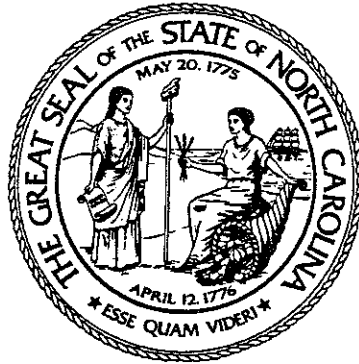


LEGISLATIVE RESEARCH COMMISSION

MUNICIPALITIES ANNEXATION AND INCORPORATION



REPORT TO THE  
1998 SESSION OF THE  
1997 GENERAL ASSEMBLY  
OF NORTH CAROLINA

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STATE OF NORTH CAROLINA  
LEGISLATIVE RESEARCH COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH 27601-1096  
May 11, 1998

TO THE MEMBERS OF THE 1997 GENERAL ASSEMBLY (REGULAR SESSION 1998):

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

Respectfully submitted,

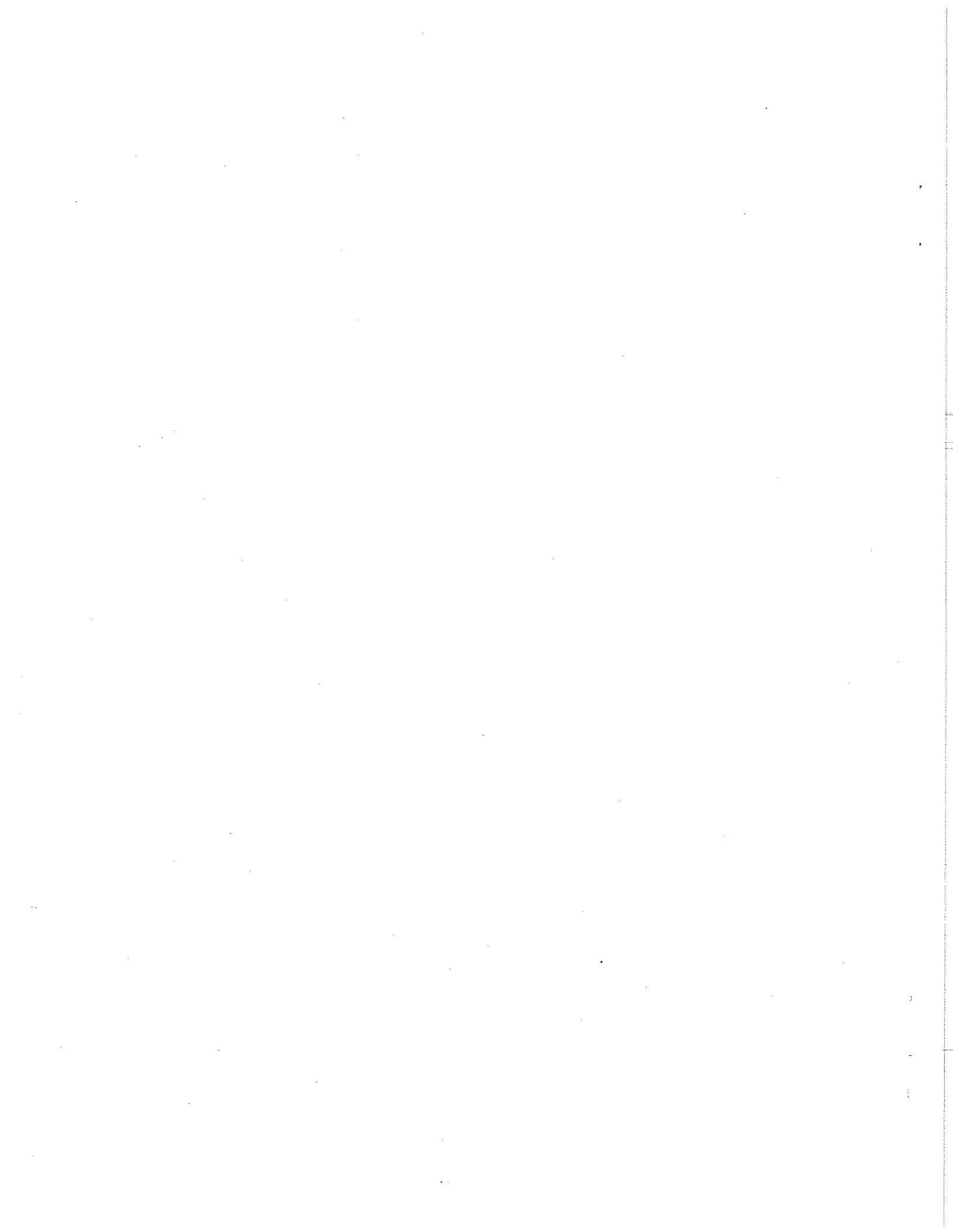
A handwritten signature in cursive script, appearing to read "Harold J. Brubaker", written over a horizontal line.

Harold J. Brubaker  
Speaker of the House

A handwritten signature in cursive script, appearing to read "Marc Basnight", written over a horizontal line.

Marc Basnight  
President Pro Tempore

Cochair  
Legislative Research Commission



1997-1999

LEGISLATIVE RESEARCH COMMISSION

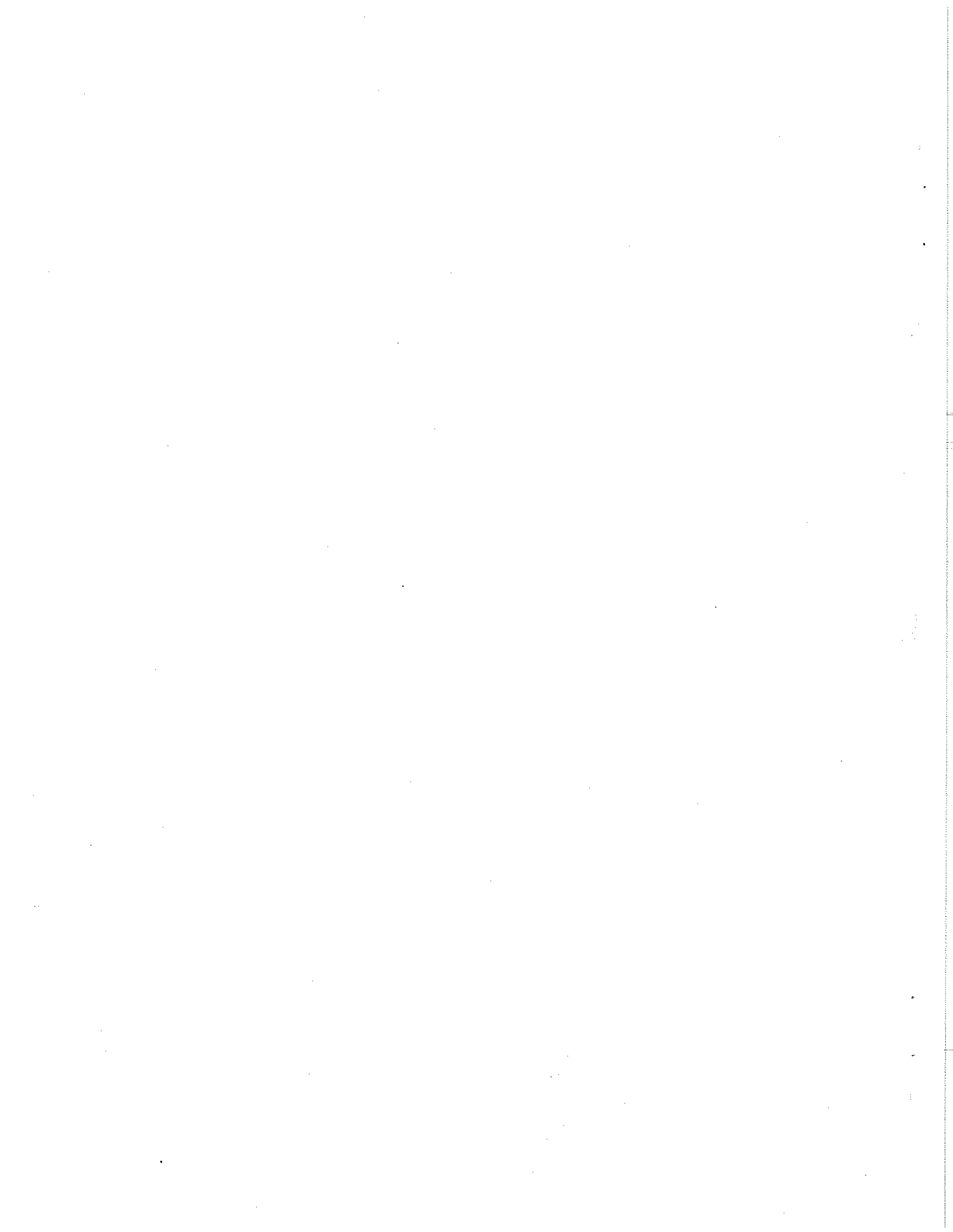
MEMBERSHIP

President Pro Tempore of the Senate  
Marc Basnight, Cochair

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

Sen. Austin M. Allran  
Sen. Frank W. Ballance, Jr.  
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Sen. R.L. Martin  
Sen. Ed N. Warren

Rep. Michael P. Decker, Sr.  
Rep. Jerry C. Dockham  
Rep. Beverly Earle  
Rep. W. Eugene McCombs  
Rep. Gregory J. Thompson





## 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 1997 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 the Municipalities Annexation and Incorporation was authorized by Section 2.1(12) of Chapter 483 of the 1997 Session Laws. The relevant portions of Chapter 483 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 Insurance, Property, and Annexation Grouping area under the direction of Representative Jerry C. Dockham. The Committee was chaired by Senator William R. Purcell and Representative Edgar V. Starnes. 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 is filed in the Legislative Library.



## COMMITTEE PROCEEDINGS

The Committee met four times, on January 15, February 12, March 19, and April 27, 1998. At its January meeting, the Committee began with an overview of the State's annexation and incorporation laws, presented by David Lawrence and Richard Ducker of the UNC-CH Institute of Government. At its February 12 meeting, the committee heard the views of numerous interested groups concerning the State's annexation laws. At its March 19 meeting, the Committee reviewed legislation from the 1997 session on annexation. At its fourth meeting in April, the Committee debated and approved various legislative proposals that are included in the Appendix as the Committee's recommendations.

Detailed minutes of each of the Committee's meetings were prepared by the Committee Clerk, and will be deposited in the Legislative Library.



## **FINDINGS AND RECOMMENDATIONS**

The Committee finds the annexation and incorporation statutes of the State require revision, and recommends the attached proposals.



**CHAPTER 483**  
**1997 Session Laws**

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMISSIONS, TO CONTINUE A COUNCIL, TO DIRECT STATE AGENCIES AND LEGISLATIVE OVERSIGHT COMMITTEES AND COMMISSIONS TO STUDY SPECIFIED ISSUES, AND TO IMPOSE A MORATORIUM ON SERVICE CORPORATION CONVERSIONS.

The General Assembly of North Carolina enacts:

**PART I.-----TITLE**

Section 1. This act shall be known as "The Studies Act of 1997".

**PART II.-----LEGISLATIVE RESEARCH COMMISSION**

Section 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 1997 Regular Session of the 1997 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study....

(12) Municipalities Annexation and incorporation issues...

**PART XVI.-----BILL AND RESOLUTIONS REFERENCES**

Section 16.1. The listing of the original bill or resolution in this act 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.

**PART XVII.-----EFFECTIVE DATE AND APPLICABILITY**

Section 17.1. Except as otherwise specifically provided, this act becomes effective July 1, 1997. If a study is authorized both in this act and the Current Operations Appropriations Act of 1997, the study shall be implemented in accordance with the Current Operations Appropriations Act of 1997 as ratified.

