

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 895

Short Title: Butner Fire & Police District Modifications. (Public)

Sponsors: Representative Crawford (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Finance.

May 5, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE MODIFICATIONS TO THE BUTNER PUBLIC SAFETY DIVISION.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 122C-408 reads as rewritten:
5 "§ 122C-408. **Butner Public Safety Division of the Department of Crime Control and**
6 **Public Safety; jurisdiction; fire and police district.**

7 (a) On or before July 1, 2011, the Secretary of Crime Control and Public Safety and the
8 Town of Butner shall form an authority to provide fire and police protection for the territory of
9 the Butner Reservation and the incorporated limits of the Town of Butner. In order to form the
10 authority, the Secretary of the Department of Crime Control and Public Safety and the Town
11 Council of the Town of Butner shall adopt a resolution which shall include the articles of
12 incorporation of the authority. The resolution shall set forth each of the following:

13 (1) The name of the authority.

14 (2) A statement that the authority is organized under this section.

15 (3) The names and addresses of the first members of the authority appointed by
16 the Secretary, the Secretary of Crime Control and Public Safety, and the
17 Butner Town Council.

18 (a1) A certified copy of each of such resolutions signifying the determination to organize
19 an authority under the provisions of this section shall be filed with the Secretary of State. If the
20 Secretary of State finds that the resolutions, including the articles of incorporation, conform to
21 the provisions of this section, the Secretary shall file such resolutions in his or her office and
22 shall issue a certificate of incorporation under the seal of the State and shall record the same in
23 an appropriate book of record. The issuance of such certificate of incorporation by the
24 Secretary shall constitute the authority a public body and body politic and corporate of the
25 State. Said certificate of incorporation shall be conclusive evidence of the fact that such
26 authority has been duly created and established under the provisions of this Article.

27 (a2) The authority shall consist of seven voting members, four appointed by the Town of
28 Butner, one appointed by the Secretary, and two appointed by the Secretary of Crime Control
29 and Public Safety. All members appointed by the Secretary shall reside within the Town of
30 Butner or its extraterritorial jurisdiction or the Butner Reservation. All members appointed by
31 the Secretary and the Secretary of Crime Control and Public Safety shall either work at or have
32 responsibility for one of the State-run institutions located within the Butner Reservation or shall
33 reside within the Town of Butner and its extraterritorial jurisdiction or the Butner Reservation.
34 Within 10 days of all voting members of the authority being appointed, the voting members
35 shall select by majority vote a Director of the authority to serve at its pleasure. The Director



1 shall be an ex officio, nonvoting member of the authority. No active member of the fire or
2 police forces providing services to the authority may serve as a voting member of the authority.

3 (a3) When the authority has been duly organized and its officers elected as herein
4 provided, the secretary of the authority shall certify to the Secretary of State the names and
5 addresses of such officers as well as the address of the principal office of the authority.

6 (a4) Within 30 days of the issuance of a certificate of incorporation for the authority by
7 the Secretary of State, the State shall transfer all real, personal, and mixed assets assigned to or
8 used by the Butner Public Safety Division of the Department of Crime Control and Public
9 Safety to the authority in fee simple absolute.

10 (a5) The authority shall have the following duties and responsibilities:

11 (1) To adopt bylaws for the regulation of its affairs and the conduct of its
12 business.

13 (2) To adopt an official seal and alter the same.

14 (3) To maintain an office at such place or places as it may designate.

15 (4) To sue and be sued in its own name, plead and be impleaded.

16 (5) To acquire, lease as lessee or lessor, construct, reconstruct, improve, extend,
17 enlarge, equip, repair, maintain, or operate any property necessary for and
18 incidental to the operation of a fire and police force.

19 (6) To make and enter into all contracts and agreements necessary or incidental
20 to the performance of its duties and the execution of its powers under this
21 section, and to employ such employees and agents as may, in the judgment
22 of the authority, be deemed necessary, and to fix their compensation;
23 provided, however, that all such expenses shall be payable solely from funds
24 made available under the provisions of this section.

25 (7) To contract with any department of State government or any unit of local
26 government to provide services to the authority.

