

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 845
Committee Substitute Favorable 5/3/11

Short Title: Annexation Reform Act of 2011.

(Public)

Sponsors:

Referred to:

April 7, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO REFORM THE INVOLUNTARY ANNEXATION LAWS OF NORTH
3 CAROLINA.

4 The General Assembly of North Carolina enacts:

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6 repealed.

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

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

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

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

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

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18 repealed.

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

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

24 "Part 7.

25 "Annexations Initiated by Municipalities.

26 "**§ 160A-58.50. Declaration of policy.**

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

28 (1) That sound urban development is essential to the continued economic
29 development of North Carolina.

30 (2) That municipalities are created to provide the governmental services
31 essential for sound urban development and for the protection of health,
32 safety, and welfare in areas being intensively used for residential,
33 commercial, industrial, institutional, and governmental purposes or in areas
34 undergoing such development.

35 (3) That municipal boundaries should be extended in accordance with legislative
36 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 a street or street right-of-way may not be used to establish
19 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 fee interest in the property, determined as of the date of the
26 resolution of consideration. A property owner is eligible to be notified of the
27 opportunity to have water lines and sewer lines and connections installed at
28 no cost to the property owner if that property owner held a freehold interest
29 in the real property to be annexed as of the date of the combined notice of
30 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.

36 **"§ 160A-58.52. Authority to annex.**

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

39 **"§ 160A-58.53. Prerequisites to annexation.**

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

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

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

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

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

- 1 (2) A statement showing that the area proposed to be annexed meets the
2 requirements of G.S. 160A-58.54.
- 3 (3) A statement setting forth the plans for extending to the area proposed to be
4 annexed each major municipal service on substantially the same basis and in
5 the same manner as such services are provided within the rest of the
6 municipality prior to annexation and the method to finance the extension of
7 major municipal services into the area proposed to be annexed as follows:
- 8 a. Provision of police protection, fire protection, solid waste collection,
9 and street maintenance services on the effective date of annexation.
10 A contract with a rural fire department to provide fire protection shall
11 be an acceptable method of providing fire protection. A contract with
12 a private firm to provide solid waste collection services shall be an
13 acceptable method of providing solid waste collection services.
- 14 b. Extension of water and sewer services to each lot or parcel, with a
15 proposed timetable for construction of such mains, outfalls, and lines
16 within three and one-half years of the effective date of annexation, in
17 accordance with G.S. 160A-58.56.
- 18 (4) A statement of the impact of the annexation on any rural fire department
19 providing service in the area proposed to be annexed and a statement of the
20 impact of the annexation on fire protection and fire insurance rates in the
21 area proposed to be annexed, if the area where service is provided is in an
22 insurance district designated under G.S. 153A-233, a rural fire protection
23 district under Article 3A of Chapter 69 of the General Statutes, or a fire
24 service district under Article 16 of Chapter 153A of the General Statutes.
25 The rural fire department shall make available to the municipality not later
26 than 30 days following a written request from the municipality all
27 information in its possession or control, including operational, financial, and
28 budgetary information, necessary for preparation of a statement of impact.
29 The municipality shall, in a timely fashion, supply the rural fire department
30 with information requested by the rural fire department to respond to the
31 written request. The rural fire department forfeits its rights under
32 G.S. 160A-58.57 if it fails to make a good faith response within 45 days
33 following receipt of the written request for information from the
34 municipality, provided that the municipality's written request so states by
35 specific reference to this subdivision.
- 36 (5) A statement showing how the proposed annexation will affect the
37 municipality's finances and services, including municipal revenue change
38 estimates. This statement shall be delivered to the clerk of the board of
39 county commissioners at least 30 days before the date of the public
40 informational meeting on any annexation under this Part.

