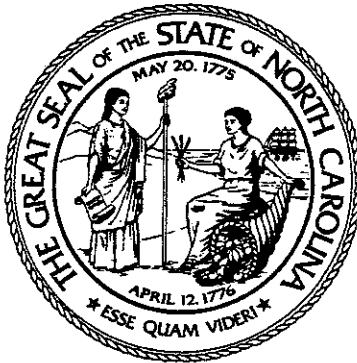


LEGISLATIVE RESEARCH COMMISSION

**Property Issues Committee**



REPORT TO THE  
1995 GENERAL ASSEMBLY  
OF NORTH CAROLINA  
1996 REGULAR SESSION

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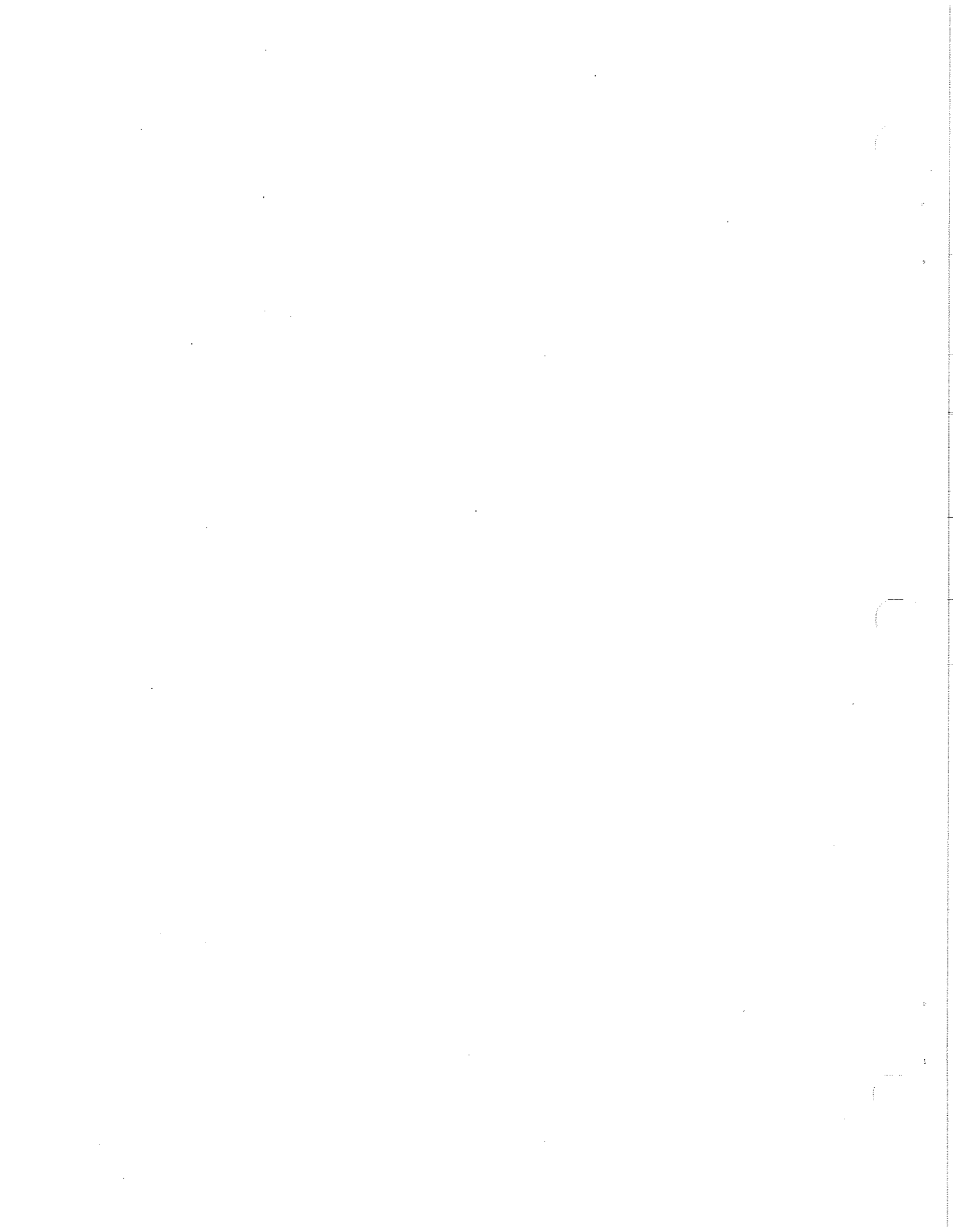
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1995-1996

LEGISLATIVE RESEARCH COMMISSION

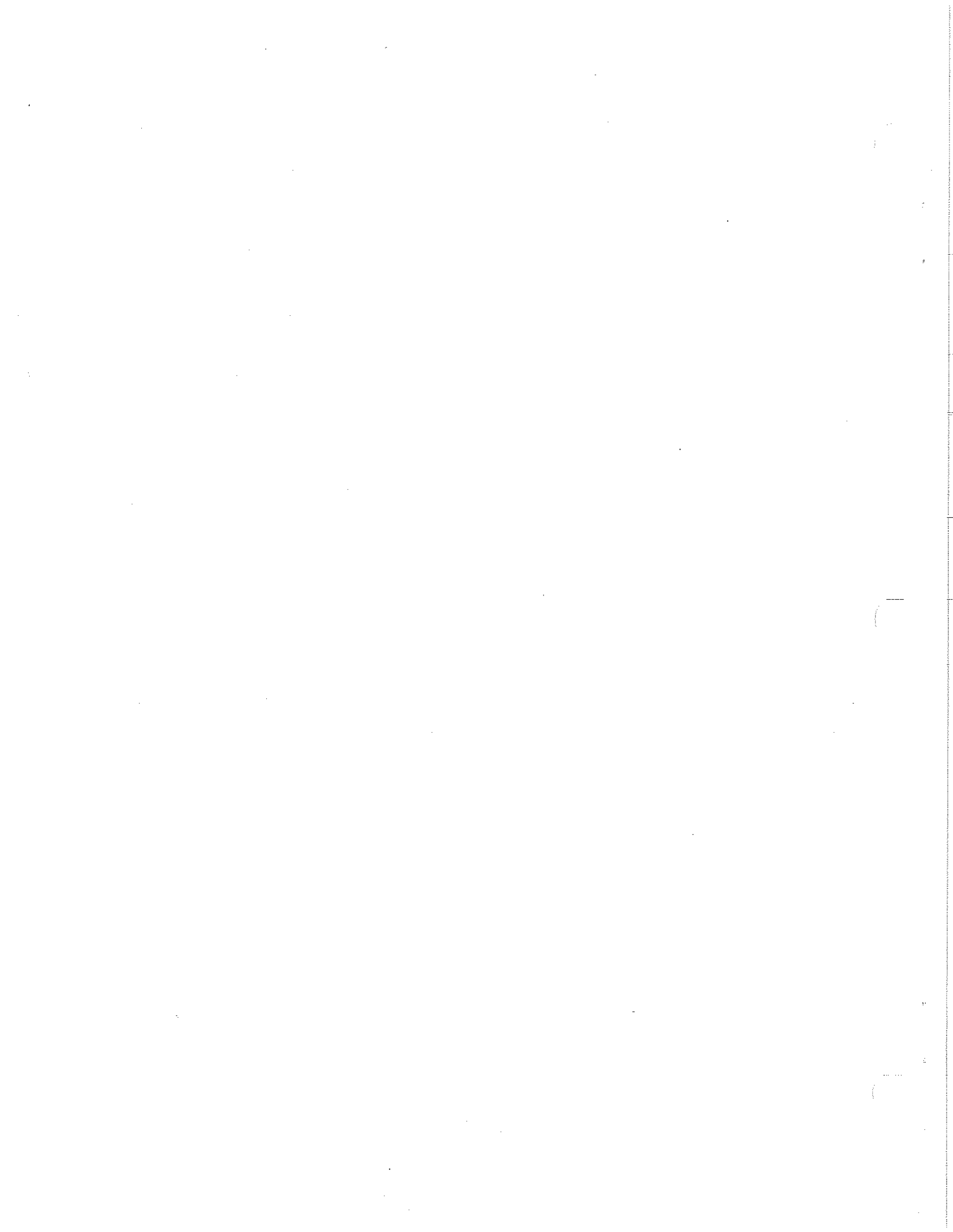
MEMBERSHIP

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## PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission, prompted by actions during the 1995 Session, has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of Property Issues was authorized by Section 2.1(18) of Chapter 542 of the 1995 Session Laws. Part II of Chapter 542 allows for studies authorized by that Part for the Legislative Research Commission to consider House Bills 73, 539, 597, and 660 in determining the nature, scope and aspects of the study. The relevant portions of Chapter 542 are included in Appendix A. The Legislative Research Commission authorized this study under authority of G.S. 120-30.17(1) and grouped this study in its Property Issues Grouping under the direction of Representative Larry Linney. The Committee was chaired by Senator Fletcher L. Hartsell, Jr. and Representative J. Sam

Ellis. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee will be filed in the Legislative Library at the conclusion of the committee's work.



## COMMITTEE PROCEEDINGS

**Please note:** This section is intended to give a brief summary of the work of the Committee from February through April, 1996. More complete committee minutes are available from Committee Clerk Frances Wilson, (919) 733-0033 until December, 1996. After that date, a permanent notebook recording the work of the committee will be deposited in the legislative library.

### Meeting on February 8, 1996

The Legislative Research Commission Property Issues Study Committee met for the first time at 10:00 a.m. on February 8, 1996 in Room 421 of the Legislative Office Building. The committee began its work with an overview of the laws governing the extraterritorial planing and zoning jurisdiction of cities in North Carolina, presented by Richard Ducker of the Institute of Government. The Committee next heard a presentation on North Carolina Annexation law from Mr. David Lawrence of the Institute of Government. The final speaker before the committee was Mr. Bill Thorp, noted Raleigh attorney in the area of municipal and DOT condemnation practices. The committee, during its discussion, identified several areas for further discussion at their next meeting, including tightening annexation standards, increasing county and citizen participation in the annexation process, and attorneys fees and evidence issues in municipal condemnation cases.

### Meeting on March 7, 1996

The second meeting of the Legislative Research Commission Property Issues Study Committee was held on March 7, 1996 in Room 421 of the legislative Office Building. The Committee spent most of the meeting discussing a bill draft to: (1) allow attorney fees, and (2) broader evidence of value, including all appraisals, to be introduced in municipal condemnation cases. The committee was assisted in its discussion by Mr. Bill Thorp, of the Thorp Law Firm, Raleigh. Following this discussion, the co-chairs appointed subcommittees on the topics of Annexation, Extraterritorial jurisdiction, and Condemnation. These Committees were directed to begin meeting on March 21, 1996.

