

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

HOUSE BILL 845
Committee Substitute Favorable 5/3/11
Committee Substitute #2 Favorable 5/11/11
PROPOSED SENATE COMMITTEE SUBSTITUTE H845-PCS80270-RWx-55

Short Title: Annexation Reform Act of 2011.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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 Part 2 of Article 4A of Chapter 160A of the General Statutes is repealed.

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

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

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

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

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

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 Part 3 of Article 4A of Chapter 160A of the General Statutes is repealed.

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

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

"Part 7.

"Annexations Initiated by Municipalities.

§ 160A-58.50. Declaration of policy.

It is hereby declared as a matter of State policy:

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

(2) That municipalities are created to provide the governmental services essential for sound urban development and for the protection of health,



* H 8 4 5 - P C S 8 0 2 7 0 - R W X - 5 5 *

1 safety, and welfare in areas being intensively used for residential,
2 commercial, industrial, institutional, and governmental purposes or in areas
3 undergoing such development.

4 (3) That municipal boundaries should be extended in accordance with legislative
5 standards applicable throughout the State to include such areas and to
6 provide the high quality of governmental services needed therein for the
7 public health, safety, and welfare.

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

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

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

15 **"§ 160A-58.51. Definitions.**

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

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

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

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

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

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

46 **"§ 160A-58.52. Authority to annex.**

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

49 **"§ 160A-58.53. Prerequisites to annexation.**

50 A municipality exercising authority under this Part shall make plans for the extension of
51 services to the area proposed to be annexed and shall, prior to the public hearing provided for in

- 1 G.S. 160A-58.55, prepare a report setting forth such plans to provide services to the area
2 proposed to be annexed. The report shall include the following:
- 3 (1) A map or maps of the municipality and adjacent territory to show the
4 following information:
- 5 a. The present and proposed boundaries of the municipality.
6 b. The present major trunk water mains and sewer interceptors and
7 outfalls, and the proposed extensions of such mains, outfalls, and
8 lines as required in subdivision (3) of this section. The water and
9 sewer map shall bear the seal of a registered professional engineer.
10 c. The general land use pattern in the area proposed to be annexed.
- 11 (2) A statement showing that the area proposed to be annexed meets the
12 requirements of G.S. 160A-58.54.
- 13 (3) A statement setting forth the plans for extending to the area proposed to be
14 annexed each major municipal service on substantially the same basis and in
15 the same manner as such services are provided within the rest of the
16 municipality prior to annexation and the method to finance the extension of
17 major municipal services into the area proposed to be annexed as follows:
- 18 a. Provision of police protection, fire protection, solid waste collection,
19 and street maintenance services on the effective date of annexation.
20 A contract with a rural fire department to provide fire protection shall
21 be an acceptable method of providing fire protection. A contract with
22 a private firm to provide solid waste collection services shall be an
23 acceptable method of providing solid waste collection services.
- 24 b. Extension of water and sewer services to each lot or parcel, if an
25 installation easement is provided by the affected property owner,
26 with a proposed timetable for construction of such mains, outfalls,
27 and lines within three and one-half years of the effective date of
28 annexation, in accordance with G.S. 160A-58.56.
- 29 (4) A statement of the impact of the annexation on any rural fire department
30 providing service in the area proposed to be annexed and a statement of the
31 impact of the annexation on fire protection and fire insurance rates in the
32 area proposed to be annexed, if the area where service is provided is in an
33 insurance district designated under G.S. 153A-233, a rural fire protection
34 district under Article 3A of Chapter 69 of the General Statutes, or a fire
35 service district under Article 16 of Chapter 153A of the General Statutes.
36 The rural fire department shall make available to the municipality not later
37 than 30 days following a written request from the municipality all
38 information in its possession or control, including operational, financial, and
39 budgetary information, necessary for preparation of a statement of impact.
40 The municipality shall, in a timely fashion, supply the rural fire department
41 with information requested by the rural fire department to respond to the
42 written request. The rural fire department forfeits its rights under
43 G.S. 160A-58.57 if it fails to make a good faith response within 45 days
44 following receipt of the written request for information from the
45 municipality, provided that the municipality's written request so states by
46 specific reference to this subdivision.
- 47 (5) A statement showing how the proposed annexation will affect the
48 municipality's finances and services, including municipal revenue change
49 estimates. This statement shall be delivered to the clerk of the board of
50 county commissioners at least 30 days before the date of the public
51 informational meeting on any annexation under this Part.

