

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 94*

Short Title: Annexation Changes.

(Public)

Sponsors: Representatives Ellis; Allred, Cansler, Capps, Davis, Hardy, McComas, Rayfield, Sexton, Sherrill, Shubert, and Starnes.

Referred to: Local & Regional Government I, if favorable, Judiciary II.

February 11, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE THE ANNEXATION LAWS.

3 The General Assembly of North Carolina enacts:

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

5 "**§ 160A-35. Prerequisites to annexation; ability to serve; report and plans.**

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

- 10 (1) A map or maps of the municipality and adjacent territory to show the
11 following information:
- 12 a. The present and proposed boundaries of the municipality.
 - 13 b. The proposed extensions of water mains and sewer outfalls to
14 serve the annexed area, if such utilities are operated by the
15 municipality. The water and sewer map must bear the seal of a
16 registered professional engineer or a licensed surveyor.
- 17 (2) A statement showing that the area to be annexed meets the requirements
18 of G.S. 160A-36.

- 1 (3) A statement setting forth the plans of the municipality for extending to
2 the area to be annexed each major municipal service performed within
3 the municipality at the time of annexation. Specifically, such plans
4 shall:
- 5 a. Provide for extending police protection, fire protection, solid
6 waste collection and street maintenance ~~services—services,~~
7 including street lighting, to the area to be annexed on the date of
8 annexation on ~~substantially—~~the same basis and in the same
9 manner as such services are provided within the rest of the
10 municipality prior to annexation. A contract with a rural fire
11 department to provide fire protection shall be an acceptable
12 method of providing fire protection. If a water distribution
13 system is not available in the area to be annexed, the plans must
14 call for reasonably effective fire protection services until such
15 time as waterlines are made available in such area under existing
16 municipal policies for the extension of waterlines. A contract
17 with a private firm to provide solid waste collection services
18 shall be an acceptable method of providing solid waste collection
19 services.
- 20 b. Provide for extension of major water mains and sewer outfall
21 lines into the area to be annexed so that property owners in the
22 area to be annexed will be able to secure public water and sewer
23 ~~services—services.~~ The municipality shall extend secondary water
24 and sewer lines and connector water and sewer lines according to
25 the financial policies in effect in such municipality for extending
26 water and sewer lines to individual lots or subdivisions. If the
27 municipality must, at its own expense, extend water and/or sewer
28 mains into the area to be annexed before property owners in the
29 area can, according to municipal policies, make such connection
30 to such lines, then the plans must call for contracts to be let and
31 construction to begin on such lines within one year following the
32 effective date of annexation.
- 33 c. Set forth the method under which the municipality plans to
34 finance extension of services into the area to be annexed.
- 35 d. Provide for street paving service on substantially the same basis
36 and in the same manner as that service is provided within the rest
37 of the municipality prior to the annexation.
- 38 e. Include a summary of city police, fire, solid waste, street
39 maintenance and paving, water and sewer services provided to
40 current city residents as of 90 days prior to the date set for the
41 public hearing. The summary shall specify, at a minimum, the
42 number of personnel employed by the municipality for police and
43 fire protection, the services provided as part of police and fire

1 protection, the increase in personnel or equipment, if any,
2 planned as a result of the annexation and the method the
3 municipality used to calculate present level of service, including,
4 if applicable, personnel to population ratios and average response
5 times.

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

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

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

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

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

34 **"§ 160A-36. Character of area to be annexed.**

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

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

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

land area is adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.

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

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

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

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

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

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

(2) An area 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; or

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

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

(2)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 ~~sentence-subsection~~ 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.

(d) In fixing new municipal boundaries, a municipal governing board shall, wherever practical, use natural topographic features such as ridge lines and streams and creeks as boundaries, and may use streets as boundaries. Some or all of the boundaries of

1 a county water and sewer district may also be used when the entire district not already
2 within the corporate limits of a municipality is being annexed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 "**§ 160A-42. Land estimates.**

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

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

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

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

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

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

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

40 a. The present and proposed boundaries of the municipality.

41 b. The present major trunk water mains and sewer interceptors and
42 outfalls, and the proposed extensions of such mains and outfalls
43 as required in subdivision (3) of this section. The water and

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

- 1 timely made, the municipality shall at the time of adoption of the
2 annexation ordinance amend its report and plan for services to
3 reflect and accommodate such requests.
- 4 c. If extension of major trunk water mains, sewer outfall lines,
5 sewer lines and water lines is necessary, set forth a proposed
6 timetable for construction of such mains, outfalls and lines as
7 soon as possible following the effective date of annexation. In
8 any event, the plans shall call for construction to be completed
9 within two years of the effective date of annexation.
- 10 d. Set forth the method under which the municipality plans to
11 finance extension of services into the area to be annexed.
- 12 e. Provide for street paving service on substantially the same basis
13 and in the same manner as that service is provided within the rest
14 of the municipality prior to the annexation.
- 15 f. Include a summary of city police, fire, solid waste, street
16 maintenance and paving, water and sewer services provided to
17 current city residents as of 90 days prior to the date set for the
18 public hearing. The summary shall specify, at a minimum, the
19 number of personnel employed by the municipality for police and
20 fire protection, the services provided as part of police and fire
21 protection, the increase in personnel or equipment, if any,
22 planned as a result of the annexation and the method the
23 municipality used to calculate present level of service, including,
24 if applicable, personnel to population ratios and average response
25 times.
- 26 (4) A statement of the impact of the annexation on any rural fire department
27 providing service in the area to be annexed and a statement of the
28 impact of the annexation on fire protection and fire insurance rates in
29 the area to be annexed, if the area where service is provided is in an
30 insurance district designated under G.S. 153A-233, a rural fire
31 protection district under Article 3A of Chapter 69 of the General
32 Statutes, or a fire service district under Article 16 of Chapter 153A of
33 the General Statutes. The rural fire department shall make available to
34 the city not later than 30 days following a written request from the city
35 all information in its possession or control, including but not limited to
36 operational, financial and budgetary information, necessary for
37 preparation of a statement of impact. The rural fire department forfeits
38 its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to make a
39 good faith response within 45 days following receipt of the written
40 request for information from the city, provided that the city's written
41 request so states by specific reference to this section.
- 42 (5) If the lot or tract standard was used to qualify the area, the report shall
43 state the classification of each lot or tract in the area to be annexed as to

1 use and size. If a population standard was used to qualify the area, the
2 report shall state how the population estimate of the area was
3 determined.

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

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

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

16 **"§ 160A-48. Character of area to be annexed.**

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

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

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

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

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

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

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

34 (4) No part of the area to be annexed shall be located in a county other than
35 the county with a majority of the municipality's residents, unless areas
36 previously added to the municipality in another county include at least
37 1,000 persons.

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

40 (c) Part or all of the area to be annexed must be developed for urban ~~purposes.~~
41 purposes at the time of the public hearing for the annexation ordinance. Area of streets
42 and rights-of-way shall be used only to determine total resident population per acre of

1 land in this section. An area developed for urban purposes is defined as any area which
2 meets any one of the following standards:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 "**§ 160A-54. Population and land estimates.**

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

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

41 (2) As to total area if the estimate is based on an actual survey, or on county
42 tax maps or records, or on aerial photographs, or on some other
43 reasonably reliable map used for official purposes by a governmental

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

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

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