

March 10, 2009

**H 524. ANNEXATION—OMNIBUS CHANGES.** Filed 3/10/09. *TO MAKE VARIOUS CHANGES TO THE ANNEXATION STATUTES.*

*Annexation by petition.* Adds new subsection (b1) to GS 160A-31 (regarding the authority of the governing board of any municipality to annex by ordinance a *contiguous area* upon the presentation of a petition signed by the owners of all real property in the area to be annexed). Directs the governing board of any municipality to annex by ordinance any *contiguous area* upon presentation of a petition signed by 75% or more of the owners of the real property in the area to be annexed, if 50% of the households in the area petitioning for annexation have incomes that are 200% or less than the most recent United States Census Bureau poverty thresholds. Provides for the format for the petition to be used for annexations under proposed subsection (b1).

*Annexation of contiguous areas by cities with populations less than 5,000.* Amends GS 160A-36 to provide that a connecting corridor that consists solely of a public street or street right-of-way may not be used to establish contiguity to an outlying, noncontiguous area for purposes of meeting the general standards for the area to be annexed. Requires at least 50% of the property owners to consent to the annexation if the area under consideration for annexation is served by a central water and sewer system operated by an entity other than the annexing municipality. Requires the annexing municipality to obtain written documentation of the property owners' agreement that is dated within 12 months prior to the annexation ordinance effective date. Makes changes to the definition of *an area developed for urban purposes*, providing that such an area must have at least 65% (was, 60%) of the total number of lots and tracts in the area at the time of the annexation used for residential, commercial, industrial, institutional, or governmental purposes and be subdivided into lots and tracts so that at least 60% of the total acreage, not counting that used at the time of annexation for commercial, industrial, governmental, or institutional purposes, consists of lots and tracts of two acres (was, three) or less in size. Prohibits the splitting of a subdivision or neighborhood by any annexation.

Amends GS 160A-37(b) (regarding notice of public hearing) to require that the notice of public hearing also include a (1) summary of the annexation process, (2) timelines, and (3) a summary of available statutory remedies for contesting the annexation and provision of services. Directs that notice be made by certified mail, return receipt requested (was, by first class mail, postage prepaid) to the owners of all freehold interests in real property located within the area to be annexed. Makes conforming change.

*Annexation of contiguous areas by cities with populations of 5,000 or more.* Amends GS 160A-48 to provide that a connecting corridor that consists solely of a public street or street right-of-way may not be used to establish contiguity to an outlying, noncontiguous area for purposes of meeting the general standards for the area to be annexed. Requires at least 50% of the property owners to consent to the annexation if the area under consideration for annexation is served by a central water and sewer system operated by an entity other than the annexing municipality. Requires the annexing municipality to obtain written documentation of the property owners' agreement that is dated within 12 months prior to the annexation ordinance effective date.

Makes changes to the following provisions of the definition of *an area developed for urban purposes*: (provides that the area has to meet only one of the listed standards) (1) has a total resident population equal to at least five-tenths (was, three-tenths) persons for each acre of land within its boundaries; (2) has a total resident population equal to at least two and five-tenths (was, one person) persons for each acre of land included within its boundaries and is subdivided into specified size lots and tracts; or (3) must have at least 65% (was, 60%) of the total number of lots and tracts in the area at the time of the annexation used for residential, commercial, industrial, institutional, or governmental purposes and be subdivided into lots and tracts so that at least 60% of the total acreage, not counting that used at the time of annexation for commercial, industrial, governmental, or institutional purposes, consists of lots and tracts of two acres (was, three) or less in size. Prohibits the splitting of a subdivision or neighborhood by any annexation.

Amends GS 160A-49(b) (regarding notice of public hearing) to require that the notice of public hearing include a (1) summary of the annexation process, (2) timelines, and (3) a summary of available statutory remedies for contesting the annexation and provision of services. Directs that the notice be made by certified mail, return receipt requested (was, by first class mail,

postage prepaid) to the owners of all freehold interests in real property located within the area to be annexed. Makes conforming change.

*Annexation of noncontiguous areas regardless of size of the population.* Amends GS 160A-58.1 [allows a city, upon receipt of a valid petition signed by all owners of real property in the described area, to annex a noncontiguous area when the area meets specified standards in subsection (b)]. Directs the governing board of any municipality to annex by ordinance any *contiguous area* upon presentation of a petition signed by 75% or more of the owners of the real property in the area to be annexed, if 50% of the households in the area petitioning for annexation have incomes that are 200% or less than the most recent United States Census Bureau poverty thresholds. Provides that the petition does not have to be signed by the owners of real property who are exempt from property taxation under the laws of North Carolina, nor by railroad companies, public utilities as defined in GS 62-3(23), or electric or telephone membership corporations. Provides that those exempt owners are not to be counted in determining whether 75% of the owners have signed the petition. Requires any petition submitted regarding annexation under subsection (a) or proposed subsection (e) to include the names, addresses, and signatures of the signers.