### Meetings on March 21 and 22, 1996

The **SUBCOMMITTEE ON EXTRATERRITORIAL JURISDICTION** met on March 21, 1996 at 2:00 p.m. in Room 424 of the Legislative Office Building. The Committee heard from Mr. Marion Penny, Wake County developer, who discussed the negative effects of ETJ extension on his land; Mr. Melvin Watt, retired Chairman of the Planning and Zoning Board of Gastonia and Mr. Kyle Sonnenberg, Town Manager of Southern Pines, who reported positive working relationships between affected parties in their areas.

The **SUBCOMMITTEE ON CONDEMNATION** met on March 21 at 2:00 in Room 423 of the Legislative Office Building. The Committee discussed and approved draft providing for attorneys fees and broader introduction of valuation evidence in Chapter 40A condemnation proceedings, and began a discussion of the effect of similar legislation on DOT condemnation practices.

The **SUBCOMMITTEE ON ANNEXATION** held a five hour public hearing beginning at 6:30 p.m. in the Auditorium of the Legislative Building. The subcommittee listened to over fifty citizens from all over the state express their concerns about the State's annexation law. Representatives of several municipal governments expressed their support for the current annexation law, mentioning its importance to the economic vitality of cities. Many other citizens forcefully expressed opposition to involuntary annexation, and concern over city provision of services and abuses of annexation law technical standards. A full transcript of the meeting has been requested, and will be available from the committee clerk upon completion.

The **FULL COMMITTEE** met at 9:30 a.m. on March 22, 1996 in Room 423 of the Legislative Office Building. The Committee heard reports from each subcommittee, and requested legislation on extraterritorial jurisdiction and annexation for consideration at the next meeting.

#### **Meetings on April 4, 1996**

The **SUBCOMMITTEE ON EXTRATERRITORIAL JURISDICTION** met on April 4, 1996 at 10:00 a.m. in Room 424 of the Legislative Office Building. The Subcommittee discussed several proposed changes to the statutes, including county approval of ETJ extension, limits on city regulation in the ETJ, and new requirements for notice and appointment of representatives from the ETJ on planning boards/boards of adjustment. These proposals were forwarded to the full committee for further discussion.

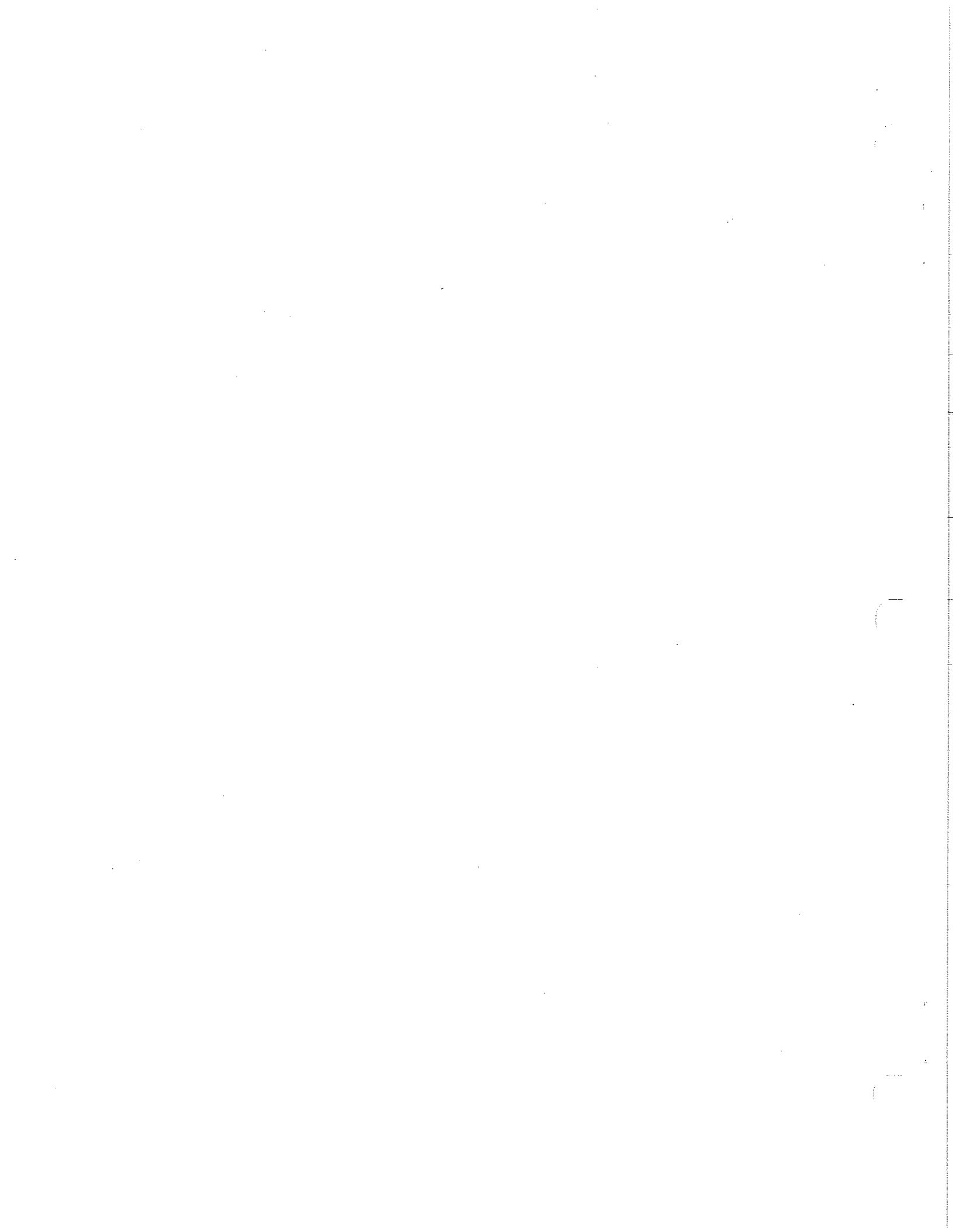
The **SUBCOMMITTEE ON CONDEMNATION** met on April 4, 1996 at 10:00 a.m. in Room 423 of the Legislative Office Building. The Committee reviewed a comparison of Chapter 40A (municipal) and Chapter 136 (DOT) condemnation law, and examined apparent statutory ambiguity in the law defining the rights of a condemnee to be returned excess property under Chapter 136.

The **SUBCOMMITTEE ON ANNEXATION** met on April 4, 1996 at 10:00 a.m. in Room 422 of the Legislative Office Building. The Subcommittee discussed draft legislation to require proposals to require county commissioner approval of annexation, and a proposal to change the technical requirements for annexation. The draft legislation affecting technical requirements was forwarded to the full committee for further discussion.

The **FULL COMMITTEE** met on April 4, 1996 at 2:00 p.m. in Room 421 of the Legislative Office Building. The Committee discussed and approved the legislation attached as Legislative Proposals I-IV.

**Meeting on April 18, 1996**

The full committee met at 10:00 a.m. on April 18, 1996 in Room 1228 of the Legislative Building to review and approve their report to the 1995 General Assembly (1996 Regular Session).



## RECOMMENDATIONS

The Committee recommends the following to the 1995 General Assembly (Regular Session 1996), titled as follows. The texts of these proposals may be found in the appendix.

### LEGISLATIVE PROPOSAL I --

A BILL TO BE ENTITLED AN ACT TO AMEND CHAPTER 40A GOVERNING CONDEMNATION TO AUTHORIZE AWARD OF ATTORNEYS FEES AND INTRODUCTION OF ANY EVIDENCE OF PROPERTY VALUE.

### LEGISLATIVE PROPOSAL II --

A BILL TO BE ENTITLED AN ACT TO CHANGE THE LAWS GOVERNING ANNEXATION BY CITIES WITH A POPULATION OF 5,000 OR MORE.

### LEGISLATIVE PROPOSAL III --

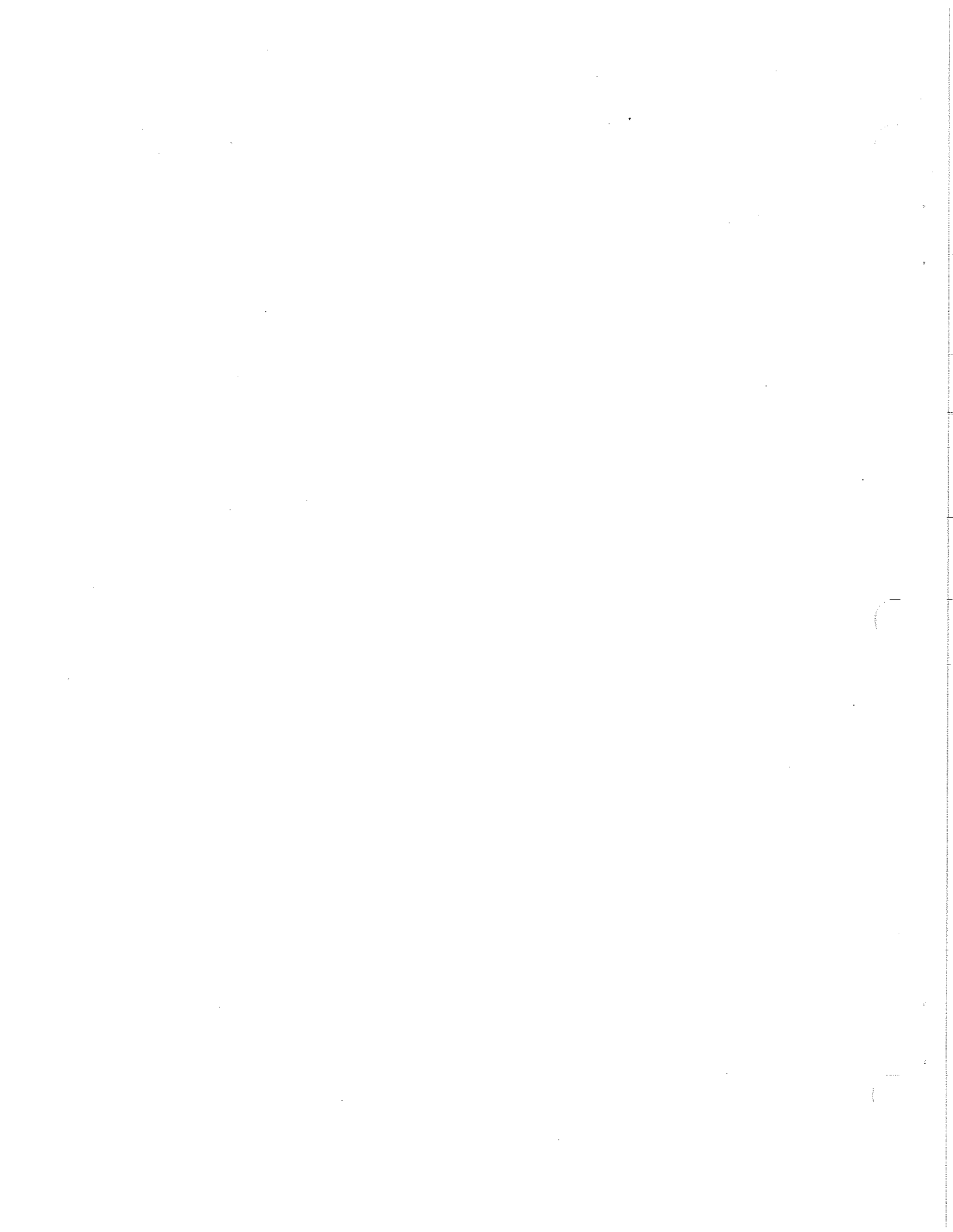
A BILL TO ENTITLED AN ACT TO CHANGE THE LAWS GOVERNING ANNEXATION BY CITIES WITH A POPULATION OF LESS THAN 5,000.

