

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 845  
Committee Substitute Favorable 5/3/11  
Committee Substitute #2 Favorable 5/11/11

Short Title: Annexation Reform Act of 2011.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO REFORM THE INVOLUNTARY ANNEXATION LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**SECTION 1.** Part 2 of Article 4A of Chapter 160A of the General Statutes is repealed.

**SECTION 2.** G.S. 160A-49.1 is recodified as G.S. 160A-58.57 under Part 7 of Article 4A of Chapter 160A of the General Statutes, as created by Section 8 of this act.

**SECTION 3.** G.S. 160A-49.2 is recodified as G.S. 160A-58.58 under Part 7 of Article 4A of Chapter 160A of the General Statutes, as created by Section 8 of this act.

**SECTION 4.** G.S. 160A-49.3 is recodified as G.S. 160A-58.59 under Part 7 of Article 4A of Chapter 160A of the General Statutes, as created by Section 8 of this act.

**SECTION 5.** G.S. 160A-51 is recodified as G.S. 160A-58.61 under Part 7 of Article 4A of Chapter 160A of the General Statutes, as created by Section 8 of this act.

**SECTION 6.** G.S. 160A-52 is recodified as G.S. 160A-58.62 under Part 7 of Article 4A of Chapter 160A of the General Statutes, as created by Section 8 of this act.

**SECTION 7.** Part 3 of Article 4A of Chapter 160A of the General Statutes is repealed.

**SECTION 8.** Article 4A of Chapter 160A of the General Statutes is amended by adding a new Part 7 to be entitled "Annexations Initiated by Municipalities."

**SECTION 9.** Part 7 of Article 4A of Chapter 160A of the General Statutes, as created by Section 8 of this act and as amended by Sections 2, 3, 4, 5, and 6 of this act, reads as rewritten:

"Part 7.

"Annexations Initiated by Municipalities.

**§ 160A-58.50. Declaration of policy.**

It is hereby declared as a matter of State policy:

- (1) That sound urban development is essential to the continued economic development of North Carolina.
- (2) That municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety, and welfare in areas being intensively used for residential, commercial, industrial, institutional, and governmental purposes or in areas undergoing such development.
- (3) That municipal boundaries should be extended in accordance with legislative standards applicable throughout the State to include such areas and to



1 provide the high quality of governmental services needed therein for the  
2 public health, safety, and welfare.

3 (4) That areas annexed to municipalities in accordance with such uniform  
4 legislative standards should receive the services provided by the annexing  
5 municipality.

6 (5) That the provision of services to protect the health, safety, and welfare is a  
7 public purpose.

8 (6) That it is essential for citizens to have an effective voice in annexations  
9 initiated by municipalities.

10 **"§ 160A-58.51. Definitions.**

11 As used in this Part, the following definitions apply:

12 (1) Contiguous area. – Any area which, at the time annexation procedures are  
13 initiated, either abuts directly on the municipal boundary or is separated  
14 from the municipal boundary by a street or street right-of-way, a creek or  
15 river, the right-of-way of a railroad or other public service corporation, lands  
16 owned by the municipality or some other political subdivision, or lands  
17 owned by the State of North Carolina. A connecting corridor consisting  
18 solely of the length of a street or street right-of-way may not be used to  
19 establish contiguity.

20 (1a) Eligible property owner. – A property owner who is eligible to sign a  
21 petition to deny an annexation ordinance or a property owner who is eligible  
22 to be notified of the opportunity to have water lines and sewer lines and  
23 connections installed at no cost to the property owner. A property owner is  
24 eligible to sign a petition to deny an annexation ordinance if the property  
25 owner held a freehold interest in the property, determined as of the date of  
26 the resolution of consideration. A property owner is eligible to be notified of  
27 the opportunity to have water lines and sewer lines and connections installed  
28 at no cost to the property owner if that property owner held a freehold  
29 interest in the real property to be annexed as of the date of the combined  
30 notice of public informational meeting and public hearing.

31 (2) Necessary land connection. – An area that does not exceed twenty-five  
32 percent (25%) of the total area to be annexed.

33 (3) Property owner. – Any person having a freehold interest in real property.

34 (4) Used for residential purposes. – Any lot or tract five acres or less in size on  
35 which is constructed a habitable dwelling unit. The term also includes any  
36 lot or tract that is used in common for social or recreational purposes by  
37 either owners of lots with habitable dwelling units or owners of lots intended  
38 for occupation by dwelling units and the lot owners have a real property  
39 interest in the commonly used property that attaches to or is appurtenant to  
40 the owners' lots.

41 **"§ 160A-58.52. Authority to annex.**

42 The governing board of any municipality may extend the corporate limits of such  
43 municipality under the procedure set forth in this Part.

44 **"§ 160A-58.53. Prerequisites to annexation.**

45 A municipality exercising authority under this Part shall make plans for the extension of  
46 services to the area proposed to be annexed and shall, prior to the public hearing provided for in  
47 G.S. 160A-58.55, prepare a report setting forth such plans to provide services to the area  
48 proposed to be annexed. The report shall include the following:

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

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

1           b.     The present major trunk water mains and sewer interceptors and  
2                 outfalls, and the proposed extensions of such mains, outfalls, and  
3                 lines as required in subdivision (3) of this section. The water and  
4                 sewer map shall bear the seal of a registered professional engineer.

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

6           (2)    A statement showing that the area proposed to be annexed meets the  
7                 requirements of G.S. 160A-58.54.

8           (3)    A statement setting forth the plans for extending to the area proposed to be  
9                 annexed each major municipal service on substantially the same basis and in  
10                the same manner as such services are provided within the rest of the  
11                municipality prior to annexation and the method to finance the extension of  
12                major municipal services into the area proposed to be annexed as follows:

13           a.     Provision of police protection, fire protection, solid waste collection,  
14                 and street maintenance services on the effective date of annexation.  
15                 A contract with a rural fire department to provide fire protection shall  
16                 be an acceptable method of providing fire protection. A contract with  
17                 a private firm to provide solid waste collection services shall be an  
18                 acceptable method of providing solid waste collection services.

19           b.     Extension of water and sewer services to each lot or parcel, if an  
20                 easement is provided by the affected property owner, with a  
21                 proposed timetable for construction of such mains, outfalls, and lines  
22                 within three and one-half years of the effective date of annexation, in  
23                 accordance with G.S. 160A-58.56.

24           (4)    A statement of the impact of the annexation on any rural fire department  
25                 providing service in the area proposed to be annexed and a statement of the  
26                 impact of the annexation on fire protection and fire insurance rates in the  
27                 area proposed to be annexed, if the area where service is provided is in an  
28                 insurance district designated under G.S. 153A-233, a rural fire protection  
29                 district under Article 3A of Chapter 69 of the General Statutes, or a fire  
30                 service district under Article 16 of Chapter 153A of the General Statutes.  
31                 The rural fire department shall make available to the municipality not later  
32                 than 30 days following a written request from the municipality all  
33                 information in its possession or control, including operational, financial, and  
34                 budgetary information, necessary for preparation of a statement of impact.  
35                 The municipality shall, in a timely fashion, supply the rural fire department  
36                 with information requested by the rural fire department to respond to the  
37                 written request. The rural fire department forfeits its rights under  
38                 G.S. 160A-58.57 if it fails to make a good faith response within 45 days  
39                 following receipt of the written request for information from the  
40                 municipality, provided that the municipality's written request so states by  
41                 specific reference to this subdivision.