1 "§ 160A-58.54. Character of area to be annexed.

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

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

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

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

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

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

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

26 2. Has a total resident population equal to at least one person for
27 each acre of land included within its boundaries, and is
28 subdivided into lots and tracts such that at least sixty percent
29 (60%) of the total acreage consists of lots and tracts three
30 acres or less in size and such that at least sixty-five percent
31 (65%) of the total number of lots and tracts are one acre or
32 less in size.

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

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

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

46 II. The contract provides for the municipality to operate
47 the sewer system of that county water and sewer
48 district.

49 III. The municipality is annexing in one ordinance the
50 entire territory of the district not already within the
51 corporate limits of a municipality.

- 1 5. Is so developed that, at the time of the approval of the
2 annexation report, all tracts in the area to be annexed are used
3 for commercial, industrial, governmental, or institutional
4 purposes.
- 5 b. Part or all of the area to be annexed meets either of the following:
- 6 1. Lies between the municipal boundary and an area developed
7 for urban purposes so that the area developed for urban
8 purposes is either not adjacent to the municipal boundary or
9 cannot be served by the municipality without extending major
10 municipal services, including water or sewer lines, through
11 such sparsely developed area.
- 12 2. Is adjacent, on at least sixty percent (60%) of its external
13 boundary, to any combination of the municipal boundary and
14 the boundary of an area or areas developed for urban
15 purposes as defined in sub-subdivision a. of this subsection.
16 The purpose of paragraphs 1. and 2. of this sub-subdivision is to
17 permit municipal governing boards to extend corporate limits to
18 include all nearby areas developed for urban purposes and where
19 necessary to include areas which at the time of annexation are not yet
20 developed for urban purposes but which constitute necessary land
21 connections between the municipality and areas developed for urban
22 purposes or between two or more areas developed for urban
23 purposes.
- 24 c. The total area to be annexed is completely surrounded by the
25 municipality's primary corporate limits.
- 26 (b) In fixing new municipal boundaries and determining whether an area is developed
27 for urban purposes, a municipal governing board shall comply with all the following:
- 28 (1) Use recorded property lines and streets as boundaries. Some or all of the
29 boundaries of a county water and sewer district may also be used when the
30 entire district is not already within the corporate limits of the municipality.
- 31 (2) Use whole parcels of property in that if any portion of that parcel is
32 included, the entire parcel of real property as recorded in the deed
33 transferring title shall be included.
- 34 (3) Not use a connecting corridor consisting solely of the length of a street or
35 street right-of-way to establish contiguity.
- 36 (4) Not consider property in use for a commercial, industrial, institutional, or
37 governmental purpose if the lot or tract is used only temporarily,
38 occasionally, or on an incidental or insubstantial basis in relation to the size
39 and character of the lot or tract.
- 40 (5) Include acreage actually occupied by buildings or other man-made structures
41 together with all areas that are reasonably necessary and appurtenant to such
42 facilities for purposes of parking, storage, ingress and egress, utilities,
43 buffering, and other ancillary services and facilities when determining
44 acreage in use for commercial, industrial, institutional, or governmental
45 purposes.
- 46 (6) Consider the area of an abolished water and sewer district to be a water and
47 sewer district for the purpose of this section even after its abolition under
48 G.S. 162A-87.2(b).