### LEGISLATIVE PROPOSAL IV --

A BILL TO BE ENTITLED AN ACT TO REQUIRE FIRST CLASS MAIL NOTICE TO ALL PROPERTY OWNERS IN AN AREA PROPOSED FOR ADDITION TO A MUNICIPALITY'S EXTRATERRITORIAL PLANNING AND ZONING JURISDICTION, PROPORTIONAL REPRESENTATION FOR RESIDENTS OF THE ETJ ON THE PLANNING AGENCY, AND A HEARING BEFORE COUNTY APPOINTMENT OF REPRESENTATION TO THE PLANNING AGENCY.

### RECOMMENDATION V --

Deferral of water and sewer assessments until hook-up



APPENDIX A

CHAPTER 542

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMISSIONS, TO DIRECT STATE AGENCIES AND LEGISLATIVE OVERSIGHT COMMITTEES AND COMMISSIONS TO STUDY SPECIFIED ISSUES, TO MAKE VARIOUS STATUTORY CHANGES, AND TO MAKE TECHNICAL CORRECTIONS TO CHAPTER 507 OF THE 1995 SESSION LAWS.

The General Assembly of North Carolina enacts:

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1995".

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Sec. 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the 1995 bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The topics are:

- ...
- (18) Property issues.
- a. Property rights (H.B. 597 - Nichols)
  - b. Extraterritorial jurisdiction representation (H.J.R. 73 - Ellis)
  - c. Annexation laws (H.B. 660 - Pulley; H.B. 539 - Sherrill)
  - d. Condemnation by government entities, including the condemnation process, fair market value for property, payment of condemnees' attorneys' fees and court costs, and related matters (Allred)

...

Sec. 2.9. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1996 Regular Session of the 1995 General Assembly, if approved by the cochairs, or the 1997 General Assembly, or both.

Sec. 2.10. Bills and Resolution References. The listing of the original bill or resolution in this Part is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

Sec. 2.11. Funding. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

...

PART XXVI.-----EFFECTIVE DATE

Sec. 26.1. This act is effective upon ratification.



**PROPERTY ISSUES COMMITTEE  
MEMBERSHIP  
1995 - 1996**

**LRC Member:** Rep. Larry Linney  
PO Box 7628  
Asheville, NC 28802  
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(704) 786-5161

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Raleigh, NC 27622

Mr. Dan Clodfelter  
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Mr. Webb Fuller  
Town of Nags Head  
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Dean Judith Wegner  
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**Staff:**

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Rep. Beverly Earle  
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Rep. John W. Hurley  
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(910) 483-6210

The Honorable Robert Northington, Jr.  
931 Englewood Drive  
Winston-Salem, NC 27106

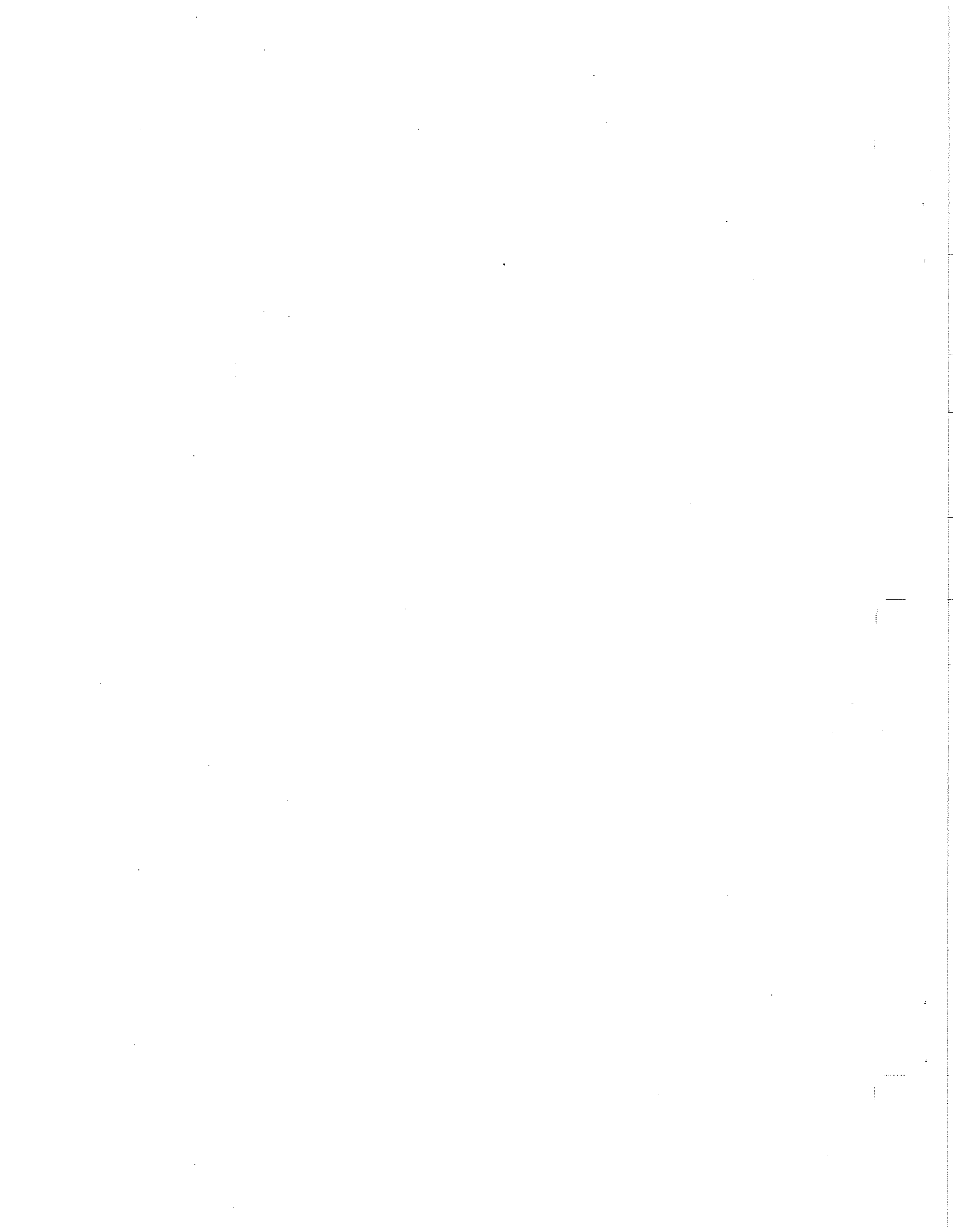
Rep. Arlene C. Pulley  
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Raleigh, NC 27612  
(919) 571-7414

Rep. Wilma M. Sherrill  
PO Box 18561  
Asheville, NC 28814  
(704) 254-0991

Rep. Larry W. Womble  
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Winston-Salem, NC 27107  
(910) 784-9373

**Clerk:**

Ms. Frances Wilson  
(919) 733-5821



LEGISLATIVE PROPOSAL I

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

96-RWZ-008B

THIS IS A DRAFT 22-APR-96 09:28:00

Short Title: Condemnation changes.

(Public)

---

Sponsors:

---

Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO AMEND CHAPTER 40A GOVERNING CONDEMNATION TO AUTHORIZE  
3 AWARD OF ATTORNEYS FEES, AND INTRODUCTION OF ANY EVIDENCE OF  
4 PROPERTY VALUE.  
5 The General Assembly of North Carolina enacts:  
6                   Section 1. G.S. 40A-8 is amended by adding a new  
7 subsection to read:  
8                   "(d) In addition to the other costs allowed under this  
9 Chapter, in any action brought under this Chapter in which the  
10 judgement awarded to the owner is an amount greater than:  
11                   (1) The highest formal offer of settlement made in  
12                   writing by the condemnor to the condemnee prior to  
13                   filing a petition under G.S. 40A-20, or  
14                   (2) the amount of the deposit under Article 3,  
15 the court with jurisdiction over the action shall, after making  
16 appropriate findings of fact, award each owner of the property  
17 sought to be condemned a sum that, in the opinion of the court  
18 based upon its findings of fact, will reimburse the owner for:  
19 reasonable costs, disbursements, and expenses, including  
20 reasonable attorney, appraisal, and engineering fees."

1           Sec. 2. Article 4 of Chapter 40A of the General  
2 Statutes is amended by adding a new section to read:

3 "§40A-71 Evidence of value.

4           In any proceeding to determine the value of property  
5 condemned under this Chapter,

6                   (1) Any formal offer of settlement made in writing  
7                   by the condemnor to the condemnee prior to filing a  
8                   petition under G.S. 40A-20,

9                   (2) The amount deposited under Article 3, or

10                   (3) Any other written evidence of value of the  
11                   property, other than property tax valuation.

12 shall be produced upon motion of any party to the proceeding, and  
13 shall be admissible into evidence."

