

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE DRS65041-ST-53 (02/09)

Short Title: Annexation Reform.

(Public)

Sponsors: Senators Davis and Apodaca (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO AMEND AND REFORM THE INVOLUNTARY ANNEXATION LAWS OF
NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-35 reads as rewritten:

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

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

- (1) A map or maps of the municipality and adjacent territory to show the following information:
 - a. The present and proposed boundaries of the municipality.
 - b. The proposed extensions of water mains and sewer outfalls to serve the annexed area, if such utilities are operated by the municipality. The water and sewer map must bear the seal of a registered professional engineer or a licensed surveyor.
- (2) A statement showing that the area to be annexed meets the requirements of G.S. 160A-36.
- (3) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans shall:
 - a. Provide for extending police protection, fire protection, solid waste collection and street maintenance services to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation. A contract with a rural fire department to provide fire protection shall be an acceptable method of providing fire protection. If a water distribution system is not available in the area to be annexed, the plans must call for reasonably effective fire protection services until such time as waterlines are made available in such area under existing municipal policies for the extension of waterlines. A contract with a private firm to provide



1 solid waste collection services shall be an acceptable method of
2 providing solid waste collection services.

- 3 b. Provide for extension of water ~~mains~~mains, waterlines, and sewer
4 lines into the area to be annexed so that property owners in the area
5 to be annexed will be able to secure public water and sewer services
6 according to the policies in effect in such municipality ~~for extending~~
7 ~~water and sewer lines to individual lots or subdivisions~~prior to
8 annexation. If the municipality must, at its own expense, extend
9 water and/or sewer mains into the area to be annexed before property
10 owners in the area can, according to municipal policies, make such
11 connection to such lines, then the plans must call for contracts to be
12 let and construction to begin on such lines within one year following
13 the effective date of annexation. In areas where the installation of
14 sewer is not ~~economically~~fiscally feasible or would be
15 environmentally damaging due to the unique topography or
16 environmental qualities of the area, the municipality may agree to
17 provide septic system maintenance and repair service until such time
18 as sewer service is provided to properties similarly situated. In any
19 event, the plans shall call for construction to be completed within two
20 years of the effective date of the annexation.
- 21 c. Set forth the method under which the municipality plans to finance
22 extension of services into the area to be annexed.

- 23 (4) A statement of the impact of the annexation on any rural fire department
24 providing service in the area to be annexed and a statement of the impact of
25 the annexation on fire protection and fire insurance rates in the area to be
26 annexed, if the area where service is provided is in an insurance district
27 designated under G.S. 153A-233, a rural fire protection district under Article
28 3A of Chapter 69 of the General Statutes, or a fire service district under
29 Article 16 of Chapter 153A of the General Statutes. The rural fire
30 department shall make available to the city not later than 30 days following a
31 written request from the city all information in its possession or control,
32 including but not limited to operational, financial and budgetary information,
33 necessary for preparation of a statement of impact. The rural fire department
34 forfeits its rights under G.S. 160A-37.1 and G.S. 160A-37.2 if it fails to
35 make a good faith response within 45 days following receipt of the written
36 request for information from the city, provided that the city's written request
37 so states by specific reference to this section.
- 38 (5) A statement showing how the proposed annexation will affect the city's
39 finances and services, including city revenue change estimates. This
40 statement shall be delivered to the clerk of the board of county
41 commissioners at least 30 days before the date of the public informational
42 meeting on any annexation under this Part."

43 **SECTION 2.** G.S. 160A-36 reads as rewritten:

44 **"§ 160A-36. Character of area to be annexed.**

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

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 of the aggregate external boundaries of the area must
6 coincide with the municipal boundary.
7 (3) No part of the area shall be included within the boundary of another
8 incorporated municipality.

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

- 20 (1) Any area which is so developed that at least ~~sixty percent (60%)~~sixty-five
21 percent (65%) of the total number of lots and tracts in the area at the time of
22 annexation are used for residential, commercial, industrial, institutional or
23 governmental purposes, and is subdivided into lots and tracts such that at
24 least sixty percent (60%) of the total acreage, not counting the acreage used
25 at the time of annexation for commercial, industrial, governmental or
26 institutional purposes, consists of lots and tracts three acres or less in size.
27 (2) An area so developed that, at the time of the approval of the annexation
28 report, all tracts in the area to be annexed are used for commercial,
29 industrial, governmental, or institutional purposes.
30 (3) The entire area of any county water and sewer district created under
31 G.S. 162A-86(b1), but this subsection only applies to annexation by a
32 municipality if that:
33 a. Municipality has provided in a contract with that district that the area
34 is developed for urban purposes; and
35 b. Contract provides for the municipality to operate the sewer system of
36 that county water and sewer district;
37 provided that the special categorization provided by this subsection only
38 applies if the municipality is annexing in one proceeding the entire territory
39 of the district not already within the corporate limits of a municipality.