49 **"§ 160A-58.55. Procedure for annexation.**

- 50 (a) Resolution of Consideration. – Any municipal governing board desiring to annex
51 territory under the provisions of this Part shall first pass a resolution of consideration

1 identifying the area under consideration for annexation by either a metes and bounds
2 description or a map. The resolution of consideration shall remain effective for two years after
3 adoption and be filed with the municipal clerk. A new resolution of consideration adopted
4 before expiration of the two-year period for a previously adopted resolution covering the same
5 area shall relate back to the date of the previous resolution. Adoption of a resolution of
6 consideration shall not confer prior jurisdiction over the area as to any other municipality.

7 (b) Notice of Resolution of Consideration. – A notice of the adoption of the resolution
8 of consideration shall be published once a week for two successive weeks, with each
9 publication being on the same day of the week, in a newspaper having general circulation in the
10 municipality. The second publication shall be no more than 30 days following adoption of the
11 resolution of consideration. The resolution of consideration shall contain a map or description
12 of the area under consideration and a summary of the annexation process and time lines. A
13 copy of the resolution of consideration shall be mailed within 30 days after the adoption of the
14 resolution of consideration by first class mail to the property owners of real property located
15 within the area under consideration for annexation as shown by the tax records of the county. If
16 a proposed annexation extends across a county border into a county other than the county where
17 the majority of the area of the existing municipality is located, a copy of the resolution of
18 consideration shall be mailed within 30 days after the adoption of the resolution of
19 consideration by first class mail to the clerk of the board of county commissioners of that
20 county.

21 (c) Resolution of Intent. – At least one year after adoption of the resolution of
22 consideration, the municipal governing body may adopt a resolution of intent of the
23 municipality to proceed with the annexation of some or all of the area described in the
24 resolution of consideration. The resolution of intent shall describe the boundaries of the area
25 proposed for annexation, fix a date for a public informational meeting, and fix a date for a
26 public hearing on the question of annexation. The date for the public informational meeting
27 shall be not less than 45 days and not more than 55 days following passage of the resolution of
28 intent. The date for the public hearing shall be not less than 130 days and not more than 150
29 days following passage of the resolution of intent.

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

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

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

50 (2) The combined notice shall be given by publication of the information
51 required by sub-subdivisions (1)a., b., and c. of this subsection and a

1 statement regarding the availability of the information required by the
2 remaining sub-subdivisions of subdivision (1) of this subsection in a
3 newspaper having general circulation in the municipality once a week for at
4 least two successive weeks prior to the date of the public informational
5 meeting, with each publication being on the same day of the week. The date
6 of the last publication shall be not more than 10 days preceding the date of
7 the public informational meeting. In addition thereto, if the area proposed to
8 be annexed lies in a county containing less than fifty percent (50%) of the
9 land area of the municipality, the same publication shall be given in a
10 newspaper having general circulation in the area of proposed annexation. If
11 there is no such newspaper, the municipality shall post the notice in at least
12 five public places within the municipality and at least five public places in
13 the area to be annexed for 30 days prior to the date of public informational
14 meeting.

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

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

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

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

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

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

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

44 b. The summary of the approved report.

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

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

49 e. Information for property owners on how to request to become a
50 customer of the water service or sewer service and all forms to
51 request that service.

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

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

6 (f) Public Informational Meeting. – At the public informational meeting, a
7 representative of the municipality shall first make an explanation of the report required in
8 G.S. 160A-58.53 and an explanation of the provision of major municipal services. The
9 explanation of the provision of services shall include how to request water service or sewer
10 service to individual lots, the average cost of a residential connection to the water and sewer
11 system, and the opportunity for installation of a residential connection under G.S. 160A-58.56.
12 A summary of the annexation process with time lines, a summary of available statutory
13 remedies for denying and appealing the annexation, an explanation of the provision of services,
14 and information for requesting water service or sewer service to individual lots and any forms
15 to so request shall also be distributed at the public informational meeting. Following such
16 explanation, all property owners and residents of the area proposed to be annexed as described
17 in the notice of public informational meeting and hearing, and all residents of the municipality
18 shall be given the opportunity to ask questions and receive answers regarding the proposed
19 annexation.

