

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 946

Senate State and Local Government Committee Substitute Adopted 5/4/05

Short Title: Ossipee/Mills River Budgets.

(Local)

Sponsors:

Referred to:

March 29, 2005

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW THE TOWN OF OSSIPEE TO AMEND ITS BUDGET
2 ORDINANCES FOR THE 2002-2003 AND 2003-2004 FISCAL YEARS AND TO
3 ALLOW THE TOWN OF MILLS RIVER TO AMEND ITS BUDGET
4 ORDINANCE FOR THE 2003-2004 FISCAL YEAR TO SHOW
5 CONFORMANCE WITH G.S. 136-41.2.
6

7 Whereas, G.S. 136-41.2, as amended by S.L. 1999-458, provides that for
8 municipalities incorporated with an effective date of on or after January 1, 2000, certain
9 shared revenues are available to the municipality only if it has adopted a budget
10 ordinance showing that funds have been appropriated for at least four of the following
11 municipal services: (i) police protection; (ii) fire protection; (iii) solid waste collection
12 or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or
13 right-of-way acquisition; (vii) street lighting; and (viii) zoning; and

14 Whereas, The Town of Ossipee was incorporated by S.L. 2002-137 effective
15 when the results of the incorporation referendum were certified following the 2002
16 general election; and

17 Whereas, the municipal incorporation petition submitted under G.S. 120-163
18 stated in accordance with G.S. 120-163(c) that the municipality would offer four of the
19 services listed above no later than the first day of the third fiscal year following the
20 effective date of the incorporation; and

21 Whereas, the Town of Mills River was incorporated by S.L. 2002-242,
22 effective upon ratification on June 24, 2003; and

23 Whereas, the municipal incorporation petition submitted under G.S. 120-36
24 stated in accordance with G.S. 120-163 that the Town of Mills River would offer four of
25 the services listed above no later than the first day of the third fiscal year following the
26 effective date of the incorporation; and

27 Whereas, the requirement for expenditures by the third fiscal year was also
28 contained in S.L. 1999-458; and

1 Whereas, the towns believed that the two different parts of S.L. 1999-458
2 were intended to allow new municipalities a period of time to receive funds as if they
3 were establishing the services; and

4 Whereas, the Town of Ossipee actually expended funds for those four
5 services, the sum of \$4,320 for fire protection as a contractual payment to the
6 Altamahaw-Ossipee Fire Department, appropriations for water distribution under
7 Sections 3 and 4 of its budget ordinance, and \$1,800 appropriated in the budget
8 ordinance for "Planning and Zoning Board", to be used to pay a consultant to begin the
9 process of adopting a zoning ordinance; and

10 Whereas, the 2002-2003 and 2003-2004 budget ordinances showed a line
11 item for "Environmental Protection" with a zero for the amount, but in fact in the
12 2002-2003 and 2003-2004 fiscal years expended funds for legal and administrative
13 purposes related to preparing to provide solid waste collection or disposal; and

14 Whereas, the Town of Mills River actually expended funds during its
15 2003-2004 fiscal year for four services as follows: the sum of \$297,531 for fire
16 protection as a contractual payment to the Mills River Fire Department; and \$34,500 for
17 planning and zoning as a contractual payment to Henderson County; and \$9,380 in legal
18 expenses for planning and zoning; and \$437.50 in preparation for police protection in
19 legal fees for negotiation of a contract with the Henderson County Sheriff's Department;
20 and \$262.50 in preparing for solid waste collection in legal fees to research various
21 issues which arose with regard to these services; and

22 Whereas, the 2003-2004 budget for the Town of Mills River shows line items
23 for legal expenses and engineering and, in fact, a portion of each of these appropriations
24 was intended to allow for the legal and administrative costs of preparing to offer solid
25 waste collection, police protection, street lighting, and planning and zoning; and

26 Whereas, the towns clearly expended funds for those four categories, but did
27 not itemize them in their budget ordinances in the format strictly required; and

28 Whereas, S.L. 1999-458 appeared to allow the towns three years in any case;
29 Now, therefore,

30 The General Assembly of North Carolina enacts:

31 **SECTION 1.** The Town of Ossipee shall, upon amending its budget
32 ordinances for the 2002-2003 and 2003-2004 fiscal years to reflect actual expenditures
33 by the town in preparing to provide solid waste collection or disposal, be considered to
34 have complied with the provisions of G.S. 136-41.2 for those two fiscal years.

35 **SECTION 2.** The Town of Mills River shall, upon amending its budget
36 ordinance for the 2003-2004 fiscal year to reflect actual expenditures by the town in
37 preparing to provide police protection and solid waste collection, be considered to have
38 complied with the provisions of G.S. 136-41.2 for the 2003-2004 fiscal year.

39 **SECTION 3.** This act is effective when it becomes law.