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

44 (d1) As used in this subsection, "primary county" means in the case of a municipality
45 located in only one county, the county in which it is located, and in the case of a municipality
46 located in more than one county, the county in which the greatest part of its land area is located.
47 No municipality may annex any territory in a county other than its primary county without the
48 approval of the annexation by the board of commissioners of the county in which the
49 annexation is proposed. Such approval may only be granted after a public hearing by that
50 county board of commissioners, conducted at least 25 days after advertisement. Such approval
51 may be obtained at any time prior to adoption of the annexation ordinance. This subsection

1 does not authorize any annexation prohibited by local act. Approval under this subsection is in
2 addition to any other requirement of this Part.

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

6 **SECTION 3.** G.S. 160A-37 reads as rewritten:

7 "**§ 160A-37. Procedure for annexation.**

8 (a) ~~Notice of Intent.~~ Resolution of Consideration. – Any municipal governing board
9 desiring to annex territory under the provisions of this Part shall first pass a resolution
10 identifying the area as being under consideration for annexation. The resolution of
11 consideration may have a metes and bounds description or a map and shall remain effective for
12 two years after adoption and shall be filed with the city clerk. A new resolution of
13 consideration adopted before expiration of the two-year period for a previously adopted
14 resolution covering the same area shall relate back to the date of the previous resolution.
15 Adoption of a resolution of consideration shall not confer prior jurisdiction over the area as to
16 any other city. A notice of adoption of the resolution of consideration shall be published once a
17 week for two successive weeks, with each publication being on the same day of the week, in a
18 newspaper having general circulation in the municipality. The second publication shall be no
19 more than 30 days following adoption of the resolution. The notice shall contain a map or
20 description of the area under consideration and a summary of the annexation process and time
21 lines.

22 (a1) Resolution of Intent. – At least one year after adoption of the resolution of
23 consideration, the municipal governing body may adopt a resolution stating the intent of the
24 municipality to ~~consider annexation,~~ proceed with annexation of some or all of the area
25 described in the resolution of consideration. Such resolution of intent shall describe the
26 boundaries of the area ~~under consideration,~~ intended for annexation, fix a date for the public
27 informational meeting, and fix a date for a public hearing on the question of annexation. The
28 date for the public informational meeting shall be not less than 45 days and not more than 55
29 days following passage of the resolution. The date for the public hearing to be not less than 60
30 days and not more than 90 days following passage of the ~~resolution,~~ resolution of intent.

31 (b) Notice of Public Information Meeting and Public Hearing. – The notice of public
32 information meeting and public hearing ~~shall;~~ shall be a combined notice that includes at least
33 all of the following information:

- 34 (1) Fix the date, hour and place of the public informational meeting and the
35 date, hour, and place of the public hearing.
- 36 (2) Describe clearly the boundaries of the area under consideration, and include
37 a legible map of the area.
- 38 (3) State that the report required in G.S. 160A-35 will be available at the office
39 of the municipal clerk at least 30 days prior to the date of the public
40 informational meeting.
- 41 (4) Include an explanation of an owner's rights pursuant to subsection (f1) and
42 (f2) of this section.
- 43 (5) Include information on how to request to become a customer of the water
44 service or sewer service, the cost of requesting that service along with the
45 option of paying that cost in accordance with G.S. 160A-232(c), and any
46 forms to request that service.
- 47 (6) Describe clearly the distinction between the public informational meeting
48 and the public hearing.

49 Such notice shall be given by publication once a week for at least two successive weeks
50 prior to the date of the informational ~~meeting,~~ meeting, with each publication being on the same
51 day of the week, in a newspaper having general circulation in the municipality and, in addition

1 thereto, if the area to be annexed lies in a county containing less than fifty percent (50%) of the
2 land area of the municipality, in a newspaper having general circulation in the area of proposed
3 annexation. ~~The period from the date of the first publication to the date of the last publication,~~
4 ~~both dates inclusive, shall be not less than eight days including Sundays, and the date of the last~~
5 ~~publication shall be not more than seven days preceding the date of public informational~~
6 ~~meeting.~~ If there be no such newspaper, the municipality shall post the notice in at least five
7 public places within the municipality and at least five public places in the area to be annexed
8 for 30 days prior to the date of public informational meeting. In addition, notice shall be mailed
9 at least four weeks prior to date of the informational meeting, by ~~first class mail, postage~~
10 ~~prepaid~~ certified mail to the owners as shown by the tax records of the county of all freehold
11 interests in real property located within the area to be annexed. The person or persons mailing
12 such notices shall certify to the governing board that fact, and such certificate shall become a
13 part of the record of the annexation proceeding and shall be deemed conclusive in the absence
14 of fraud. If the notice is returned to the city by the postal service by the tenth day before the
15 informational meeting, a copy of the notice shall be sent by certified mail, return receipt
16 requested, at least seven days before the informational meeting. Failure to comply with the
17 mailing requirement of this subsection shall not invalidate the annexation unless it is shown
18 that the requirements were not substantially complied with.

