

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 63\*

Short Title: Annexation Changes.

(Public)

Sponsors: Senators Hartsell; Cochrane and Odom.

Referred to: Judiciary.

February 6, 1997

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE ANNEXATION LAWS.

The General Assembly of North Carolina enacts:

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

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

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

- (1) A map or maps of the municipality and adjacent territory to show the following information:
  - a. The present and proposed boundaries of the municipality.
  - b. The proposed extensions of water mains and sewer outfalls to serve the annexed area, if such utilities are operated by the municipality. The water and sewer map must bear the seal of a registered professional engineer or a licensed surveyor.
- (2) A statement showing that the area to be annexed meets the requirements of G.S. 160A-36.
- (3) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within

1 the municipality at the time of annexation. Specifically, such plans  
2 shall:

3 a. Provide for extending police protection, fire protection, solid  
4 waste collection and street maintenance ~~services—services,~~  
5 including street lighting, to the area to be annexed on the date of  
6 annexation on ~~substantially~~ the same basis and in the same  
7 manner as such services are provided within the rest of the  
8 municipality prior to annexation. A contract with a rural fire  
9 department to provide fire protection shall be an acceptable  
10 method of providing fire protection. If a water distribution  
11 system is not available in the area to be annexed, the plans must  
12 call for reasonably effective fire protection services until such  
13 time as waterlines are made available in such area under existing  
14 municipal policies for the extension of waterlines. A contract  
15 with a private firm to provide solid waste collection services  
16 shall be an acceptable method of providing solid waste collection  
17 services.

18 b. Provide for extension of major water mains and sewer outfall  
19 lines into the area to be annexed so that property owners in the  
20 area to be annexed will be able to secure public water and sewer  
21 ~~services—services.~~ The municipality shall extend secondary water  
22 and sewer lines and connector water and sewer lines according to  
23 the financial policies in effect in such municipality for extending  
24 water and sewer lines to individual lots or subdivisions. If the  
25 municipality must, at its own expense, extend water and/or sewer  
26 mains into the area to be annexed before property owners in the  
27 area can, according to municipal policies, make such connection  
28 to such lines, then the plans must call for contracts to be let and  
29 construction to begin on such lines within one year following the  
30 effective date of annexation.

31 c. Set forth the method under which the municipality plans to  
32 finance extension of services into the area to be annexed.

33 d. Provide for street paving service on substantially the same basis  
34 and in the same manner as that service is provided within the rest  
35 of the municipality prior to the annexation.

36 e. Include a summary of city police, fire, solid waste, street  
37 maintenance and paving, water and sewer services provided to  
38 current city residents as of 90 days prior to the date set for the  
39 public hearing. The summary shall specify, at a minimum, the  
40 number of personnel employed by the municipality for police and  
41 fire protection, the services provided as part of police and fire  
42 protection, the increase in personnel or equipment, if any,  
43 planned as a result of the annexation and the method the

1                    municipality used to calculate present level of service, including,  
2                    if applicable, personnel to population ratios and average response  
3                    times.

4            (4) A statement of the impact of the annexation on any rural fire department  
5            providing service in the area to be annexed and a statement of the  
6            impact of the annexation on fire protection and fire insurance rates in  
7            the area to be annexed, if the area where service is provided is in an  
8            insurance district designated under G.S. 153A-233, a rural fire  
9            protection district under Article 3A of Chapter 69 of the General  
10            Statutes, or a fire service district under Article 16 of Chapter 153A of  
11            the General Statutes. The rural fire department shall make available to  
12            the city not later than 30 days following a written request from the city  
13            all information in its possession or control, including but not limited to  
14            operational, financial and budgetary information, necessary for  
15            preparation of a statement of impact. The rural fire department forfeits  
16            its rights under G.S. 160A-37.1 and G.S. 160A-37.2 if it fails to make a  
17            good faith response within 45 days following receipt of the written  
18            request for information from the city, provided that the city's written  
19            request so states by specific reference to this section.

20            (5) A statement containing the classification as to use and size of each lot or  
21            tract in the area to be annexed.

22            (6) A clear and easily understandable statement notifying persons affected  
23            by the annexation of their right to appeal under G.S. 160A-38 and the  
24            remedy under G.S. 160A-37(h) for failure of the city to provide  
25            services.