42           (5)    A statement showing how the proposed annexation will affect the  
43                 municipality's finances and services, including municipal revenue change  
44                 estimates. This statement shall be delivered to the clerk of the board of  
45                 county commissioners at least 30 days before the date of the public  
46                 informational meeting on any annexation under this Part.

47    **"§ 160A-58.54. Character of area to be annexed.**

48           (a)    A municipal governing board may extend the municipal corporate limits to include  
49                 any area that meets all of the following criteria:

50           (1)    It shall be adjacent or contiguous to the municipality's boundaries at the time  
51                 the annexation proceeding is begun, except if the entire territory of a county

1 water and sewer district created under G.S. 162A-86(b1) is being annexed,  
2 the annexation shall also include any noncontiguous pieces of the district as  
3 long as the part of the district with the greatest land area is adjacent or  
4 contiguous to the municipality's boundaries at the time the annexation  
5 proceeding is begun.

6 (2) At least one-eighth of the aggregate external boundaries of the area shall  
7 coincide with the municipal boundary.

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

10 (4) The total area to be annexed shall meet the requirements of any of the  
11 following:

12 a. Part or all of the area to be annexed must be developed for urban  
13 purposes at the time of approval of the report provided for in  
14 G.S. 160A-58.53. The area of streets and street rights-of-way shall  
15 not be used to determine total acreage under this subdivision. An area  
16 developed for urban purposes is defined as any area which meets any  
17 one of the following standards:

18 1. Has a total resident population equal to at least two and  
19 three-tenths persons for each acre of land included within its  
20 boundaries.

21 2. Has a total resident population equal to at least one person for  
22 each acre of land included within its boundaries, and is  
23 subdivided into lots and tracts such that at least sixty percent  
24 (60%) of the total acreage consists of lots and tracts three  
25 acres or less in size and such that at least sixty-five percent  
26 (65%) of the total number of lots and tracts are one acre or  
27 less in size.

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

37 4. Is the entire area of any county water and sewer district  
38 created under G.S. 162A-86(b1), if all of the following apply:

39 I. The municipality has provided in a contract with that  
40 district that the area is developed for urban purposes.

41 II. The contract provides for the municipality to operate  
42 the sewer system of that county water and sewer  
43 district.

44 III. The municipality is annexing in one ordinance the  
45 entire territory of the district not already within the  
46 corporate limits of a municipality.

47 5. Is so developed that, at the time of the approval of the  
48 annexation report, all tracts in the area to be annexed are used  
49 for commercial, industrial, governmental, or institutional  
50 purposes.

51 b. Part or all of the area to be annexed meets either of the following:

1                   1.     Lies between the municipal boundary and an area developed  
2                   for urban purposes so that the area developed for urban  
3                   purposes is either not adjacent to the municipal boundary or  
4                   cannot be served by the municipality without extending major  
5                   municipal services, including water or sewer lines, through  
6                   such sparsely developed area.

7                   2.     Is adjacent, on at least sixty percent (60%) of its external  
8                   boundary, to any combination of the municipal boundary and  
9                   the boundary of an area or areas developed for urban  
10                  purposes as defined in sub-subdivision a. of this subsection.

11                  The purpose of paragraphs 1. and 2. of this sub-subdivision is to  
12                  permit municipal governing boards to extend corporate limits to  
13                  include all nearby areas developed for urban purposes and where  
14                  necessary to include areas which at the time of annexation are not yet  
15                  developed for urban purposes but which constitute necessary land  
16                  connections between the municipality and areas developed for urban  
17                  purposes or between two or more areas developed for urban  
18                  purposes.

19                  c.     The total area to be annexed is completely surrounded by the  
20                  municipality's primary corporate limits.

21                  (b)    In fixing new municipal boundaries and determining whether an area is developed  
22                  for urban purposes, a municipal governing board shall comply with all the following:

23                   (1)    Use recorded property lines and streets as boundaries. Some or all of the  
24                   boundaries of a county water and sewer district may also be used when the  
25                   entire district is not already within the corporate limits of the municipality.

26                   (2)    Use whole parcels of property in that if any portion of that parcel is  
27                   included, the entire parcel of real property as recorded in the deed  
28                   transferring title shall be included.

29                   (3)    Not use a connecting corridor consisting solely of the length of a street or  
30                   street right-of-way to establish contiguity.

31                   (4)    Not consider property in use for a commercial, industrial, institutional, or  
32                   governmental purpose if the lot or tract is used only temporarily,  
33                   occasionally, or on an incidental or insubstantial basis in relation to the size  
34                   and character of the lot or tract.

35                   (5)    Include acreage actually occupied by buildings or other man-made structures  
36                   together with all areas that are reasonably necessary and appurtenant to such  
37                   facilities for purposes of parking, storage, ingress and egress, utilities,  
38                   buffering, and other ancillary services and facilities when determining  
39                   acreage in use for commercial, industrial, institutional, or governmental  
40                   purposes.

41                   (6)    Consider the area of an abolished water and sewer district to be a water and  
42                   sewer district for the purpose of this section even after its abolition under  
43                   G.S. 162A-87.2(b).

44                  **"§ 160A-58.55. Procedure for annexation.**

45                  (a)    Resolution of Consideration. – Any municipal governing board desiring to annex  
46                  territory under the provisions of this Part shall first pass a resolution of consideration  
47                  identifying the area under consideration for annexation by either a metes and bounds  
48                  description or a map. The resolution of consideration shall remain effective for two years after  
49                  adoption and be filed with the municipal clerk. A new resolution of consideration adopted  
50                  before expiration of the two-year period for a previously adopted resolution covering the same

1 area shall relate back to the date of the previous resolution. Adoption of a resolution of  
2 consideration shall not confer prior jurisdiction over the area as to any other municipality.

3 (b) Notice of Resolution of Consideration. – A notice of the adoption of the resolution  
4 of consideration shall be published once a week for two successive weeks, with each  
5 publication being on the same day of the week, in a newspaper having general circulation in the  
6 municipality. The second publication shall be no more than 30 days following adoption of the  
7 resolution of consideration. The resolution of consideration shall contain a map or description  
8 of the area under consideration and a summary of the annexation process and time lines. A  
9 copy of the resolution of consideration shall be mailed within 30 days after the adoption of the  
10 resolution of consideration by first class mail to the property owners of real property located  
11 within the area under consideration for annexation as shown by the tax records of the county.

12 (c) Resolution of Intent. – At least one year after adoption of the resolution of  
13 consideration, the municipal governing body may adopt a resolution of intent of the  
14 municipality to proceed with the annexation of some or all of the area described in the  
15 resolution of consideration. The resolution of intent shall describe the boundaries of the area  
16 proposed for annexation, fix a date for a public informational meeting, and fix a date for a  
17 public hearing on the question of annexation. The date for the public informational meeting  
18 shall be not less than 45 days and not more than 55 days following passage of the resolution of  
19 intent. The date for the public hearing shall be not less than 130 days and not more than 150  
20 days following passage of the resolution of intent.

21 (d) Notice of Public Informational Meeting, Public Hearing, and Opportunity for Water  
22 and Sewer. – A combined notice of public informational meeting and public hearing shall be  
23 issued as provided for in this subsection as follows:

24 (1) The notice shall be a combined notice that includes at least all of the  
25 following:

- 26 a. The date, hour, and place of the public informational meeting.
- 27 b. The date, hour, and place of the public hearing.
- 28 c. A clear description of the boundaries of the area under consideration,  
29 including a legible map of the area.
- 30 d. A statement that the report required by G.S. 160A-58.53 will be  
31 available at the office of the municipal clerk.
- 32 e. An explanation of a property owner's rights under this section.
- 33 f. A summary of the annexation process with time lines.
- 34 g. A summary of available statutory remedies for denying and  
35 appealing the annexation and the failure to provide services.
- 36 h. Information on how to request to become a customer of the water and  
37 sewer service, all forms to request that service, and the consequences  
38 of opting in or opting out, as provided in G.S. 160A-58.56.
- 39 i. A clear description of the distinction between the public  
40 informational meeting and the public hearing.