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

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

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

38 (d) Public Hearing. – At the public hearing a representative of the municipality shall
39 first make an explanation of the report required in G.S. 160A-35. Following such explanation,
40 all persons resident or owning property in the territory described in the notice of public hearing,
41 and all residents of the municipality, shall be given an opportunity to be heard. A summary of
42 the annexation process and time lines, a summary of available statutory remedies for contesting
43 the annexation and the failure to provide services, and the form for requesting the extension of
44 water and sewer lines to individual lots shall be distributed at the public hearing.

45 (e) Passage of the Annexation Ordinance. – The municipal governing board shall take
46 into consideration facts presented at the public hearing and shall have authority to amend the
47 report required by G.S. 160A-35 to make changes in the plans for serving the area proposed to
48 be annexed so long as such changes meet the requirements of G.S. 160A-35. At any regular or
49 special meeting held no sooner than the tenth day following the public hearing and not later
50 than 90 days following such public hearing, the governing board shall have authority to adopt
51 an ordinance extending the corporate limits of the municipality to include all, or such part, of

1 the area described in the notice of public hearing which meets the requirements of
2 G.S. 160A-36 and which the governing board has concluded should be annexed. The ordinance
3 shall:

- 4 (1) Contain specific findings showing that the area to be annexed meets the
5 requirements of G.S. 160A-36. The external boundaries of the area to be
6 annexed shall be described by metes and bounds. In showing the application
7 of G.S. 160A-36(c) and (d) to the area, the governing board may refer to
8 boundaries set forth on a map of the area and incorporate same by reference
9 as a part of the ordinance.
- 10 (2) A statement of the intent of the municipality to provide services to the area
11 being annexed as set forth in the report required by G.S. 160A-35.
- 12 (3) A specific finding that on the effective date of annexation the municipality
13 will have funds appropriated in sufficient amount to finance construction of
14 any water and sewer lines found necessary in the report required by
15 G.S. 160A-35 to extend the basic water and/or sewer system of the
16 municipality into the area to be annexed, or that on the effective date of
17 annexation the municipality will have authority to issue bonds in an amount
18 sufficient to finance such construction. If authority to issue such bonds must
19 be secured from the electorate of the municipality prior to the effective date
20 of annexation, then the effective date of annexation shall be no earlier than
21 the day following the statement of the successful result of the bond election.
- 22 (4) Fix the effective date for annexation. The effective date of annexation ~~may~~
23 ~~be fixed for any date not less than 40 days nor more than 400 days from the~~
24 ~~date of passage shall be June 30 next following adoption~~ of the ordinance.

25 (f) Effect of Annexation Ordinance. – Except as provided in subsection (f1) of this
26 section, from and after the effective date of the annexation ordinance, the territory and its
27 citizens and property shall be subject to all debts, laws, ordinances and regulations in force in
28 such municipality and shall be entitled to the same privileges and benefits as other parts of such
29 municipality. ~~Real and personal property in the newly annexed territory on the January 1~~
30 ~~immediately preceding the beginning of the fiscal year in which the annexation becomes~~
31 ~~effective is subject to municipal taxes as provided in G.S. 160A-58.10. If the effective date of~~
32 ~~annexation falls between June 1 and June 30, and the effective date of the privilege license tax~~
33 ~~ordinance of the annexing municipality is June 1, then businesses in the area to be annexed~~
34 ~~shall be liable for taxes imposed in such ordinance from and after the effective date of~~
35 ~~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 meets
38 either of the conditions listed below on the effective date of annexation, then the annexation
39 becomes effective as to that property pursuant to subsection (f2) of this section:

- 40 (1) The land is being taxed at present-use value pursuant to G.S. 105-277.4.
- 41 (2) The land meets both of the following conditions:
 - 42 a. On the date of the resolution of intent for annexation it was being
43 used for actual production and is eligible for present-use value
44 taxation under G.S. 105-277.4, but the land had not been in use for
45 actual production for the required time under G.S. 105-277.3.
 - 46 b. The assessor for the county where the land subject to annexation is
47 located has certified to the city that the land meets the requirements
48 of this subdivision.

49 (f2) Effective Date of Annexation for Certain Property. – Annexation of property subject
50 to annexation under subsection (f1) of this section becomes effective as provided in this
51 subsection:

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 the property or part thereof on the last day of the month in which that tract or
7 part thereof becomes ineligible for classification pursuant to G.S. 105-277.4
8 or no longer meets the requirements of subdivision (f1)(2) of this section.
9 Until annexation of a tract or a part of a tract becomes effective pursuant to
10 this subdivision, the tract or part of a tract is not subject to taxation by the
11 city under Article 12 of Chapter 105 of the General Statutes nor is the tract
12 or part of a tract entitled to services provided by the city.

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

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

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

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

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

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

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

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

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

50 ~~(j) Subsection (i) of this section shall not apply to the annexation of any area if the~~
51 ~~resolution of intent describing the area and the ordinance annexing the area both provide that~~

1 ~~the effective date of the annexation shall be at least one year from the date of passage of the~~
2 ~~annexation ordinance.~~

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

12 **"§ 160A-38. Appeal.**

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

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

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

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

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

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

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

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

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

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

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

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

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

49 (2) Remand the ordinance to the municipal governing board for amendment of
50 the boundaries to conform to the provisions of G.S. 160A-36 if it finds that
51 the provisions of G.S. 160A-36 have not been met; provided, that the court

1 cannot remand the ordinance to the municipal governing board with
2 directions to add area to the municipality which was not included in the
3 notice of public hearing and not provided for in plans for service.

