

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-140
HOUSE BILL 105

AN ACT TO CREATE THE BUTNER ADVISORY COUNCIL.

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.

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 Part 1A of Article 6 of Chapter 122C of the General Statutes is repealed.

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

"Part 1B. Butner Advisory Council.

"§ 122C-413. 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 to be set after preclearance from the federal Department of Justice.

(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. Absentee voting by qualified voters residing in the territorial jurisdiction shall be in accordance with G.S. 163-302.

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

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

(2) If the election is held in an odd-numbered year, the four candidates receiving the highest numbers 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.

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

(e) The Chair of the Butner Advisory Council shall be elected from among its members, shall serve a one-year term, may be reelected, 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-413.1. Butner Advisory Council; powers.

(a) The Butner Advisory Council may advise the Secretary of Health and Human Services, 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. A resolution adopted pursuant to this subsection shall be delivered to the Office of the Secretary of Health and Human Services who shall act on the resolution in accordance with G.S. 122C-403(8a).

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

Section 4. 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, 3C~~, 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~~ designate the Butner ~~Planning~~ Advisory Council to act like 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 ~~Planning~~ 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 Butner ~~Planning~~ 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.
- (8a) Act on resolutions adopted by the council pursuant to G.S. 122C-413.1(a). If the Secretary approves the resolution, 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.

- (9) Assign duties given by the statutes listed in the preceding subdivisions to a local official to the Butner Town Manager. ~~Manager who shall be hired upon the recommendation of the Butner Planning Council and shall be assigned to the Office of the Secretary of Health and Human Services. The Butner Planning Council shall submit the names of three candidates for the position of Butner Town Manager to the Secretary of Health and Human Services 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.~~
- (9a) Select the Butner Town Manager from the candidates submitted by the council pursuant to G.S. 122C-413.1(b). 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."

Section 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 ~~Butner Planning Council~~ Butner Advisory Council shall conduct the hearing."

Section 6. The Study Commission on the Transfer of Butner Public Safety, created by Section 20.5 of Chapter 324 of the 1995 Session Laws and as amended by Section 7 of Chapter 667 of the 1995 Session Laws, is continued through December 31, 2001. 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.

Section 7. Sections 1, 3, 6, and 7 of this act are effective when they become law. Sections 2, 4, and 5 of this act become effective when a majority of the members of the Butner Advisory Council created pursuant to G.S. 122C-413 as enacted by this act have been elected and qualified.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:20 p.m. this 4th day of June, 1999