

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 895
PROPOSED COMMITTEE SUBSTITUTE H895-PCS90119-SV-27

Short Title: Butner Fire & Police District Modifications.

(Public)

Sponsors:

Referred to:

May 5, 2011

A BILL TO BE ENTITLED

AN ACT TO MAKE MODIFICATIONS TO THE BUTNER PUBLIC SAFETY DIVISION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-408 reads as rewritten:

"§ 122C-408. ~~Butner Public Safety Division of the Department of Crime Control and Public Safety; Authority; jurisdiction; fire and police district.~~

(a) Authority Established. – There is hereby created an authority known as the Butner Public Safety Authority, which is a body politic and corporate, to provide fire and police protection for the territory of the Camp Butner Reservation.

(a1) Membership. – The authority shall consist of seven voting members, three appointed by the Town of Butner, three appointed by the Secretary of Crime Control and Public Safety, and one appointed by the Granville County Board of Commissioners. The members shall be appointed within 30 days after the establishment of the authority. The initial Director of the authority shall be the Chief of the Butner Public Safety Division of the Department of Crime Control and Public Safety who is serving in that capacity on the day the authority is established. The Director shall be an ex officio, nonvoting member of the authority. No active member of the fire or police forces providing services to the authority may serve as a voting member of the authority. When the officers are elected as herein provided, the secretary of the authority shall certify to the Secretary of State the names and addresses of the officers as well as the address of the principal office of the authority, and such certification shall be filed by the Secretary of State in the same manner as articles of incorporation.

(a2) Term of Membership. – One member appointed by the Town of Butner, one member appointed by the Secretary of Crime Control and Public Safety, and the member appointed by the Granville County Board of Commissioners shall serve an initial term of two years. The remaining members shall serve an initial term of four years. The beginning date of each initial term for purposes of reappointment is September 1, 2011. Thereafter, each member shall serve a term of four years.

(a3) Transfer of Property. – Within 30 days after the establishment of the authority, the State shall transfer all real, personal, and mixed assets assigned to or used by the Butner Public Safety Division of the Department of Crime Control and Public Safety to the authority in fee simple absolute.

(a4) Duties and Responsibilities. – The authority shall have the following duties and responsibilities:



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- 1 (1) To adopt bylaws for the regulation of its affairs and the conduct of its
2 business.
- 3 (2) To elect officers from among its members in accordance with its bylaws.
- 4 (3) To adopt an official seal and alter the same.
- 5 (4) To maintain an office at such place or places as it may designate.
- 6 (5) To sue and be sued in its own name, plead and be impleaded.
- 7 (6) To acquire, lease as lessee or lessor, construct, reconstruct, improve, extend,
8 enlarge, equip, repair, maintain, or operate any property necessary for and
9 incidental to the operation of a fire and police force.
- 10 (7) To make and enter into all contracts and agreements necessary or incidental
11 to the performance of its duties and the execution of its powers under this
12 section and to employ such employees and agents as may, in the judgment of
13 the authority, be deemed necessary, and to fix their compensation; provided,
14 however, that all such expenses shall be payable solely from funds made
15 available under the provisions of this section.
- 16 (8) To contract with any department of State government or any unit of local
17 government to provide services to the authority.
- 18 (9) To enter into contracts with the government of the United States or any
19 agency or instrumentality thereof, or with any political subdivision, private
20 corporation, copartnership, association, or individual providing for the
21 provision of fire and police services within the Camp Butner Reservation.
- 22 (10) To receive and accept from any federal, State, or other public agency and
23 any private agency, person, or other entity, donations, loans, grants, aid or
24 contributions of any money, property, labor or other things of value for the
25 operation of the authority and to agree to apply and use the same in
26 accordance with the terms and conditions under which the same are provided
27 if the same are otherwise lawful.
- 28 (11) To provide for the defense of civil and criminal actions and payment of civil
29 judgments against employees and officers or former employees and officers
30 and members or former members of the governing body, as authorized by
31 G.S. 160A-167.
- 32 (12) To periodically review and recommend changes to the operational policy for
33 the authority.
- 34 (13) To develop and adopt an annual budget for the authority which it shall
35 request to be funded by the State and the Town of Butner as set out in this
36 section and to revise the annual budget based on funding actually received
37 and the needs of the authority.
- 38 (14) To do all acts and things necessary or convenient to carry out the powers
39 granted by this section.
- 40 (15) To purchase real or personal property, as provided by G.S. 160A-20 or this
41 Article.