41 (2) The combined notice shall be given by publication of the information  
42 required by sub-subdivisions (1)a., b., and c. of this subsection and a  
43 statement regarding the availability of the information required by the  
44 remaining sub-subdivisions of subdivision (1) of this subsection in a  
45 newspaper having general circulation in the municipality once a week for at  
46 least two successive weeks prior to the date of the public informational  
47 meeting, with each publication being on the same day of the week. The date  
48 of the last publication shall be not more than 10 days preceding the date of  
49 the public informational meeting. In addition thereto, if the area proposed to  
50 be annexed lies in a county containing less than fifty percent (50%) of the  
51 land area of the municipality, the same publication shall be given in a

1 newspaper having general circulation in the area of proposed annexation. If  
2 there is no such newspaper, the municipality shall post the notice in at least  
3 five public places within the municipality and at least five public places in  
4 the area to be annexed for 30 days prior to the date of public informational  
5 meeting.

6 (3) The combined notice, together with the information about requesting water  
7 and sewer service, shall be mailed within five business days of the passage  
8 of the resolution of intent by first class mail to the property owners of real  
9 property located within the area to be annexed as shown by the tax records  
10 of the county. The person or persons mailing such notices shall certify to the  
11 governing board that fact, and such certificate shall become a part of the  
12 public record of the annexation proceeding and shall be deemed conclusive  
13 in the absence of fraud. If a notice is returned to the municipality by the  
14 postal service by the tenth day before the informational meeting, a copy of  
15 the notice shall be sent by certified mail, return receipt requested, at least  
16 seven days before the informational meeting. Failure to comply with the  
17 mailing requirement of this subsection shall not invalidate the annexation  
18 unless it is shown that the requirements were not substantially complied  
19 with.

20 (4) If the governing board by resolution finds that the tax records are not  
21 adequate to identify the property owners within the area to be annexed after  
22 exercising reasonable efforts to locate the property owners, it may, in lieu of  
23 the mail procedure required by subdivision (3) of this subsection, post the  
24 notice at least 30 days prior to the date of the public informational meeting  
25 on all buildings, on such parcels, and in at least five other places within the  
26 area to be annexed as to those parcels where the property owner could not be  
27 so identified. In any case where notices are placed on property, the person  
28 placing the notice shall certify that fact to the governing board.

29 (e) Action Prior to Informational Meeting. – At least 30 days before the date of the  
30 public informational meeting, the municipal governing board shall do all of the following:

31 (1) Approve the report provided for in G.S. 160A-58.53.

32 (2) Prepare a summary of the approved report for public distribution.

33 (3) Post in the office of the clerk all of the following:

34 a. The approved report provided for in G.S. 160A-58.53.

35 b. The summary of the approved report.

36 c. A legible map of the area to be annexed.

37 d. The list of the property owners, and associated mailing addresses, in  
38 the area to be annexed that the municipality has identified and mailed  
39 notice.

40 e. Information for property owners on how to request to become a  
41 customer of the water service or sewer service and all forms to  
42 request that service.

43 (4) If the municipality has a Web site, post on that Web site all of the  
44 information under this section together with any forms to apply for water  
45 and sewer service.

46 (5) Prepare a summary of the substantive remedies for denying and appealing  
47 the annexation for public distribution.

48 (f) Public Informational Meeting. – At the public informational meeting, a  
49 representative of the municipality shall first make an explanation of the report required in  
50 G.S. 160A-58.53 and an explanation of the provision of major municipal services. The  
51 explanation of the provision of services shall include how to request water service or sewer

1 service to individual lots, the average cost of a residential connection to the water and sewer  
2 system, and the opportunity for a credit in the amount of that average cost of a residential  
3 connection under G.S. 160A-58.56. A summary of the annexation process with time lines, a  
4 summary of available statutory remedies for denying and appealing the annexation, an  
5 explanation of the provision of services, and information for requesting water service or sewer  
6 service to individual lots and any forms to so request shall also be distributed at the public  
7 informational meeting. Following such explanation, all property owners and residents of the  
8 area proposed to be annexed as described in the notice of public informational meeting and  
9 hearing, and all residents of the municipality shall be given the opportunity to ask questions and  
10 receive answers regarding the proposed annexation.

11 (g) Public Hearing. – At the public hearing, a representative of the municipality shall  
12 first make an explanation of the report required in G.S. 160A-58.53. Following such  
13 explanation, all property owners and residents of the area proposed to be annexed as described  
14 in the notice of public informational meeting and hearing, and all residents of the municipality,  
15 shall be given an opportunity to be heard.

16 (h) Passage of the Annexation Ordinance. – The municipal governing board shall take  
17 into consideration facts presented at the public hearing and shall have authority to amend the  
18 report required by G.S. 160A-58.53 to make changes in the plans for serving the area proposed  
19 to be annexed so long as such changes meet the requirements of G.S. 160A-58.53. At any  
20 regular or special meeting held no sooner than the tenth day following the public hearing and  
21 not later than 90 days following the public hearing, the governing board shall have authority to  
22 adopt an ordinance, subject to subsection (i) of this section, extending the corporate limits of  
23 the municipality to include all, or part, of the area described in the notice of public hearing  
24 which the governing board has concluded should be annexed. The annexation ordinance shall:

- 25 (1) Contain specific findings showing that the area to be annexed meets the  
26 requirements of G.S. 160A-58.54.
- 27 (2) Describe the external boundaries of the area to be annexed by metes and  
28 bounds.
- 29 (3) Include a statement of the intent of the municipality to provide services to  
30 the area being annexed as set forth in the report required by G.S. 160A-58.53  
31 and a time line for the provision of those services.
- 32 (4) Contain a specific finding that on the effective date of annexation, the  
33 municipality will have funds appropriated in sufficient amount to finance  
34 construction of any water and sewer lines stated in the report required by  
35 G.S. 160A-58.53 to extend the water and sewer services into the area to be  
36 annexed, or that on the effective date of annexation the municipality will  
37 have authority to issue bonds in an amount sufficient to finance such  
38 construction. If authority to issue such bonds shall be secured from the  
39 electorate of the municipality prior to the effective date of annexation, then  
40 the effective date of annexation shall be no earlier than the day following the  
41 statement of the successful result of the bond election.
- 42 (5) Fix the effective date for annexation as June 30 next following the adoption  
43 of the ordinance or the second June 30 following adoption of the ordinance,  
44 but not before the completion of the water and sewer request and petition to  
45 deny and appeal periods are complete.
- 46 (6) Together, with the list of the property owners within the area described in  
47 the annexation ordinance to which a notice was mailed under subsection (d)  
48 of this section, be delivered within five business days to the county tax  
49 assessor of the county in which a majority of the municipality lies.
- 50 (7) Be summarized, and sent in accordance with subsection (i) of this section, to  
51 the list of the property owners within the area described in the annexation



1 ordinance to which a notice was mailed under subsection (d) of this section  
2 together with a blank petition form, preprinted with name and address of the  
3 property owner.

4 (8) If a public body has a Web site, conspicuously post a copy of the petition to  
5 deny annexation ordinance that a property owner in the real property located  
6 within the area described in the annexation ordinance may download,  
7 complete, and return to the county tax assessor in accordance with  
8 subsection (i) of this section.

