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HOUSE BILL 895
Committee Substitute Favorable 6/7/11
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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:

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



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

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

1 ~~Public Safety Division of the Department of Crime Control and Public Safety.~~ authority. The
2 ~~Secretary of Crime Control and Public Safety may organize these special police officers~~
3 ~~assigned to the authority shall be organized into a public safety department for that territory and~~
4 ~~may establish it as a division within that principal department as permitted by Chapter 143B of~~
5 ~~the General Statutes.~~ territory.

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

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

- 28 (1) ~~The Butner Public Safety Division of the Department of Crime Control and~~
29 ~~Public Safety shall provide the same level of service to the incorporated area~~
30 ~~known as the Town of Butner as provided to those areas of the Town of~~
31 ~~Butner served by Butner Public Safety on January 1, 2007;~~ To fund the
32 operations of the authority for the fiscal year beginning July 1, 2011, the
33 State shall pay to the authority the sum of one million eight hundred eighty-
34 five thousand one hundred eighty-one dollars (\$1,885,181) and the Town of
35 Butner shall pay to the authority the sum of one million seven hundred
36 eighty-two thousand nine hundred ninety-five dollars (\$1,782,995). The
37 authority shall keep detailed time records tracking the amount of time spent
38 providing fire and police protection both within and outside the corporate
39 limits of the Town of Butner. Funding provided by the State pursuant to the
40 contract in subsequent fiscal years shall be a percentage of the total budget
41 set by the authority members determined by multiplying the total budget set
42 by the authority by a fraction, the numerator of which shall be the hours
43 spent by the authority providing services outside of the corporate limits of
44 the Town of Butner and the denominator of which shall be the total hours the
45 authority provided services both within the corporate limits of the Town of
46 Butner and outside the corporate limits of the Town of Butner. The authority
47 may also contract with any department of State government to provide
48 services within the Camp Butner Reservation to that department; provided,
49 however, the contract with such department shall provide enough revenue to
50 fully cover the costs of providing such services, and any receipts or
51 expenditures pursuant to such a contract shall not be considered in setting

1 each party's contribution percentage. The foregoing notwithstanding, neither
2 party's contribution percentage shall increase or decrease more than ten
3 percent (10%) per fiscal year.

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

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

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

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

46 (e) Dissolution. – In the event that either the Town of Butner or the State fails to pay
47 the authority its percentage share of the authority's budget as described in this section, the
48 nonpaying party shall cease to be a participant in the authority at the expiration of the fiscal
49 year for which it has last paid its percentage share of the budget for the authority. The
50 remaining participant may file a notice with the Secretary of State indicating that it is the sole
51 remaining participant in the authority. All of the property of the authority shall remain with the

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

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

7 **SECTION 3.** Chapter 830 of the 1983 Session Laws, as amended by S.L.
8 2003-346, Section 43.3 of S.L. 2005-276, and Section 14 of S.L. 2007-269, is repealed.

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

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

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

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

13 **SECTION 6.(a)** If House Bill 200, 2011 Regular Session, becomes law, then
14 subsections (jj) and (kk) of Section 19.1 of that act are repealed.

15 **SECTION 6.(b)** If House Bill 200, 2011 Regular Session, becomes law, then
16 Section 19.3 is repealed.

17 **SECTION 6.(c)** If House Bill 200, 2011 Regular Session, becomes law, then
18 G.S. 143B-259(a)(3), as enacted by that act, is rewritten to read:

19 "(3) The Division of Law Enforcement, which shall consist of the following
20 former divisions of the Department of Crime Control and Public Safety and
21 the Department of Justice: the State Highway Patrol, the Alcohol Law
22 Enforcement Division, ~~the Butner Public Safety Division,~~ and the State
23 Capitol Police Division. The head of the Division of Law Enforcement shall
24 be a chief deputy secretary."

25 **SECTION 7.** This act is effective when it becomes law or July 1, 2011, whichever
26 is earlier.