42 (a5) Police and Fire Protection. – The Secretary of Crime Control and Public Safety may
43 employ Subject to the provisions of subsection (d) of this section, the authority shall employ or
44 contract with a State agency or unit of local government for the provision of special police
45 officers for the territory of the Camp Butner Reservation. The Secretary of Crime Control and
46 Public Safety shall contract with the Town of Butner to provide fire and police protection to
47 those areas within the incorporated limits of the Town of Butner. The territorial jurisdiction of
48 these officers shall consist of the property shown on a map produced May 20, 2003, by the
49 Information Systems Division of the North Carolina General Assembly and kept on file in the
50 office of the Butner Town Manager and in the office of the Director of the Butner Public Safety
51 Division of the Department of Crime Control and Public Safety authority and such additional

1 areas which are within the incorporated limits of the Town of Butner as shown on a map to be
2 kept in the office of the Butner Town Manager and in the office of the Director of the ~~Butner~~
3 ~~Public Safety Division of the Department of Crime Control and Public Safety~~ authority. The
4 ~~Secretary of Crime Control and Public Safety~~ may organize these special police officers
5 assigned to the authority shall be organized into a public safety department for that territory and
6 ~~may establish it as a division within that principal department as permitted by Chapter 143B of~~
7 ~~the General Statutes~~ territory.

8 (b) Authority of Special Police Officers. – After taking the oath of office required for
9 law-enforcement officers, the special police officers authorized by this section shall have the
10 authority of deputy sheriffs of Durham and Granville Counties in those counties respectively.
11 Within the territorial jurisdiction stated in subsection ~~(a)~~(a7) of this section, the special police
12 officers have the primary responsibility to enforce the laws of North Carolina, the ordinances of
13 the Town of Butner, and any rule applicable to the Camp Butner Reservation adopted under
14 authority of this Part or under G.S. 143-116.6 or G.S. 143-116.7 or under the authority granted
15 any other agency of the State and also have the powers set forth for firemen in Articles 80, 82,
16 and 83 of Chapter 58 of the General Statutes. Any civil or criminal process to be served on any
17 individual confined at any State facility within the territorial jurisdiction described in
18 subsection ~~(a)~~(a7) of this section shall be forwarded by the sheriff of the county in which the
19 process originated to the Director of the ~~Butner Public Safety Division~~ authority. Special police
20 officers authorized by this section shall be assigned to transport any individual transferred to or
21 from any State facility within the territorial jurisdiction described in subsection ~~(a)~~(a7) of this
22 section to or from the psychiatric service of the University of North Carolina Hospitals at
23 Chapel Hill.

24 (c) Funding. – The authority shall contract with the State to provide fire and police
25 protection to those portions of the Camp Butner Reservation outside of the corporate limits of
26 the Town of Butner. The authority shall also contract with the Town of Butner to provide fire
27 and police protection within the corporate limits of the Town of Butner. The contract between
28 the Town of Butner and the Department of Crime Control and Public Safety contracts shall
29 provide ~~that~~ for the following:

- 30 (1) ~~The Butner Public Safety Division of the Department of Crime Control and~~
31 ~~Public Safety shall provide the same level of service to the incorporated area~~
32 ~~known as the Town of Butner as provided to those areas of the Town of~~
33 ~~Butner served by Butner Public Safety on January 1, 2007;~~ To fund the
34 operations of the authority for the fiscal year beginning July 1, 2011, the
35 State shall pay to the authority the sum of one million eight hundred eighty-
36 five thousand one hundred eighty-one dollars (\$1,885,181) and the Town of
37 Butner shall pay to the authority the sum of one million seven hundred
38 eighty-two thousand nine hundred ninety-five dollars (\$1,782,995). The
39 authority shall keep detailed time records tracking the amount of time spent
40 providing fire and police protection both within and outside the corporate
41 limits of the Town of Butner. Funding provided by the State pursuant to the
42 contract in subsequent fiscal years shall be a percentage of the total budget
43 set by the authority members determined by multiplying the total budget set
44 by the authority by a fraction, the numerator of which shall be the hours
45 spent by the authority providing services outside of the corporate limits of
46 the Town of Butner and the denominator of which shall be the total hours the
47 authority provided services both within the corporate limits of the Town of
48 Butner and outside the corporate limits of the Town of Butner. The authority
49 may also contract with any department of State government to provide
50 services within the Camp Butner Reservation to that department; provided,
51 however, the contract with such department shall provide enough revenue to

1 fully cover the costs of providing such services, and any receipts or
2 expenditures pursuant to such a contract shall not be considered in setting
3 each party's contribution percentage. The foregoing notwithstanding, neither
4 party's contribution percentage shall increase or decrease more than ten
5 percent (10%) per fiscal year.