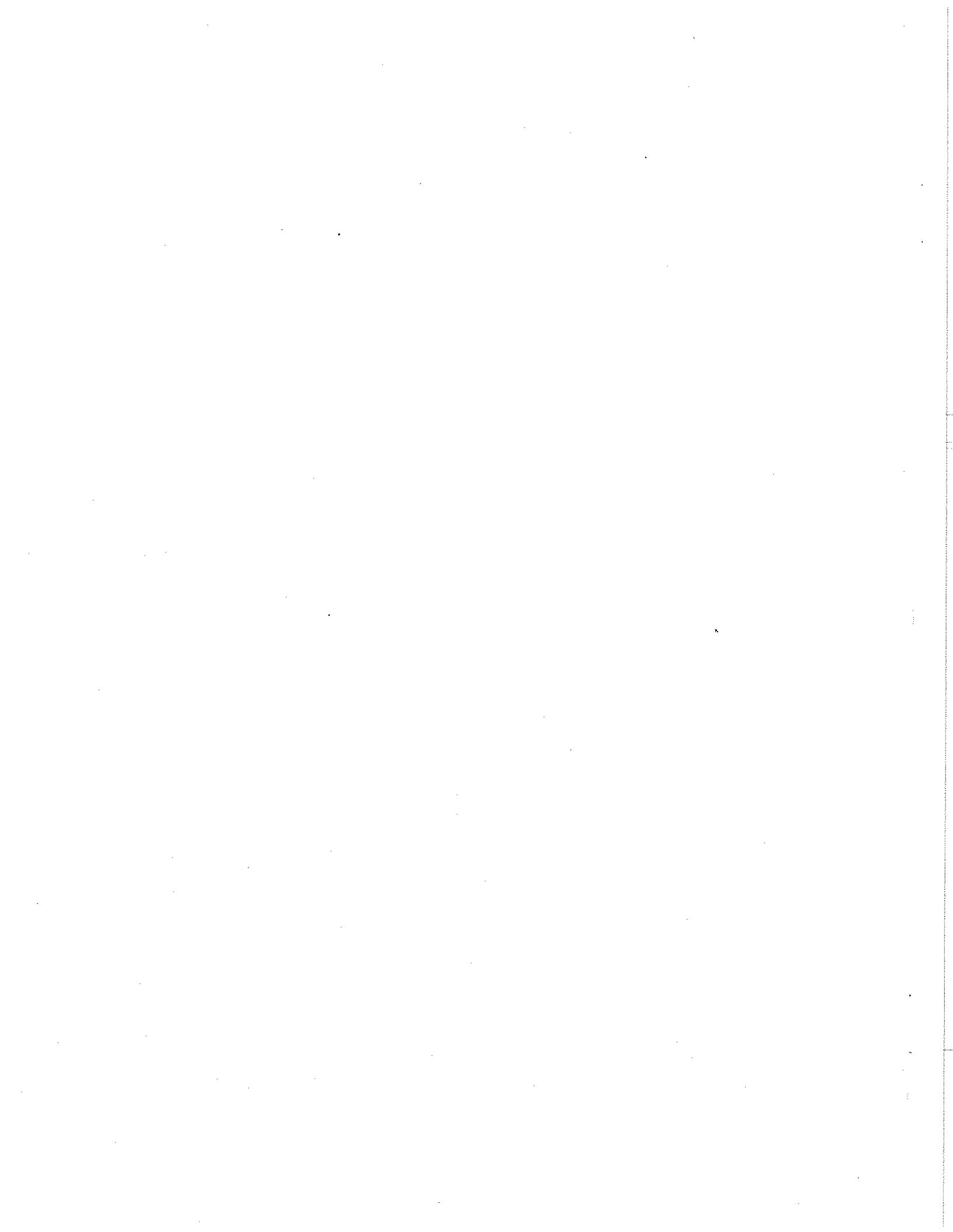
In the General Assembly read three times and ratified this the 28th day of August, 1997.

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ Harold J. Brubaker  
Speaker of the House of Representatives

s/ James B. Hunt, Jr.  
Governor

Approved 11:00 a.m. this 10th day of September, 1997





**LEGISLATIVE RESEARCH COMMISSION  
MUNICIPALITIES ANNEXATION  
AND INCORPORATION COMMITTEE  
1997-1999**

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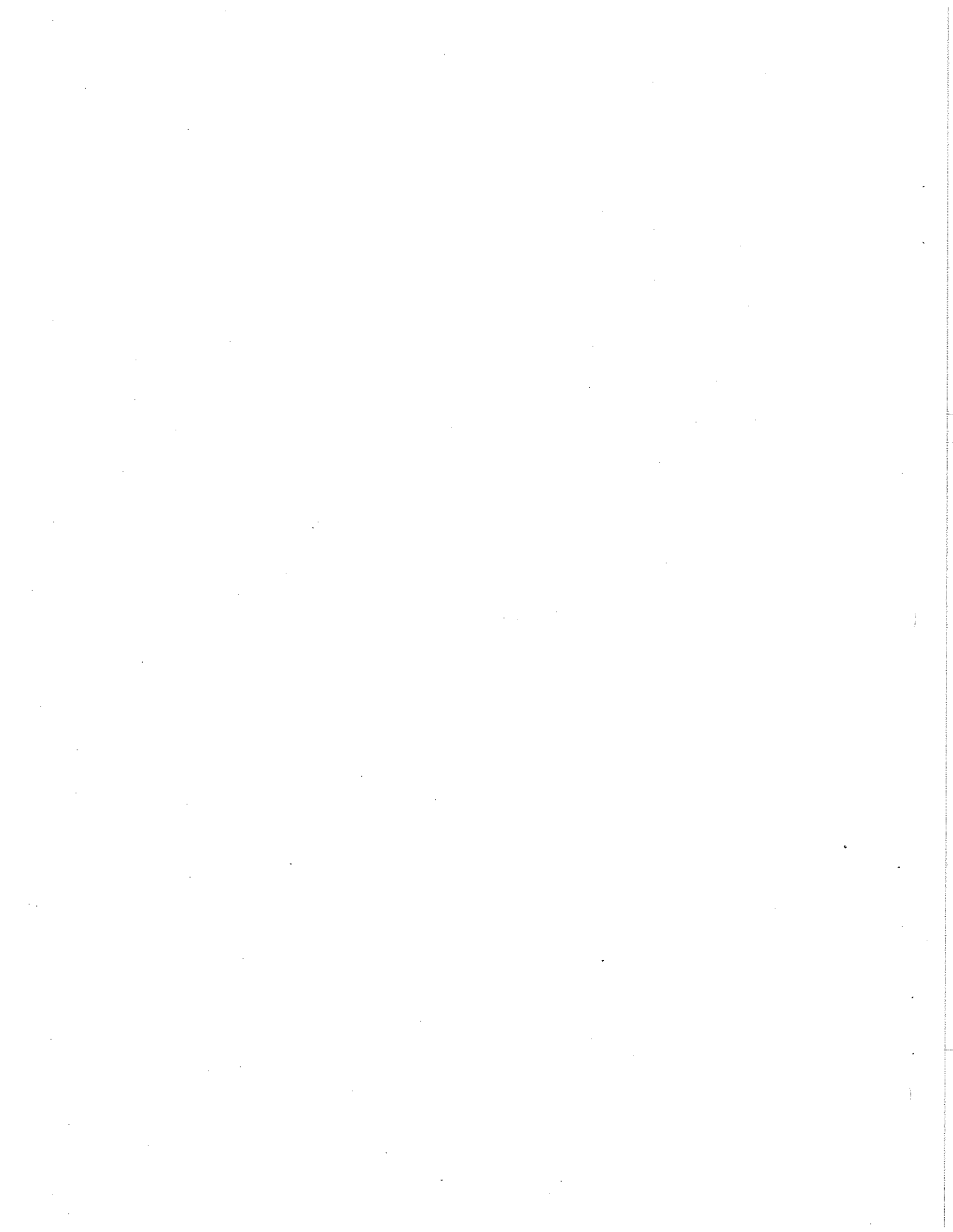
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(910) 784-9373

**Clerk:**

Pattie Fleming  
(919) 715-3012

# **LEGISLATIVE PROPOSAL I**



## Legislative Proposal I

### A BILL TO BE ENTITLED AN ACT TO REVISE THE MUNICIPAL ANNEXATION LAWS AND TO CHANGE THE CRITERIA TO BE CONSIDERED BY THE JOINT LEGISLATIVE COMMISSION ON MUNICIPAL INCORPORATION

Section 1 requires the property tax assessor to notify the city of property annexed subject to loss of farm use value, as provided in Section 7 and 15 of the bill.

Section 2 changes the criteria to be considered by the Joint Legislative Commission on Municipal Incorporation to allow the Commission to make a positive recommendation on an incorporation within specified distances of existing municipalities, if those municipalities express their approval of the incorporation.

Section 3 adds additional criteria to be considered by the Joint Legislative Commission on Municipal Incorporation – in order to grant a positive recommendation, the area to be incorporated would have to meet the same development standards as provided in the annexation statutes, and the proposed municipality would have to plan to offer at least two of seven listed services.

Section 4 amends the prerequisites to annexation for municipalities of less than 5,000 to allow maintenance of septic systems in lieu of sewer service, if sewer service could not be provided economically.

Section 5, applicable to municipalities under 5,000, clarifies that the current limitation on changes to municipal water and sewer financial polices only applies for the purposes of extensions required under G.S. 160A-35 for newly annexed areas.

Section 6 amends the statute setting out the character of the area to be annexed by a municipality of less than 5,000. This section:

- requires that the determination of "developed for urban purposes" under the statute must be made by the time of the approval of the annexation report;
- forbids the use of streets and rights-of-way to determine total acreage of the area developed for urban purposes;
- attempts to more clearly define commercial, industrial, institutional, and governmental use;
- authorizes annexation of single commercial, industrial, institutional, and governmental use tracts; and
- eliminates the restriction of what features can be used as municipal boundaries.

Section 7, applicable to municipalities under 5,000:

- amends the current annexation procedure to require a public informational meeting prior the public hearing, where citizens can ask questions and receive answers;
- requires cities not to tax or provide services to any land in a proposed involuntary annexation that is under farm use value until the land loses that classification; and

--authorizes citizens of newly annexed areas to apply to the Local Government Commission for tax relief if the municipality does not provide promised police, fire, solid waste, or street maintenance services.

Section 8, applicable to municipalities under 5,000, authorizes city-rural fire department agreements on valuations for assumed debt.

Section 9, applicable to municipalities under 5,000, requires potential solid waste contractors that have previously expressed interest in contracting with the city to respond within 10 days of a city request for information.

Section 10, applicable to municipalities of ;less than 5,000:

- extends the time for appeal from 30 to 60 days following passage of the ordinance;
- extends from 5 to 10 days the time of the petitioner to serve the municipality;
- authorizes the court to declare the annexation ordinance null and void, if the court finds that it cannot be corrected on remand; and
- authorizes superior court approval of annexation dispute settlements.

Section 11, applicable to municipalities under 5,000, requires land subdivision to at least meet the minimum requirements of G.S. 160A-36.

Section 12, applicable to municipalities of 5,000 or more:

- requires the opportunity to request water and sewer service be open no less than five days after the public hearing; and
- amends the prerequisites to annexation to allow maintenance of septic systems in lieu of sewer service, if sewer service could not be provided economically.

Section 13, applicable to municipalities of 5,000 or more, clarifies that the current limitation on changes to municipal water and sewer financial policies only applies for the purposes of extensions required under G.S. 160A-47 for newly annexed areas.

Section 14 amends the statute setting out the character of the area to be annexed by a municipality of 5,000 or more. This section:

- requires that the determination of "developed for urban purposes" under the statute must be made by the time of the approval of the annexation report;
- forbids the use of streets and rights-of-way to determine total acreage of the area developed for urban purposes;
- increases the required density under "developed for urban purposes test #1 from 2 to 2.3 persons per acre;
- reduces the required acreage for the lots and tracts under "developed for urban purposes" test #2 and #3 from five to three acres;
- attempts to more clearly define commercial, industrial, institutional, and governmental use;
- authorizes annexation of single commercial, industrial, institutional, and governmental use tracts; and

--eliminates the restriction of what features can be used as municipal boundaries.

Section 15, applicable to municipalities of 5,000 or more:

--amends the current annexation procedure to require a public informational meeting prior to the public hearing, where citizens can ask questions and receive answers;

--requires notice of the opportunity to request water and sewer service be included in the notice of the public hearing.

