

Commission on Unemployment Compensation
November 17, 2003, 2:00 p.m.
Senate Room A, General Assembly Building
Richmond, Virginia

SUMMARY OF MEETING

The Honorable John C. Watkins, Chairman, Commission on Unemployment Compensation ("Commission") convened a meeting of the Commission on November 17, 2003 at 2:00 p.m. in Senate Room A in the General Assembly Building, Richmond, Virginia. In attendance were Senator John C. Watkins, Chairman, Delegate Harry R. Purkey, Vice Chairman, Senators Yvonne B. Miller and Frank W. Wagner; and Delegates Samuel A. Nixon, Jr., Lionell Spruill, Sr., and R. Lee Ware, Jr. Following introductions of members and staff, the Chairman began the meeting with a discussion of workforce training.

The Honorable Michael J. Schewel, Secretary of Commerce and Trade, gave the Commission an update on progress in coordinating workforce training programs pursuant to HB 2075 and the federal Workforce Investment Act (WIA). Several memoranda of understanding (MOUs) already are in place between various state and local agencies and the local workforce investment boards. Many of those MOUs contain boilerplate language, however, and are not being monitored closely. Commerce and Trade is approaching coordination at the cabinet level through an MOU signed by the Secretary of Commerce and Trade, and the Secretary of Education, and the Secretary of Health and Human Resources.

Secretary Schewel noted that program coordination has faced difficulties. For example, although some resources optimally should be physically co-located, in some cases an available building is not large enough or is not accessible. Some options for special workforce coordination flowing in part from the report by the Joint Legislative and Audit Review Commission (JLARC) will be sent to the Governor for consideration in 2004. Secretary Schewel noted that testimony by James N. Ellenberger, Deputy Commissioner, Virginia Employment Commission (VEC) before a United States Senate subcommittee considering WIA reauthorization identified some of the difficulties in coordinating programs in accordance with state policy and emphasized concerns that any block-granting of federal funds not be used as a mechanism to reduce funding.

Vice Chairman Purkey asked whether there exists some consensus among states regarding resource coordination. The Secretary responded that many states have not grappled with coordination. Among those that have, there are two general approaches, one centered on creation of a macro state agency having centralized control over resources; the other centered on using policy initiatives to pull resources together. The overriding concern regardless of

structure is to ensure employers can find suitably trained workers, and employees can find appropriate training and employment.

Senator Wagner asked how the Commonwealth could help generate interest in some older industries, such as shipbuilding. The Secretary described industry building initiatives considered for the shipbuilding and nursing industries. Because there was concern that direct state involvement in those industries might cause them to lose their competitive edge, the Commonwealth targeted its assistance to school-based initiatives. The Virginia Workforce Certificate operates as a type of non-mandatory "Standards of Learning" for career technical education.

Senator Miller voiced concern that many children are not getting a sufficient education to enter into trade or apprenticeship programs. Secretary Schewel agreed, but noted that was more akin to an educational matter that is not within his portfolio but that K -12 is a critical part of workforce development. Senator Miller also inquired whether there are exclusionary clauses that block or impede access to the trucking industry, and whether workforce training could assist in removing such blockages. The Secretary responded that he was unaware of any specific blockages but noted that the Worker Opportunity Tax Credit is a tax credit given to employers who hire persons who otherwise might find it difficult to obtain employment, including persons on welfare and persons with felony convictions.

The Chairman thanked Secretary Schewel for his appearance, and invited him to appear before the Commission in the Spring of 2004 to update the Commission on the status of workforce training coordination, including implementation of the state MOU.

Marjorie Connelly, chairman of the Virginia Workforce Council advised the Commission that the Council has met twice since July, and two weeks ago discussed the Council's strategy and goals. There is a concern for consistency in goals and approaches and for the range of capacity among the local workforce investment boards. The Council is focusing on establishing clear measures of accountability. The Chairman invited Ms. Connelly to appear before the Commission in the Spring of 2004 to update the Commission on the Council's progress.

Ellen Bowyer, staff to the Commission, outlined key issues facing the Commission in 2004, including: solvency of the trust fund, the low first payment rate, workforce training issues (including federal reauthorization and resource coordination at the state level) and benefits charging. Other issues may arise as a result of the changing economic situation and its effect on job creation.

James N. Ellenberger, Deputy Commissioner, Virginia Employment Commission, responded to Chairman Watkins's question regarding WIA

reauthorization to note that SB 1267 had passed by unanimous consent in the Senate on November 14, 2003; the House and Senate likely will conference on the bill early in 2004. The bills differ dramatically, with the Senate bill retaining much of the existing statutory structure and focusing control in the hands of the governors. The House bill eliminates the existing statutory structure and directs control to the local governments.