41 **"§ 160A-58.54. Character of area to be annexed.**

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

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

- 1 (2) At least one-eighth of the aggregate external boundaries of the area shall
2 coincide with the municipal boundary.
- 3 (3) No part of the area shall be included within the boundary of another
4 incorporated municipality.
- 5 (4) The total area to be annexed shall meet the requirements of any of the
6 following:
- 7 a. Part or all of the area to be annexed must be developed for urban
8 purposes at the time of approval of the report provided for in
9 G.S. 160A-58.53. The area of streets and street rights-of-way shall
10 not be used to determine total acreage under this subdivision. An area
11 developed for urban purposes is defined as any area which meets any
12 one of the following standards:
- 13 1. Has a total resident population equal to at least two and
14 three-tenths persons for each acre of land included within its
15 boundaries.
- 16 2. Has a total resident population equal to at least one person for
17 each acre of land included within its boundaries, and is
18 subdivided into lots and tracts such that at least sixty percent
19 (60%) of the total acreage consists of lots and tracts three
20 acres or less in size and such that at least sixty-five percent
21 (65%) of the total number of lots and tracts are one acre or
22 less in size.
- 23 3. Is so developed that at least sixty percent (60%) of the total
24 number of lots and tracts in the area at the time of annexation
25 are used for residential, commercial, industrial, institutional,
26 or governmental purposes, and is subdivided into lots and
27 tracts such that at least sixty percent (60%) of the total
28 acreage, not counting the acreage used at the time of
29 annexation for commercial, industrial, governmental, or
30 institutional purposes, consists of lots and tracts three acres or
31 less in size.
- 32 4. Is the entire area of any county water and sewer district
33 created under G.S. 162A-86(b1), if all of the following apply:
- 34 I. The municipality has provided in a contract with that
35 district that the area is developed for urban purposes.
- 36 II. The contract provides for the municipality to operate
37 the sewer system of that county water and sewer
38 district.
- 39 III. The municipality is annexing in one ordinance the
40 entire territory of the district not already within the
41 corporate limits of a municipality.
- 42 5. Is so developed that, at the time of the approval of the
43 annexation report, all tracts in the area to be annexed are used
44 for commercial, industrial, governmental, or institutional
45 purposes.
- 46 b. Part or all of the area to be annexed meets either of the following:
- 47 1. Lies between the municipal boundary and an area developed
48 for urban purposes so that the area developed for urban
49 purposes is either not adjacent to the municipal boundary or
50 cannot be served by the municipality without extending major

1 municipality. The second publication shall be no more than 30 days following adoption of the
2 resolution of consideration. The resolution of consideration shall contain a map or description
3 of the area under consideration and a summary of the annexation process and time lines. A
4 copy of the resolution of consideration shall be mailed within 30 days after the adoption of the
5 resolution of consideration by first class mail to the property owners of real property located
6 within the area under consideration for annexation as shown by the tax records of the county.

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

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

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

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

36 (2) The combined notice shall be given by publication in a newspaper having
37 general circulation in the municipality once a week for at least two
38 successive weeks prior to the date of the public informational meeting, with
39 each publication being on the same day of the week. The date of the last
40 publication shall be not more than 10 days preceding the date of the public
41 informational meeting. In addition thereto, if the area proposed to be
42 annexed lies in a county containing less than fifty percent (50%) of the land
43 area of the municipality, the same publication shall be given in a newspaper
44 having general circulation in the area of proposed annexation. If there is no
45 such newspaper, the municipality shall post the notice in at least five public
46 places within the municipality and at least five public places in the area to be
47 annexed for 30 days prior to the date of public informational meeting.

48 (3) The combined notice, together with the information about requesting water
49 and sewer service, shall be mailed within five business days of the passage
50 of the resolution of intent by first class mail to the property owners of real
51 property located within the area to be annexed as shown by the tax records

1 of the county. The person or persons mailing such notices shall certify to the
2 governing board that fact, and such certificate shall become a part of the
3 public record of the annexation proceeding and shall be deemed conclusive
4 in the absence of fraud. If a notice is returned to the municipality by the
5 postal service by the tenth day before the informational meeting, a copy of
6 the notice shall be sent by certified mail, return receipt requested, at least
7 seven days before the informational meeting. Failure to comply with the
8 mailing requirement of this subsection shall not invalidate the annexation
9 unless it is shown that the requirements were not substantially complied
10 with.