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

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

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

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

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

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

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

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

38 **SECTION 4.** G.S. 160A-38(a) reads as rewritten:

39 "(a) Within ~~60~~90 days following the passage of an annexation ordinance under authority
40 of this Part, any person owning property in the annexed territory who shall believe that he will
41 suffer material injury by reason of the failure of the municipal governing board to comply with
42 the procedure set forth in this Part or to meet the requirements set forth in G.S. 160A-36 as they
43 apply to his property may file a petition in the superior court of the county in which the
44 municipality is located seeking review of the action of the governing board."

45 **SECTION 5.** G.S. 160A-47 reads as rewritten:

46 "**§ 160A-47. Prerequisites to annexation; ability to serve; report and plans.**

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

- 1 (1) A map or maps of the municipality and adjacent territory to show the
2 following information:
3 a. The present and proposed boundaries of the municipality.
4 b. The present major trunk water mains and sewer interceptors and
5 outfalls, and the proposed extensions of such mains and outfalls as
6 required in subdivision (3) of this section. The water and sewer map
7 must bear the seal of a registered professional engineer.
8 c. The general land use pattern in the area to be annexed.
- 9 (2) A statement showing that the area to be annexed meets the requirements of
10 G.S. 160A-48.
- 11 (3) A statement setting forth the plans of the municipality for extending to the
12 area to be annexed each major municipal service performed within the
13 municipality at the time of annexation. Specifically, such plans shall:
14 a. Provide for extending police protection, fire protection, solid waste
15 collection and street maintenance services to the area to be annexed
16 on the date of annexation on substantially the same basis and in the
17 same manner as such services are provided within the rest of the
18 municipality prior to annexation. A contract with a rural fire
19 department to provide fire protection shall be an acceptable method
20 of providing fire protection. If a water distribution system is not
21 available in the area to be annexed, the plans must call for reasonably
22 effective fire protection services until such time as waterlines are
23 made available in such area under existing municipal policies for the
24 extension of waterlines. A contract with a private firm to provide
25 solid waste collection services shall be an acceptable method of
26 providing solid waste collection services.
27 b. Provide for extension of major trunk water mains and sewer outfall
28 ~~lines~~ lines and waterlines into the area to be annexed so that when
29 such lines are constructed, property owners in the area to be annexed
30 will be able to secure public water and sewer service, according to
31 the policies in effect in such municipality ~~for extending water and~~
32 ~~sewer lines to individual lots or subdivisions prior to annexation.~~ If
33 requested by the owner of an occupied dwelling unit or an operating
34 commercial or industrial property in writing on a form provided by
35 the municipality, which form acknowledges that such extension or
36 extensions will be made according to the current financial policies of
37 the municipality for making such extensions, and if such form is
38 received by the city clerk no later than five days after the public
39 hearing, provide for extension of water and sewer lines to the
40 property or to a point on a public street or road right-of-way adjacent
41 to the property according to the financial policies in effect in such
42 municipality for extending water and sewer lines. If any such
43 requests are timely made, the municipality shall at the time of
44 adoption of the annexation ordinance amend its report and plan for
45 services to reflect and accommodate such requests, if an amendment
46 is necessary. In areas where the municipality is required to extend
47 sewer service according to its policies, but the installation of sewer is
48 not ~~economically~~ fiscally feasible or would be environmentally
49 damaging due to the unique topography or environmental qualities
50 of the area, the municipality shall provide septic system maintenance
51 and repair service until such time as sewer service is provided to

1 properties similarly situated. In any event, the plans shall call for
2 construction to be completed within two years of the effective date of
3 the annexation.

4 c. If extension of major trunk water mains, sewer outfall lines, sewer
5 lines and water lines is necessary, set forth a proposed timetable for
6 construction of such mains, outfalls and lines as soon as possible
7 following the effective date of annexation. In any event, the plans
8 shall call for construction to be completed within two years of the
9 effective date of annexation.

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

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

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

32 **SECTION 6.** G.S. 160A-48 reads as rewritten:

33 **"§ 160A-48. Character of area to be annexed.**

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

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

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

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

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

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

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

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

- 5 (1) Has a total resident population equal to at least ~~two and three tenths~~three
6 persons for each acre of land included within its boundaries; or
7 (2) Has a total resident population equal to at least one person for each acre of
8 land included within its boundaries, and is subdivided into lots and tracts
9 such that at least sixty percent (60%) of the total acreage consists of lots and
10 tracts ~~three two~~ acres or less in size and such that at least ~~sixty five percent~~
11 ~~(65%)~~seventy percent (70%) of the total number of lots and tracts are one
12 acre or less in size; or
13 (3) Is so developed that at least ~~sixty percent (60%)~~sixty-five percent (65%) of
14 the total number of lots and tracts in the area at the time of annexation are
15 used for residential, commercial, industrial, institutional or governmental
16 purposes, and is subdivided into lots and tracts such that at least sixty
17 percent (60%) of the total acreage, not counting the acreage used at the time
18 of annexation for commercial, industrial, governmental or institutional
19 purposes, consists of lots and tracts three acres or less in size. For purposes
20 of this section, a lot or tract shall not be considered in use for a commercial,
21 industrial, institutional, or governmental purpose if the lot or tract is used
22 only temporarily, occasionally, or on an incidental or insubstantial basis in
23 relation to the size and character of the lot or tract. For purposes of this
24 section, acreage in use for commercial, industrial, institutional, or
25 governmental purposes shall include acreage actually occupied by buildings
26 or other man-made structures together with all areas that are reasonably
27 necessary and appurtenant to such facilities for purposes of parking, storage,
28 ingress and egress, utilities, buffering, and other ancillary services and
29 facilities; or
30 (4) Is the entire area of any county water and sewer district created under
31 G.S. 162A-86(b1), but this subdivision only applies to annexation by a
32 municipality if that:
33 a. Municipality has provided in a contract with that district that the area
34 is developed for urban purposes; and
35 b. Contract provides for the municipality to operate the sewer system of
36 that county water and sewer district;
37 provided that the special categorization provided by this subdivision only
38 applies if the municipality is annexing in one proceeding the entire territory
39 of the district not already within the corporate limits of a municipality; or
40 (5) Is so developed that, at the time of the approval of the annexation report, all
41 tracts in the area to be annexed are used for commercial, industrial,
42 governmental, or institutional purposes.

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

- 46 (1) Lies between the municipal boundary and an area developed for urban
47 purposes so that the area developed for urban purposes is either not adjacent
48 to the municipal boundary or cannot be served by the municipality without
49 extending services and/or water and/or sewer lines through such sparsely
50 developed area; or

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

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

11 (d1) No municipality may annex any territory in a county other than its primary county
12 without the approval of the annexation by the board of commissioners of the county in which
13 the annexation is proposed. Such approval may only be granted after a public hearing by that
14 county board of commissioners, conducted at least 25 days after advertisement. Such approval
15 may be obtained at any time prior to adoption of the annexation ordinance. This subsection
16 does not authorize any annexation prohibited by local act. Approval under this subsection is in
17 addition to any other requirement of this Part. As used in this subsection, "primary county"
18 means in the case of a municipality located in only one county, the county in which it is
19 located, and in the case of a municipality located in more than one county, the county in which
20 the greatest part of its land area is located.

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

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

28 **SECTION 7.** G.S. 160A-49 reads as rewritten:

29 **"§ 160A-49. Procedure for annexation.**

30 (a) ~~Notice of Intent.~~ Resolution of Consideration. – Any municipal governing board
31 desiring to annex territory under the provisions of this Part shall first pass a resolution
32 identifying the area as being under consideration for annexation. The resolution of
33 consideration may have a metes and bounds description or a map and shall remain effective for
34 two years after adoption and shall be filed with the city clerk. A new resolution of
35 consideration adopted before expiration of the two-year period for a previously adopted
36 resolution covering the same area shall relate back to the date of the previous resolution.
37 Adoption of a resolution of consideration shall not confer prior jurisdiction over the area as to
38 any other city. A notice of adoption of the resolution of consideration shall be published once a
39 week for two successive weeks, with each publication being on the same day of the week, in a
40 newspaper having general circulation in the municipality. The second publication shall be no
41 more than 30 days following adoption of the resolution. The notice shall contain a map or
42 description of the area under consideration and a summary of the annexation process and time
43 lines.

44 (a1) Resolution of Intent. – At least one year after adoption of the resolution of
45 consideration, the municipal governing body may adopt a resolution stating the intent of the
46 municipality to ~~consider annexation.~~ proceed with annexation of some or all of the area
47 described in the resolution of consideration. Such resolution of intent shall describe the
48 boundaries of the area ~~under consideration,~~ intended for annexation, fix a date for a public
49 informational meeting, and fix a date for a public hearing on the question of annexation. The
50 date for the public informational meeting shall be not less than 45 days and not more than 55

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

3 (b) Notice of Public Information Meeting and Public Hearing. – The notice of public
4 information meeting and public hearing shall ~~shall~~ be a combined notice that includes at least
5 all of the following information:

- 6 (1) Fix the date, hour and place of the public informational meeting and the
7 date, hour, and place of the public hearing.
- 8 (2) Describe clearly the boundaries of the area under consideration, and include
9 a legible map of the area.
- 10 (3) State that the report required in G.S. 160A-47 will be available at the office
11 of the municipal clerk at least 30 days prior to the date of the public
12 informational meeting.
- 13 (4) Include a notice of a property owner's rights to request to become a customer
14 of the water and sewer service in accordance with G.S. 160A-47. the policies
15 in effect in the municipality for such services, the cost of requesting that
16 service along with the option of paying that cost in accordance with
17 G.S. 160A-232(c), and any forms to request that service.
- 18 (5) Include an explanation of a property owner's rights pursuant to subsections
19 (f1) and (f2) of this section.
- 20 (6) Describe clearly the distinction between the public informational meeting
21 and the public hearing.

