

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

1

HOUSE BILL 531

Short Title: Involuntary Annexation Reform. (Public)

Sponsors: Representatives L. Brown, Dollar, LaRoque, and H. Warren (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Rules, Calendar, and Operations of the House.

March 31, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ONE PROCESS FOR INVOLUNTARY ANNEXATION FOR ALL MUNICIPALITIES AND TO MAKE OTHER CHANGES TO THE ANNEXATION PROCESS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-31 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. The petition need not be signed by the owners of real property if the real property is wholly exempt from property taxation under the Constitution and laws of North Carolina.

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

DATE:

To the _____ (name of governing board) of the (City or Town) of _____

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

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

(b1) Notwithstanding the provisions of subsections (a) and (b) of this section, if fifty-one percent (51%) of the households in an area petitioning for annexation pursuant to this section have incomes that are two hundred percent (200%) or less than the most recently published United States Census Bureau poverty thresholds, the governing board of any municipality shall annex by ordinance any area one-third of the aggregate external boundaries of which are contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of at least seventy-five percent (75%) of the parcels of real property in that area.

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

DATE:

To the _____ (name of governing board) of the (City or Town) of _____



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

4 2. The area to be annexed is contiguous to the (City or Town) of _____ and the
5 boundaries of such territory are as follows:

6 (c) Upon receipt of the petition, the municipal governing board shall cause the clerk of
7 the municipality to investigate the sufficiency thereof and to certify the result of ~~his~~the
8 investigation. For petitions received under subsection (b1) or (i) of this section, the clerk shall
9 receive the report from the Department of Revenue as provided in subsection (k) of this section
10 before certifying the sufficiency of the petition. Upon receipt of the certification, the municipal
11 governing board shall fix a date for a public hearing on the question of annexation, and shall
12 cause notice of the public hearing to be published once in a newspaper having general
13 circulation in the municipality at least 10 days prior to the date of the public hearing; provided,
14 if there be no such paper, the governing board shall have notices posted in three or more public
15 places within the area to be annexed and three or more public places within the municipality.

16 (d) At the public hearing ~~all persons resident or owning property in or near the area~~
17 ~~described in the petition to be annexed who allege an error in the petition and persons resident~~
18 ~~or owning property in the municipality~~ shall be given an opportunity to be heard, as well as
19 residents of the municipality who question the necessity for annexation. The governing board
20 shall then determine whether the petition meets the requirements of this section. Upon a finding
21 that the petition meets the requirements of this section, the governing board shall have authority
22 to pass an ordinance annexing the territory described in the petition. The governing board shall
23 have authority to make the annexing ordinance effective immediately or on ~~any specified date~~
24 ~~within the June 30 next following six months from~~ the date of passage of the ordinance.

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

35 (f) For purposes of this section, an area shall be deemed "contiguous" if, at the time the
36 petition is submitted, such area either abuts directly on the municipal boundary or is separated
37 from the municipal boundary by the width of a street or street right-of-way, a creek or ~~river,~~
38 river not exceeding 120 feet in width, or the right-of-way of a railroad or other public service
39 corporation, lands owned by the municipality or some other political subdivision, or lands
40 owned by the State of North Carolina. A connecting corridor consisting solely of a street or
41 street right-of-way may not be used to establish contiguity for the purpose of annexation to an
42 outlying, noncontiguous area. In describing the area to be annexed in the annexation ordinance,
43 the municipal governing board may include within the description any territory described in
44 this subsection which separates the municipal boundary from the area petitioning for
45 annexation.

46 (g) The governing board may initiate annexation of contiguous property owned by the
47 municipality by adopting a resolution stating its intent to annex the property, in lieu of filing a
48 petition. The resolution shall contain an adequate description of the property, state that the
49 property is contiguous to the municipal boundaries and fix a date for a public hearing on the
50 question of annexation. Notice of the public hearing shall be published as provided in

1 subsection (c) of this section. The governing board may hold the public hearing and adopt the
2 annexation ordinance as provided in subsection (d) of this section.

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

10 (i) Using the procedures under this section, the governing board of any municipality
11 may annex by ordinance any distressed area contiguous to its boundaries upon presentation to
12 the governing board of a petition signed by at least one adult resident of at least seventy-five
13 percent (75%) of the resident households located within such area. For purposes of this
14 subsection, a "distressed area" is defined as an area in which at least fifty-one percent (51%) of
15 the households in the area petitioning to be annexed have incomes that are two hundred percent
16 (200%) or less than the most recently published United States Census Bureau poverty
17 thresholds. The municipality may require reasonable proof that the petitioner in fact resides at
18 the address indicated.

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

21 DATE:

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

24 1. We the undersigned residents of real property believe that the area described in
25 paragraph 2. below meets the requirements of G.S. 160A-31(i) and respectfully request that the
26 area 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 (k) For purposes of determining whether the percentage of households in the area
30 petitioning for annexation meets the poverty thresholds under subsections (b1) and (i) of this
31 section, the petitioners shall submit to the municipal governing board any reasonable evidence
32 that demonstrates the area in fact meets the income requirements of that subsection. The
33 evidence presented may include data from the most recent federal decennial census, other
34 official census documents, signed affidavits by at least one adult resident of the household
35 attesting to the household size and income level, or any other documentation verifying the
36 incomes for a majority of the households within the petitioning area. Petitioners may select to
37 submit name, address, and social security number to the clerk, who shall in turn submit the
38 information to the Department of Revenue. Such information shall be kept confidential and is
39 not a public record. The Department shall provide the municipality with a summary report of
40 income for households in the petitioning area. Information for the report shall be gleaned from
41 income tax returns, but the report submitted to the municipality shall not identify individuals or
42 households."