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

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

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

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

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

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

26 b. The summary of the approved report.

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

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

31 e. Information for property owners on how to request to become a
32 customer of the water service or sewer service and all forms to
33 request that service.

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

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

39 (f) Public Informational Meeting. – At the public informational meeting, a
40 representative of the municipality shall first make an explanation of the report required in
41 G.S. 160A-58.53 and an explanation of the provision of major municipal services. The
42 explanation of the provision of services shall include how to request water service or sewer
43 service to individual lots, the average cost of a residential connection to the water and sewer
44 system, and the opportunity for a credit in the amount of that average cost of a residential
45 connection under G.S. 160A-58.56. A summary of the annexation process with time lines, a
46 summary of available statutory remedies for denying and appealing the annexation, an
47 explanation of the provision of services, and information for requesting water service or sewer
48 service to individual lots and any forms to so request shall also be distributed at the public
49 informational meeting. Following such explanation, all property owners and residents of the
50 area proposed to be annexed as described in the notice of public informational meeting and

1 hearing, and all residents of the municipality shall be given the opportunity to ask questions and
2 receive answers regarding the proposed annexation.

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

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

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

1 (i) Petition to Deny Annexation Ordinance. – If the tax assessor delivers to the
2 municipal governing board petitions signed by at least sixty percent (60%) of the eligible
3 property owners of the real property located within the area described in the annexation
4 ordinance as provided in this subsection, the annexation shall be terminated and the
5 municipality may not adopt a resolution of consideration for the area described in the
6 annexation ordinance for at least 36 months. Upon receipt of the annexation ordinance and a
7 list of property owners of the real property located within the area, the county tax assessor shall
8 prepare petitions for property owners of the real property located within the area described in
9 the resolution of intent to sign opposing the annexation ordinance. The tax assessor shall mail a
10 petition to the address of record for those real property owners within five business days of
11 receipt from the municipality of the list. If a petition is returned as undeliverable to the tax
12 assessor, the assessor shall send the petition return receipt requested. If the petition is returned
13 again, the tax assessor shall not include that property owner in the total number of eligible
14 property owners. The tax assessor shall provide two methods by which property owners of the
15 real property located within the area described in the annexation ordinance may sign a petition
16 form prepared by the tax assessor: (i) in person or (ii) by submitting the signed petition form by
17 mail. If the signed petition is one that was mailed under subdivision (h)(7) of this section and
18 the signer is not the same as the preprinted name on the form, the signed petition shall be
19 notarized and accompanied by a copy of the legal authority for the signature of the person
20 signing a petition. The tax assessor shall also accept signatures signed on a petition form
21 prepared by the tax assessor, but collected by another, if that petition form is returned to the tax
22 assessor in a sealed container. The tax assessor shall accept signatures on the petition until 130
23 days after the adoption of the annexation ordinance. If there is a change in ownership of real
24 property from the time of the notice of consideration until 30 days after the date of the adoption
25 of the annexation ordinance, the new owner of the real property shall be considered an eligible
26 owner of real property. The determination of the results of the petition period shall be observed
27 by three persons from the area proposed for annexation and three persons designated by the
28 municipality. Within 10 business days after the close of the signature period, the tax assessor
29 shall certify to the municipal governing body the number of signatures of property owners of
30 the real property located within the area described in the annexation ordinance. This subsection
31 shall not apply to any property owner of real property located within the area described in the
32 annexation ordinance that is completely surrounded by the municipality's primary corporate
33 limits.

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

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

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

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

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

49 b. The assessor for the county where the land subject to annexation is
50 located has certified to the municipality that the land meets the
51 requirements of this subdivision.

