

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 667
HOUSE BILL 1144

AN ACT TO CREATE THE BUTNER ADVISORY COUNCIL AND TO
ENUMERATE ITS DUTIES.

Whereas, the 1995 General Assembly created a Study Commission on the Transfer of Butner Public Safety Division to review the costs and provision of public safety services to the residents and public agencies at the Camp Butner Reservation located, for the most part, in Granville and Durham Counties; and

Whereas, the Study Commission held meetings at Butner; toured the residential areas and the State and federal facilities located there; and determined that the Camp Butner Reservation is a unique State resource requiring a novel approach to its governance and operations; and

Whereas, the Study Commission determined that the residents of the Camp Butner Reservation desire increased involvement and input into the provision of the "municipal" services and planning for the future of Camp Butner, and that the concentration of State and federal facilities located at Butner are currently receiving "municipal" services from the State of North Carolina and, if those services were transferred to an incorporated town, it would place a significant burden on the residents of the town to provide tax revenues to pay for the services; and

Whereas, under current statutes, the State of North Carolina provides "municipal" services through the Department of Human Resources; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds that the Camp Butner Reservation and the Community of Butner, as regulated by Article 6 of Chapter 122C of the General Statutes, is a unique State resource that is and should continue to be administered by the State of North Carolina through the Office of the Secretary of Human Resources. The General Assembly finds that there is a resident population in the Community of Butner that, because of the unique relationship between the State of North Carolina and cities and counties, as provided in G.S. 122C-410, does not have elected representation with respect to public services, such as police and fire protection, and the provision of water and sewers, that would normally be under the control of an elected city council or board of county commissioners. The General Assembly finds that the citizens of the Camp Butner Reservation should be permitted to elect a representative body to act as the voice of the affected people of Butner in dealing with the State of North Carolina through the Department of Human Resources with regard to the provision of public services and planning for the future of the Camp Butner Reservation.

Sec. 2. Article 6 of Chapter 122C of the General Statutes is amended by adding a Part to read:

"Part 1A. Butner Advisory Council.

"§ 122C-412. Butner Advisory Council; created.

(a) There is created a Butner Advisory Council to consist of seven members, to be elected by the residents of the territorial jurisdiction established by G.S. 122C-408(a), at a nonpartisan election administered by the Granville County Board of Elections at the general election on November 5, 1996.

(b) Members of the Butner Advisory Council shall be elected at large, and the election shall be held in accordance with all applicable federal and State constitutional and statutory provisions, including the Voting Rights Act of 1965. For the purpose of elections under this Part, the jurisdiction shall be considered a city under Chapters 160A and 163 of the General Statutes. In accordance with North Carolina law, a candidate for the Butner Advisory Council must be a resident of the territorial jurisdiction established by G.S. 122C-408(a).

(c) The candidates for the Butner Advisory Council shall file their notices of candidacy with the Granville County Board of Elections not earlier than 12:00 noon on the first Friday in July and not later than 12:00 noon on the first Friday in August. Absentee voting by qualified voters residing in the territorial jurisdiction shall be in accordance with G.S. 163-302.

(d) In 1996, the four candidates receiving the highest number of votes shall be elected for terms of five years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of three years. In 1999, and biennially thereafter, the members whose terms expire shall be elected to four-year terms.

(e) The Chairman of the Butner Advisory Council shall be elected from among its members and shall serve at the pleasure of the council.

(f) The Butner Advisory Council shall comply with the applicable and relevant provisions of Parts 1, 2, and 3 of Article 5 of Chapter 160A of the General Statutes with respect to the filling of vacancies and the organization and procedures of the council as if it were a city.

"§ 122C-412.1. Butner Advisory Council; powers.

(a) The Butner Advisory Council may advise the Secretary of Human Resources, through resolutions adopted by the council, on the operations of the Camp Butner Reservation and the concerns of the residents of the Camp Butner Reservation in connection with the exercise of the powers granted to the Secretary pursuant to G.S. 122C-403.

(b) When the council adopts a resolution relating to one of the specific powers referenced in G.S. 122C-403 and delivers the resolution to the Office of the Secretary of Human Resources, the Secretary may approve the resolution, and it shall be carried out by the Butner Town Manager. The Secretary shall have no more than 30 days during which to disapprove any recommendation of the council contained in the resolution. Any disapproval shall be in writing, stating the reasons for the disapproval, and shall be returned to the council. If the Secretary does not disapprove a recommendation of the

council within the prescribed period, the recommendation shall be deemed approved by the Secretary and shall be carried out by the Butner Town Manager.