14           Sec. 3. This act becomes effective October 1, 1996 and  
15 shall apply to pending litigation.

**SUMMARY**  
**Condemnation changes**  
**Draft 96-RWZ-008B**

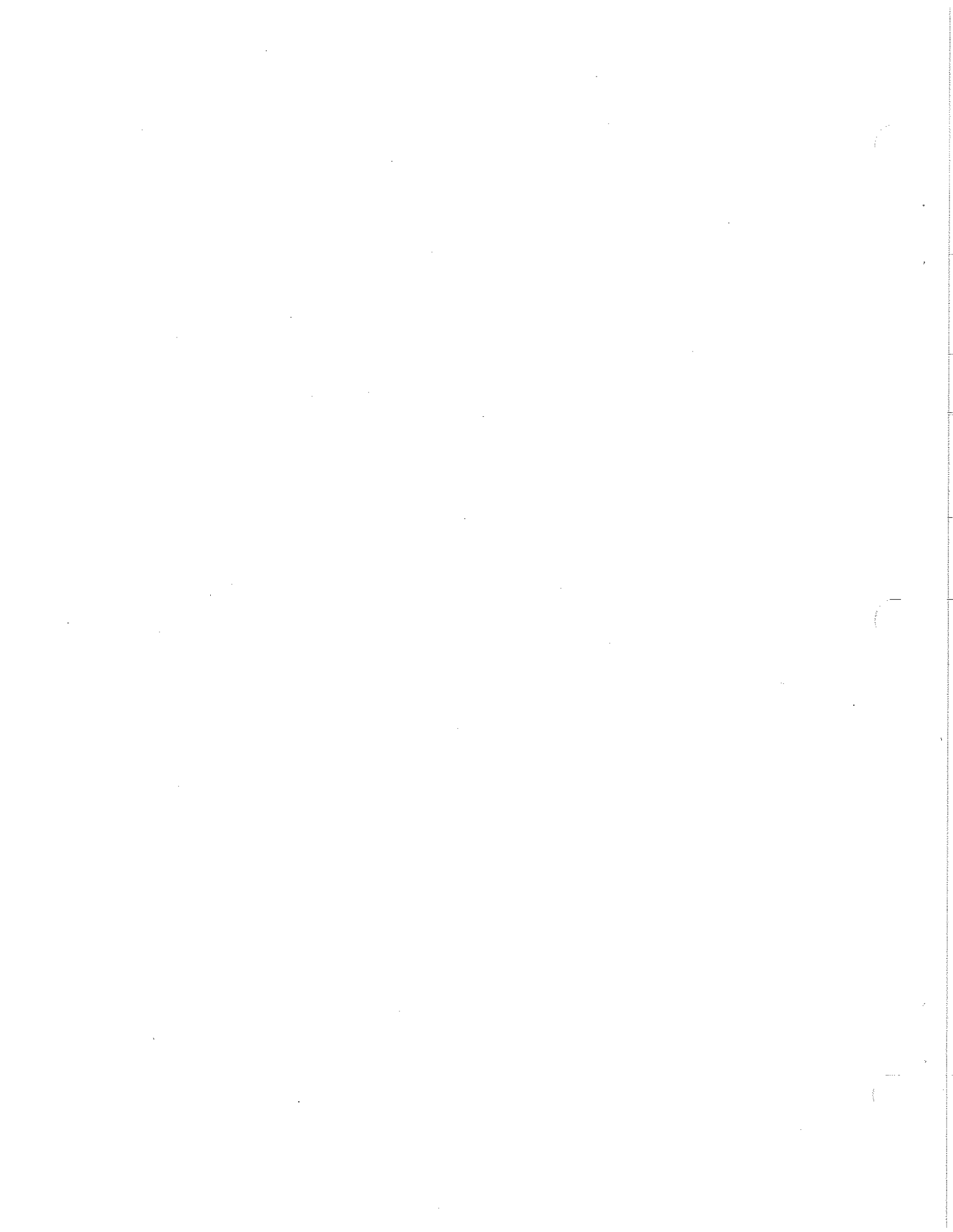
This bill amends the laws governing condemnation by municipalities and other private condemnors covered by Chapter 40A of the General Statutes.

**SECTION 1** of the bill authorizes attorney's fees to be paid in Chapter 40A condemnation actions if a condemnee, in any action to determine just compensation for the condemned property, is awarded more than:

- the highest formal offer in writing prior to filing a petition; or
- the amount of the deposit by the condemning authority.

**SECTION 2** of the bill allows additional evidence of the value of the condemned property to be introduced by either party in any proceeding brought to determine just compensation for the condemned property. Evidence of any formal offer of settlement made in writing, the amount deposited by the condemning authority, and any other written evidence of value of the property would be discoverable and admissible.

**SECTION 3** of the bill provides that it would become effective October 1, 1996, and apply to pending litigation.



LEGISLATIVE PROPOSAL II

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

96-RWZ-020D

THIS IS A DRAFT 22-APR-96 09:26:57

Short Title: Annexation Changes/Larger Cities. (Public)

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Sponsors:

---

Referred to:

---

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO CHANGE THE LAWS GOVERNING ANNEXATION BY CITIES WITH A  
3    POPULATION OF FIVE THOUSAND OR MORE.  
4 The General Assembly of North Carolina enacts:  
5        Section 1. G.S. 160A-47 reads as rewritten:  
6 "§ 160A-47. Prerequisites to annexation; ability to serve;  
7 report and plans.  
8    A municipality exercising authority under this Part shall make  
9 plans for the extension of services to the area proposed to be  
10 annexed and shall, prior to the public hearing provided for in  
11 G.S. 160A-49, prepare a report setting forth such plans to  
12 provide services to such area. The report shall include:  
13        (1) A map or maps of the municipality and adjacent  
14        territory to show the following information:  
15        a. The present and proposed boundaries of the  
16        municipality.  
17        b. The present major trunk water mains and sewer  
18        interceptors and outfalls, and the proposed  
19        extensions of such mains and outfalls as  
20        required in subdivision (3) of this section.

- 1                   The water and sewer map must bear the seal of  
2                   a registered professional engineer.
- 3           c.    The general land use pattern in the area to be  
4               annexed.
- 5           (2)   A statement showing that the area to be annexed  
6               meets the requirements of G.S. 160A-48.
- 7           (3)   A statement setting forth the plans of the  
8               municipality for extending to the area to be  
9               annexed each major municipal service performed  
10              within the municipality at the time of annexation.  
11              Specifically, such plans shall:
- 12           a.    Provide for extending police protection, fire  
13               protection, solid waste collection and street  
14               maintenance services to the area to be annexed  
15               on the date of annexation on substantially the  
16               same basis and in the same manner as such  
17               services are provided within the rest of the  
18               municipality prior to annexation. A contract  
19               with a rural fire department to provide fire  
20               protection shall be an acceptable method of  
21               providing fire protection. If a water  
22               distribution system is not available in the  
23               area to be annexed, the plans must call for  
24               reasonably effective fire protection services  
25               until such time as waterlines are made  
26               available in such area under existing  
27               municipal policies for the extension of  
28               waterlines. A contract with a private firm to  
29               provide solid waste collection services shall  
30               be an acceptable method of providing solid  
31               waste collection services.
- 32           b.    Provide for extension of major trunk water  
33               mains and sewer outfall lines into the area to  
34               be annexed so that when such lines are  
35               constructed, property owners in the area to be  
36               annexed will be able to secure public water  
37               and sewer service, according to the policies  
38               in effect in such municipality for extending  
39               water and sewer lines to individual lots or  
40               subdivisions. If requested by the owner of an



1 occupied dwelling unit or an operating  
2 commercial or industrial property in writing  
3 on a form provided by the municipality, which  
4 form acknowledges that such extension or  
5 extensions will be made according to the  
6 current financial policies of the municipality  
7 for making such extensions, and ~~if such form~~  
8 ~~is received by the city clerk not less than 30~~  
9 ~~days before adoption of the annexation~~  
10 ~~ordinance,~~ provide for extension of water and  
11 sewer lines to the property or to a point on a  
12 public street or road right-of-way adjacent to  
13 the property according to the financial  
14 policies in effect in such municipality for  
15 extending water and sewer lines. The  
16 municipality shall provide in writing a notice  
17 to each owner of an occupied dwelling unit or  
18 an operating commercial or industrial property  
19 of the owner's right to make this request on  
20 the provided form. If any such requests are  
21 timely made, the municipality shall at the  
22 time of adoption of the annexation ordinance  
23 amend its report and plan for services to  
24 reflect and accommodate such requests. If  
25 water, sewer, or paving services specified in  
26 the report for the area to be annexed are not  
27 provided within two years of the effective  
28 date of the annexation, the owner of property  
29 that has not received the water, sewer, or  
30 paving service shall be reimbursed for all ad  
31 valorem taxes paid to the municipality, and  
32 shall not be liable for future ad valorem  
33 taxes until the services are provided.

- 34 c. If extension of major trunk water mains, sewer  
35 outfall lines, sewer lines and water lines is  
36 necessary, set forth a proposed timetable for  
37 construction of such mains, outfalls and lines  
38 as soon as possible following the effective  
39 date of annexation. In any event, the plans  
40 shall call for construction to be completed

- 1                   within two years of the effective date of  
2                   annexation.
- 3           d.   Set forth the method under which the  
4           municipality plans to finance extension of  
5           services into the area to be annexed.
- 6           e.   Provide for paving all public roads within the  
7           area to be annexed, which are both under the  
8           control of the city and which meet the city  
9           standards for paving, within two years of the  
10           effective date of the annexation.
- 11           f.   Provide a specific statement as to how the  
12           city plans to provide the required services.
- 13       (4)   A statement of the impact of the annexation on any  
14       rural fire department providing service in the area  
15       to be annexed and a statement of the impact of the  
16       annexation on fire protection and fire insurance  
17       rates in the area to be annexed, if the area where  
18       service is provided is in an insurance district  
19       designated under G.S. 153A-233, a rural fire  
20       protection district under Article 3A of Chapter 69  
21       of the General Statutes, or a fire service district  
22       under Article 16 of Chapter 153A of the General  
23       Statutes.   The rural fire department shall make  
24       available to the city not later than 30 days  
25       following a written request from the city all  
26       information in its possession or control, including  
27       but not limited to operational, financial and  
28       budgetary information, necessary for preparation of  
29       a statement of impact.   The rural fire department  
30       forfeits its rights under G.S. 160A-49.1 and G.S.  
31       160A-49.2 if it fails to make a good faith response  
32       within 45 days following receipt of the written  
33       request for information from the city, provided  
34       that the city's written request so states by  
35       specific reference to this section.
- 36       (5)   A detailed statement as to how the city classified  
37       each lot or tract in the area to be annexed as to  
38       use and size.   If a population standard was used to  
39       qualify the area, the report shall state how the  
40       population estimate of the area was determined.