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

31            Section 2. G.S. 160A-36 reads as rewritten:

32    **"§ 160A-36. Character of area to be annexed.**

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

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

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

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

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

5 (4) No part of the area to be annexed shall be located in a county other than  
6 the county with a majority of the municipality's residents, unless areas  
7 previously added to the municipality in another county include at least  
8 1,000 persons.

9 (5) No lot or tract in the area to be annexed shall be in use for bona fide  
10 farm purposes as defined in G.S. 153A-340.

11 (c) The area to be annexed must be developed for urban ~~purposes.~~purposes at the  
12 time of the public hearing for the annexation ordinance. For purposes of this section,  
13 area of streets and rights-of-way shall not be used to determine total acreage or acreage of  
14 lots and tracts under this section. For purposes of this section, 'right-of-way' means a  
15 recorded right-of-way, or if none is recorded, a presumptive 60-foot right-of-way. An  
16 area developed for urban purposes is defined as ~~any~~ as:

17 (1) Any area which is so developed that at least sixty percent (60%) of the  
18 total number of lots and tracts in the area at the time of annexation are  
19 used for residential, commercial, industrial, institutional or  
20 governmental purposes, and is subdivided into lots and tracts such that  
21 at least sixty percent (60%) of the total acreage, not counting the  
22 acreage used at the time of annexation for commercial, industrial,  
23 governmental or institutional purposes, consists of lots and tracts five  
24 acres or less in ~~size.~~ size; or

25 (2) An area so developed that at the time of annexation, all tracts in the area  
26 to be annexed are used for commercial, industrial, governmental or  
27 institutional purposes; or

28 (3) ~~An area developed for urban purposes is also the~~The entire area of any  
29 county water and sewer district created under G.S. 162A-86(b1), but  
30 this ~~sentence~~ subsection only applies to annexation by a municipality if  
31 that:

32 (1)a. Municipality has provided in a contract with that district  
33 that the area is developed for urban purposes; and

34 (2)b. Contract provides for the municipality to operate the  
35 sewer system of that county water and sewer district;

36 provided that the special categorization provided by this ~~sentence~~subsection only applies  
37 if the municipality is annexing in one proceeding the entire territory of the district not  
38 already within the corporate limits of a municipality.

39 (d) In fixing new municipal boundaries, a municipal governing board shall,  
40 wherever practical, use natural topographic features such as ridge lines and streams and  
41 creeks as boundaries, and may use streets as boundaries. Some or all of the boundaries of  
42 a county water and sewer district may also be used when the entire district not already  
43 within the corporate limits of a municipality is being annexed.

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

4 Section 3. G.S. 160A-37(b) reads as rewritten:

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

6 (1) Fix the date, hour and place of the public hearing.

7 (2) Describe clearly the boundaries of the area under consideration, and  
8 include a legible map of the area.

9 (3) Include a clear and easily understandable statement notifying persons  
10 affected by the annexation of their right to appeal under G.S. 160A-38  
11 and the remedy under G.S. 160A-37(h) for failure of the city to provide  
12 services.

13 ~~(3)~~(4) State that the report required in G.S. 160A-35 will be available at the  
14 office of the municipal clerk at least 30 days prior to the date of the  
15 public hearing.

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

36 If the governing board by resolution finds that the tax records are not adequate to  
37 identify the owners of some or all of the parcels of real property within the area it may in  
38 lieu of the mail procedure as to those parcels where the owners could not be so identified,  
39 post the notice at least 30 days prior to the date of public hearing on all buildings on such  
40 parcels, and in at least five other places within the area to be annexed. In any case where  
41 notices are placed on property, the person placing the notice shall certify that fact to the  
42 governing board."

43 Section 4. G.S. 160A-37(d) reads as rewritten:

1       "(d) Public Hearing. – At the public hearing a representative of the municipality  
2 shall first make an explanation of the report required in ~~G.S. 160A-35.~~ G.S. 160A-35,  
3 including appeal rights as summarized in G.S. 160A-35(6). Following such explanation,  
4 all persons resident or owning property in the territory described in the notice of public  
5 hearing, and all residents of the municipality, shall be given an opportunity to be heard."

