

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SENATE BILL 491
RATIFIED BILL**

AN ACT TO TRANSFER THE ASSETS OF THE BUTNER WATER AND SEWER SYSTEM TO THE SOUTH GRANVILLE WATER AND SEWER AUTHORITY, AND TO PROVIDE THAT BUTNER PUBLIC SAFETY SHALL BE CONSIDERED THE EQUIVALENT OF A MUNICIPAL POLICE DEPARTMENT FOR PURPOSES OF THE LAWS PROVIDING FOR COOPERATION BETWEEN LAW ENFORCEMENT AGENCIES AND ASSISTANCE TO STATE LAW ENFORCEMENT AGENCIES.

The General Assembly of North Carolina enacts:

- SECTION 1.** Findings and Purpose. The General Assembly finds as follows:
- (1) The Camp Butner reservation is administered by the Secretary of the Department of Health and Human Services (hereinafter "Secretary") in accordance with the provisions of Article 6 of Chapter 122C of the General Statutes (the Camp Butner reservation is variously referred to, in whole or in part, as the Camp Butner reservation, the Town of Butner, and the Community of Butner and in this act shall be referred to as the "Butner Reservation").
 - (2) The Department of Health and Human Services (hereinafter "Department") owns a water and sewer system (hereinafter "System") that it has long operated pursuant to G.S. 122C-407 for the benefit of the Butner Reservation, the State institutions located in or near the Butner Reservation, adjacent areas of Granville County, and certain federal correctional institutions.
 - (3) The Department has determined that it is in the best interests of the Department, its clients, and the State of North Carolina for the System to be operated as a regional water and sewer system for the benefit of the Butner Reservation, the City of Creedmoor (hereinafter "Creedmoor"), the Town of Stem (hereinafter "Stem"), adjacent areas of Granville County, and the State and federal institutions located nearby.
 - (4) The Secretary pursuant to the authority vested in her by G.S. 122C-407 entered into a Memorandum of Understanding (hereinafter "MOU") with the South Granville Water and Sewer Authority, a water and sewer authority organized under and by virtue of Article 1 of Chapter 162A of the General Statutes (hereinafter "SGWASA") pursuant to which SGWASA, effective January 1, 2006, manages and operates the System.
 - (5) The customers of the System have paid for water and sewer over the years the Department has operated the System, and those payments at times have generated surpluses that are held by the Department or on behalf of the Department by the State Treasurer for use for the benefit of the System.
 - (6) It is in the best interests of the Department, the southern portion of Granville County including the Butner Reservation, Stem, and Creedmoor, and the State for SGWASA to own and operate the

System for the benefit of all interested parties and that certain assets be transferred to SGWASA.

SECTION 2.(a) The Governor shall convey on or before January 1, 2007, or as soon thereafter as all conditions set forth herein are met, to SGWASA for the consideration set forth herein all right, title, and interest in and to all of the property, real, personal, and mixed, tangible and intangible, comprising the System owned by the State of North Carolina which is currently managed by SGWASA pursuant to the MOU; provided, however, that SGWASA, prior to said transfer, shall make the arrangements necessary to retire, assume, or otherwise satisfy any debt issued by the State that is secured by the System or by the revenues of the System and which is outstanding as of the date of transfer. A schedule of said assets is on file with the Secretary and with the Executive Director of SGWASA.

SECTION 2.(b) In order to provide SGWASA with a reserve for operations and maintenance expenses and extraordinary repairs and replacements, the Department shall transfer to SGWASA on or before September 1, 2007, from the funds held by the Department for the Town of Butner Enterprise in the State of North Carolina General Ledger System (ATBD 701), the sum of two million sixty-nine thousand four hundred thirty-two dollars and fifty cents (\$2,069,432.50) which is equal to one-half of one year's total operating expenses of the System, as shown on the Town of Butner Water and Sewer System Financial Statement Audit Report for the Year Ended June 30, 2005 (hereinafter the "Audit Report"). If the majority of the functions of the Butner Reservation are assumed by a municipal corporation organized pursuant to the laws of the State of North Carolina, the remainder of the funds held by the Department for the Town of Butner Enterprise in the State of North Carolina General Ledger System (ATBD 701), including all interest and returns thereon, and all Capital Improvement Funds held by the Department for the Town of Butner Enterprise in the North Carolina General Ledger System (BD 725) not otherwise restricted by statute or otherwise obligated for the payment of existing debts, including all interest and returns thereon, shall be transferred by the Department to such successor municipality.