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

45 **SECTION 3.** Part 3 of Article 4A of Chapter 160A of the General Statutes reads as
46 rewritten:

47 "Part 3. Involuntary Annexation by Cities of 5,000 or More Cities.

48 "**§ 160A-45. Declaration of policy.**

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

- 50 (1) That sound urban development is essential to the continued economic
51 development of North Carolina;

- 1 (2) That municipalities are created to provide the governmental services
2 essential for sound urban development and for the protection of health,
3 safety and welfare in areas being intensively used for residential,
4 commercial, industrial, institutional and governmental purposes or in areas
5 undergoing such development;
- 6 (3) That municipal boundaries should be extended in accordance with legislative
7 standards applicable throughout the State, to include such areas and to
8 provide the high quality of meaningful governmental services if needed
9 therein for the public health, safety and welfare;
- 10 ~~(4) That new urban development in and around municipalities having a~~
11 ~~population of 5,000 or more persons is more scattered than in and around~~
12 ~~smaller municipalities, and that such larger municipalities have greater~~
13 ~~difficulty in expanding municipal utility systems and other service facilities~~
14 ~~to serve such scattered development, so that the legislative standards~~
15 ~~governing annexation by larger municipalities must take these facts into~~
16 ~~account if the objectives set forth in this section are to be attained;~~
- 17 (5) That areas annexed to municipalities in accordance with such uniform
18 legislative standards ~~should~~ shall receive ~~the~~ meaningful services provided
19 by the annexing municipality in accordance with G.S. 160A-47(3).

20 **"§ 160A-46. Authority to annex.**

21 The governing board of any municipality ~~having a population of 5,000 or more persons~~
22 ~~according to the last federal decennial census~~ may extend the corporate limits of such
23 municipality to include contiguous areas in need of meaningful services that cannot be resolved
24 without extension of municipal services under the procedure set forth in this Part. The
25 municipality under this Part bears the burden of proving that the annexation is in the best
26 interest of the owners of the land in the area proposed to be annexed. In determining this issue,
27 the municipality must show that it is competent and able to provide all meaningful services to
28 the entire area proposed to be annexed.

29 **"§ 160A-47. Prerequisites to annexation; ability to serve; report and plans.**

30 A municipality exercising authority under this Part shall show that previous annexations
31 made under this Part are substantially completed and shall make plans for the extension of
32 meaningful services to the area in need of meaningful services proposed to be annexed and
33 shall, prior to the public hearing provided for in G.S. 160A-49, prepare a report setting forth
34 such plans to provide services to such ~~area.~~ area. For purposes of this section, "substantially
35 completed" shall mean at least eighty-five percent (85%) implemented. The report shall
36 include:

- 37 (1) A map or maps of the municipality and adjacent territory to show the
38 following information:
39 a. The present and proposed boundaries of the municipality.
40 b. The present major trunk water ~~mains~~ mains, ~~and~~ sewer interceptors
41 and outfalls, sewer lines and waterlines, and the proposed extensions
42 of such mains and outfalls and all necessary sewer lines and
43 waterlines as required in subdivision (3) of this section. The water
44 and sewer map must bear the seal of a registered professional
45 engineer.
46 c. The general land use pattern in the area to be annexed.
- 47 (2) A statement showing that the area to be annexed meets the requirements of
48 G.S. 160A-48.
- 49 (3) A statement setting forth the plans of the municipality for extending to the
50 area to be annexed each major municipal service performed within the
51 municipality at the time of annexation. Specifically, such plans shall:

- 1 a. Provide for extending water and sewer services, police protection,
2 fire protection, solid waste collection and street maintenance services
3 to the area to be annexed on the date of annexation on substantially
4 the same basis and in the same manner as such services are provided
5 within the rest of the municipality prior to annexation. A contract
6 with the sheriff for additional police patrol by the sheriff's
7 department shall qualify as provision of police protection for the
8 purpose of this Part. A contract with a rural fire department to
9 provide fire protection shall be an acceptable method of providing
10 fire protection. If a water distribution system is not available in the
11 area to be annexed, the plans must call for reasonably effective fire
12 protection services—protection only until such time as waterlines are
13 made available in such area under existing municipal policies for the
14 extension of waterlines, waterlines and the rural fire department is
15 similarly equipped with fire suppression equipment and staff as the
16 existing municipal fire protection services. A contract with a private
17 firm to provide solid waste collection services shall be an acceptable
18 method of providing solid waste collection services, services only if
19 such a contract is one of the methods of solid waste collection
20 services throughout the municipality or the area proposed to be
21 annexed at the time of the resolution of consideration to annex.
- 22 b. Provide for extension of major trunk water mains and sewer outfall
23 lines—lines, and all necessary sewer lines and waterlines, into the area
24 to be annexed so that when such lines are constructed, property
25 owners in the area to be annexed will be able to secure public water
26 and sewer ~~service, service.~~ according to the policies in effect in such
27 municipality for extending water and sewer lines to individual lots or
28 subdivisions. If requested by the owner of an occupied dwelling unit
29 or an operating commercial or industrial property in writing on a
30 form provided by the municipality, which form acknowledges that
31 such extension or extensions will be made according to the current
32 financial policies of the municipality for making such extensions, and
33 if such form is received by the city clerk no later than five days after
34 the public hearing, provide for extension of water and sewer lines to
35 the property or to a point on a public street or road right of way
36 adjacent to the property according to the financial policies in effect in
37 such municipality for extending water and sewer lines. If any such
38 requests are timely made, the municipality shall at the time of
39 adoption of the annexation ordinance amend its report and plan for
40 services to reflect and accommodate such requests, if an amendment
41 is necessary. In areas where the municipality is required to extend
42 sewer service according to its policies, service, but when the
43 municipality can demonstrate by a preponderance of the evidence the
44 installation of sewer is not economically physically feasible or would
45 be environmentally damaging due to the unique topography or
46 environmental qualities of the area, the municipality shall provide
47 septic system maintenance and repair service until such time as sewer
48 service is provided to properties similarly situated.
- 49 c. If extension of major trunk water mains, sewer outfall lines, sewer
50 lines and water lines is necessary, set forth a proposed timetable for
51 construction of such mains, outfalls and lines as soon as possible

