

January 28, 2009

S 14. CREATE EMPLOYMENT SAFETY & SECURITY COMM. Filed 1/28/09. *ENHANCING WORKER SAFETY IN NORTH CAROLINA BY CREATING THE EMPLOYMENT SAFETY AND SECURITY COMMISSION AND BY TRANSFERRING TO THAT COMMISSION THE FUNCTIONS OF THE OCCUPATIONAL SAFETY AND HEALTH DIVISION OF THE DEPARTMENT OF LABOR AND CERTAIN OTHER STATUTORY POWERS AND DUTIES OF THE COMMISSIONER OF LABOR RELATING TO EMPLOYEE SAFETY.*

Creates new commission. Amends GS 96-3 to create the Employment Safety and Security Commission of North Carolina (ESSC) (was, created the Employment Security Commission of NC), consisting of seven members. Directs the ESSC to establish at least one division pertaining to employee safety and health. Directs the Governor to appoint one Chief Deputy Commissioner whose duties are to be responsible for employment safety and health enforcement.

Transfers power and duties of existing agencies and/or subunits. Transfers, with all the elements of a Type II transfer as defined by GS 143A-6 (defining the types of transfers of an existing agency), the statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations or other funds of the following state agencies and subunits to the newly created Employment Safety and Security Commission:

- (1) Office of Occupational Safety and Health, Department of Labor.
- (2) North Carolina Occupational Safety and Health Review Commission, Department of Labor.
- (3) State Advisory Council on Occupational Safety and Health, Department of Labor.
- (4) Agricultural Safety and Health Bureau, Department of Labor.

Recodification. Directs that GS Chapter 95 Articles 16, 18, 19, 22, and 23 be recodified as Articles 5, 6, 7, 8, and 9, respectively, of GS Chapter 96, but permits the Revisor of Statutes to assign different numbering as necessary. Provides that the Revisor of Statutes may delete references in the previously identified articles to the Department of Labor and any of its derivatives and substitute references to ESSC as needed. Directs the Revisor of Statutes to make conforming changes to GS Chapter 96 necessary to rename the Employment Security Commission and its derivatives to the ESSC and to make any additional conforming changes necessary in any section of the General Statutes.

Continuity of duties and actions. Provides guidelines for the continuation of any previous assignment of duties of a quasi-legislative and quasi-judicial nature. Directs that no action or proceeding pending on January 1, 2010, brought by or against any state office, commission, council, or other governmental subunit whose functions are transferred by this proposed act to the ESSC is to be affected by this act, but permits such actions to be prosecuted in the name of the ESSC. Additionally provides that pending actions or business by any state program, office, or contract transferred to the ESSC, that is pending on the date the proposed act becomes effective may be completed in the same manner as if conducted and completed by the original entity.

Definitions. Amends GS 95-127 to define *Commissioner* to mean the *Chief Deputy Commissioner of the ESSC* (Chief). Redefines *Director* to mean the officer or agent appointed by the Chief of the ESSC (was, officer or agent appointed by the Commissioner of Labor).

Reporting. Amends GS 95-135 to require the NC Occupational Safety and Health Review Commission (OSHA) to make quarterly reports to the ESSC on the status of the enforcement of OSHA. Amends GS 95-144 to require the ESSC to make an annual report of its occupational safety and health statistics to the

Governor, the General Assembly, and to the Fiscal research Division, beginning January 1, 2010.

Makes additional conforming changes to GS Chapters 7A, 8, 52C, 58, 74, 84, 95, and 96. Directs the Revisor of Statutes to make conforming changes to an additional list of specified statutes.

Effective January 1, 2010.

Transition period. Provides for a transition period for staffing activities and administrative and programmatic planning to begin on July 1, 2009. Directs the Commissioner of Labor to take the necessary steps to ensure an orderly and efficient transfer of functions and personnel on January 1, 2010. Directs the Commissioner of labor and the Employment Security Commission to report the status of the transition to the Joint Legislative Commission on Governmental Operations and to the Fiscal research Division by October 1, 2009. Provisions regarding the transition period are effective when the act becomes law.

Intro. by Senator Berger of Franklin.

GS 7A, 8, 52C, 58, 74, 84, 95, 96