Amends GS 160A-58.2 (regarding public hearings) to clarify that existing subsection (b) applies to a hearing on a petition under existing subsection (a) of GS 160A-58.1. Enacts new subsection (c) to provide guidelines for a hearing on a petition under proposed new subsection (e) under GS 160A-58.1.

*Payment of assessments.* Adds new subsection (b) to GS 160A-232 providing for the payment of assessments by owners of real property that is assessed for water or sewer systems as a result of annexation under Part 2 or Part 3 of Article 4A of GS Chapter 160A. Permits the assessments to be paid in 20 annual installments or in cash within 30 days after the publication of the notice of the assessment has been confirmed. Provides additional criteria regarding payment by installment.

Effective October 1, 2009.

**Intro. by Goforth, Luebke.**

GS 160A

June 29, 2009

**H 524. ANNEXATION-OMNIBUS CHANGES.** Filed 3/10/09. House committee substitute makes changes to 1st edition, to be digested in tomorrow's *Daily Bulletin*.

June 30, 2009

**H 524. ANNEXATION - OMNIBUS CHANGES.** Filed 3/10/09. House committee substitute makes the following changes to 1st edition.

*Annexation by Petition.* Amends GS 160A-31 to provide that a petition for voluntary contiguous annexation is not required to be signed (1) by owners of real property that are exempt from property taxation under the NC Constitution and state laws nor (2) by railroad companies, public utilities, or electric or telephone membership corporations. Also directs the governing board of any municipality to annex by ordinance any area *one-eighth of the aggregate external boundaries of which are* contiguous to its boundaries upon presentation of a petition signed by the owners of at least 75% of the parcels of real property in the area to be annexed, if 51% (was, 50%) of the households in the area petitioning for annexation have incomes that are 200% or less than the most recent United States Census Bureau poverty thresholds. Provides that the governing board is authorized to make an annexing ordinance effective immediately or on June 30 next following the date of the ordinance's passage (was, any specified date within six months of passage). Prohibits a connecting corridor consisting solely of a street or street right-of-way to be used to establish contiguity to an outlying, noncontiguous area. Allows the governing board of any municipality to annex, by ordinance, any distressed area contiguous to its boundaries upon presentation of a petition signed by at least one adult resident of at least 75% of the resident households located within such area. Defines *distressed area* as an area in which at least 51% of the households in the petitioning area have incomes that are 200% or less of the most recent Census Bureau poverty thresholds. Provides for the form of petition in such cases. Requires the clerk to submit names, addresses, and social security numbers to the Department of Revenue to

determine what percentage of households meet the poverty threshold. Provides for the confidentiality of resident information. Makes other clarifying, conforming, and technical changes.

