such that at least sixty percent (60%) of the total acreage consists  
43 of residential lots and tracts three acres or less in size and such that at least  
44 sixty-five percent (65%) of the total number of lots and tracts are ~~one~~  
45 one-half acre or less in size; or

46 (3) Is so developed that at least sixty percent (60%) of the total number of lots  
47 and tracts in the area at the time of annexation are used for ~~residential,~~  
48 commercial, industrial, institutional or governmental purposes, and at least  
49 twenty percent (20%) of the total number of lots and tracts in the area at the  
50 time of the annexation are used for residential purposes and consist of lots  
51 and tracts one-half acre or less. and is subdivided into lots and tracts such

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

14 (4) Is the entire area of any county water and sewer district created under  
 15 G.S. 162A-86(b1), but this subdivision only applies to annexation by a  
 16 municipality if that:

- 17 a. Municipality has provided in a contract with that district that the area  
 18 is developed for urban purposes; and  
 19 b. Contract provides for the municipality to operate the sewer system of  
 20 that county water and sewer district;

21 provided that the special categorization provided by this subdivision only  
 22 applies if the municipality is annexing in one proceeding the entire territory  
 23 of the district not already within the corporate limits of a municipality; or

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

27 (d) In addition to areas developed for urban purposes, a governing board may include in  
 28 the area to be annexed any area which does not meet the requirements of subsection (c) if such  
 29 area ~~either: (1) Lies~~ lies between the municipal boundary and an area developed for urban  
 30 purposes so that the area developed for urban purposes is either not adjacent to the municipal  
 31 boundary or cannot be served by the municipality without extending services and/or water  
 32 and/or sewer lines through such sparsely developed ~~area; or area.~~

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

36 The purpose of this subsection is to permit municipal governing boards to extend corporate  
 37 limits to include all nearby areas developed for urban purposes that are in need of meaningful  
 38 services as described in G.S. 160A-53(4), and where necessary to include areas which at the  
 39 time of annexation are not yet developed for urban purposes but which constitute necessary  
 40 land connections between the municipality and areas developed for urban purposes or between  
 41 two or more areas developed for urban purposes. For purposes of this subsection, "necessary  
 42 land connection" means an area that does not exceed ~~twenty five percent (25%)~~ fifteen percent  
 43 (15%) of the total area to be annexed.

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

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

51 **"§ 160A-49. Procedure for annexation.**

1 (a) Notice of Consideration, County Approval, and Notice of Intent. – Any municipal  
2 governing board desiring to annex territory under the provisions of this Part shall first pass a  
3 resolution ~~stating the intent of the municipality to consider annexation~~ of consideration and  
4 send notification to the board of commissioners of the county in which the territory to be  
5 annexed is located and to the affected property owners by certified mail. Such resolution shall  
6 describe the boundaries of the area under ~~consideration~~ consideration by metes and bounds and  
7 include a legible map. The municipal governing body shall fix a date for a public informational  
8 ~~meeting~~ meeting and fix a date for a public hearing on the question of annexation. The date for  
9 the public informational meeting shall be not less than 45 days and not more than 55 days  
10 following passage of the resolution. The board of commissioners of the county in which the  
11 territory proposed to be annexed is located shall fix a date for a public hearing on the question  
12 of annexation. The date for the public hearing to be not less than 60 days and not more than 90  
13 days following passage of the resolution.

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

- 15 (1) ~~Fix the date, hour and place of the public informational meeting and the~~  
16 ~~date, hour, and place of the public hearing.~~
- 17 (2) Describe clearly the boundaries of the area under consideration, and include  
18 a legible map of the area.
- 19 (3) State that the report required in G.S. 160A-47 will be available at the office  
20 of the municipal clerk at least 30 days prior to the date of the public  
21 informational meeting.
- 22 (4) ~~Include a notice of a property owner's rights to request water and sewer~~  
23 ~~service in accordance with G.S. 160A-47.~~
- 24 (5) Include an explanation of a property owner's rights pursuant to subsections  
25 (f1) and (f2) of this section.

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

1 within the area to be annexed. In any case where notices are placed on property, the person  
2 placing the notices shall certify that fact to the governing board.

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

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

18 The notice of the public informational meeting shall:

- 19 (1) State the date, hour, and place of the public informational meeting and the  
20 date, hour, and place of the public hearing.  
21 (2) Describe clearly the boundaries of the area proposed for annexation, and  
22 include a legible map of the area.  
23 (3) State that the report required by G.S. 160A-47 will be available at the office  
24 of the municipal clerk at least 30 days prior to the date of the public  
25 informational meeting.  
26 (4) Include a notice of the property owner's rights to receive water and sewer  
27 service in accordance with G,S. 160A-47.