1 following the effective date of annexation. In any event, the plans
 2 shall call for construction to be completed within ~~two~~three years of
 3 the effective date of annexation. A contract with a county authority
 4 or other third party water and/or sewer authority shall qualify under
 5 this Part as provision of meaningful services by the municipality
 6 considering annexation. If a county or an authority established for the
 7 purpose of providing a utility by law will be allowed to continue
 8 services to any annexed area.

9 d. Set forth the method under which the municipality plans to finance
 10 extension of all meaningful services into the area to be annexed.

11 (4) A statement of the impact of the annexation on any rural fire department
 12 providing service in the area to be annexed and a statement of the impact of
 13 the annexation on fire protection and fire insurance rates in the area to be
 14 annexed, if the area where service is provided is in an insurance district
 15 designated under G.S. 153A-233, a rural fire protection district under Article
 16 3A of Chapter 69 of the General Statutes, or a fire service district under
 17 Article 16 of Chapter 153A of the General Statutes. The rural fire
 18 department shall make available to the city not later than ~~30~~60 days
 19 following a written request from the city all information in its possession or
 20 control, including but not limited to operational, financial and budgetary
 21 information, necessary for preparation of a statement of impact. The written
 22 request shall include pertinent information for the rural fire department
 23 related to the annexation to include parcel information, size of the proposed
 24 annexation area, and proposed milestone dates. The rural fire department
 25 forfeits its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to
 26 make a good faith response within ~~45~~60 days following receipt of the
 27 written request for information from the city, provided that the city's written
 28 request so states by specific reference to this section.

29 (5) A statement showing how the proposed annexation will affect the city's
 30 finances and ~~services~~services projected over five years beginning with the
 31 first-year expenditures to be made for provision of meaningful services,
 32 including city revenue change estimates. This statement shall be delivered to
 33 the clerk of the board of county commissioners at least 30 days before the
 34 date of the public informational meeting on any annexation under this Part.

35 **"§ 160A-47.1. Limitation on change in financial participation prior to annexation.**

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

42 **"§ 160A-48. Character of area to be annexed.**

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

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

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

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

49 (1) It must be adjacent or contiguous to the municipality's boundaries at the time
 50 the annexation proceeding is ~~begun, except if the entire territory of a county~~
 51 ~~water and sewer district created under G.S. 162A-86(b1) is being annexed,~~

1 the annexation shall also include any noncontiguous pieces of the district as
2 long as the part of the district with the greatest land area is adjacent or
3 contiguous to the municipality's boundaries at the time the annexation
4 proceeding is begun.

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

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

9 (4) A majority of property owners have existing water service, sewer or septic
10 service, police protection, or fire protection that is inadequate and clearly
11 poses a threat to the health and safety of the area, and the property owners
12 could not reasonably address the threat themselves through private or public
13 means. The threat to health shall be certified by the county health director or
14 the State Health Director.

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

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

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

27 (3) Is so developed that at least sixty percent (60%) of the total number of lots
28 and tracts in the area at the time of annexation are used for residential,
29 commercial, industrial, institutional or governmental purposes, ~~and is~~
30 ~~subdivided into lots and tracts such that at least sixty percent (60%) of the~~
31 ~~total acreage, not counting the acreage used at the time of annexation for~~
32 ~~commercial, industrial, governmental or institutional purposes, consists of~~
33 ~~lots and tracts three acres or less in size. purposes.~~ For purposes of this
34 section, a lot or tract shall not be considered in use for a commercial,
35 industrial, institutional, or governmental purpose if the lot or tract is used
36 only temporarily, occasionally, or on an incidental or insubstantial basis in
37 relation to the size and character of the lot or tract. ~~For purposes of this~~
38 ~~section, acreage in use for commercial, industrial, institutional, or~~
39 ~~governmental purposes shall include acreage actually occupied by buildings~~
40 ~~or other man-made structures together with all areas that are reasonably~~
41 ~~necessary and appurtenant to such facilities for purposes of parking, storage,~~
42 ~~ingress and egress, utilities, buffering, and other ancillary services and~~
43 ~~facilities; or~~

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

47 a. ~~Municipality has provided in a contract with that district that the area~~
48 ~~is developed for urban purposes; and~~

49 b. ~~Contract provides for the municipality to operate the sewer system of~~
50 ~~that county water and sewer district;~~

1 provided that the special categorization provided by this subdivision only
2 applies if the municipality is annexing in one proceeding the entire territory
3 of the district not already within the corporate limits of a municipality; or
4 (5) Is so developed that, at the time of the approval of the annexation report, all
5 tracts in the area to be annexed are used for commercial, industrial,
6 governmental, or institutional purposes.

