



00028431368

RECEIVED

MAR 6 1997

INSTITUTE OF GOVERNMENT  
UNIVERSITY OF NORTH CAROLINA  
LIBRARY

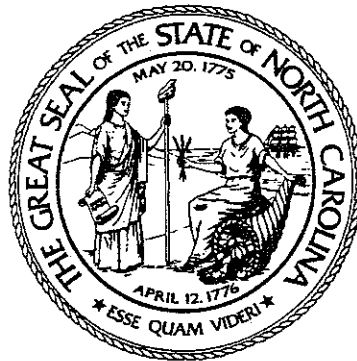
LEGISLATIVE RESEARCH COMMISSION

509  
KFN 7411.62  
.L45  
P761  
1997 C.2

Property Issues

STUDY  
COMMISSION  
REPORTS

DATE DUE



REPORT TO THE  
1997 GENERAL ASSEMBLY  
OF NORTH CAROLINA

6/1/07  
JTB

A LIMITED NUMBER OF COPIES OF THIS REPORT IS AVAILABLE  
FOR DISTRIBUTION THROUGH THE LEGISLATIVE LIBRARY.

ROOMS 2126, 2226  
STATE LEGISLATIVE BUILDING  
RALEIGH, NORTH CAROLINA 27611  
TELEPHONE: (919) 733-7778

OR

ROOM 500  
LEGISLATIVE OFFICE BUILDING  
RALEIGH, NORTH CAROLINA 27603-5925  
TELEPHONE: (919) 733-9390

TABLE OF CONTENTS

LETTER OF TRANSMITTAL..... i

LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP..... ii

PREFACE..... 1

COMMITTEE PROCEEDINGS..... 3

RECOMMENDATIONS..... 4

APPENDICES

SECTION 2.1(18) OF CHAPTER 542  
OF THE 1995 SESSION LAWS, THE STUDIES BILL.....A-1

MEMBERSHIP OF THE LRC COMMITTEE ON  
PROPERTY ISSUES.....A-3

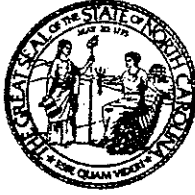
LEGISLATIVE PROPOSALS

A BILL TO BE ENTITLED AN ACT  
TO CHANGE THE ANNEXATION LAWS .....A-4

A BILL TO BE ENTITLED AN ACT  
TO REQUIRE ALL MUNICIPAL SERVICES TO BE PROVIDED  
TO A NEWLY ANNEXED AREA ON THE DATE OF ANNEXATION...A-24

A BILL TO BE ENTITLED AN ACT  
TO REQUIRE AT LEAST TWO REPRESENTATIVES FROM  
A MUNICIPALITY'S EXTRATERRITORIAL PLANNING AND  
ZONING JURISDICTION ON THE PLANNING AGENCY .....A-31

STATE OF NORTH CAROLINA  
LEGISLATIVE RESEARCH COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH 27611





January 15, 1997

TO THE MEMBERS OF THE 1997 GENERAL ASSEMBLY (REGULAR SESSION 1997):

The Legislative Research Commission herewith submits to you for your consideration its interim report on Property Issues. The report was prepared by the Legislative Research Commission's Committee on Property Issues pursuant to G.S. 120-30.17(1).

Respectfully submitted,

  
\_\_\_\_\_  
Harold J. Brubaker  
Speaker of the House

  
\_\_\_\_\_  
Marc Basnight  
President Pro Tempore

Cochairs  
Legislative Research Commission

1995-1996

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

President Pro Tempore of  
the Senate  
Marc Basnight, Cochair

Senator Frank W. Ballance, Jr.  
Senator R. L. Martin  
Senator Henry McKoy  
Senator J. K. Sherron, Jr.  
Senator Ed N. Warren

Speaker of the House of  
Representatives  
Harold J. Brubaker, Cochair

Rep. Jerry C. Dockham  
Rep. Larry Linney  
Rep. Edd Nye  
Rep. Gregory J. Thompson  
Rep. Constance K. Wilson

## 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 in November and December, 1996. More complete committee minutes are available from Committee Gail Stewart, (919) 733-5904 until late January, 1997. After that date, a permanent notebook recording the work of the committee will be deposited in the legislative library.

### Meeting on November 14, 1996

The first fall meeting of the Committee was held November 14, 1996 in room 1124 of the Legislative Building. The Committee reviewed the disposition of the Committee's recommendations to the 1995 short session, heard a brief summary of the work of a joint League of Municipalities/Association of County Commissioners committee on annexation, and scheduled a December meeting to consider proposals from Committee members on annexation issues.

### Meeting on December 12, 1996

The final meeting of the Committee was held December 12, 1996 in room 1124 of the Legislative Building. The Committee considered proposals on annexation from Mr. Clodfelter, Senator Hartsell, and Representative Sherrill. The Committee amended the proposals, and combined them into the attached recommended legislation. The Committee also recommended the attached statutory change concerning representation from ETJs on planning boards, and adopted the attached motions recommending further study of condemnation issues and structured annexation agreements.



