John Locke FOUNDATION

spotlight

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Meaningful Services and Proper Oversight

Two Common-Sense Annexation Reforms

KEY FACTS: **• The Joint Legislative Study Commission on Municipal Annexation failed to address two critical, common-sense reforms properly.**

• First Reform: *Municipalities should be required to provide meaningful services to annexation victims—services that an area truly needs.*

• Even those commission members who would have wanted a proper definition of "meaningful services" had to oppose the weak definition provided to them by the legislative staff. The chair prohibited commission members from amending the definition.

• The recommendation was so weak that it would have allowed municipalities forcibly to annex areas without providing water and sewer service.

• Municipalities should be required to provide water and sewer if the area needs those services, and furthermore they should be prohibited from simply duplicating services already in an area.

• Second Reform: *Counties, which are a neutral third party that would represent the interests of municipalities as well as annexation victims, should provide oversight of municipalities that initiate forced annexations.*

• As with meaningful services, the commission members were required to consider an inadequate proposal without being able to amend it.

• The commission approved a recommendation allowing the Local Government Commission (LGC) to provide oversight without any clear guidelines. The commission's choice was either approve the recommendation or not approve any oversight at all.

• The LGC is a poor choice to provide oversight of forced annexations. The LGC is not neutral — four of its five appointed members have a conflict of interest due to their ties to municipalities. The LGC, unlike counties, also is not familiar with the needs of local communities.

• The LGC's history beyond its debt management oversight has been terrible — for example, the LGC, which has oversight of tax increment financing, approved the Randy Parton Theater debacle.

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On January 22, 2009, the Joint Legislative Study Commission on Municipal Annexation approved recommendations for annexation reform.[1] One of those recommendations would allow property owners in proposed annexed areas to vote on the proposed annexation.[2] This important recommendation, overwhelmingly supported by a 14-6 vote,[3] should be very encouraging for those who believe that North Carolina's outdated system of forced annexation needs to be changed.

The commission failed, however, to address two critical reforms properly. The first is that municipalities should be required to provide meaningful services to annexation victims, and the second is that there needs to be a neutral third party, following clear guidelines, to provide oversight of municipalities in their attempts to annex areas.

This *Spotlight* discusses the commission's deliberations on these two reforms and explains how these commonsense reforms should be implemented — the details can make all the difference between real reform and reform that is simply a facade. The Appendix features draft legislative language that would implement changes to the annexation law so that meaningful services are required, as well as a few other important changes.

First Critical Reform: Defining Meaningful Services and Codifying *Nolan v. Village of Marvin*

Background

In 2006, the North Carolina Supreme Court explained in *Nolan v. Village of Marvin*[4] that the primary purpose of forced annexation was to promote sound urban development by having municipalities provide meaningful services to areas that need services.[5] There appears to be wide agreement on the commission that the *Nolan* case should be codified into law by requiring municipalities to provide meaningful services.[6]

At the final commission meeting, legislative staff provided a list of recommendations to the commission members for their consideration.[7] The staff selected those recommendations based on ideas presented during the commission process.[8]

Several other recommendations, however, were also brought up during the process but did not make the list. Even worse, Rep. Paul Luebke, who chaired the meeting, prohibited commission members from amending most of the recommendations that were on the staff-provided list.[9] Essentially, almost all the recommendations were "take it or leave it" propositions fitting the definition of the Hobson's Choice: an all-or-nothing choice that offered no chance of a real alternative.

This Hobson's Choice approach to general issues, such as whether property owners being annexed should have a vote, was not a problem because each commission member either supported a vote or not. Where it became a significant problem for the commission, however, was on specific questions such as what should constitute "meaningful services."

The Commission's Choice

The legislative staff provided the Commission the following definition of "meaningful services" for its consideration:

> Define "meaningful services" to be: providing 3 of the 5 following services: water, sewer, police protection, fire protection, solid waste.[10]

Fortunately, this recommendation was voted down.[11] Municipalities would have been able to ignore providing water and sewer services.

The definition also ignored many of the other critical protections that are needed (as will be discussed below). Even

those commission members who would have wanted a proper definition of "meaningful services" had to oppose this recommendation because it was so weak.