- 1           (6) A statement notifying persons affected by the  
2           annexation of their right to appeal under G.S.  
3           160A-50.
- 4           (7) A statement showing how the proposed annexation  
5           will affect the county's financing and services.  
6           This statement shall include changes in county  
7           revenues: local sales taxes, shares of beverage  
8           taxes, inspection fees, real estate transfer taxes,  
9           hotel occupancy taxes, water and sewer revenues,  
10           solid waste revenues, and any district property tax  
11           revenues where the county board of commissioners  
12           levies the tax. The statement shall also include  
13           changes in county services: water, sewer, law  
14           enforcement, fire, parks and recreation,  
15           inspections, land-use regulation, animal control,  
16           solid waste collection and disposal, solid waste  
17           franchises, rescue services, and emergency medical  
18           services. This statement shall be delivered to the  
19           clerk of the board of county commissioners at least  
20           60 days before the date of any public hearing on  
21           any annexation under this Part."

22           Sec. 2. G.S. 160A-48 reads as rewritten:

23   "**§160A-48. Character of area to be annexed.**

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

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

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

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

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

- 1 boundaries at the time the annexation proceeding is  
2 begun.
- 3 (2) At least one eighth of the aggregate external  
4 boundaries of the area must coincide with the  
5 municipal boundary.
- 6 (3) No part of the area shall be included within the  
7 boundary of another incorporated municipality.
- 8 (c) Part or all of the area to be annexed must be developed  
9 for urban purposes. An area developed for urban purposes is  
10 defined as any area which meets any one of the following  
11 standards:
- 12 (1) Has a total resident population equal to at least  
13 two persons for each acre of land included within  
14 its ~~boundaries;~~ boundaries, and with respect to any  
15 acreage in residential use has a total resident  
16 population of at least four persons per acre; or
- 17 (2) Has a total resident population equal to at least  
18 ~~one person~~ three persons for each acre of land  
19 included within its boundaries, and is subdivided  
20 into lots and tracts such that at least ~~sixty~~  
21 ~~percent (60%)~~ seventy percent (70%) of the total  
22 acreage consists of lots and tracts ~~five~~ three  
23 acres or less in size and such that at least sixty-  
24 five percent (65%) of the total number of lots and  
25 tracts are one acre or less in size; or
- 26 (3) Is so developed that at least sixty percent (60%)  
27 of the total number of lots and tracts in the area  
28 at the time of annexation are used for residential,  
29 commercial, industrial, institutional or  
30 governmental purposes, and is subdivided into lots  
31 and tracts such that at least sixty percent (60%)  
32 of the total acreage, not counting the acreage used  
33 at the time of annexation for commercial,  
34 industrial, governmental or institutional purposes,  
35 consists of lots and tracts ~~five~~ three acres or  
36 less in size; or
- 37 (4) Is the entire area of any county water and sewer  
38 district created under G.S. 162A-86(b1), but this  
39 subdivision only applies to annexation by a  
40 municipality if that:

- 1           a. Municipality has provided in a contract with  
2           that district that the area is developed for  
3           urban purposes; and  
4           b. Contract provides for the municipality to  
5           operate the sewer system of that county water  
6           and sewer district;  
7           provided that the special categorization provided  
8           by this subdivision only applies if the  
9           municipality is annexing in one proceeding the  
10          entire territory of the district not already within  
11          the corporate limits of a municipality.

12          Any contiguous land in common ownership and common use shall be  
13 deemed to be one 'lot or tract' as the term is used in  
14 subdivision (2) or (3). An easement for public utility or  
15 railroad purposes may be classified as an industrial, commercial,  
16 or governmental use, as appropriate, but only as to the extent of  
17 the easement, and such classification does not extend to the  
18 remainder of the tract solely because of the easement.

19          For purposes of computing resident population density under  
20 this subsection, the acreage within streets and roads shall be  
21 included in determining the number of acres of land included  
22 within the boundaries of the area to be annexed. When an area  
23 being annexed under this Part includes streets or roads between  
24 developed lots, and the developed lots are also being annexed,  
25 the acreage within such streets or roads may not be excluded  
26 under subsection (d) of this section from any computation of  
27 resident population density under this subsection."

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

- 32           ~~(1) Lies between the municipal boundary and an area~~  
33 ~~developed for urban purposes so that the area~~  
34 ~~developed for urban purposes is either not adjacent~~  
35 ~~to the municipal boundary or cannot be served by~~  
36 ~~the municipality without extending services and/or~~  
37 ~~water and/or sewer lines through such sparsely~~  
38 ~~developed area; or~~  
39           ~~(2) Is adjacent, on at least sixty percent (60%) of its~~  
40 ~~external boundary, to any combination of the~~

1           ~~municipal boundary and the boundary of an area or~~  
2           ~~areas developed for urban purposes as defined in~~  
3           ~~subsection (c).~~

4       ~~The purpose of this subsection is to permit municipal governing~~  
5       ~~boards to extend corporate limits to include all nearby areas~~  
6       ~~developed for urban purposes and where necessary to include areas~~  
7       ~~which at the time of annexation are not yet developed for urban~~  
8       ~~purposes but areas~~ which constitute necessary land connections  
9       between the municipality and areas developed for urban purposes  
10      ~~or between two or more areas developed for urban purposes.~~  
11      purposes. For purposes of this subsection, 'necessary land  
12      connection' means an area which makes the area to be annexed  
13      contiguous to the city, and does not exceed twenty-five percent  
14      (25%) of the total area to be annexed.

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

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

25           Sec. 3. G.S. 160A-49(j) is repealed.

26           Sec. 4. G.S. 160A-50 is amended by adding a new  
27      subsection to read:

28      "(1) Prior to filing an appeal under this section, a person  
29      eligible to appeal must first present a request to the Local  
30      Government Commission for an analysis of the municipal governing  
31      board's actions under this Part and have received the analysis  
32      Filing of such request tolls any applicable deadlines under this  
33      Part until the analysis is delivered. The Local Government  
34      Commission shall deliver to the municipal governing board and the  
35      requestor within 90 days of the request its analysis, and if it  
36      finds any defect in the procedure, it may remand the ordinance to  
37      the municipal governing board which may correct any defect."

38           Sec. 5. G.S. 160A-50 is amended by adding a new  
39      subsection to read:

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

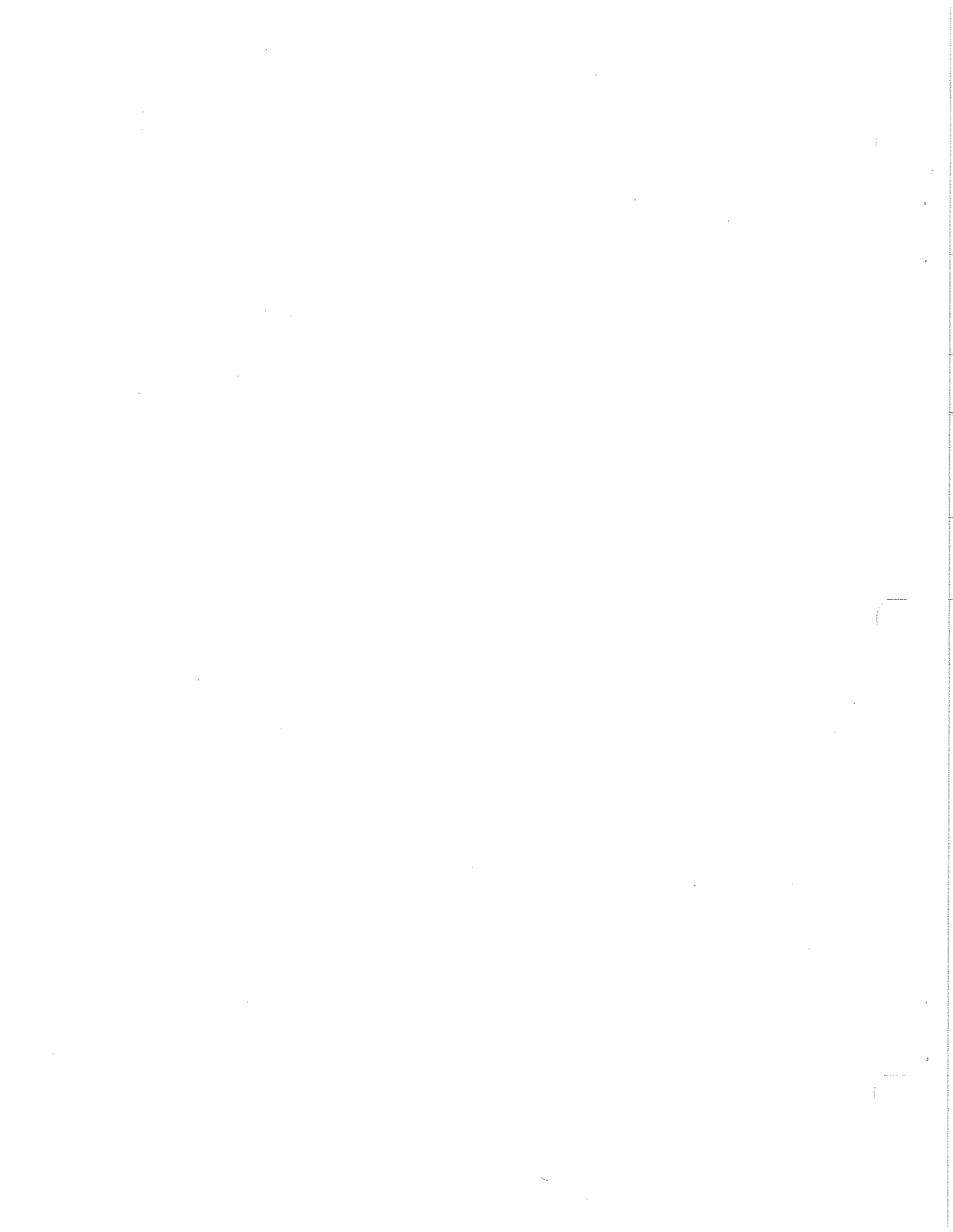
7           Sec. 6. G.S. 160A-53(2) reads as rewritten:

8                   "(2) "Used for residential purposes" shall mean any  
9                   lot or tract ~~five~~ three acres or less in size  
10                   on which is constructed a habitable dwelling  
11                   unit."

12           Sec. 7. G.S. 160A-54 is repealed.

13           Sec. 8. This act becomes effective October 1, 1996.

14 Section 5 of this act is effective on and after January 1, 1996.





**SUMMARY**  
**Annexation Changes/Larger Cities**  
**Draft 96-RWZ-020D**

This bill amends the laws governing annexation by municipalities with a population of 5,000 or more.

