Commission on Unemployment Compensation
November 29, 2005
Richmond, Virginia

At its second meeting of the 2005 interim, the Commission on Unemployment Compensation continued to focus its interest on the issues pertaining to the solvency of the unemployment trust fund and funding for the Virginia Employment Commission (VEC). The Commission also addressed several legislative proposals and developed a package of recommendations for the 2006 Session.

Legislative Matters

The Commission examined the issues raised by Senate Bill 772, introduced in the 2005 Session by Senator Brandon Bell. The bill provides that an individual earning at least $2,500 but less than $3,500.01 in his base period shall be eligible to qualify for unemployment compensation benefits only if he had earnings of at least $1,250 in each of two quarters in his base period. The bill was passed by in the Senate Commerce and Labor Committee with a request by letter that the Commission examine the issues raised by the bill. Senator Bell spoke in favor of the measure. The VEC's analysis of the bill's impact on the Trust Fund indicated that SB 772 would reduce the average annual UI tax per employee by $0.63 over five years. Following a discussion of the issue, the Commission took no action on the matter.

The Commission agreed to endorse the introduction in the 2006 Session of the General Assembly of legislation to repeal § 30-225 of the Code of Virginia. This section provides that the Commission shall cease to exist on July 1, 2006.

The Commission agreed to seek the inclusion in the 2006-2008 biennial budget of a line item appropriation to cover the Commission's expenses. Section 30-221 of the Code of Virginia provides that all the compensation and expenses associated with meetings of the Commission shall be paid from existing appropriations to the Commission or, if unfunded, shall be approved by the Joint Rules Committee. Since the enactment in 2003 of the legislation that codified the Commission, there has not been any general fund appropriation for the Commission, and the Commission has been required to obtain the approval of the Joint Rules Committee in order to meet. As a result, the Commission's expenses are paid from the Clerk's Office budget.

Status of the Unemployment Trust Fund

Final figures for the solvency status of the Trust Fund were presented by VEC Deputy Commissioner James Ellenberger. The Trust Fund's solvency level as of June 30, 2005, was reported to be 54.9%. This level is substantially greater than the 39.3% reported in 2004 and the 45.5% reported in 2003. The actual June 30, 2005, solvency level is also better than the projected level of 49.9% that was presented to the Commission at its July 27, 2005, meeting.

The VEC projected that the solvency level of the Trust Fund will rise to 68% in 2006 and to 74% in 2007. The balance in the Trust Fund increased from $294 million in September 2004 to $504 million in September 2005.

As a result of the determination that the Trust Fund's solvency level as of June 30, 2005, exceeded 50%, the unemployment tax rates paid by employers will decline. Employers will not be assessed the 0.2% "fund builder" tax after January 1, 2006. Based on the Trust Fund's solvency level as of June 30, 2005, of 54.9%, the minimum tax rate, including the 0.19% pool tax rate, for 2006 will be 0.3%, or approximately $23 per employee. The minimum rate is reportedly paid by 62% of Virginia employers. The maximum tax rate, including the pool tax rate, will be 6.39%, or $511 per employee. For 2005 the maximum state tax rate, which included the fund builder tax, was 6.62%, for a total annual maximum liability of $529.60 per employee.

The average annual unemployment tax per employee, which ranged between $48 and $51 between 1998 and 2002, increased to $140 in 2004. The VEC projects that this amount will rise to $162 in 2005 and then will decline to $148 in 2006, to $125 in 2007, and to $106 in 2008. Virginia's average tax per employee in calendar year 2004 ($144) was the lowest of the states in the Fourth Judicial Circuit and was nearly half the national average of $276.

The improvement in the Trust Fund's solvency is attributable in part to declines in the unemployment rate and shorter periods of benefit payments. From October 2003, until September 2005, Virginia's unemployment rate in each month has been less than or equal to the rate in the corresponding month of the previous year. As of September 2005, the year-to-date unemployment rate was 3.6%. Total initial year-to-date claims for unemployment benefits through September 2005 were down 12.8% from the same period in 2004 and down 40.1% from 2003. First payments of unemployment insurance benefits the first nine months of 2005 were down 11.6% from the same period in 2004 and down 34.4% from 2003. Final payments of benefits in the first nine months of 2005 were down 18.6% from the same period in 2004 and down 42.2% from 2003. The average duration for receipt of unemployment benefits was 12.5 weeks in September 2005, down from 13.4 weeks in September 2004.

