

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 1049
SENATE BILL 1448

AN ACT TO ALLOW CHEROKEE COUNTY TO ESTABLISH A COUNTY RECREATION AND SECURITY SERVICE DISTRICT, AND LEVY A TAX IN THAT DISTRICT FOR SERVICES OF THE DISTRICT, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of a county may, after approval of the voters of the area of that proposed district under Section 2 of this act, create within that county one or more special districts under this act, except that no territory may be within more than one such special district. The special district shall be known as the "_____ Recreation and Security Service District", with the name of the county and/or geographical area and/or number of the district filled in by the ordinance.

Sec. 2. The Board of County Commissioners of a county may call an election to be conducted by the Board of Elections of that county in a special district established under Section 1 of this act for the purpose of submitting to the voters therein the single issue of establishing the district and levying and collecting annually a special ad valorem tax, at a rate not to exceed one dollar and fifty cents (\$1.50) per one hundred dollars (\$100.00) assessed valuation, on all taxable real and personal property in the special district for the purposes of Sections 7 through 13 of this act.

Sec. 3. (a) The board of commissioners shall hold a public hearing before calling any election under this act. Notice of the hearing shall state the date, time, and place of the hearing and its subject, and shall include a map of the proposed district. The notice shall be published in a newspaper of general circulation in the area at least once not less than one month before the date of the hearing.

(b) The board of commissioners shall not include within a district any area for which a property owners' association governing body with jurisdiction has adopted a written resolution requesting that the area not be included.

Sec. 4. The election shall be conducted in accordance with Chapter 163 of the General Statutes. The Board of Elections of a county shall determine and declare the results of said election and certify the same to the Board of County Commissioners of a county and the same shall thereupon be spread upon the minutes of the said board.

Sec. 5. The ballot shall contain the date of the election, the name of the proposed special district, and the following language:

"[] FOR creation of the _____ District and authorizing the levy of an ad valorem tax for services of that district.

AGAINST creation of the _____ District and authorizing the levy of an ad valorem tax for services of that district."

The ballot shall contain the facsimile signature of the Chairman of the Board of Elections of that county.

Sec. 6. If a majority of the qualified voters voting at said election shall vote in favor of creating the district and the levying of a tax as aforesaid for the enforcement of the ordinance, as provided by this act, the Board of County Commissioners of that county shall upon receipt of the certified copy of the results of said election from the Board of Elections adopt a resolution creating the district and shall file a copy of the said resolution so adopted with the Clerk of the Superior Court of the county.

Sec. 7. The District shall constitute a political subdivision of the State of North Carolina, and shall be a body corporate and politic, exercising public power. The special district is a public authority under the Local Government Budget and Fiscal Control Act.

Sec. 8. A county recreation and security service may provide for recreation, open space and common area acquisition and preservation, land-use planning and regulation, general administration, security, and public and local street improvement and maintenance services, facilities and functions.

Sec. 9. (a) The governing body of the district is the board of directors, consisting of not less than seven nor more than ten members who are permanent residents or property owners of the district. Each member shall be appointed for a two-year term, but the board of commissioners shall provide for staggered terms by appointing four members of the initial board for a one-year term. Terms shall begin on July 1 and end on June 30. If, on the date of adoption of the resolution creating the district, there are no nominations by the association or associations in accordance with subsection (b) of this section, the board of commissioners may make interim appointments to the board of directors; otherwise, the board of commissioners shall appoint the initial members in accordance with subsection (b). Vacancies shall be filled by the board of commissioners. No board member may serve more than two consecutive two-year terms. Initial terms of one year or completion of an unexpired term shall not count. Members of the board of directors who cease to be property owners in the district shall forfeit their seat on the board.

(b) If the district has one or more property owners' associations, the board of commissioners shall appoint the members nominated by the association or associations. If there is more than one property owners' association, the associations shall enter into a written agreement concerning the nominations to be made by each.

(c) At the organizational meeting of the board of directors each year, the first meeting on or after July 1, the members shall elect one of their members as chairman for a one-year term.

(d) The board of directors shall provide for at least four regular meetings each year, at a time and place to be set by resolution of the board. Special meetings may be called by written notice signed by the chairman. The board is a public body subject to the notice and other requirements of the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes.

(e) A quorum of the board of directors shall be a majority of the members. Action of the board may be taken by a majority of those present and voting at any duly constituted meeting.

(f) The members of the board of directors shall receive no compensation for their services, but the board may provide for reimbursing members for actual expenses incurred in connection with district business.