*Involuntary Annexation of Contiguous Areas.* Amends GS 160A-34 to grant authority to the governing board of any municipality with a population of less than 10,000 (was, 5,000) persons to extend the corporate limits of such municipality as set forth in Part 2 of Article 4A of GS Chapter 160A. Limits this grant of authority to municipalities that provide, at the time of the adoption of their resolution of intent, at least two meaningful services within its existing corporate boundaries. Requires the service to be provided directly by the municipality, provided by a joint agency or authority of which the municipality is a full participating member, or provided by contract between the municipality and a third party. Provides that, in the case of police protection provided by contract, the contract must establish a higher level of service than is otherwise provided in that area, such as a designated deputy or increased patrols. Amends GS 160A-35 to require, as a prerequisite to annexation, that the statement providing estimates on how the proposed annexation will affect the city's finances and services include projections for at least a five-year period beyond the first year that expenditures are to be made for the provision of city services to the annexed area, with accounting by revenue source and category of expenditure. Clarifies that the statute applies to *meaningful services*. Adds that municipality plans for the extension of meaningful services to the proposed annexed area must include sewer outfall lines and water lines, in addition to the extension of water mains and sewer lines. Provides for consideration of environmental factors in connection with feasibility of sewer installation and the provision of septic system maintenance and repair until sewer service is provided to similarly situated properties. Requires that, in any event, the plans must call for construction to be completed within three years of the effective date of annexation. Makes clarifying changes. Amends GS 160A-36 to allow the extension of the municipal corporate limits to include *any area that is completely surrounded by the municipality's primary corporate limits*. Requires that at least one-fifth (was, one-eighth) of the aggregate external boundaries of the area must coincide with the municipal boundary. Requires that no part of the area may be served by a water and sewer system operated by another municipality, except under specified circumstances (was, at least 50% of property owners must consent if a central water and sewer system is operated by an entity other than the annexing municipality). Includes in the definition of *an area developed for urban purposes* (1) an area with a total resident population equal to at least two and three-tenths persons for each acre of land included within its boundaries and (2) an area which is so developed that at least 65% of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional, or governmental purposes, and is subdivided into lots and tracts such that at least 60% of the total acreage, excluding acreage used at the time of annexation for those purposes, consists of lots and tracts two and one-half (was, two in previous edition) acres or less in size. Provides for limitations on the inclusion of residential lots in subdivision plats (was, prohibited a subdivision or neighborhood from being split by the annexation). Amends GS 160A-37 to reorganize and clarify provisions in the procedure for annexation related to the resolution of consideration and the resolution of intent. Requires that a notice of the adoption of the resolution of consideration be published once a week for two successive weeks, with each publication being on the same day of the week, in a newspaper of general circulation in the municipality. Prohibits the second publication from being more than 30 days after adoption of the resolution. Specifies information to be included in the notice. Eliminates the exception to requiring a resolution of consideration in the case of a resolution of intent and an annexation ordinance providing an effective date of annexation at least one year from the date of passage of the annexation ordinance. After adoption of the resolution of intent, requires that the combined notice of public informational meeting and a public hearing and the materials distributed at the hearing, in addition to other information, include (1) a summary of the annexation process and time lines and a summary of available statutory remedies for contesting the annexation and the failure to provide services and (2) information on how to request to become a customer of the water or sewer service. Requires the combined published notice describe the distinction between the meeting and the hearing. Provides that each published notice prior to the informational hearing *be published on the same day of the week*. Removes requirements regarding the date of first publication to the date of last publication. Requires that the effective date of annexation be fixed as the next June 30 following the adoption of the

ordinance (was, may be any date not less than 40 days nor more than 400 days from the date of passage of the ordinance). Removes provision describing real and personal property subject to municipal taxes on January 1 immediately preceding the beginning of the fiscal year in which the annexation becomes effective and, instead, makes taxation of real and personal property subject to the provisions in GS 160A-58.10, effective upon the date of annexation. Requires that the city report to the Local Government Commission (Commission) as to whether police protection, fire protection, solid waste, or street maintenance services were provided in accordance with GS 160A-35(3)a. within 60 days after the effective date of annexation. Prohibits the report from being filed more than 30 days following the expiration of the 60-day period. Increases the time period for a property owner to petition the Commission for abatement of taxes due to the failure of the city to provide such services to 120 days (was, 90 days) after the expiration of the 60-day period. Requires the city to report to the Commission regarding whether the extension of water and sewer lines have been completed within the three-year time period specified in GS 160A-35(3). Provides for a procedure to allow a property owner to petition for the abatement of taxes if the extension is not completed within this time period. Also provides for the release or refund of property taxes by the city in certain circumstances. Makes technical, clarifying, and conforming changes. Amends GS 160A-38 to increase the time period for a property owner to file a petition in superior court claiming that a municipal governing board failed to follow statutorily required procedures to 90 days (was, 60 days) following passage of an annexation ordinance. Adds that a court may take evidence in the review of annexation proceedings that is intended to show that the municipality has proven that the municipality is providing meaningful service to property owners. Allows a municipal governing board to adopt a resolution, prior to the date of annexation as set forth in a superior court final judgment, to set the annexation effective date for the next June 30 following the date of the final judgment. Makes conforming and technical changes.

Makes substantively identical changes, related to annexations by a municipality having a population of *10,000 or more* persons, to GS 160A-46 (Authority to annex), GS 160A-47 (Prerequisites to annexation; ability to serve; report and plans), GS 160A-48 (Character of area to be annexed), GS 160A-49 (Procedure for annexation), and GS 160A-50 (Appeal).

Further amends GS 160A-48 to include in the definition of *an area developed for urban purposes* an area that (1) has a total resident population equal to at least two and three tenths (was, two and five tenths in the previous edition) persons for each acre of land within its boundaries; (2) has a total resident population equal to at least two and one half (was, two and five tenths in previous edition) persons for each acre of land included within its boundaries and is subdivided into specified size lots and tracts; or (3) must have at least 65% of the total number of lots and tracts in the area at the time of the annexation used for residential, commercial, industrial, institutional, or governmental purposes and be subdivided into lots and tracts so that at least 60% of the total acreage, not counting that used at the time of annexation for commercial, industrial, governmental, or institutional purposes, consists of lots and tracts of two and one half (was, two in previous edition) acres or less in size.