22 Such notice shall be given by publication once a week for at least two successive weeks
23 prior to the date of the informational ~~meeting~~ meeting, with each publication being on the same
24 day of the week, in a newspaper having general circulation in the municipality and, in addition
25 thereto, if the area to be annexed lies in a county containing less than fifty percent (50%) of the
26 land area of the municipality, in a newspaper having general circulation in the area of proposed
27 annexation. ~~The period from the date of the first publication to the date of the last publication,~~
28 ~~both dates inclusive, shall be not less than eight days including Sundays, and the date of the last~~
29 ~~publication shall be not more than seven days preceding the date of public informational~~
30 ~~meeting.~~ If there be no such newspaper, the municipality shall post the notice in at least five
31 public places within the municipality and at least five public places in the area to be annexed
32 for 30 days prior to the date of public informational meeting. In addition, notice shall be mailed
33 at least four weeks prior to date of the informational meeting by ~~first class mail, postage~~
34 ~~prepaid~~ certified mail to the owners as shown by the tax records of the county of all freehold
35 interests in real property located within the area to be annexed. The person or persons mailing
36 such notices shall certify to the governing board that fact, and such certificate shall become a
37 part of the record of the annexation proceeding and shall be deemed conclusive in the absence
38 of fraud. If the notice is returned to the city by the postal service by the tenth day before the
39 informational meeting, a copy of the notice shall be sent by certified mail, return receipt
40 requested, 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, and shall make it available to the public at the office of the municipal clerk. In

1 addition, the municipality may prepare a summary of the full report for public distribution. In
2 addition, the city shall post in the office of the city clerk, at least 30 days before the public
3 informational meeting, a legible map of the area to be annexed and a list of persons holding
4 freehold interests in property in the area to be annexed that it has identified.

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

10 (d) Public Hearing. – At the public hearing a representative of the municipality shall
11 first make an explanation of the report required in G.S. 160A-47. Following such explanation,
12 all persons resident or owning property in the territory described in the notice of public hearing,
13 and all residents of the municipality, shall be given an opportunity to be heard. A summary of
14 the annexation process and time lines, a summary of available statutory remedies for contesting
15 the annexation and the failure to provide services, and the form for requesting the extension of
16 water and sewer lines to individual lots shall be distributed at the public hearing.

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

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

1 (4) Fix the effective date for annexation. The effective date of annexation ~~may~~
2 shall be fixed as the June 30 next following the adoption of the ordinance.~~for~~
3 ~~any date not less than 70 days nor more than 400 days from the date of~~
4 ~~passage of the ordinance.~~

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

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

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

25 (2) Land that:

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

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

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

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

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

40 (2) For all other purposes, the annexation becomes effective as to each tract of
41 such property or part thereof on the last day of the month in which that tract
42 or part thereof becomes ineligible for classification pursuant to
43 G.S. 105-277.4 or no longer meets the requirements of subdivision (f1)(2) of
44 this section. Until annexation of a tract or a part of a tract becomes effective
45 pursuant to this subdivision, the tract or part of a tract is not subject to
46 taxation by the city under Article 12 of Chapter 105 of the General Statutes
47 nor is the tract or part of a tract entitled to services provided by the city.
48 Upon the effective date of annexation, taxation of real and personal property
49 is subject to the provisions of G.S. 160A-58.10.

50 (g) Simultaneous Annexation Proceedings. – If a municipality is considering the
51 annexation of two or more areas which are all adjacent to the municipal boundary but are not

1 adjacent to one another, it may undertake simultaneous proceedings under authority of this Part
2 for the annexation of such areas.

3 (h) Remedies for Failure to Provide Services. – If, not earlier than one year from the
4 effective date of annexation, and not later than 15 months from the effective date of annexation,
5 any person owning property in the annexed territory shall believe that the municipality has not
6 followed through on its service plans adopted under the provisions of G.S. 160A-47(3) and
7 160A-49(e), for any required service other than water and sewer services such person may
8 apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the General
9 Statutes. Relief may be granted by the judge of superior court

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

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

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

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

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

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

50 (k) The city shall report to the Local Government Commission as to whether the
51 extension of water and sewer lines was completed within the two-year time period specified in