## RECOMMENDATIONS

### Legislative proposals

The Committee recommends the following legislation to the 1997 General Assembly (Regular Session 1997), titled as follows. The texts of these proposals may be found in the appendix.

1. A BILL TO BE ENTITLED AN ACT TO AMEND THE ANNEXATION LAWS
2. A BILL TO BE ENTITLED AN ACT TO REQUIRE ALL MUNICIPAL SERVICES TO BE PROVIDED TO A NEWLY ANNEXED AREA ON THE DATE OF ANNEXATION
3. A BILL TO BE ENTITLED AN ACT TO REQUIRE AT LEAST TWO REPRESENTATIVES FROM A MUNICIPALITY'S EXTRATERRITORIAL PLANNING AND ZONING JURISDICTION ON THE PLANNING AGENCY

### Other recommendations

1. **Condemnation.** The Committee finds that condemnation by local governments and by the State Department of Transportation is a complex issue worthy of further study. Due to lack of time, the Committee was unable to pursue this issue as fully as it wished to, and as a result recommends to the 1997 General Assembly that a future study committee be charged with pursuing reform in this important area of law and policy.

2. **Structured annexation agreements.** The Committee finds that many annexation disputes may be resolved by negotiation, and that the structured annexation agreement statutes and procedures of other states may provide valuable models for encouraging resolution of annexation disputes without the need for costly litigation. The Committee recommends to the 1997 General Assembly that a future study committee be charged with examining structured annexation agreements.

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  
(704) 254-7949

**President Pro Tempore Appointments**

Sen. Fletcher L. Hartsell, Jr., Cochair  
PO Box 368  
Concord, NC 28026-0368  
(704) 786-5161

Sen. John H. Carrington  
PO Box 30576  
Raleigh, NC 27622

Mr. Dan Clodfelter  
523 Clement Avenue  
Charlotte, NC 28204

Mr. Webb Fuller  
Town of Nags Head  
PO Box 99  
Nags Head, NC 27959

Mr. Franz Holscher  
545 Owen's Drive  
Gastonia, NC 28054

Sen. Fountain Odom  
1100 South Tryon Street  
Charlotte, NC 28203  
(704) 372-4800

Mr. John M. Tyson  
St. James Square, Suite 100  
410 Ramsey Street  
Fayetteville, NC 28301

Dean Judith Wegner  
UNC School of Law  
CB# 3380  
Chapel Hill, NC 27599-3380

**Staff:**

Mr. Giles Perry  
Research Division  
(919) 733-2578

**Speaker's Appointments**

Rep. J. Sam Ellis, Cochair  
3513 Auburn Knightdale Road  
Raleigh, NC 27610  
(919) 772-6434

Rep. Cary D. Allred  
4307 Sartin Rd.  
Burlington, NC 27217-7522  
(910) 229-1980

Rep. Beverly Earle  
312 South Clarkson Street  
Charlotte, NC 28202  
(704) 333-7180

Rep. John W. Hurley  
PO Box 714  
Fayetteville, NC 28302  
(910) 483-6210

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

Rep. Arlene C. Pulley  
4715-H Edwards Mill Road  
Raleigh, NC 27612  
(919) 571-7414

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

Rep. Larry W. Womble  
1294 Salem Lake Road  
Winston-Salem, NC 27107  
(910) 784-9373

**Clerk:**

Ms. Gail Stewart  
(919) 733-5904

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

97-DRW-008

THIS IS A DRAFT 18-DEC-96 15:13:16

Short Title: Annexation changes.

(Public)

---

Sponsors:

---

Referred to:

---

1                   A BILL TO BE ENTITLED  
2 AN ACT TO CHANGE THE ANNEXATION LAWS.  
3 The General Assembly of North Carolina enacts:  
4           Section 1. G.S. 160A-35 reads as rewritten:  
5 "§160A-35. Prerequisites to annexation; ability to serve; report  
6 and plans.  
7    A municipality exercising authority under this Part shall make  
8 plans for the extension of services to the area proposed to be  
9 annexed and shall, prior to the public hearing provided for in  
10 G.S. 160A-37, prepare a report setting forth such plans to  
11 provide services to such area. The report shall include:  
12       (1) A map or maps of the municipality and adjacent  
13       territory to show the following information:  
14       a. The present and proposed boundaries of the  
15       municipality.  
16       b. The proposed extensions of water mains and  
17       sewer outfalls to serve the annexed area, if  
18       such utilities are operated by the  
19       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~~ services, including  
13          street lighting, to the area to be annexed on  
14          the date of annexation on ~~substantially~~ the  
15          same basis and in the same manner as such  
16          services are provided within the rest of the  
17          municipality prior to annexation. A contract  
18          with a rural fire department to provide fire  
19          protection shall be an acceptable method of  
20          providing fire protection. If a water  
21          distribution system is not available in the  
22          area to be annexed, the plans must call for  
23          reasonably effective fire protection services  
24          until such time as waterlines are made  
25          available in such area under existing  
26          municipal policies for the extension of  
27          waterlines. A contract with a private firm to  
28          provide solid waste collection services shall  
29          be an acceptable method of providing solid  
30          waste collection services.
- 31          b. Provide for extension of major water mains and  
32          sewer outfall lines into the area to be  
33          annexed so that property owners in the area to  
34          be annexed will be able to secure public water  
35          and sewer ~~services~~ services. The municipality  
36          shall extend secondary water and sewer lines  
37          and connector water and sewer lines according  
38          to the financial policies in effect in such  
39          municipality for extending water and sewer  
40          lines to individual lots or subdivisions. If