Properly Defining Meaningful Services

The most important services that municipalities provide to annexed areas are water and sewer. To ignore these services within the definition of "meaningful services" is disingenuous at best. Even the supplementary report to the 1958 annexation study, which was in favor of forced annexation, acknowledged:

> And unquestionably without a high quality of water and sewer service and fire protection, other municipal services have relatively little attraction.[12]

There are several simple questions that help guide how meaningful services should be defined:

- Should a municipality be able to ignore the most important services: water and sewer?
- Should municipalities be able to annex an area because it can duplicate services that an area already has? Is duplication of services meaningful?
- Does a municipality providing, for example, one more police officer to an area that has adequate police protection constitute the provision of a meaningful service?
- If property owners can secure the same service that a municipality would provide, should the municipality be able to annex the property owners anyway?
- If a property owner does not need the service a municipality is providing and can reasonably be excluded from an annexation, should they be annexed anyway?

From a common-sense perspective, the answers to all these questions should be a resounding no. The draft legislative language in the Appendix is designed to address all of these issues.

Second Critical Reform: Proper Oversight

Another Hobson's Choice the commission faced was between a poor recommendation on oversight and no recommendation at all.[13] Although the need for oversight was widely recognized,[14] the commission could vote only on the following recommendation:

> Direct the Local Government Commission to provide oversight of the municipal annexation process by, for example: (1) assessing the fiscal feasibility of all proposed annexations, and by (2) prohibiting further annexation by cities that do not provide services as provided in their annexation plan.[15]

The commission approved that recommendation just out of the need to recommend some oversight, any oversight.[16] The Local Government Commission (LGC) may be effective when it comes to addressing the narrow issue of debt management, but beyond that, it does not have a distinguished record of providing oversight. For example, it has failed miserably when it comes to the more complicated review of tax-increment financing (TIF) projects — the LGC provided the green light for the Randy Parton Theater debacle that has saddled Roanoke Rapids with millions of dollars of obligations for a failed project.[17]

The LGC also is far from a neutral body — its use in providing oversight would have no sense of legitimacy and would undermine the entire process. The LGC is made up of nine members, four of whom are ex-officio members (they are on the commission because of their positions).[18] This includes the state treasurer, state auditor, secretary of

revenue, and secretary of state.[19] The other five are appointed members.[20] As shown in the adjacent table, four of these five appointed members have conflicts of interest because they have ties to municipalities.[21]

Also, the recommendation provided no clear oversight guidelines nor the ability to deny an annexation. The oversight body should not be a rubber-stamping body. In fairness to the LGC, its hands often are tied with TIF projects because it has little discretion to deny a project[22] — a problem the LGC or the counties should not have concerning annexation. The oversight issues are not just about the financial viability of an annexation, however. Other factors include:

- Does the annexation promote sound urban development?
- Will the *municipal* residents face higher taxes and fees?
- Is the annexation in the best interests of the municipality and the annexed area?
- Will other surrounding areas in the county be hurt by the annexation?
- Will the county be harmed by the annexation?

Table: Appointed Members of the Local Government Commission

Calvin Horton
Former Town Manager of Chapel Hill

Irving Joyner
Professor of Law
North Carolina Central University

Allen Joines
Mayor of Winson-Salem
Past Board Member of the North Carolina League of Municipalities

Patrick Smathers
Mayor of Canton

John H. Zollicoffer, Jr.
Henderson City Attorney

By the very nature of those questions, the LGC is in a poor position to address the critical issues. To be qualified to answer those questions, a third party must be familiar with the community and have the interests of the overall community in mind.

The Solution: County Oversight

As one commission member argued during the January 22, 2009 meeting, county commissions should provide the oversight.[23] County commissions represent the interests of the municipality as well as the annexation victims. Municipal residents and annexation victims also can hold the county commissioners accountable for their actions. Furthermore, the commissioners would be far more familiar with the needs of their communities than the LGC.

Conclusion

The reforms are basic. The two guiding principles can be summarized as follows:

1) Municipalities should not be able to annex areas unless they provide truly necessary services, and

2) Municipalities need legitimate oversight when they initiate forced annexations.

Regardless of where one stands on other annexation reform questions, these simple reforms should be enacted without delay.