28 (d) Public Hearing. – At the public hearing a representative of the municipality shall  
29 first make an explanation of the report required in G.S. 160A-47. Following such explanation,  
30 all persons resident or owning property in the territory described in the notice of public hearing,  
31 and all residents of the municipality, shall be given an opportunity to be heard. The board of  
32 commissioners of the county shall hear all public comments and will thereafter certify and state  
33 findings of fact to show whether annexation of the areas described in the resolution of  
34 consideration is reasonable, financially sound, necessary for the extension of meaningful  
35 services, in the best interests of the residents of the area being considered for annexation, and  
36 does not adversely affect the administration or the finances of the county or the municipality  
37 considering the annexation. If objections to the annexation are presented at the public hearing,  
38 before approval of the annexation, the board of commissioners of the county shall call a  
39 referendum on the question. Additionally, if a petition is presented at the public hearing signed  
40 by at least fifteen percent (15%) of the qualified voters of the municipality asking for a  
41 referendum on the issue of annexation, the question of annexation shall also be held separately  
42 within the municipality. The board of commissioners of the county shall notify the county  
43 board or county boards of election to fix a date of an election to vote to approve or disapprove  
44 of the annexation. Ballots, voting systems, or both may be used in accordance with Chapter 163  
45 of the General Statutes. The question to appear shall be

46 "  FOR  AGAINST  
47 Extension.

48 If at such election, a majority of the votes cast from the area proposed for annexation shall  
49 be 'For Extension,' and, in the event an election is held in the municipality, the majority of the  
50 votes cast in the municipality shall also be 'For Extension,' then from and after the later of the  
51 date of the declaration of the result of such election or the effective date contained in the

1 annexation ordinance, the territory and its citizens and property shall be subject to all the debts,  
2 laws, ordinances, and regulations in force in said city or town and shall be entitled to the same  
3 privileges and benefits as other parts of said city or town. The newly elected territory shall be  
4 subject to city taxes as provided by this Article.

5 (e) ~~Passage of the Annexation Ordinance. – The municipal governing board shall take~~  
6 ~~into consideration facts presented at the public hearing and shall have authority to amend the~~  
7 ~~report required by G.S. 160A-47 to make changes in the plans for serving the area proposed to~~  
8 ~~be annexed so long as such changes meet the requirements of G.S. 160A-47, provided that if~~  
9 ~~the annexation report is amended to show additional subsections of G.S. 160A-48(c) or (d)~~  
10 ~~under which the annexation qualifies that were not listed in the original report, the city must~~  
11 ~~hold an additional public hearing on the annexation not less than 30 nor more than 90 days after~~  
12 ~~the date the report is amended, and notice of such new hearing shall be given at the first public~~  
13 ~~hearing. After securing approval of the board of commissioners of the county in which the area~~  
14 ~~proposed for annexation is located under subsection (d) of this section, and approval by the~~  
15 ~~voters if required under subsection (d) of this section, and after the elapsing of at least one year~~  
16 ~~since the date of adoption of the resolution of consideration, the municipal governing board~~  
17 ~~may adopt a resolution stating its intent to consider annexation of the approved territory. At any~~  
18 ~~regular or special meeting held no sooner than the tenth day following the public hearing~~  
19 ~~adoption of the resolution of intent, and not later than 90 days following such public hearing,~~  
20 ~~adoption of the resolution of intent, the governing board shall have authority to adopt an~~  
21 ~~ordinance extending the corporate limits of the municipality to include all, or such part, of the~~  
22 ~~area described in the notice of public hearing which meets the requirements of G.S. 160A-48~~  
23 ~~including approval of the county board of commissioners and a referendum if also required,~~  
24 ~~and which the governing board has concluded should be annexed. The ordinance shall:~~

- 25 (1) Contain specific findings showing that the area to be annexed meets the  
26 requirements of G.S. 160A-48. The external boundaries of the area to be  
27 annexed shall be described by metes and bounds. In showing the application  
28 of G.S. 160A-48(c) and (d) to the area, the governing board may refer to  
29 boundaries set forth on a map of the area and incorporate same by reference  
30 as a part of the ordinance.
- 31 (2) A statement of the intent of the municipality to provide meaningful services  
32 to the area in need of meaningful service being annexed as set forth in the  
33 report required by G.S. 160A-47.
- 34 (3) A specific finding that on the effective date of annexation the municipality  
35 will have funds appropriated in sufficient amount to finance construction of  
36 any major trunk water mains and sewer outfalls and such water and sewer  
37 lines as required in G.S. 160A-47(3)b found necessary in the report required  
38 by G.S. 160A-47 to extend the basic water and/or sewer system of the  
39 municipality into the area to be annexed, or that on the effective date of  
40 annexation the municipality will have authority to issue bonds in an amount  
41 sufficient to finance such construction. If authority to issue such bonds must  
42 be secured from the electorate of the municipality prior to the effective date  
43 of annexation, then the ~~effective date of annexation~~ adoption of the  
44 resolution of intent shall be no earlier than the day following the statement  
45 of the successful result of the bond election.
- 46 (4) Fix the effective date for annexation. The effective date of annexation may  
47 be fixed for any date not less than 70 days nor more than 400 days from the  
48 date of passage of the ordinance.

