GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H   1

HOUSE BILL 1386*

Short Title: Public Agencies/OSHA Fines.   (Public)

Sponsors: Representatives Fitch, Barnes, Cunningham, Howard, Sam Hunt, McLaughlin, Payne, H. Hunter; Blue, Albertson, Barnhill, Beard, Black, Bowen, Bowman, Brown, Buchanan, Chapin, Colton, N.J. Crawford, Dawkins, DeVane, Dial, Diamont, Easterling, Ethridge, Fletcher, Fussell, Gamble, Gist, Gottovi, Green, Greenwood, Hackney, Hardaway, Hensley, Jeffus, Justus, Kennedy, Lilley, Lineberry, Luebke, McAllister, McLawhorn, Mercer, Michaux, Miller, Nesbitt, Oldham, Redwine, Stamey, Stewart, Wainwright, Warner, Wicker, and Withrow.

Referred to: Appropriations.

May 28, 1992

1   A BILL TO BE ENTITLED
2 AN ACT TO PERMIT THE COMMISSIONER OF LABOR TO IMPOSE
3   PENALTIES AGAINST PUBLIC AGENCIES FOR OSHA VIOLATIONS.
4 The General Assembly of North Carolina enacts:
5   Section 1. G.S. 95-148 reads as rewritten:
6 **"§ 95-148. Safety and health programs of State agencies and local governments.**
7   It shall be the responsibility of each administrative department, commission, board,
8 division or other agency of the State and of counties, cities, towns and subdivisions of
9 government to establish and maintain an effective and comprehensive occupational
10 safety and health program which is consistent with the standards and regulations
11 promulgated under this Article. The head of each agency shall:
12   (1)   Provide safe and healthful places and conditions of employment,
13   consistent with the standards and regulations promulgated by this
14   Article;
15   (2)   Acquire, maintain, and require the use of safety equipment, personal
16   protective equipment, and devices reasonably necessary to protect
17   employees;

1   (3)   Consult with and encourage employees to cooperate in achieving safe
2   and healthful working conditions;
3   (4)   Keep adequate records of all occupational accidents and illnesses for
4   proper evaluation and corrective action;
5   (5)   Consult with the Commissioner as to the adequacy as to form and
6   content of records kept pursuant to this section;
7   (6)   Make an annual report to the Commissioner with respect to
8   occupational accidents and injuries and the agency's program under
9   this section.

10   The Commissioner shall transmit annually to the Governor and the General
11 Assembly a report of the activities of the State agency and instrumentalities under this
12 section. If the Commissioner has reason to believe that any local government program
13 or program of any agency of the State is ineffective, he shall, after unsuccessfully
14 seeking by negotiations to abate such failure, include this in his annual report to the
15 Governor and the General Assembly, together with the reasons therefor, and may
16 recommend legislation intended to correct such condition.

17   The Commissioner shall have access to the records and reports kept and filed by
18 State agencies and instrumentalities pursuant to this section unless such records and
19 reports are required to be kept secret in the interest of national defense, in which case
20 the Commissioner shall have access to such information as will not jeopardize national
21 defense.

22 ~~The Commissioner will not impose civil or criminal penalties against any State~~
23 ~~agency or political subdivision for violations described and covered by this Article.~~

24   Employees of any agency or department covered under this section are afforded the
25 same rights and protections as granted employees in the private sector.

26   This section shall not apply to volunteer fire departments not a part of any
27 municipality.

28   Any municipality with a population of 10,000 or less may exclude its fire
29 department from the operation of this section by a resolution of the governing body of
30 the municipality, except that the resolution may not exclude those firefighters who are
31 employees of the municipality.

32   The North Carolina Fire and Rescue Commission shall recommend regulations and
33 standards for fire departments."

34   Sec. 2. This act is effective upon ratification and applies to violations
35 occurring on or after that date.