

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1999**

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HOUSE BILL 105  
Committee Substitute Favorable 4/12/99

Short Title: Butner Community Governance.

(Public)

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Sponsors:

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Referred to:

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February 18, 1999

A BILL TO BE ENTITLED

AN ACT TO CREATE THE BUTNER ADVISORY COUNCIL, AND TO ALLOW  
CERTAIN FEES TO BE PLACED IN A SPECIAL FUND FOR THE BUTNER  
PUBLIC SAFETY DIVISION.

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 Health and Human Services. 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 Health and Human Services with regard to the provision of public services and planning for the future of the Camp Butner reservation.

1 Section 2. Part 1A of Article 6 of Chapter 122C of the General Statutes is  
2 repealed.

3 Section 3. Article 6 of Chapter 122C of the General Statutes is amended by  
4 adding a Part to read:

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

6 **“§ 122C-413. Butner Advisory Council; created.**

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

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

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

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

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

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

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

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

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

40 **“§ 122C-413.1. Butner Advisory Council; powers.**

41 (a) The Butner Advisory Council may advise the Secretary of Health and Human  
42 Services, through resolutions adopted by the council, on the operations of the Camp  
43 Butner reservation and the concerns of the residents of the Camp Butner reservation in

1 connection with the exercise of the powers granted to the Secretary pursuant to G.S.  
2 122C-403. A resolution adopted pursuant to this subsection shall be delivered to the  
3 Office of the Secretary of Health and Human Services who shall act on the resolution in  
4 accordance with G.S. 122C-403(8a).

5 (b) When a vacancy occurs in the position of Butner Town Manager, the Butner  
6 Advisory Council shall submit the names of three candidates for the position to the  
7 Secretary of Health and Human Services. The candidates shall meet the qualifications set  
8 by the State Personnel Commission for the position. The Butner Town Manager shall be  
9 selected by the Secretary of Health and Human Services pursuant to G.S. 122C-403(9a)."

10 Section 4. G.S. 122C-403 reads as rewritten:

11 "**§ 122C-403. Secretary's authority over Camp Butner reservation.**

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

- 17 (1) Regulate airports on the reservation in accordance with the powers  
18 granted in Article 4 of Chapter 63 of the General Statutes.
- 19 (2) Take actions in accordance with the general police power granted in  
20 Article 8 of Chapter 160A of the General Statutes.
- 21 (3) Regulate the development of the reservation in accordance with the  
22 powers granted in Article 19, Parts 2, 3, ~~3A, 3B, 3C~~, 5, 6, and 7, of  
23 Chapter 160A of the General Statutes. The Secretary may not, however,  
24 grant a special use permit, a conditional use permit, or a special  
25 exception under Part 3 of that Article. In addition, the Secretary is not  
26 required to notify landowners of zoning classification actions under G.S.  
27 160A-384, and the protest petition requirements in G.S. 160A-385, and  
28 160A-386 do not apply. The Secretary may ~~appoint~~ designate the  
29 Butner ~~Planning~~ Advisory Council to act like a Board of Adjustment to  
30 make recommendations to the Secretary concerning implementation of  
31 plans for the development of the reservation. When acting as a Board of  
32 Adjustment, the Butner ~~Planning~~ Advisory Council shall be subject to  
33 subsections (b), (c), (d), (f), and (g) of G.S. 160A-388.
- 34 (4) Establish one or more planning agencies in accordance with the power  
35 granted in G.S. 160A-361 or designate the Butner ~~Planning~~ Advisory  
36 Council as the planning agency for the reservation.
- 37 (5) Regulate streets, traffic, and parking on the reservation in accordance  
38 with the powers granted in Article 15 of Chapter 160A of the General  
39 Statutes.
- 40 (6) Control erosion and sedimentation on the reservation in accordance with  
41 the powers granted in G.S. 160A-458 and Article 4 of Chapter 113A of  
42 the General Statutes.

- 1 (7) Contract with and undertake agreements with units of local government  
2 in accordance with the powers granted in G.S. 160A-413 and Article 20,  
3 Part 1, of Chapter 160A of the General Statutes.
- 4 (8) Regulate floodways on the reservation in accordance with the powers  
5 granted in G.S. 160A-458.1 and Article 21, Part 6, of Chapter 143 of the  
6 General Statutes.
- 7 (8a) Act on resolutions adopted by the council pursuant to G.S. 122C-  
8 413.1(a). If the Secretary approves the resolution, it shall be carried out  
9 by the Butner Town Manager. The Secretary shall have no more than  
10 30 days during which to disapprove any recommendation of the council  
11 contained in the resolution. Any disapproval shall be in writing, stating  
12 the reasons for the disapproval, and shall be returned to the council. If  
13 the Secretary does not disapprove a recommendation of the council  
14 within the prescribed period, the recommendation shall be deemed  
15 approved by the Secretary and shall be carried out by the Butner Town  
16 Manager.
- 17 (9) Assign duties given by the statutes listed in the preceding subdivisions  
18 to a local official to the Butner Town Manager. Manager who shall be  
19 hired upon the recommendation of the Butner Planning Council and  
20 shall be assigned to the Office of the Secretary of Health and Human  
21 Services. The Butner Planning Council shall submit the names of three  
22 candidates for the position of Butner Town Manager to the Secretary of  
23 Health and Human Services and the Secretary shall select one of the  
24 candidates. The candidates shall meet the qualifications set by the State  
25 Personnel Commission for the position. The Butner Town Manager  
26 shall serve at the pleasure of the Secretary. The Secretary shall, through  
27 the Butner Town Manager, provide all necessary administrative  
28 assistance to the council in carrying out its duties.
- 29 (9a) Select the Butner Town Manager from the candidates submitted by the  
30 council pursuant to G.S. 122C-413.1(b). The Butner Town Manager  
31 shall serve at the pleasure of the Secretary. The Secretary shall, through  
32 the Butner Town Manager, provide all necessary administrative  
33 assistance to the council in carrying out its duties.
- 34 (10) Adopt rules to carry out the purposes of this Article.”

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

6 "**§ 122C-411.2. Butner Public Safety Division fees.**

7 The proceeds from the tax levied pursuant to S.L. 83-830 on real and personal  
8 property located in the Butner Police and Fire Protection District and fees collected under  
9 contracts entered into pursuant to G.S. 122C-411 shall be placed in a special fund to be  
10 used by the Department of Crime Control and Public Safety to fund the Butner Public  
11 Safety Division."

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

19 Section 8. Sections 1, 3, and 6 through 8 of this act are effective when they  
20 become law. Sections 2, 4, and 5 of this act become effective when the members of the  
21 Butner Advisory Council created pursuant to G.S. 122C-413 as enacted by this act have  
22 been elected and qualified.