VEC Budget Issues

All of the VEC's administrative funding is appropriated by the federal government from FUTA payments collected from employers. In fiscal year 2004, Virginia's employers paid $192.8 million in FUTA taxes while the VEC received $63.2 million. By receiving 32.8% of the funds paid by its employers in FUTA taxes, Virginia ranks 49th among all states in the percentage of FUTA revenue received when compared to the amount paid by its employers. Only Florida received a smaller percentage.

Between fiscal years 2005 and 2006, unemployment insurance funding was cut from $54.3 million to $40 million. VEC Commissioner Dolores Esser reported that a cut of an additional $1.3 million had been announced. Over the same period, program expenditures were reduced from $48.1 million to $42.7 million. For fiscal year 2007, the unemployment insurance program is projected to face a deficit of $8.5 million and the job services program is projected to face a deficit of $1.6 million.

Several factors contribute to the VEC's budget dilemma. Congress does not appropriate all of the available FUTA tax revenue, in part to help offset the federal budget deficit. The Department of Labor's resource justification model, which determines state administrative funding levels, effectively punishes states such as Virginia that are efficient and have lower employee pay scales. Virginia was one of the first states to automate its systems, which increased efficiency and lowered costs. States with higher unemployment rates receive more money that those, such as Virginia, with comparatively low unemployment levels.

The VEC announced a plan to address budget issues by seeking legislative approval to use $66.93 million in Reed Act distributions that were deposited in the Trust Fund and $5.25 million in penalty and interest funds in fiscal year 2008 to modernize the unemployment insurance automated systems, procure a Web-based financial management and accounting system, replace the Virginia Workforce Network information system, and provide additional unemployment insurance and job service administrative funding. The effect of withdrawing money from the Trust Fund to pay for these projects is projected to raise the average annual unemployment tax by $2.66 per employee for fiscal years 2008 through 2012.

The VEC noted that its Trust Fund balance projections anticipate the appropriations to withdraw these Reed Act funds. Though the Commission was not asked to take action with respect to the VEC's projects, the chairman requested that the members be provided with information regarding the requests.

The members of the Commission endorsed a proposal to amend the "caboose" budget bill, covering the balance of the 2004-2006 biennium, and the new budget bill for the 2006-2008 biennium, to include language directing the Virginia Liaison Office to persuade the members of the Commonwealth's Congressional delegation of the need to revise the FUTA funding allocation formula to increase the percentage of payments returned to Virginia. Commissioner Esser suggested that an equitable formula may require each state to receive at least 50% of the amount of FUTA remittances by its employers.

Other Issues

Commissioner Esser reported on the VEC's efforts to assist Louisiana, Mississippi, and Alabama in processing and adjudicating unemployment compensation claims in the aftermath of Hurricane Katrina. The assistance was necessitated by the storm's vast impact on the Gulf Coast's economy. Hurricane Katrina is blamed for totally or partially destroying over 44,000 of the 96,000 businesses in Louisiana and nearly 31,000 of the 54,000 businesses in Mississippi. The VEC received a $400,000 grant from the federal Department of Labor to fund four Reintegration Counselor positions to assist storm evacuees in the Commonwealth. It was estimated that between 7,000 and 15,000 people have relocated from the Gulf Coast to Virginia. Hurricane Katrina has prompted the VEC to institute a review of its Continuity of Operations Plan and Catastrophic Recovery Plan.

The VEC briefed the Commission regarding its efforts to provide UI benefit recipients with an electronic funds transfer into a bank account or into a debit account as part of the Virginia Paycard Program. The goal of the project is to eliminate paper benefits checks, which is projected to save $300,000 in check printing costs while giving the ability to provide more timely payments.

Mark Groves, an attorney from Norfolk, advised the Commission of an issue that impedes his firm's work in collecting court fines, penalties, and costs owed to the city. A valuable tool in collecting debts is the ability to access the debtor's employment history through the VEC's database. However, the VEC's records are based on individual's social security number, and the switch to distinct driver's license numbers has reduced the number of cases when the collectors have access to the social security numbers. Revising the VEC's process for accessing records in a way that does not rely on social security numbers would be expensive.