49 (f) Effect of Annexation Ordinance. – Except as provided in subsection (f1) of this  
50 section, from and after the effective date of the annexation ordinance, the territory and its  
51 citizens and property shall be subject to all debts, laws, ordinances and regulations in force in



1 such municipality and shall be entitled to the same privileges and benefits as other parts of such  
2 municipality. Real and personal property in the newly annexed territory on the January 1  
3 immediately preceding the beginning of the fiscal year in which the annexation becomes  
4 effective is subject to municipal taxes as provided in G.S. 160A-58.10. Provided that annexed  
5 property which is a part of a sanitary district, which has installed water and sewer lines, paid  
6 for by the residents of said district, shall not be subject to that part of the municipal taxes levied  
7 for debt service for the first five years after the effective date of annexation. If this proviso  
8 should be declared by a court of competent jurisdiction to be in violation of any provision of  
9 the federal or State Constitution, the same shall not affect the remaining provisions of this Part.  
10 If the effective date of annexation falls between June 1 and June 30, and the effective date of  
11 the privilege license tax ordinance of the annexing municipality is June 1, then businesses in  
12 the area to be annexed shall be liable for taxes imposed in such ordinances from and after the  
13 effective date of annexation.

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

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

18 (2) Land that:

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

23 b. The assessor for the county where the land subject to annexation is  
24 located has certified to the city that the land meets the requirements  
25 of this subdivision

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

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

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

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

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

45 (h) Remedies for Failure to Provide Services. – If, not earlier than one year from the  
46 effective date of annexation, and not later than 15 months from the effective date of annexation,  
47 any person owning property in the annexed territory shall believe that the municipality has not  
48 followed through on its service plans adopted under the provisions of G.S. 160A-47(3) and  
49 160A-49(e), for any required service ~~other than water and sewer services~~ such person may  
50 apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the General  
51 Statutes. Relief may be 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-47(3)a on ~~substantially~~ the  
3 same basis and in the same manner as such services were provided within  
4 the rest of the municipality prior to the effective date of annexation, and  
5 (2) If at the time the writ is sought such services set forth in the plan submitted  
6 under the provisions of G.S. 160A-47(3)a are still being provided on  
7 substantially the same basis and in the same manner as on the date of  
8 annexation of the municipality.

9 If, not earlier than 24 months from the effective date of the annexation, and not later than  
10 27 months from the effective date of the annexation, any person owning property in the  
11 annexed area can show that ~~the plans submitted under the provisions of G.S. 160A-47(3)e~~  
12 ~~require~~ the construction of major trunk water mains and sewer outfall lines and such water and  
13 sewer lines required in G.S. 160A-47(3)b. ~~and if construction has not been completed within~~  
14 ~~two three~~ years of the effective date of the annexation, relief may also be granted by the  
15 superior court by an order to the municipality to complete such lines and outfalls and such  
16 water and sewer lines required in G.S. 160A-47(3)b. within a certain time. ~~Similar relief may~~  
17 ~~be granted by the superior court to any owner of property who made a timely request for a~~  
18 ~~water or sewer line, or both, pursuant to G.S. 160A-47(3)b and such lines have not been~~  
19 ~~completed within two years from the effective date of annexation in accordance with applicable~~  
20 ~~city policies and through no fault of the owner, if such owner petitions for such relief not earlier~~  
21 ~~than 24 months following the effective date of annexation and not later than 27 months~~  
22 ~~following the effective date of annexation.~~

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

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

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

41 (k) ~~If a valid request for extension of a all necessary water or sewer line lines has been~~  
42 ~~made under G.S. 160A-47(3)b, and the extension are not complete at the end of two three years~~  
43 ~~after the effective date of the annexation ordinance, the owner of the property may petition the~~  
44 ~~Local Government Commission for abatement of taxes to be paid to the city which have not~~  
45 ~~been levied as of the expiration date of the two year three year period, if such petition is filed~~  
46 ~~not more than 60 90 days after the expiration of the two year three year period. If the Local~~  
47 ~~Government Commission finds that the extension to the property was not complete by the end~~  
48 ~~of the two year three year period, it shall enter an order directing the city not to levy any~~  
49 ~~further ad valorem taxes on the property until the fiscal year commencing after completion of~~  
50 ~~the extension. In addition, if the Local Government Commission found that the extension to the~~  
51 ~~property was not completed by the end of the two year three year period, and if it finds that for~~

1 any fiscal year during the period beginning with the first day of the fiscal year in which the  
2 annexation ordinance became effective and ending the last day of the fiscal year in which the  
3 ~~two-year~~ three-year period expired, the city made an appropriation for construction, operation  
4 or maintenance of a water or sewer system (other than payments the city made as a customer of  
5 the system) from the fund or funds for which ad valorem taxes are levied, then the Local  
6 Government Commission shall order the city to release or refund an amount of the petitioner's  
7 property taxes for that year in question in proportion to the percentage of appropriations in the  
8 fund made for water and sewer services. By way of illustration, if a net amount of one hundred  
9 thousand dollars (\$100,000) was appropriated for water or sewer construction, operation or  
10 maintenance from a fund which had total expenditures of ten million dollars (\$10,000,000) and  
11 the petitioner's tax levy was one thousand dollars (\$1,000), the amount of release or refund  
12 shall be ten dollars (\$10.00).