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

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

16 The purpose of this subsection is to permit municipal governing boards to extend corporate
17 limits to include all nearby areas developed for urban purposes that are in need of meaningful
18 services as described in G.S. 160A-53(4), and where necessary to include areas which at the
19 time of annexation are not yet developed for urban purposes but which constitute necessary
20 land connections between the municipality and areas developed for urban purposes or between
21 two or more areas developed for urban purposes. For purposes of this subsection, "necessary
22 land connection" means an area that does not exceed twenty five percent (25%) ~~ten percent~~
23 (10%) of the total area to be annexed.

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

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

31 **"§ 160A-48.5. Consent of board of county commissioners necessary in certain**
32 **annexations.**

33 (a) Before any municipality that is located wholly or primarily in another county
34 annexes real property located in the county, the municipality must have the approval by
35 resolution of the county board of commissioners of the county where the land is located.

36 (b) Prior to the adoption of any resolution approving annexation, the county board of
37 commissioners must conduct a public hearing with at least 30 days, but not more than 45 days,
38 notice placed in a newspaper of general circulation within the county.

39 **"§ 160A-49. Procedure for annexation.**

40 (a) Notice of Consideration, County Approval, and Notice of Intent. – Any municipal
41 governing board desiring to annex territory under the provisions of this Part shall first pass a
42 resolution stating the intent of the municipality to consider annexation, of consideration and
43 send notification to the board of commissioners of the county in which the territory to be
44 annexed is located and to the affected property owners by certified mail. Such resolution shall
45 describe the boundaries of the area under consideration, consideration by metes and bounds and
46 include a legible map. The municipal governing body shall fix a date for a public informational
47 meeting, meeting and fix a date for a public hearing on the question of annexation. The date for
48 the public informational meeting shall be not less than 45 days and not more than 55 days
49 following passage of the resolution. The board of commissioners of the county in which the
50 territory proposed to be annexed is located if the majority of the municipal area is in a different
51 county shall fix a date for a public hearing on the question of annexation. The date for the

1 public hearing to be not less than 60 days and not more than 90 days following passage of the
2 resolution.

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

- 4 (1) Fix the date, hour and place of the public informational meeting and the
5 date, hour, and place of the public hearing.
- 6 (2) Describe clearly the boundaries of the area under consideration, and include
7 a legible map of the area.
- 8 (3) State that the report required in G.S. 160A-47 will be available at the office
9 of the municipal clerk and the closest public library at least 30 days prior to
10 the date of the public informational meeting. If the municipality has a Web
11 site that one or more of its employees maintains, the municipality shall also
12 post the notice at least 30 days prior to the date of the public informational
13 meeting.
- 14 (4) ~~Include a notice of a property owner's rights to request water and sewer~~
15 ~~service in accordance with G.S. 160A-47.~~
- 16 (5) Include an explanation of a property owner's rights pursuant to subsections
17 (f1) and (f2) of this section.
- 18 (6) Include current zoning for the parcels in the area proposed to be annexed and
19 pending changes to that zoning.
- 20 (7) Include the name, email, and telephone number for a representative of the
21 municipality who may be contacted for further information.

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

49 (c) Action Prior to Informational Meeting. – At least 30 days before the date of the
50 public informational meeting, the governing board shall approve the report provided for in
51 G.S. 160A-47, shall provide the report to the board of commissioners of the county or counties

1 where the municipality is located and to the board of commissioners of the county where the
2 property to be annexed is located, if different, and shall make it available to the public at the
3 office of the municipal clerk. In addition, the municipality may prepare a summary of the full
4 report for public distribution. In addition, the city shall post in the office of the city clerk, at
5 least 30 days before the public informational meeting, a legible map of the area to be annexed
6 and a list of persons holding freehold interests in property in the area to be annexed that it has
7 identified.

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

14 The notice of the public informational meeting shall do all of the following:

- 15 (1) State 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 proposed for annexation and
18 include a legible map of the area.
- 19 (3) State that the report required by 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 the property owner's rights to receive water and sewer
23 service in accordance with G.S. 160A-47.

24 (d) Public Hearing. – At the public hearing a representative of the municipality shall
25 first make an explanation of the report required in G.S. 160A-47. Following such explanation,
26 all persons resident or owning property in or near the territory described in the notice of public
27 hearing, and all residents of the municipality, shall be given an opportunity to be ~~heard~~heard,
28 and receive responses to questions by the governing board.