--requires cities not to tax or provide services to any land in a proposed involuntary annexation that is under farm use value until the land loses that classification;

--authorizes citizens of newly annexed areas to apply to the Local Government Commission for tax relief if the municipality does not provide promised police, fire, solid waste, or street maintenance services; and

--changes time annexation ordinance can become effective, if there was a resolution of consideration, from 70-400 days.

Section 16, applicable to municipalities of 5,000 or more, authorizes city-rural fire department agreements on valuations for assumed debt.

Section 17, applicable to municipalities of 5,000 or more, requires potential solid waste contractors that have previously expressed interest in contracting with the city to respond within 10 days of a city request for information.

Section 18, applicable to municipalities of 5,000:

--extends the time for appeal from 30 to 60 days following passage of the ordinance;

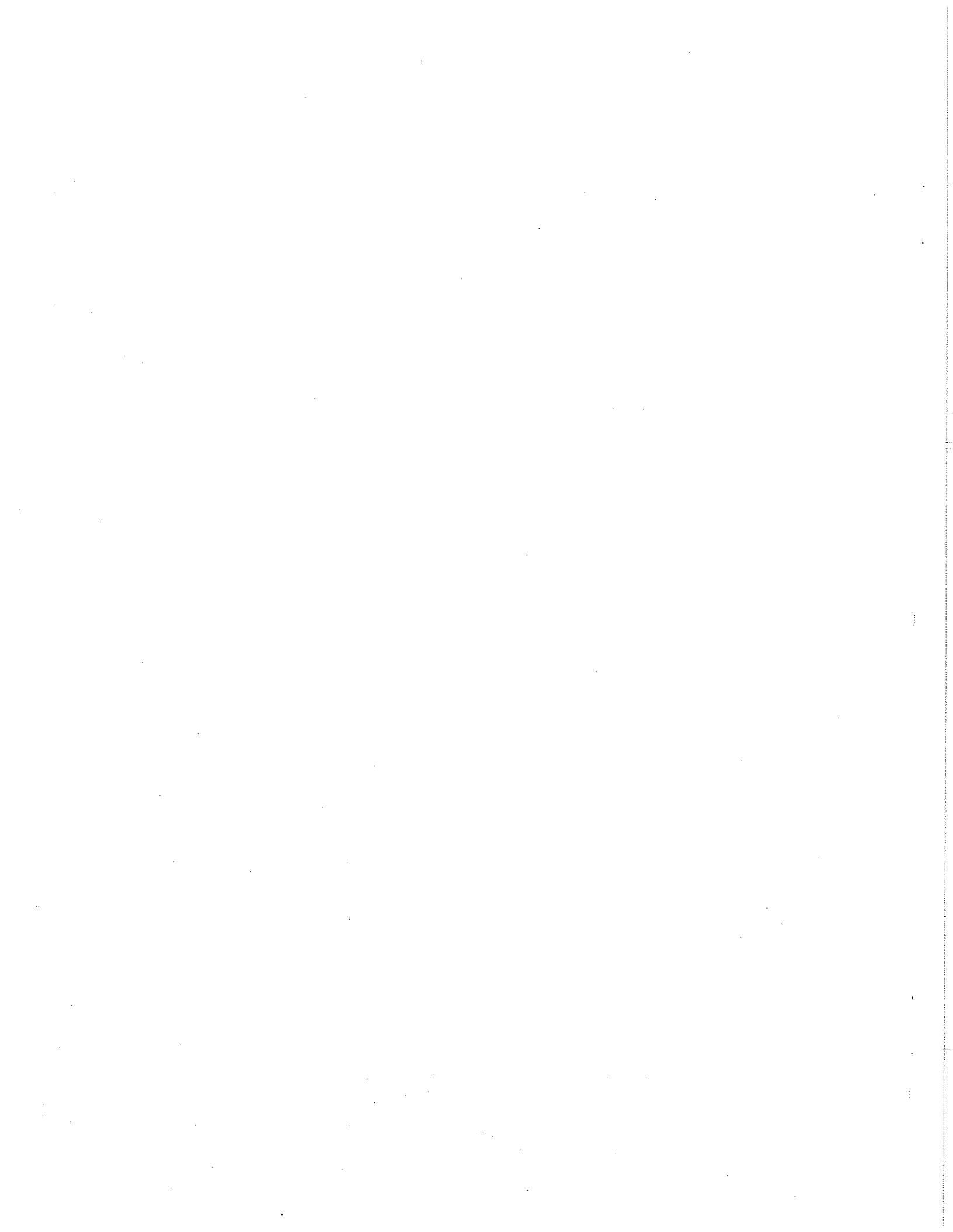
--extends from 5 to 10 days the time of the petitioner to serve the municipality;

--authorizes the court to declare the annexation ordinance null and void, if the court finds that it cannot be corrected on remand; and

--authorizes superior court approval of annexation dispute settlements.

Section 19, applicable to municipalities of 5,000 or more, requires population, area and land subdivision estimates for areas to be annexed to at least meet the minimum requirements of G.S. 160A-48.

Section 20 provides that the bill would become effective January 1, 1999, and the changes to the criteria of the Joint Legislative Commission on Municipal Incorporation would not affect pending annexation proposals.





GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

D

97-DRW-028

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)  
12:48:38 1-MAY-98

Short Title: Annex & incorporation revision.

(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 REVISE THE MUNICIPAL ANNEXATION LAWS AND TO CHANGE THE  
3 CRITERIA TO BE CONSIDERED BY THE JOINT LEGISLATIVE COMMISSION  
4 ON MUNICIPAL INCORPORATIONS.  
5 The General Assembly of North Carolina enacts:  
6           Section 1. G.S. 105-277.4(b) reads as rewritten:  
7    "(b) Appraisal at Present-use Value. -- Upon receipt of a  
8 properly executed application, the assessor shall appraise the  
9 property at its present-use value as established in the schedule  
10 prepared pursuant to G.S. 105-317. In appraising the property at  
11 its present-use value, the assessor shall appraise the  
12 improvements located on qualifying land according to the  
13 schedules and standards used in appraising other similar  
14 improvements in the county. If all or any part of a qualifying  
15 tract of land is located within the limits of an incorporated  
16 city or town, or is property annexed subject to G.S. 160A-37(f1)  
17 or G.S. 160A-49(f1), the assessor shall furnish a copy of the  
18 property record showing both the present-use appraisal and the  
19 valuation upon which the property would have been taxed in the  
20 absence of this classification to the collector of the city or

1 town. He shall also notify the tax collector of any changes in  
2 the appraisals or in the eligibility of the property for the  
3 benefit of this classification."

4 Section 2. G.S. 120-166 reads as rewritten:

5 "§ 120-166. Additional criteria; nearness to another  
6 municipality.

7 (a) The Commission may not make a positive recommendation if  
8 the proposed municipality is located within one mile of a  
9 municipality of 5,000 to 9,999, within three miles of a  
10 municipality of 10,000 to 24,999, within four miles of a  
11 municipality of 25,000 to 49,999, or within five miles of a  
12 municipality of 50,000 or over, according to the most recent  
13 decennial federal census, or according to the most recent annual  
14 estimate of the Office of State Budget and Management if the  
15 municipality was incorporated since the return of that census.

16 (b) Subsection (a) of this section does not apply in the case  
17 of proximity to a specific municipality if:

18 (1) The proposed municipality is entirely on an island  
19 that the nearby city is not on;

20 (2) The proposed municipality is separated by a major  
21 river or other natural barrier from the nearby  
22 city, such that provision of municipal services by  
23 the nearby city to the proposed municipality is  
24 infeasible or the cost is prohibitive, and the  
25 Commission shall adopt policies to implement this  
26 subdivision;

27 (3) The nearby municipality municipalities within the  
28 distances described in subsection (a) by resolution  
29 expresses its expresses their approval of the  
30 incorporation; or

31 (4) An area of at least fifty percent (50%) of the  
32 proposed municipality has petitioned for annexation  
33 to the nearby city under G.S. 160A-31 within the  
34 previous 12 months before the incorporation  
35 petition is submitted to the Commission but the  
36 annexation petition was not approved."

37 Section 3. Article 20 of Chapter 120 is amended by  
38 adding a new section to read:

39 "§120-169.1 Additional criteria; level of development, services.

1 (a) Level of development.-- The Commission may not make a  
2 positive recommendation unless the entire area proposed for  
3 incorporation meets the applicable criteria for development under  
4 G.S.160A-36(c) or G.S. 160A-48(c).

5 (b) Services.-- The Commission may not make a positive  
6 recommendation unless the area to be incorporated submits a plan  
7 for providing a reasonable level of municipal services. To meet  
8 the requirements of this subsection, the persons submitting the  
9 plan for incorporation must propose to provide at least two of  
10 the following services:

11 (1) Police protection.

12 (2) Fire protection.

13 (3) Garbage and refuse collection or disposal.

14 (4) Water distribution.

15 (5) Sewer collection or disposal.

16 (6) Street maintenance, construction, or right-of-way  
17 acquisition.

18 (7) Street lighting.

19 (8) Adoption of citywide planning and zoning."

20 Section 4. 160A-35 reads as rewritten:

21 "§ 160A-35. Prerequisites to annexation; ability to serve;  
22 report and plans.

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

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

30 a. The present and proposed boundaries of the  
31 municipality.

32 b. The proposed extensions of water mains and  
33 sewer outfalls to serve the annexed area, if  
34 such utilities are operated by the  
35 municipality. The water and sewer map must  
36 bear the seal of a registered professional  
37 engineer or a licensed surveyor.

38 (2) A statement showing that the area to be annexed  
39 meets the requirements of G.S. 160A-36.

1           (3) A statement setting forth the plans of the  
2           municipality for extending to the area to be  
3           annexed each major municipal service performed  
4           within the municipality at the time of annexation.  
5           Specifically, such plans shall:

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

26          b. Provide for extension of water mains and sewer  
27          lines into the area to be annexed so that  
28          property owners in the area to be annexed will  
29          be able to secure public water and sewer  
30          services according to the policies in effect  
31          in such municipality for extending water and  
32          sewer lines to individual lots or  
33          subdivisions. If the municipality must, at  
34          its own expense, extend water and/or sewer  
35          mains into the area to be annexed before  
36          property owners in the area can, according to  
37          municipal policies, make such connection to  
38          such lines, then the plans must call for  
39          contracts to be let and construction to begin  
40          on such lines within one year following the

1 effective date of annexation. In areas where  
2 the installation of sewer is not economically  
3 feasible due to the unique topography of the  
4 area, the municipality may agree to provide  
5 septic system maintenance and repair service  
6 until such time as sewer service is provided  
7 to properties similarly situated.

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

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

34 Section 5. G.S. 160A-35.1 reads as rewritten:

35 "\$ 160A-35.1. Limitation on change in financial participation  
36 prior to annexation.

37 No For purposes of the extension of water and sewer services  
38 required under G.S. 160A- 35, no ordinance or policy  
39 substantially diminishing the financial participation of a  
40 municipality in the construction of water or sewer facilities

1 required under this Article may apply to an area being annexed  
2 unless the ordinance or policy became effective at least 180 days  
3 prior to the date of adoption by the municipality of the  
4 resolution giving notice of intent to consider annexing the area  
5 under G.S. 160A-37(a)."

6 Section 6. G.S. 160A-36 reads as rewritten:

7 " § 160A-36. Character of area to be annexed.

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

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

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

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

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

30 (c) The area to be annexed must be developed for urban  
31 ~~purposes.~~ purposes at the time of approval of the report provided  
32 for in G.S. 160A-35. For purposes of this section, a lot or tract  
33 shall not be considered in use for a commercial, industrial,  
34 institutional or governmental purpose if the lot or tract is used  
35 only temporarily, occasionally, or on an incidental or  
36 insubstantial basis in relation to the size and character of the  
37 lot or tract. For purposes of this section, acreage in use for  
38 commercial, industrial, institutional or governmental purposes  
39 shall include acreage actually occupied by buildings or other  
40 man-made structures together with all areas that are reasonably

1 necessary and appurtenant to such facilities for purposes of  
2 parking, storage, ingress and egress, utilities, buffering, and  
3 other ancillary services and facilities. Area of streets and  
4 rights-of-way shall not be used to determine total acreage under  
5 this section. An area developed for urban purposes is defined ~~as~~  
6 any as:

7 (1) Any area which is so developed that at least sixty  
8 percent (60%) of the total number of lots and tracts in  
9 the area at the time of annexation are used for  
10 residential, commercial, industrial, institutional or  
11 governmental purposes, and is subdivided into lots and  
12 tracts such that at least sixty percent (60%) of the  
13 total acreage, not counting the acreage used at the time  
14 of annexation for commercial, industrial, governmental  
15 or institutional purposes, consists of lots and tracts  
16 five acres or less in size.