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

22 (m) If a city fails to provide water and sewer, police protection, fire protection, solid  
23 waste or street maintenance services in the same manner and on the same basis as such services  
24 are provided to the municipality within three years, and at least twenty-five percent (25%) of  
25 the property owners in the newly annexed area petition the county governing body for  
26 deannexation, the county governing board shall submit the question of removal from the  
27 corporate limits to a vote of the qualified voters of the newly annexed area, and the governing  
28 body may or may not cause the question to be submitted to the remaining residents of the  
29 municipality.

30 Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General  
31 Statutes. The question to appear shall be

32 "  FOR  AGAINST  
33 Deannexation.

34 If at such election, a majority of the votes cast from the area proposed for removal from the  
35 corporate limits shall be 'For Deannexation,' and, in the event an election is held in the  
36 remainder of the municipality, the majority of the votes cast in the remainder of the  
37 municipality shall also be 'For Deannexation,' then from and after the 30<sup>th</sup> day of June next after  
38 certification of the results of the referendum, the territory and its citizens and property are  
39 removed from the corporate limits and shall no longer be subject to all the debts, laws,  
40 ordinances, and regulations in force in said city or town and shall no longer be entitled to the  
41 same privileges and benefits as other parts of said city or town. The newly deannexed territory  
42 shall no longer be subject to city taxes. The deannexation shall have no effect upon the validity  
43 of any liens of the municipality for unabated ad valorem taxes or special assessments  
44 outstanding before the effective date of the deannexation. Such liens may be collected or  
45 foreclosed upon after the effective date of the deannexation as though the property were still  
46 within the corporate limits.

47 **"§ 160A-49.1. Contract with rural fire department.**

48 (a) If the area to be annexed described in a resolution of intent passed under  
49 G.S. 160A-49(a) includes an area in an insurance district defined under G.S. 153A-233, a rural  
50 fire protection district under Article 3A of Chapter 69 of the General Statutes, or a fire service  
51 district under Article 16 of Chapter 153A of the General Statutes, and a rural fire department

1 was on the date of adoption of the resolution of intent providing fire protection in the area to be  
2 annexed, then the city (if the rural fire department makes a written request for a good faith  
3 offer, and the request is signed by the chief officer of the fire department and delivered to the  
4 city clerk no later than 15 days before the public hearing) is required to make a good faith effort  
5 to negotiate a five-year contract with the rural fire department to provide fire protection in the  
6 area to be annexed.

7 (b) If the area is a rural fire protection district or a fire service district, then an offer to  
8 pay annually for the term of the contract the amount of money that the tax rate in the district in  
9 effect on the date of adoption of the resolution of intent would generate based on property  
10 values on January 1 of each year in the area to be annexed which is in such a district is deemed  
11 to be a good faith offer of consideration for the contract.

12 (c) If the area is an insurance district but not a rural fire protection district or fire  
13 service district, then an offer to pay annually over the term of the contract the amount of money  
14 which is determined to be the equivalent of the amount which would be generated by  
15 multiplying the fraction of the city's general fund budget in that current fiscal year which is  
16 proposed to be expended for fire protection times the tax rate for the city in the current year,  
17 and multiplying that result by the property valuation in the area to be annexed which is served  
18 by the rural fire department is deemed to be a good faith offer of consideration for the contract;  
19 Provided that the payment shall not exceed the equivalent of fifteen cents (15¢) on one hundred  
20 dollars (\$100.00) valuation of annexed property in the district according to county valuations  
21 for the current fiscal year.

22 (d) Any offer by a city to a rural fire department which would compensate the rural fire  
23 department for revenue loss directly attributable to the annexation by paying such amount  
24 annually for five years, is deemed to be a good faith offer of consideration for the contract.

25 (e) Under subsections (b), (c), or (d) of this section, if the good faith offer is for first  
26 responder service, an offer of one-half the calculated amount under those subsections is deemed  
27 to be a good faith offer.

28 (f) This section does not obligate the city or rural fire department to enter into any  
29 contract.

30 (g) The rural fire department may, if it feels that no good faith offer has been made,  
31 appeal to the Local Government Commission within 30 days following the passage of an  
32 annexation ordinance. The rural fire department may apply to the Local Government  
33 Commission for an order staying the operation of the annexation ordinance pending the  
34 outcome of the review. The Commission may grant or deny the stay in its discretion upon such  
35 terms as it deems proper, and it may permit annexation of any part of the area described in the  
36 ordinance concerning which no question for review has been raised, provided that no other  
37 appeal under G.S. 160A-50 is pending.

38 (h) The Local Government Commission may affirm the ordinance, or if the Local  
39 Government Commission finds that no good faith offer has been made, it shall remand the  
40 ordinance to the municipal governing board for further proceedings, and the ordinance shall  
41 then not become effective unless the Local Government Commission finds that a good faith  
42 offer has been made.