Amends GS 160A-53 to define *meaningful services* as any one of the following: (1) police protection, (2) fire protection, (3) solid waste collection services, (4) street maintenance, (5) water service, or (6) sewer service. Makes conforming changes to GS 160A-33(5) and GS 160A-45(5).

*Annexation of Noncontiguous Areas.* Deletes amendments to GS 160A-58.1 (Petition for annexation; standards) and GS 160A-58.2 (Public hearing).

*Miscellaneous.* Enacts new GS 160A-58.11 to require that the Commission provide oversight of annexation under Part 2 and Part 3 of Article 4A of GS Chapter 160A and under GS 160A-31(b1) by all municipalities and upon request by the municipality for annexation under GS 160A-31(i). Sets forth the responsibilities of the Commission. Also requires the Commission to report findings regarding the fiscal feasibility of a proposed annexation within 60 days of receipt of the report required under GS 160A-35 or GS 160A-47. Provides that if the Commission finds that the annexation is not fiscally feasible, the annexation in the proposed form must not proceed. Allows the Commission to delegate its authority and responsibilities, except the authority to make a final determination regarding an annexation's fiscal feasibility, to the staff of the State and Local Government Finance Division of the Department of the State Treasurer. Requires that the Commission report to the General Assembly every two years by the date upon which that year's session convenes. Specifies information to be included in the report.

Amends the title of Part 6 of Article 4A of GS Chapter 160A to read *Annexation Agreements Between Municipalities* (was, *Annexation Agreements*).

Enacts a new Part 7 of Article 4A of GS Chapter 160A, entitled *Annexation Agreements With Property Owners*, to allow a city to enter into contracts under which the city agrees to extend water service, sewer service, or both, to specific property and in return the owner or owners agree to do either or both of the following: (1) to petition the city for annexation of the property, pursuant to Part 1 or Part 2 of this Article, upon the city's request and (2) to not join in on any appeal if the city adopts an ordinance to annex the property that is served by water or sewer under the contract pursuant to Part 2 or Part 3 of this Article. Provides that the contract is enforceable against the city and against the person or persons who signed it and their heirs, assigns, and successors in interest if the contract specifies that it runs with the land and is recorded in the county register of deeds where the property is located. Allows the city to enforce the contract through an action for specific performance as long as the city continues to provide the contracted utility service to the property. Provides that a contract under the statute may be part of a development agreement under Part 3D of Article 19 of GS Chapter 160A or Part 3A of Article 18 of GS Chapter 153A.

Amends proposed amended GS 160A-232 to prohibit an owner from being assessed a penalty for paying early amounts due on water or sewer assessments. Requires the city to allow the payment of tap fees in annual installments for a period of up to five years. Allows the city to provide that such unpaid fees be a lien on the property served. Makes a technical change.

Amends GS 143B-437.04 to add that the Department of Commerce is required to adopt guidelines for the awarding of Community Development Block Grants to ensure that priority consideration is given to projects located in areas annexed by a municipality under Article 4A of GS Chapter 160A in order to provide water or sewer services to low-income residents. Defines *low-income residents*, for the purposes of the statute, as residents with a family income that is 50% or less of median family income.

Amends the criteria in GS 159G-23 that the Division of Water Quality and the Division of Environmental Health must use in establishing a system of assigning points to applications for a loan or grant from the Wastewater Reserve or Drinking Water Reserve to add providing priority for a project located in an area annexed by a municipality under Article 4A of GS Chapter 160A in order to provide water or sewer services to low-income residents. Defines *low-income residents*, for the purposes of the statute, as residents with a family income that is 50% or less of median family income.

Specifies that the act applies to annexations for which a resolution of intent has been adopted under Part 2 or Part 3 of Article 4A of GS Chapter 160A and annexations for which a petition has been received under Part 1 or Part 4 of Article 4A of GS Chapter 160A on or after October 1, 2009 (was, applies to annexations that become effective on or after that date).