Deputy Commissioner Ellenberger's formal testimony is linked to the Commission's website at <http://dls.state.va.us/SB889.htm>; a paper copy is on file at the Division of Legislative Services. Mr. Ellenberger addressed several issues that had been raised at the Commission's June 2003 meeting, as reflected in his published testimony. With respect to the low first payment rate: Delegate Spruill asked for clarification regarding the "able and available for work" requirement and whether there was any ability for the system to track individuals who did not receive a first payment. The system does not have sufficient manpower to provide specialized tracking.

With respect to relocating employers: in a related matter, there are national concerns about "state unemployment tax dumping" (SUTA dumping) which occurs when a company reorganizes or acquires another company in order to obtain a lower tax rate. Congress is considering legislation to address this matter.

With respect to the relationship between employer size and tax rate: Mr. Ellenberger noted that the tax burden is carried disproportionately by low-wage paying employers. The contributions to the unemployment insurance trust fund come from only a portion of wages, currently \$8,000. Because wages have grown faster than this tax base, employers paying higher wages (which result in higher unemployment compensation payments) are paying proportionately less in taxes for relatively higher unemployment insurance benefit payments to any former employees. Mr. Ellenberger also discussed the budget share allocated to VEC administration and Reed Act allocations.

Mr. Ellenberger noted in response to a question from Delegate Nixon that the Reed Act funds had supported an increased workload but that the loss of those funds would not be overly detrimental because many of the costs supported were one-time start-up costs, such as those associated with opening offices in Grundy and South Boston. In response to a question from the Chairman, however, he noted that the loss of those funds would be reflected in the budget. In comparison to other states, Virginia is very efficient and accordingly receives less funding from FUTA. Commissioner Esser explained that, for example, Massachusetts receives \$52 million in FUTA funding while Virginia receives only \$36 million. Virginia will remain in its current reimbursement formula, which is keyed to its prior performance.

In the next portion of his comments, Mr. Ellenberger addressed the solvency of the Trust Fund. There has been a slight decline in first payments, indicating less demand. At the same time, the number of final payments (representing exhaustion of benefits) has increased; it is hoped that this will decline in the future. In response to questioning from Vice Chairman Purkey, it was stated that approximately 35,000 to 70,000 new workers enter the workforce annually and that due to program design (specifically reciprocal agreements with other states that require new applicants to meet the eligibility criteria established by the paying state) there is no migration between states by unemployed workers for purposes of "benefit shopping."

The recovery rate used to forecast tax revenues for the trust fund is pegged to gross domestic product and was less than 3 percent in 2003 and 4.3 percent in 2004. The trust fund is expected to bottom out in April of 2004 at \$24 million and then to recover. If the fund does not recover, it may be necessary to access short-term federal loans. In response to questions from Delegate Nixon, it was noted that the fund-building tax phases out when the fund is at 50 percent solvency, that the declines in the trust fund forecast for 2003 had been accurate, and that the latest date at which a claimant could receive the highest rate of \$368.00 was 26 weeks into 2003. After that date, due to the change in the maximum rate, no claimant would be eligible to receive that maximum rate.

In response to a question by Delegate Ware, it was noted that unemployment rates have been below those for last year, which also will help the solvency of the unemployment compensation trust fund. In response to a question from Delegate Armstrong, it was noted that the Vroman study found the tax rates underlying the trust fund adequate and that it should not be necessary to modify those in order to return the trust fund to solvency.

VEC will study the following issues and be prepared to report on those at the Commission's next meeting: (i) SUTA dumping (see *infra*), including the status of federal legislation which is strongly supported by the Bush administration and (ii) use of the second national emergency grant that Virginia has received to benefit Pillowtex workers by paying a portion of their health care insurance payments. Mr. Ellenberger announced that the VEC will hold two briefings for members at the beginning of the 2004 session; the date of January 14 is under consideration.

In other business, the Commission voted to adopt the work plan, with the caveat that its adoption was for organizational and not substantive purposes, and voted to authorize the Chairman to offer a budget amendment in the amount of \$7,384.00 to support the Commission's work in 2004.

The Chairman thanked the members of the Commission, the speakers, and members of the audience for their participation and adjourned the meeting.

The Honorable John C. Watkins, Chairman
The Honorable Harry R. Purkey, Vice Chairman
Ellen Bowyer, Staff Attorney, Division of Legislative Services