29 (e) Passage of the Annexation Ordinance. – The municipal governing board shall take
30 into consideration facts presented at the public hearing and shall have authority to amend the
31 report required by G.S. 160A-47 to make changes in the plans for serving the area proposed to
32 be annexed so long as such changes meet the requirements of G.S. 160A-47, provided that if
33 the annexation report is amended to show additional subsections of G.S. 160A-48(c) or (d)
34 under which the annexation qualifies that were not listed in the original report, the city must
35 hold an additional public hearing on the annexation not less than 30 nor more than 90 days after
36 the date the report is amended, and notice of such new hearing shall be given at the first public
37 hearing. After securing approval by the voters if required under subsection (d) of this section,
38 and after the elapsing of at least one year since the date of adoption of the resolution of
39 consideration, the municipal governing board may adopt a resolution stating its intent to
40 consider annexation of the approved territory. At any regular or special meeting held no sooner
41 than ~~the tenth day~~45 days following ~~the public hearing~~ adoption of the resolution of intent, and
42 not later than 90 days following such public hearing, the governing board shall have authority
43 to adopt an ordinance extending the corporate limits of the municipality to include all, or such
44 part, of the area described in the notice of public hearing which meets the requirements of
45 G.S. 160A-48 and which the governing board has concluded should be annexed. The ordinance
46 shall:

- 47 (1) Contain specific findings showing that the area to be annexed meets the
48 requirements of G.S. 160A-48. The external boundaries of the area to be
49 annexed shall be described by metes and bounds. In showing the application
50 of G.S. 160A-48(c) and (d) to the area, the governing board may refer to

- 1 boundaries set forth on a map of the area and incorporate same by reference
2 as a part of the ordinance.
- 3 (2) A statement of the intent of the municipality to provide meaningful services
4 to the area in need of meaningful service being annexed as set forth in the
5 report required by G.S. 160A-47.
- 6 (3) A specific finding that on the effective date of annexation the municipality
7 will have funds appropriated in sufficient amount to finance construction of
8 any major trunk water mains and sewer outfalls and such water and sewer
9 lines as required in G.S. 160A-47(3)b found necessary in the report required
10 by G.S. 160A-47 to extend the basic water and/or sewer system of the
11 municipality into the area to be annexed, or that on the effective date of
12 annexation the municipality will have authority to issue bonds in an amount
13 sufficient to finance such construction. If authority to issue such bonds must
14 be secured from the electorate of the municipality prior to the effective date
15 of annexation, then the effective date of annexation shall be no earlier than
16 the day following the statement of the successful result of the bond election.
- 17 (4) Fix the effective date for annexation. The effective date of annexation ~~may~~
18 shall be fixed for any date not less than 70 days nor more than 400 days from
19 ~~the date of passage~~ June 30 next following adoption of the ordinance.
- 20 (f) Effect of Annexation Ordinance. – Except as provided in subsection (f1) of this
21 section, from and after the effective date of the annexation ordinance, the territory and its
22 citizens and property shall be subject to all debts, laws, ordinances and regulations in force in
23 such municipality and shall be entitled to the same privileges and benefits as other parts of such
24 municipality. Real and personal property in the newly annexed territory on the January 1
25 immediately preceding the beginning of the fiscal year in which the annexation becomes
26 effective is subject to municipal taxes as provided in G.S. 160A-58.10. Provided that annexed
27 property which is a part of a sanitary district, which has installed water and sewer lines, paid
28 for by the residents of said district, shall not be subject to that part of the municipal taxes levied
29 for debt service for the first five years after the effective date of annexation. If this proviso
30 should be declared by a court of competent jurisdiction to be in violation of any provision of
31 the federal or State Constitution, the same shall not affect the remaining provisions of this Part.
32 If the effective date of annexation falls between June 1 and June 30, and the effective date of
33 the privilege license tax ordinance of the annexing municipality is June 1, then businesses in
34 the area to be annexed shall be liable for taxes imposed in such ordinances from and after the
35 effective date of annexation.
- 36 (f1) Property Subject to Present-Use Value Appraisal. – If an area described in an
37 annexation ordinance includes agricultural land, horticultural land, or forestland that on the
38 effective date of annexation is:
- 39 (1) Land that is being taxed at present-use value pursuant to G.S. 105-277.4; or
40 (2) Land that:
- 41 a. Was on the date of the resolution of intent for annexation being used
42 for actual production and is eligible for present-use value taxation
43 under G.S. 105-277.4, but the land has not been in use for actual
44 production for the required time under G.S. 105-277.3; and
45 b. The assessor for the county where the land subject to annexation is
46 located has certified to the city that the land meets the requirements
47 of this subdivision
- 48 the annexation becomes effective as to that property pursuant to subsection (f2) of this section.
- 49 (f2) Effective Date of Annexation for Certain Property. – Annexation of property subject
50 to annexation under subsection (f1) of this section shall become effective:

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

5 (2) For all other purposes, the annexation becomes effective as to each tract of
6 such property or part thereof on the last day of the month in which that tract
7 or part thereof becomes ineligible for classification pursuant to
8 G.S. 105-277.4 or no longer meets the requirements of subdivision (f1)(2) of
9 this section. Until annexation of a tract or a part of a tract becomes effective
10 pursuant to this subdivision, the tract or part of a tract is not subject to
11 taxation by the city under Article 12 of Chapter 105 of the General Statutes
12 nor is the tract or part of a tract entitled to services provided by the city.
13 Upon the effective date of annexation, taxation of real and personal property
14 is subject to the provisions of G.S. 160A-58.10.