Changes the title to: *AN ACT TO CLARIFY SIGNATORIES ON VOLUNTARY ANNEXATION REQUESTS; TO REQUIRE VOLUNTARY ANNEXATION ON REQUEST OF SEVENTY-FIVE PERCENT OF PROPERTY OWNERS IN DISTRESSED AREAS; TO PERMIT VOLUNTARY ANNEXATION ON REQUEST OF SEVENTY-FIVE PERCENT OF RESIDENT HOUSEHOLDS IN DISTRESSED AREAS; TO PROHIBIT THE USE OF STREETS OR STREET RIGHT-OF-WAYS TO ESTABLISH CONTIGUITY FOR PURPOSES OF VOLUNTARY AND INVOLUNTARY ANNEXATION; TO INCREASE FROM 5,000 TO 10,000 THE MUNICIPAL POPULATION THRESHOLD FOR DETERMINING THE PROCEDURE FOR INVOLUNTARY ANNEXATION; TO REQUIRE THE PROVISION OF AT LEAST TWO MEANINGFUL SERVICES WITHIN EXISTING CORPORATE BOUNDARIES PRIOR TO INITIATING AN INVOLUNTARY ANNEXATION; TO REQUIRE THE EXTENSION OF WATER AND SEWER LINES WITHIN THREE YEARS OF THE ANNEXATION TO ALL PROPERTIES WITHIN THE ANNEXED AREA; TO REQUIRE FINANCIAL IMPACT STATEMENTS SUBMITTED WITH A PROPOSED ANNEXATION TO BE BASED UPON A FIVE-YEAR PERIOD; TO ALLOW INVOLUNTARY ANNEXATION OF AREAS COMPLETELY SURROUNDED BY THE MUNICIPAL CORPORATE LIMITS; TO PROHIBIT INVOLUNTARY ANNEXATION OF AREAS BEING SERVED BY A WATER AND SEWER SYSTEM OPERATED BY A MUNICIPALITY OTHER THAN THE ANNEXING MUNICIPALITY; TO INCREASE THE URBAN DENSITY STANDARDS FOR INVOLUNTARY ANNEXATION BY MUNICIPALITIES BY REQUIRING AT LEAST SIXTY-FIVE*

PERCENT OF THE LOTS TO BE IN USE AND THE RESIDENTIAL LOTS TO BE AT LEAST TWO AND ONE-HALF ACRES IN SIZE; BY ADDING AN URBAN DENSITY TEST OF RESIDENTIAL POPULATION EQUAL TO AT LEAST TWO AND THREE-TENTHS PERSONS PER ACRE FOR INVOLUNTARY ANNEXATION BY SMALL MUNICIPALITIES; TO REQUIRE ALL OF A SUBDIVISION TO BE ANNEXED IF THE ANNEXATION IS INVOLUNTARY; TO AMEND THE PROCEDURE FOR ANNEXATION TO CLARIFY THE TIME LINE AND PROVIDE ADDITIONAL INFORMATION TO THE PROPERTY OWNERS AT THE PUBLIC HEARING AND PUBLIC INFORMATIONAL MEETING; TO REQUIRE THE NOTICE OF PUBLIC HEARING TO BE SENT TO PROPERTY OWNERS BY CERTIFIED MAIL; TO REQUIRE THE EFFECTIVE DATE OF VOLUNTARY CONTIGUOUS AND INVOLUNTARY ANNEXATION TO BE THE JUNE 30 NEXT FOLLOWING THE ADOPTION OF THE ANNEXATION; TO REQUIRE MUNICIPALITIES TO REPORT TO THE LOCAL GOVERNMENT COMMISSION ON THE PROVISION OF MEANINGFUL SERVICES FOLLOWING THE ADOPTION OF AN ANNEXATION ORDINANCE; TO EXTEND THE TIME PERIOD A PROPERTY OWNER MAY APPEAL TO THE COURTS FOLLOWING AN INVOLUNTARY ANNEXATION ORDINANCE FROM SIXTY DAYS TO NINETY DAYS; TO REQUIRE OVERSIGHT OF INVOLUNTARY ANNEXATIONS BY THE LOCAL GOVERNMENT COMMISSION BY REQUIRING A FISCAL FEASIBILITY ASSESSMENT; TO REQUIRE THE LOCAL GOVERNMENT COMMISSION TO PROHIBIT FURTHER ANNEXATION IF THE ANNEXING MUNICIPALITY DOES NOT PROVIDE SERVICES IN ACCORDANCE WITH AN INVOLUNTARY ANNEXATION WITHIN THREE YEARS; TO REQUIRE THE LOCAL GOVERNMENT COMMISSION TO ABATE PROPERTY TAXES FOR PROPERTY OWNERS WITHOUT THE REQUIRED SERVICES WITHIN THREE YEARS OF AN INVOLUNTARY ANNEXATION; TO REQUIRE THE LOCAL GOVERNMENT COMMISSION TO REPORT ANNUALLY TO THE GENERAL ASSEMBLY ON INVOLUNTARY ANNEXATIONS; TO AUTHORIZE MUNICIPALITIES TO CONTRACT WITH PROPERTY OWNERS FOR THE EXTENSION OF WATER SERVICE AND SEWER SERVICE AND NONAPPEAL OF AN INVOLUNTARY ANNEXATION, WHICH MAY RUN WITH THE LAND; TO PERMIT THE PAYMENT OF ASSESSMENTS FOR THE INSTALLATION OF WATER OR SEWER SERVICE FOLLOWING AN INVOLUNTARY ANNEXATION OVER A TWENTY-YEAR PERIOD; TO ALLOW THE PAYMENT OF TAP FEES OVER A FIVE-YEAR PERIOD; TO GIVE PRIORITY TO A MUNICIPALITY ANNEXING A DISTRESSED AREA WHEN THAT MUNICIPALITY APPLIES FOR COMMUNITY DEVELOPMENT BLOCK GRANTS AND LOANS OR GRANTS FROM THE WASTEWATER RESERVE OR DRINKING WATER RESERVE.