43 (i) Any party to the review under subsection (h) may obtain judicial review in  
44 accordance with Chapter 150B of the General Statutes.

45 **"§ 160A-49.2. Assumption of debt.**

46 (a) If the city has annexed any area which is served by a rural fire department and  
47 which is in an insurance district defined under G.S. 153A-233, a rural fire protection district  
48 under Article 3A of Chapter 69 of the General Statutes or a fire service district under Article 16  
49 of Chapter 153A of the General Statutes, then upon the effective date of annexation if the city  
50 has not contracted with the rural fire department for fire protection, or when the rural fire  
51 department ceases to provide fire protection under contract, then the city shall pay annually a

1 proportionate share of any payments due on any debt (including principal and interest) relating  
2 to facilities or equipment of the rural fire department, if the debt was existing at the time of  
3 adoption of the resolution of intent, with the payments in the same proportion that the assessed  
4 valuation of the area of the district annexed bears to the assessed valuation of the entire district  
5 on the date the annexation ordinance becomes effective or another date for valuation mutually  
6 agreed upon by the city and the fire department.

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

10 **"§ 160A-49.3. Contract with private solid waste collection firms.**

11 (a) If the area to be annexed described in a resolution of intent passed under  
12 G.S. 160A-49(a) includes an area where a firm (i) meets the requirements of subsection (a1) of  
13 this section, (ii) on the ninetieth day preceding the date of adoption of the resolution of intent or  
14 resolution of consideration was providing solid waste collection services in the area to be  
15 annexed, (iii) on the date of adoption of the resolution of intent is still providing such services,  
16 and (iv) by reason of the annexation the firm's franchise with a county or arrangements with  
17 third parties for solid waste collection will be terminated, the city shall do one of the following:

18 (1) Contract with the firm for a period of two years after the effective date of the  
19 annexation ordinance to allow the firm to provide collection services to the  
20 city in the area to be annexed for sums determined under subsection (d) of  
21 this section.

22 (2) Pay the firm for the firm's economic loss, with one-third of the economic  
23 loss to be paid within 30 days of the termination and the balance paid in 12  
24 equal monthly installments during the next succeeding 12 months. Any  
25 remaining economic loss payment is forfeited if the firm terminates service  
26 to customers in the annexation area prior to the effective date of the  
27 annexation.

28 (3) Make other arrangements satisfactory to the parties.

29 (a1) To qualify for the options set forth in subsection (a) of this section, a firm must have  
30 done one of the following:

31 (1) Subsequent to receiving notice of the annexation in accordance with  
32 subsection (b) of this section, filed with the city clerk at least 10 days prior  
33 to the public hearing a written request to contract with the city to provide  
34 solid waste collection services containing a certification, signed by an officer  
35 or owner of the firm, that the firm serves at least 50 customers within the  
36 county at that time.

37 (2) Contacted the city clerk pursuant to public notice published by the city,  
38 pursuant to G.S. 160A-49(b), at least 10 days before the hearing and  
39 provided to the city clerk a written request to contract with the city to  
40 provide solid waste collection services. The request must contain a  
41 certification signed by an officer or owner of the firm that the firm serves at  
42 least 50 customers within the county at that time.

43 (a2) Firms shall file notice of provision of solid waste collection service with the city  
44 clerk of all cities located in the firm's collection area or within five miles thereof.

45 (b) At least four weeks prior to the date of the informational meeting, the city shall  
46 provide written notice of the resolution of intent to all firms serving the area to be annexed. The  
47 notice shall be sent to all firms that filed notice in accordance with subsection (a2) of this  
48 section by certified mail, return receipt requested, to the address provided by the firm under  
49 subsection (a2) of this section.

50 (c) The city may require that the contract contain:

- 1 (1) A requirement that the firm post a performance bond and maintain public  
2 liability insurance coverage;
- 3 (2) A requirement that the firm agree to service customers in the annexed area  
4 that were not served by that firm on the effective date of annexation;
- 5 (3) A provision that divides the annexed area into service areas if there were  
6 more than one firm being contracted within the area, such that the entire area  
7 is served by the firms, or by the city as to customers not served by the firms;
- 8 (4) A provision that the city may serve customers not served by the firm on the  
9 effective date of annexation;
- 10 (5) A provision that the contract can be cancelled in writing, delivered by  
11 certified mail to the firm in question with 30 days to cure substantial  
12 violations of the contract, but no contract may be cancelled on these grounds  
13 unless the Local Government Commission finds that substantial violations  
14 have occurred, except that the city may suspend the contract for up to 30  
15 days if it finds substantial violation of health laws;
- 16 (6) Performance standards, not exceeding city standards existing at the time of  
17 notice published pursuant to G.S. 160A-49(b) with provision that the  
18 contract may be cancelled for substantial violations of those standards, but  
19 no contract may be cancelled on those grounds unless the Local Government  
20 Commission finds that substantial violations have occurred;
- 21 (7) A provision for monetary damages if there are violations of the contract or  
22 of performance standards.