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

19 (h) Remedies for Failure to Provide Services. – If, not earlier than ~~one year~~two years
20 from the effective date of annexation, and not later than ~~15~~48 months from the effective date of
21 annexation, any person owning property in the annexed territory shall believe that the
22 municipality has not followed through on its service plans adopted under the provisions of
23 G.S. 160A-47(3) and 160A-49(e), for any required service ~~other than water and sewer services~~
24 such person may apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of
25 the General Statutes. Relief may be granted by the judge of superior court by requiring the
26 municipality to complete such lines, outfalls, and water and sewer lines required by
27 G.S. 160A-47(3)b. within a stated time, if both of the following apply:

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

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

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

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

50 (i) ~~No resolution of intent may be adopted under subsection (a) of this section unless~~
51 ~~the city council (or planning agency created or designated under either G.S. 160A-361 or the~~

1 charter) has, by resolution adopted at least one year prior to adoption of the resolution of intent,
2 identified the area as being under consideration for annexation and included a statement in the
3 resolution notifying persons subject to the annexation of their rights under subsections (f1) and
4 (f2) of this section; provided, adoption of such resolution of consideration shall not confer prior
5 jurisdiction over the area as to any other city. The area described under the resolution of intent
6 may comprise a smaller area than that identified by the resolution of consideration. The
7 resolution of consideration may have a metes and bounds description or a map and shall remain
8 effective for two years after adoption, and shall be filed with the city clerk. A new resolution of
9 consideration adopted before expiration of the two year period for a previously adopted
10 resolution covering the same area shall relate back to the date of the previous resolution.

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

15 (k) ~~If a valid request for extension of a all necessary water or sewer line lines has been~~
16 ~~made under G.S. 160A-47(3)b, and the extension are not complete at the end of two-three years~~
17 ~~after the effective date of the annexation ordinance, the owner of the property may petition the~~
18 ~~Local Government Commission for abatement of taxes to be paid to the city which have not~~
19 ~~been levied as of the expiration date of the two-year-three-year period, if such petition is filed~~
20 ~~not more than 60-90 days after the expiration of the two-year-three-year period. If the Local~~
21 ~~Government Commission finds that the extension to the property was not complete by the end~~
22 ~~of the two-year-three-year period, it shall enter an order directing the city not to levy any~~
23 ~~further ad valorem taxes on the property until the fiscal year commencing after completion of~~
24 ~~the extension. In addition, if the Local Government Commission found that the extension to the~~
25 ~~property was not completed by the end of the two-year-three-year period, and if it finds that for~~
26 ~~any fiscal year during the period beginning with the first day of the fiscal year in which the~~
27 ~~annexation ordinance became effective and ending the last day of the fiscal year in which the~~
28 ~~two-year-three-year period expired, the city made an appropriation for construction, operation~~
29 ~~or maintenance of a water or sewer system (other than payments the city made as a customer of~~
30 ~~the system) from the fund or funds for which ad valorem taxes are levied, then the Local~~
31 ~~Government Commission shall order the city to release or refund an amount of the petitioner's~~
32 ~~property taxes for that year in question in proportion to the percentage of appropriations in the~~
33 ~~fund made for water and sewer services. By way of illustration, if a net amount of one hundred~~
34 ~~thousand dollars (\$100,000) was appropriated for water or sewer construction, operation or~~
35 ~~maintenance from a fund which had total expenditures of ten million dollars (\$10,000,000) and~~
36 ~~the petitioner's tax levy was one thousand dollars (\$1,000), the amount of release or refund~~
37 ~~shall be ten dollars (\$10.00).~~

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

47 (m) A city must complete at least eighty-five percent (85%) of the plan adopted under
48 G.S. 160A-47 to provide water or sewer services to an annexed area and have the remaining
49 items on the plan encumbered for completion prior to adopting a subsequent plan to provide
50 services under G.S. 160A-47. A city may have only two incomplete plans to provide services at
51 any given time.

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

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

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

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

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

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

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

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

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

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

"§ 160A-49.2. Assumption of debt.

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

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

16 **"§ 160A-49.3. Contract with private solid waste collection firms.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 **"§ 160A-50. Appeal.**

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

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

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

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

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

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

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

48 (f) The court shall fix the date for review of annexation proceedings under this Part,
49 which review date shall preferably be within 30 days following the last day for receiving
50 petitions to the end that review shall be expeditious and without unnecessary delays. The

1 review shall be conducted by the court without a jury. The court may hear oral arguments and
2 receive written briefs, and may take evidence intended to show either

- 3 (1) That the statutory procedure was not followed, or
4 (2) That the provisions of G.S. 160A-47 were not met, or
5 (3) That the provisions of G.S. 160A-48 have not been met.
6 (g) The court may affirm the action of the governing board without change, or it may
7 (1) Remand the ordinance to the municipal governing board for further
8 proceedings if procedural irregularities are found to have materially
9 prejudiced the substantive rights of any of the petitioners.
10 (2) Remand the ordinance to the municipal governing board for amendment of
11 the boundaries to conform to the provisions of G.S. 160A-48 if it finds that
12 the provisions of G.S. 160A-48 have not been met; provided, that the court
13 cannot remand the ordinance to the municipal governing board with
14 directions to add area to the municipality which was not included in the
15 notice of public hearing and not provided for in plans for service.
16 (3) Remand the report to the municipal governing board for amendment of the
17 plans for providing services to the end that the provisions of G.S. 160A-47
18 are satisfied.
19 (4) Declare the ordinance null and void, if the court finds that the ordinance
20 cannot be corrected by remand as provided in subdivisions (1), (2), or (3) of
21 this subsection.

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

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

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

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

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

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

50 (m) Any settlement reached by all parties in an appeal under this section may be
51 presented to the superior court in the county in which the municipality is located. If the superior

1 court, in its discretion, approves the settlement, it shall be binding on all parties without the
2 need for approval by the General Assembly.

