

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**SENATE BILL 491
State and Local Government Committee Substitute Adopted 5/19/05
Third Edition Engrossed 5/23/05
House Committee Substitute Favorable 7/10/06**

Short Title: Butner Water/Sewer System Transf/Pub Safety.

(Public)

Sponsors:

Referred to:

March 15, 2005

A BILL TO BE ENTITLED

1
2 AN ACT TO TRANSFER THE ASSETS OF THE BUTNER WATER AND SEWER
3 SYSTEM TO THE SOUTH GRANVILLE WATER AND SEWER AUTHORITY,
4 AND TO PROVIDE THAT BUTNER PUBLIC SAFETY SHALL BE
5 CONSIDERED THE EQUIVALENT OF A MUNICIPAL POLICE
6 DEPARTMENT FOR PURPOSES OF THE LAWS PROVIDING FOR
7 COOPERATION BETWEEN LAW ENFORCEMENT AGENCIES AND
8 ASSISTANCE TO STATE LAW ENFORCEMENT AGENCIES.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** Findings and Purpose. The General Assembly finds as follows:

- 11 (1) The Camp Butner reservation is administered by the Secretary of the
12 Department of Health and Human Services (hereinafter "Secretary") in
13 accordance with the provisions of Article 6 of Chapter 122C of the
14 General Statutes (the Camp Butner reservation is variously referred to,
15 in whole or in part, as the Camp Butner reservation, the Town of
16 Butner, and the Community of Butner and in this act shall be referred
17 to as the "Butner Reservation").
- 18 (2) The Department of Health and Human Services (hereinafter
19 "Department") owns a water and sewer system (hereinafter "System")
20 that it has long operated pursuant to G.S. 122C-407 for the benefit of
21 the Butner Reservation, the State institutions located in or near the
22 Butner Reservation, adjacent areas of Granville County, and certain
23 federal correctional institutions.
- 24 (3) The Department has determined that it is in the best interests of the
25 Department, its clients, and the State of North Carolina for the System
26 to be operated as a regional water and sewer system for the benefit of
27 the Butner Reservation, the City of Creedmoor (hereinafter

1 "Creedmoor"), the Town of Stem (hereinafter "Stem"), adjacent areas
2 of Granville County, and the State and federal institutions located
3 nearby.

4 (4) The Secretary pursuant to the authority vested in her by G.S. 122C-407
5 entered into a Memorandum of Understanding (hereinafter "MOU")
6 with the South Granville Water and Sewer Authority, a water and
7 sewer authority organized under and by virtue of Article 1 of Chapter
8 162A of the General Statutes (hereinafter "SGWASA") pursuant to
9 which SGWASA, effective January 1, 2006, manages and operates the
10 System.

11 (5) The customers of the System have paid for water and sewer over the
12 years the Department has operated the System, and those payments at
13 times have generated surpluses that are held by the Department or on
14 behalf of the Department by the State Treasurer for use for the benefit
15 of the System.

16 (6) It is in the best interests of the Department, the southern portion of
17 Granville County including the Butner Reservation, Stem, and
18 Creedmoor, and the State for SGWASA to own and operate the
19 System for the benefit of all interested parties and that certain assets be
20 transferred to SGWASA.

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

31 **SECTION 2.(b)** In order to provide SGWASA with a reserve for operations
32 and maintenance expenses and extraordinary repairs and replacements, the Department
33 shall transfer to SGWASA on or before September 1, 2007, from the funds held by the
34 Department for the Town of Butner Enterprise in the State of North Carolina General
35 Ledger System (ATBD 701), the sum of two million sixty-nine thousand four hundred
36 thirty-two dollars and fifty cents (\$2,069,432.50) which is equal to one-half of one
37 year's total operating expenses of the System, as shown on the Town of Butner Water
38 and Sewer System Financial Statement Audit Report for the Year Ended June 30, 2005
39 (hereinafter the "Audit Report"). If the majority of the functions of the Butner
40 Reservation are assumed by a municipal corporation organized pursuant to the laws of
41 the State of North Carolina, the remainder of the funds held by the Department for the
42 Town of Butner Enterprise in the State of North Carolina General Ledger System
43 (ATBD 701), including all interest and returns thereon, and all Capital Improvement
44 Funds held by the Department for the Town of Butner Enterprise in the North Carolina

1 General Ledger System (BD 725) not otherwise restricted by statute or otherwise
2 obligated for the payment of existing debts, including all interest and returns thereon,
3 shall be transferred by the Department to such successor municipality.