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

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

34 (1) Contain specific findings showing that the area to be annexed meets the
35 requirements of G.S. 160A-58.54.

36 (2) Describe the external boundaries of the area to be annexed by metes and
37 bounds.

38 (3) Include a statement of the intent of the municipality to provide services to
39 the area being annexed as set forth in the report required by G.S. 160A-58.53
40 and a time line for the provision of those services.

41 (4) Contain a specific finding that on the effective date of annexation, the
42 municipality will have funds appropriated in sufficient amount to finance
43 construction of any water and sewer lines stated in the report required by
44 G.S. 160A-58.53 to extend the water and sewer services into the area to be
45 annexed, or that on the effective date of annexation the municipality will
46 have authority to issue bonds in an amount sufficient to finance such
47 construction. If authority to issue such bonds shall be secured from the
48 electorate of the municipality prior to the effective date of annexation, then
49 the effective date of annexation shall be no earlier than the day following the
50 statement of the successful result of the bond election.

- 1 (5) Fix the effective date for annexation as June 30 next following the adoption
2 of the ordinance or the second June 30 following adoption of the ordinance,
3 but not before the completion of the water and sewer request and petition to
4 deny and appeal periods are complete.
- 5 (6) Together, with the list of the property owners of parcels within the area
6 described in the annexation ordinance to which a notice was mailed under
7 subsection (d) of this section, be delivered within five business days to the
8 tax assessor and the board of elections of the county in which a majority of
9 the municipality lies.
- 10 (7) Be summarized, and sent in accordance with subsection (i) of this section, to
11 the list of the property owners within the area described in the annexation
12 ordinance to which a notice was mailed under subsection (d) of this section
13 together with a blank petition form, preprinted with name and address of the
14 property owner.
- 15 (8) If a public body has a Web site, conspicuously post a copy of the petition to
16 deny annexation ordinance that a property owner in the real property located
17 within the area described in the annexation ordinance may download,
18 complete, and return to the county board of elections in accordance with
19 subsection (i) of this section.
- 20 (i) Petition to Deny Annexation Ordinance. – The following procedures shall apply to
21 this subsection:
- 22 (1) Upon receipt of the resolution of intent and a list of property owners of the
23 real property located within the area, the county tax assessor shall prepare a
24 list of the real property parcels within the area, and forward it to the board of
25 elections in the county where a majority of the parcels proposed for
26 annexation are located. The board of elections shall prepare petitions for
27 property owners of the real property located within the area described in the
28 resolution of intent to sign opposing the annexation ordinance.
- 29 (2) A petition shall include the names of the property owners of the parcel of
30 real property listed individually, a signature line for each owner, and a
31 statement that the person signing is petitioning to deny the annexation.
- 32 (3) The board of elections shall mail a petition to the address of record for those
33 real property owners within five business days of receipt from the county tax
34 assessor of the list.
- 35 (4) The board of elections shall provide two methods by which property owners
36 of the real property located within the area described in the annexation
37 ordinance may sign a petition form prepared by the board of elections: (i) in
38 person or (ii) by submitting the signed petition form by mail. The board of
39 elections shall also accept signatures signed on a petition form prepared by
40 the board of elections, but collected by another, if that petition form is
41 returned to the board of elections in a sealed container.
- 42 (5) If the signed petition is one that was mailed under subdivision (h)(7) of this
43 section and the signer is not the same as the preprinted name on the form, the
44 signed petition shall be notarized and accompanied by a copy of the legal
45 authority for the signature of the person signing a petition.
- 46 (6) If a petition is returned as undeliverable to the board of elections, the board
47 of elections shall send the petition return receipt requested. If the petition is
48 returned again, the board of elections shall not include that property owner
49 in the total number of eligible property owners.
- 50 (7) If there is a change in ownership of real property after the date of the
51 resolution of consideration until 30 days after the date of the adoption of the