23 (d) If the services to be provided to the city by reason of the annexation are  
24 substantially the same as rendered under the franchise with the county or arrangements with the  
25 parties, the amount paid by the city shall be at least ninety percent (90%) of the amount paid or  
26 required under the existing franchise or arrangements. If such services are required to be  
27 adjusted to conform to city standards or as a result of changes in the number of customers and  
28 as a result there are changes in disposal costs (including mileage and landfill charges),  
29 requirements for storage capacity (dumpsters and/or residential carts), and/or frequency of  
30 collection, the amount paid by the city for the service shall be increased or decreased to reflect  
31 the value of such adjusted services as if computed under the existing franchise or arrangements.  
32 In the event agreement cannot be reached between the city and the firm under this subsection,  
33 the matters shall be determined by the Local Government Commission.

34 (e), (f) Repealed by Session Laws 2006-193, s. 1, applicable to annexations for which a  
35 resolution of intent is adopted on or after January 1, 2007.

36 (g) The firm may, if it contends that no contract has been offered, appeal to the Local  
37 Government Commission within 30 days following passage of an annexation ordinance. The  
38 firm may appeal to the Local Government Commission for an order staying the operation of the  
39 annexation ordinance pending the outcome of the review. The Commission may grant or deny  
40 the stay upon such terms as it deems proper. If the Local Government Commission finds that  
41 the city has not made an offer which complies with this section, it shall remand the ordinance to  
42 the municipal governing board for further proceedings, and the ordinance shall not become  
43 effective until the Local Government Commission finds that such an offer has been made.  
44 Either the firm or the city may obtain judicial review in accordance with Chapter 150B of the  
45 General Statutes.

46 (h) A firm which has given notice under subsection (a) of this section that it desires to  
47 contract, and any firm that the city believes is eligible to give such notice, shall make available  
48 to the city not later than 30 days following a written request of the city, sent by certified mail  
49 return receipt requested, all information in its possession or control, including but not limited to  
50 operational, financial and budgetary information, necessary for the city to determine if the firm  
51 qualifies for the benefits of this section and to determine the nature and scope of the potential

1 contract and/or economic loss. The firm forfeits its rights under this section if it fails to make a  
2 good faith response within 30 days following receipt of the written request for information  
3 from the city, provided that the city's written request so states by specific reference to this  
4 section.

5 (i) As used in this section, the following terms mean:

6 (1) Economic loss. – A sum equal to 15 times the average gross monthly  
7 revenue for the three months prior to the passage of the resolution of intent  
8 or resolution of consideration, as applicable under subsection (a) of this  
9 section, collected or due the firm for residential, commercial, and industrial  
10 collection service in the area annexed or to be annexed; provided that  
11 revenues shall be included in calculations under this subdivision only if  
12 policies of the city will provide solid waste collection to those customers  
13 such that arrangements between the firm and the customers will be  
14 terminated.

15 (2) Firm. – A private solid waste collection firm.

16 **"§ 160A-50. Appeal.**

17 (a) Within ~~60~~90 days following the passage of an annexation ordinance under authority  
18 of 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-48 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-47.

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 Part,  
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-47 were not met, or

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

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

50 (1) Remand the ordinance to the municipal county governing board of the  
51 county where the territory is located for further proceedings if procedural

1 irregularities are found to have materially prejudiced the substantive rights  
2 of any of the petitioners.

- 3 (2) Remand the ordinance to the municipal and county governing ~~board~~ boards  
4 for amendment of the boundaries to conform to the provisions of  
5 G.S. 160A-48 if it finds that the provisions of G.S. 160A-48 have not been  
6 met; provided, that the court cannot remand the ordinance to the municipal  
7 and county governing ~~board~~ boards with directions to add area to the  
8 municipality which was not included in the notice of public hearing and not  
9 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-47  
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 and county shall fail to take action in accordance with the court's  
17 instructions upon remand within 90 days following entry of the order embodying the court's  
18 instructions, the annexation proceeding shall be deemed null and void.

19 (h) Any party to the review proceedings, including the county and municipality, may  
20 appeal to the Court of Appeals from the final judgment of the superior court under rules of  
21 procedure applicable in other civil cases. The superior court may, with the agreement of the  
22 county and municipality, permit annexation to be effective with respect to any part of the area  
23 concerning which no appeal is being made and which can be incorporated into the city without  
24 regard to any part of 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 or appellate division, whichever is appropriate, or the date  
30 the municipal and county governing ~~board~~ boards ~~complete~~ complete action to make the  
31 ordinance conform to the court's instructions in the event of remand. For the purposes of this  
32 subsection, a denial of a petition for rehearing or for discretionary review shall be treated as a  
33 final judgement.

34 (j) If a petition for review is filed under subsection (a) of this section or an appeal is  
35 filed under G.S. 160A-49.1(g) or G.S. 160A-49.3(g), and a stay is granted, then the time  
36 periods of two years, 24 months or 27 months provided in G.S. 160A-47(3)c, 160A-49(h), or  
37 160A-49(j) are each extended by the lesser of the length of the stay or one year for that  
38 annexation.