1 the municipality must, at its own expense,  
2 extend water and/or sewer mains into the area  
3 to be annexed before property owners in the  
4 area can, according to municipal policies,  
5 make such connection to such lines, then the  
6 plans must call for contracts to be let and  
7 construction to begin on such lines within one  
8 year following the effective date of  
9 annexation.

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

13 d. Provide for street paving service on  
14 substantially the same basis and in the same  
15 manner as that service is provided within the  
16 rest of the municipality prior to the  
17 annexation.

18 e. Include a summary of city police, fire, solid  
19 waste, street maintenance and paving, water  
20 and sewer services provided to current city  
21 residents as of 90 days prior to the date set  
22 for the public hearing. The summary shall  
23 specify, at a minimum, the number of personnel  
24 employed by the municipality for police and  
25 fire protection, the services provided as part  
26 of police and fire protection, the increase in  
27 personnel or equipment, if any, planned as a  
28 result of the annexation and the method the  
29 municipality used to calculate present level  
30 of service, including, if applicable,  
31 personnel to population ratios and average  
32 response times.

33 (4) A statement of the impact of the annexation on any  
34 rural fire department providing service in the area  
35 to be annexed and a statement of the impact of the  
36 annexation on fire protection and fire insurance  
37 rates in the area to be annexed, if the area where  
38 service is provided is in an insurance district  
39 designated under G.S. 153A-233, a rural fire  
40 protection district under Article 3A of Chapter 69

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

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

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

24 (7) A statement showing how the proposed annexation  
25 will affect the city's finances and services,  
26 including city revenue change estimates. This  
27 statement shall be delivered to the clerk of the  
28 board of county commissioners at least 30 days  
29 before the date of any public hearing on any  
30 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  
34 corporate limits to include any area which meets the general  
35 standards of subsection (b), and which meets the requirements of  
36 subsection (c).

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

39 (1) It must be adjacent or contiguous to the  
40 municipality's boundaries at the time the



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

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

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

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

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

23 "(c) The area to be annexed must be developed for urban  
24 ~~purposes-~~ purposes at the time of the public hearing for the  
25 annexation ordinance. For purposes of this section, area of  
26 streets and rights-of-way shall not be used to determine total  
27 acreage or acreage of lots and tracts under this section. For  
28 purposes of this section, "right-of-way" means a recorded right-  
29 of-way, or if none is recorded, a presumptive 60-foot right-of-  
30 way. An area developed for urban purposes is defined as any as:

31 (1) Any area which is so developed that at least sixty  
32 percent (60%) of the total number of lots and tracts in the area  
33 at the time of annexation are used for residential, commercial,  
34 industrial, institutional or governmental purposes, and is  
35 subdivided into lots and tracts such that at least sixty percent  
36 (60%) of the total acreage, not counting the acreage used at the  
37 time of annexation for commercial, industrial, governmental or  
38 institutional purposes, consists of lots and tracts five acres or  
39 less in ~~size-~~ size; or

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

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

9           ~~(1) a.~~       Municipality has provided in a contract  
10                               with that district that the area is  
11                               developed for urban purposes; and

12           ~~(2) b.~~       Contract provides for the municipality to  
13                               operate the sewer system of that county  
14                               water and sewer district;

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

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

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

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

30       "(b) Notice of Public Hearing. -- The notice of public hearing  
31 shall:

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

33           (2) Describe clearly the boundaries of the area under  
34 consideration, and include a legible map of the  
35 area.

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

1           ~~(3)~~ (4) State that the report required in G.S. 160A-35  
2           will be available at the office of the municipal  
3           clerk at least 30 days prior to the date of the  
4           public hearing.

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

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

1 case where notices are placed on property, the person placing the  
2 notice shall certify that fact to the governing board."

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

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

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

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

19 Section 6. G.S. 160A-42 is rewritten to read:

20 "§160A-42. Land estimates.

21 In determining degree of land subdivision for purposes of  
22 meeting the requirements of G.S. 160A-36, the municipality shall  
23 use methods calculated to provide reasonably accurate results. In  
24 determining whether the standards set forth in G.S. 160A-36 have  
25 been met on appeal to the superior court under G.S. 160A-38, the  
26 reviewing court shall accept the estimates of the ~~municipality~~  
27 municipality as provided in this section unless the actual total  
28 area or degree of subdivision falls below the standards in G.S.  
29 160A-36:

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

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

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

2 "§160A-47. Prerequisites to annexation; ability to serve; report  
3 and plans.

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

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

11 a. The present and proposed boundaries of the  
12 municipality.