July 7, 2009

**H 524. ANNEXATION - OMNIBUS CHANGES.** Filed 3/10/09. House committee substitute makes the following changes to 2nd edition. Modifies proposed GS 160A-31(k) to provide that petitioners seeking annexation of any distressed area contiguous to a municipality's boundaries must submit to the municipal governing board any reasonable evidence that demonstrates that the area meets the statute's income requirements [was, the clerk must submit names, addresses, and social security numbers of petitioners to the Department of Revenue (Department) in order to determine if the poverty thresholds are met]. Allows petitioners to select to submit name, address, and social security numbers to the clerk, who would then submit that information to the Department. Also lists other evidence that may be presented to verify incomes for a majority of households within the petitioning area.

Amends GS 160A-41 to define *meaningful service* as any one of the following: (1) police protection, (2) fire protection, (3) solid waste collection services, (4) street maintenance, (5) water service, or (6) sewer service.

Enacts new GS 160A-58.11 to allow any registered voter of the annexing municipality or proposed annexation area of an involuntary annexation to request a referendum petition from the municipal governing board containing the description and a legible map of the area to be annexed after the governing board's adoption of the resolution of intent under Part 2 or Part 3 of Article 4A of GS Chapter 160A. Sets forth the criteria to be included by the governing board in the referendum petition forms provided to the requesting registered voter. Requires that the governing board notify and provide information to the board of elections upon receiving a

referendum petition request. Provides for the procedure to be followed for a referendum petition to be effective. Requires that the referendum petition bear the signatures of at least 15% of the total of the registered voters of the municipality and the proposed annexation area as shown by the registration for the petition to be sufficient. Requires the board of elections to investigate the sufficiency of any petition. If a sufficient referendum has been submitted, the governing board may either abandon the proposed involuntary annexation or adopt a resolution setting the date for the referendum to coincide with the next general municipal election. Provides for procedures related to holding the referendum. Makes conforming changes to proposed amended GS 160A-37(e) and proposed amended GS 160A-49(e) to provide that a governing board's authority to amend the required report to make changes in the plans for serving the proposed annexed area after taking into consideration facts presented at the public hearing is subject to the provisions of proposed GS 160A-58.11.

Renumbers the statute providing for annexation oversight by the Local Government Commission (Commission) as new GS 160A-58.12 (was, GS 160A-58.11 in previous edition). Deletes that the Commission is to provide oversight of annexation under GS 160A-31(b1) by all municipalities and upon request by the municipality for annexation under GS 160A-31(i). Requires the Commission to make an administrative determination regarding fiscal feasibility of the proposed annexation after receiving the municipality's final approved report required under GS 160A-35 or GS 160A-47. Makes a conforming deletion by removing the prohibition on the Commission delegating its responsibility to make a final determination on whether an annexation is fiscally feasible to any staff of the State and Local Government Finance Division of the Department of State Treasurer. Allows the Commission to charge a reasonable fee to recover costs for services rendered in connection with the fiscal feasibility review.

Make a conforming change to the title of Part 5 of Article 4A of GS Chapter 160A.