17 (2) An area so developed that at the time of  
18 annexation, all tracts in the area to be annexed are  
19 used for commercial, industrial, governmental or  
20 institutional purposes.

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

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

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

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

37 (d) In fixing new municipal boundaries, a municipal governing  
38 board ~~shall, wherever practical, use natural topographic features~~  
39 ~~such as ridge lines and streams and creeks as boundaries, and may~~  
40 ~~use streets as boundaries.~~ shall use recorded property lines and

1 streets as boundaries. Some or all of the boundaries of a county  
2 water and sewer district may also be used when the entire  
3 district not already within the corporate limits of a  
4 municipality is being annexed.

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

8 Section 7. G.S. 160A-37 reads as rewritten:

9 "§ 160A-37. Procedure for annexation.

10 (a) Notice of Intent. -- Any municipal governing board  
11 desiring to annex territory under the provisions of this Part  
12 shall first pass a resolution stating the intent of the  
13 municipality to consider annexation. Such resolution shall  
14 describe the boundaries of the area under consideration  
15 consideration, fix a date for public informational meeting, and  
16 fix a date for a public hearing on the question of annexation,  
17 the annexation. The date for the public informational meeting  
18 shall be not less than 45 days and not more than 55 days  
19 following passage of the resolution. The date for such the  
20 public hearing to be not less than 45 60 days and not more than  
21 90 days following passage of the resolution.

22 (b) Notice of Public Hearing. -- The notice of public hearing  
23 shall:

- 24 (1) Fix the date, hour and place of the public  
25 informational meeting and the date, hour and place  
26 of the public hearing.  
27 (2) Describe clearly the boundaries of the area under  
28 consideration, and include a legible map of the  
29 area.  
30 (3) State that the report required in G.S. 160A-35 will  
31 be available at the office of the municipal clerk  
32 at least 30 days prior to the date of the public  
33 hearing- informational meeting.

34 Such notice shall be given by publication once a week for at  
35 least two successive weeks prior to the date of the hearing  
36 informational meeting in a newspaper having general circulation  
37 in the municipality and, in addition thereto, if the area to be  
38 annexed lies in a county containing less than fifty percent (50%)  
39 of the land area of the municipality, in a newspaper having  
40 general circulation in the area of proposed annexation. The



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

26 If the governing board by resolution finds that the tax records  
27 are not adequate to identify the owners of some or all of the  
28 parcels of real property within the area it may in lieu of the  
29 mail procedure as to those parcels where the owners could not be  
30 so identified, post the notice at least 30 days prior to the date  
31 of public ~~hearing~~ informational meeting on all buildings on such  
32 parcels, and in at least five other places within the area to be  
33 annexed. In any case where notices are placed on property, the  
34 person placing the notice shall certify that fact to the  
35 governing board.

36 (c) Action Prior to ~~Hearing~~, Informational Meeting. -- At  
37 least 30 days before the date of the public ~~hearing~~,  
38 informational meeting, the governing board shall approve the  
39 report provided for in G.S. 160A-35, and shall make it available  
40 to the public at the office of the municipal clerk. In addition,

1 the municipality may prepare a summary of the full report for  
2 public distribution. In addition, the city shall post in the  
3 office of the city clerk at least 30 days before the public  
4 ~~hearing~~ informational meeting a legible map of the area to be  
5 annexed and a list of the persons holding freehold interests in  
6 property in the area to be annexed that it has identified.

7 (c1) Public Informational Meeting. -- At the public  
8 informational meeting a representative of the municipality shall  
9 first make an explanation of the report required in G.S. 160A-35.  
10 Following such explanation, all persons resident or owning  
11 property in the territory described in the notice of public  
12 hearing, and all residents of the municipality, shall be given  
13 the opportunity to ask questions and receive answers regarding  
14 the proposed annexation.

15 (d) Public Hearing. -- At the public hearing a representative  
16 of the municipality shall first make an explanation of the report  
17 required in G.S. 160A-35. Following such explanation, all persons  
18 resident or owning property in the territory described in the  
19 notice of public hearing, and all residents of the municipality,  
20 shall be given an opportunity to be heard.

21 (e) Passage of the Annexation Ordinance. --The municipal  
22 governing board shall take into consideration facts presented at  
23 the public hearing and shall have authority to amend the report  
24 required by G.S. 160A-35 to make changes in the plans for serving  
25 the area proposed to be annexed so long as such changes meet the  
26 requirements of G.S. 160A-35. At any regular or special meeting  
27 held no sooner than the tenth day following the public hearing  
28 and not later than 90 days following such public hearing, the  
29 governing board shall have authority to adopt an ordinance  
30 extending the corporate limits of the municipality to include  
31 all, or such part, of the area described in the notice of public  
32 hearing which meets the requirements of G.S. 160A-36 and which  
33 the governing board has concluded should be annexed. The  
34 ordinance shall:

35 (1) Contain specific findings showing that the area to  
36 be annexed meets the requirements of G.S. 160A-36.  
37 The external boundaries of the area to be annexed  
38 shall be described by metes and bounds. In showing  
39 the application of G.S. 160A-36(c) and (d) to the  
40 area, the governing board may refer to boundaries

- 1 set forth on a map of the area and incorporate same  
2 by reference as a part of the ordinance.
- 3 (2) A statement of the intent of the municipality to  
4 provide services to the area being annexed as set  
5 forth in the report required by G.S. 160A-35.
- 6 (3) A specific finding that on the effective date of  
7 annexation the municipality will have funds  
8 appropriated in sufficient amount to finance  
9 construction of any water and sewer lines found  
10 necessary in the report required by G.S. 160A-35 to  
11 extend the basic water and/or sewer system of the  
12 municipality into the area to be annexed, or that  
13 on the effective date of annexation the  
14 municipality will have authority to issue bonds in  
15 an amount sufficient to finance such construction.  
16 If authority to issue such bonds must be secured  
17 from the electorate of the municipality prior to  
18 the effective date of annexation, then the  
19 effective date of annexation shall be no earlier  
20 than the day following the statement of the  
21 successful result of the bond election.
- 22 (4) Fix the effective date for annexation. The  
23 effective date of annexation may be fixed for any  
24 date not less than 40 days nor more than 400 days  
25 from the date of passage of the ordinance.
- 26 (f) Effect of Annexation Ordinance. -- Except as provided in  
27 subsection (f1) of this section, from ~~From~~ and after the  
28 effective date of the annexation ordinance, the territory and its  
29 citizens and property shall be subject to all debts, laws,  
30 ordinances and regulations in force in such municipality and  
31 shall be entitled to the same privileges and benefits as other  
32 parts of such municipality. Real and personal property in the  
33 newly annexed territory on the January 1 immediately preceding  
34 the beginning of the fiscal year in which the annexation becomes  
35 effective is subject to municipal taxes as provided in G.S.  
36 160A-58.10. If the effective date of annexation falls between  
37 June 1 and June 30, and the effective date of the privilege  
38 license tax ordinance of the annexing municipality is June 1,  
39 then businesses in the area to be annexed shall be liable for

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

3 (f1) Property Subject to Present Use Value Appraisal. -- If an  
4 area described in an annexation ordinance includes: agricultural  
5 land , horticultural land , or forestland that is, on the  
6 effective date of annexation, being taxed at present use value  
7 pursuant to G.S. 105-277.4; land that is eligible for present use  
8 value taxation under G.S. 105-277.4, but the owner has not  
9 elected to place it under present use value taxation; or land  
10 that is being used for actual production on the effective date of  
11 the annexation ordinance and is eligible for present use value  
12 taxation under G.S. 105-277.4, but the land has not been in use  
13 for actual production for the required time under G.S. 105-277.3,  
14 the annexation becomes effective as to that property pursuant to  
15 this subsection.

16 (1) Upon the effective date of the annexation  
17 ordinance, the property is considered part of the  
18 city only (1) for the purpose of establishing city  
19 boundaries for additional annexations pursuant to  
20 this Article and (2) for the exercise of city  
21 authority pursuant to Article 19 of this Chapter.

22 (2) For all other purposes, the annexation becomes  
23 effective as to each tract of such property or part  
24 thereof on the last day of the month in which that  
25 tract or part thereof becomes ineligible for  
26 classification pursuant to G.S. 105-227.4. Until  
27 annexation of a tract or a part of a tract becomes  
28 effective pursuant to this subdivision, the tract  
29 or part of a tract is not subject to taxation by  
30 the city under Article 12 of Chapter 105 nor is the  
31 tract or part of a tract entitled to services  
32 provided by the city.

33 (g) Simultaneous Annexation Proceedings. -- If a municipality  
34 is considering the annexation of two or more areas which are all  
35 adjacent to the municipal boundary but are not adjacent to one  
36 another, it may undertake simultaneous proceedings under  
37 authority of this Part for the annexation of such areas.

38 (h) Remedies for Failure to Provide Services. -- If, not  
39 earlier than one year from the effective date of annexation, and  
40 not later than 15 months from the effective date of annexation,

1 any person owning property in the annexed territory shall believe  
2 that the municipality has not followed through on its service  
3 plans adopted under the provisions of G.S. 160A-35(3) and  
4 160A-37(e), such person may apply for a writ of mandamus under  
5 the provisions of Article 40, Chapter 1 of the General Statutes.  
6 Relief may be granted by the judge of superior court

7           (1) If the municipality has not provided the services  
8           set forth in its plan submitted under the  
9           provisions of G.S. 160A-35(3)a on substantially the  
10          same basis and in the same manner as such services  
11          were provided within the rest of the municipality  
12          prior to the effective date of annexation, and

13          (2) If at the time the writ is sought such services set  
14          forth in the plan submitted under the provisions of  
15          G.S. 160A-35(3)a are still being provided on  
16          substantially the same basis and in the same manner  
17          as on the date of annexation of the municipality.

18 Relief may also be granted by the judge of superior court

19           (1) If the plans submitted under the provisions of G.S.  
20           160A-35(3)c require the construction of major trunk  
21           water mains and sewer outfall lines and

22           (2) If contracts for such construction have not yet  
23           been let.

24 If a writ is issued, costs in the action, including a  
25 reasonable attorney's fee for such aggrieved person, shall be  
26 charged to the municipality.

27   (i) No resolution of intent may be adopted under subsection  
28 (a) of this section unless the city council (or a planning agency  
29 created or designated under either G.S. 160A-361 or the charter)  
30 has, by resolution adopted at least one year prior to adoption of  
31 the resolution of intent, identified the area as being under  
32 consideration for annexation; provided, adoption of such  
33 resolution of consideration shall not confer prior jurisdiction  
34 over the area as to any other city. The area described under the  
35 resolution of intent may comprise a smaller area than that  
36 identified by the resolution of consideration. The resolution of  
37 consideration may have a metes and bounds description or a map,  
38 shall remain effective for two years after adoption, and shall be  
39 filed with the city clerk. A new resolution of consideration  
40 adopted before expiration of the two-year period for a previously

1 adopted resolution covering the same area shall relate back to  
2 the date of the previous resolution.

3 (j) Subsection (i) of this section shall not apply to the  
4 annexation of any area if the resolution of intent describing the  
5 area and the ordinance annexing the area both provide that the  
6 effective date of the annexation shall be at least one year from  
7 the date of passage of the annexation ordinance.