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End Notes

1. See, e.g., "Panel sides with citizens," *Winston-Salem Journal*, January 23, 2009, www2.journalnow.com/content/2009/jan/23/panel-sides-with-citizens.
2. *Ibid.* See also video.google.com/videoplay?docid=-8815654353646886036.
3. *Ibid.*

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4. *Nolan v. Village of Marvin*, 360 N.C. 256; 624 S.E.2d 305 (2006), www.aoc.state.nc.us/www/public/sc/opinions/2006/488-05-1.htm.
5. *Ibid.*
6. See, e.g., "Policy Proposals for Consideration," Joint Legislative Commission on Municipal Annexation, January 22, 2009, www.nclm.org/documents/PolicyProposals_JtStudyCommissiononMunAnnex01222009.pdf; see also "A Proposal to the Joint Senate and House Study Commission on Municipal Annexation," Proposal 14, North Carolina League of Municipalities, December 17, 2008, www.nclm.org/documents/annexationproposalsdec17.pdf.
7. The author was witness to the January 22, 2009 meeting; see also video.google.com/videoplay?docid=9001213901889432100 and video.google.com/videoplay?docid=-6655920386249275647.
8. *Ibid.*
9. *Ibid.*
10. "Policy Proposals for Consideration," Joint Legislative Commission on Municipal Annexation, January 22, 2009, www.nclm.org/documents/PolicyProposals_JtStudyCommissiononMunAnnex01222009.pdf.
11. *Op. cit.*, note 7, and see, e.g., NCLM's discussion of what was approved at www.nclm.org/Commission012209.htm.
12. "Report of the Municipal Government Study Commission, Supplementary Report" North Carolina General Assembly, February 26, 1959, www.sog.unc.edu/programs/annexation/docs/mgsc-supplemental%20report.pdf.
13. *Op. cit.*, note 7.
14. The fact that the commission voted on (and approved) an oversight body is evidence of the wide recognition of the need for oversight.
15. *Op. cit.*, note 10.
16. A commission member explained to the author, after the meeting, that the member had to support the recommendation, otherwise there would be no oversight recommendation.
17. See, e.g., Don Carrington, "Leaders teamed up on Parton deal," *Carolina Journal*, January 15, 2008, www.carolinajournal.com/exclusives/display_exclusive.html?id=4541.
18. N.C. Gen. Stat. § 159-3, ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_159/GS_159-3.html.
19. *Ibid.*
20. *Ibid.*
21. See this LGC document for the list of appointed members: www.nctreasurer.com/NR/rdonlyres/3B8411E8-9682-40D6-A736-7754474E2E2B/0/LGCREVISEDASOF61308.pdf; for further details on Horton, see www.townofchapelhill.org/DocumentView.asp?DID=170; Joines, see http://www.intelligentcommunity.org/index.php?src=gendocs&ref=Speakers_Joines_Allen&category=Events; Joyner, see ariel.acc.nccu.edu/law/faculty/faculty/joyner.html; Smathers, see http://www.cantonnc.com/index.asp?Type=NONE&SEC={6CE9A259-A3BC-4184-ADAC-55A7D2E82BE8}&DE=; Zollicoffer, see, e.g., www.ncbar.org/ncLawyer/10/2793/index.aspx?type=article; but note Zollicoffer is still the city attorney according to a phone conversation the author had with the city of Henderson on February 11, 2009; see also this February 5, 2009, article in the *Daily Dispatch*, www.hendersondispatch.com/ee/hendersondailydispatch/index.php?pSetup=hendersondailydispatch&curDate=20090205&pageToLoad=showFreeArticle.php&type=art&index=05.
22. See, e.g., Daren Bakst and Joseph Coletti, "Common-Sense TIF Reforms," John Locke Foundation *Spotlight* No. 350, May 28, 2008, www.johnlocke.org/acrobat/spotlights/spotlight-350-tifreforms.pdf.
23. *Op. cit.*, note 7.

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Appendix: Draft Legislation Requiring Meaningful Services and Making Other Key Changes

The following draft legislation addresses the questions regarding meaningful services identified in the paper. It also would be very reasonable for municipalities by clarifying:

- A municipality can annex an area as long as it can provide one meaningful service. If, however, the area needs central water and sewer, the municipality must provide those services.
- A municipality must provide the annexed area all the meaningful services and municipal services that it provides its own residents.
- A municipality may even duplicate an existing service if it can show that the existing service is inadequate, among other things.