*Changes the title to AN ACT TO CLARIFY SIGNATORIES ON VOLUNTARY ANNEXATION REQUESTS; TO REQUIRE VOLUNTARY ANNEXATION ON REQUEST OF SEVENTY-FIVE PERCENT OF PROPERTY OWNERS IN DISTRESSED AREAS; TO PERMIT VOLUNTARY ANNEXATION ON REQUEST OF SEVENTY-FIVE PERCENT OF RESIDENT HOUSEHOLDS IN DISTRESSED AREAS; TO PROHIBIT THE USE OF STREETS OR STREET RIGHT-OF-WAYS TO ESTABLISH CONTIGUITY FOR PURPOSES OF VOLUNTARY AND INVOLUNTARY ANNEXATION; TO INCREASE FROM 5,000 TO 10,000 THE MUNICIPAL POPULATION THRESHOLD FOR DETERMINING THE PROCEDURE FOR INVOLUNTARY ANNEXATION; TO REQUIRE THE PROVISION OF AT LEAST TWO MEANINGFUL SERVICES WITHIN EXISTING CORPORATE BOUNDARIES PRIOR TO INITIATING AN INVOLUNTARY ANNEXATION; TO REQUIRE THE EXTENSION OF WATER AND SEWER LINES WITHIN THREE YEARS OF THE ANNEXATION TO ALL PROPERTIES WITHIN THE ANNEXED AREA; TO REQUIRE FINANCIAL IMPACT STATEMENTS SUBMITTED WITH A PROPOSED ANNEXATION TO BE BASED UPON A FIVE-YEAR PERIOD; TO ALLOW INVOLUNTARY ANNEXATION OF AREAS COMPLETELY SURROUNDED BY THE MUNICIPAL CORPORATE LIMITS; TO PROHIBIT INVOLUNTARY ANNEXATION OF AREAS BEING SERVED BY A WATER AND SEWER SYSTEM OPERATED BY A MUNICIPALITY OTHER THAN THE ANNEXING MUNICIPALITY; TO INCREASE THE URBAN DENSITY STANDARDS FOR INVOLUNTARY ANNEXATION BY MUNICIPALITIES BY REQUIRING AT LEAST SIXTY-FIVE PERCENT OF THE LOTS TO BE IN USE AND THE RESIDENTIAL LOTS TO BE AT LEAST TWO AND ONE-HALF ACRES IN SIZE; BY ADDING AN URBAN DENSITY TEST OF RESIDENTIAL POPULATION EQUAL TO AT LEAST TWO AND THREE-TENTHS PERSONS PER ACRE FOR INVOLUNTARY ANNEXATION BY SMALL MUNICIPALITIES; TO REQUIRE ALL OF A SUBDIVISION TO BE ANNEXED*

*IF THE ANNEXATION IS INVOLUNTARY; TO AMEND THE PROCEDURE FOR ANNEXATION TO CLARIFY THE TIME LINE AND PROVIDE ADDITIONAL INFORMATION TO THE PROPERTY OWNERS AT THE PUBLIC HEARING AND PUBLIC INFORMATIONAL MEETING; TO REQUIRE THE NOTICE OF PUBLIC HEARING TO BE SENT TO PROPERTY OWNERS BY CERTIFIED MAIL; TO REQUIRE THE EFFECTIVE DATE OF VOLUNTARY CONTIGUOUS AND INVOLUNTARY ANNEXATION TO BE THE JUNE 30 NEXT FOLLOWING THE ADOPTION OF THE ANNEXATION; TO REQUIRE MUNICIPALITIES TO REPORT TO THE LOCAL GOVERNMENT COMMISSION ON THE PROVISION OF MEANINGFUL SERVICES FOLLOWING THE ADOPTION OF AN ANNEXATION ORDINANCE; TO EXTEND THE TIME PERIOD A PROPERTY OWNER MAY APPEAL TO THE COURTS FOLLOWING AN INVOLUNTARY ANNEXATION ORDINANCE FROM SIXTY DAYS TO NINETY DAYS; TO ALLOW THE COURT TO ACCEPT ARGUMENT REGARDING THE PROVISION OF MEANINGFUL SERVICE TO THE NEWLY ANNEXED AREA; TO PROVIDE OVERSIGHT OF INVOLUNTARY ANNEXATION THROUGH A REFERENDUM, THAT MUST COINCIDE WITH A GENERAL MUNICIPAL ELECTION, OF REGISTERED VOTERS OF THE MUNICIPALITY AND THE PROPOSED ANNEXATION AREA UPON A VERIFIED PETITION SIGNED BY AT LEAST 15% OF THE TOTAL OF THE REGISTERED VOTERS OF THE MUNICIPALITY AND THE PROPOSED ANNEXATION AREA AS SHOWN BY THE REGISTRATION; TO REQUIRE OVERSIGHT OF INVOLUNTARY ANNEXATIONS BY THE LOCAL GOVERNMENT COMMISSION BY REQUIRING A FISCAL FEASIBILITY ASSESSMENT; TO REQUIRE THE LOCAL GOVERNMENT COMMISSION TO PROHIBIT FURTHER ANNEXATION IF THE ANNEXING MUNICIPALITY DOES NOT PROVIDE SERVICES IN ACCORDANCE WITH AN INVOLUNTARY ANNEXATION WITHIN THREE YEARS; TO REQUIRE THE LOCAL GOVERNMENT COMMISSION TO ABATE PROPERTY TAXES FOR PROPERTY OWNERS WITHOUT THE REQUIRED SERVICES WITHIN THREE YEARS OF AN INVOLUNTARY ANNEXATION; TO REQUIRE THE LOCAL GOVERNMENT COMMISSION TO REPORT ANNUALLY TO THE GENERAL ASSEMBLY ON INVOLUNTARY ANNEXATIONS; TO AUTHORIZE MUNICIPALITIES TO CONTRACT WITH PROPERTY OWNERS FOR THE EXTENSION OF WATER SERVICE AND SEWER SERVICE AND NONAPPEAL OF AN INVOLUNTARY ANNEXATION, WHICH MAY RUN WITH THE LAND; TO PERMIT THE PAYMENT OF ASSESSMENTS FOR THE INSTALLATION OF WATER OR SEWER SERVICE FOLLOWING AN INVOLUNTARY ANNEXATION OVER A TWENTY-YEAR PERIOD; TO ALLOW THE PAYMENT OF TAP FEES OVER A FIVE-YEAR PERIOD; TO GIVE PRIORITY TO A MUNICIPALITY ANNEXING A DISTRESSED AREA WHEN THAT MUNICIPALITY APPLIES FOR COMMUNITY DEVELOPMENT BLOCK GRANTS AND LOANS OR GRANTS FROM THE WASTEWATER RESERVE OR DRINKING WATER RESERVE.*

