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HOUSE BILL 1153

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Short Title: Annexation Law Amendments.

(Public)

Sponsors:

Referred to:

April 10, 1989

A BILL TO BE ENTITLED

AN ACT TO GIVE PRIVATE SOLID WASTE COLLECTION FIRMS THE SAME PROTECTIONS AFTER LEGISLATIVE ANNEXATION THAT THEY HAVE AFTER INVOLUNTARY ANNEXATION BY LOCAL ORDINANCE, REQUIRE MUNICIPALITIES TO PAY A PROPORTIONATE SHARE OF RURAL FIRE DEPARTMENT DEBT UPON VOLUNTARY ANNEXATION AND MAKE TECHNICAL AMENDMENTS TO THE ANNEXATION STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 16 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-324. Contract with private solid waste collection firm(s).

(a) This section applies to any area to be annexed by an act of the General Assembly which includes an area where a private solid waste collection firm or firms on the 90th day preceding the date of introduction in the House of Representatives or the Senate of the bill which became the act making the annexation was:

- (1) Providing solid waste collection services in the area to be annexed;
- (2) Is still providing such services on the date of enactment of the act;
- (3) By reason of such annexation any franchise with a county or arrangements with third parties for solid waste collection will be terminated; and
- (4) During the 90-day period preceding the date of introduction, the firm had in such area an average of 50 or more residential customers or a

1 monthly average revenue from nonresidential customers in such area
2 of five hundred dollars (\$500.00) or more; provided that customers
3 shall be included in such calculation only if policies of the city will
4 provide solid waste collection to those customers such that
5 arrangements between the solid waste firm and the customers will be
6 terminated,

7 and if such firm makes a written request that it wishes to contract, signed by an officer
8 or owner of the firm, and delivered to the city clerk at least 20 days before the effective
9 date of the annexation provided in the act, unless other arrangements satisfactory to the
10 private solid waste collection firm or firms have been made, the city shall either:

11 (1) Contract with such solid waste collection firm(s) for a
12 period of two years after the effective date of the annexation act to
13 allow the solid waste collection firm(s) to provide collection services
14 to the city in the area to be annexed for sums determined under
15 subsection (d) of this section, or

16 (2) Pay to the solid waste collection firm(s) in lieu of a contract
17 a sum equal to the economic loss determined under subsection (f) of
18 this section.

19 (b) The city shall make a good faith effort to provide at least 30 days before the
20 effective date of the annexation a copy of the act to each private firm providing solid
21 waste collection services in the area to be annexed.

22 (c) The city may require that the contract contain:

23 (1) A requirement that the private firm post a performance bond
24 and maintain public liability insurance coverage;

25 (2) A requirement that the private firm agree to service
26 customers in the annexed area that were not served by that firm on
27 the effective date of annexation;

28 (3) A provision that divides the annexed area into service areas
29 if there were more than one firm being contracted within the area,
30 such that the entire area is served by the private firms, or by the city
31 as to customers not served by the private firms;

32 (4) A provision that the city may serve customers not served by
33 the firm on the effective date of annexation;

34 (5) A provision that the contract can be cancelled for substantial
35 violations of the contract, but no contract may be cancelled on these
36 grounds unless the Local Government Commission finds that
37 substantial violations have occurred, except that the city may
38 suspend the contract for up to 30 days if it finds substantial violation
39 of health laws;

40 (6) Performance standards, not exceeding city standards, with
41 provision that the contract may be cancelled for substantial
42 violations of those standards, but no contract may be cancelled on
43 those grounds unless the Local Government Commission finds that
44 substantial violations have occurred;

1 (7) A provision for monetary damages if there are violations of
2 the contract or of performance standards.

3 (d) If the services to be provided to the city by reason of the annexation are
4 substantially the same as rendered under the franchise with the county or arrangements
5 with the parties, the amount paid by the city shall be at least ninety percent (90%) of the
6 amount paid or required under the existing franchise or arrangements. If such services
7 are required to be adjusted to conform to city standards or as a result of changes in the
8 number of customers and as a result there are changes in disposal costs (including
9 mileage and landfill charges), requirements for storage capacity (dumpsters and/or
10 residential carts), and/or frequency of collection, the amount paid by the city for the
11 service shall be increased or decreased to reflect the value of such adjusted services as if
12 computed under the existing franchise or arrangements. In the event agreement cannot
13 be reached between the city and the private firm under this subsection, such matters
14 shall be determined by the Local Government Commission.