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

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

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

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

23 (n) Remedies for Failure to Provide Services. – If, not earlier than 30 days from the
24 effective date of annexation and not later than 15 months from the effective date of annexation,
25 any property owner in the annexed territory shall believe that the municipality has not followed
26 through providing services as set forth in the report adopted under G.S. 160A-58.53 and
27 subsection (e) of this section, the property owner may apply for a writ of mandamus under the
28 provisions of Article 40 of Chapter 1 of the General Statutes. Relief may be granted by the
29 judge of superior court if the municipality has not provided the services set forth in its plan
30 submitted under the provisions of G.S. 160A-58.53(3)a. on substantially the same basis and in
31 the same manner as such services were provided within the rest of the municipality prior to the
32 effective date of annexation and those services are still being provided on substantially the
33 same basis and in the same manner within the original corporate limits of the municipality. If a
34 writ is issued, costs in the action, including a reasonable attorney's fee for such aggrieved
35 property owner, shall be charged to the municipality.

36 (o) Reports to the Local Government Commission and Abatement of Ad Valorem. –
37 The municipality shall report to the Local Government Commission as follows:

38 (1) As to whether police protection, fire protection, solid waste services, and
39 street maintenance services were provided in accordance with
40 G.S. 160A-58.53(3)a., within 30 days after the effective date of the
41 annexation. Such report shall be filed no more than 30 days following the
42 expiration of the 30-day period. If the Local Government Commission
43 determines that the municipality failed to deliver police protection, fire
44 protection, solid waste services, or street maintenance services as provided
45 for in G.S. 160A-58.53(3)a. within 30 days after the effective date of the
46 annexation, the Local Government Commission shall notify the municipality
47 that the municipality may not count any of the residents as part of the
48 population of the municipality for the purpose of receiving any State,
49 federal, or county dollars distributed based on population until all of the
50 services are provided.

1 (2) As to whether the extension of water and sewer lines was completed within
2 the time period specified in G.S. 160A-58.53(3), within 30 days after the
3 effective date of the annexation ordinance, and again within three and
4 one-half years of the effective date of the annexation ordinance or upon the
5 completion of the installation, whichever occurs first. If the municipality
6 failed to deliver either water or sewer services, or both, as provided for in
7 G.S. 160A-58.53(3)b. within three and one-half years after the effective date
8 of the annexation, the municipality shall stop any other annexations in
9 progress and may not begin any other annexation until the water and sewer
10 services are provided. The municipality shall adopt a resolution of
11 consideration to begin again any annexation that is stopped due to this
12 subdivision.

13 **"§ 160A-58.56. Provision of water and sewer service.**

14 (a) The municipality shall provide water and sewer service to the annexed area within
15 three and one-half years of the effective date of the annexation ordinance except as provided in
16 subdivision (b)(4) of this section.

17 (b) Prior to the adoption of the annexation ordinance, the municipality shall offer to
18 each eligible property owner of real property located within the area proposed to be annexed an
19 opportunity to obtain water or sewer service, or both, at no cost other than periodic user fees
20 based upon usage as follows:

21 (1) After passage of the resolution of intent, the property owner of real property
22 located within the area proposed to be annexed shall be notified in writing,
23 as provided in G.S. 160A-58.55(d), within five business days of the passage
24 of the resolution of intent, of the opportunity to have water and sewer lines
25 and connections installed at no cost to the property owner. The notice shall
26 state that a request for extending water and sewer lines does not waive the
27 right to contest the annexation. The property owners of real property located
28 within the area proposed to be annexed shall be allowed 65 days from the
29 date of the passage of the resolution of intent to respond yes or no to the
30 opportunity. Any property owner of a parcel that is an existing customer of
31 the municipality's water or sewer, whether provided by the municipality or
32 by another public entity, shall be deemed to respond yes to the opportunity,
33 whether or not the property owner returns the notification.

34 (2) At the close of the 65-day period, the municipality shall determine if a
35 majority of the property owners of real property located within the area
36 proposed to be annexed have responded favorably. A majority of the
37 property owners in a single parcel of real property must respond favorably
38 before the municipality may count that parcel of real property as responding
39 favorably.