"§ 122C-412.2. Butner Advisory Council; planning responsibility.

The Butner Advisory Council shall, in consultation with the Department of Human Resources, the Community Assistance Division of the Department of Commerce, the Institute of Government, and other State and local agencies, prepare a long-range plan for the future development of the Camp Butner Reservation. This plan shall provide a blueprint for the development of the Reservation and the adjoining areas of Granville, Durham, and Person Counties and shall consider issues such as:

- (1) The possible incorporation of a municipality on the Camp Butner Reservation;
- (2) The provision of housing, public safety services, water and sewer services, school facilities, and park and recreational services for the increasing Butner population;
- (3) The possible transfer of State-owned property for the future development in and around Butner;
- (4) The growth and development of business and industrial areas within the Camp Butner Reservation, including planning and zoning issues; and
- (5) How to maximize the utility of the Camp Butner Reservation to the State of North Carolina as a site for future State facilities and still meet the needs and improve the quality of life for the residents of Butner.

Copies of the long-range plan shall be submitted to the Secretary of Human Resources, the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the General Assembly, and to each member of the General Assembly representing the area no later than December 31, 1998. The Department of Human Resources, through the Butner Town Manager, shall provide necessary financial and personnel support for the preparation of this plan."

Sec. 3. G.S. 122C-403 reads as rewritten:

"§ 122C-403. Secretary's authority over Camp Butner reservation.

The Secretary shall administer the Camp Butner reservation. In performing this duty, the Secretary has the powers listed below. In exercising these powers the Secretary has the same authority and is subject to the same restrictions that the governing body of a city would have and would be subject to if the reservation was a city, unless this section provides to the contrary. The Secretary may:

- (1) Regulate airports on the reservation in accordance with the powers granted in Article 4 of Chapter 63 of the General Statutes.
- (2) Take actions in accordance with the general police power granted in Article 8 of Chapter 160A of the General Statutes.
- (3) Regulate the development of the reservation in accordance with the powers granted in Article 19, Parts 2, 3, 3A, 3B, 5, 6, and 7, of Chapter 160A of the General Statutes. The Secretary may not, however, grant a special use permit, a conditional use permit, or a special exception under Part 3 of that Article. In addition, the Secretary is not required

to notify landowners of zoning classification actions under G.S. 160A-384, and the protest petition requirements in G.S. 160A-385, and 160A-386 do not apply. The Secretary may appoint the Butner Advisory Council as a Board of Adjustment to make recommendations to the Secretary concerning implementation of plans for the development of the reservation. When acting as a Board of Adjustment, the Butner Advisory Council shall be subject to subsections (b), (c), (d), (f), and (g) of G.S. 160A-388.

- (4) Establish one or more planning agencies in accordance with the power granted in G.S. 160A-361 or designate the ~~Community of Butner Planning Commission~~ Butner Advisory Council as the planning agency for the reservation.
- (5) Regulate streets, traffic, and parking on the reservation in accordance with the powers granted in Article 15 of Chapter 160A of the General Statutes.
- (6) Control erosion and sedimentation on the reservation in accordance with the powers granted in G.S. 160A-458 and Article 4 of Chapter 113A of the General Statutes.
- (7) Contract with and undertake agreements with units of local government in accordance with the powers granted in G.S. 160A-413 and Article 20, Part 1, of Chapter 160A of the General Statutes.
- (8) Regulate floodways on the reservation in accordance with the powers granted in G.S. 160A-458.1 and Article 21, Part 6, of Chapter 143 of the General Statutes.
- (9) Assign duties given by the statutes listed in the preceding subdivisions to a local official to the ~~Chief of Support Services of John Umstead Hospital or another appropriate person.~~ Butner Town Manager who shall be hired upon the recommendation of the Butner Advisory Council and shall be assigned to the Office of the Secretary of Human Resources. The Butner Advisory Council shall submit the names of three candidates for the position of Butner Town Manager to the Secretary of Human Resources and the Secretary shall select one of the candidates. The candidates shall meet the qualifications set by the State Personnel Commission for the position. The Butner Town Manager shall serve at the pleasure of the Secretary. The Secretary shall, through the Butner Town Manager, provide all necessary administrative assistance to the council in carrying out its duties.
- (10) Adopt rules to carry out the purposes of this Article."