27 (8) To enter into contracts with the government of the United States or any
28 agency or instrumentality thereof, or with any political subdivision, private
29 corporation, copartnership, association, or individual providing for the
30 provision of fire and police services within the Butner Reservation and the
31 corporate limits of the Town of Butner.

32 (9) To receive and accept from any federal, State, or other public agency and
33 any private agency, person, or other entity, donations, loans, grants, aid or
34 contributions of any money, property, labor or other things of value for the
35 operation of the authority, and to agree to apply and use the same in
36 accordance with the terms and conditions under which the same are provided
37 if the same are otherwise lawful.

38 (10) To provide for the defense of civil and criminal actions and payment of civil
39 judgments against employees and officers or former employees and officers
40 and members or former members of the governing body, as authorized by
41 G.S. 160A-167.

42 (11) To periodically review and recommend changes to the operational policy for
43 the authority.

44 (12) To develop and adopt an annual budget for the authority which it shall
45 request to be funded by the State and the Town of Butner as set out in this
46 section and to revise the annual budget based on funding actually received
47 and the needs of the authority.

48 (13) To do all acts and things necessary or convenient to carry out the powers
49 granted by this section.

50 (14) To purchase real or personal property, as provided by G.S. 160A-20 or this
51 Article.

1 (a6) The members of the authority shall be appointed within 30 days after this section
2 becomes law. One member appointed by the Town of Butner, one member appointed by the
3 Secretary of Crime Control and Public Safety, and the member appointed by the Secretary shall
4 serve an initial term of two years. The remaining members shall serve an initial term of four
5 years. The beginning date of each initial term for purposes of reappointment shall be September
6 1, 2011. Thereafter, each member shall serve a term of four years.

7 ~~(a7) The Secretary of Crime Control and Public Safety may employ authority shall~~
8 ~~employ or contract with a State agency or unit of local government for the provision of special~~
9 ~~police officers for the territory of the Butner Reservation. The Secretary of Crime Control and~~
10 ~~Public Safety shall contract with the Town of Butner Reservation and for personnel to provide~~
11 ~~fire and police protection to those areas within the incorporated limits of the Town of Butner.~~
12 ~~The territorial jurisdiction of these officers shall consist of the property shown on a map~~
13 ~~produced May 20, 2003, by the Information Systems Division of the North Carolina General~~
14 ~~Assembly and kept on file in the office of the Butner Town Manager and in the office of the~~
15 ~~Director of the Butner Public Safety Division of the Department of Crime Control and Public~~
16 ~~Safety authority and such additional areas which are within the incorporated limits of the Town~~
17 ~~of Butner as shown on a map to be kept in the office of the Butner Town Manager and in the~~
18 ~~office of the Director of the Butner Public Safety Division of the Department of Crime Control~~
19 ~~and Public Safety authority. The Secretary of Crime Control and Public Safety may organize~~
20 ~~these special police officers assigned to the authority shall be organized into a public safety~~
21 ~~department for that territory and may establish it as a division within that principal department~~
22 ~~as permitted by Chapter 143B of the General Statutes. territory.~~

23 (b) After taking the oath of office required for law-enforcement officers, the special
24 police officers authorized by this section shall have the authority of deputy sheriffs of Durham
25 and Granville Counties in those counties respectively. Within the territorial jurisdiction stated
26 in subsection ~~(a)~~(a7) of this section, the special police officers have the primary responsibility
27 to enforce the laws of North Carolina, the ordinances of the Town of Butner, and any rule
28 applicable to the Butner Reservation adopted under authority of this Part or under
29 G.S. 143-116.6 or G.S. 143-116.7 or under the authority granted any other agency of the State
30 and also have the powers set forth for firemen in Articles 80, 82, and 83 of Chapter 58 of the
31 General Statutes. Any civil or criminal process to be served on any individual confined at any
32 State facility within the territorial jurisdiction described in subsection ~~(a)~~(a7) of this section
33 shall be forwarded by the sheriff of the county in which the process originated to the Director
34 of the ~~Butner Public Safety Division authority~~. Special police officers authorized by this section
35 shall be assigned to transport any individual transferred to or from any State facility within the
36 territorial jurisdiction described in subsection ~~(a)~~(a7) of this section to or from the psychiatric
37 service of the University of North Carolina Hospitals at Chapel Hill.