- 1 annexation ordinance, the new owner of the real property shall be considered
2 the eligible owner of real property.
- 3 (8) The board of elections shall accept signatures on the petition until 130 days
4 after the adoption of the annexation ordinance.
- 5 (9) The determination of the results by the board of elections of the petition
6 period shall be observed by three property owners from the area proposed
7 for annexation, chosen by lot by the board of elections from among those
8 who request to serve in this role, and three persons designated by the
9 municipality. A majority of the property owners of a single parcel of real
10 property must sign the petition before the board of elections may count that
11 parcel as having submitted a petition to deny annexation.
- 12 (10) Within 10 business days after the close of the signature period, the board of
13 elections shall certify to the municipal governing body the number of
14 petitions signed by eligible property owners of the real property located
15 within the area described in the annexation ordinance.
- 16 (11) If the board of elections delivers to the municipal governing board petitions
17 signed by eligible property owners of at least sixty percent (60%) of the
18 parcels located within the area described in the annexation ordinance as
19 provided in this subsection, the annexation shall be terminated and the
20 municipality may not adopt a resolution of consideration for the area
21 described in the annexation ordinance for at least 36 months.
- 22 (12) This subsection shall not apply to any property owner of real property
23 located within the area described in the annexation ordinance that is
24 completely surrounded by the municipality's primary corporate limits.
- 25 (13) The municipality shall reimburse the board of elections the costs of the
26 petition process required under this subsection.
- 27 (j) Effect of Annexation Ordinance. – From and after the effective date of the
28 annexation ordinance, the territory and its citizens and property shall be subject to all debts,
29 laws, ordinances, and regulations in force in such municipality and shall be entitled to the same
30 privileges and benefits as other parts of such municipality.
- 31 (k) (reserved)
- 32 (l) (reserved)
- 33 (m) Simultaneous Annexation Proceedings. – If a municipality is considering the
34 annexation of two or more areas which are all adjacent to the municipal boundary but are not
35 adjacent to one another, it may undertake simultaneous proceedings under authority of this Part
36 for the annexation of such areas.
- 37 (n) Remedies for Failure to Provide Services. – If, not earlier than 30 days after the
38 effective date of annexation and not later than 15 months from the effective date of annexation,
39 any property owner in the annexed territory shall believe that the municipality has not followed
40 through providing services as set forth in the report adopted under G.S. 160A-58.53 and
41 subsection (e) of this section, the property owner may apply for a writ of mandamus. Relief
42 may be granted by the judge of superior court if the municipality has not provided the services
43 set forth in its plan submitted under the provisions of G.S. 160A-58.53(3)a. on substantially the
44 same basis and in the same manner as such services were provided within the rest of the
45 municipality prior to the effective date of annexation and those services are still being provided
46 on substantially the same basis and in the same manner within the original corporate limits of
47 the municipality. If a writ is issued, costs in the action, including reasonable attorneys' fees for
48 such aggrieved property owner, shall be charged to the municipality.
- 49 (o) Reports to the Local Government Commission. – The municipality shall report to
50 the Local Government Commission as follows:

1 (1) As to whether police protection, fire protection, solid waste services, and
2 street maintenance services were provided in accordance with
3 G.S. 160A-58.53(3)a., within 30 days after the effective date of the
4 annexation. Such report shall be filed no more than 30 days following the
5 expiration of the 30-day period. If the Local Government Commission
6 determines that the municipality failed to deliver police protection, fire
7 protection, solid waste services, or street maintenance services as provided
8 for in G.S. 160A-58.53(3)a. within 30 days after the effective date of the
9 annexation, the Local Government Commission shall notify the municipality
10 that the municipality may not count any of the residents as part of the
11 population of the municipality for the purpose of receiving any State,
12 federal, or county dollars distributed based on population until all of the
13 services are provided.