13 b. The present major trunk water mains and sewer  
14 interceptors and outfalls, and the proposed  
15 extensions of such mains and outfalls as  
16 required in subdivision (3) of this section.  
17 The water and sewer map must bear the seal of  
18 a registered professional engineer.

19 c. The general land use pattern in the area to be  
20 annexed.

21 (2) A statement showing that the area to be annexed  
22 meets the requirements of G.S. 160A-48.

23 (3) A statement setting forth the plans of the  
24 municipality for extending to the area to be  
25 annexed each major municipal service performed  
26 within the municipality at the time of annexation.  
27 Specifically, such plans shall:

28 a. Provide for extending police protection, fire  
29 protection, solid waste collection and street  
30 maintenance ~~services~~ services, including  
31 street lighting, to the area to be annexed on  
32 the date of annexation on ~~substantially~~  
33 the same basis and in the same manner as such  
34 services are provided within the rest of the  
35 municipality prior to annexation. A contract  
36 with a rural fire department to provide fire  
37 protection shall be an acceptable method of  
38 providing fire protection. If a water  
39 distribution system is not available in the  
40 area to be annexed, the plans must call for

1 reasonably effective fire protection services  
2 until such time as waterlines are made  
3 available in such area under existing  
4 municipal policies for the extension of  
5 waterlines. A contract with a private firm to  
6 provide solid waste collection services shall  
7 be an acceptable method of providing solid  
8 waste collection services.

- 9 b. Provide for extension of major trunk water  
10 mains and sewer outfall lines into the area to  
11 be annexed so that when such lines are  
12 constructed, property owners in the area to be  
13 annexed will be able to secure public water  
14 and sewer ~~service,~~ service. The municipality  
15 shall extend secondary water and sewer lines  
16 and connector water and sewer lines according  
17 to the financial policies in effect in such  
18 municipality for extending water and sewer  
19 lines to individual lots or subdivisions. If  
20 requested by the owner of an occupied dwelling  
21 unit or an operating commercial or industrial  
22 property in writing on a form provided by the  
23 municipality, which form acknowledges that  
24 such extension or extensions will be made  
25 according to the current financial policies of  
26 the municipality for making such extensions,  
27 and if such form is received by the city clerk  
28 not less than 30 days before adoption of the  
29 annexation ordinance, provide for extension of  
30 water and sewer lines to the property or to a  
31 point on a public street or road right-of-way  
32 adjacent to the property according to the  
33 financial policies in effect in such  
34 municipality for extending water and sewer  
35 lines. If any such requests are timely made,  
36 the municipality shall at the time of adoption  
37 of the annexation ordinance amend its report  
38 and plan for services to reflect and  
39 accommodate such requests.

- 1           c.    If extension of major trunk water mains, sewer  
2           outfall lines, sewer lines and water lines is  
3           necessary, set forth a proposed timetable for  
4           construction of such mains, outfalls and lines  
5           as soon as possible following the effective  
6           date of annexation. In any event, the plans  
7           shall call for construction to be completed  
8           within two years of the effective date of  
9           annexation.
- 10          d.    Set forth the method under which the  
11          municipality plans to finance extension of  
12          services into the area to be annexed.
- 13          e.    Provide for street paving service on  
14          substantially the same basis and in the same  
15          manner as that service is provided within the  
16          rest of the municipality prior to the  
17          annexation.
- 18          f.    Include a summary of city police, fire, solid  
19          waste, street maintenance and paving, water  
20          and sewer services provided to current city  
21          residents as of 90 days prior to the date set  
22          for the public hearing. The summary shall  
23          specify, at a minimum, the number of personnel  
24          employed by the municipality for police and  
25          fire protection, the services provided as part  
26          of police and fire protection, the increase in  
27          personnel or equipment, if any, planned as a  
28          result of the annexation and the method the  
29          municipality used to calculate present level  
30          of service, including, if applicable,  
31          personnel to population ratios and average  
32          response times.
- 33          (4)   A statement of the impact of the annexation on any  
34          rural fire department providing service in the area  
35          to be annexed and a statement of the impact of the  
36          annexation on fire protection and fire insurance  
37          rates in the area to be annexed, if the area where  
38          service is provided is in an insurance district  
39          designated under G.S. 153A-233, a rural fire  
40          protection district under Article 3A of Chapter 69

1 of the General Statutes, or a fire service district  
2 under Article 16 of Chapter 153A of the General  
3 Statutes. The rural fire department shall make  
4 available to the city not later than 30 days  
5 following a written request from the city all  
6 information in its possession or control, including  
7 but not limited to operational, financial and  
8 budgetary information, necessary for preparation of  
9 a statement of impact. The rural fire department  
10 forfeits its rights under G.S. 160A-49.1 and G.S.  
11 160A-49.2 if it fails to make a good faith response  
12 within 45 days following receipt of the written  
13 request for information from the city, provided  
14 that the city's written request so states by  
15 specific reference to this section.

16 (5) If the lot or tract standard was used to qualify  
17 the area, the report shall state the classification  
18 of each lot or tract in the area to be annexed as  
19 to use and size. If a population standard was used  
20 to qualify the area, the report shall state how the  
21 population estimate of the area was determined.

