

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 105

Short Title: Butner Community Governance.

(Public)

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Sponsors: Representatives Crawford; and Allen (Primary Sponsors).

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Referred to: Finance.

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February 18, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE THE BUTNER ADVISORY COUNCIL AND TO  
3 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

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

4 The General Assembly of North Carolina enacts:

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

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

17 **“PART 1B. BUTNER ADVISORY COUNCIL.**

18 **“§ 122C-415. Butner Advisory Council; created.**

19 (a) There is created a Butner Advisory Council to consist of seven members, to be  
20 elected by the residents of the territorial jurisdiction established by G.S. 122C-408(a), at a  
21 nonpartisan election administered by the Granville County Board of Elections to be set  
22 after clearance from the federal Department of Justice.

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

30 (c) The candidates for the Butner Advisory Council shall file their notices of  
31 candidacy with the Granville County Board of Elections. Absentee voting by qualified  
32 voters residing in the territorial jurisdiction shall be in accordance with G.S. 163-302.

33 (d) The seven candidates receiving the highest numbers of votes shall be elected  
34 for the following terms:

35 (1) If the election is held in an even-numbered year, the four candidates  
36 receiving the highest numbers of votes shall be elected for terms of four  
37 years, and the three candidates receiving the next highest numbers of  
38 votes shall be elected for terms of two years.

39 (2) If the election is held in an odd-numbered year, the four candidates  
40 receiving the highest numbers of votes shall be elected for terms of five  
41 years, and the three candidates receiving the next highest numbers of  
42 votes shall be elected for terms of three years.

1 Biennially thereafter, in each even-numbered year, the members whose terms expire shall  
2 be elected to four-year terms.

3 (e) The Chair of the Butner Advisory Council shall be elected from among its  
4 members, shall serve a one year term, may be reelected, and shall serve at the pleasure of  
5 the council.

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

10 **"§ 122C-415.1. Butner Advisory Council; powers.**

11 (a) The Butner Advisory Council may advise the Secretary of Health and Human  
12 Services, through resolutions adopted by the council, on the operations of the Camp  
13 Butner reservation and the concerns of the residents of the Camp Butner reservation in  
14 connection with the exercise of the powers granted to the Secretary pursuant to G.S.  
15 122C-403.

16 (b) When the council adopts a resolution relating to one of the specific powers  
17 referenced in G.S. 122C-403 and delivers the resolution to the Office of the Secretary of  
18 Health and Human Services, the Secretary may approve the resolution, and it shall be  
19 carried out by the Butner Town Manager. The Secretary shall have no more than 30 days  
20 during which to disapprove any recommendation of the council contained in the  
21 resolution. Any disapproval shall be in writing, stating the reasons for the disapproval,  
22 and shall be returned to the council. If the Secretary does not disapprove a  
23 recommendation of the council within the prescribed period, the recommendation shall be  
24 deemed approved by the Secretary and shall be carried out by the Butner Town  
25 Manager."

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

27 **"§ 122C-403. Secretary's authority over Camp Butner reservation.**

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

- 33 (1) Regulate airports on the reservation in accordance with the powers  
34 granted in Article 4 of Chapter 63 of the General Statutes.
- 35 (2) Take actions in accordance with the general police power granted in  
36 Article 8 of Chapter 160A of the General Statutes.
- 37 (3) Regulate the development of the reservation in accordance with the  
38 powers granted in Article 19, Parts 2, 3, 3A, 3B, 5, 6, and 7, of Chapter  
39 160A of the General Statutes. The Secretary may not, however, grant a  
40 special use permit, a conditional use permit, or a special exception under  
41 Part 3 of that Article. In addition, the Secretary is not required to notify  
42 landowners of zoning classification actions under G.S. 160A-384, and  
43 the protest petition requirements in G.S. 160A-385, and 160A-386 do

1 not apply. The Secretary may appoint the Butner ~~Planning~~ Advisory  
2 Council to act like a Board of Adjustment to make recommendations to  
3 the Secretary concerning implementation of plans for the development  
4 of the reservation. When acting as a Board of Adjustment, the Butner  
5 ~~Planning~~ Advisory Council shall be subject to subsections (b), (c), (d),  
6 (f), and (g) of G.S. 160A-388.

7 (4) Establish one or more planning agencies in accordance with the power  
8 granted in G.S. 160A-361 or designate the Butner ~~Planning~~ Advisory  
9 Council as the planning agency for the reservation.

10 (5) Regulate streets, traffic, and parking on the reservation in accordance  
11 with the powers granted in Article 15 of Chapter 160A of the General  
12 Statutes.

13 (6) Control erosion and sedimentation on the reservation in accordance with  
14 the powers granted in G.S. 160A-458 and Article 4 of Chapter 113A of  
15 the General Statutes.

16 (7) Contract with and undertake agreements with units of local government  
17 in accordance with the powers granted in G.S. 160A-413 and Article 20,  
18 Part 1, of Chapter 160A of the General Statutes.

19 (8) Regulate floodways on the reservation in accordance with the powers  
20 granted in G.S. 160A-458.1 and Article 21, Part 6, of Chapter 143 of the  
21 General Statutes.

22 (9) Assign duties given by the statutes listed in the preceding subdivisions  
23 to a local official to the Butner Town Manager who shall be hired upon  
24 the recommendation of the Butner ~~Planning~~ Advisory Council and shall  
25 be assigned to the Office of the Secretary of Health and Human  
26 Services. The Butner ~~Planning~~ Advisory Council shall submit the names  
27 of three candidates for the position of Butner Town Manager to the  
28 Secretary of Health and Human Services and the Secretary shall select  
29 one of the candidates. The candidates shall meet the qualifications set  
30 by the State Personnel Commission for the position. The Butner Town  
31 Manager shall serve at the pleasure of the Secretary. The Secretary  
32 shall, through the Butner Town Manager, provide all necessary  
33 administrative assistance to the council in carrying out its duties.

34 (10) Adopt rules to carry out the purposes of this Article.”

35 Section 4. G.S. 122C-405 reads as rewritten:

36 **"§ 122C-405. Procedure applicable to rules.**

37 Rules adopted by the Secretary under this Article shall be adopted in accordance with  
38 the procedures for adopting a city ordinance on the same subject, shall be subject to  
39 review in the manner provided for a city ordinance adopted on the same subject, and shall  
40 be enforceable in accordance with the procedures for enforcing a city ordinance on the  
41 same subject. Violation of a rule adopted under this Article is punishable as provided in  
42 G.S. 122C-406.

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

4 Section 5. Part 1 of Article 6 of Chapter 122C is amended by adding a new  
5 section to read:

6 "**§ 122C-411.1. Butner Public Safety Division fees.**

7 All public safety fees assessed in the territorial jurisdiction established in G.S. 122C-  
8 408(a) and fees collected under contracts entered into pursuant to G.S. 122C-411 shall  
9 be placed in a special fund to be used by the Department of Crime Control and Public  
10 Safety to fund the Butner Public Safety Division."

11 Section 6. The Study Commission on the Transfer of Butner Public Safety,  
12 created by Section 20.5 of Chapter 324 of the 1995 Session Laws and as amended by  
13 Section 7 of Chapter 667 of the 1995 Session Laws, is continued through December 31,  
14 2001. The funds appropriated for the operation of the Commission by that section, and  
15 remaining unexpended, shall not revert and shall remain available to the Commission to  
16 continue its work. The Commission shall provide legislative oversight to ensure  
17 compliance with the provisions of this act.

18 Section 7. This act is effective when it becomes law.