Commission on Unemployment Compensation
September 29, 2009
Richmond, Virginia

The Commission on Unemployment Compensation's first meeting of the 2009 interim focused on the solvency level of Virginia's Unemployment Trust Fund. M. Coleman Walsh, Jr., Chief Administrative Law Judge of the Virginia Employment Commission (VEC), reported on the state of the economy at both the federal and state levels, the status of the Trust Fund, the federal procedure for the advancement and repayment of federal loans, and federal emergency and extended benefits programs.

ECONOMIC DATA

Economists believe that the economic recession, which began in December 2007, ended in June 2009. A slow recovery in 2010 is expected. The national unemployment rate is expected to peak at 10 percent in early 2010, though under a worst-case scenario the U.S. unemployment rate would reach 10.6 percent. While the economic slowdown is detrimentally affecting employment data across the country, Virginia is performing better than the nation as a whole. The Commonwealth's unemployment rate, which reached 7.3 percent in June 2009 before falling to 6.5 percent in August 2009, is projected to peak at 7.4 percent. Under a worst-case scenario, Virginia's unemployment rate would peak at 8 percent.

Total initial year-to-date claims for unemployment benefits through August 2009 are up 79.5 percent from the same period in 2008 and up 101.3 percent from the same period in 2007. Initial claims are expected to jump from 356,220 in 2008 to 633,931 in 2009. Last September the projected initial clams for 2009 were expected to be 414,607.

First payments of unemployment insurance benefits from January through August 2009 are up 91.7 percent compared to the first eight months of 2008 and up 116.7 percent from the corresponding period in 2007. The average duration for receipt of unemployment benefits was 14.2 weeks in August 2009; for the same month of 2008, the average duration was 12.8 weeks. Final payments of benefits in the first eight months of 2009 are up 148.6 percent from the same period in 2008 and 189.3 percent from the same period in 2007. The exhaustion rate, which reflects the percentage of unemployment compensation recipients who use up all of the weeks of regular unemployment benefits for which they are eligible, was 52.5 percent in August 2009; in August 2008, it was 35.5 percent.

Virginia's maximum weekly unemployment benefit is $378. The maximum weekly benefit reflects a weekly benefit replacement rate of 43 percent of the state's average weekly wage. In 2008, the same maximum weekly unemployment benefit amount provided a weekly benefit replacement rate of 44 percent.

UNEMPLOYMENT TRUST FUND SOLVENCY

The Unemployment Trust Fund is funded by state unemployment taxes, which are paid by employers at a rate that varies depending on the solvency level of the Trust Fund and the employer's claims experience. The solvency level of the Trust Fund is calculated by dividing its balance on June 30 by an amount, determined in accordance with a statutory formula, that represents an adequate balance.

The balance in the Unemployment Trust Fund on January 1, 2009, was $546.7 million. The balance is expected to fall to negative $194.2 million on December 31, 2009, and negative $561.4 million at the end of 2010. The Trust Fund's balance is expected to reach zero in mid-October.

The Unemployment Trust Fund's solvency level on June 30, 2008, was 64 percent. The solvency level is projected to have been 23.9 percent on June 30, 2009. It is projected to be negative 20 percent in June 2010 and negative 21 percent in June 2001, before increasing to five percent in June 2012, 30 percent in June 2013, and 52 percent in June 2014. The solvency level's projected decline is attributable primarily to increased benefits payments, which are expected to jump from $492.9 million in 2008 to $1.136 billion in 2009.