**SECTION 1** of the bill amends the requirements for the annexation service report. This report is issued by the city after the resolution of intent to annex, and before the public hearing on the annexation proposal. This report is the city's official explanation of its annexation plan, including how it will extend services to the area to be annexed.

Section 1 will change the elements of the service report to require the city to:

- provide for paving all public roads within the area to be annexed within two years, if they are under city control, and meet city standards for paving;
- provide for extension of requested water and sewer lines to individual properties according to city policies, and require city to inform landowner of this opportunity;
- provide a specific statement about how the city plans to extend all required services to the area to be annexed; and
- provide for refund and suspension of property taxes if promised services are not provided within two years.

In addition, the city will be required to explain:

- how it classified each lot of tract in the area to be annexed as to use and size;
- how population estimates (if used) were determined; and
- how the proposed annexation will affect county financing

**SECTION 2** of the bill changes the population or development standards areas must meet before they can be considered for annexation

Under current law, land must be "developed for urban purposes" or a necessary land connection to the existing city. Section 2 changes the definition of "developed for urban purposes" to require"

- land counted as residential to have four (now 2) persons per acre, or
- if size of lots and tracts is used to determine if the land is "developed for urban purposes", they must have three (now-one) persons per acre, and 70% (now--60%) of the total acreage must be in lots or tracts of three (now-five) acres or less;

Section 2 also provides that:

- any contiguous land in common ownership and common use will be considered to be "one lot or tract",

- utility easement can no longer be used to classify otherwise undeveloped land as industrial,
- area of streets must be included in determining residential density.

Section 2 also tightens the definition of land categorized as a "necessary land connection" to a developed are, and thus subject to annexation as "an area which makes the are to be annexed contiguous to the city, and does not exceed 25% of the total area to be annexed.

Finally, Section 2 allows the use of municipal or county limits to be used an annexation area boundaries.

**SECTION 3.** Current law requires a city to pass a resolution of consideration, then at least a year later, a resolution of intent to annex, hold a public hearing, and then enact an annexation ordinance. If the effective date of the annexation is at least a year after the effective date of the annexation ordinance, the city does not have to pass the resolution of consideration. Section 3 of the bill would repeal G.S. 160A-49(j), which allows cities to avoid the resolution of consideration by delaying the effective date of the annexation.

**SECTION 4** of the bill would create a requirement for all appeals of annexations based on violation of statutory standards be reviewed in a non-binding proceeding before the local government commission prior to any court action. If any procedural defects were found by the Commission, then the city would have an opportunity to correct them.

**SECTION 5** of the bill would forbid cites whose annexation ordinances are challenged under the procedures of Chapter 160A from being subject to a claim or counterclaim for tax revenues lost by the city due to the appeal, and the resulting delay of the annexation.

**SECTION 6** conforms the statutes to changes made in Section 2 of the bill.

**SECTION 7** of the bill repeals the 5% land area and 10% population tolerances allowed under current law for annexation proposals.

**SECTION 8** of the bill makes it effective on October 1, 1996, except Section 5, which would be retroactively effective to January 1, 1996.

LEGISLATIVE PROPOSAL III

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

96-RWZ-021A

THIS IS A DRAFT 22-APR-96 09:37:54

Short Title: Annexation Changes/Smaller Cities. (Public)

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Sponsors:

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO CHANGE THE LAWS GOVERNING ANNEXATION BY CITIES WITH A  
3 POPULATION OF LESS THAN 5,000.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. G.S. 160A-35 reads as rewritten:  
6 "§ 160A-35. Prerequisites to annexation; ability to serve;  
7 report and plans.  
8 A municipality exercising authority under this Part shall make  
9 plans for the extension of services to the area proposed to be  
10 annexed and shall, prior to the public hearing provided for in  
11 G.S. 160A-37, prepare a report setting forth such plans to  
12 provide services to such area. The report shall include:  
13 (1) A map or maps of the municipality and adjacent  
14 territory to show the following information:  
15 a. The present and proposed boundaries of the  
16 municipality.  
17 b. The proposed extensions of water mains and  
18 sewer outfalls to serve the annexed area, if  
19 such utilities are operated by the  
20 municipality. The water and sewer map must

- 1                   bear the seal of a registered professional  
2                   engineer or a licensed surveyor.
- 3           (2) A statement showing that the area to be annexed  
4           meets the requirements of G.S. 160A-36.
- 5           (3) A statement setting forth the plans of the  
6           municipality for extending to the area to be  
7           annexed each major municipal service performed  
8           within the municipality at the time of annexation.  
9           Specifically, such plans shall:
- 10          a. Provide for extending police protection, fire  
11          protection, solid waste collection and street  
12          maintenance services to the area to be annexed  
13          on the date of annexation on substantially the  
14          same basis and in the same manner as such  
15          services are provided within the rest of the  
16          municipality prior to annexation. A contract  
17          with a rural fire department to provide fire  
18          protection shall be an acceptable method of  
19          providing fire protection. If a water  
20          distribution system is not available in the  
21          area to be annexed, the plans must call for  
22          reasonably effective fire protection services  
23          until such time as waterlines are made  
24          available in such area under existing  
25          municipal policies for the extension of  
26          waterlines. A contract with a private firm to  
27          provide solid waste collection services shall  
28          be an acceptable method of providing solid  
29          waste collection services.
- 30          b. Provide for extension of water mains and sewer  
31          lines into the area to be annexed so that  
32          property owners in the area to be annexed will  
33          be able to secure public water and sewer  
34          services according to the policies in effect  
35          in such municipality for extending water and  
36          sewer lines to individual lots or  
37          subdivisions. If the municipality must, at  
38          its own expense, extend water and/or sewer  
39          mains into the area to be annexed before  
40          property owners in the area can, according to

- 1                   municipal policies, make such connection to  
2                   such lines, then the plans must call for  
3                   contracts to be let and construction to begin  
4                   on such lines within one year following the  
5                   effective date of annexation. If water, sewer,  
6                   or paving services specified in the report for  
7                   the area to be annexed are not provided within  
8                   two years of the effective date of the  
9                   annexation, the owner of the property that has  
10                   not received the water, sewer, or paving  
11                   service shall be reimbursed for all ad valorem  
12                   taxes paid to the municipality, and shall not  
13                   be liable for future ad valorem taxes until  
14                   the services are provided.
- 15                   c.   Set forth the method under which the  
16                   municipality plans to finance extension of  
17                   services into the area to be annexed.
- 18                   d.   Provide for paving all public roads within the  
19                   area to be annexed, which are both under the  
20                   control of the city and which meet the city  
21                   standards for paving, within two years of the  
22                   effective date of the annexation.
- 23                   e.   Provide a specific statement as to how the  
24                   city plans to provide the required services.
- 25                   (4)   A statement of the impact of the annexation on any  
26                   rural fire department providing service in the area  
27                   to be annexed and a statement of the impact of the  
28                   annexation on fire protection and fire insurance  
29                   rates in the area to be annexed, if the area where  
30                   service is provided is in an insurance district  
31                   designated under G.S. 153A-233, a rural fire  
32                   protection district under Article 3A of Chapter 69  
33                   of the General Statutes, or a fire service district  
34                   under Article 16 of Chapter 153A of the General  
35                   Statutes.   The rural fire department shall make  
36                   available to the city not later than 30 days  
37                   following a written request from the city all  
38                   information in its possession or control, including  
39                   but not limited to operational, financial and  
40                   budgetary information, necessary for preparation of

1 a statement of impact. The rural fire department  
2 forfeits its rights under G.S. 160A-37.1 and G.S.  
3 160A-37.2 if it fails to make a good faith response  
4 within 45 days following receipt of the written  
5 request for information from the city, provided  
6 that the city's written request so states by  
7 specific reference to this section.

8 (5) A detailed statement as to how the city classified  
9 each lot or tract in the area to be annexed as to  
10 use and size.

11 (6) A statement notifying persons affected by the  
12 annexation of their right to appeal under G.S.  
13 160A-38.

14 (7) A statement showing how the proposed annexation  
15 will affect the county's financing and services.  
16 This statement shall include changes in county  
17 revenues: local sales taxes, shares of beverage  
18 taxes, inspection fees, real estate transfer taxes,  
19 hotel occupancy taxes, water and sewer revenues,  
20 solid waste revenues, and any district property tax  
21 revenues where the county board of commissioners  
22 levies the tax. The statement shall also include  
23 changes in county services: water, sewer, law  
24 enforcement, fire, parks and recreation,  
25 inspections, land-use regulation, animal control,  
26 solid waste collection and disposal, solid waste  
27 franchises, rescue services, and emergency medical  
28 services. This statement shall be delivered to the  
29 clerk of the board of county commissioners at least  
30 60 days before the date of any public hearing on  
31 any annexation under this Part."

32 Sec. 2. G.S. 160A-36 reads as rewritten:

33 "§ 160A-36. Character of area to be annexed.

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

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

- 1           (1) It must be adjacent or contiguous to the  
2           municipality's boundaries at the time the  
3           annexation proceeding is begun, except if the  
4           entire territory of a county water and sewer  
5           district created under G.S. 162A-86(b1) is being  
6           annexed, the annexation shall also include any  
7           noncontiguous pieces of the district as long as the  
8           part of the district with the greatest land area is  
9           adjacent or contiguous to the municipality's  
10          boundaries at the time the annexation proceeding is  
11          begun.
- 12          (2) At least one eighth of the aggregate external  
13          boundaries of the area must coincide with the  
14          municipal boundary.
- 15          (3) No part of the area shall be included within the  
16          boundary of another incorporated municipality.
- 17          (c) The area to be annexed must be developed for urban  
18          purposes. An area developed for urban purposes is defined as any  
19          area which is so developed that at least sixty percent (60%) of  
20          the total number of lots and tracts in the area at the time of  
21          annexation are used for residential, commercial, industrial,  
22          institutional or governmental purposes, and is subdivided into  
23          lots and tracts such that at least ~~sixty percent (60%)~~ seventy  
24          percent (70%) of the total acreage, not counting the acreage used  
25          at the time of annexation for commercial, industrial,  
26          governmental or institutional purposes, consists of lots and  
27          tracts five three acres or less in size. An area developed for  
28          urban purposes is also the entire area of any county water and  
29          sewer district created under G.S. 162A-86(b1), but this sentence  
30          only applies to annexation by a municipality if that:
- 31                  (1) Municipality has provided in a contract with that  
32                  district that the area is developed for urban  
33                  purposes; and
- 34                  (2) Contract provides for the municipality to operate  
35                  the sewer system of that county water and sewer  
36                  district;
- 37          provided that the special categorization provided by this  
38          sentence only applies if the municipality is annexing in one  
39          proceeding the entire territory of the district not already  
40          within the corporate limits of a municipality. Any contiguous

1 land in common ownership and common use shall be deemed to be one  
2 'lot or tract' as the term is used in this subsection. An  
3 easement for public utility or railroad purposes may be  
4 classified as an industrial, commercial, or governmental use, as  
5 appropriate, but only as to the extent of the easement, and such  
6 classification does not extend to the remainder of the tract  
7 solely because of the easement.