(g) The board of directors may adopt bylaws and implement other rules and regulations not inconsistent with this Part or the resolution of the board of commissioners for the purpose of organizing itself and administering the responsibilities and purposes entrusted to it.

Sec. 10. (a) A board of commissioners may by resolution annex territory to a district upon finding that:

(1) The majority of the owners of all of the real property in the area to be annexed have petitioned for annexation; and

(2) The area to be annexed is contiguous to the district.

(b) The board shall hold a public hearing before adopting any resolution extending the boundaries of a service district. Notice of the hearing shall state the date, time, and place of the hearing and its subject. The notice shall be published in a newspaper of general circulation in the area at least once not less than one month before the hearing.

(c) The resolution extending the boundaries of the district shall become effective on the date provided in the resolution.

Sec. 11. A board of commissioners may by resolution abolish a district upon finding that the district board of directors has requested abolition and that there is no longer a need for the district. The board of commissioners shall hold a public hearing before adopting the resolution. Notice of the hearing shall state the date, time, and place of the hearing and its subject, and shall be published at least once not less than one month before the date of the hearing. The abolition of any district shall take effect at the end of a fiscal year following passage of the resolution, or as determined by the board of commissioners.

Sec. 12. (a) A County Recreation and Security Service District may levy property taxes within a district in order for the board of directors to finance, provide, or maintain the services provided by the district, at a rate not to exceed one dollar and fifty cents (\$1.50) per one hundred dollars (\$100.00) assessed valuation. The county shall collect the taxes levied and deliver one hundred percent (100%) of the proceeds to the board of directors or its finance officer monthly. The proceeds may be used only for services provided for in the district.

(b) The board of directors shall adopt an annual budget under the Local Government Budget and Fiscal Control Act, and shall levy the tax rate provided for in the budget to produce the necessary revenue, in accordance with the Machinery Act. The board of directors may submit an interim budget for the initial fiscal year, if the resolution creating the district becomes effective other than at the beginning of the fiscal year. Proration of taxes shall be as provided in this section. The budget may provide for a reasonable reserve or fund balance.

(c) Property subject to taxation in a newly established district or in an area annexed to an existing district is that subject to taxation by the county as of the preceding January 1. Taxes for property annexed to the district, and taxes for all property in a newly established district, shall be prorated as provided in G.S. 160A-58.10, as if the area had been annexed to a municipality, except that property shall be subject to taxes for July or January if the district is created or property is annexed effective July 1 or January 1, respectively.

(d) District funds may be used to pay and discharge any valid debt of the district or any judgment rendered against it. District funds also may be used to provide for the defense of, and payment of civil judgments against, employees and officers or former employees or officers, under policies adopted by the board of directors. The board of directors shall have the right to enforce all valid contracts and agreements to which the district is a party and to collect all assessments, fees, charges, or other nontax revenues owed to the district and to use district funds for those purposes.

Sec. 13. (a) The district may provide for the authorized services by employing persons for those purposes and acquiring or constructing facilities, or by contracting with and appropriating district money to any person, association, or corporation. The district may control but not prohibit public access to streets and roads using security gates or other appropriate means. The district is not eligible to receive Powell Bill funds for streets and roads under G.S. 136-41.1. Security officers employed by or contracted for by the district may be company police as provided for in Chapter 74A of the General Statutes, or otherwise.

(b) The district may levy special assessments against benefitted property within the district for street and sidewalk purposes, in the same manner as a city may make special assessments under authority of Article 10 of Chapter 160A of the General Statutes. Whenever those statutes use words such as "city council" which are unique to cities, "board of directors" or the appropriate word or official in the case of a district shall be deemed to have been substituted.

(c) For the purpose of promoting and protecting the public health, safety and general welfare of the State, a district board of directors is authorized to establish zoning units and adopt and administer subdivision regulations. In exercising these powers, the board of directors shall have all rights, privileges, powers, and duties granted to counties under Parts 1, 2, and 3 of Article 18 of Chapter 153A of the General Statutes. However, the board of directors shall not be required to appoint any planning commission or board of adjustment. If neither a planning commission or board of adjustment is appointed, the board of directors shall have all the rights, privileges, powers, and duties of such bodies. Whenever those statutes use words such as "board of county commissioners" which are unique to counties, "board of directors" or the appropriate word or official in the case of a district shall be deemed to have been substituted. A district may enter into an agreement with any city or county for the establishment of a joint planning commission, or may contract for enforcement services.

Sec. 14. This act applies to Cherokee County only, and is supplemental to any private or public acts.

Sec. 15. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of July, 1990.