40 (3) If a majority of the property owners of the real property located within the
41 area proposed to be annexed respond favorably, the municipality shall do all
42 of the following:

43 a. Provide water and sewer lines, service lines, and connections at no
44 cost other than periodic user fees to all real property for which an
45 owner responded favorably if the annexation ordinance is adopted.
46 The right to receive water and sewer lines shall run with the land.

47 b. Notify, within five days of the close of the 65-day period under
48 subdivision (2) of this subsection, those property owners of real
49 property located within the area proposed to be annexed who failed
50 to respond or responded negatively that water and sewer lines and
51 connections that a majority of the property owners of the real

1 property located within the area proposed to be annexed responded
2 favorably and offer a second opportunity for that property owner to
3 respond favorably within 30 days.

4 (4) If a majority of the property owners of the real property located within the
5 area proposed to be annexed fail to respond favorably to the offer to obtain
6 water and sewer services made under this section, the municipality may
7 nevertheless proceed with the annexation. If the municipality proceeds with
8 the annexation when a majority of the property owners of the real property
9 located within the area proposed to be annexed fail to respond favorably to
10 the offer to obtain water and sewer services, the municipality is not required
11 to provide water and sewer services to any property owners in the area that is
12 annexed. If the municipality does provide water and sewer services, and if a
13 property owner requests those services, the municipality may charge the
14 property owner for the connection to a residential lot as provided in
15 subsection (d) of this section during the first five years following the
16 annexation. After five years, and only if connection is requested by a
17 property owner in accordance with subsection (e) of this section, the
18 municipality may charge for the connection according to the municipality's
19 policy.

20 (c) The process required by subsection (b) of this section shall be completed by the
21 municipality at least 30 days prior to the public hearing. The report required by
22 G.S. 160A-58.55(d) shall include the results of the process required by subsection (b) of this
23 section.

24 (d) Any property owner of the real property located within the area described in the
25 annexation ordinance may apply to participate in the water and sewer system after the
26 completion of the process required by subsection (b) of this section. For a property owner of
27 real property located within the area described in the annexation ordinance applying within the
28 first year, that property owner may be charged an amount not to exceed fifty percent (50%) of
29 average cost of the installation of the water and sewer for a residential lot. For a property owner
30 of real property located within the area described in the annexation ordinance applying within
31 the second year, that property owner may be charged an amount not to exceed sixty percent
32 (60%) of average cost of the installation of the water and sewer for a residential lot. For a
33 property owner of real property located within the area described in the annexation ordinance
34 applying within the third year, that property owner may be charged an amount not to exceed
35 seventy percent (70%) of average cost of the installation of the water and sewer for a residential
36 lot. For a property owner of real property located within the area described in the annexation
37 ordinance applying within the fourth year, that property owner may be charged an amount not
38 to exceed eighty percent (80%) of average cost of the installation of the water and sewer for a
39 residential lot. For a property owner of real property located within the area described in the
40 annexation ordinance applying within the fifth year, that property owner may be charged an
41 amount not to exceed ninety percent (90%) of average cost of the installation of the water and
42 sewer for a residential lot. Charges pursuant to this section shall be made when the water and
43 sewer connection is operable.

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

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

49 (1) "At no cost other than periodic user fees." – The municipality may not
50 charge the property owner who responded favorably under subdivision
51 (b)(3) of this section for any costs associated with the installation of the

1 water and sewer system. The municipality may not charge a property owner
2 who applies to participate in the water and sewer system under subsection
3 (d) of this section prior to the first periodic user fee charge, and on that bill
4 the property owner shall be given a credit in an amount equal to the average
5 installation of a connection for a residential lot.