14 (2) As to whether the extension of water and sewer lines was completed within
15 the time period specified in G.S. 160A-58.53(3), within six months after the
16 effective date of the annexation ordinance, and again within three and
17 one-half years of the effective date of the annexation ordinance or upon the
18 completion of the installation, whichever occurs first. If the municipality
19 failed to deliver either water or sewer services, or both, as provided for in
20 G.S. 160A-58.53(3)b. within three and one-half years after the effective date
21 of the annexation, the municipality shall stop any other annexations in
22 progress and may not begin any other annexation until the water and sewer
23 services are provided. The municipality shall adopt a resolution of
24 consideration to begin again any annexation that is stopped due to this
25 subdivision.

26 **§ 160A-58.56. Provision of water and sewer service.**

27 (a) The municipality shall provide water and sewer service to the annexed area as
28 required by plans for extension under G.S. 160A-58.53(3) within three and one-half years of
29 the effective date of the annexation ordinance except as provided in subdivision (b)(4) of this
30 section. If (i) the residents in the existing city boundaries are served by a public water or sewer
31 system, or by a combination of a public water or sewer system and one or more nonprofit
32 entities providing service by contract with the public system, (ii) the annexing municipality
33 does not provide that service within the existing city boundaries, (iii) the area to be annexed is
34 in an area served by the public water or sewer system, and (iv) the municipality has no
35 responsibility through an agreement with the public water or sewer system to pay for the
36 extension of lines to areas annexed to the city, the city shall have no financial responsibility for
37 the extension of water and sewer lines under this section. For purposes of this provision,
38 "public water or sewer system" means a water or sewer authority formed under Article 1 of
39 Chapter 162A of the General Statutes; a metropolitan water or sewerage district formed under
40 Article 4 or Article 5 of Chapter 162A of the General Statutes; a county water or sewer district
41 formed under Article 6 of Chapter 162A of the General Statutes; a sanitary district formed
42 under Article 2 of Chapter 130A of the General Statutes; a county-owned water or sewer
43 system; a municipal-owned water or sewer system; a water or sewer utility created by an act of
44 the General Assembly; or a joint agency providing a water or sewer system by interlocal
45 agreement under Article 20 of Chapter 160A of the General Statutes.

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

50 (1) After passage of the resolution of intent, the property owner of real property
51 located within the area proposed to be annexed shall be notified in writing,

1 as provided in G.S. 160A-58.55(d), within five business days of the passage
2 of the resolution of intent, of the opportunity to have water and sewer lines
3 and connections installed at no cost to the property owner. The notice shall
4 state that a request for extending water and sewer lines does not waive the
5 right to contest the annexation. The property owners of real property located
6 within the area proposed to be annexed shall be allowed 65 days from the
7 date of the passage of the resolution of intent to respond yes or no to the
8 opportunity. Any property owner of a parcel that is an existing customer of
9 the municipality's water or sewer, whether provided by the municipality or
10 by a third party under contract with the municipality, shall be deemed to
11 respond yes to the opportunity, whether or not the property owner returns the
12 notification.

13 (2) At the close of the 65-day period, the municipality shall determine if the
14 eligible property owners of a majority of the parcels to be annexed have
15 responded favorably. A majority of the property owners of a single parcel of
16 real property must respond favorably before the municipality may count that
17 parcel of real property as responding favorably.

18 (3) If the property owners of a majority of the parcels located within the area
19 proposed to be annexed respond favorably, the municipality shall do all of
20 the following:

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

25 b. Notify, within five days of the close of the 65-day period under
26 subdivision (2) of this subsection, those property owners of real
27 property located within the area proposed to be annexed who failed
28 to respond or responded negatively that the property owners of a
29 majority of the parcels located within the area proposed to be
30 annexed responded favorably and offer a second opportunity for that
31 property owner to respond favorably within 30 days.