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

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

37 Section 8. G.S. 160A-48 reads as rewritten:  
38 "§ 160A-48. Character of area to be annexed.

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



- 1 (1) Which meets the general standards of subsection  
2 (b), and  
3 (2) Every part of which meets the requirements of  
4 either subsection (c) or subsection (d).  
5 (b) The total area to be annexed must meet the following  
6 standards:  
7 (1) It must be adjacent or contiguous to the  
8 municipality's boundaries, at the time the  
9 annexation proceeding is begun, except if the  
10 entire territory of a county water and sewer  
11 district created under G.S. 162A-86(b1) is being  
12 annexed, the annexation shall also include any  
13 noncontiguous pieces of the district as long as the  
14 part of the district with the greatest land area is  
15 adjacent or contiguous to the municipality's  
16 boundaries at the time the annexation proceeding is  
17 begun.  
18 (2) At least one eighth of the aggregate external  
19 boundaries of the area must coincide with the  
20 municipal boundary.  
21 (3) No part of the area shall be included within the  
22 boundary of another incorporated municipality.  
23 (4) No part of the area to be annexed shall be located  
24 in a county other than the county with a majority  
25 of the municipality's residents, unless areas  
26 previously added to the municipality in another  
27 county include at least 1,000 persons.  
28 (5) No lot or tract in the area to be annexed shall be  
29 in use for bona fide farm purposes as defined in  
30 G.S. 153A-340.  
31 (c) Part or all of the area to be annexed must be developed  
32 for urban ~~purposes~~, purposes at the time of the public hearing  
33 for the annexation ordinance. Area of streets and rights-of-way  
34 shall be used only to determine total resident population per  
35 acre of land in this section. An area developed for urban  
36 purposes is defined as any area which meets any one of the  
37 following standards:  
38 (1) Has a total resident population equal to at least  
39 two persons for each acre of land included within  
40 its boundaries; or

- 1 (2) Has a total resident population equal to at least  
2 one person for each acre of land included within  
3 its boundaries, and is subdivided into lots and  
4 tracts such that at least sixty percent (60%) of  
5 the total acreage consists of lots and tracts five  
6 acres or less in size and such that at least sixty-  
7 five percent (65%) of the total number of lots and  
8 tracts are one acre or less in size; or
- 9 (3) Is so developed that at least sixty percent (60%)  
10 of the total number of lots and tracts in the area  
11 at the time of annexation are used for residential,  
12 commercial, industrial, institutional or  
13 governmental purposes, and is subdivided into lots  
14 and tracts such that at least sixty percent (60%)  
15 of the total acreage, not counting the acreage used  
16 at the time of annexation for commercial,  
17 industrial, governmental or institutional purposes,  
18 consists of lots and tracts five acres or less in  
19 size; or
- 20 (4) Is the entire area of any county water and sewer  
21 district created under G.S. 162A-86(b1), but this  
22 subdivision only applies to annexation by a  
23 municipality if that:
- 24 a. Municipality has provided in a contract with  
25 that district that the area is developed for  
26 urban purposes; and
- 27 b. Contract provides for the municipality to  
28 operate the sewer system of that county water  
29 and sewer district;
- 30 provided that the special categorization provided  
31 by this subdivision only applies if the  
32 municipality is annexing in one proceeding the  
33 entire territory of the district not already within  
34 the corporate limits of a municipality; or
- 35 (5) Is so developed that at the time of annexation, all  
36 tracts in the area to be annexed are used for  
37 commercial, industrial, governmental or  
38 institutional purposes.
- 39 (d) In addition to areas developed for urban purposes, a  
40 governing board may include in the area to be annexed any area

1 which does not meet the requirements of subsection (c) if such  
2 area either:

- 3           (1) Lies between the municipal boundary and an area  
4           developed for urban purposes so that the area  
5           developed for urban purposes is either not adjacent  
6           to the municipal boundary or cannot be served by  
7           the municipality without extending services and/or  
8           water and/or sewer lines through such sparsely  
9           developed area; or  
10          (2) Is adjacent, on at least sixty percent (60%) of its  
11          external boundary, to any combination of the  
12          municipal boundary and the boundary of an area or  
13          areas developed for urban purposes as defined in  
14          subsection (c).

15          The purpose of this subsection is to permit municipal governing  
16          boards to extend corporate limits to include all nearby areas  
17          developed for urban purposes and where necessary to include areas  
18          which at the time of annexation are not yet developed for urban  
19          purposes but which constitute necessary land connections between  
20          the municipality and areas developed for urban purposes or  
21          between two or more areas developed for urban purposes. For  
22          purposes of this subsection, 'necessary land connection' means an  
23          area which does not exceed twenty-five percent (25%) of the total  
24          area to be annexed.