3 **"§ 160A-51. Annexation recorded.**

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

14 **"§ 160A-52. Authorized expenditures.**

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

23 **"§ 160A-53. Definitions.**

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

- 26 (1) "Contiguous area" shall mean any area which, at the time annexation
27 procedures are initiated, either abuts directly on the municipal boundary or is
28 separated from the municipal boundary by a street or street right-of-way, a
29 creek or ~~river~~river not exceeding 120 feet in width, the right-of-way of a
30 railroad or other public service corporation, lands owned by the city or some
31 other political subdivision, or lands owned by the State of North Carolina. A
32 connecting corridor consisting solely of a street right-of-way may not be
33 used to establish contiguity.
- 34 (2) "Used for residential purposes" shall mean any lot or tract five acres or less
35 in size on which is constructed a habitable dwelling unit.
- 36 (3) "Meaningful services" shall mean all of the following services:
- 37 a. Central water and sewer service.
38 b. Municipal Police protection.
39 c. Fire protection.
40 d. At least two of the following:
- 41 1. Land use planning.
42 2. Street lights.
43 3. Street maintenance.
44 4. Parks and recreation.
- 45 (4) "Area in need of meaningful services" shall mean an area in which (i) a
46 majority of property owners have existing water service, sewer or septic
47 service, police protection, or fire protection that is inadequate and clearly
48 poses a threat to the health and safety of the area and (ii) the property owners
49 could not reasonably address the threat themselves through private or public
50 means.

51 **"§ 160A-54. Population and land estimates.**

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

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

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

26 "**§ 160A-58.11. Referendum upon petition of registered voters before involuntary**
27 **annexation ordinance.**

28 (a) After the adoption of the resolution of consideration under Part 3 of this Article, any
29 registered voter of the proposed annexation area of an involuntary annexation may request a
30 referendum petition from the municipal governing board containing the description and a
31 legible map of the area to be annexed. The municipal governing board shall provide the
32 registered voter requesting the referendum petition forms with referendum petition forms that
33 meet all of the following criteria:

- 34 (1) Be dated on the date of issuance.
- 35 (2) Be addressed to the annexing municipal governing board.
- 36 (3) Contain a clear description of the boundaries of the proposed annexation
37 area.
- 38 (4) Have attached a legible map of the proposed annexation area with a clear
39 showing of the boundary with the existing corporate limits.
- 40 (5) Contain the place and time that the report in G.S. 160A-47 can be reviewed
41 and copied.
- 42 (6) Contain a general statement of the request for a referendum on the proposed
43 involuntary annexation.
- 44 (7) Provide a place for signatures which includes the printed name and address
45 of the registered voter.
- 46 (8) Enumerate the target number of signatures of registered voters required to be
47 a valid petition.

48 (b) Upon receiving a request for a referendum petition, the municipal governing board
49 shall notify the board of elections of the request and provide the board of elections with a
50 legible map and clear written description of the proposed annexation area.

1 (c) To be effective, the referendum petition in subsection (a) of this section must be
2 returned to the municipal governing board before the thirtieth day following the public hearing
3 required by G.S. 160A-49. To be sufficient, a referendum petition must bear the signatures of at
4 least five percent (5%) or 500, whichever is less, of the total of the registered voters of the
5 proposed annexation area as shown by the voter registration. The municipal governing board
6 shall forward the referendum petition to the board of elections for verification as provided in
7 this section.

8 (d) The signatures to the referendum petition need not all be appended to one paper.
9 Each signer shall add his or her signature and the signer's place of residence, giving the
10 residence address. One of the signers of each paper shall take an oath before an officer
11 competent to administer oaths that each signature to the paper appended is the genuine
12 signature of the person whose name it purports to be.

13 (e) The board of elections shall investigate the sufficiency of any petition and certify
14 the results of the investigation to the municipal governing board. The board of elections may
15 employ persons as it deems necessary to undertake such investigation. The municipal
16 governing board shall reimburse the board of elections for the reasonable cost of the
17 investigation. The board of elections may adopt rules concerning the validation of signatures
18 appearing on the referendum petition.

19 (f) The board of elections shall complete its investigation and issue its certification of
20 the results of the investigation within 15 days after the filing of any referendum petition.

21 (g) Upon a determination that a sufficient referendum petition has been submitted, the
22 municipal governing body may either abandon the proposed involuntary annexation by
23 resolution or adopt a resolution setting the date for the referendum to coincide with the next
24 general municipal election and so notify the board of elections. If the municipality's next
25 general election is to be held more than two years from the determination and the municipality
26 does not abandon the proposed involuntary annexation, the resolution setting the date for the
27 referendum shall make that date coincide with the next countywide general election.

28 (h) The board of elections shall cause legal notice of the election to be published. That
29 notice shall include the general statement of the referendum. The referendum shall be
30 conducted, returned, and the results declared as in other municipal elections in the municipality.
31 Registered voters of the proposed annexation area shall be allowed to vote on the referendum.
32 The reasonable costs of the referendum shall be reimbursed to the board of elections by the
33 municipal governing board.

34 (i) The referendum of any number of proposed involuntary annexations may be
35 submitted at the same election. But as to each proposed involuntary annexation, a separate
36 petition shall be filed and there shall be an entirely separate ballot.

37 (j) The ballots used in a referendum shall submit the following proposition:

38 " FOR AGAINST

39 The annexation of (clear description of the proposed annexation area)."

40 (k) If a majority of such votes cast on the referendum are for annexation, the annexing
41 municipality shall proceed with the adoption of the annexation ordinance as provided in
42 G.S. 160A-49. If less than a majority of the votes cast on the referendum are for annexation, the
43 municipal governing body may not proceed with the adoption of the annexation ordinance or
44 begin a separate involuntary annexation process with respect to that proposed annexation area
45 for at least 60 months from the date of the referendum. If the results are a tie, the municipal
46 governing body may not proceed with the adoption of the annexation ordinance or begin a
47 separate involuntary annexation process with respect to that proposed annexation area for at
48 least 60 months from the date of the referendum."