9 (i) Petition to Deny Annexation Ordinance. – The following procedures shall apply to  
10 this subsection:

11 (1) Upon receipt of the resolution of intent and a list of property owners of the  
12 real property located within the area, the county tax assessor in the county  
13 where a majority of the parcels proposed for annexation are located shall  
14 prepare petitions for property owners of the real property located within the  
15 area described in the resolution of intent to sign opposing the annexation  
16 ordinance.

17 (2) A petition shall include the names of the property owners of the parcel of  
18 real property listed individually, a signature line for each owner, and a  
19 statement that the person signing is petitioning to deny the annexation.

20 (3) The tax assessor shall mail a petition to the address of record for those real  
21 property owners within five business days of receipt from the municipality  
22 of the list.

23 (4) The tax assessor shall provide two methods by which property owners of the  
24 real property located within the area described in the annexation ordinance  
25 may sign a petition form prepared by the tax assessor: (i) in person or (ii) by  
26 submitting the signed petition form by mail. The tax assessor shall also  
27 accept signatures signed on a petition form prepared by the tax assessor, but  
28 collected by another, if that petition form is returned to the tax assessor in a  
29 sealed container.

30 (5) If the signed petition is one that was mailed under subdivision (h)(7) of this  
31 section and the signer is not the same as the preprinted name on the form, the  
32 signed petition shall be notarized and accompanied by a copy of the legal  
33 authority for the signature of the person signing a petition.

34 (6) If a petition is returned as undeliverable to the tax assessor, the assessor shall  
35 send the petition return receipt requested. If the petition is returned again, the  
36 tax assessor shall not include that property owner in the total number of  
37 eligible property owners.

38 (7) If there is a change in ownership of real property after the date of the  
39 resolution of consideration until 30 days after the date of the adoption of the  
40 annexation ordinance, the new owner of the real property shall be considered  
41 the eligible owner of real property.

42 (8) The tax assessor shall accept signatures on the petition until 130 days after  
43 the adoption of the annexation ordinance.

44 (9) The determination of the results by the tax assessor of the petition period  
45 shall be observed by three property owners from the area proposed for  
46 annexation, chosen by lot by the county tax assessor from among those who  
47 request to serve in this role, and three persons designated by the  
48 municipality. A majority of the property owners of a single parcel of real  
49 property must sign the petition before the tax assessor may count that parcel  
50 as having submitted a petition to deny annexation.

1           (10) Within 10 business days after the close of the signature period, the tax  
2 assessor shall certify to the municipal governing body the number of  
3 petitions signed by eligible property owners of the real property located  
4 within the area described in the annexation ordinance.

5           (11) If the tax assessor delivers to the municipal governing board petitions signed  
6 by eligible property owners of at least sixty percent (60%) of the parcels  
7 located within the area described in the annexation ordinance as provided in  
8 this subsection, the annexation shall be terminated and the municipality may  
9 not adopt a resolution of consideration for the area described in the  
10 annexation ordinance for at least 36 months.

11           (12) This subsection shall not apply to any property owner of real property  
12 located within the area described in the annexation ordinance that is  
13 completely surrounded by the municipality's primary corporate limits.

14           (13) The municipality shall reimburse the tax assessor the costs of the petition  
15 process required under this subsection.

16           (j) Effect of Annexation Ordinance. – Except as provided in subsection (k) of this  
17 section, from and after the effective date of the annexation ordinance, the territory and its  
18 citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in  
19 such municipality and shall be entitled to the same privileges and benefits as other parts of such  
20 municipality.

21           (k) Property Subject to Present-Use Value Appraisal. – If an area described in an  
22 annexation ordinance includes agricultural land, horticultural land, or forestland that meets  
23 either of the conditions listed below on the effective date of annexation, then the annexation  
24 becomes effective as to that property pursuant to subsection (l) of this section:

25           (1) The land is being taxed at present-use value pursuant to G.S. 105-277.4.

26           (2) The land meets both of the following conditions:

27           a. On the date of the resolution of intent for annexation it was being  
28 used for actual production and is eligible for present-use value  
29 taxation under G.S. 105-277.4, but the land had not been in use for  
30 actual production for the required time under G.S. 105-277.3.

31           b. The assessor for the county where the land subject to annexation is  
32 located has certified to the municipality that the land meets the  
33 requirements of this subdivision.

34           (l) Effective Date of Annexation for Certain Property. – Annexation of property subject  
35 to annexation under subsection (j) of this section becomes effective as provided in this  
36 subsection:

37           (1) Upon the effective date of the annexation ordinance, the property shall be  
38 considered part of the municipality only (i) for the purpose of establishing  
39 municipal boundaries for additional annexations pursuant to this Article and  
40 (ii) for the exercise of municipal authority pursuant to Article 19 of this  
41 Chapter.

42           (2) For all other purposes, the annexation becomes effective as to each tract of  
43 the property or part thereof on the last day of the month in which that tract or  
44 part thereof becomes ineligible for classification pursuant to G.S. 105-277.4  
45 or no longer meets the requirements of subdivision (k)(2) of this section.  
46 Until annexation of a tract or a part of a tract becomes effective pursuant to  
47 this subsection, the tract or part of a tract is not subject to taxation by the  
48 municipality under Article 12 of Chapter 105 of the General Statutes nor is  
49 the tract or part of a tract entitled to services provided by the municipality.  
50 Upon the effective date of annexation, taxation of real and personal property  
51 is subject to the provisions of G.S. 160A-58.10.

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

5 (n) Remedies for Failure to Provide Services. – If, not earlier than 30 days after the  
6 effective date of annexation and not later than 15 months from the effective date of annexation,  
7 any property owner in the annexed territory shall believe that the municipality has not followed  
8 through providing services as set forth in the report adopted under G.S. 160A-58.53 and  
9 subsection (e) of this section, the property owner may apply for a writ of mandamus under the  
10 provisions of Article 40 of Chapter 1 of the General Statutes. Relief may be granted by the  
11 judge of superior court if the municipality has not provided the services set forth in its plan  
12 submitted under the provisions of G.S. 160A-58.53(3)a. on substantially the same basis and in  
13 the same manner as such services were provided within the rest of the municipality prior to the  
14 effective date of annexation and those services are still being provided on substantially the  
15 same basis and in the same manner within the original corporate limits of the municipality. If a  
16 writ is issued, costs in the action, including reasonable attorneys' fees for such aggrieved  
17 property owner, shall be charged to the municipality.

18 (o) Reports to the Local Government Commission. – The municipality shall report to  
19 the Local Government Commission as follows:

20 (1) As to whether police protection, fire protection, solid waste services, and  
21 street maintenance services were provided in accordance with  
22 G.S. 160A-58.53(3)a., within 30 days after the effective date of the  
23 annexation. Such report shall be filed no more than 30 days following the  
24 expiration of the 30-day period. If the Local Government Commission  
25 determines that the municipality failed to deliver police protection, fire  
26 protection, solid waste services, or street maintenance services as provided  
27 for in G.S. 160A-58.53(3)a. within 30 days after the effective date of the  
28 annexation, the Local Government Commission shall notify the municipality  
29 that the municipality may not count any of the residents as part of the  
30 population of the municipality for the purpose of receiving any State,  
31 federal, or county dollars distributed based on population until all of the  
32 services are provided.