The lack of money in the Unemployment Trust Fund will require the Commonwealth to borrow from the federal government in order to pay unemployment benefits. The VEC anticipates that the state will borrow a total of $1.266 billion. It expects the Trust Fund's balance to remain negative from the fourth quarter of 2009 through the second quarter of 2013. Borrowing from the federal government will trigger several results. While the 2009 federal stimulus legislation provides for a waiver of interest on such loans to states for 2010, Virginia is expected to be required to make interest payments of $22 million in 2011, $14.4 million in 2012, and $0.3 million in 2013. The interest payments cannot be paid from the Trust Fund or federal administrative grants, and are expected to be made from state general funds. Employers will lose 0.3 percent of the federal unemployment tax (FUTA) credit, which will increase the per-employee FUTA amount from $56 to $77. The estimated $87 million generated from the partial loss of the FUTA credit will be applied to the state's federal loan balance. Because the Trust Fund's solvency level has fallen below 50 percent, employers will be assessed a fund builder tax of 0.2 percent of the first $8,000 of each employee's wages. The state unemployment tax (SUTA) rate will be assessed on employers at the highest of the 15 existing tax tables. The Social Security benefit offset automatically will be reinstated as a result of the drop in the solvency level. In addition, the failure of employers will result in an increased level of pool charges.

As a result, the average annual state unemployment tax per employee assessed on employers in Virginia, exclusive of the FUTA assessment, will jump from $95 in 2009 to $171 in 2010, to $234 in 2011, and to $263 in 2012. These projections are higher than those presented to the Unemployment Compensation Commission in September 2008, at which time it was expected that the average tax per employee would increase to $140 in 2010, $157 in 2011, and $163 in 2012. The projected 230 percent increase in the average annual state unemployment tax per employee is attributable to the counter-cyclical funding formula, which links increases in tax rates to declines in the Trust Fund solvency rate.

For the year ending September 30, 2008, Virginia's employers paid an average tax per employee of $93, which is the lowest among the six jurisdictions in the Fourth Appellate Circuit. The corresponding figure in the other five jurisdictions ranged from $145 in Maryland to $337 in North Carolina; the national average was $249.

LOAN ADVANCE AND REPAYMENT PROCESS

Title XII of the federal Social Security Act provides a mechanism by which states may borrow funds to offset shortfalls in their unemployment trust funds. During the current recession, 21 states and the Virgin Islands have borrowed over $15.7 billion from the Federal Unemployment Account. Virginia has borrowed to meet its unemployment obligations on one prior occasion. In April 1983, the Commonwealth borrowed $45 million, which was repaid by September of that year. The prompt repayment allowed Virginia to avoid liability for interest on the loan.

The Governor has initiated the borrowing process by submitting a letter on September 15, 2009, requesting projected amounts for a period of three consecutive months. The VEC anticipates that $194.2 million will be borrowed to meet its obligations in the fourth quarter of calendar year 2009. Over the ensuing three years, additional borrowings will result in a cumulative total loan amount of $1.2667 billion. The borrowed funds will supplement available balances of regular unemployment insurance funds, if any, and the U.S. Treasury will transfer loan funds to meet the state's drawdown requests. Borrowing states may make voluntary repayments at any time. Repayments are applied to advances on a last-made, first-repaid basis.

EMERGENCY AND EXTENDED BENEFITS PROGRAMS

Virginia's unemployment compensation program provides a maximum of 26 weeks of regular benefits. The federal government has enacted, and the General Assembly has amended its laws to permit, emergency unemployment benefits programs. The Tier I emergency benefits program provides for up to 20 extra weeks of benefits, and the Tier II program allows up to 13 weeks of benefits in "high unemployment states." Virginia has processed over 130,000 claims under the federally funded Tier I and Tier II emergency benefits programs.

The extended benefits program provides up to 13 weeks of benefits for claimants who have exhausted their regular benefits and Tier I and Tier II emergency benefits, and is available in states that have certain levels of unemployment. The extended benefits program includes enhanced job search requirements. Federal legislation has temporarily increased the federal share of such extended benefits to 100 percent. Amendments to House Bill 1889 approved during the 2009 reconvened session enabled Virginia to "trigger on" these benefits in May 2009.

As a result, unemployed Virginians currently may be eligible for a maximum of 72 weeks of benefits, of which 26 weeks are financed through SUTA payments. An additional seven weeks of extended benefits may become available in Virginia if unemployment levels exceed 8.5 percent for at least 13 weeks.

FUTURE MEETING

The Commission will hold a meeting later in the year, at which the VEC will provide updates to its projections regarding the Trust Fund's solvency level and anticipated borrowing of federal funds.

The Honorable John C. Watkins, Chairman

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