6           Section 5. G.S. 160A-38 is amended by adding a new subsection to read:

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

11           Section 6. G.S. 160A-42 reads as rewritten:

12 **"§ 160A-42. Land estimates.**

13       In determining degree of land subdivision for purposes of meeting the requirements of  
14 G.S. 160A-36, the municipality shall use methods calculated to provide reasonably  
15 accurate results. In determining whether the standards set forth in G.S. 160A-36 have  
16 been met on appeal to the superior court under G.S. 160A-38, the reviewing court shall  
17 accept the estimates of the ~~municipality;~~ municipality as provided in this section unless the  
18 actual total area or degree of subdivision falls below the standards in G.S. 160A-36:

19           (1) As to total area if the estimate is based on an actual survey, or on  
20 county tax maps or records, or on aerial photographs, or on some other  
21 reasonably reliable map used for official purposes by a governmental  
22 agency unless the petitioners on appeal demonstrate that such estimates  
23 are in error in the amount of five percent (5%) or more.

24           (2) As to degree of land subdivision, if the estimates are based on an actual  
25 survey, or on county tax maps or records, or on aerial photographs, or  
26 on some other reasonably reliable source, unless the petitioners on  
27 appeal show that such estimates are in error in the amount of five  
28 percent (5%) or more."

29           Section 7. G.S. 160A-47 reads as rewritten:

30 **"§ 160A-47. Prerequisites to annexation; ability to serve; report and plans.**

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

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

- 37           a. The present and proposed boundaries of the municipality.  
38           b. The present major trunk water mains and sewer interceptors and  
39 outfalls, and the proposed extensions of such mains and outfalls  
40 as required in subdivision (3) of this section. The water and  
41 sewer map must bear the seal of a registered professional  
42 engineer.  
43           c. The general land use pattern in the area to be annexed.

- 1           (2) A statement showing that the area to be annexed meets the requirements  
2           of G.S. 160A-48.
- 3           (3) A statement setting forth the plans of the municipality for extending to  
4           the area to be annexed each major municipal service performed within  
5           the municipality at the time of annexation. Specifically, such plans  
6           shall:
- 7           a. Provide for extending police protection, fire protection, solid  
8           waste collection and street maintenance ~~services—services,~~  
9           including street lighting, to the area to be annexed on the date of  
10           annexation on ~~substantially~~ the same basis and in the same  
11           manner as such services are provided within the rest of the  
12           municipality prior to annexation. A contract with a rural fire  
13           department to provide fire protection shall be an acceptable  
14           method of providing fire protection. If a water distribution  
15           system is not available in the area to be annexed, the plans must  
16           call for reasonably effective fire protection services until such  
17           time as waterlines are made available in such area under existing  
18           municipal policies for the extension of waterlines. A contract  
19           with a private firm to provide solid waste collection services  
20           shall be an acceptable method of providing solid waste collection  
21           services.
- 22           b. Provide for extension of major trunk water mains and sewer  
23           outfall lines into the area to be annexed so that when such lines  
24           are constructed, property owners in the area to be annexed will  
25           be able to secure public water and sewer ~~service—service.~~ The  
26           municipality shall extend secondary water and sewer lines and  
27           connector water and sewer lines according to the financial  
28           policies in effect in such municipality for extending water and  
29           sewer lines to individual lots or subdivisions. If requested by the  
30           owner of an occupied dwelling unit or an operating commercial  
31           or industrial property in writing on a form provided by the  
32           municipality, which form acknowledges that such extension or  
33           extensions will be made according to the current financial  
34           policies of the municipality for making such extensions, and if  
35           such form is received by the city clerk not less than 30 days  
36           before adoption of the annexation ordinance, provide for  
37           extension of water and sewer lines to the property or to a point on  
38           a public street or road right-of-way adjacent to the property  
39           according to the financial policies in effect in such municipality  
40           for extending water and sewer lines. If any such requests are  
41           timely made, the municipality shall at the time of adoption of the  
42           annexation ordinance amend its report and plan for services to  
43           reflect and accommodate such requests.