8 (k) If a city fails to deliver police, fire protection, solid  
9 waste or street maintenance services to property in a newly  
10 annexed area within 60 days after the effective date of the  
11 annexation on substantially the same basis and in the same manner  
12 as they were provided to the rest of the city prior to the  
13 annexation, the owner of the property may petition the Local  
14 Government Commission for abatement of taxes to be paid to the  
15 city for taxes that have been levied as of the end of the 60-day  
16 period, if the petition is filed not more than 90 days after the  
17 expiration of the 60-day period. If the Local Government  
18 Commission finds that services were not extended by the end of  
19 the 60-day period, it shall enter an order directing the city not  
20 to levy any further ad valorem taxes on the property until the  
21 fiscal year commencing after extension of the municipal  
22 services."

23 Section 8. G.S. 160A-37.2 reads as rewritten:  
24 "§160A-37.2. Assumption of debt.

25 (a) If the city has annexed any area which is served by a rural  
26 fire department and which is in an insurance district defined  
27 under G.S. 153A-233, a rural fire protection district under  
28 Article 3A of Chapter 69 of the General Statutes or a fire  
29 service district under Article 17 of Chapter 153A of the General  
30 Statutes, then upon the effective date of annexation if the city  
31 has not contracted with the rural fire department for fire  
32 protection, or when the rural fire department ceases to provide  
33 fire protection under contract, then the city shall pay annually  
34 a proportionate share of any payments due on any debt (including  
35 principal and interest) relating to facilities or equipment of  
36 the rural fire department, if the debt was existing at the time  
37 of adoption of the resolution of intent, with the payments in the  
38 same proportion that the assessed valuation of the area of the  
39 district annexed bears to the assessed valuation of the entire  
40 district on the date the annexation ordinance becomes ~~effective.~~

1 effective or another date for valuation mutually agreed upon by  
2 the city and the fire department.

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

6 Section 9. G.S.160A-37.3 is amended by adding a new  
7 subsection to read:

8 "(h) A firm which has given notice under subsection (a) of  
9 this section that it desires to contract, and any firm that the  
10 city believes is eligible to give such notice, shall make  
11 available to the city not later than five ten business days  
12 following a written request of the city all information in its  
13 possession or control, including but not limited to operational,  
14 financial and budgetary information, necessary for the city to  
15 determine if the firm qualifies for the benefits of this section  
16 and to determine the nature and scope of the potential contract  
17 and/or economic loss. The firm forfeits its rights under this  
18 section if it fails to make a good faith response within ten  
19 business days following receipt of the written request for  
20 information from the the city, provided that the city's written  
21 request states that statutory rights will be forfeited in the  
22 absence of a timely response, and includes a specific reference  
23 to this section."

24 Section 10. G.S. 160A-38 reads as rewritten:  
25 "§ 160A-38. Appeal.

26 (a) Within ~~30 days~~ 60 days following the passage of an  
27 annexation ordinance under authority of this Part, any person  
28 owning property in the annexed territory who shall believe that  
29 he will suffer material injury by reason of the failure of the  
30 municipal governing board to comply with the procedure set forth  
31 in this Part or to meet the requirements set forth in G.S. 160A-  
32 36 as they apply to his property may file a petition in the  
33 superior court of the county in which the municipality is located  
34 seeking review of the action of the governing board.

35 (b) Such petition shall explicitly state what exceptions are  
36 taken to the action of the governing board and what relief the  
37 petitioner seeks. Within ~~five days~~ 10 days after the petition is  
38 filed with the court, the person seeking review shall serve  
39 copies of the petition by registered mail, return receipt  
40 requested, upon the municipality.

1 (c) Within 15 days after receipt of the copy of the petition  
2 for review, or within such additional time as the court may  
3 allow, the municipality shall transmit to the reviewing court

4 (1) A transcript of the portions of the municipal  
5 journal or minute book in which the procedure for  
6 annexation has been set forth and

7 (2) A copy of the report setting forth the plans for  
8 extending services to the annexed area as required  
9 in G.S. 160A-35.

10 (d) If two or more petitions for review are submitted to the  
11 court, the court may consolidate all such petitions for review at  
12 a single hearing, and the municipality shall be required to  
13 submit only one set of minutes and one report as required in  
14 subsection (c).

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

23 (f) The court shall fix the date for review of annexation  
24 proceedings under this Chapter, which review date shall  
25 preferably be within 30 days following the last day for receiving  
26 petitions to the end that review shall be expeditious and without  
27 unnecessary delays. The review shall be conducted by the court  
28 without a jury. The court may hear oral arguments and receive  
29 written briefs, and may take evidence intended to show either

30 (1) That the statutory procedure was not followed or

31 (2) That the provisions of G.S. 160A-35 were not met,  
32 or

33 (3) That the provisions of G.S. 160A-36 have not been  
34 met.

35 (g) The court may affirm the action of the governing board  
36 without change, or it may

37 (1) Remand the ordinance to the municipal governing  
38 board for further proceedings if procedural  
39 irregularities are found to have materially



1 prejudiced the substantive rights of any of the  
2 petitioners.

3 (2) Remand the ordinance to the municipal governing  
4 board for amendment of the boundaries to conform to  
5 the provisions of G.S. 160A-36 if it finds that the  
6 provisions of G.S. 160A-36 have not been met;  
7 provided, that the court cannot remand the  
8 ordinance to the municipal governing board with  
9 directions to add area to the municipality which  
10 was not included in the notice of public hearing  
11 and not provided for in plans for service.

12 (3) Remand the report to the municipal governing board  
13 for amendment of the plans for providing services  
14 to the end that the provisions of G.S. 160A-35 are  
15 satisfied.

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

20 If any municipality shall fail to take action in accordance  
21 with the court's instructions upon remand within three months  
22 from receipt of such instructions, the annexation proceeding  
23 shall be deemed null and void.

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

33 (i) If part or all of the area annexed under the terms of an  
34 annexation ordinance is the subject of an appeal to the superior  
35 court, Court of Appeals or Supreme Court on the effective date of  
36 the ordinance, then the ordinance shall be deemed amended to make  
37 the effective date with respect to such area the last day of the  
38 next full calendar month following the date of the final judgment  
39 of the superior court, Court of Appeals or Supreme Court,  
40 whichever is appropriate, or the date the municipal governing

1 board completes action to make the ordinance conform to the  
2 court's instructions in the event of remand. For the purposes of  
3 this subsection, a denial of a petition for a rehearing or for  
4 discretionary review shall be treated as a final judgement.

5 (j) The provisions of subsection (i) of this section shall  
6 apply to any judicial review authorized in whole or in part by  
7 G.S. 160A-37.1(i) or G.S. 160A-37.3(g).

8 (k) In any proceeding related to an annexation ordinance  
9 appeal under this section, a city shall not state a claim for  
10 lost property tax revenue caused by the appeal. Nothing in this  
11 Article shall be construed to mean that as a result of an appeal  
12 a municipality may assert a claim for property tax revenue lost  
13 during the pendency of the appeal.

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

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

21 "§160A-42. Land estimates.

22 In determining degree of land subdivision for purposes of  
23 meeting the requirements of G.S. 160A-36, the municipality shall  
24 use methods calculated to provide reasonably accurate results. In  
25 determining whether the standards set forth in G.S. 160A-36 have  
26 been met on appeal to the superior court under G.S. 160A-38, the  
27 reviewing court shall accept the estimates of the ~~municipality.~~  
28 municipality as provided in this section unless the actual total  
29 area or degree of subdivision falls below the standards in G.S.  
30 160A-36:

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

37 (2) As to degree of land subdivision, if the estimates  
38 are based on an actual survey, or on county tax maps or records,  
39 or on aerial photographs, or on some other reasonably reliable

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

3 Section 12. 160A-47 reads as rewritten:

4 "§ 160A-47. Prerequisites to annexation; ability to serve;  
5 report and plans.

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

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

13 a. The present and proposed boundaries of the  
14 municipality.

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

21 c. The general land use pattern in the area to be  
22 annexed.

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

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

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

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

- 10 b. Provide for extension of major trunk water  
11 mains and sewer outfall lines into the area to  
12 be annexed so that when such lines are  
13 constructed, property owners in the area to be  
14 annexed will be able to secure public water  
15 and sewer service, according to the policies  
16 in effect in such municipality for extending  
17 water and sewer lines to individual lots or  
18 subdivisions. If requested by the owner of an  
19 occupied dwelling unit or an operating  
20 commercial or industrial property in writing  
21 on a form provided by the municipality, which  
22 form acknowledges that such extension or  
23 extensions will be made according to the  
24 current financial policies of the municipality  
25 for making such extensions, and if such form  
26 is received by the city clerk ~~not less than 30~~  
27 ~~days before adoption of the annexation~~  
28 ~~ordinance, no less than five days after the~~  
29 public hearing, provide for extension of water  
30 and sewer lines to the property or to a point  
31 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~~ requests, if an  
40 amendment is necessary. In areas where the

1           installation of sewer is not economically  
2           feasible due to the unique topography of the  
3           area, the municipality may agree to provide  
4           septic system maintenance and repair service  
5           until such time as sewer service is provided  
6           to properties similarly situated.

7           c.    If extension of major trunk water mains, sewer  
8           outfall lines, sewer lines and water lines is  
9           necessary, set forth a proposed timetable for  
10          construction of such mains, outfalls and lines  
11          as soon as possible following the effective  
12          date of annexation. In any event, the plans  
13          shall call for construction to be completed  
14          within two years of the effective date of  
15          annexation.

16          d.    Set forth the method under which the  
17          municipality plans to finance extension of  
18          services into the area to be annexed.

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

1           that the city's written request so states by  
2           specific reference to this section."

3           Section 13. G.S. 160A-47.1 reads as rewritten:

4   "**§ 160A-47.1. Limitation on change in financial participation**  
5 **prior to annexation.**

6   No For purposes of the extension of water and sewer services  
7 required under G.S. 160A-47, no ordinance or policy substantially  
8 diminishing the financial participation of a municipality in the  
9 construction of water or sewer facilities required under this  
10 Article may apply to an area being annexed unless the ordinance  
11 or policy became effective at least 180 days prior to the date of  
12 adoption by the municipality of the resolution giving notice of  
13 intent to consider annexing the area under G.S. 160A-49(a)."

14           Section 14. 160A-48 reads as rewritten:

15 **§ 160A-48. Character of area to be annexed.**

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

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

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

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

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

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

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

1 (c) Part or all of the area to be annexed must be developed for  
2 urban ~~purposes~~, purposes at the time of approval of the report  
3 provided for in G.S. 160A-47. Area of streets and rights-of-way  
4 shall not be used to determine total acreage under this section.

5 An area developed for urban purposes is defined as any area which  
6 meets any one of the following standards:

7 (1) Has a total resident population equal to at least  
8 ~~two~~ two and three-tenths (2.3) persons for each  
9 acre of land included within its boundaries; or

10 (2) Has a total resident population equal to at least  
11 one person for each acre of land included within  
12 its boundaries, and is subdivided into lots and  
13 tracts such that at least sixty percent (60%) of  
14 the total acreage consists of lots and tracts ~~five~~  
15 three acres or less in size and such that at least  
16 sixty-five percent (65%) of the total number of  
17 lots and tracts are one acre or less in size; or

18 (3) Is so developed that at least sixty percent (60%)  
19 of the total number of lots and tracts in the area  
20 at the time of annexation are used for residential,  
21 commercial, industrial, institutional or  
22 governmental purposes, and is subdivided into lots  
23 and tracts such that at least sixty percent (60%)  
24 of the total acreage, not counting the acreage used  
25 at the time of annexation for commercial,  
26 industrial, governmental or institutional purposes,  
27 consists of lots and tracts ~~five three~~ acres or  
28 less in ~~size; or size~~. For purposes of this  
29 section, a lot or tract shall not be considered in  
30 use for a commercial, industrial, institutional or  
31 governmental purpose if the lot or tract is used  
32 only temporarily, occasionally, or on an incidental  
33 or insubstantial basis in relation to the size and  
34 character of the lot or tract. For purposes of  
35 this section, acreage in use for commercial,  
36 industrial, institutional or governmental purposes  
37 shall include acreage actually occupied by  
38 buildings or other man-made structures together  
39 with all areas that are reasonably necessary and  
40 appurtenant to such facilities for purposes of

parking, storage, ingress and egress, utilities, buffering, and other ancillary services and facilities; or

(4) Is the entire area of any county water and sewer district created under G.S. 162A-86(b1), but this subdivision only applies to annexation by a municipality if that:

a. Municipality has provided in a contract with that district that the area is developed for urban purposes; and

b. Contract provides for the municipality to operate the sewer system of that county water and sewer district;

provided that the special categorization provided by this subdivision only applies if the municipality is annexing in one proceeding the entire territory of the district not already within the corporate limits of a municipality; or

(5) Is so developed that at the time of annexation, all tracts in the area to be annexed are used for commercial, industrial, governmental or institutional purposes.