15 (e) The city may, at any time after one year's operation thereunder, terminate a
16 contract made with the solid waste collection firm under subsection (a) of this section
17 upon payment to said firm of an amount equal to the economic loss determined in
18 subsection (f) of this section, but discounted by the percentage of the contract which has
19 elapsed prior to the effective date of the termination.

20 (f) As used in this section, 'economic loss' is 12 times the average monthly
21 revenue for the three months prior to the introduction of the bill, collected or due the
22 private firm for residential, commercial, and industrial collection service in the area
23 annexed or to be annexed.

24 (g) If the city fails to offer a contract to the private firm within 30 days following
25 the effective date of the annexation act, the private firm may appeal within 60 days
26 following the effective date of the annexation act to the Local Government Commission
27 for an order directing the city to offer a contract. If the Local Government Commission
28 finds that the city has not made an offer which complies with this section, it shall order
29 the city to pay to the private firm a civil penalty of the amount of payments it finds that
30 the city would have had to make under the contract, during the noncompliance period
31 until the contract offer is made. Either the private firm or the city may obtain judicial
32 review in accordance with Chapter 150B of the General Statutes.

33 (h) A firm which has given notice under subsection (a) of this section that it
34 desires to contract, and any firm that the city believes is eligible to give such notice,
35 shall make available to the city not later than five days following a written request of the
36 city all information in its possession or control, including but not limited to operational,
37 financial and budgetary information, necessary for the city to determine if the firm
38 qualifies for the benefits of this section and to determine the nature and scope of the
39 potential contract and/or economic loss."

40 Sec. 2. Part 1 of Article 4A of Chapter 160A of the General Statutes is
41 amended by adding a new section to read:

42 **"§ 160A-31.1. Assumption of debt.**

43 (a) If the city has annexed under this Part any area which is served by a rural fire
44 department and which is in:

- 1 (1) An insurance district defined under G.S. 153A-233;
2 (2) A rural fire protection district under Article 3A of Chapter 69 of the
3 General Statutes; or
4 (3) A fire service district under Article 16 of Chapter 153A of the General
5 Statutes.

6 then beginning with the effective date of annexation the city shall pay annually a
7 proportionate share of any payments due on any debt (including principal and interest)
8 relating to facilities or equipment of the rural fire department, if the debt was existing at
9 the time of submission of the petition for annexation to the city under this Part. The
10 rural fire department shall make available to the city not later than 30 days following a
11 written request from the city, information concerning such debt. The rural fire
12 department forfeits its rights under this section if it fails to make a good faith response
13 within 45 days following receipt of the written request for information from the city,
14 provided that the city's written request so states by specific reference to this section.

15 (b) The annual payments from the city to the rural fire department on such shared
16 debt service shall be calculated as follows:

- 17 (1) The rural fire department shall certify to the city each year the amount
18 that will be expended for debt service subject to be shared by the city
19 as provided by subsection (a) of this section; and
20 (2) The amount determined under subdivision (1) of this subsection shall
21 be multiplied by the percentage determined by dividing the assessed
22 valuation of the area of the district annexed by the assessed valuation
23 of the entire district, each such valuation to be fixed as of the date the
24 annexation ordinance becomes effective.

25 (c) This section does not apply in any year as to any annexed area(s) for which
26 the payment calculated under this section as to all annexation ordinances adopted under
27 this Part by a city during a particular calendar year does not exceed one hundred dollars
28 (\$100.00).

29 (d) The city and rural fire department shall jointly present a payment schedule to
30 the Local Government Commission for approval and no payment may be made until
31 such schedule is approved. The Local Government Commission shall approve a
32 payment schedule agreed upon between the city and the rural fire department in cases
33 where the assessed valuation of the district may not readily be determined, if there is a
34 reasonable basis for the agreement."

35 Sec. 3. Part 4 of Article 4A of Chapter 160A of the General Statutes is
36 amended by adding a new section to read:

37 **"§ 160A-58.2A. Assumption of debt.**

38 (a) If the city has annexed under this Part any area which is served by a rural fire
39 department and which is in:

- 40 (1) An insurance district defined under G.S. 153A-233;
41 (2) A rural fire protection district under Article 3A of Chapter 69 of the
42 General Statutes; or
43 (3) A fire service district under Article 16 of Chapter 153A of the General
44 Statutes.

