Commission on Unemployment Compensation
October 30, 2006
Richmond, Virginia

The first meeting of the Commission on Unemployment Compensation in the 2006-2007 interim featured a preliminary report by the Virginia Employment Commission (VEC) on the solvency of the unemployment trust fund. The unemployment trust fund (Trust Fund) is funded by state unemployment taxes paid by employers. State unemployment tax is assessed on the first $8,000 of each employee's wages at a rate that varies depending on the trust fund solvency level and the employer's claims experience over the preceding four years.

VEC Commissioner Dolores Esser reported that the Trust Fund solvency level, which is determined by dividing the balance in the Trust Fund by the statutorily-determined adequate fund balance, is projected to be 70.5 percent as of June 30, 2006; one year ago it was 54.9 percent. The Trust Fund solvency level is projected to be 67 percent for each of fiscal years 2007 and 2008. The balance in the Trust Fund is projected to be $650.1 million as of December 31, 2006, up from $498.9 million in the previous year. The projections for future years incorporate the anticipated impact of the closure of the Ford manufacturing plant in Norfolk, which is expected to result in 2,400 layoffs at Ford, 1,700 layoffs by direct suppliers, 1,400 layoffs by indirect suppliers, and 3,150 other layoffs by affected firms.

The average tax per employee was $162 in 2005 and is projected to decline to $149 in 2006, to $115 in 2007, and to $113 in 2008. The increases from 2003 through 2008 are the result of higher benefits schedules and the recession. Virginia's average tax per employee for calendar year 2005 ($162) is the second lowest among the six jurisdictions in the area served by the Fourth Circuit Court of Appeals. The average tax in the other five range from $154 in South Carolina to $351 in North Carolina; the national average is $300.

The projected rise in the Trust Fund's solvency rate is due in part to declines in the unemployment rate and shorter periods of benefit payments. Virginia's unemployment rate, which was 3.2 percent in August 2006, has not been above 4 percent since January 2004. The low unemployment rate was attributed to the balance of Virginia's economy, and to its high rate of job creation. Total initial year-to-date claims for unemployment benefits through August 2006 were down 5 percent from the same period in 2005 and down 18.3 percent from 2004. First payments of unemployment insurance benefits the first eight months of 2006 were down 6.1 percent from the same period in 2005 and down 17.8 percent from 2004. Final payments of benefits in the first eight months of 2006 were down 11.4 percent from the same period in 2005 and down 28.4 percent from 2004. The average duration for receipt of unemployment benefits was 12.4 weeks in August 2006, down from 12.6 weeks in August 2005. Virginia's maximum weekly unemployment benefit for 2006 is $347, which reflects a weekly benefit replacement rate of 44 percent.

The VEC is atypical of state agencies in that all of its administrative funding is appropriated by the federal government. The VEC's administrative funding comes from Federal Unemployment Tax Act (FUTA) payments collected from employers. The FUTA tax is imposed at a rate of 0.8 percent of each employee's first $7,000 of wages, for a cost of $56 per employee per year. In addition to paying for the administration of state employment security agencies at the federal and state levels, FUTA revenue finances federal loan funds and provides revenue for extended benefits programs.

In 2005, Virginia received back from the federal government 30.2 percent of the amount of FUTA taxes paid by Virginia's employers. This rate, which was 32.8 percent last year, continues to be the second-lowest rate among all jurisdictions. Commissioner Esser reported on steps taken by the VEC to address the inequities in FUTA funding. These include initiatives by the Employer Advisory Committees, steps by the Secretary of Commerce and Trade to contact the Virginia Liaison Office and members of the Congressional delegation, and initiating a resolution by the National Association of State Workforce Agencies calling on the federal government to provide every state with a minimum 50 percent return of its FUTA taxes.

Commissioner Esser's briefing also covered the status of three business projects initiated by the VEC, implementation of recent federal regulations on confidentiality of unemployment insurance data, the agency's regulatory review, and allocation of expenses charged by VITA to federal grants.

The Commission also examined the issues raised by House Bill 964 from the 2006 Session. The bill, introduced by Delegate Bulova, was carried over in the House Commerce and Labor Committee with the request that it be studied by the Commission. As introduced, the bill provides that eligible employers of domestic workers with a quarterly payroll of not more than $2,500 would have the option of paying unemployment taxes and filing reports on an annual basis, on January 1. Currently, such state reports and payments are due quarterly for all employees, including domestic workers. At least four other states (New Jersey, Georgia, Oregon and Texas) allow annual state filings. Federal law permits annual filing and payment of Federal unemployment tax (FUTA) for domestic workers.

In addition to providing for annual filings, Delegate Bulova sought to explore the feasibility of coordinating SUTA filings with state individual income tax returns, so that the state unemployment filings could be made annually to the Department of Taxation as a schedule to the income tax return.

One major barrier to allowing filing state unemployment returns with the state income tax return involves the federal employment tax credit. If state unemployment taxes are not paid by January 31, employers are ineligible for the federal FUTA credit and FUTA tax jumps from $56 to $434 per employee. The Department of Labor is examining whether a domestic employer who files in May would defer the credit to the following year, which would mean the employer may have to pay an additional $378 only in the first year of his election to file the state unemployment return in May.

The Commission reviewed an amendment in the nature of a substitute to House Bill 964 that would be effective beginning in 2009, in order to accommodate the request of VEC that it be implemented as its new computer system is phased in. The substitute also shifts the filing date from January 1 to January 31, and incorporates the federal regulatory definition of domestic service. The substitute would have removed the requirement that wages paid for domestic service in any quarter not exceed $2,500. However, the Commission concluded that the substitute should be amended to reinstate the $2,500 quarterly threshold. With this change, the Commission agreed, with one negative vote, to recommend that the amendment in the nature of a substitute to House Bill 964 be acted on favorably by the House Commerce and Labor Committee.