49 **SECTION 5.(a)** G.S. 160A-58.27(f)(1) reads as rewritten:

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

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

9 "

10 **SECTION 5.(b)** G.S. 160A-294(a) reads as rewritten:

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

- 16 (1) The annexing city may offer employment without loss of salary or seniority
17 and place the person in a position as near as possible in type to the position
18 that was held in the rural fire department; or
19 (2) The annexing city may offer employment in some other department of the
20 city at a comparable salary and seniority; or
21 (3) The city may choose to pay to the person a sum equal to the person's salary
22 for one year as the equivalent of severance pay. For the purpose of this
23 subsection, the person's salary was his total salary with the rural fire
24 department for the 12-month period ending on the last pay period before the
25 resolution of consideration was adopted, plus any increased salary due to
26 reasonable cost-of-living increases and bona fide promotions; provided that
27 if no resolution of consideration was required to be adopted because of ~~either~~
28 ~~G.S. 160A-37(j) or~~ G.S. 160A-49(j), or because the resolution of intent was
29 adopted prior to July 1, 1984, the person's salary was his total salary with the
30 rural fire department for the 12-month period ending on the last pay period
31 before the resolution of intent was adopted, plus any increased salary due to
32 reasonable cost-of-living increases and bona fide promotions."

33 **SECTION 5.(c)** G.S. 162A-93(c) reads as rewritten:

34 "(c) Provision of public water and sewer services by a district under this Article to an
35 area annexed by a city shall satisfy the city's obligation to provide for water and sewer services
36 under ~~G.S. 160A-35 and~~ G.S. 160A-47. The city may negotiate for purchase of the lines or
37 systems owned and operated by the district."

38 **SECTION 5.(d)** G.S. 105-277.4(b) reads as rewritten:

39 "(b) Appraisal at Present-use Value. – Upon receipt of a properly executed application,
40 the assessor must appraise the property at its present-use value as established in the schedule
41 prepared pursuant to G.S. 105-317. In appraising the property at its present-use value, the
42 assessor must appraise the improvements located on qualifying land according to the schedules
43 and standards used in appraising other similar improvements in the county. If all or any part of
44 a qualifying tract of land is located within the limits of an incorporated city or town, or is
45 property annexed subject to ~~G.S. 160A-37(f1) or~~ G.S. 160A-49(f1), the assessor must furnish a
46 copy of the property record showing both the present-use appraisal and the valuation upon
47 which the property would have been taxed in the absence of this classification to the collector
48 of the city or town. The assessor must also notify the tax collector of any changes in the
49 appraisals or in the eligibility of the property for the benefit of this classification. Upon a
50 request for a certification pursuant to ~~G.S. 160A-37(f1) or~~ G.S. 160A-49(f1), or any change in
51 the certification, the assessor for the county where the land subject to the annexation is located

1 must, within 30 days, determine if the land meets the requirements of ~~G.S. 160A-37(f1)(2)~~ or
2 G.S. 160A-49(f1)(2) and report the results of its findings to the city."

3 **SECTION 5.(e)** G.S. 153A-304.1(d) reads as rewritten:

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

13 **SECTION 5.(f)** G.S. 69-25.15(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 rural fire protection district an amount equal to the amount paid by the city
18 (or to be paid by the city) to a rural fire department under ~~G.S. 160A-37.1~~ or G.S. 160A-49.1
19 on account of annexation of territory in the rural fire protection district for the number of
20 months in that fiscal year used in calculating the numerator under subsection (c) of this section;
21 provided that the required payments by the county to the city shall not exceed the total of fire
22 protection district payments made to taxpayers in the district on account of that annexation."

23 **SECTION 5.(g)** G.S. 160A-327(g) reads as rewritten:

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

28 **SECTION 5.(h)** Any reference in any local act listed below to Part 2 of Article 4A
29 of Chapter 160A of the General Statutes is deemed to be a reference to Part 3 of Article 4A of
30 Chapter 160A of the General Statutes:

- 31 (1) Section 3 of S.L. 2007-334.
- 32 (2) Chapter 426 of the 1995 Session Laws.
- 33 (3) Chapter 348 of the 1995 Session Laws.

34 **SECTION 5.(i)** Chapter 92 of the 1985 Session Laws is repealed.

35 **SECTION 6.** Part 5 of Article 4A of Chapter 160A of the General Statutes is
36 amended by adding a new section to read:

37 "**§ 160A-58.12. Consent of board of county commissioners necessary in all annexations.**

38 (a) Before any municipality which is located wholly or primarily in another county
39 annexes real property located in the county under authority granted by this Article, the
40 municipality must have the approval by resolution of the county board of commissioners of the
41 county where the land is located.

42 (b) Prior to the adoption of any resolution approving annexation, the county board of
43 commissioners must conduct a public hearing with at least 10 days, but not more than 30 days,
44 notice placed in a newspaper of general circulation within the county."

45 **SECTION 7.** This act is effective when it becomes law, and applies to any
46 annexation for which a resolution of intent was adopted prior to that date and applies to any
47 annexation that is not yet effective.