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

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

18 Sec. 3. G.S. 160A-37(j) is repealed.

19 Sec. 4. G.S. 160A-38 is amended by adding a new  
20 subsection to read:

21 "(k) Prior to filing an appeal under this section, a person  
22 eligible to appeal must first present a request to the Local  
23 Government Commission for an analysis of the municipal governing  
24 board's actions under this Part and have received the analysis.  
25 Filing of such request tolls any applicable deadlines under this  
26 Part until the analysis is delivered. The Local Government  
27 Commission shall deliver to the municipal governing board and the  
28 requestor within 90 days of the request its analysis, and if it  
29 finds any defect in the procedure, it may remand the ordinance to  
30 the municipal governing board which may correct any defect."

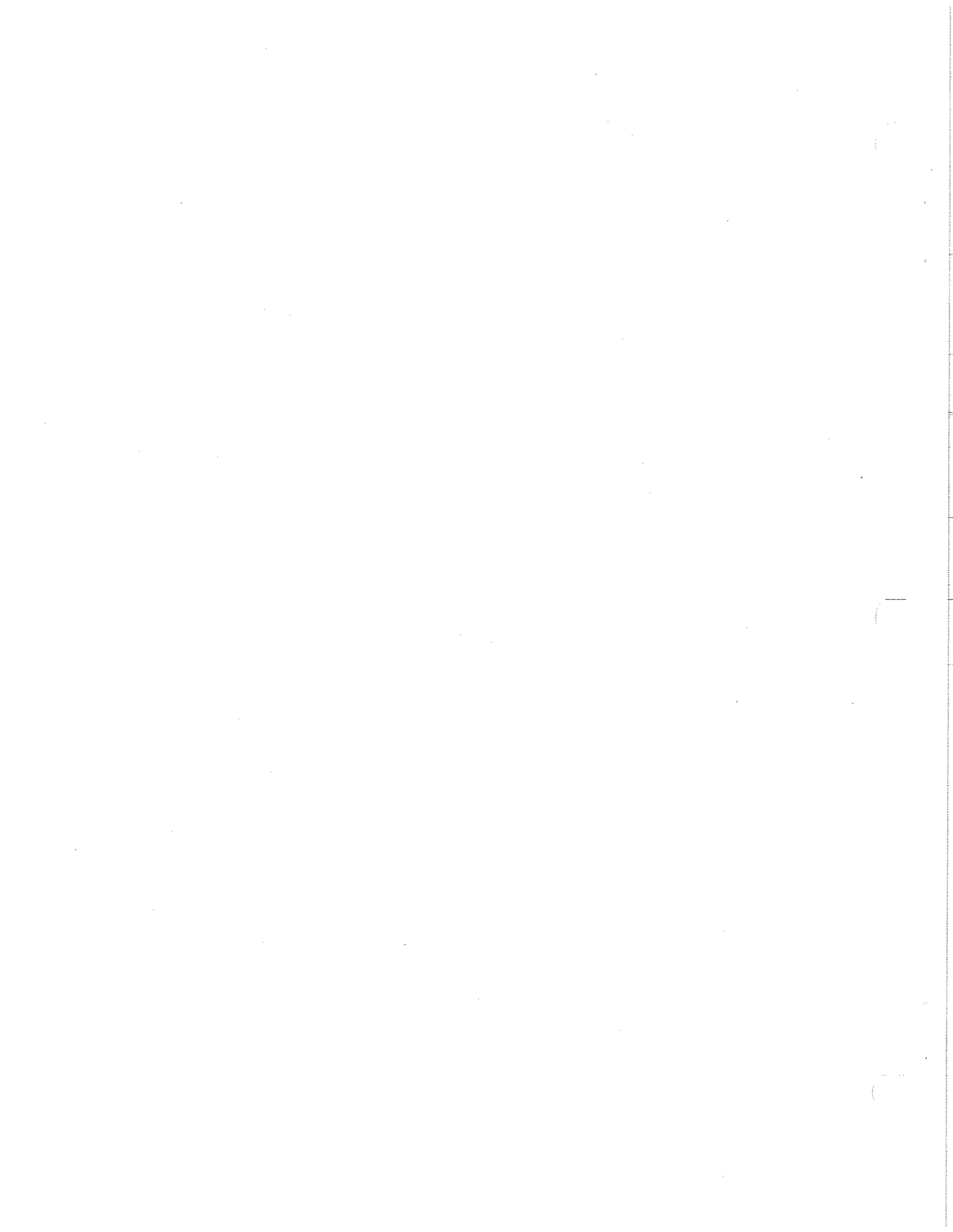
31 Sec. 5. G.S. 160A-38 is amended by adding a new  
32 subsection to read:

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

39 Sec. 6. G.S. 160A-41(2) reads as rewritten:



- 1                   "(2) "Used for residential purposes" shall mean any  
2                   lot or tract ~~five~~ three acres or less in size  
3                   on which is constructed habitable dwelling  
4                   unit.  
5            Sec. 7. G.S. 160A-42 is repealed.  
6            Sec. 8. This act becomes effective October 1, 1996.  
7 Section 5 of this act is effective on and after January 1, 1996.



**SUMMARY**  
**Annexation Changes/Smaller Cities**  
**Draft 96-RWZ-021A**

This bill amends the laws governing annexation by municipalities with a population of less than 5,000.

**SECTION 1** of the bill amends the requirements for the annexation service report. This report is issued by the city after the resolution of intent to annex, and before the public hearing on the annexation proposal. This report is the city's official explanation of its annexation plan, including how it will extend services to the area to be annexed.

Section 1 will change the elements of the service report to require the city to:

- provide for paving all public roads within the area to be annexed within two years, if they are under city control, and meet city standards for paving;
- provide a specific statement about how the city plans to extend all required services to the area to be annexed; and
- provide for refund and suspension of property taxes if promised services are not provided within two years.

In addition, the city will be required to explain:

- how it classified each lot of tract in the area to be annexed as to use and size; and
- how the proposed annexation will affect county financing

**SECTION 2** of the bill changes the population or development standards areas must meet before they can be considered for annexation

Under current law, land must be "developed for urban purposes". Section 2 changes the definition of "developed for urban purposes" to require"

- 70% (now--60%) of total acreage must be in lots or tracts of three (now-five) acres or less.

Section 2 also provides that:

- any contiguous land in common ownership and common use will be considered to be "one lot or tract",
- utility easement can no longer be used to classify otherwise undeveloped land as industrial,
- area of streets must be included in determining residential density.

Finally, Section 2 allows the use of municipal or county limits to be used an annexation area boundaries.

**SECTION 3.** Current law requires a city to pass a resolution of consideration, then at least a year later, a resolution of intent to annex, hold a public hearing, and

then enact an annexation ordinance. If the effective date of the annexation is at least a year after the effective date of the annexation ordinance, the city does not have to pass the resolution of consideration. Section 3 of the bill would repeal G.S. 160A-37(j), which allows cities to avoid the resolution of consideration by delaying the effective date of the annexation.

**SECTION 4** of the bill would create a requirement for all appeals of annexations based on violation of statutory standards be reviewed in a non-binding proceeding before the local government commission prior to any court action. If any procedural defects were found by the Commission, then the city would have an opportunity to correct them.

**SECTION 5** of the bill would forbid cities whose annexation ordinances are challenged under the procedures of Chapter 160A from being subject to a claim or counterclaim for tax revenues lost by the city due to the appeal, and the resulting delay of the annexation.

**SECTION 6** conforms the statutes to changes made in Section 2 of the bill.

**SECTION 7** of the bill repeals the 5% land area and 10% population tolerances allowed under current law for annexation proposals.

**SECTION 8** of the bill makes it effective on October 1, 1996, except Section 5, which would be retroactively effective to January 1, 1996.

LEGISLATIVE PROPOSAL IV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

96-RWZ-016B

THIS IS A DRAFT 22-APR-96 09:24:22

Short Title: Mail ETJ notice/Hearing on appointments. (Public)

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Sponsors:

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE FIRST CLASS MAIL NOTICE TO ALL PROPERTY OWNERS  
3 IN AN AREA PROPOSED FOR ADDITION TO A MUNICIPALITY'S  
4 EXTRATERRITORIAL PLANNING AND ZONING JURISDICTION, PROPORTIONAL  
5 REPRESENTATION FOR RESIDENTS OF THE ETJ ON THE PLANNING AGENCY,  
6 AND A HEARING BEFORE COUNTY APPOINTMENT OF REPRESENTATION TO  
7 THE PLANNING AGENCY.  
8 The General Assembly of North Carolina enacts:  
9 Section 1. G.S. 160A-360 is amended by adding a  
10 subsection to read:  
11 "(a) Any municipality planning to exercise extraterritorial  
12 jurisdiction under this Article shall notify the owners of all  
13 parcels of land proposed for addition to the area of  
14 extraterritorial jurisdiction, as shown of the county tax  
15 records. The notice shall be sent by first class mail to the  
16 last addresses listed for affected property owners in the county  
17 tax records. The notice shall inform the landowner of the effect  
18 of the extension of extraterritorial jurisdiction, of the  
19 landowner's right to participate in a public hearing prior to  
20 adoption of any ordinance extending the area of extraterritorial

1 jurisdiction, as provided in G.S. 160A-364, and the right of all  
2 residents of the area to apply to the Board of County  
3 Commissioners to serve as a representative on the planning agency  
4 and the board of adjustment, as provided in G.S. 160A-362. The  
5 notice shall be mailed at least four weeks prior to the public  
6 hearing. The person or persons mailing the notices shall certify  
7 to the city council that the notices were sent by first class  
8 mail, and the certificate shall be deemed conclusive in the  
9 absence of fraud."