33 (2) As to whether the extension of water and sewer lines was completed within  
34 the time period specified in G.S. 160A-58.53(3), within six months after the  
35 effective date of the annexation ordinance, and again within three and  
36 one-half years of the effective date of the annexation ordinance or upon the  
37 completion of the installation, whichever occurs first. If the municipality  
38 failed to deliver either water or sewer services, or both, as provided for in  
39 G.S. 160A-58.53(3)b. within three and one-half years after the effective date  
40 of the annexation, the municipality shall stop any other annexations in  
41 progress and may not begin any other annexation until the water and sewer  
42 services are provided. The municipality shall adopt a resolution of  
43 consideration to begin again any annexation that is stopped due to this  
44 subdivision.

45 **§ 160A-58.56. Provision of water and sewer service.**

46 (a) The municipality shall provide water and sewer service to the annexed area as  
47 required by plans for extension under G.S. 160A-58.53(3) within three and one-half years of  
48 the effective date of the annexation ordinance except as provided in subdivision (b)(4) of this  
49 section.

50 (b) Prior to the adoption of the annexation ordinance, the municipality shall offer to  
51 each eligible property owner of real property located within the area proposed to be annexed an

1 opportunity to obtain water or sewer service, or both, at no cost other than periodic user fees  
2 based upon usage as follows:

- 3 (1) After passage of the resolution of intent, the property owner of real property  
4 located within the area proposed to be annexed shall be notified in writing,  
5 as provided in G.S. 160A-58.55(d), within five business days of the passage  
6 of the resolution of intent, of the opportunity to have water and sewer lines  
7 and connections installed at no cost to the property owner. The notice shall  
8 state that a request for extending water and sewer lines does not waive the  
9 right to contest the annexation. The property owners of real property located  
10 within the area proposed to be annexed shall be allowed 65 days from the  
11 date of the passage of the resolution of intent to respond yes or no to the  
12 opportunity. Any property owner of a parcel that is an existing customer of  
13 the municipality's water or sewer, whether provided by the municipality or  
14 by a third party under contract with the municipality, shall be deemed to  
15 respond yes to the opportunity, whether or not the property owner returns the  
16 notification.
- 17 (2) At the close of the 65-day period, the municipality shall determine if the  
18 eligible property owners of a majority of the parcels to be annexed have  
19 responded favorably. A majority of the property owners of a single parcel of  
20 real property must respond favorably before the municipality may count that  
21 parcel of real property as responding favorably.
- 22 (3) If the property owners of a majority of the parcels located within the area  
23 proposed to be annexed respond favorably, the municipality shall do all of  
24 the following:
- 25 a. Provide water and sewer lines, service lines, and connections at no  
26 cost other than periodic user fees to all real property for which an  
27 owner responded favorably if the annexation ordinance is adopted.  
28 The right to receive water and sewer lines shall run with the land.
- 29 b. Notify, within five days of the close of the 65-day period under  
30 subdivision (2) of this subsection, those property owners of real  
31 property located within the area proposed to be annexed who failed  
32 to respond or responded negatively that the property owners of a  
33 majority of the parcels located within the area proposed to be  
34 annexed responded favorably and offer a second opportunity for that  
35 property owner to respond favorably within 30 days.
- 36 (4) If the property owners of a majority of the parcels located within the area  
37 proposed to be annexed fail to respond favorably to the offer to obtain water  
38 and sewer services made under this section, the municipality may  
39 nevertheless proceed with the annexation. If the municipality proceeds with  
40 the annexation when the property owners of a majority of the parcels located  
41 within the area proposed to be annexed fail to respond favorably to the offer  
42 to obtain water and sewer services, the municipality is not required to  
43 provide water and sewer services to any property owners in the area that is  
44 annexed. If the municipality does provide water and sewer services, and if a  
45 property owner requests those services, the municipality may charge the  
46 property owner for the connection to a residential lot as provided in  
47 subsection (d) of this section during the first five years following the  
48 effective date of the annexation. After five years, and only if connection is  
49 requested by a property owner in accordance with subsection (e) of this  
50 section, the municipality may charge for the connection according to the  
51 municipality's policy.

1       (c) The process required by subsection (b) of this section shall be completed by the  
2 municipality at least 30 days prior to the public hearing. The report required by  
3 G.S. 160A-58.53 shall include the results of the process required by subsection (b) of this  
4 section.

5       (d) Any property owner of the real property located within the area described in the  
6 annexation ordinance may apply to participate in the water and sewer system after the  
7 completion of the process required by subsection (b) of this section. For a property owner of  
8 real property located within the area described in the annexation ordinance applying within the  
9 first year, that property owner may be charged an amount not to exceed fifty percent (50%) of  
10 average cost of the installation of the water and sewer for a residential lot. For a property owner  
11 of real property located within the area described in the annexation ordinance applying within  
12 the second year, that property owner may be charged an amount not to exceed sixty percent  
13 (60%) of average cost of the installation of the water and sewer for a residential lot. For a  
14 property owner of real property located within the area described in the annexation ordinance  
15 applying within the third year, that property owner may be charged an amount not to exceed  
16 seventy percent (70%) of average cost of the installation of the water and sewer for a residential  
17 lot. For a property owner of real property located within the area described in the annexation  
18 ordinance applying within the fourth year, that property owner may be charged an amount not  
19 to exceed eighty percent (80%) of average cost of the installation of the water and sewer for a  
20 residential lot. For a property owner of real property located within the area described in the  
21 annexation ordinance applying within the fifth year, that property owner may be charged an  
22 amount not to exceed ninety percent (90%) of average cost of the installation of the water and  
23 sewer for a residential lot. Charges pursuant to this section shall be made when the water and  
24 sewer connection is operable.

25       (e) Notwithstanding Article 16 of this Chapter, the municipality may not charge, for  
26 any reason, any property owner within the area described in the annexation ordinance, for the  
27 installation or use of the water or sewer system unless that property owner is, or has requested  
28 to become, a customer of the water or sewer system.

29       (f) For purposes of this section, the following definitions apply:

30       (1) "At no cost other than periodic user fees." – The municipality may not  
31 charge the property owner who responded favorably under subdivision  
32 (b)(3) of this section for any costs associated with the installation of the  
33 water or sewer system. The municipality may not charge a property owner  
34 who applies to participate in the water and sewer system under subsection  
35 (d) of this section prior to the first periodic user fee charge, and on that bill  
36 the owner may be charged no more than as provided in subsection (d) of this  
37 section.

38       (2) "Average installation of a connection for a residential lot." – The average of  
39 the cost for residential installations from curb to residence, including  
40 connection and tap fees, in the area described in the annexation ordinance.

41 **"§ 160A-58.57. Contract with rural fire department.**

42       (a) If the area to be annexed described in a resolution of intent passed under  
43 G.S. 160A-49(a)–G.S. 160A-58.55(c) includes an area in an insurance district defined under  
44 G.S. 153A-233, a rural fire protection district under Article 3A of Chapter 69 of the General  
45 Statutes, or a fire service district under Article 16 of Chapter 153A of the General Statutes, and  
46 a rural fire department was on the date of adoption of the resolution of intent providing fire  
47 protection in the area to be annexed, then the city (if the rural fire department makes a written  
48 request for a good faith offer, and the request is signed by the chief officer of the fire  
49 department and delivered to the city clerk no later than 15 days before the public hearing) is  
50 required to make a good faith effort to negotiate a five-year contract with the rural fire  
51 department to provide fire protection in the area to be annexed.

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

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

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

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

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

24 (g) The rural fire department may, if it feels that no good faith offer has been made,  
25 appeal to the Local Government Commission within 30 days following the passage of an  
26 annexation ordinance. The rural fire department may apply to the Local Government  
27 Commission for an order staying the operation of the annexation ordinance pending the  
28 outcome of the review. The Commission may grant or deny the stay in its discretion upon such  
29 terms as it deems proper, and it may permit annexation of any part of the area described in the  
30 ordinance concerning which no question for review has been raised, provided that no other  
31 appeal under ~~G.S. 160A-50~~ G.S. 160A-58.60 is pending.