Sec. 4. G.S. 122C-404 is repealed.

Sec. 5. G.S. 122C-405 reads as rewritten:

"§ 122C-405. Procedure applicable to rules.

Rules adopted by the Secretary under this Article shall be adopted in accordance with the procedures for adopting a city ordinance on the same subject, shall be subject to review in the manner provided for a city ordinance adopted on the same subject, and

shall be enforceable in accordance with the procedures for enforcing a city ordinance on the same subject. Violation of a rule adopted under this Article is punishable as provided in G.S. 122C-406.

Rules adopted under this Article may apply to part or all of the Camp Butner reservation. If a public hearing is required before the adoption of a rule, the ~~Community of Butner Planning Commission~~ Butner Advisory Council shall conduct the hearing."

Sec. 6. Part 1 of Article 6 of Chapter 122C is amended by adding a new section to read:

"§ 122C-411.1. Butner Public Safety fees.

All public safety fees assessed in the territorial jurisdiction established in G.S. 122C-408(a) and fees collected under contracts entered into pursuant to G.S. 122C-411 shall be placed in a special fund to be used by the Department of Crime Control and Public Safety to fund the Butner Public Safety Division."

Sec. 7. The Study Commission on the Transfer of Butner Public Safety created by Section 20.5 of Chapter 324 of the 1995 Session Laws is continued through December 31, 1999. The funds appropriated for the operation of the Commission by that section, and remaining unexpended, shall not revert and shall remain available to the Commission to continue its work. The Commission shall provide legislative oversight to ensure compliance with the provisions of this act.

Sec. 8. Section 20.5 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 20.5. (a) There is established a Study Commission on the Transfer of Butner Public Safety to be composed of 12 members: six members to be appointed by the Speaker of the House of Representatives and six members to be appointed by the President Pro Tempore of the Senate. The appointees shall serve until the termination of the Commission. The Speaker of the House and the President Pro Tempore of the Senate shall each designate a cochair from their appointees. Either cochair may call the first meeting of the Commission. Vacancies shall be filled in the same manner as the original appointments were made.

(b) The Commission shall:

- (1) Examine the potential for transferring the functions and responsibilities of Butner Public Safety from the Department of Crime Control and Public Safety to other State or local entities, including the sale or transfer of equipment, State buildings, or property currently occupied by Butner Public Safety;
- (2) Determine the most appropriate means of meeting the service needs of both the State institutions and the local residents that would be affected by such a transfer, including the feasibility of incorporating Butner; and
- (3) Determine the most cost-effective means of accomplishing such a transfer.

(c) With the prior approval of the Legislative Services Commission, the Legislative Administrative Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission

through the Offices of the House and Senate Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the Commission. With the prior approval of the Legislative Services Commission, the Commission may hold its meetings in the State Legislative Building or the Legislative Office Building.

(d) The Study Commission ~~shall may submit a final~~ an interim written report of its findings and recommendations to the General Assembly by May 1, ~~1996-1996~~, and may submit additional interim reports to regular sessions of the General Assembly beginning with the 1997 Session. All reports shall be filed with the Speaker of the House of Representatives and the President Pro Tempore of the Senate. ~~Upon filing its final report, the Commission shall terminate.~~ The Study Commission shall submit a final report to the General Assembly prior to its termination.

(e) Members of the Commission shall be paid per diem, subsistence, and travel allowances as follows:

- (1) Commission members who are also members of the General Assembly, at the rate established in G.S. 120-3.1.
- (2) Commission members who are officials or employees of the State or local government agencies, at the rate established in G.S. 138-6.
- (3) All other Commission members at the rate established in G.S. 138-5.

(f) There is allocated from the funds appropriated to the Legislative Services Commission's studies reserve to the Study Commission on the Transfer of Butner Public Safety the sum of twenty-five thousand dollars (\$25,000) for the 1995-96 fiscal year to conduct the study directed by this section. These and other appropriated or allocated funds shall remain available to the Commission until it has filed its final report."

Sec. 9. This act is effective upon ratification except for Section 8 of this act which becomes effective April 30, 1996.

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives