

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-34
HOUSE BILL 946**

AN ACT TO ALLOW THE TOWN OF OSSIPEE TO AMEND ITS BUDGET ORDINANCES FOR THE 2002-2003 AND 2003-2004 FISCAL YEARS AND TO ALLOW THE TOWN OF MILLS RIVER TO AMEND ITS BUDGET ORDINANCE FOR THE 2003-2004 FISCAL YEAR TO SHOW CONFORMANCE WITH G.S. 136-41.2.

Whereas, G.S. 136-41.2, as amended by S.L. 1999-458, provides that for municipalities incorporated with an effective date of on or after January 1, 2000, certain shared revenues are available to the municipality only if it has adopted a budget ordinance showing that funds have been appropriated for at least four of the following municipal services: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning; and

Whereas, The Town of Ossipee was incorporated by S.L. 2002-137 effective when the results of the incorporation referendum were certified following the 2002 general election; and

Whereas, the municipal incorporation petition submitted under G.S. 120-163 stated in accordance with G.S. 120-163(c) that the municipality would offer four of the services listed above no later than the first day of the third fiscal year following the effective date of the incorporation; and

Whereas, the Town of Mills River was incorporated by S.L. 2002-242, effective upon ratification on June 24, 2003; and

Whereas, the municipal incorporation petition submitted under G.S. 120-36 stated in accordance with G.S. 120-163 that the Town of Mills River would offer four of the services listed above no later than the first day of the third fiscal year following the effective date of the incorporation; and

Whereas, the requirement for expenditures by the third fiscal year was also contained in S.L. 1999-458; and

Whereas, the towns believed that the two different parts of S.L. 1999-458 were intended to allow new municipalities a period of time to receive funds as if they were establishing the services; and

Whereas, the Town of Ossipee actually expended funds for those four services, the sum of \$4,320 for fire protection as a contractual payment to the Altamahaw-Ossipee Fire Department, appropriations for water distribution under Sections 3 and 4 of its budget ordinance, and \$1,800 appropriated in the budget ordinance for "Planning and Zoning Board", to be used to pay a consultant to begin the process of adopting a zoning ordinance; and

Whereas, the 2002-2003 and 2003-2004 budget ordinances showed a line item for "Environmental Protection" with a zero for the amount, but in fact in the 2002-2003 and 2003-2004 fiscal years expended funds for legal and administrative purposes related to preparing to provide solid waste collection or disposal; and

Whereas, the Town of Mills River actually expended funds during its 2003-2004 fiscal year for four services as follows: the sum of \$297,531 for fire protection as a contractual payment to the Mills River Fire Department; and \$34,500 for planning and zoning as a contractual payment to Henderson County; and \$9,380 in legal expenses for planning and zoning; and \$437.50 in preparation for police protection in

legal fees for negotiation of a contract with the Henderson County Sheriff's Department; and \$262.50 in preparing for solid waste collection in legal fees to research various issues which arose with regard to these services; and

Whereas, the 2003-2004 budget for the Town of Mills River shows line items for legal expenses and engineering and, in fact, a portion of each of these appropriations was intended to allow for the legal and administrative costs of preparing to offer solid waste collection, police protection, street lighting, and planning and zoning; and

Whereas, the towns clearly expended funds for those four categories, but did not itemize them in their budget ordinances in the format strictly required; and

Whereas, S.L. 1999-458 appeared to allow the towns three years in any case; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The Town of Ossipee shall, upon amending its budget ordinances for the 2002-2003 and 2003-2004 fiscal years to reflect actual expenditures by the town in preparing to provide solid waste collection or disposal, be considered to have complied with the provisions of G.S. 136-41.2 for those two fiscal years.

SECTION 2. The Town of Mills River shall, upon amending its budget ordinance for the 2003-2004 fiscal year to reflect actual expenditures by the town in preparing to provide police protection and solid waste collection, be considered to have complied with the provisions of G.S. 136-41.2 for the 2003-2004 fiscal year.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of May, 2005.

s/ Beverly E. Perdue
President of the Senate

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