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

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

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

36          "(b) Notice of Public Hearing. -- The notice of public hearing  
37          shall:

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

- 1           (2) Describe clearly the boundaries of the area under  
2 consideration, and include a legible map of the  
3 area.
- 4           (3) State that the report required in G.S. 160A-47 will  
5 be available at the office of the municipal clerk  
6 at least 30 days prior to the date of the public  
7 hearing.
- 8           (4) Include a clear and easily understandable statement  
9 notifying persons affected by the annexation of  
10 their right to appeal under G.S. 160A-50, the right  
11 to request water and sewer services under G.S.  
12 160A-47(3)b., and the remedies under G.S. 160A-  
13 49(h) and (k) for failure of the city to provide  
14 services.

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

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

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

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

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

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

29 Section 12. G.S. 160A-54 is rewritten to read:

30 "**§160A-54. Population and land estimates.**

31 In determining population and degree of land subdivision for  
32 purposes of meeting the requirements of G.S. 160A-48, the  
33 municipality shall use methods calculated to provide reasonably  
34 accurate results. In determining whether the standards set forth  
35 in G.S. 160A-48 have been met on appeal to the superior court  
36 under G.S. 160A-50, the reviewing court shall accept the  
37 estimates of the ~~municipality~~ municipality unless the actual  
38 population, total area, or degree of land subdivision falls below  
39 the standards in G.S. 160A-48:

1 (1) As to population, if the estimate is based on the number of  
2 dwelling units in the area multiplied by the average family size  
3 in such area, or in the township or townships of which such area  
4 is a part, as determined by the last preceding federal decennial  
5 census; or if it is based on a new enumeration carried out under  
6 reasonable rules and regulations by the annexing municipality;  
7 provided, that the court shall not accept such estimates if the  
8 petitioners demonstrate that such estimates are in error in the  
9 amount of ten percent (10%) or more.

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

16 (3) As to degree of land subdivision, if the estimates are  
17 based on an actual survey, or on county tax maps or records, or  
18 on aerial photographs, or on some other reasonably reliable  
19 source, unless the petitioners on appeal show that such estimates  
20 are in error in the amount of five percent (5%) or more."

21 Section 13. This bill is effective upon ratification.

SUMMARY OF LEGISLATIVE PROPOSAL I  
Short title: Annexation changes  
97-DRW-008

Legislative Proposal I makes numerous changes to the State's annexation laws, as summarized below:

Section 1 of the proposal amends G.S. 160A-35 to clarify that municipalities or less than 5,000 preparing to annex must include in their annexation plan: provision for street lighting services as a part of any street maintenance services offered; provision for trunk water mains and sewer outfall lines in the area to be annexed; provision for street paving services in the area to be annexed; a detailed service statement; classification as to use and size of each lot or tract to be annexed, a notice of the right to appeal, and a statement showing how the proposed annexation will affect the municipality's finances and services.

Section 2 of the proposal amends G.S. 160A-36 to provide that any area annexed by a municipality of less than 5,000 shall not be located in another county, unless at least 1,000 residents of the annexing municipality already reside in another county; and no lot or tract in use for bona fide farm purposes may be annexed. In addition, Section 2 forbids use of the area of streets and rights-of-way (defined) to be used to determine the "area developed for urban purposes;" and authorizes annexation of tracts exclusively in use for commercial, industrial, governmental, or institutional use that meet the other requirements of G.S. 160A-36.

Section 3 of the proposal amends G.S. 160A-37(b) to require that notice of a public hearing for an annexation by a municipality of less than 5,000 include a notice of appeal rights.

Section 4 of the proposal amends G.S. 160A-37(d) to require an oral explanation of appeal rights at the public hearing for an annexation by a municipality of less than 5,000.

Section 5 of the proposal amends G.S. 160A-38 to authorize the superior court to approve a binding negotiated settlement of an annexation dispute involving a municipality of less than 5,000.

Section 6 of the bill amends G.S. 160A-42 to eliminate statutory allowances for area and land subdivision estimates used by municipalities of less than 5,000 cities in annexation proceedings, if the estimates fall below the statutory minimum standards.

Section 7 of the bill of the proposal amends G.S. 160A-47 to clarify that municipalities of 5,000 or more preparing to annex must include in their annexation plan: provision for street lighting services as a part of any street maintenance services offered; provision for trunk water mains and sewer outfall lines in the area to be annexed; provision for street paving services in the area to be annexed; a detailed service statement; classification as to use and size of each lot or tract to be annexed, a

notice of the right to appeal, and a statement showing how the proposed annexation will affect the municipality's finances and services.

Section 8 of the proposal amends G.S. 160A-48 to provide that any area annexed by a municipality of 5,000 or more shall not be located in another county, unless at least 1,000 residents of the annexing municipality already reside in another county; and no lot or tract in use for bona fide farm purposes may be annexed. In addition, Section 8 forbids use of the area of streets and rights-of-way (defined) to be used to determine the "area developed for urban purposes, but requires use of the area of streets and rights-of-way to determine total resident population per acre of land. Section 8 also authorizes annexation of tracts exclusively in use for commercial, industrial, governmental, or institutional use that meet the other requirements of G.S. 160A-48.

Section 9 of the proposal amends G.S. 160A-49(b) to require that notice of a public hearing for an annexation by a municipality of 5,000 or more include a notice of appeal rights.