32 (4) If the property owners of a majority of the parcels located within the area
33 proposed to be annexed fail to respond favorably to the offer to obtain water
34 and sewer services made under this section, the municipality may
35 nevertheless proceed with the annexation. If the municipality proceeds with
36 the annexation when the property owners of a majority of the parcels located
37 within the area proposed to be annexed fail to respond favorably to the offer
38 to obtain water and sewer services, the municipality is not required to
39 provide water and sewer services to any property owners in the area that is
40 annexed. If the municipality does provide water and sewer services, and if a
41 property owner requests those services, the municipality may charge the
42 property owner for the connection to a residential lot as provided in
43 subsection (d) of this section during the first five years following the
44 effective date of the annexation. After five years, and only if connection is
45 requested by a property owner in accordance with subsection (e) of this
46 section, the municipality may charge for the connection according to the
47 municipality's policy.

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

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

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

25 (e1) The initial installation of water or sewer connection lines to property shall be
26 completed without charge to the property owner. Title to water or sewer connection lines shall
27 vest in the property owner following completion of the initial installation. The property owner
28 shall be responsible for maintenance and repair of water and sewer connection lines on the
29 owner's property following the initial installation.

30 (e2) If the municipality is unable to provide water or sewer service within three and
31 one-half years, as required by this section, due to permitting delays that are caused through no
32 fault of the municipality, the municipality may petition the Local Government Commission for
33 a reasonable time extension.

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

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

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

46 **"§ 160A-58.57. Contract with rural fire department.**

47 (a) If the area to be annexed described in a resolution of intent passed under
48 G.S. 160A-49(a)–G.S. 160A-58.55(c) includes an area in an insurance district defined under
49 G.S. 153A-233, a rural fire protection district under Article 3A of Chapter 69 of the General
50 Statutes, or a fire service district under Article 16 of Chapter 153A of the General Statutes, and
51 a rural fire department was on the date of adoption of the resolution of intent providing fire

1 protection in the area to be annexed, then the city (if the rural fire department makes a written
2 request for a good faith offer, and the request is signed by the chief officer of the fire
3 department and delivered to the city clerk no later than 15 days before the public hearing) is
4 required to make a good faith effort to negotiate a five-year contract with the rural fire
5 department to provide fire protection in the area to be annexed.

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

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

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

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

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

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

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

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

44 **"§ 160A-58.58. Assumption of debt.**

45 (a) If the city has annexed any area which is served by a rural fire department and
46 which is in an insurance district defined under G.S. 153A-233, a rural fire protection district
47 under Article 3A of Chapter 69 of the General Statutes or a fire service district under Article 16
48 of Chapter 153A of the General Statutes, then upon the effective date of annexation if the city
49 has not contracted with the rural fire department for fire protection, or when the rural fire
50 department ceases to provide fire protection under contract, then the city shall pay annually a
51 proportionate share of any payments due on any debt (including principal and interest) relating

1 to facilities or equipment of the rural fire department, if the debt was existing at the time of
2 adoption of the resolution of intent, with the payments in the same proportion that the assessed
3 valuation of the area of the district annexed bears to the assessed valuation of the entire district
4 on the date the annexation ordinance becomes effective or another date for valuation mutually
5 agreed upon by the city and the fire department.

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

9 **"§ 160A-58.59. Contract with private solid waste collection firms.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 (h) A firm which has given notice under subsection (a) of this section that it desires to
47 contract, and any firm that the city believes is eligible to give such notice, shall make available
48 to the city not later than 30 days following a written request of the city, sent by certified mail
49 return receipt requested, all information in its possession or control, including but not limited to
50 operational, financial and budgetary information, necessary for the city to determine if the firm
51 qualifies for the benefits of this section and to determine the nature and scope of the potential

1 contract and/or economic loss. The firm forfeits its rights under this section if it fails to make a
2 good faith response within 30 days following receipt of the written request for information
3 from the city, provided that the city's written request so states by specific reference to this
4 section.