1 then beginning with the effective date of annexation the city shall pay annually a
2 proportionate share of any payments due on any debt (including principal and interest)
3 relating to facilities or equipment of the rural fire department, if the debt was existing at
4 the time of submission of the petition for annexation to the city under this Part. The
5 rural fire department shall make available to the city not later than 30 days following a
6 written request from the city, information concerning such debt. The rural fire
7 department forfeits its rights under this section if it fails to make a good faith response
8 within 45 days following receipt of the written request for information from the city,
9 provided that the city's written request so states by specific reference to this section.

10 (b) The annual payments from the city to the rural fire department on such shared
11 debt service shall be calculated as follows:

12 (1) The rural fire department shall certify to the city each year the amount
13 that will be expended for debt service subject to be shared by the city
14 as provided by subsection (a) of this section; and

15 (2) The amount determined under subdivision (1) of this subsection shall
16 be multiplied by the percentage determined by dividing the assessed
17 valuation of the area of the district annexed by the assessed valuation
18 of the entire district, each such valuation to be fixed as of the date the
19 annexation ordinance becomes effective.

20 (c) This section does not apply in any year as to any annexed area(s) for which
21 the payment calculated under this section as to all annexation ordinances adopted under
22 this Part by a city during a particular calendar year does not exceed one hundred dollars
23 (\$100.00).

24 (d) The city and rural fire department shall jointly present a payment schedule to
25 the Local Government Commission for approval and no payment may be made until
26 such schedule is approved. The Local Government Commission shall approve a
27 payment schedule agreed upon between the city and the rural fire department in cases
28 where the assessed valuation of the district may not readily be determined, if there is a
29 reasonable basis for the agreement."

30 Sec. 4. G.S. 120-30.9F reads as rewritten:

31 "**§ 120-30.9F. Municipalities; municipal attorney.**

32 The municipal attorney of any municipality covered by the Voting Rights Act of
33 1965 shall submit to the Attorney General of the United States within 30 days of
34 ratification any local acts of the General Assembly, actions of the municipal governing
35 body or municipal board of elections or any other municipal agency which constitutes a
36 'change affecting voting' under Section 5 of the Voting Rights Act of 1965 in that
37 municipality; provided that, if required or allowed by regulations or practices of the
38 United States Department of Justice, a municipal attorney may delay submission of any
39 annexation ordinance or group of ordinances until all previously submitted annexation
40 ordinances have been precleared or otherwise received final disposition."

41 Sec. 5. G.S. 160A-35(4) reads as rewritten:

42 "(4) A statement of the impact of the annexation on any rural fire
43 department providing service in the area to be annexed and a statement
44 of the impact of the annexation on fire protection and fire insurance

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

14 Sec. 6. G.S. 160A-37.3(g) reads as rewritten:

15 "~~(g) If the city fails to offer a contract to the private firm within 30 days following the~~
16 ~~passage of an annexation ordinance, the private firm may~~ The private firm may, if it
17 contends that no contract has been offered, appeal to the Local Government
18 Commission within 30 days following passage of an annexation ordinance. The private
19 firm may appeal to the Local Government Commission for an order staying the
20 operation of the annexation ordinance pending the outcome of the review. The
21 Commission may grant or deny the stay upon such terms as it deems proper. If the
22 Local Government Commission finds that the city has not made an offer which
23 complies with this section, it shall remand the ordinance to the municipal governing
24 board for further proceedings, and the ordinance shall not become effective until the
25 Local Government Commission finds that such an offer has been made. Either the
26 private firm or the city may obtain judicial review in accordance with Chapter 150B of
27 the General Statutes."

28 Sec. 7. G.S. 160A-38 reads as rewritten:

29 **"§ 160A-38. Appeal.**

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

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

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

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

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

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

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

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

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

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

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

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

26 (1) Remand the ordinance to the municipal governing board for further
27 proceedings if procedural irregularities are found to have materially
28 prejudiced the substantive rights of any of the petitioners.

29 (2) Remand the ordinance to the municipal governing board for
30 amendment of the boundaries to conform to the provisions of G.S.
31 160A-36 if it finds that the provisions of G.S. 160A-36 have not been
32 met; provided, that the court cannot remand the ordinance to the
33 municipal governing board with directions to add area to the
34 municipality which was not included in the notice of public hearing
35 and not provided for in plans for service.

