



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Virginia Employment Commission
VAC Chapter Number:	16 VAC 5-20
Regulation Title:	Unemployment Taxes, Surety Bonds for Reimbursable Employers
Action Title:	Final
Date:	August 5, 2002

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The regulation eliminates the requirement for “reimbursable” employers to post a surety bond. Reimbursable employers are government and non-profit entities not required to pay unemployment taxes, but are required to reimburse the unemployment insurance trust fund for benefits paid to qualified individuals separated from such employers.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On June 28, 2002, the Commissioner of the Virginia Employment Commission approved the publication of final regulations for 16 VAC 5-20, Unemployment Taxes, Surety Bonds for Reimbursable Employers.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

Section 60.2-111.A of the Code of Virginia authorizes the Virginia Employment Commission to promulgate regulations. This section provides broad-based authority for the agency to adopt, amend, or rescind such rules and regulations as it deems necessary or suitable to administer Title 60.2. The amendments are discretionary in nature and are not required by state or federal law. Written assurance from the Office of the Attorney General the Commissioner possesses, and has not exceeded, his statutory authority is attached.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

While the amendments are not essential to protect the health, safety or welfare of the citizens of the Commonwealth, the amendments are intended to relieve reimbursable employers – typically non-profit organizations – from requirements to post a surety bond. During the 15 years that the Virginia Employment Commission has required reimbursable employers to post a bond, the agency has drawn only once upon the bonds to reimburse the unemployment trust fund. The requirement for employers to post a surety bond and administering the requirement has proven unnecessarily cumbersome for employers and for the VEC. Given the past experience in this

area, eliminating the requirement to post surety bonds poses little or no risk to the unemployment trust fund while relieving employers of an administrative task and an unnecessary expense.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

The requirement in 16 VAC 5-20-20 for reimbursable non-profit employers to post a surety bond would be eliminated.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The primary advantages of implementing the regulation to the public and the commission are discussed below. No disadvantages to the public or the commission are anticipated.

1. The adoption of these regulations will benefit reimbursable employers by eliminating an administrative task and its related expense.
2. The primary advantage to the commission will be eliminating the administration of escrow accounts and the reporting requirements necessary to maintain the surety bonds. The benefit derived from such surety bond has been far outweighed by the record-keeping, reporting and other expense of administering the requirement.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

No changes have been made to the regulations since the "Proposed" stage.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

The agency received no public comment regarding this regulation.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

The requirement in 16 VAC 5-20-20 (pages 1-3) for reimbursable non-profit employers to post a surety bond would be eliminated. Current regulations require such employers to post a surety bond equal to 1% of the employer's taxable wages. The surety bond was instituted in lieu of paying unemployment taxes and was to be used if the employer failed to reimburse the agency for benefits for which that employer had been determined liable. Since the enactment of this requirement 15 years ago, the agency has used the surety bonds to reimburse the unemployment trust fund only once.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The commission does not anticipate that the proposed regulation will have any impact on the institution of the family and family stability.