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

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

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

16 **"§ 160A-58.60. Appeal.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (3) Remand the report to the municipal governing board for amendment of the
13 plans for providing services to the end that the provisions of
14 G.S. 160A-58.53 are satisfied or to correct errors in municipal governing
15 board's estimates that fall below the standards in G.S. 160A-58.63.

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

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

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

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

36 (j) If a petition for review is filed under subsection (a) of this section or an appeal is
37 filed under G.S. 160A-58.57(g) or G.S. 160A-58.59(g) and a stay is granted, then the time
38 periods of three and one-half years or G.S. 160A-58.55(n) are each extended by the lesser of
39 the length of the stay or one year for that annexation.

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

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

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

50 (n) If a final court order is issued against the annexing municipality, costs in the action,
51 including reasonable attorneys' fees for such aggrieved person having a freehold interest in the

1 real property located within the area described in the annexation ordinance, may be charged to
2 the municipality.

3 **"§ 160A-58.61. Annexation recorded.**

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

14 **"§ 160A-58.62. Authorized expenditures.**

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

23 **"§ 160A-58.63. Population and land estimates.**

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

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

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

49 **"§ 160A-31. Annexation by petition.**

50 (a) The governing board of any municipality may annex by ordinance any area
51 contiguous to its boundaries upon presentation to the governing board of a petition signed by

1 the owners of all the real property located within such area. The petition shall be signed by each
2 owner of real property in the area and shall contain the address of each such owner.`

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

4 DATE:

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

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

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

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

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

23 DATE:

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

26 1. We the undersigned owners of real property believe that the area described in paragraph
27 2 below meets the requirements of G.S. 160A-31(b1) and respectfully request that the area
28 described in paragraph 2 below be annexed to the (City or Town) of _____.

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

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

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

1 (d1) Upon a finding that a petition submitted under subsection (j) of this section meets
2 the requirements of this section, the governing body shall have the authority to adopt an
3 annexation ordinance for the area with an effective date no later than 24 months after the
4 adoption of the ordinance.

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

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

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

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

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

1 shall be liable for taxes imposed in such ordinance from and after the effective date of
2 annexation.

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

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

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

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

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

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

40 DATE:

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

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

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

48 (l) For purposes of determining whether the percentage of households in the area
49 petitioning for annexation meets the poverty thresholds under subsections (b1) and (j) of this
50 section, the petitioners shall submit to the municipal governing board any reasonable evidence
51 that demonstrates the area in fact meets the income requirements of that subsection. The

1 evidence presented may include data from the most recent federal decennial census, other
2 official census documents, signed affidavits by at least one adult resident of the household
3 attesting to the household size and income level, or any other documentation verifying the
4 incomes for a majority of the households within the petitioning area. Petitioners may select to
5 submit name, address, and social security number to the clerk, who shall in turn submit the
6 information to the Department of Revenue. Such information shall be kept confidential and is
7 not a public record. The Department shall provide the municipality with a summary report of
8 income for households in the petitioning area. Information for the report shall be gleaned from
9 income tax returns, but the report submitted to the municipality shall not identify individuals or
10 households."

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

13 **"Part 8.**

14 **"Recording and Reporting.**

15 **"§ 160A-58.90. Recording and Reporting.**

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

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

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

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

25 ...

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

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

32 **"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking**
33 **Water Reserve.**

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

38 ...

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

44"

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

49 **SECTION 13.** If any provision of this act or its application is held invalid, the
50 invalidity does not affect other provisions or applications of this act that can be given effect

1 without the invalid provisions or application, and to this end the provisions of this act are
2 severable.

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