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

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

39 **"§ 160A-58.58. Assumption of debt.**

40 (a) If the city has annexed any area which is served by a rural fire department and  
41 which is in an insurance district defined under G.S. 153A-233, a rural fire protection district  
42 under Article 3A of Chapter 69 of the General Statutes or a fire service district under Article 16  
43 of Chapter 153A of the General Statutes, then upon the effective date of annexation if the city  
44 has not contracted with the rural fire department for fire protection, or when the rural fire  
45 department ceases to provide fire protection under contract, then the city shall pay annually a  
46 proportionate share of any payments due on any debt (including principal and interest) relating  
47 to facilities or equipment of the rural fire department, if the debt was existing at the time of  
48 adoption of the resolution of intent, with the payments in the same proportion that the assessed  
49 valuation of the area of the district annexed bears to the assessed valuation of the entire district  
50 on the date the annexation ordinance becomes effective or another date for valuation mutually  
51 agreed upon by the city and the fire department.

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

4 **"§ 160A-58.59. Contract with private solid waste collection firms.**

5 (a) If the area to be annexed described in a resolution of intent passed under  
6 ~~G.S. 160A-49(a)~~-G.S. 160A-58.55(c) includes an area where a firm (i) meets the requirements  
7 of subsection (a1) of this section, (ii) on the ninetieth day preceding the date of adoption of the  
8 resolution of intent or resolution of consideration was providing solid waste collection services  
9 in the area to be annexed, (iii) on the date of adoption of the resolution of intent is still  
10 providing such services, and (iv) by reason of the annexation the firm's franchise with a county  
11 or arrangements with third parties for solid waste collection will be terminated, the city shall do  
12 one of the following:

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

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

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

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

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

32 (2) Contacted the city clerk pursuant to public notice published by the city,  
33 pursuant to ~~G.S. 160A-49(b)~~, G.S. 160A-58.55(d) at least 10 days before the  
34 hearing and provided to the city clerk a written request to contract with the  
35 city to provide solid waste collection services. The request must contain a  
36 certification signed by an officer or owner of the firm that the firm serves at  
37 least 50 customers within the county at that time.

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

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

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

46 (1) A requirement that the firm post a performance bond and maintain public  
47 liability insurance coverage;

48 (2) A requirement that the firm agree to service customers in the annexed area  
49 that were not served by that firm on the effective date of annexation;

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

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

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

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

42 (h) A firm which has given notice under subsection (a) of this section that it desires to  
43 contract, and any firm that the city believes is eligible to give such notice, shall make available  
44 to the city not later than 30 days following a written request of the city, sent by certified mail  
45 return receipt requested, all information in its possession or control, including but not limited to  
46 operational, financial and budgetary information, necessary for the city to determine if the firm  
47 qualifies for the benefits of this section and to determine the nature and scope of the potential  
48 contract and/or economic loss. The firm forfeits its rights under this section if it fails to make a  
49 good faith response within 30 days following receipt of the written request for information  
50 from the city, provided that the city's written request so states by specific reference to this  
51 section.



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

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

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

12 **"§ 160A-58.60. Appeal.**

13 (a) Within 60 days following the close of the signature period under  
14 G.S. 160A-58.55(i), any property owner of real property located within the area described in  
15 the annexation ordinance who believes that property owner will suffer material injury by reason  
16 of the failure of the municipal governing board to comply with the procedure or to meet the  
17 requirements set forth in this Part as they apply to the annexation may file a petition in the  
18 superior court of the county in which the municipality is located seeking review of the action of  
19 the governing board.

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

24 (c) Within 15 days after receipt of the copy of the petition for review or within such  
25 additional time as the court may allow, the municipality shall transmit to the reviewing court  
26 both of the following:

27 (1) A transcript of the portions of the municipal journal or minute book in which  
28 the procedure for annexation has been set forth.

29 (2) A copy of the report setting forth the plans for extending services to the  
30 annexed area as required in G.S. 160A-58.53.

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

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

40 (f) The court shall fix the date for review of annexation proceedings under this Part,  
41 which review date shall be expeditious and without unnecessary delays. The review shall be  
42 conducted by the court without a jury. The court may hear oral arguments and receive written  
43 briefs and may take evidence intended to show one or more of the following:

44 (1) That the statutory procedure was not followed.

45 (2) That the provisions of G.S. 160A-58.53 were not met.

46 (3) That the provisions of G.S. 160A-58.54 have not been met.

47 (4) That the provisions of G.S. 160A-58.50 have not been met.

48 (g) The court may affirm the action of the governing board without change, or it may  
49 order any of the following:

- 1           (1) Remand the ordinance to the municipal governing board for further  
2 proceedings if procedural irregularities are found to have materially  
3 prejudiced the substantive rights of any of the petitioners.
- 4           (2) Remand the ordinance to the municipal governing board for amendment of  
5 the boundaries to conform to the provisions of G.S. 160A-58.54 if it finds  
6 that the provisions of G.S. 160A-58.54 have not been met; provided, that the  
7 court cannot remand the ordinance to the municipal governing board with  
8 directions to add area to the municipality which was not included in the  
9 notice of public hearing and not provided for in plans for service.
- 10          (3) Remand the report to the municipal governing board for amendment of the  
11 plans for providing services to the end that the provisions of  
12 G.S. 160A-58.53 are satisfied or to correct errors in municipal governing  
13 board's estimates that fall below the standards in G.S. 160A-58.63.
- 14          (4) Declare the ordinance null and void, if the court finds that the ordinance  
15 cannot be corrected by remand as provided in subdivisions (1), (2), or (3) of  
16 this subsection.

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

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

26           (i) If part or all of the area annexed under the terms of an annexation ordinance is the  
27 subject of an appeal to the superior court, Court of Appeals, or Supreme Court on the effective  
28 date of the ordinance, then the ordinance shall be deemed amended to make the effective date  
29 with respect to such area the first June 30<sup>th</sup> at least six months following the date of the final  
30 judgment of the superior court or appellate division, or the first June 30<sup>th</sup> at least six months  
31 from the date the municipal governing board completes action to make the ordinance conform  
32 to the court's instructions in the event of remand. For the purposes of this subsection, a denial  
33 of a petition for rehearing or for discretionary review shall be treated as a final judgment.

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-58.57(g) or G.S. 160A-58.59(g) and a stay is granted, then the time  
36 periods of three and one-half years or G.S. 160A-58.55(n) are each extended by the lesser of  
37 the length of the stay or one year for that annexation.

38           (k) The provisions of subsection (i) of this section shall apply to any judicial review  
39 authorized in whole or in part by G.S. 160A-58.57(i) or G.S. 160A-58.57(g).

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

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

48           (n) If a final court order is issued against the annexing municipality, costs in the action,  
49 including reasonable attorneys' fees for such aggrieved person having a freehold interest in the  
50 real property located within the area described in the annexation ordinance, may be charged to  
51 the municipality.

**"§ 160A-58.61. Annexation recorded.**

Whenever the limits of a municipality are enlarged in accordance with the provisions of this Part, it shall be the duty of the mayor of the municipality to cause an accurate map of such annexed territory, together with a copy of the ordinance duly certified, to be recorded in the office of the register of deeds of the county or counties in which such territory is situated and in the office of the Secretary of State. The documents required to be filed with the Secretary of State under this section shall be filed not later than 30 days following the effective date of the annexation ordinance. All documents shall have an identifying number affixed thereto and shall conform in size in accordance with rules prescribed by the Secretary. Failure to file within 30 days shall not affect the validity of the annexation. Any annexation shall be reported as part of the Boundary and Annexation Survey of the United States Bureau of the Census.