SECTION 2.(c) Except as hereinafter provided, SGWASA shall continue to pay to the Department a monthly sum to be used by the Department to support the operations of the Butner Reservation, set at a baseline of sixty-three thousand nine hundred fifty-seven dollars and seventy-five cents (\$63,957.75) for fiscal year 2005-2006, which sum shall be adjusted annually on July 1 to reflect the cost of salary and benefit changes granted to State employees by an act of the General Assembly or by action of the Office of State Personnel; any increases and adjustments required by law for Social Security, retirement rate increases, or longevity; and allowable inflationary cost increases for all operations costs as determined by the North Carolina Office of State Budget and Management each budget cycle and communicated to State agencies for application. This payment shall continue until such date as the majority of the functions of the Department performed at the Butner Reservation are assumed by a municipal corporation organized pursuant to the laws of the State of North Carolina. If the majority of the functions of the Butner Reservation are assumed by a municipal corporation organized pursuant to the laws of the State of North Carolina, SGWASA shall pay to such municipal corporation the sum of forty-one thousand six hundred sixty-six dollars and sixty-seven cents (\$41,666.67) per month for a period of 240 months from the date of said incorporation. Notwithstanding the foregoing, any payments pursuant to this section to the Department or a municipal corporation incorporated hereafter which assumes the majority of the functions of the Butner Reservation may, to the extent provided in any trust agreement, trust indenture, resolution, order, ordinance, or similar instrument entered or adopted by SGWASA in connection with the issuance of bonds by SGWASA, be made subordinated to the payment of current expenses of the System, the funding of reserves, and the payment of debt service on any indebtedness incurred by SGWASA for the improvement, expansion, and maintenance of the System or to make a payment to the State to retire

bonds previously issued by the State for such purpose. For purposes of this section, "payment of debt service on indebtedness" includes the payments required under any financial instruments entered into by SGWASA in connection with the indebtedness, such as payments under interest rate swap agreements, reimbursement agreements, standby bond purchase agreements, or similar instruments entered into by SGWASA in connection with its bonds.

SECTION 2.(d) Any conveyance of the assets, real, personal, and mixed, transferred pursuant to the provisions of this section shall include a provision that the assets so transferred may revert to the State if SGWASA dissolves, becomes insolvent, or is otherwise unable to meet its obligations as they become due. Such reversion shall be conditioned upon the State making the arrangements necessary to retire, assume, or otherwise satisfy any debt issued by SGWASA to be outstanding following the reversion of the assets to the State. If, at such time, the primary functions of the Department with respect to the Butner Reservation have been assumed by a municipal corporation organized pursuant to the laws of the State of North Carolina, the assets that otherwise would revert to the State pursuant to this section shall vest in such municipality on the same terms and conditions as if the assets were reverting to the State (including that arrangements necessary to retire, assume, or otherwise satisfy any debt issued by SGWASA and to be outstanding following the reversion of the assets to the State be made as a condition to such reversion).

SECTION 3. The transfer of the System to SGWASA pursuant to the provisions of this act shall be exempt from the requirements of Article 7, Chapter 146 of the General Statutes. The conveyance of property under this act shall comply with the provisions of Article 16, Chapter 146; provided, however, that the conveyance will be exempt from the provisions of G.S. 146-74. The provisions of this act shall be exempt from all statutes concerning in any way the disposition of personal property owned by the State of North Carolina or any department or agency thereof.

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

"(d) For purposes of this section, the following shall be considered the equivalent of a municipal police department:

- (1) Campus law-enforcement agencies established pursuant to G.S. 115D-21.1(a) or G.S. 116-40.5(a); and
- (2) Colleges or universities which are licensed, or exempted from licensure, by G.S. 116-15 and which employ company police officers commissioned by the Attorney General pursuant to Chapter 74E or Chapter 74G of the General Statutes; and
- (3) Law enforcement agencies operated or eligible to be operated by a municipality pursuant to ~~G.S. 63-53(2)~~ G.S. 63-53(2); and
- (4) Butner Public Safety."

SECTION 5. G.S. 160A-288.2 reads as rewritten:

"(d) For the purposes of this section, the following shall be considered the equivalent of a municipal police department:

- (1) Campus law-enforcement agencies established pursuant to G.S. 116-40.5(a); and G.S. 116-40.5(a).
- (2) Colleges or universities which are licensed, or exempted from licensure, by G.S. 116-15 and which employ company police officers commissioned by the Attorney General pursuant to Chapter 74E or Chapter 74G of the General Statutes.
- (3) Butner Public Safety."

SECTION 6. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 13th day of
July, 2006.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2006