- 1 c. If extension of major trunk water mains, sewer outfall lines,  
2 sewer lines and water lines is necessary, set forth a proposed  
3 timetable for construction of such mains, outfalls and lines as  
4 soon as possible following the effective date of annexation. In  
5 any event, the plans shall call for construction to be completed  
6 within two years of the effective date of annexation.
- 7 d. Set forth the method under which the municipality plans to  
8 finance extension of services into the area to be annexed.
- 9 e. Provide for street paving service on substantially the same basis  
10 and in the same manner as that service is provided within the rest  
11 of the municipality prior to the annexation.
- 12 f. Include a summary of city police, fire, solid waste, street  
13 maintenance and paving, water and sewer services provided to  
14 current city residents as of 90 days prior to the date set for the  
15 public hearing. The summary shall specify, at a minimum, the  
16 number of personnel employed by the municipality for police and  
17 fire protection, the services provided as part of police and fire  
18 protection, the increase in personnel or equipment, if any,  
19 planned as a result of the annexation and the method the  
20 municipality used to calculate present level of service, including,  
21 if applicable, personnel to population ratios and average response  
22 times.

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

- 39 (5) If the lot or tract standard was used to qualify the area, the report shall  
40 state the classification of each lot or tract in the area to be annexed as to  
41 use and size. If a population standard was used to qualify the area, the  
42 report shall state how the population estimate of the area was  
43 determined.



1           (6) A clear and easily understandable statement notifying persons affected  
2 by the annexation of their right to appeal under G.S. 160A-50, the right  
3 to request water and sewer services under subdivision (3)b. of this  
4 section, and the remedies under G.S. 160A-49(h) and (k) for failure of  
5 the city to provide services.

6           (7) A statement showing how the proposed annexation will affect the city's  
7 finances and services, including city revenue change estimates. This  
8 statement shall be delivered to the clerk of the board of county  
9 commissioners at least 30 days before the date of any public hearing on  
10 any annexation under this Part at the time of the public hearing for the  
11 annexation ordinance."

12           Section 8. G.S. 160A-48 reads as rewritten:

13 **"§ 160A-48. Character of area to be annexed.**

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

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

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

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

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

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

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

31           (4) No part of the area to be annexed shall be located in a county other than  
32 the county with a majority of the municipality's residents, unless areas  
33 previously added to the municipality in another county include at least  
34 1,000 persons.

35           (5) No lot or tract in the area to be annexed shall be in use for bona fide  
36 farm purposes as defined in G.S. 153A-340.

37           (c) Part or all of the area to be annexed must be developed for urban ~~purposes.~~  
38 purposes at the time of the public hearing for the annexation ordinance. Area of streets  
39 and rights-of-way shall be used only to determine total resident population per acre of  
40 land in this section. An area developed for urban purposes is defined as any area which  
41 meets any one of the following standards:

42           (1) Has a total resident population equal to at least two persons for each  
43 acre of land included within its boundaries; or

- 1           (2) Has a total resident population equal to at least one person for each acre  
2 of land included within its boundaries, and is subdivided into lots and  
3 tracts such that at least sixty percent (60%) of the total acreage consists  
4 of lots and tracts five acres or less in size and such that at least sixty-five  
5 percent (65%) of the total number of lots and tracts are one acre or less  
6 in size; or
- 7           (3) Is so developed that at least sixty percent (60%) of the total number of  
8 lots and tracts in the area at the time of annexation are used for  
9 residential, commercial, industrial, institutional or governmental  
10 purposes, and is subdivided into lots and tracts such that at least sixty  
11 percent (60%) of the total acreage, not counting the acreage used at the  
12 time of annexation for commercial, industrial, governmental or  
13 institutional purposes, consists of lots and tracts five acres or less in  
14 size; or
- 15           (4) Is the entire area of any county water and sewer district created under  
16 G.S. 162A-86(b1), but this subdivision only applies to annexation by a  
17 municipality if that:
- 18           a. Municipality has provided in a contract with that district that the  
19 area is developed for urban purposes; and
- 20           b. Contract provides for the municipality to operate the sewer  
21 system of that county water and sewer district;
- 22 provided that the special categorization provided by this subdivision  
23 only applies if the municipality is annexing in one proceeding the entire  
24 territory of the district not already within the corporate limits of a  
25 ~~municipality.~~ municipality; or
- 26           (5) Is so developed that at the time of annexation, all tracts in the area to be  
27 annexed are used for commercial, industrial, governmental or  
28 institutional purposes.
- 29           (d) In addition to areas developed for urban purposes, a governing board may  
30 include in the area to be annexed any area which does not meet the requirements of  
31 subsection (c) if such area either:
- 32           (1) Lies between the municipal boundary and an area developed for urban  
33 purposes so that the area developed for urban purposes is either not  
34 adjacent to the municipal boundary or cannot be served by the  
35 municipality without extending services and/or water and/or sewer lines  
36 through such sparsely developed area; or
- 37           (2) Is adjacent, on at least sixty percent (60%) of its external boundary, to  
38 any combination of the municipal boundary and the boundary of an area  
39 or areas developed for urban purposes as defined in subsection (c).