1 ~~G.S. 160A-47(3)c.~~ If a valid request for extension of a water or sewer line has been made under
2 ~~G.S. 160A-47(3)b,~~ and the extension is not complete at the end of two years after the effective
3 date of the annexation ordinance, the owner of the property may petition the Local Government
4 Commission for abatement of taxes to be paid to the city which have not been levied as of the
5 expiration date of the two-year period, if such petition is filed not more than ~~60~~120 days after
6 the expiration of the two-year period. If the Local Government Commission finds that the
7 extension to the property was not complete by the end of the two-year period, it shall enter an
8 order directing the city not to levy any further ad valorem taxes on the property until the fiscal
9 year commencing after completion of the extension. In addition, if the Local Government
10 Commission found that the extension to the property was not completed by the end of the
11 two-year period, and if it finds that for any fiscal year during the period beginning with the first
12 day of the fiscal year in which the annexation ordinance became effective and ending the last
13 day of the fiscal year in which the two-year period expired, the city made an appropriation for
14 construction, operation or maintenance of a water or sewer system (other than payments the
15 city made as a customer of the system) from the fund or funds for which ad valorem taxes are
16 levied, then the Local Government Commission shall order the city to release or refund an
17 amount of the petitioner's property taxes for that year in question in proportion to the
18 percentage of appropriations in the fund made for water and sewer services. By way of
19 illustration, if a net amount of one hundred thousand dollars (\$100,000) was appropriated for
20 water or sewer construction, operation or maintenance from a fund which had total
21 expenditures of ten million dollars (\$10,000,000) and the petitioner's tax levy was one thousand
22 dollars (\$1,000), the amount of release or refund shall be ten dollars (\$10.00).

23 (l) The city shall report to the Local Government Commission as to whether police
24 protection, fire protection, solid waste, or street maintenance services were provided in
25 accordance with G.S. 160A-47(3)a. within 60 days after the effective date of the annexation.
26 Such report shall be filed no more than 30 days following the expiration of the 60-day period. If
27 a city fails to deliver police protection, fire protection, solid waste or street maintenance
28 services as provided for in G.S. 160A-47(3)a. within 60 days after the effective date of the
29 annexation, the owner of the property may petition the Local Government Commission for
30 abatement of taxes to be paid to the city for taxes that have been levied as of the end of the
31 60-day period, if the petition is filed not more than ~~90 days~~120 days after the expiration of the
32 60-day period. If the Local Government Commission finds that services were not extended by
33 the end of the 60-day period, it shall enter an order directing the city not to levy any further ad
34 valorem taxes on the property until the fiscal year commencing after extension of the municipal
35 services."

36 **SECTION 8.** G.S. 160A-50(a) reads as rewritten:

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

43 **SECTION 9.(a)** G.S. 160A-360 is amended by adding a new subsection to read:

44 "(k) A 'bona fide farm' as defined in G.S. 153A-340 is exempt from a municipality's
45 extraterritorial jurisdiction under this Article."

46 **SECTION 9.(b)** G.S. 153A-340(b)(2) reads as rewritten:

47 "(b) (2) Except as provided in G.S. 106-743.4 for farms that are subject to a
48 conservation agreement under G.S. 106-743.2, bona fide farm purposes
49 include the production and activities relating or incidental to the production
50 of crops, fruits, vegetables, ornamental and flowering plants, dairy,
51 livestock, poultry, and all other forms of ~~agricultural products~~agriculture as

1 defined in ~~G.S. 106-581.1~~ having a domestic or foreign market.
2 G.S. 106-581.1. For purposes of this subdivision, the production of a
3 nonfarm product that the Department of Agriculture and Consumer Services
4 recognizes as a 'Goodness Grows in North Carolina' product that is produced
5 on a farm subject to a conservation agreement under G.S. 106-743.2 is a
6 bona fide farm purpose."

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

9 **"§ 160A-58.29. No annexation of farms.**

10 No land being used for bona fide farm purposes, as defined in G.S. 153A-340 on the date of
11 the resolution of intent to consider annexation, shall be annexed without the written consent of
12 the owner or owners of the property."

13 **SECTION 11.** Part 5 of Article 4A of Chapter 160A of the General Statutes is
14 amended by adding a new section to read:

15 **"§ 160A-58.12. Local Government Commission oversight of annexation.**

16 (a) The Local Government Commission shall provide oversight of annexation under
17 Part 2 and Part 3 of this Article. In carrying out that responsibility, the Local Government
18 Commission shall do all of the following:

19 (1) Assess the fiscal feasibility of all proposed annexations, by determining
20 whether the projected expenses to be incurred as a result of the annexation,
21 including the amount of proposed debt, are reasonable for the purposes for
22 which the expenses are to be incurred and by determining the extent to
23 which the probable net revenues resulting from the annexation and other
24 revenue sources proposed by the municipality will be sufficient to meet
25 these expenses and service any proposed debt.

26 (2) Prohibit further annexation by any municipality that has not provided
27 services in accordance with statutory requirements to any other area annexed
28 by that municipality with an effective date more than 12 months prior to the
29 proposed annexation until such time as the municipality demonstrates to the
30 Commission that such requirements have been met.

31 (3) Prohibit further annexation by the municipality and abate all ad valorem
32 property taxes levied on the newly annexed territory if the municipality has
33 not provided services as stated in the annexation ordinance within two years
34 of the effective date of the annexation ordinance, until such time as the
35 municipality demonstrates to the Commission that such requirements have
36 been met.

37 (b) Following approval of the report required under G.S. 160A-35 or G.S. 160A-47, the
38 municipality shall submit it to the Commission for review. The Commission shall make an
39 administrative determination regarding the fiscal feasibility of the proposed annexation. The
40 Commission shall report findings regarding the fiscal feasibility of the proposed annexation
41 within 60 days of receipt of the report.