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

(1) Lies between the municipal boundary and an area developed for urban purposes so that the area developed for urban purposes is either not adjacent to the municipal boundary or cannot be served by the municipality without extending services and/or water and/or sewer lines through such sparsely developed area; or

(2) Is adjacent, on at least sixty percent (60%) of its external boundary, to any combination of the municipal boundary and the boundary of an area or areas developed for urban purposes as defined in subsection (c).

The purpose of this subsection is to permit municipal governing boards to extend corporate limits to include all nearby areas



1 developed for urban purposes and where necessary to include areas  
2 which at the time of annexation are not yet developed for urban  
3 purposes but which constitute necessary land connections between  
4 the municipality and areas developed for urban purposes or  
5 between two or more areas developed for urban purposes. For  
6 purposes of this subsection, "necessary land connection" means an  
7 area that does not exceed twenty-five percent (25%) of the total  
8 area to be annexed.

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

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

20 Section 15. G.S. 160A-49 reads as rewritten:

21 "**§ 160A-49. Procedure for annexation.**

22 (a) Notice of Intent. -- Any municipal governing board desiring  
23 to annex territory under the provisions of this Part shall first  
24 pass a resolution stating the intent of the municipality to  
25 consider annexation. Such resolution shall describe the  
26 boundaries of the area under ~~consideration~~ consideration, fix a  
27 date for a public informational meeting, and fix a date for a  
28 public hearing on the question of ~~annexation,~~ the annexation.  
29 The date for the public informational meeting shall be not less  
30 than 45 days and not more than 55 days following passage of the  
31 resolution. The date for ~~such~~ the public hearing to be not less  
32 than 45 60 days and not more than 90 days following passage of  
33 the resolution.

34 (b) Notice of Public Hearing. -- The notice of public hearing  
35 shall:

36 (1) Fix the date, hour and place of the public  
37 informational meeting and the date, hour and place  
38 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~~, informational meeting.
- 8           (4) Include a notice of the property owners rights to  
9           request water and sewer service in accordance with  
10          G.S. 160A-47.

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

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

12 (c) Action Prior to ~~Hearing~~ Informational Meeting. -- At least  
13 30 days before the date of the public ~~hearing~~ informational  
14 meeting, the governing board shall approve the report provided  
15 for in G.S. 160A-47, and shall make it available to the public at  
16 the office of the municipal clerk. In addition, the municipality  
17 may prepare a summary of the full report for public distribution.  
18 In addition, the city shall post in the office of the city clerk,  
19 at least 30 days before the public ~~hearing~~ informational  
20 meeting, a legible map of the area to be annexed and a list of  
21 persons holding freehold interests in property in the area to be  
22 annexed that it has identified.

23 (c1) Public Informational Meeting. -- At the public  
24 informational meeting a representative of the municipality shall  
25 first make an explanation of the report required in G.S. 160A-47.  
26 Following such explanation, all persons resident or owning  
27 property in the territory described in the notice of public  
28 hearing, and all residents of the municipality, shall be given  
29 the opportunity to ask questions and receive answers regarding  
30 the proposed annexation.

31 (d) Public Hearing. -- At the public hearing a representative  
32 of the municipality shall first make an explanation of the report  
33 required in G.S. 160A-47. Following such explanation, all persons  
34 resident or owning property in the territory described in the  
35 notice of public hearing, and all residents of the municipality,  
36 shall be given an opportunity to be heard.

37 (e) Passage of the Annexation Ordinance. -- The municipal  
38 governing board shall take into consideration facts presented at  
39 the public hearing and shall have authority to amend the report  
40 required by G.S. 160A-47 to make changes in the plans for serving

1 the area proposed to be annexed so long as such changes meet the  
2 requirements of G.S. 160A-47, provided that if the annexation  
3 report is amended to show additional subsections of G.S.  
4 160A-48(c) or (d) under which the annexation qualifies that were  
5 not listed in the original report, the city must hold an  
6 additional public hearing on the annexation not less than 30 nor  
7 more than 90 days after the date the report is amended, and  
8 notice of such new hearing shall be given at the first public  
9 hearing. At any regular or special meeting held no sooner than  
10 the tenth day following the public hearing and not later than 90  
11 days following such public hearing, the governing board shall  
12 have authority to adopt an ordinance extending the corporate  
13 limits of the municipality to include all, or such part, of the  
14 area described in the notice of public hearing which meets the  
15 requirements of G.S. 160A- 48 and which the governing board has  
16 concluded should be annexed. The ordinance shall:

- 17           (1) Contain specific findings showing that the area to  
18           be annexed meets the requirements of G.S. 160A-48.  
19           The external boundaries of the area to be annexed  
20           shall be described by metes and bounds. In showing  
21           the application of G.S. 160A- 48(c) and (d) to the  
22           area, the governing board may refer to boundaries  
23           set forth on a map of the area and incorporate same  
24           by reference as a part of the ordinance.  
25           (2) A statement of the intent of the municipality to  
26           provide services to the area being annexed as set  
27           forth in the report required by G.S. 160A-47.  
28           (3) A specific finding that on the effective date of  
29           annexation the municipality will have funds  
30           appropriated in sufficient amount to finance  
31           construction of any major trunk water mains and  
32           sewer outfalls and such water and sewer lines as  
33           required in G.S. 160A-47(3)(b) found necessary in  
34           the report required by G.S. 160A-47 to extend the  
35           basic water and/or sewer system of the municipality  
36           into the area to be annexed, or that on the  
37           effective date of annexation the municipality will  
38           have authority to issue bonds in an amount  
39           sufficient to finance such construction. If  
40           authority to issue such bonds must be secured from

1 the electorate of the municipality prior to the  
2 effective date of annexation, then the effective  
3 date of annexation shall be no earlier than the day  
4 following the statement of the successful result of  
5 the bond election.

6 (4) Fix the effective date for annexation. The  
7 effective date of annexation may be fixed for any  
8 date not less than ~~40 days~~ 70 days nor more than  
9 400 days from the date of passage of the ordinance.

10 (f) Effect of Annexation Ordinance. -- Except as provided in  
11 subsection (f1) of this section, from ~~From~~ and after the  
12 effective date of the annexation ordinance, the (f) Effect of  
13 Annexation Ordinance. -- From and after the effective date of the  
14 annexation ordinance, the territory and its citizens and property  
15 shall be subject to all debts, laws, ordinances and regulations  
16 in force in such municipality and shall be entitled to the same  
17 privileges and benefits as other parts of such municipality. Real  
18 and personal property in the newly annexed territory on the  
19 January 1 immediately preceding the beginning of the fiscal year  
20 in which the annexation becomes effective is subject to municipal  
21 taxes as provided in G.S. 160A-58.10. Provided that annexed  
22 property which is a part of a sanitary district, which has  
23 installed water and sewer lines, paid for by the residents of  
24 said district, shall not be subject to that part of the municipal  
25 taxes levied for debt service for the first five years after the  
26 effective date of annexation. If this proviso should be declared  
27 by a court of competent jurisdiction to be in violation of any  
28 provision of the federal or State Constitution, the same shall  
29 not affect the remaining provisions of this Part. If the  
30 effective date of annexation falls between June 1 and June 30,  
31 and the effective date of the privilege license tax ordinance of  
32 the annexing municipality is June 1, then businesses in the area  
33 to be annexed shall be liable for taxes imposed in such  
34 ordinances from and after the effective date of annexation.

35 (f1) Property Subject to Present Use Value Appraisal. -- If an  
36 area described in an annexation ordinance includes: agricultural  
37 land , horticultural land , or forestland that is, on the  
38 effective date of annexation, being taxed at present use value  
39 pursuant to G.S. 105-277.4; land that is eligible for present use  
40 value taxation under G.S. 105-277.4, but the owner has not

1 elected to place it under present use value taxation; or land  
2 that is being used for actual production on the effective date of  
3 the annexation ordinance and is eligible for present use value  
4 taxation under 105-277.4, but the land has not been in use for  
5 actual production for the required time under G.S. 105-277.3, the  
6 annexation becomes effective as to that property pursuant to this  
7 subsection.

8           (1) Upon the effective date of the annexation  
9 ordinance, the property is considered part of the  
10 city only (1) for the purpose of establishing city  
11 boundaries for additional annexations pursuant to  
12 this Article and (2) for the exercise of city  
13 authority pursuant to Article 19 of this Chapter.

14           (2) For all other purposes, the annexation becomes  
15 effective as to each tract of such property or part  
16 thereof on the last day of the month in which that  
17 tract or part thereof becomes ineligible for  
18 classification pursuant to G.S. 105-227.4. Until  
19 annexation of a tract or a part of a tract becomes  
20 effective pursuant to this subdivision, the tract  
21 or part of a tract is not subject to taxation by  
22 the city under Article 12 of Chapter 105 nor is the  
23 tract or part of a tract entitled to services  
24 provided by the city.

25 (g) Simultaneous Annexation Proceedings. -- If a municipality  
26 is considering the annexation of two or more areas which are all  
27 adjacent to the municipal boundary but are not adjacent to one  
28 another, it may undertake simultaneous proceedings under  
29 authority of this Part for the annexation of such areas.

30 (h) Remedies for Failure to Provide Services. -- If, not  
31 earlier than one year from the effective date of annexation, and  
32 not later than 15 months from the effective date of annexation,  
33 any person owning property in the annexed territory shall believe  
34 that the municipality has not followed through on its service  
35 plans adopted under the provisions of G.S. 160A-47(3) and  
36 160A-49(e), for any required service other than water and sewer  
37 services such person may apply for a writ of mandamus under the  
38 provisions of Article 40, Chapter 1 of the General Statutes.  
39 Relief may be granted by the judge of superior court

1 (1) If the municipality has not provided the services  
2 set forth in its plan submitted under the  
3 provisions of G.S. 160A-47(3)a on substantially the  
4 same basis and in the same manner as such services  
5 were provided within the rest of the municipality  
6 prior to the effective date of annexation, and

7 (2) If at the time the writ is sought such services set  
8 forth in the plan submitted under the provisions of  
9 G.S. 160A-47(3)a are still being provided on  
10 substantially the same basis and in the same manner  
11 as on the date of annexation of the municipality.

12 If, not earlier than 24 months from the effective date of the  
13 annexation, and not later than 27 months from the effective date  
14 of the annexation, any person owning property in the annexed area  
15 can show that the plans submitted under the provisions of G.S.  
16 160A-47(3)c require the construction of major trunk water mains  
17 and sewer outfall lines and if construction has not been  
18 completed within two years of the effective date of the  
19 annexation, relief may also be granted by the superior court by  
20 an order to the municipality to complete such lines and outfalls  
21 within a certain time. Similar relief may be granted by the  
22 superior court to any owner of property who made a timely request  
23 for a water or sewer line, or both, pursuant to G.S. 160A-47(3)b  
24 and such lines have not been completed within two years from the  
25 effective date of annexation in accordance with applicable city  
26 policies and through no fault of the owner, if such owner  
27 petitions for such relief not earlier than 24 months following  
28 the effective date of annexation and not later than 27 months  
29 following the effective date of annexation.

30 If a writ is issued, costs in the action, including a  
31 reasonable attorney's fee for such aggrieved person, shall be  
32 charged to the municipality.