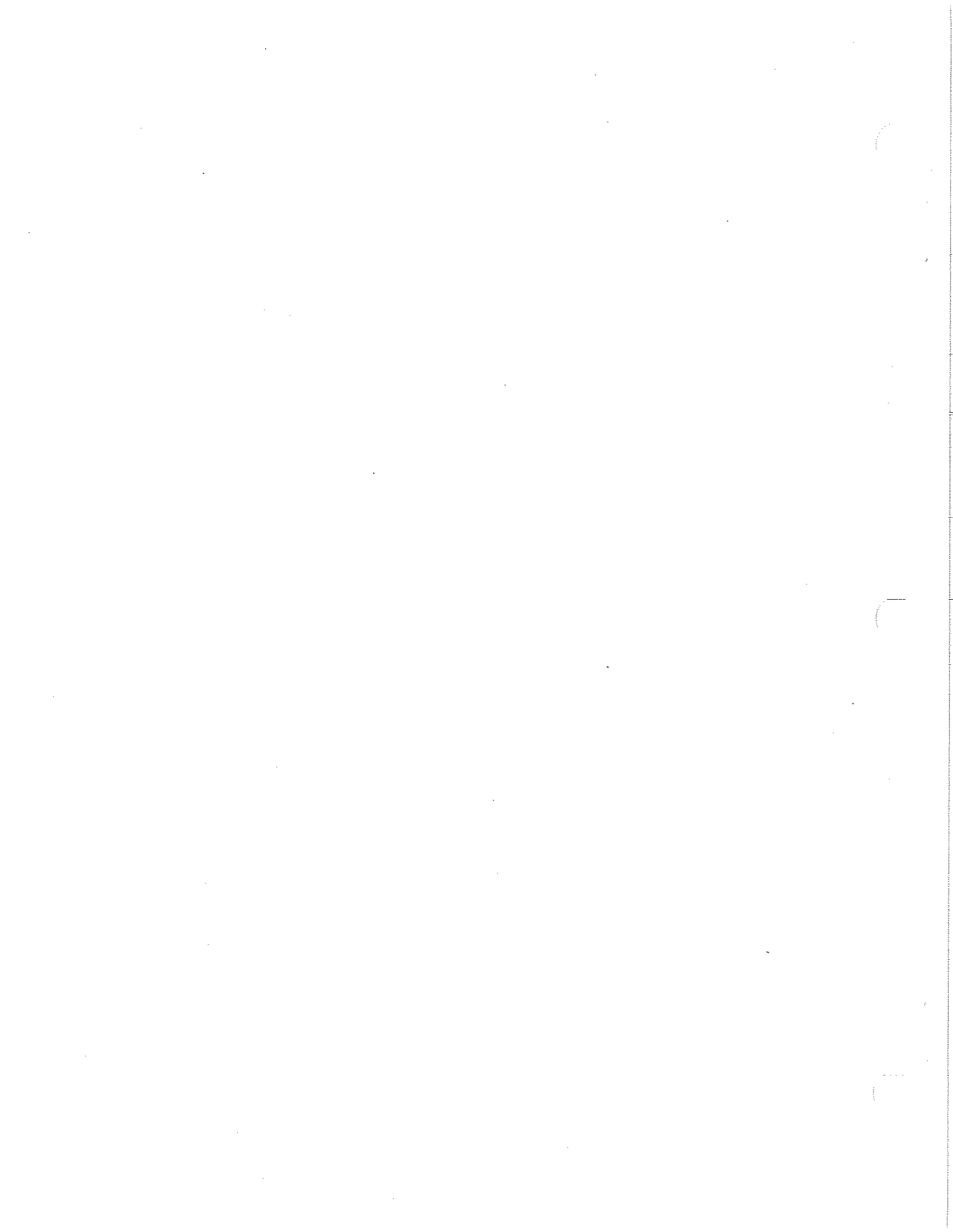
10 Sec. 2. G.S. 160A-362 reads as rewritten:

11 "§160A-362. Extraterritorial representation.

12 When a city elects to exercise extraterritorial zoning or  
13 subdivision-regulation powers under G.S. 160A-360, it shall in  
14 the ordinance creating or designating its planning agency or  
15 agencies provide a means of proportional representation based on  
16 population for residents of the extraterritorial area to be  
17 regulated. Representation shall be provided by appointing  
18 residents at least one resident of the area to the planning  
19 agency and the board of adjustment that makes recommendations or  
20 grants relief in these matters. Membership of joint municipal  
21 county planning agencies or boards of adjustment may be appointed  
22 as agreed by counties and municipalities. Any advisory board  
23 established prior to July 1, 1983, to provide the required  
24 extraterritorial representation shall constitute compliance with  
25 this section until the board is abolished by ordinance of the  
26 city. The representatives on the planning agency and the board of  
27 adjustment shall be appointed by the board of county  
28 commissioners with jurisdiction over the area. When selecting a  
29 new representative to the planning agency or to the board of  
30 adjustment, the board of county commissioners shall hold a public  
31 hearing on the selection. A notice of the hearing shall be given  
32 once a week for two successive calendar weeks in a newspaper  
33 having general circulation in the area. The board of county  
34 commissioners shall select appointees only from those who apply  
35 at or before the public hearing. The county shall make the  
36 appointments within 45 days following the public hearing. Once a  
37 city provides proportional representation, no power available to  
38 a city under G.S. 160A-360 shall be ineffective in its  
39 extraterritorial area solely because county appointments have not  
40 yet been made. If there is an insufficient number of qualified

1 residents of the area to meet membership requirements, the board  
2 of county commissioners may appoint as many other residents of  
3 the county as necessary to make up the requisite number. When the  
4 extraterritorial area extends into two or more counties, each  
5 board of county commissioners concerned shall appoint  
6 representatives from its portion of the area, as specified in the  
7 ordinance. If a board of county commissioners fails to make these  
8 appointments within 90 days after receiving a resolution from the  
9 city council requesting that they be made, the city council may  
10 make them. If the ordinance so provides, the outside  
11 representatives may have equal rights, privileges, and duties  
12 with the other members of the agency to which they are appointed,  
13 regardless of whether the matters at issue arise within the city  
14 or within the extraterritorial area; otherwise they shall  
15 function only with respect to matters within the  
16 extraterritorial area."

17           Sec. 3. This act becomes effective October 1, 1996.





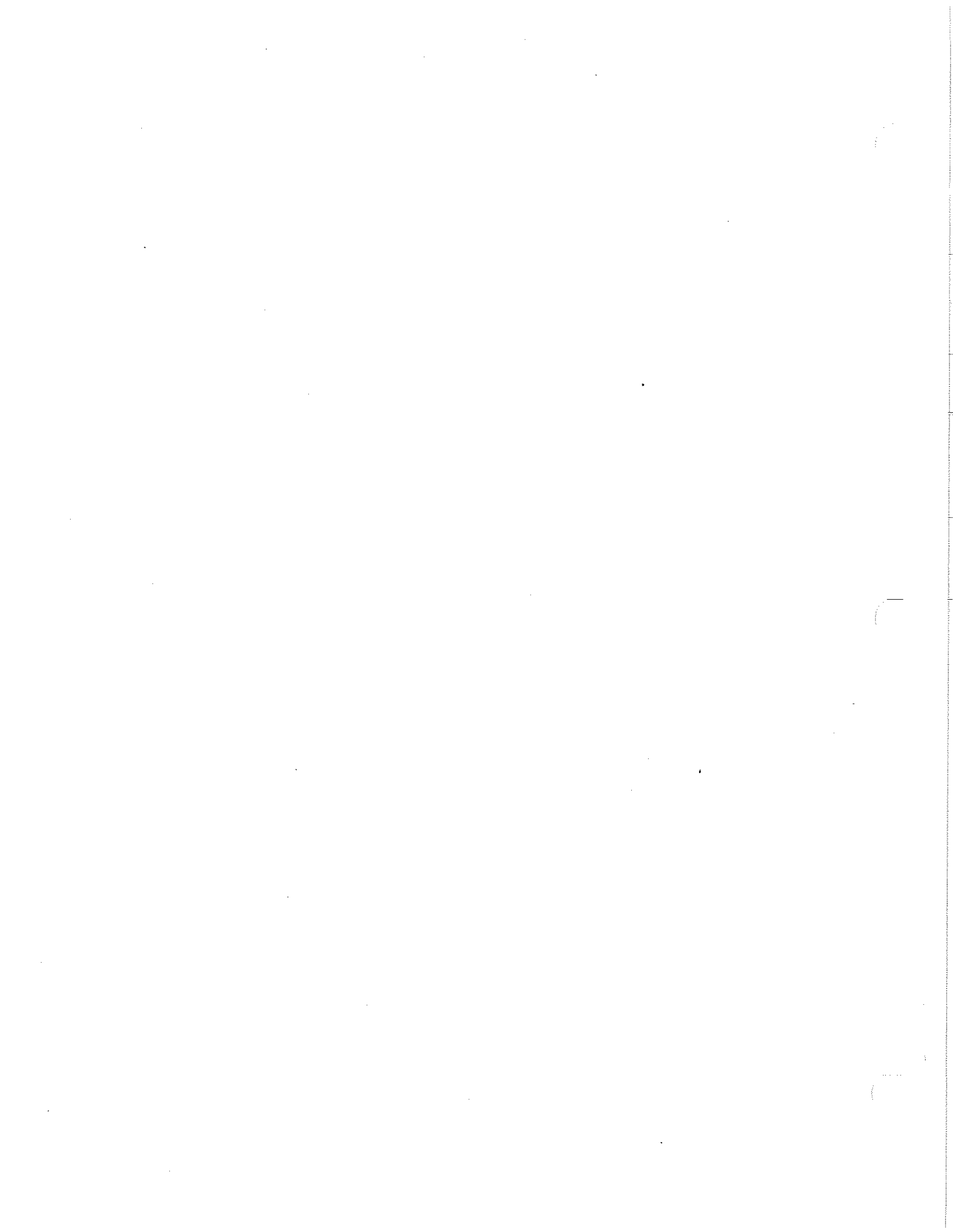
**SUMMARY**  
**Mail ETJ Notice/Hearing on appointments**  
**Draft 96-RWZ-016B**

This bill amends the law concerning the extraterritorial zoning and planning powers of cities.

**SECTION 1** of the bill requires cities to notify property owners to be added to the ETJ by first class mail. The notice is required to include an explanation of the effect of extension of extraterritorial zoning and planning powers by the city, the landowner's right to participate in a public hearing, and the right to apply to serve as an ETJ representative on the planning board or board of adjustment.

**SECTION 2** of the bill requires cities to provide for proportional representation on planning boards and boards of adjustment, and to have a public hearing concerning any new appointments to these boards.

**SECTION 3** of the bill provides that it would become effective October 1, 1996



**RECOMMENDATION V**  
**Deferral of water and sewer assessments until hook-up**

The Committee considered the concept of deferral of water and sewer assessments on property until the service is actually provided. Although the Committee declined to recommend specific legislation on this topic, the Committee endorses this concept, and encourages municipalities to consider adopting it.