**"§ 160A-58.62. Authorized expenditures.**

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

**"§ 160A-58.63. Population and land estimates.**

In determining population and degree of land subdivision for purposes of meeting the requirements of G.S. 160A-58.54, the municipality shall use methods calculated to provide reasonably accurate results. In determining whether the standards set forth in G.S. 160A-58.54 have been met on appeal to the superior court under G.S. 160A-58.60, the reviewing court shall accept the estimates of the municipality unless the actual population, total area, or degree of land subdivision falls below the standards in G.S. 160A-58.54:

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

**SECTION 10.** G.S. 160A-31, as amended by Section 3 of S.L. 2011-57, reads as rewritten:

**"§ 160A-31. Annexation by petition.**

(a) The governing board of any municipality may annex by ordinance any area contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all the real property located within such area. The petition shall be signed by each owner of real property in the area and shall contain the address of each such owner.

1 (b) The petition shall be prepared in substantially the following form:

2 DATE:

3 To the \_\_\_\_\_ (name of governing board) of the (City or Town) of  
4 \_\_\_\_\_

5 1. We the undersigned owners of real property respectfully request that the area described  
6 in paragraph 2 below be annexed to the (City or Town) of \_\_\_\_\_

7 2. The area to be annexed is contiguous to the (City or Town) of \_\_\_\_\_ and the  
8 boundaries of such territory are as follows:

9 (b1) Notwithstanding the provisions of subsections (a) and (b) of this section, if fifty-one  
10 percent (51%) of the households in an area petitioning for annexation pursuant to this section  
11 have incomes that are two hundred percent (200%) or less than the most recently published  
12 United States Census Bureau poverty thresholds, the governing board of any municipality shall  
13 annex by ordinance any area the population of which is no more than ten percent (10%) of that  
14 of the municipality and one-eighth of the aggregate external boundaries of which are  
15 contiguous to its boundaries, upon presentation to the governing board of a petition signed by  
16 the owners of at least seventy-five percent (75%) of the parcels of real property in that area. A  
17 municipality shall not be required to adopt more than one ordinance under this subsection  
18 within a 36-month period.

19 (b2) The petition under subsection (b1) of this section shall be prepared in substantially  
20 the following form:

21 DATE:

22 To the \_\_\_\_\_ (name of governing board) of the (City or Town) of  
23 \_\_\_\_\_

24 1. We the undersigned owners of real property believe that the area described in paragraph  
25 2 below meets the requirements of G.S. 160A-31(b1) and respectfully request that the area  
26 described in paragraph 2 below be annexed to the (City or Town) of \_\_\_\_\_.

27 2. The area to be annexed is contiguous to the (City or Town) of \_\_\_\_\_, and the  
28 boundaries of such territory are as follows:

29 (c) Upon receipt of the petition, the municipal governing board shall cause the clerk of  
30 the municipality to investigate the sufficiency thereof and to certify the result of ~~his~~ the  
31 investigation. For petitions received under subsection (b1) or (j) of this section, the clerk shall  
32 receive the evidence provided under subsection (k) of this section before certifying the  
33 sufficiency of the petition. Upon receipt of the certification, the municipal governing board  
34 shall fix a date for a public hearing on the question of annexation, and shall cause notice of the  
35 public hearing to be published once in a newspaper having general circulation in the  
36 municipality at least 10 days prior to the date of the public hearing; provided, if there be no  
37 such paper, the governing board shall have notices posted in three or more public places within  
38 the area to be annexed and three or more public places within the municipality.

39 (d) At the public hearing ~~all persons resident or owning property in the area described~~  
40 ~~in the petition to be annexed who allege an error in the petition and persons resident or owning~~  
41 ~~property in the municipality shall be given an opportunity to be heard, as well as residents of~~  
42 ~~the municipality who question the necessity for annexation.~~ heard. The governing board shall  
43 then determine whether the petition meets the requirements of this section. Upon a finding that  
44 the petition that was not submitted under subsection (b1) or (j) of this section meets the  
45 requirements of this section, the governing board shall have authority to pass an ordinance  
46 annexing the territory described in the petition. The governing board shall have authority to  
47 make the annexing ordinance effective immediately or on ~~any specified date within the June 30~~  
48 ~~after six months from the date of the passage of the ordinance or the June 30 of the following~~  
49 ~~year after the date of passage of the ordinance.~~

50 (d1) Upon a finding that a petition submitted under subsection (j) of this section meets  
51 the requirements of this section, the governing body shall have the authority to adopt an

1 annexation ordinance for the area with an effective date no later than 24 months after the  
2 adoption of the ordinance.

3 (d2) Upon a finding that a petition submitted under subsection (b1) of this section meets  
4 the requirements of this section, the governing body shall, within 60 days of the finding,  
5 estimate the capital cost to the municipality of extending water and sewer lines to all parcels  
6 within the area covered by the petition and estimate the annual debt service payment that would  
7 be required if those costs were financed by a 20-year revenue bond. If the estimated annual  
8 debt service payment is less than five percent (5%) of the municipality's annual water and  
9 sewer systems revenue for the most recent fiscal year, then the governing body shall within 30  
10 days adopt an annexation ordinance for the area with an effective date no later than 24 months  
11 after the adoption of the ordinance. If the estimated annual debt service payment is greater than  
12 or equal to five percent (5%) of the municipality's annual water and sewer systems revenue for  
13 the most recent fiscal year, then the governing body may adopt a resolution declining to annex  
14 the area. If such a resolution is adopted, the governing body shall immediately submit a request  
15 to the Local Government Commission to certify that its estimate of the annual debt service  
16 payment is reasonable based on established governmental accounting principles.

17 (1) If the Local Government Commission certifies the estimate, the municipality  
18 is not required to annex the area and no petition to annex the area may be  
19 submitted under subsection (b1) of this section for 36 months following the  
20 certification. During the 36-month period, the municipality shall make  
21 ongoing, annual good faith efforts to secure Community Development Block  
22 Grants or other grant funding for extending water and sewer service to all  
23 parcels in the areas covered by the petition. If sufficient funding is secured  
24 so that the estimated capital cost to the municipality for extending water and  
25 sewer service, less the funds secured, would result in an annual debt service  
26 payment cost to the municipality of less than five percent (5%) of the  
27 municipality's annual water and sewer systems revenue for the most recent  
28 fiscal year, then the governing body shall within 30 days adopt an  
29 annexation ordinance for the area with an effective date no later than 24  
30 months after the adoption of the ordinance.

31 (2) If the Local Government Commission notifies the governing board that the  
32 estimates are not reasonable based on established governmental accounting  
33 principles and that a reasonable estimate of the annual debt service payment  
34 is less than five percent (5%) of the municipality's annual water and sewer  
35 systems revenue for the most recent fiscal year, then the governing body  
36 shall within 30 days of the notification adopt an annexation ordinance for the  
37 area with an effective date no later than 24 months after the adoption of the  
38 ordinance.

39 (d3) Municipal services shall be provided to an area annexed under subsections (b1) and  
40 (j) of this section in accordance with the requirements of Part 7 of this Article.