The proposed legislation also would:

- Clarify that if a municipality plans to provide an annexed area water and sewer services, the municipality must pay for and provide the water and sewer infrastructure — there is no reason for a city that *initiates* an annexation not to face this requirement.
- Place the burden of proof on municipalities to show that an area is in need of meaningful services.
- Detail in G.S. 160A-47 several of the factors that should be considered by a county (and a court, if appealed).
- Amend the appeal process to make the process reasonable; the current process makes it virtually impossible for any annexation to be declared null and void. One important change, for example, would require that *a jury* review the proposed annexation.

Technical notes:

- The changes would be made to the legislative sections dealing with municipalities with 5,000 people or more. The sections dealing with municipalities with fewer than 5,000 people should be repealed, and only one set of requirements should exist.
- The proposed language would not address all the technical corrections that may be needed as a result of these changes.

Notes on the text:

- <u>Underlined text</u> signifies new statutory language that would be added.
- ~~Stricken text~~ signifies existing statutory language that would be removed.

§ 160A-53. Definitions.

(3) "Meaningful services" shall mean central water and sewer service, police protection, or fire protection.

(4) "Area in need of meaningful services" shall mean an area in which:

a) A majority of property owners have existing water service, sewer or septic service, police protection, or fire protection that is inadequate and clearly poses a threat to the health and safety to the area, and the property owners could not reasonably address the threat themselves through private or public means.

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

A municipality may exercise ~~exercising~~ authority under this Part only to annex an area in need of meaningful services and if the municipality can provide at least one meaningful service. However, if the area is in need of central water and sewer, the municipality must provide this service. The municipality shall provide any other meaningful services and municipal services to the area on the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation. The municipality shall make plans for the extension of such services to the area proposed to be annexed and shall, prior to the public hearing provided for in G.S. 160A-49, prepare a report setting forth such plans to provide services to such area. The report shall be delivered to the clerk of the board of county commissioners at least 30 days before the date of the public informational meeting on any annexation under this Part. The report shall include:

(1) A metes and bounds description and a map or maps of the municipality and adjacent territory to show the following information:
   a. The present and proposed boundaries of the municipality.
   b. The present boundaries of the adjacent territory with clear identification of all the parcels of property to be annexed.
   ~~b.~~ c. The present major trunk water mains and sewer interceptors and outfalls, and the proposed extensions of such mains, ~~and~~ outfalls, lines, and hook-ups, as required in subdivision (3) of this section. The water and sewer map must bear the seal of a registered professional engineer.
   ~~c.~~ d. The general land use pattern in the area to be annexed.

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

(3) A statement setting forth the plans of the municipality for extending to the area to be annexed each meaningful service and other municipal service as required in this section, and each ~~major~~ meaningful service and municipal service performed within the municipality at the time of annexation. Specifically, such plans shall:
   a. Provide ~~for extending police protection, fire protection, solid waste collection and street maintenance services to the area to be annexed on the date of annexation~~ evidence that proves that an area is in fact an area in need of meaningful services. ~~on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation. A contract with a rural fire department to provide fire protection shall be an acceptable method of providing fire protection. If a water distribution system is not available in the area to be annexed, the plans must call for reasonably effective fire protection services until such time as waterlines are made available in such area under existing municipal policies for the extension of waterlines. A contract with a private firm to provide solid waste collection services shall be an acceptable method of providing solid waste collection services.~~
   b. If a central water and sewer system must be provided to the area, provide for extension of major trunk water mains, water lines, ~~and~~ sewer outfall lines, and all necessary hook-ups for each property owner ~~into~~ in the area to be annexed. ~~so that when such lines are constructed, property owners in the area to be annexed will be able to secure public water and sewer service, according to the policies in effect in such municipality for extending water and sewer lines to individual lots or subdivisions. If requested by the owner of an occupied~~

~~dwelling unit or an operating commercial or industrial property in writing on a form provided by the municipality, which form acknowledges that such extension or extensions will be made according to the current financial policies of the municipality for making such extensions, and if such form is received by the city clerk no later than five days after the public hearing, provide for extension of water and sewer lines to the property or to a point on a public street or road right-of-way adjacent to the property according to the financial policies in effect in such municipality for extending water and sewer lines. If any such requests are timely made, the municipality shall at the time of adoption of the annexation ordinance amend its report and plan for services to reflect and accommodate such requests, if an amendment is necessary. In areas where the municipality is required to extend sewer service according to its policies, but the installation of sewer is not economically feasible due to the unique topography of the area, the municipality shall provide septic system maintenance and repair service until such time as sewer service is provided to properties similarly situated.~~

c. If a central water and sewer system must be provided to the area ~~If extension of major trunk water mains, sewer outfall lines, sewer lines and water lines is necessary~~, set forth a proposed timetable for construction of such mains, outfalls, ~~and~~ lines, and hook-ups as soon as possible following the effective date of annexation. In any event, the plans shall call for ~~construction~~ hook-ups to all property owners to be completed within ~~two~~ three years of the effective date of annexation.

d. Provide for extending other meaningful services and municipal services to the area to be annexed on the date of annexation on the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation.