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

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

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

49 **"§ 160A-51. Annexation recorded.**

50 Whenever the limits of a municipality are enlarged in accordance with the provisions of this  
51 Part, it shall be the duty of the mayor of the municipality to cause an accurate map of such



1 annexed territory, together with a copy of the ordinance duly certified, to be recorded in the  
2 office of the register of deeds of the county or counties in which such territory is situated and in  
3 the office of the Secretary of State. The documents required to be filed with the Secretary of  
4 State under this section shall be filed not later than 30 days following the effective date of the  
5 annexation ordinance. All documents shall have an identifying number affixed thereto and shall  
6 conform in size in accordance with rules prescribed by the Secretary. Failure to file within 30  
7 days shall not affect the validity of the annexation. Any annexation shall be reported as part of  
8 the Boundary and Annexation Survey of the United States Bureau of the Census.

9 **"§ 160A-52. Authorized expenditures.**

10 Municipalities initiating annexations under the provisions of this Part are authorized to  
11 make expenditures for surveys required to describe the property under consideration or for any  
12 other purpose necessary to plan for the study and/or annexation of unincorporated territory  
13 adjacent to the municipality. In addition, following final passage of the annexation ordinance,  
14 the annexing municipality shall have authority to proceed with expenditures for construction of  
15 water and sewer lines and other capital facilities and for any other purpose calculated to bring  
16 services into the annexed area in a more effective and expeditious manner prior to the effective  
17 date of annexation.

18 **"§ 160A-53. Definitions.**

19 The following terms where used in this Part shall have the following meanings, except  
20 where the context clearly indicates a different meaning:

- 21 (1) "Contiguous area" shall mean any area which, at the time annexation  
22 procedures are initiated, either abuts directly on the municipal boundary or is  
23 separated from the municipal boundary by a street or street right-of-way, a  
24 creek or river, the right-of-way of a railroad or other public service  
25 corporation, lands owned by the city or some other political subdivision, or  
26 lands owned by the State of North Carolina.
- 27 (2) "Used for residential purposes" shall mean any lot or tract five acres or less  
28 in size on which is constructed a habitable dwelling unit.
- 29 (3) "Meaningful services" shall mean central water and sewer service, police  
30 protection, or fire protection.
- 31 (4) "Area in need of meaningful services" shall mean an area in which: (i) a  
32 majority of property owners have existing water service, sewer or septic  
33 service, police protection, or fire protection that is inadequate and clearly  
34 poses a threat to the health and safety of the area, and (ii) the property  
35 owners could not reasonably address the threat themselves through private or  
36 public means.

37 **"§ 160A-54. Population and land estimates.**

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

- 44 (1) As to population, if the estimate is based on the number of dwelling units in  
45 the area multiplied by the average family size in such area, or in the  
46 township or townships of which such area is a part, as determined by the last  
47 preceding federal decennial census; or if it is based on a new enumeration  
48 carried out under reasonable rules and regulations by the annexing  
49 municipality; provided, that the court shall not accept such estimates if the  
50 petitioners demonstrate that such estimates are in error in the amount of ten  
51 percent (10%) or more.

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

6 (3) As to degree of land subdivision, if the estimates are based on an actual  
7 survey, or on county tax maps or records, or on aerial photographs, or on  
8 some other reasonably reliable source, unless the petitioners on appeal show  
9 that such estimates are in error in the amount of five percent (5%) or more."

10 **SECTION 3.(a)** G.S. 160A-58.27(f)(1) reads as rewritten:

11 "(f) Upon a finding that the respondent city has not violated this Part or the agreement,  
12 the court may affirm the action of the respondent city without change. Upon a finding that the  
13 respondent city has violated this Part or the agreement, the court may:

14 (1) Remand to the respondent city's governing board any ordinance adopted  
15 pursuant to ~~Parts 2 or~~ Part 3 of this Article, as the same exists now or is  
16 hereafter amended, for amendment of the boundaries, or for such other  
17 action as is necessary, to conform to the provisions of this Part and the  
18 agreement.

19 ...."

20 **SECTION 3.(b)** G.S. 160A-294(a) reads as rewritten:

21 "(a) Whenever a city annexes any territory under ~~Parts 2 or~~ Part 3 of Article 4A of this  
22 Chapter, and because of the annexation the rural fire department must terminate the  
23 employment of any full-time employee, then the annexing city must take one of the three  
24 actions listed below with respect to any person who has been in such full-time employment for  
25 two years or more at the time of adoption of the resolution of intent:

26 (1) The annexing city may offer employment without loss of salary or seniority  
27 and place the person in a position as near as possible in type to the position  
28 that was held in the rural fire department; or

29 (2) The annexing city may offer employment in some other department of the  
30 city at a comparable salary and seniority; or

31 (3) The city may choose to pay to the person a sum equal to the person's salary  
32 for one year as the equivalent of severance pay. For the purpose of this  
33 subsection, the person's salary was his total salary with the rural fire  
34 department for the 12-month period ending on the last pay period before the  
35 resolution of consideration was adopted, plus any increased salary due to  
36 reasonable cost-of-living increases and bona fide promotions; provided that  
37 if no resolution of consideration was required to be adopted because of ~~either~~  
38 ~~G.S. 160A-37(j) or~~ G.S. 160A-49(j), or because the resolution of intent was  
39 adopted prior to July 1, 1984, the person's salary was his total salary with the  
40 rural fire department for the 12-month period ending on the last pay period  
41 before the resolution of intent was adopted, plus any increased salary due to  
42 reasonable cost-of-living increases and bona fide promotions."