Section 10 of the proposal amends G.S. 160A-49(d) to require an oral explanation of appeal rights at the public hearing for an annexation by a municipality of 5,000 or more.

Section 11 of the proposal amends G.S. 160A-50 to authorize the superior court to approve a binding negotiated settlement of an annexation dispute involving a municipality of 5,000 or more.

Section 12 of the bill amends G.S. 160A-54 to eliminate statutory allowances for population, area and land subdivision estimates used by larger cities in annexation proceedings, if the estimates fall below the statutory minimum standards.

Section 13 of the bill provides that it would become effective upon ratification.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

97-DRW-009

THIS IS A DRAFT 18-DEC-96 15:20:47

Short Title: Annexation/Municipal Services

(Public)

---

Sponsors:

---

Referred to:

---

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE ALL MUNICIPAL SERVICES TO BE PROVIDED TO A  
3 NEWLY ANNEXED AREA ON THE DATE OF ANNEXATION.

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.~~ annexation.  
17           A contract with a rural fire department to  
18           provide fire protection shall be an acceptable  
19           method of providing fire protection. If a  
20           water distribution system is not available in  
21           the area to be annexed, the plans must call  
22           for reasonably effective fire protection  
23           services until such time as waterlines are  
24           made 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.~~ services. If the municipality  
38           must, at its own expense, extend water and/or  
39           sewer 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.

6 c. Set forth the method under which the  
7 municipality plans to finance extension of  
8 services into the area to be annexed.

9 (4) A statement of the impact of the annexation on any  
10 rural fire department providing service in the area  
11 to be annexed and a statement of the impact of the  
12 annexation on fire protection and fire insurance  
13 rates in the area to be annexed, if the area where  
14 service is provided is in an insurance district  
15 designated under G.S. 153A-233, a rural fire  
16 protection district under Article 3A of Chapter 69  
17 of the General Statutes, or a fire service district  
18 under Article 16 of Chapter 153A of the General  
19 Statutes. The rural fire department shall make  
20 available to the city not later than 30 days  
21 following a written request from the city all  
22 information in its possession or control, including  
23 but not limited to operational, financial and  
24 budgetary information, necessary for preparation of  
25 a statement of impact. The rural fire department  
26 forfeits its rights under G.S. 160A-37.1 and G.S.  
27 160A-37.2 if it fails to make a good faith response  
28 within 45 days following receipt of the written  
29 request for information from the city, provided  
30 that the city's written request so states by  
31 specific reference to this section."

32 Section 2. G.S. 160A-47 reads as rewritten:

33 "§ 160A-47. Prerequisites to annexation; ability to serve;  
34 report and plans.

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

- 1 (1) A map or maps of the municipality and adjacent  
2 territory to show the following information:  
3 a. The present and proposed boundaries of the  
4 municipality.  
5 b. The present major trunk water mains and sewer  
6 interceptors and outfalls, and the proposed  
7 extensions of such mains and outfalls as  
8 required in subdivision (3) of this section.  
9 The water and sewer map must bear the seal of  
10 a registered professional engineer.  
11 c. The general land use pattern in the area to be  
12 annexed.
- 13 (2) A statement showing that the area to be annexed  
14 meets the requirements of G.S. 160A-48.
- 15 (3) A statement setting forth the plans of the  
16 municipality for extending to the area to be  
17 annexed each major municipal service performed  
18 within the municipality at the time of annexation.  
19 Specifically, such plans shall:  
20 a. Provide for extending police protection, fire  
21 protection, solid waste collection and street  
22 maintenance services to the area to be annexed  
23 on the date of ~~annexation on substantially the~~  
24 ~~same basis and in the same manner as such~~  
25 ~~services are provided within the rest of the~~  
26 ~~municipality prior to annexation.~~ annexation.  
27 A contract with a rural fire department to  
28 provide fire protection shall be an acceptable  
29 method of providing fire protection. If a  
30 water distribution system is not available in  
31 the area to be annexed, the plans must call  
32 for reasonably effective fire protection  
33 services until such time as waterlines are  
34 made available in such area under existing  
35 municipal policies for the extension of  
36 waterlines. A contract with a private firm to  
37 provide solid waste collection services shall  
38 be an acceptable method of providing solid  
39 waste collection services.

