

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

HOUSE BILL 895
RATIFIED BILL

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.
- (2) To elect officers from among its members in accordance with its bylaws.
- (3) To adopt an official seal and alter the same.
- (4) To maintain an office at such place or places as it may designate.
- (5) To sue and be sued in its own name, plead and be impleaded.
- (6) To acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, or operate any property necessary for and incidental to the operation of a fire and police force.
- (7) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this section and to employ such employees and agents as may, in the judgment of the authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this section.



- (8) To contract with any department of State government or any unit of local government to provide services to the authority.
- (9) To enter into contracts with the government of the United States or any agency or instrumentality thereof, or with any political subdivision, private corporation, copartnership, association, or individual providing for the provision of fire and police services within the Camp Butner Reservation.
- (10) To receive and accept from any federal, State, or other public agency and any private agency, person, or other entity, donations, loans, grants, aid or contributions of any money, property, labor or other things of value for the operation of the authority and to agree to apply and use the same in accordance with the terms and conditions under which the same are provided if the same are otherwise lawful.
- (11) To provide for the defense of civil and criminal actions and payment of civil judgments against employees and officers or former employees and officers and members or former members of the governing body, as authorized by G.S. 160A-167.
- (12) To periodically review and recommend changes to the operational policy for the authority.
- (13) To develop and adopt an annual budget for the authority which it shall request to be funded by the State and the Town of Butner as set out in this section and to revise the annual budget based on funding actually received and the needs of the authority.
- (14) To do all acts and things necessary or convenient to carry out the powers granted by this section.
- (15) To purchase real or personal property, as provided by G.S. 160A-20 or this Article.

(a5) Police and Fire Protection. – ~~The Secretary of Crime Control and Public Safety may employ~~ Subject to the provisions of subsection (d) of this section, the authority shall employ or contract with a State agency or unit of local government for the provision of special police officers for the territory of the Camp Butner Reservation. ~~The Secretary of Crime Control and Public Safety shall contract with the Town of Butner to provide fire and police protection to those areas within the incorporated limits of the Town of Butner. The territorial jurisdiction of these officers shall consist of the property shown on a map produced May 20, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of the Director of the Butner Public Safety Division of the Department of Crime Control and Public Safety authority and such additional areas which are within the incorporated limits of the Town of Butner as shown on a map to be kept in the office of the Butner Town Manager and in the office of the Director of the Butner Public Safety Division of the Department of Crime Control and Public Safety authority. The Secretary of Crime Control and Public Safety may organize these special police officers assigned to the authority shall be organized into a public safety department for that territory and may establish it as a division within that principal department as permitted by Chapter 143B of the General Statutes.territory.~~

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

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

- (1) The Butner Public Safety Division of the Department of Crime Control and Public Safety shall provide the same level of service to the incorporated area known as the Town of Butner as provided to those areas of the Town of Butner served by Butner Public Safety on January 1, 2007; To fund the operations of the authority for the fiscal year beginning July 1, 2011, the State shall pay to the authority the sum of one million eight hundred eighty-five thousand one hundred eighty-one dollars (\$1,885,181) and the Town of Butner shall pay to the authority the sum of one million seven hundred eighty-two thousand nine hundred ninety-five dollars (\$1,782,995). The authority shall keep detailed time records tracking the amount of time spent providing fire and police protection both within and outside the corporate limits of the Town of Butner. Funding provided by the State pursuant to the contract in subsequent fiscal years shall be a percentage of the total budget set by the authority members determined by multiplying the total budget set by the authority by a fraction, the numerator of which shall be the hours spent by the authority providing services outside of the corporate limits of the Town of Butner and the denominator of which shall be the total hours the authority provided services both within the corporate limits of the Town of Butner and outside the corporate limits of the Town of Butner. The authority may also contract with any department of State government to provide services within the Camp Butner Reservation to that department; provided, however, the contract with such department shall provide enough revenue to fully cover the costs of providing such services, and any receipts or expenditures pursuant to such a contract shall not be considered in setting each party's contribution percentage. The foregoing notwithstanding, neither party's contribution percentage shall increase or decrease more than ten percent (10%) per fiscal year.
- (2) The State and the Town of Butner each shall pay to the State Treasurer, authority, on or before May July 1 of each year, for deposit in the General Fund an amount equal to its funding percentage as described in subdivision (1) of this subsection. the amount that actually would have been collected from real and personal property ad valorem taxes due January 5, 2007, in the area incorporated as the Town of Butner effective July 1, 2007, assuming a tax of twenty five cents (25¢) per one hundred dollars (\$100.00) valuation of all real and personal property in said area increased effective July 1 of each year by the increase in the percentage change in the Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics, for the southeast region, all urban consumers (or if that data shall no longer be available, the closest equivalent substitute then in publication by the United States Government) for the previous year ended December 31st.
- (3) If additional areas are added to the incorporated limits of the Town of Butner, the payments due under the contract shall be increased by an amount equal to the amount that actually would have been collected from real and personal property ad valorem taxes due January 5 of the year of incorporation of such area if said incorporation occurs on or before May 1 or the amount collected for the preceding year if said incorporation occurs prior to May 1 of the then current year assuming a tax of twenty five cents (25¢) per one hundred dollars (\$100.00) valuation of all real and personal property in said area and increased yearly as set out above; and
- (4) The Town of Butner and the Department of Crime Control and Public Safety may by mutual agreement modify the amounts required to be paid by the Town of Butner pursuant to subdivisions (2) and (3) of this subsection.

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

(e) Dissolution. – In the event that either the Town of Butner or the State fails to pay the authority its percentage share of the authority's budget as described in this section, the nonpaying party shall cease to be a participant in the authority at the expiration of the fiscal year for which it has last paid its percentage share of the budget for the authority. The remaining participant may file a notice with the Secretary of State indicating that it is the sole remaining participant in the authority. All of the property of the authority shall remain with the authority. At the expiration of the fiscal year for which the nonpaying party last paid its percentage share of the budget for the authority or at any time thereafter, the remaining participant in the authority also may file articles of dissolution dissolving the authority with the Secretary of State. In the case of such dissolution, the property of the authority shall be distributed to the remaining party filing the articles of dissolution."

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

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

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

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

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

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

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

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

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

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

SECTION 7. This act is effective when it becomes law or July 1, 2011, whichever is earlier.
In the General Assembly read three times and ratified this the 16th day of June, 2011.

Walter H. Dalton
President of the Senate

Thom Tillis
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____ .m. this _____ day of _____, 2011