~~d.~~ e. Set forth the method under which the municipality plans to finance extension of services into the area to be annexed.

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

(5) A statement showing how the proposed annexation will affect the city's finances and services, including city revenue change estimates, and why the level of taxes and fees on municipal residents will not increase. ~~This statement shall be delivered to the clerk of the board of county commissioners at least 30 days before the date of the public informational meeting on any annexation under this Part.~~

(6) A statement detailing all the additional taxes, charges, and other fees that property owners in the proposed annexed area will incur as a result of the annexation. In no event shall the cost of water and sewer extensions be imposed on the annexed property owners.

(7) A statement explaining why property owners that already have the necessary services in an area in need of meaningful services are included in the annexation. If these property owners can reasonably be excluded from the annexation, the municipality shall exclude them.

(8) A statement detailing all of the following:

a) The annexation will not have a negative impact on the county;

b) The annexation will not have a negative impact on surrounding communities;
c) The annexation will promote sound urban development. The municipality must explain why the annexation is being proposed to promote sound urban development through the provision of meaningful services to the annexed area; and
d) The reason for the annexation. The municipality must prove why the annexation would have been proposed regardless of any financial benefit to the municipality.
e) If the municipality is not providing central water and sewer, prove that the area is not in need of this service.

(9) A statement that details past annexations by the municipality and the current status of those annexations. If the municipality has not finished providing all of the services to the annexed area, the municipality may not annex a new area. If the municipality has finished providing the services, but did not meet the timelines, or in any other way failed to meet its obligations in past annexations, the municipality shall explain why the current annexation will not suffer from the same or any other deficiencies.

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

(a) A municipal governing board may extend the municipal corporate limits only if the area is in need of meaningful services, as defined in 160A-41(4).

~~(a)~~ (b) A municipal governing board may extend the municipal corporate limits to include any area…

§ 160A-50. Appeal.

(a) Within 60 days following the passage of an annexation ordinance under authority of this Part, any person owning property in the annexed territory who shall believe that he will suffer ~~material~~ injury by reason of the failure of the municipal governing board to comply with the procedure set forth in this Part or to meet the requirements set forth in G.S. 160A-47, G.S. 160A-48 as they apply to his property may file a petition in the superior court of the county in which the municipality is located seeking review of the action of the governing board.

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

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

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

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

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

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

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

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

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

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

(g) The court may affirm the action of the governing board without change if the jury determines the annexation to be proper, or it may

(1) ~~Remand~~ Declare the ordinance null and void ~~to the municipal governing board for further proceedings~~ if the jury determines there are significant procedural irregularities. ~~are found to have materially prejudiced the substantive rights of any of the petitioners.~~

(2) ~~Remand~~ Declare the ordinance null and void ~~to the municipal governing board for~~

~~amendment of the boundaries to conform to the provisions of G.S. 160A-48~~ if ~~it~~ the jury finds that the provisions of ~~G.S. 160A-48~~ G.S. 160A-47 have not been met. ~~provided, that the court cannot remand the ordinance to the municipal governing board with directions to add area to the municipality which was not included in the notice of public hearing and not provided for in plans for service.~~

(3) ~~Remand the report to the municipal governing board for amendment of the plans for providing services to the end that the provisions of~~ Declare the ordinance null and void if the jury finds that the provisions of ~~G.S. 160A-47~~ G.S. 160A-48 ~~are satisfied~~ have not been met.

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

~~If any municipality shall fail to take action in accordance with the court's instructions upon remand within 90 days following entry of the order embodying the court's instructions, the annexation proceeding shall be deemed null and void.~~

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

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

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

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

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

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

(n) If an ordinance is declared null and void, all reasonable attorney's fees and costs shall be awarded to the petitioner.