33 (i) No resolution of intent may be adopted under subsection (a)  
34 of this section unless the city council (or planning agency  
35 created or designated under either G.S. 160A-361 or the charter)  
36 has, by resolution adopted at least one year prior to adoption of  
37 the resolution of intent, identified the area as being under  
38 consideration for annexation; provided, adoption of such  
39 resolution of consideration shall not confer prior jurisdiction  
40 over the area as to any other city. The area described under the

1 resolution of intent may comprise a smaller area than that  
2 identified by the resolution of consideration. The resolution of  
3 consideration may have a metes and bounds description or a map  
4 and shall remain effective for two years after adoption, and  
5 shall be filed with the city clerk. A new resolution of  
6 consideration adopted before expiration of the two-year period  
7 for a previously adopted resolution covering the same area shall  
8 relate back to the date of the previous resolution.

9 (j) Subsection (i) of this section shall not apply to the  
10 annexation of any area if the resolution of intent describing the  
11 area and the ordinance annexing the area both provide that the  
12 effective date of the annexation shall be at least one year from  
13 the date of passage of the annexation ordinance.

14 (k) If a valid request for extension of a water or sewer line  
15 has been made under G.S. 160A-47(3)b, and the extension is not  
16 complete at the end of two years after the effective date of the  
17 annexation ordinance, the owner of the property may petition the  
18 Local Government Commission for abatement of taxes to be paid to  
19 the city which have not been levied as of the expiration date of  
20 the two-year period, if such petition is filed not more than 60  
21 days after the expiration of the two-year period. If the Local  
22 Government Commission finds that the extension to the property  
23 was not complete by the end of the two-year period, it shall  
24 enter an order directing the city not to levy any further ad  
25 valorem taxes on the property until the fiscal year commencing  
26 after completion of the extension. In addition, if the Local  
27 Government Commission found that the extension to the property  
28 was not completed by the end of the two-year period, and if it  
29 finds that for any fiscal year during the period beginning with  
30 the first day of the fiscal year in which the annexation  
31 ordinance became effective and ending the last day of the fiscal  
32 year in which the two-year period expired, the city made an  
33 appropriation for construction, operation or maintenance of a  
34 water or sewer system (other than payments the city made as a  
35 customer of the system) from the fund or funds for which ad  
36 valorem taxes are levied, then the Local Government Commission  
37 shall order the city to release or refund an amount of the  
38 petitioner's property taxes for that year in question in  
39 proportion to the percentage of appropriations in the fund made  
40 for water and sewer services. By way of illustration, if a net



1 amount of one hundred thousand dollars (\$100,000) was  
2 appropriated for water or sewer construction, operation or  
3 maintenance from a fund which had total expenditures of ten  
4 million dollars (\$10,000,000) and the petitioner's tax levy was  
5 one thousand dollars (\$1,000), the amount of release or refund  
6 shall be ten dollars (\$10.00).

7 (1) If a city fails to deliver police, fire protection, solid  
8 waste or street maintenance services to property in a newly  
9 annexed area within 60 days after the effective date of the  
10 annexation on substantially the same basis and in the same manner  
11 as they were provided to the rest of the city prior to the  
12 annexation, the owner of the property may petition the Local  
13 Government Commission for abatement of taxes to be paid to the  
14 city for taxes that have been levied as of the end of the 60-day  
15 period, if the petition is filed not more than 90 days after the  
16 expiration of the 60-day period. If the Local Government  
17 Commission finds that services were not extended by the end of  
18 the 60-day period, it shall enter an order directing the city not  
19 to levy any further ad valorem taxes on the property until the  
20 fiscal year commencing after extension of the municipal  
21 services."

22 Section 16. G.S. 160A-49.2 reads as rewritten:  
23 "\$160A-49.2. Assumption of debt.

24 (a) If the city has annexed any area which is served by a rural  
25 fire department and which is in an insurance district defined  
26 under G.S. 153A-233, a rural fire protection district under  
27 Article 3A of Chapter 69 of the General Statutes or a fire  
28 service district under Article 16 of Chapter 153A of the General  
29 Statutes, then upon the effective date of annexation if the city  
30 has not contracted with the rural fire department for fire  
31 protection, or when the rural fire department ceases to provide  
32 fire protection under contract, then the city shall pay annually  
33 a proportionate share of any payments due on any debt (including  
34 principal and interest) relating to facilities or equipment of  
35 the rural fire department, if the debt was existing at the time  
36 of adoption of the resolution of intent, with the payments in the  
37 same proportion that the assessed valuation of the area of the  
38 district annexed bears to the assessed valuation of the entire  
39 district on the date the annexation ordinance becomes effective.

1 effective or another date for valuation mutually agreed upon by  
2 the city and the fire department.

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

6 Section 17. G.S. 160A-49.3 reads as rewritten:

7 "(h) A firm which has given notice under subsection (a) of this  
8 section that it desires to contract, and any firm that the city  
9 believes is eligible to give such notice, shall make available to  
10 the city not later than five ten business days following a  
11 written request of the city all information in its possession or  
12 control, including but not limited to operational, financial and  
13 budgetary information, necessary for the city to determine if the  
14 firm qualifies for the benefits of this section and to determine  
15 the nature and scope of the potential contract and/or economic  
16 loss. The firm forfeits its rights under this section if it fails  
17 to make a good faith response within ten business days following  
18 receipt of the written request for information from the city,  
19 provided that the city's written request so states by specific  
20 reference to this section."

21 Section 18. G.S. 160A-50 reads as rewritten:

22 "§ 160A-50. Appeal.

23 (a) Within ~~30 days~~ 60 days following the passage of an  
24 annexation ordinance under authority of this Part, any person  
25 owning property in the annexed territory who shall believe that  
26 he will suffer material injury by reason of the failure of the  
27 municipal governing board to comply with the procedure set forth  
28 in this Part or to meet the requirements set forth in G.S. 160A-  
29 48 as they apply to his property may file a petition in the  
30 superior court of the county in which the municipality is located  
31 seeking review of the action of the governing board.

32 (b) Such petition shall explicitly state what exceptions are  
33 taken to the action of the governing board and what relief the  
34 petitioner seeks. Within ~~five days~~ ten days after the petition is  
35 filed with the court, the person seeking review shall serve  
36 copies of the petition by registered mail, return receipt  
37 requested, upon the municipality.

38 (c) Within 15 days after receipt of the copy of the petition  
39 for review, or within such additional time as the court may  
40 allow, the municipality shall transmit to the reviewing court

1           (1) A transcript of the portions of the municipal  
2           journal or minute book in which the procedure for  
3           annexation has been set forth and

4           (2) A copy of the report setting forth the plans for  
5           extending services to the annexed area as required  
6           in G.S. 160A-47.

7           (d) If two or more petitions for review are submitted to the  
8           court, the court may consolidate all such petitions for review at  
9           a single hearing, and the municipality shall be required to  
10          submit only one set of minutes and one report as required in  
11          subsection (c).

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

20          (f) The court shall fix the date for review of annexation  
21          proceedings under this Part, which review date shall preferably  
22          be within 30 days following the last day for receiving petitions  
23          to the end that review shall be expeditious and without  
24          unnecessary delays. The review shall be conducted by the court  
25          without a jury. The court may hear oral arguments and receive  
26          written briefs, and may take evidence intended to show either

27                 (1) That the statutory procedure was not followed, or

28                 (2) That the provisions of G.S. 160A-47 were not met,  
29                 or

30                 (3) That the provisions of G.S. 160A-48 have not been  
31                 met.

32          (g) The court may affirm the action of the governing board  
33          without change, or it may

34                 (1) Remand the ordinance to the municipal governing  
35                 board for further proceedings if procedural  
36                 irregularities are found to have materially  
37                 prejudiced the substantive rights of any of the  
38                 petitioners.

39                 (2) Remand the ordinance to the municipal governing  
40                 board for amendment of the boundaries to conform to

1 the provisions of G.S. 160A-48 if it finds that the  
2 provisions of G.S. 160A-48 have not been met;  
3 provided, that the court cannot remand the  
4 ordinance to the municipal governing board with  
5 directions to add area to the municipality which  
6 was not included in the notice of public hearing  
7 and not provided for in plans for service.

8 (3) Remand the report to the municipal governing board  
9 for amendment of the plans for providing services  
10 to the end that the provisions of G.S. 160A-47 are  
11 satisfied.

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

16 If any municipality shall fail to take action in accordance  
17 with the court's instructions upon remand within three months  
18 from receipt of such instructions, the annexation proceeding  
19 shall be deemed null and void.

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

29 (i) If part or all of the area annexed under the terms of an  
30 annexation ordinance is the subject of an appeal to the superior  
31 court, Court of Appeals or Supreme Court on the effective date of  
32 the ordinance, then the ordinance shall be deemed amended to make  
33 the effective date with respect to such area the last day of the  
34 next full calendar month following the date of the final judgment  
35 of the superior court or appellate division, whichever is  
36 appropriate, or the date the municipal governing board completes  
37 action to make the ordinance conform to the court's instructions  
38 in the event of remand. For the purposes of this subsection, a  
39 denial of a petition for rehearing or for discretionary review  
40 shall be treated as a final judgement.

1 (j) If a petition for review is filed under subsection (a) of  
2 this section or an appeal is filed under G.S. 160A-49.1(g) or  
3 G.S. 160A-49.3(g), and a stay is granted, then the time periods  
4 of two years, 24 months or 27 months provided in G.S. 160A-  
5 47(3)c, 160A-49(h), or 160A-49(j) are each extended by the lesser  
6 of the length of the stay or one year for that annexation.

7 (k) The provisions of subsection (i) of this section shall  
8 apply to any judicial review authorized in whole or in part by  
9 G.S. 160A-49.1(i) or G.S. 160A-49.3(g).

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

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

22 Section 19. G.S. 160A-54 is rewritten to read:

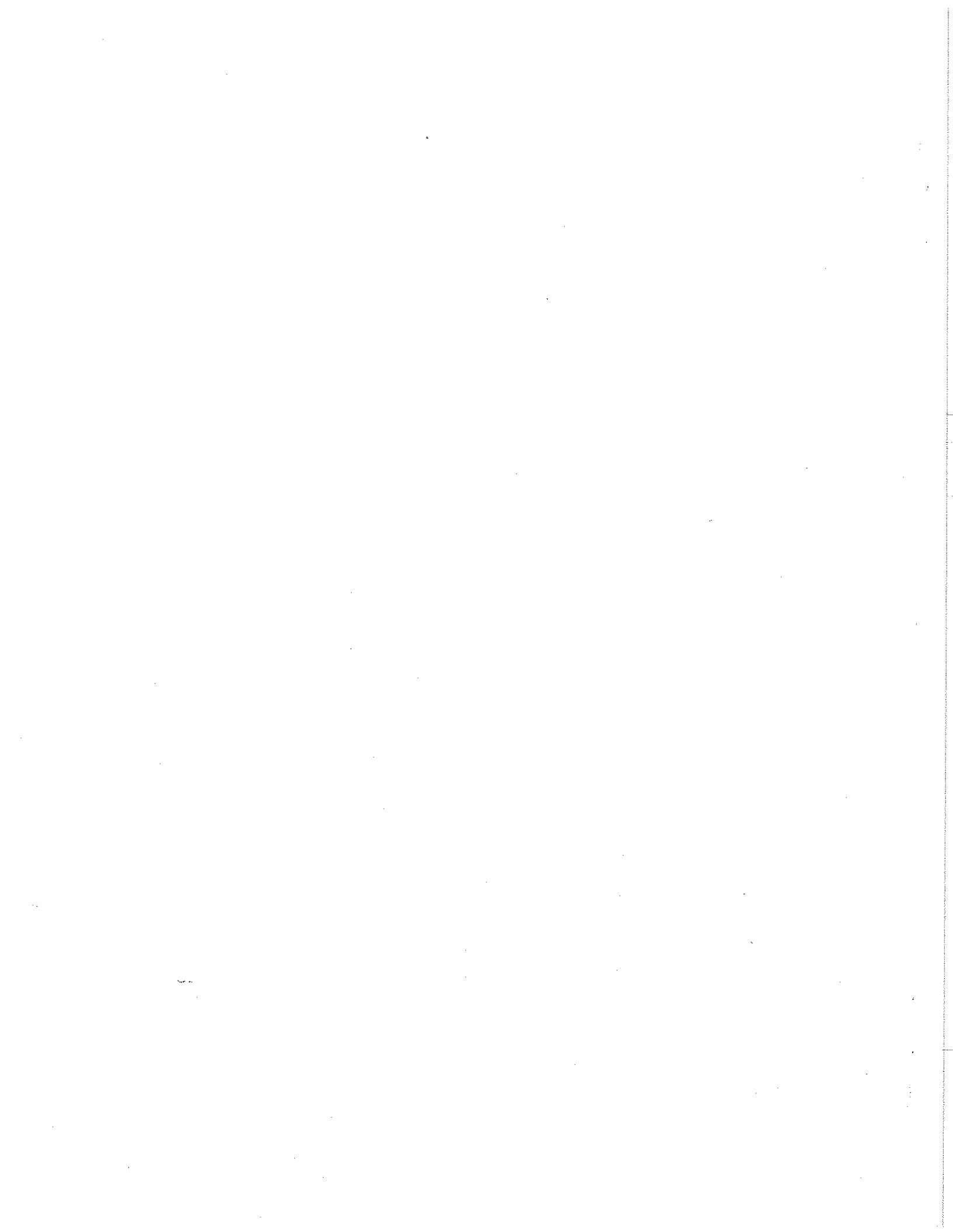
23 "§160A-54. Population and land estimates.