36 (3) Remand the report to the municipal governing board for amendment of
37 the plans for providing services to the end that the provisions of G.S.
38 160A-35 are satisfied.

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

42 (h) Any party to the review proceedings, including the municipality, may appeal
43 to the Court of Appeals from the final judgment of the superior court under rules of
44 procedure applicable in other civil cases. ~~The appealing party may apply to the superior~~

1 court for a stay in its final determination, or a stay of the annexation ordinance, whichever shall
2 be appropriate, pending the outcome of the appeal to the Court of Appeals; provided, that the
3 The superior court may, with the agreement of the municipality, permit annexation to be
4 effective with respect to any part of the area concerning which no appeal is being made
5 and which can be incorporated into the city without regard to any part of the area
6 concerning which an appeal is being made.

7 (i) If part or all of the area annexed under the terms of an annexation ordinance
8 is the subject of an appeal to the superior court, Court of Appeals or Supreme Court on
9 the effective date of the ordinance, then the ordinance shall be deemed amended to
10 make the effective date with respect to such area the last day of the next full calendar
11 month following the date of the final judgment of the superior court, Court of Appeals
12 or Supreme Court, whichever is appropriate, or the date the municipal governing board
13 completes action to make the ordinance conform to the court's instructions in the event
14 of remand. For the purposes of this subsection, a denial of a petition for a rehearing or
15 for discretionary review shall be treated as a final judgement.

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

18 Sec. 8. G.S. 160A-47(4) reads as rewritten:

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

35 Sec. 9. G.S. 160A-49.3(g) reads as rewritten:

36 "(g) ~~If the city fails to offer a contract to the private firm within 30 days following~~
37 ~~the passage of an annexation ordinance, the private firm may~~ The private firm may, if it
38 contends that no contract has been offered, appeal to the Local Government
39 Commission within 30 days following passage of an annexation ordinance. The private
40 firm may appeal to the Local Government Commission for an order staying the
41 operation of the annexation ordinance pending the outcome of the review. The
42 Commission may grant or deny the stay upon such terms as it deems proper. If the
43 Local Government Commission finds that the city has not made an offer which
44 complies with this section, it shall remand the ordinance to the municipal governing

1 board for further proceedings, and the ordinance shall not become effective until the
2 Local Government Commission finds that such an offer has been made. Either the
3 private firm or the city may obtain judicial review in accordance with Chapter 150B of
4 the General Statutes."

5 Sec. 10. G.S. 160A-50 reads as rewritten:

6 **"§ 160A-50. Appeal.**

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

14 (b) Such petition shall explicitly state what exceptions are taken to the action of
15 the governing board and what relief the petitioner seeks. Within five days after the
16 petition is filed with the court, the person seeking review shall serve copies of the
17 petition by registered mail, return receipt requested, upon the municipality.

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

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

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

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

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

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

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

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

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

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

3 (1) Remand the ordinance to the municipal governing board for further
4 proceedings if procedural irregularities are found to have materially
5 prejudiced the substantive rights of any of the petitioners.

6 (2) Remand the ordinance to the municipal governing board for
7 amendment of the boundaries to conform to the provisions of G.S.
8 160A-48 if it finds that the provisions of G.S. 160A-48 have not been
9 met; provided, that the court cannot remand the ordinance to the
10 municipal governing board with directions to add area to the
11 municipality which was not included in the notice of public hearing
12 and not provided for in plans for service.

13 (3) Remand the report to the municipal governing board for amendment of
14 the plans for providing services to the end that the provisions of G.S.
15 160A-47 are satisfied.

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

19 (h) Any party to the review proceedings, including the municipality, may appeal
20 to the Court of Appeals from the final judgment of the superior court under rules of
21 procedure applicable in other civil cases. ~~The appealing party may apply to the superior~~
22 ~~court for a stay in its final determination, or a stay of the annexation ordinance, whichever shall~~
23 ~~be appropriate, pending the outcome of the appeal to the appellate division; provided, that the~~
24 The superior court may, with the agreement of the municipality, permit annexation to be
25 effective with respect to any part of the area concerning which no appeal is being made
26 and which can be incorporated into the city without regard to any part of the area
27 concerning which an appeal is being made.