4 **SECTION 2.(c)** Except as hereinafter provided, SGWASA shall continue to
5 pay to the Department a monthly sum to be used by the Department to support the
6 operations of the Butner Reservation, set at a baseline of sixty-three thousand nine
7 hundred fifty-seven dollars and seventy-five cents (\$63,957.75) for fiscal year
8 2005-2006, which sum shall be adjusted annually on July 1 to reflect the cost of salary
9 and benefit changes granted to State employees by an act of the General Assembly or by
10 action of the Office of State Personnel; any increases and adjustments required by law
11 for Social Security, retirement rate increases, or longevity; and allowable inflationary
12 cost increases for all operations costs as determined by the North Carolina Office of
13 State Budget and Management each budget cycle and communicated to State agencies
14 for application. This payment shall continue until such date as the majority of the
15 functions of the Department performed at the Butner Reservation are assumed by a
16 municipal corporation organized pursuant to the laws of the State of North Carolina. If
17 the majority of the functions of the Butner Reservation are assumed by a municipal
18 corporation organized pursuant to the laws of the State of North Carolina, SGWASA
19 shall pay to such municipal corporation the sum of forty-one thousand six hundred
20 sixty-six dollars and sixty-seven cents (\$41,666.67) per month for a period of 240
21 months from the date of said incorporation. Notwithstanding the foregoing, any
22 payments pursuant to this section to the Department or a municipal corporation
23 incorporated hereafter which assumes the majority of the functions of the Butner
24 Reservation may, to the extent provided in any trust agreement, trust indenture,
25 resolution, order, ordinance, or similar instrument entered or adopted by SGWASA in
26 connection with the issuance of bonds by SGWASA, be made subordinated to the
27 payment of current expenses of the System, the funding of reserves, and the payment of
28 debt service on any indebtedness incurred by SGWASA for the improvement,
29 expansion, and maintenance of the System or to make a payment to the State to retire
30 bonds previously issued by the State for such purpose. For purposes of this section,
31 "payment of debt service on indebtedness" includes the payments required under any
32 financial instruments entered into by SGWASA in connection with the indebtedness,
33 such as payments under interest rate swap agreements, reimbursement agreements,
34 standby bond purchase agreements, or similar instruments entered into by SGWASA in
35 connection with its bonds.

36 **SECTION 2.(d)** Any conveyance of the assets, real, personal, and mixed,
37 transferred pursuant to the provisions of this section shall include a provision that the
38 assets so transferred may revert to the State if SGWASA dissolves, becomes insolvent,
39 or is otherwise unable to meet its obligations as they become due. Such reversion shall
40 be conditioned upon the State making the arrangements necessary to retire, assume, or
41 otherwise satisfy any debt issued by SGWASA to be outstanding following the
42 reversion of the assets to the State. If, at such time, the primary functions of the
43 Department with respect to the Butner Reservation have been assumed by a municipal
44 corporation organized pursuant to the laws of the State of North Carolina, the assets that

1 otherwise would revert to the State pursuant to this section shall vest in such
2 municipality on the same terms and conditions as if the assets were reverting to the
3 State (including that arrangements necessary to retire, assume, or otherwise satisfy any
4 debt issued by SGWASA and to be outstanding following the reversion of the assets to
5 the State be made as a condition to such reversion).

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

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

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

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

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

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

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

35 **SECTION 6.** This act is effective when it becomes law.