41 (e) From and after the effective date of the annexation ordinance, the territory and its  
42 citizens and property shall be subject to all debts, laws, ordinances and regulations in force in  
43 such municipality and shall be entitled to the same privileges and benefits as other parts of such  
44 municipality. Real and personal property in the newly annexed territory on the January 1  
45 immediately preceding the beginning of the fiscal year in which the annexation becomes  
46 effective is subject to municipal taxes as provided in G.S. 160A-58.10. If the effective date of  
47 annexation falls between June 1 and June 30, and the effective date of the privilege license tax  
48 ordinance of the annexing municipality is June 1, then businesses in the area to be annexed  
49 shall be liable for taxes imposed in such ordinance from and after the effective date of  
50 annexation.

1 (f) For purposes of this section, an area shall be deemed "contiguous" if, at the time the  
2 petition is submitted, such area either abuts directly on the municipal boundary or is separated  
3 from the municipal boundary by the width of a street or street right-of-way, a creek or river, or  
4 the right-of-way of a railroad or other public service corporation, lands owned by the  
5 municipality or some other political subdivision, or lands owned by the State of North Carolina.  
6 A connecting corridor consisting solely of a street or street right-of-way may not be used to  
7 establish contiguity. In describing the area to be annexed in the annexation ordinance, the  
8 municipal governing board may include within the description any territory described in this  
9 subsection which separates the municipal boundary from the area petitioning for annexation.

10 (g) The governing board may initiate annexation of contiguous property owned by the  
11 municipality by adopting a resolution stating its intent to annex the property, in lieu of filing a  
12 petition. The resolution shall contain an adequate description of the property, state that the  
13 property is contiguous to the municipal boundaries and fix a date for a public hearing on the  
14 question of annexation. Notice of the public hearing shall be published as provided in  
15 subsection (c) of this section. The governing board may hold the public hearing and adopt the  
16 annexation ordinance as provided in subsection (d) of this section.

17 (h) A city council which receives a petition for annexation under this section may by  
18 ordinance require that the petitioners file a signed statement declaring whether or not vested  
19 rights with respect to the properties subject to the petition have been established under  
20 G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that such rights have been  
21 established, the city may require petitioners to provide proof of such rights. A statement which  
22 declares that no vested rights have been established under G.S. 160A-385.1 or G.S. 153A-344.1  
23 shall be binding on the landowner and any such vested right shall be terminated.

24 (i) A municipality has no authority to adopt a resolution or petition itself under this Part  
25 for annexation of property it does not own or have any legal interest in. For the purpose of this  
26 subsection, a municipality has no legal interest in a State-maintained street unless it owns the  
27 underlying fee and not just an easement.

28 (j) Using the procedures under this section, the governing board of any municipality  
29 may annex by ordinance any distressed area contiguous to its boundaries upon presentation to  
30 the governing board of a petition signed by at least one adult resident of at least two-thirds of  
31 the resident households located within such area. For purposes of this subsection, a "distressed  
32 area" is defined as an area in which at least fifty-one percent (51%) of the households in the  
33 area petitioning to be annexed have incomes that are two hundred percent (200%) or less than  
34 the most recently published United States Census Bureau poverty thresholds. The municipality  
35 may require reasonable proof that the petitioner in fact resides at the address indicated.

36 (k) The petition under subsection (j) of this section shall be prepared in substantially the  
37 following form:

38 DATE:

39 To the \_\_\_\_\_ (name of governing board) of the (City or Town) of  
40 \_\_\_\_\_

41 1. We the undersigned residents of real property believe that the area described in  
42 paragraph 2 below meets the requirements of G.S. 160A-31(j) and respectfully request that the  
43 area described in paragraph 2 below be annexed to the (City or Town) of \_\_\_\_\_.

44 2. The area to be annexed is contiguous to the (City or Town) of \_\_\_\_\_, and the  
45 boundaries of such territory are as follows:

46 (l) For purposes of determining whether the percentage of households in the area  
47 petitioning for annexation meets the poverty thresholds under subsections (b1) and (j) of this  
48 section, the petitioners shall submit to the municipal governing board any reasonable evidence  
49 that demonstrates the area in fact meets the income requirements of that subsection. The  
50 evidence presented may include data from the most recent federal decennial census, other  
51 official census documents, signed affidavits by at least one adult resident of the household

1 attesting to the household size and income level, or any other documentation verifying the  
2 incomes for a majority of the households within the petitioning area. Petitioners may select to  
3 submit name, address, and social security number to the clerk, who shall in turn submit the  
4 information to the Department of Revenue. Such information shall be kept confidential and is  
5 not a public record. The Department shall provide the municipality with a summary report of  
6 income for households in the petitioning area. Information for the report shall be gleaned from  
7 income tax returns, but the report submitted to the municipality shall not identify individuals or  
8 households."

9 **SECTION 11.** Article 4A of Chapter 160A of the General Statutes is amended by  
10 adding a new Part 8 to read:

11 **"Part 8.**

12 **"Recording and Reporting.**

13 **"§ 160A-58.90. Recording and Reporting.**

14 (a) Annexations made under this Article shall be recorded and reported in the same  
15 manner as under G.S. 160A-29.

16 (b) To be enforceable, any written agreement with a person having a freehold interest in  
17 real property regarding annexation shall be recorded in the county register of deeds office in  
18 which the real property lies."

19 **SECTION 11.1.** G.S. 143B-437.04(a) is amended by adding a new subdivision to  
20 read:

21 "(a) The Department of Commerce shall adopt guidelines for the awarding of  
22 Community Development Block Grants to ensure that:

23 ...

24 (3) Priority consideration is given to projects located in areas annexed by a  
25 municipality under Article 4A of Chapter 160A of the General Statutes in  
26 order to provide water or sewer services to low-income residents. For  
27 purposes of this section, low-income residents are those with a family  
28 income that is eighty percent (80%) or less of median family income."

29 **SECTION 11.2.** G.S. 159G-23 is amended by adding a new subdivision to read:

30 **"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking**  
31 **Water Reserve.**

32 The criteria in this section apply to a loan or grant from the Wastewater Reserve or the  
33 Drinking Water Reserve. The Division of Water Quality and the Division of Environmental  
34 Health must each establish a system of assigning points to applications based on the following  
35 criteria:

36 ...

37 (9) Low-income residents. – A project that is located in an area annexed by a  
38 municipality under Article 4A of Chapter 160A of the General Statutes in  
39 order to provide water or sewer services to low-income residents has  
40 priority. For purposes of this section, low-income residents are those with a  
41 family income that is eighty percent (80%) or less of median family income.

42 ...."

43 **SECTION 12.** Except for Sections 10, 11.1, and 11.2, this act does not apply to  
44 any municipality that in its charter requires that an annexation must be approved by (i) either  
45 the voters in a referendum or the request of a majority of the property owners; (ii) the voters in  
46 a referendum; or (iii) the request of a majority of the property owners.

47 **SECTION 13.** If any provision of this act or its application is held invalid, the  
48 invalidity does not affect other provisions or applications of this act that can be given effect  
49 without the invalid provisions or application, and to this end the provisions of this act are  
50 severable.

1           **SECTION 14.** This act is effective when it becomes law and applies to annexations  
2 initiated by municipalities on or after that date and to petitions for annexation under Part 1 and  
3 Part 4 of Article 4A of Chapter 160A of the General Statutes presented on or after that date.  
4 Annexations initiated prior to the effective date of this act by any action under Part 2 or Part 3  
5 of Article 4A of Chapter 160A of the General Statutes, but for which an annexation ordinance  
6 has not been adopted, shall terminate and may be reinitiated in compliance with Part 7 of  
7 Article 4A of Chapter 160A of the General Statutes as enacted by this act.