42 (c) In order to effectuate the purposes of this section, the Commission may delegate its
43 authority and responsibilities under this section to the staff of the State and Local Government
44 Finance Division of the Department of State Treasurer.

45 (d) The Commission may charge a reasonable fee to recover the cost for services
46 rendered in connection with the fiscal feasibility review required by subdivision (1) of
47 subsection (a) of this section.

48 (e) The Local Government Commission shall report to the regular session of the
49 General Assembly every two years, on or before the date of convening set in G.S. 120-11.1, the
50 following information:

51 (1) The number of involuntary annexations proposed each year.

- 1 (2) The number of involuntary annexations for which the assessment of the
2 fiscal feasibility showed that the involuntary annexation was not fiscally
3 feasible.
- 4 (3) The number and character of reports made to the Local Government
5 Commission under G.S. 160A-37(k).
- 6 (4) The number and character of reports made to the Local Government
7 Commission under G.S. 160A-49(k) and the number of abatements granted
8 under that statute.
- 9 (5) The number of reports made to the Local Government Commission under
10 G.S. 160A-49(l).
- 11 (6) The number of prohibitions on further annexation issued by the Local
12 Government Commission.
- 13 (7) The number of abatement of taxes under subdivision (3) of subsection (a) of
14 this section."

15 **SECTION 12.** Any municipality that annexes property on or after July 1, 2012,
16 must hold the county harmless from a reduction in sales tax distribution under Subchapter VIII
17 of Chapter 105 of the General Statutes. Revenues initially allocated under this Subchapter to a
18 municipality that annexes property on or after this date must be redistributed to the county in
19 which the municipality is located. The amount that must be redistributed by the municipality to
20 the county is the amount of revenue it received less the amount of revenue it would have
21 received based upon the municipality's boundaries as of June 30, 2012.

22 **SECTION 13.** Article 4A of Chapter 160A of the General Statutes is amended by
23 adding a new Part to read:

24 "Part 8. City-County Utility Service Plans.

25 **§ 160A-58.31. Purpose.**

26 It is the purpose of this Part to authorize counties and cities to enter into binding agreements
27 concerning provision of utility services in future annexation areas in which the county is
28 providing county-owned utility services, in order to ensure provision of utility services by such
29 counties and cities to residents and property owners in future annexation areas.

30 **§ 160A-58.32. Definitions.**

31 The words defined in this section shall have the meanings indicated when used in this Part:

- 32 (1) "Agreement" means any written agreement authorized by this Part.
- 33 (2) "Annexation" means any extension of a city's corporate limits as authorized
34 by this Article, the charter of the city, or any local act applicable to the city,
35 as such statutory authority exists now or is hereafter amended.
- 36 (3) "Participating city" means any city which is a party to an agreement.
- 37 (4) "Participating county" means any county which is a party to an agreement.
- 38 (5) "Utility services" shall mean water and sewer services.

39 **§ 160A-58.33. Utility service plans authorized.**

40 (a) A city must enter into a utility services agreement with a county which shall be
41 approved by ordinance of each government board, if the city desires to annex any territory in
42 which the county is providing county-owned utility services.

43 (b) The agreement may be reviewed and updated as necessary, but at a minimum, shall
44 be reviewed every five years.

45 **§ 160A-58.34. Contents of agreements; procedure.**

46 (a) The utility services agreement shall contain at least all of the following:

- 47 (1) State the duration of the agreement.
- 48 (2) Describe the area subject to the utility services agreement.
- 49 (3) Describe the territory within which each jurisdiction may provide utility
50 services.

1 (4) Describe how the city and county will address compensation and ownership
2 of any infrastructure already in place in the proposed annexation area.

3 (5) Any other matter necessary to provide for the provision of utility services in
4 the area subject to the agreement.

5 (b) No agreement may be entered into under this Part unless each participant to the
6 agreement has held a public hearing on the agreement prior to adopting the ordinance
7 approving the agreement. The governing boards of the participants to the agreement may hold a
8 joint public hearing if desired. Notice of the public hearing or hearings shall be given as
9 provided in G.S. 160A-31(c) or by electronic means.

10 (c) Any agreement entered into under this Part may be modified or terminated by a
11 subsequent agreement entered into by all the participating cities to that agreement. The
12 subsequent agreement shall be approved by ordinance after a public hearing or hearings as
13 provided in subsection (b) of this section or by electronic means.

14 "**§ 160A-58.35. Limitation on annexation.**

15 No municipality may annex in an area in which the county is providing county owned
16 utility services unless one of the following applies:

17 (1) The county waives its authority to initiate a negotiation over the formation of
18 a utility services agreement with one or more cities.

19 (2) The utility services agreement has been adopted by the parties and has not
20 been repealed by the annexing municipality or the county.

21 "**§ 160A-58.36. Effect of utility services agreement.**

22 From and after the effective date of the utility services agreement, participants in the utility
23 services agreement are limited to establishing utility services in the area covered by the utility
24 services agreement only as described in that agreement."

25 **SECTION 14.** This act becomes effective July 1, 2012, and applies to annexation
26 ordinances adopted on or after that date.