

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1999**

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HOUSE BILL 105  
Committee Substitute Favorable 4/12/99  
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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

1 AN ACT TO CREATE THE BUTNER ADVISORY COUNCIL, AND TO ALLOW  
2 CERTAIN FEES TO BE PLACED IN A SPECIAL FUND FOR THE BUTNER  
3 PUBLIC SAFETY DIVISION.  
4

5 The General Assembly of North Carolina enacts:

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

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

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4 repealed.

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

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

8 **“§ 122C-413. Butner Advisory Council; created.**

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

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

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

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

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

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

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

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

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

42 **“§ 122C-413.1. Butner Advisory Council; powers.**

1       (a) The Butner Advisory Council may advise the Secretary of Health and Human  
2 Services, through resolutions adopted by the council, on the operations of the Camp  
3 Butner reservation and the concerns of the residents of the Camp Butner reservation in  
4 connection with the exercise of the powers granted to the Secretary pursuant to G.S.  
5 122C-403. A resolution adopted pursuant to this subsection shall be delivered to the  
6 Office of the Secretary of Health and Human Services who shall act on the resolution in  
7 accordance with G.S. 122C-403(8a).

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

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

14 **"§ 122C-403. Secretary's authority over Camp Butner reservation.**

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

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

- 1 (6) Control erosion and sedimentation on the reservation in accordance with  
2 the powers granted in G.S. 160A-458 and Article 4 of Chapter 113A of  
3 the General Statutes.
- 4 (7) Contract with and undertake agreements with units of local government  
5 in accordance with the powers granted in G.S. 160A-413 and Article 20,  
6 Part 1, of Chapter 160A of the General Statutes.
- 7 (8) Regulate floodways on the reservation in accordance with the powers  
8 granted in G.S. 160A-458.1 and Article 21, Part 6, of Chapter 143 of the  
9 General Statutes.
- 10 (8a) Act on resolutions adopted by the council pursuant to G.S. 122C-  
11 413.1(a). If the Secretary approves the resolution, it shall be carried out  
12 by the Butner Town Manager. The Secretary shall have no more than  
13 30 days during which to disapprove any recommendation of the council  
14 contained in the resolution. Any disapproval shall be in writing, stating  
15 the reasons for the disapproval, and shall be returned to the council. If  
16 the Secretary does not disapprove a recommendation of the council  
17 within the prescribed period, the recommendation shall be deemed  
18 approved by the Secretary and shall be carried out by the Butner Town  
19 Manager.
- 20 (9) Assign duties given by the statutes listed in the preceding subdivisions  
21 to a local official to the Butner Town Manager. ~~Manager who shall be~~  
22 ~~hired upon the recommendation of the Butner Planning Council and~~  
23 ~~shall be assigned to the Office of the Secretary of Health and Human~~  
24 ~~Services. The Butner Planning Council shall submit the names of three~~  
25 ~~candidates for the position of Butner Town Manager to the Secretary of~~  
26 ~~Health and Human Services and the Secretary shall select one of the~~  
27 ~~candidates. The candidates shall meet the qualifications set by the State~~  
28 ~~Personnel Commission for the position. The Butner Town Manager~~  
29 ~~shall serve at the pleasure of the Secretary. The Secretary shall, through~~  
30 ~~the Butner Town Manager, provide all necessary administrative~~  
31 ~~assistance to the council in carrying out its duties.~~
- 32 (9a) Select the Butner Town Manager from the candidates submitted by the  
33 council pursuant to G.S. 122C-413.1(b). The Butner Town Manager  
34 shall serve at the pleasure of the Secretary. The Secretary shall, through  
35 the Butner Town Manager, provide all necessary administrative  
36 assistance to the council in carrying out its duties.
- 37 (10) Adopt rules to carry out the purposes of this Article.”

38 Section 5. G.S. 122C-405 reads as rewritten:

39 **"§ 122C-405. Procedure applicable to rules.**

40 Rules adopted by the Secretary under this Article shall be adopted in accordance with  
41 the procedures for adopting a city ordinance on the same subject, shall be subject to  
42 review in the manner provided for a city ordinance adopted on the same subject, and shall  
43 be enforceable in accordance with the procedures for enforcing a city ordinance on the

1 same subject. Violation of a rule adopted under this Article is punishable as provided in  
2 G.S. 122C-406.

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

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

8 "**§ 122C-411.2. Butner Public Safety Division fees.**

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

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

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