38 (c) The authority shall contract with the State to provide fire and police protection to
39 those portions of the Butner Reservation outside of the corporate limits of the Town of Butner.
40 The authority shall also contract with the Town of Butner to provide fire and police protection
41 within the corporate limits of the Town of Butner. The contract between the Town of Butner
42 and the Department of Crime Control and Public Safety contracts shall provide that: for the
43 following:

- 44 (1) ~~The Butner Public Safety Division of the Department of Crime Control and~~
45 ~~Public Safety shall provide the same level of service to the incorporated area~~
46 ~~known as the Town of Butner as provided to those areas of the Town of~~
47 ~~Butner served by Butner Public Safety on January 1, 2007; To fund the~~
48 ~~operations of the authority for the fiscal year beginning July 1, 2011, both~~
49 ~~the State and the Town of Butner will pay an amount equal to one-half of the~~
50 ~~total budget for the Butner Public Safety Division of the Department of~~
51 ~~Crime Control and Public Safety for the fiscal year beginning July 1, 2010.~~

1 In determining each party's contribution, the costs of assigning police
2 protection exclusively to Central Regional Hospital shall be excluded from
3 the total budget. The authority shall keep detailed time records tracking the
4 amount of time spent providing fire and police protection both within and
5 outside the corporate limits of the Town of Butner. Funding provided by the
6 State pursuant to the contract in subsequent fiscal years shall be a percentage
7 of the total budget set by the authority members determined by multiplying
8 the total budget set by the authority by a fraction, the numerator of which
9 shall be the hours spent by the authority providing services outside of the
10 corporate limits of the Town of Butner and the denominator of which shall
11 be the total hours the authority provided services both within the corporate
12 limits of the Town of Butner and outside the corporate limits of the Town of
13 Butner. The authority may also contract with any department of State
14 government to provide services within the Butner Reservation to that
15 department; provided, however, the contract with such department shall
16 provide enough revenue to fully cover the costs of providing such services,
17 and any receipts or expenditures pursuant to such a contract shall not be
18 considered in setting each party's contribution percentage. The foregoing
19 notwithstanding, neither party's contribution percentage shall increase or
20 decrease more than ten percent (10%) per fiscal year.

21 (2) The State and the Town of Butner each shall pay to the State
22 Treasurer, authority, on or before May-October 1 of each year, for deposit in
23 the General Fund an amount equal to its funding percentage as described in
24 subdivision (1) of this subsection. the amount that actually would have been
25 collected from real and personal property ad valorem taxes due January 5,
26 2007, in the area incorporated as the Town of Butner effective July 1, 2007,
27 assuming a tax of twenty five cents (25¢) per one hundred dollars (\$100.00)
28 valuation of all real and personal property in said area increased effective
29 July 1 of each year by the increase in the percentage change in the Consumer
30 Price Index published by the U.S. Department of Labor, Bureau of Labor
31 Statistics, for the southeast region, all urban consumers (or if that data shall
32 no longer be available, the closest equivalent substitute then in publication
33 by the United States Government) for the previous year ended December
34 31st.

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

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

47 (d) The authority may contract with the Secretary of the Department of Crime Control
48 and Public Safety to provide fire and police protection to the Butner Reservation and the
49 corporate limits of the Town of Butner. In such event, the employees of the Department of
50 Crime Control and Public Safety shall remain employees of the State.

1 (e) In the event that either the Town of Butner or the State shall fail to pay the authority
2 its percentage share of the authority's budget as described in this section, the nonpaying party
3 shall cease to be a participant in the authority at the expiration of the fiscal year for which it has
4 last paid its percentage share of the budget for the authority. The remaining participant may file
5 a resolution with the Secretary of State indicating that it is the sole remaining participant in the
6 authority. All of the property of the authority shall remain with the authority. At the expiration
7 of the fiscal year for which the nonpaying party last paid its percentage share of the budget for
8 the authority, the remaining participant in the authority also may file articles of dissolution
9 dissolving the authority with the Secretary of State. In the case of such dissolution, the property
10 of the authority shall be distributed to the remaining party filing the articles of dissolution."

11 **SECTION 2.** This act is effective when it becomes law.