43 **SECTION 3.(c)** G.S. 162A-93(b) reads as rewritten:

44 "(c) Provision of public water and sewer services by a district under this Article to an  
45 area annexed by a city shall not satisfy the city's obligation to provide for water and sewer  
46 services under ~~G.S. 160A-35 and~~ G.S. 160A-47. The city may negotiate for purchase of the  
47 lines or systems owned and operated by the district."

48 **SECTION 3.(d)** G.S. 105-277.4(b) reads as rewritten:

49 "(b) Appraisal at Present-use Value. – Upon receipt of a properly executed application,  
50 the assessor must appraise the property at its present-use value as established in the schedule  
51 prepared pursuant to G.S. 105-317. In appraising the property at its present-use value, the

1 assessor must appraise the improvements located on qualifying land according to the schedules  
2 and standards used in appraising other similar improvements in the county. If all or any part of  
3 a qualifying tract of land is located within the limits of an incorporated city or town, or is  
4 property annexed subject to ~~G.S. 160A-37(f1)~~ or G.S. 160A-49(f1), the assessor must furnish a  
5 copy of the property record showing both the present-use appraisal and the valuation upon  
6 which the property would have been taxed in the absence of this classification to the collector  
7 of the city or town. The assessor must also notify the tax collector of any changes in the  
8 appraisals or in the eligibility of the property for the benefit of this classification. Upon a  
9 request for a certification pursuant to ~~G.S. 160A-37(f1)~~ or G.S. 160A-49(f1), or any change in  
10 the certification, the assessor for the county where the land subject to the annexation is located  
11 must, within 30 days, determine if the land meets the requirements of ~~G.S. 160A-37(f1)(2)~~ or  
12 G.S. 160A-49(f1)(2) and report the results of its findings to the city."

13 **SECTION 3.(e)** G.S. 153A-304.1(d) reads as rewritten:

14 "(d) Whenever a city is required to make fire protection district tax payments by  
15 subsection (c) of this section, and the city has paid or has contracted to pay to a rural fire  
16 department funds under ~~G.S. 160A-37.1~~ or G.S. 160A-49.1, the county shall pay to the city  
17 from funds of the county service district an amount equal to the amount paid by the city (or to  
18 be paid by the city) to a rural fire department under ~~G.S. 160A-37.1~~ or G.S. 160A-49.1 on  
19 account of annexation of territory in the county service district for the number of months in that  
20 fiscal year used in calculating the numerator under subsection (c) of this section; provided that  
21 the required payments by the county to the city shall not exceed the total of fire protection  
22 district payments made to taxpayers in the district on account of that annexation."

23 **SECTION 3.(f)** G.S. 69-25.15(d) reads as rewritten:

24 "(d) Whenever a city is required to make fire protection district tax payments by  
25 subsection (c) of this section, and the city has paid or has contracted to pay to a rural fire  
26 department funds under ~~G.S. 160A-37.1~~ or G.S. 160A-49.1, the county shall pay to the city  
27 from funds of the rural fire protection district an amount equal to the amount paid by the city  
28 (or to be paid by the city) to a rural fire department under ~~G.S. 160A-37.1~~ or G.S. 160A-49.1  
29 on account of annexation of territory in the rural fire protection district for the number of  
30 months in that fiscal year used in calculating the numerator under subsection (c) of this section;  
31 provided that the required payments by the county to the city shall not exceed the total of fire  
32 protection district payments made to taxpayers in the district on account of that annexation."

33 **SECTION 3.(g)** G.S. 160A-327(g) reads as rewritten:

34 "(g) This section shall not apply when a private company is displaced as the result of an  
35 annexation under Article 4A of Chapter 160A of the General Statutes or an annexation by an  
36 act of the General Assembly. The provisions of ~~G.S. 160A-37.3, 160-49.3,~~ G.S. 160A-49.3 or  
37 G.S. 160A-324 shall apply."

38 **SECTION 3.(h)** Any reference in any local act listed below to Part 2 of Article 4A  
39 of Chapter 160A of the General Statutes is deemed to be a reference to Part 3 of Article 4A of  
40 Chapter 160A of the General Statutes:

- 41 (1) Section 3 of S.L. 2007-334.
- 42 (2) Chapter 426 of the 1995 Session Laws.
- 43 (3) Chapter 348 of the 1995 Session Laws.

44 **SECTION 3.(i)** Chapter 92 of the 1985 Session Laws is repealed.

45 **SECTION 4.** This act is effective when it becomes law but does not apply to any  
46 annexation for which a resolution of intent was adopted prior to the date this act becomes law.