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

33 (1) As to population, if the estimate is based on the  
34 number of dwelling units in the area multiplied by  
35 the average family size in such area, or in the  
36 township or townships of which such area is a part,  
37 as determined by the last preceding federal  
38 decennial census; or if it is based on a new  
39 enumeration carried out under reasonable rules and  
40 regulations by the annexing municipality; provided,

- 1                   that the court shall not accept such estimates if  
2                   the petitioners demonstrate that such estimates are  
3                   in error in the amount of ten percent (10%) or  
4                   more.
- 5           (2) As to total area if the estimate is based on an  
6           actual survey, or on county tax maps or records, or  
7           on aerial photographs, or on some other reasonably  
8           reliable map used for official purposes by a  
9           governmental agency, unless the petitioners on  
10          appeal demonstrate that such estimates are in error  
11          in the amount of five percent (5%) or more.
- 12          (3) As to degree of land subdivision, if the estimates  
13          are based on an actual survey, or on county tax  
14          maps or records, or on aerial photographs, or on  
15          some other reasonably reliable source, unless the  
16          petitioners on appeal show that such estimates are  
17          in error in the amount of five percent (5%) or  
18          more."
- 19                Section 20. This act becomes effective January 1, 1999.  
20 Sections 2 and shall not apply to any incorporation proposal  
21 originally presented to the Joint Legislative Commission on  
22 Municipal Incorporation prior to the effective date.

# **LEGISLATIVE PROPOSAL II**





GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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D

98-RWZ-026

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

17:23:30 13-MAY-98

Short Title: Revaluation & Annex Tax Notice.

(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 LOCAL GOVERNMENTS TO PUBLICIZE THE REVENUE  
3 NEUTRAL TAX RATE IN THE YEARS WHEN THERE IS A GENERAL  
4 REVALUATION OF REAL PROPERTY, AND TO NOTIFY PERSONS SUBJECT TO  
5 ANNEXATION OF THE PROJECTED CHANGE TO THEIR PROPERTY TAX  
6 LIABILITY.  
7 The General Assembly of North Carolina enacts:  
8 Section 1. G.S. 159-11 reads as rewritten:  
9 "§ 159-11. Preparation and submission of budget and budget  
10 message.  
11 (a) Upon receipt of the budget requests and revenue estimates  
12 and the financial information supplied by the finance officer and  
13 department heads, the budget officer shall prepare a budget for  
14 consideration by the governing board in such form and detail as  
15 may have been prescribed by the budget officer or the governing  
16 board. The budget shall comply in all respects with the  
17 limitations imposed by G.S. 159-13(b), and unless the governing  
18 board ~~shall have~~ has authorized or requested submission of an  
19 unbalanced budget as provided in subsection (c) of this section,  
20 the budget shall be balanced.  
21 (b) The budget, together with a budget message, shall be  
22 submitted to the governing board not later than June 1. The  
23 budget and budget message should, but need not, be submitted at a

1 formal meeting of the board. The budget message should contain a  
2 concise explanation of the governmental goals fixed by the budget  
3 for the budget year, should explain important features of the  
4 activities anticipated in the budget, should set forth the  
5 reasons for stated changes from the previous year in program  
6 goals, programs, and appropriation levels, and should explain any  
7 major changes in fiscal policy.

8 (c) The governing board may authorize or request the budget  
9 officer to submit a budget containing recommended appropriations  
10 in excess of estimated revenues. If this is done, the budget  
11 officer shall present the appropriations recommendations in a  
12 manner that will reveal for the governing board the nature of the  
13 activities supported by the expenditures that exceed estimated  
14 revenues.

15 (d) The budget officer shall include in the budget a proposed  
16 financial plan for each intragovernmental service fund, as  
17 required by G.S. 159-13.1, and information concerning capital  
18 projects and grant projects authorized or to be authorized by  
19 project ordinances, as required by G.S. 159-13.2.

20 (e) In each year in which a general reappraisal of real  
21 property has been conducted, the budget shall contain, for  
22 comparison purposes, a statement of the hypothetical 'revenue  
23 neutral' property tax rate for the budget. This rate is the rate  
24 that would produce estimated revenues for the next fiscal year  
25 equal to the estimated property tax revenues produced for the  
26 current fiscal year plus an amount attributable to the county's  
27 anticipated increase in the assessed value of property subject to  
28 taxation. The amount attributable to the county's anticipated  
29 increase in the assessed value of property subject to taxation is  
30 the average amount the assessed value of property subject to  
31 taxation has increased in the county over the last three years  
32 multiplied by the current fiscal year's rate."

33 Section 2. G.S. 160A-37(b) reads as rewritten:

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

- 36 (1) Fix the date, hour and place of the public hearing.
- 37 (2) Describe clearly the boundaries of the area under  
38 consideration, and include a legible map of the  
39 area.
- 40 (3) State that the report required in G.S. 160A-35 will  
41 be available at the office of the municipal clerk  
42 at least 30 days prior to the date of the public  
43 hearing.

1           (4) Include a clear and easy to understand explanation  
2           of the effect the annexation will have on the  
3           owner's property tax liability, including the date  
4           of assessment and the dates of the first tax year  
5           during which the owner will subject to municipal  
6           property taxes.

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

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

1 Section 3. G.S. 160A-49(b) reads as rewritten:

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

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

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

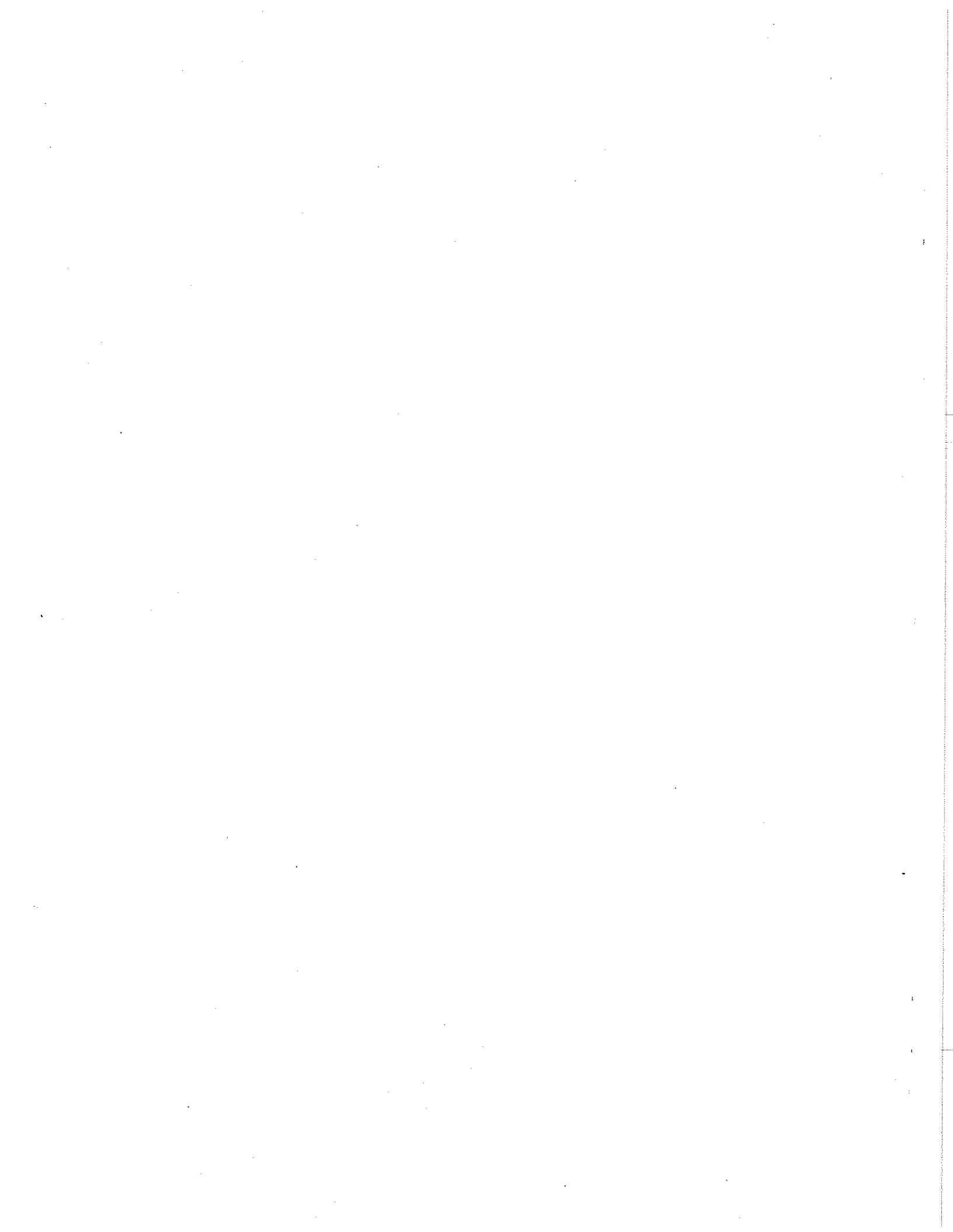
8 (3) State that the report required in G.S. 160A-47 will  
9 be available at the office of the municipal clerk  
10 at least 30 days prior to the date of the public  
11 hearing.

12 (4) Include a clear and easy to understand explanation  
13 of the effect the annexation will have on the  
14 owner's property tax liability, including the date  
15 of assessment and the dates of the first tax year  
16 during which the owner will subject to municipal  
17 property taxes.

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

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

12           Section 4. This act becomes effective December 1, 1998.



## **Legislative Proposal II**

**A BILL TO BE ENTITLED AN ACT TO REQUIRE LOCAL GOVERNMENTS TO PUBLICIZE THE REVENUE NEUTRAL TAX RATE IN THE YEARS WHEN THERE IS A GENERAL REVALUATION OF REAL PROPERTY, AND TO NOTIFY PERSONS SUBJECT TO ANNEXATION OF THE PROJECTED CHANGE TO THEIR PROPERTY TAX LIABILITY.**

Section 1 of the bill requires local governments, in each year in which there is a general reappraisal of real property, to include in their budget the "revenue neutral" tax rate. This rate is defined as the rate needed to generate the same revenue as the prior year, plus an amount attributable to the average growth in assessed value over the prior last three years.

Section 2 of the bill would require the notice of a proposed annexation to include information on the effect the annexation will have on the owners property taxes, including the dates of assessment and the date of the tax year.

Section 3 provides that the bill would become effective December 1, 1999.





# **COMMITTEE PROPOSAL III**



### **Committee Proposal III**

A RECOMMENDATION THAT THE COMMITTEE CONTINUE ITS STUDY IN ORDER TO DEVELOP AN APPEAL PROCEDURE FOR CITIZENS THAT WOULD SERVE AN ALTERNATIVE TO LAWSUITS OVER PROPOSED ANNEXATIONS

The committee believes that alternatives to expensive and time consuming annexation lawsuits should be studied. The Committee suggests that the assistance of an expert party or consultant may be helpful in exploring this issue. The Committee intends to examine this issue further following the 1998 Session of the General Assembly.