6 (2) The State and the Town of Butner each shall pay to the State
7 Treasurer, authority, on or before May-July 1 of each year, for deposit in the
8 General Fund-an amount equal to its funding percentage as described in
9 subdivision (1) of this subsection. the amount that actually would have been
10 collected from real and personal property ad valorem taxes due January 5,
11 2007, in the area incorporated as the Town of Butner effective July 1, 2007,
12 assuming a tax of twenty five cents (25¢) per one hundred dollars (\$100.00)
13 valuation of all real and personal property in said area increased effective
14 July 1 of each year by the increase in the percentage change in the Consumer
15 Price Index published by the U.S. Department of Labor, Bureau of Labor
16 Statistics, for the southeast region, all urban consumers (or if that data shall
17 no longer be available, the closest equivalent substitute then in publication
18 by the United States Government) for the previous year ended December
19 31st.

20 (3) If additional areas are added to the incorporated limits of the Town of
21 Butner, the payments due under the contract shall be increased by an amount
22 equal to the amount that actually would have been collected from real and
23 personal property ad valorem taxes due January 5 of the year of
24 incorporation of such area if said incorporation occurs on or before May 1 or
25 the amount collected for the preceding year if said incorporation occurs prior
26 to May 1 of the then current year assuming a tax of twenty five cents (25¢)
27 per one hundred dollars (\$100.00) valuation of all real and personal property
28 in said area and increased yearly as set out above; and

29 (4) The Town of Butner and the Department of Crime Control and Public Safety
30 may by mutual agreement modify the amounts required to be paid by the
31 Town of Butner pursuant to subdivisions (2) and (3) of this subsection.

32 (d) Hiring of Director. – The authority shall contract with the Secretary of Crime
33 Control and Public Safety to provide fire and police protection to the Camp Butner Reservation
34 and the corporate limits of the Town of Butner so long as the Department provides the level of
35 services required by the authority. In such event, the employees of the Department of Crime
36 Control and Public Safety shall remain employees of the State. While the contract between the
37 Secretary of Crime Control and Public Safety and the Town of Butner is in effect, the Secretary
38 of Crime Control and Public Safety shall consult with the voting members of the authority
39 concerning the Department's hiring of the Director of the authority. The consultation shall
40 include, but not be limited to, the voting members of the authority reviewing and providing
41 their comments to the Secretary of Crime Control and Public Safety on the credentials of the
42 applicants for said position. In performing its functions under this subsection, the voting
43 members of the authority shall have the same access to the applicants' personnel records
44 pursuant to Article 7 of Chapter 126 of the General Statutes as the Secretary of Crime Control
45 and Public Safety and are subject to the same restraints concerning the personnel information as
46 set out in that Article. After consultation with the authority, the Secretary of Crime Control and
47 Public Safety shall select and hire the Director of the authority.

48 (e) Dissolution. – In the event that either the Town of Butner or the State fails to pay
49 the authority its percentage share of the authority's budget as described in this section, the
50 nonpaying party shall cease to be a participant in the authority at the expiration of the fiscal
51 year for which it has last paid its percentage share of the budget for the authority. The

1 remaining participant may file a notice with the Secretary of State indicating that it is the sole
2 remaining participant in the authority. All of the property of the authority shall remain with the
3 authority. At the expiration of the fiscal year for which the nonpaying party last paid its
4 percentage share of the budget for the authority or at any time thereafter, the remaining
5 participant in the authority also may file articles of dissolution dissolving the authority with the
6 Secretary of State. In the case of such dissolution, the property of the authority shall be
7 distributed to the remaining party filing the articles of dissolution."

8 **SECTION 2.** G.S. 122C-411 and G.S. 122C-414 are repealed.

9 **SECTION 3.** Chapter 830 of the 1983 Session Laws, as amended by S.L.
10 2003-346, Section 43.3 of S.L. 2005-276, and Section 14 of S.L. 2007-269, is repealed.

11 **SECTION 4.** G.S. 160A-288(d)(4) reads as rewritten:

12 "(4) Butner Public ~~Safety~~Safety Authority."

13 **SECTION 5.** G.S. 160A-288.2(d)(3) reads as rewritten:

14 "(3) Butner Public ~~Safety~~Safety Authority."

15 **SECTION 6.** This act is effective when it becomes law.