- 1           b.    Provide for extension of major trunk water  
2                    mains and sewer outfall lines into the area to  
3                    be annexed so that when such lines are  
4                    constructed, property owners in the area to be  
5                    annexed will be able to secure public water  
6                    and ~~sewer service, according to the policies~~  
7                    ~~in effect in such municipality for extending~~  
8                    ~~water and sewer lines to individual lots or~~  
9                    ~~subdivisions.~~ service. If requested by the  
10                   owner of an occupied dwelling unit or an  
11                   operating commercial or industrial property in  
12                   writing on a form provided by the  
13                   municipality, which form acknowledges that  
14                   such extension or extensions will be made  
15                   according to the current financial policies of  
16                   the municipality for making such extensions,  
17                   and if such form is received by the city clerk  
18                   not less than 30 days before adoption of the  
19                   annexation ordinance, provide for extension of  
20                   water and sewer lines to the property or to a  
21                   point on a public street or road right-of-way  
22                   adjacent to the property according to the  
23                   financial policies in effect in such  
24                   municipality for extending water and sewer  
25                   lines. If any such requests are timely made,  
26                   the municipality shall at the time of adoption  
27                   of the annexation ordinance amend its report  
28                   and plan for services to reflect and  
29                   accommodate such requests.
- 30           c.    If extension of major trunk water mains, sewer  
31                   outfall lines, sewer lines and water lines is  
32                   necessary, set forth a proposed timetable for  
33                   construction of such mains, outfalls and lines  
34                   as soon as possible following the effective  
35                   date of annexation. In any event, the plans  
36                   shall call for construction to be completed  
37                   within two years of the effective date of  
38                   annexation.

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

**SUMMARY OF LEGISLATIVE PROPOSAL II**  
Short title: Annexation/Municipal Services  
97-DRW-009

Legislative Proposal II amends the State's annexation laws to require provision of major municipal services to areas annexed under the "involuntary" or "standards and services" annexation provisions of Parts 2 and 3 of Article 4A of Chapter 160A of the General Statutes.

Legislative Proposal II would become effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1995

D

97-DRW-010  
THIS IS A DRAFT 18-DEC-96 15:10:00

Short Title: ETJ Changes

(Public)

---

Sponsors:

---

Referred to:

---

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE AT LEAST TWO REPRESENTATIVES FROM A  
3 MUNICIPALITY'S EXTRATERRITORIAL PLANNING AND ZONING  
4 JURISDICTION ON THE PLANNING AGENCY.  
5 The General Assembly of North Carolina enacts:  
6           Section 1. G.S. 160A-362 reads as rewritten:  
7 "**§160A-362. Extraterritorial representation.**  
8 When a city elects to exercise extraterritorial zoning or  
9 subdivision-regulation powers under G.S. 160A-360, it shall in  
10 the ordinance creating or designating its planning agency or  
11 agencies provide a means of proportional representation based on  
12 population for residents of the extraterritorial area to be  
13 regulated. Representation shall be provided by appointing at  
14 least ~~one resident~~ two residents of the entire extraterritorial  
15 zoning and subdivision regulation area to the planning agency and  
16 the board of adjustment that makes recommendations or grants  
17 relief in these matters. For purposes of this section, an  
18 additional member must be appointed to the planning agency or  
19 board of adjustment to achieve proportional representation only  
20 when the population of the entire extraterritorial zoning and



1 subdivision area constitutes a full fraction of the  
2 municipality's population divided by the total membership of the  
3 planning agency or board of adjustment. Membership of joint  
4 municipal county planning agencies or boards of adjustment may be  
5 appointed as agreed by counties and municipalities. Any advisory  
6 board established prior to July 1, 1983, to provide the required  
7 extraterritorial representation shall constitute compliance with  
8 this section until the board is abolished by ordinance of the  
9 city. The representatives on the planning agency and the board of  
10 adjustment shall be appointed by the board of county  
11 commissioners with jurisdiction over the area. When selecting a  
12 new representative to the planning agency or to the board of  
13 adjustment as a result of an extension of the extraterritorial  
14 jurisdiction, the board of county commissioners shall hold a  
15 public hearing on the selection. A notice of the hearing shall  
16 be given once a week for two successive calendar weeks in a  
17 newspaper having general circulation in the area. The board of  
18 county commissioners shall select appointees only from those who  
19 apply at or before the public hearing. The county shall make the  
20 appointments within 45 days following the public hearing. Once a  
21 city provides proportional representation, no power available to  
22 a city under G.S. 160A-360 shall be ineffective in its  
23 extraterritorial area solely because county appointments have not  
24 yet been made. If there is an insufficient number of qualified  
25 residents of the area to meet membership requirements, the board  
26 of county commissioners may appoint as many other residents of  
27 the county as necessary to make up the requisite number. When the  
28 extraterritorial area extends into two or more counties, each  
29 board of county commissioners concerned shall appoint  
30 representatives from its portion of the area, as specified in the  
31 ordinance. If a board of county commissioners fails to make these  
32 appointments within 90 days after receiving a resolution from the  
33 city council requesting that they be made, the city council may  
34 make them. If the ordinance so provides, the outside  
35 representatives may have equal rights, privileges, and duties  
36 with the other members of the agency to which they are appointed,  
37 regardless of whether the matters at issue arise within the city  
38 or within the extraterritorial area; otherwise they shall  
39 function only with respect to matters within the  
40 extraterritorial area."

1           Section 2. This act is effective upon ratification.

SUMMARY OF LEGISLATIVE PROPOSAL III

Short title: ETJ changes

97-DRW-010

Legislative Proposal III amends G.S. 160A-360 to require at least two representatives from the extraterritorial planning and zoning jurisdiction of a municipality to be appointed to the planning agency of a municipality.

Legislative Proposal III would become effective upon ratification.