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

9 **"§ 160A-58.57. Contract with rural fire department.**

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

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

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

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

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

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

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

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

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

8 **"§ 160A-58.58. Assumption of debt.**

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

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

24 **"§ 160A-58.59. Contract with private solid waste collection firms.**

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

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

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

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

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

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

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

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

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

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

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

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

19 (3) A provision that divides the annexed area into service areas if there were
20 more than one firm being contracted within the area, such that the entire area
21 is served by the firms, or by the city as to customers not served by the firms;

22 (4) A provision that the city may serve customers not served by the firm on the
23 effective date of annexation;

24 (5) A provision that the contract can be cancelled in writing, delivered by
25 certified mail to the firm in question with 30 days to cure substantial
26 violations of the contract, but no contract may be cancelled on these grounds
27 unless the Local Government Commission finds that substantial violations
28 have occurred, except that the city may suspend the contract for up to 30
29 days if it finds substantial violation of health laws;

30 (6) Performance standards, not exceeding city standards existing at the time of
31 notice published pursuant to G.S. 160A-49(b) with provision that the
32 contract may be cancelled for substantial violations of those standards, but
33 no contract may be cancelled on those grounds unless the Local Government
34 Commission finds that substantial violations have occurred;

35 (7) A provision for monetary damages if there are violations of the contract or
36 of performance standards.

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

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

50 (g) The firm may, if it contends that no contract has been offered, appeal to the Local
51 Government Commission within 30 days following passage of an annexation ordinance. The

1 firm may appeal to the Local Government Commission for an order staying the operation of the
2 annexation ordinance pending the outcome of the review. The Commission may grant or deny
3 the stay upon such terms as it deems proper. If the Local Government Commission finds that
4 the city has not made an offer which complies with this section, it shall remand the ordinance to
5 the municipal governing board for further proceedings, and the ordinance shall not become
6 effective until the Local Government Commission finds that such an offer has been made.
7 Either the firm or the city may obtain judicial review in accordance with Chapter 150B of the
8 General Statutes.

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

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

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

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

30 **"§ 160A-58.60. Appeal.**

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

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

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

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

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

49 (d) If two or more petitions for review are submitted to the court, the court may
50 consolidate all such petitions for review at a single hearing, and the municipality shall be

1 required to submit only one set of minutes and one report as required in subsection (c) of this
2 section.

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

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

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

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

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

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

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

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

21 (2) Remand the ordinance to the municipal governing board for amendment of
22 the boundaries to conform to the provisions of G.S. 160A-58.54 if it finds
23 that the provisions of G.S. 160A-58.54 have not been met; provided, that the
24 court cannot remand the ordinance to the municipal governing board with
25 directions to add area to the municipality which was not included in the
26 notice of public hearing and not provided for in plans for service.

27 (3) Remand the report to the municipal governing board for amendment of the
28 plans for providing services to the end that the provisions of
29 G.S. 160A-58.53 are satisfied.

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

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

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

42 (i) If part or all of the area annexed under the terms of an annexation ordinance is the
43 subject of an appeal to the superior court, Court of Appeals, or Supreme Court on the effective
44 date of the ordinance, then the ordinance shall be deemed amended to make the effective date
45 with respect to such area the next June 30 after the following the date of the final judgment of
46 the superior court or appellate division, whichever is appropriate, or the date the municipal
47 governing board completes action to make the ordinance conform to the court's instructions in
48 the event of remand. For the purposes of this subsection, a denial of a petition for rehearing or
49 for discretionary review shall be treated as a final judgment.

50 (j) If a petition for review is filed under subsection (a) of this section or an appeal is
51 filed under G.S. 160A-58.57(g) or G.S. 160A-58.59(g) and a stay is granted, then the time

1 periods of three and one-half years or G.S. 160A-58.55(n) are each extended by the lesser of
2 the length of the stay or one year for that annexation.

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

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

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

13 (n) If a final court order is issued against the annexing municipality, costs in the action,
14 including a reasonable attorney's fee for such aggrieved person having a freehold interest in the
15 real property located within the area described in the annexation ordinance, may be charged to
16 the municipality.