July 21, 2009

**H 524. ANNEXATION - OMNIBUS CHANGES.** Filed 3/10/09. House committee substitute makes the following changes to 3rd edition. Enacts new Part 8 in Article 4A of GS Chapter 160A to authorize municipalities and counties to develop binding plans concerning the provision of water and sewer services to enhance land use planning and growth. Defines, unless the context clearly indicates a different meaning, (1) *utility services* as water and sewer services and (2) *future utility*



service area as an area subject to joint city and county utility services plan authority as follows: (a) under 10,000 municipal population within one mile of the primary corporate limits, (b) 10,000-25,000 municipal population within two miles of the primary corporate limits, and (c) greater than 25,000 municipal population within three miles of the primary corporate limits.

Allows a city to enter into a utility services plan with a county for a maximum of 20 years if approved by ordinance of each governing board. Requires that a county adopt a resolution declaring its intent to develop a utility services plan with one or more municipalities and to provide written notice return receipt requested to those municipalities by January 1, 2010. Terminates the authority to enter into an agreement if one is not reached within 90 days following receipt of notification, unless the time period is extended by mutual agreement. Prohibits a municipality from adopting an annexation ordinance under Part 1 or Part 4 of this Article or a resolution of intent under Part 2 or Part 3 of this Article during the initial 90 day period. Provides that nothing in proposed GS 160A-58.34 limits the authority of cities and counties to form interlocal agreements subject to Article 20 of GS Chapter 160A.

Specifies the minimum content required to be included in the utility services plan. Prohibits a utility services plan from being entered into unless each participant has held a public hearing prior to adopting the ordinance approving the plan. Allows for a joint public hearing. Requires notice of the public hearing to be published once in a newspaper having general circulation in the county at least 10 days before the date of the hearing. Allows the plan to be modified or terminated by subsequent agreement by all participating parties. Requires the subsequent agreement to be approved by ordinance after a public hearing is held. Allows a participating party to terminate a utility services plan unilaterally or withdraw itself by repealing the approval ordinance and providing five years' written notice to the other participants.

Prohibits a municipality from annexing in its future utility service area unless one of the following applies: (1) the county waives its authority to initiate a negotiation over the formation of a utility services plan with one or more cities; (2) the parties, having made a good faith effort to negotiate a utility services plan, fail to agree to a services plan in accordance with GS 160A-58.34; or (3) the utility services plan has been adopted by the parties and has not been repealed by the annexing municipality or county. Provides that, if the future utility service areas of multiple municipalities overlap, the utility services plan must be agreed to by the affected county or counties and all the affected municipalities.

Limits the plan participants to establishing utility services in an area covered by the plan only as described in the plan from that plan's effective date.

Allows a party, which believes another party has violated this Part or the utility services plan, to file a petition in superior court seeking review of an alleged violation within 30 days following an action to provide services in the territory subject to the plan or within the initial 90-day period following notification where it is alleged that party failed to make a good faith effort to negotiate a utility services plan. Provides for the procedure for filing the petition, the review proceedings in court, and the remedies available.

Makes a conforming change to the title.

Deletes in proposed amended GS 160A-31 that an annexation petition need not be signed by railroad companies, public utilities, or electric or telephone membership corporations.

July 22, 2009

**H 524. ANNEXATION-OMNIBUS CHANGES.** Filed 3/10/09. House amendments make the following changes to 4th edition. Amendment #1 makes a technical change to delete duplicate provision. Amendment #2 amends proposed GS 160A-58.11(a) to permit any registered voter of an annexing municipality or the proposed area of annexation to request a referendum petition from the municipal governing board after the adoption of the resolution of consideration (was, resolution of intent) under Part 2 or Part 3 of Article 4A of GS 160A.