40           The purpose of this subsection is to permit municipal governing boards to extend  
41 corporate limits to include all nearby areas developed for urban purposes and where  
42 necessary to include areas which at the time of annexation are not yet developed for  
43 urban purposes but which constitute necessary land connections between the municipality

1 and areas developed for urban purposes or between two or more areas developed for  
2 urban purposes. For purposes of this subsection, 'necessary land connection' means an  
3 area which does not exceed twenty-five percent (25%) of the total area to be annexed.

4 (e) In fixing new municipal boundaries, a municipal governing board shall,  
5 wherever practical, use natural topographic features such as ridge lines and streams and  
6 creeks as boundaries, and may use streets as boundaries. Some or all of the boundaries of  
7 a county water and sewer district may also be used when the entire district not already  
8 within the corporate limits of a municipality is being annexed.

9 (f) The area of an abolished water and sewer district shall be considered to be a  
10 water and sewer district for the purpose of this section even after its abolition under G.S.  
11 162A-87.2(b)."

12 Section 9. G.S. 160A-49(b) reads as rewritten:

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

14 (1) Fix the date, hour and place of the public hearing.

15 (2) Describe clearly the boundaries of the area under consideration, and  
16 include a legible map of the area.

17 (3) State that the report required in G.S. 160A-47 will be available at the  
18 office of the municipal clerk at least 30 days prior to the date of the  
19 public hearing.

20 (4) Include a clear and easily understandable statement notifying persons  
21 affected by the annexation of their right to appeal under G.S. 160A-50,  
22 the right to request water and sewer services under G.S. 160A-47(3)b.,  
23 and the remedies under G.S. 160A-49(h) and (k) for failure of the city to  
24 provide services.

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

1 annexation unless it is shown that the requirements were not substantially complied with.  
2 If the governing board by resolution finds that the tax records are not adequate to identify  
3 the owners of some or all of the parcels of real property within the area it may in lieu of  
4 the mail procedure as to those parcels where the owners could not be so identified, post  
5 the notice at least 30 days prior to the date of public hearing on all buildings on such  
6 parcels, and in at least five other places within the area to be annexed. In any case where  
7 notices are placed on property, the person placing the notices shall certify that fact to the  
8 governing board."

9 Section 10. G.S. 160A-49(d) reads as rewritten:

10 "(d) Public Hearing. – At the public hearing a representative of the municipality  
11 shall first make an explanation of the report required in ~~G.S. 160A-47.~~ G.S. 160A-47,  
12 including appeal rights as summarized in G.S. 160A-47(6). Following such explanation,  
13 all persons resident or owning property in the territory described in the notice of public  
14 hearing, and all residents of the municipality, shall be given an opportunity to be heard."

15 Section 11. G.S. 160A-50 is amended by adding a new subsection to read:

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

20 Section 12. G.S. 160A-54 reads as rewritten:

21 "**§ 160A-54. Population and land estimates.**

22 In determining population and degree of land subdivision for purposes of meeting the  
23 requirements of G.S. 160A-48, the municipality shall use methods calculated to provide  
24 reasonably accurate results. In determining whether the standards set forth in G.S. 160A-  
25 48 have been met on appeal to the superior court under G.S. 160A-50, the reviewing  
26 court shall accept the estimates of the ~~municipality.~~ municipality unless the actual  
27 population, total area, or degree of land subdivision falls below the standards in G.S.  
28 160A-48:

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

1                   on some other reasonably reliable source, unless the petitioners on  
2                   appeal show that such estimates are in error in the amount of five  
3                   percent (5%) or more."

4                   Section 13. This act is effective when it becomes law.