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

37 (j) If a petition for review is filed under subsection (a) of this section or an
38 appeal is filed under G.S. 160A-49.1(g) or G.S. 160A-49.3(g), and ~~in either case~~ a stay is
39 granted, then the time periods of two years, 24 months or 27 months provided in G.S.
40 160A-47(3)c, 160A-49(h), or 160A-49(j) are each extended by the lesser of the length
41 of the stay or one year for that annexation.

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

44 Sec. 11. G.S. 160A-37(i) reads as rewritten:

1 **"§ 160A-37. Procedure for annexation.**

2 (i) No resolution of intent may be adopted under subsection (a) of this section
3 unless the city council (or a planning agency created or designated under either G.S.
4 160A-361 or the charter) has, by resolution adopted at least one year prior to adoption
5 of the resolution of intent, identified the area as being under consideration for
6 annexation; provided, adoption of such resolution of consideration shall not confer prior
7 jurisdiction over the area as to any other city. The area described under the resolution of
8 intent may comprise a smaller area than that identified by the resolution of
9 consideration. The resolution of consideration may have a metes and bounds description
10 or a map, shall remain effective for two years after adoption, and shall be filed with the
11 city clerk. A new resolution of consideration adopted before expiration of the two-year
12 period for a previously adopted resolution covering the same area shall relate back to
13 the date of the previous resolution."

14 Sec. 12. G.S. 160A-49(i) reads as rewritten:

15 **"§ 160A-49. Procedure for annexation.**

16 (i) No resolution of intent may be adopted under subsection (a) of this section
17 unless the city council (or planning agency created or designated under either G.S.
18 160A-361 or the charter) has, by resolution adopted at least one year prior to adoption
19 of the resolution of intent, identified the area as being under consideration for
20 annexation; provided, adoption of such resolution of consideration shall not confer prior
21 jurisdiction over the area as to any other city. The area described under the resolution of
22 intent may comprise a smaller area than that identified by the resolution of
23 consideration. The resolution of consideration may have a metes and bounds description
24 or a map and shall remain effective for two years after adoption, and shall be filed with
25 the city clerk. A new resolution of consideration adopted before expiration of the two-
26 year period for a previously adopted resolution covering the same area shall relate back
27 to the date of the previous resolution."

28 Sec. 12.1. Part 4 of Article 4A of Chapter 160A of the General Statutes is
29 amended by adding a new section to read:

30 **"§ 160A-58.5A. Waiver of municipal services for satellite annexations.**

31 (a) The owner of property for which a petition for annexation has been submitted
32 under this Part may, prior to adoption of the annexation ordinance, execute a Covenant
33 of Waiver and Release of the municipality from the obligation to provide one or more
34 municipal services to that property for a period stated in the Covenant, but not to exceed
35 ten years; provided the Covenant may provide for its automatic extension for a period of
36 not to exceed five years unless both the property owner and the municipality agree to
37 cancel the extension prior to the expiration of the initial time period.

38 (b) Upon acceptance by the municipality of the Covenant of Waiver and Release,
39 the Covenant shall bind the property, the property owner, and any successors in title;
40 and the municipality shall not be required to provide to the annexed property the
41 services waived for the period provided in the Covenant.

42 (c) Any Covenant under this section is automatically terminated when the
43 property to which it applies becomes part of the primary corporate limits of the
44 municipality.

1 (d) The Covenant under this section shall be effective as to third parties only
2 upon recordation in the office of the Register of Deeds of the county in which the
3 property is located, and shall be indexed under the name of the property owner as
4 'Grantee' and 'Grantor'.

5 (e) This section applies only as to property within Iredell County and to
6 municipalities located therein."

7 Sec. 13. Section 1 of this act is effective with respect to all annexations by
8 act of the General Assembly where the effective date of that act is on or after January 1,
9 1990. Sections 2, 3, 6, and 9 of this act are effective with respect to all annexation
10 ordinances adopted on or after January 1, 1990. Sections 4 and 12.1 of this act is
11 effective upon ratification. Sections 5, 7, 8, and 10 shall become effective with respect
12 to annexations for which the resolution of intent is adopted on or after January 1, 1990.
13 Sections 11 and 12 shall become effective with respect to annexations for which the
14 resolution of consideration is adopted on or after January 1, 1990. This act does not
15 affect pending litigation.