17 **"§ 160A-58.61. Annexation recorded.**

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

28 **"§ 160A-58.62. Authorized expenditures.**

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

37 **"§ 160A-58.63. Population and land estimates.**

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

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

(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 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 that 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 two-thirds 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-eighth 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. We the undersigned owners of real property believe that the area described in paragraph 2 below meets the requirements of G.S. 160A-31(b1) and 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:

(c) Upon receipt of the petition, the municipal governing board shall cause the clerk of the municipality to investigate the sufficiency thereof and to certify the result of ~~his~~ the investigation. For petitions received under subsection (b1) or (i) of this section, the clerk shall receive the report from the Department of Revenue as provided in subsection (k) of this section before certifying the sufficiency of the petition. Upon receipt of the certification, the municipal governing board shall fix a date for a public hearing on the question of annexation, and shall cause notice of the public hearing to be published once in a newspaper having general circulation in the municipality at least 10 days prior to the date of the public hearing; provided,

1 if there be no such paper, the governing board shall have notices posted in three or more public
2 places within the area to be annexed and three or more public places within the municipality.

3 (d) At the public hearing ~~all persons resident or owning property in the area described~~
4 ~~in the petition to be annexed who allege an error in the petition and persons resident or owning~~
5 property in the municipality shall be given an opportunity to be heard, as well as residents of
6 the municipality who question the necessity for annexation. The governing board shall then
7 determine whether the petition meets the requirements of this section. Upon a finding that the
8 petition meets the requirements of this section, the governing board shall have authority to pass
9 an ordinance annexing the territory described in the petition. The governing board shall have
10 authority to make the annexing ordinance effective immediately or on ~~any specified date~~
11 within the June 30 after six months from the date of the passage of the ordinance or the June 30
12 of the following year after the date of passage of the ordinance.

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

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

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

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

46 (i) Using the procedures under this section, the governing board of any municipality
47 may annex by ordinance any distressed area contiguous to its boundaries upon presentation to
48 the governing board of a petition signed by at least one adult resident of at least two-thirds of
49 the resident households located within such area. For purposes of this subsection, a "distressed
50 area" is defined as an area in which at least fifty-one percent (51%) of the households in the
51 area petitioning to be annexed have incomes that are two hundred percent (200%) or less than

1 the most recently published United States Census Bureau poverty thresholds. The municipality
2 may require reasonable proof that the petitioner in fact resides at the address indicated.

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

5 DATE:

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

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

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

13 (k) For purposes of determining whether the percentage of households in the area
14 petitioning for annexation meets the poverty thresholds under subsections (b1) and (i) of this
15 section, the petitioners shall submit to the municipal governing board any reasonable evidence
16 that demonstrates the area in fact meets the income requirements of that subsection. The
17 evidence presented may include data from the most recent federal decennial census, other
18 official census documents, signed affidavits by at least one adult resident of the household
19 attesting to the household size and income level, or any other documentation verifying the
20 incomes for a majority of the households within the petitioning area. Petitioners may select to
21 submit name, address, and social security number to the clerk, who shall in turn submit the
22 information to the Department of Revenue. Such information shall be kept confidential and is
23 not a public record. The Department shall provide the municipality with a summary report of
24 income for households in the petitioning area. Information for the report shall be gleaned from
25 income tax returns, but the report submitted to the municipality shall not identify individuals or
26 households."

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

29 **"Part 8.**

30 **"Recording and Reporting.**

31 **"§ 160A-58.90. Recording and Reporting.**

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

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

37 SECTION 12. If any provision of this act or its application is held invalid, the
38 invalidity does not affect other provisions or applications of this act that can be given effect
39 without the invalid provisions or application, and to this end the provisions of this act are
40 severable.

41 SECTION 13. This act is effective when it becomes law and applies to annexations
42 initiated by municipalities on or after that date and to petitions for annexation under Part 1 of
43 Article 4A of Chapter 160A of the General Statutes presented on or after that date.
44 Annexations initiated prior to the effective date of this act by any action under Part 2 or Part 3
45 of Article 4A of Chapter 160A of the General Statutes, but for which an annexation ordinance
46 has not been adopted, shall terminate and may be reinitiated in compliance with Part 7 of
47 Article 4A of Chapter 160A of the General Statutes as enacted by this act.