



Virginia Department of Planning and Budget **Economic Impact Analysis**

16 VAC 5-32 Required Records and Report
Virginia Employment Commission
Town Hall Action/Stage: 6434 / 10285
April 15, 2024

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB’s best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

In order to comply with the federal Emergency Unemployment Insurance Stabilization and Access Act of 2020, the Virginia Employment Commission (VEC) proposes to require employers to provide a notification about unemployment benefits and the claim process to workers at the time of separation.

Background

Currently, the “Notice to Workers” (form VEC-B-29)² must be posted at the workplace by every employer subject to Virginia unemployment compensation laws. The notice advises an employee when they are eligible for unemployment insurance benefits and how to apply for those benefits. The proposal would require employers to provide a copy of the notice to the employee at the time of separation from employment in addition to the current posting requirement at the workplace.

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² <https://www.vec.virginia.gov/sites/default/files/documents/vecb29eng%20Revised.pdf>

According to VEC, the notification by employers is required by federal law. During the pandemic, the first legislation passed by Congress was the Families First Coronavirus Response Act. Within this legislation was the Emergency Unemployment Insurance Stabilization and Access Act of 2020, which required states, as a condition of the grant award, to have employers provide notice of unemployment services to employees at the time of separation from employment. This notification is intended to make those individuals who become unemployed aware of the availability of unemployment benefits and to provide information to potential claimants regarding the process for claiming unemployment benefits. In this action, VEC proposes to require employers to provide this information to those who are separated from employment.

Estimated Benefits and Costs

According to VEC, employers would be expected to either hand deliver or send the form (electronically or by mail) to the employee at the time of separation. VEC intends to use the current form (form VEC-B-29), which would be available to download, free of charge, from the VEC website and all employers would be provided a link to the form. Additionally, VEC plans to include the notice of the requirement and the form in the new employer packets that are sent out when new employers register with VEC. Employers would not have to provide an original; a copy would be sufficient.

The cost of compliance with the proposed requirement appears to be small because an existing form would be used, delivery of a copy to separated employees would suffice for compliance, and electronic delivery would be acceptable. Also, the proposed change has already been implemented, but there are currently no penalties assessed or audits conducted for failure to comply.

The main benefit of the proposal is compliance with federal laws and ensuring that federal grant funding is not recouped by the federal government. As noted above, the provision of this notice is a condition of the grant award, thus failure to ensure compliance places the \$13.4 million which has already been paid to claimants at risk of recoupment. Other benefits include an increase in the likelihood that separated employees would be informed about filing for unemployment benefits; that employers may have more accurate and timely unemployment claims for determining eligibility for benefits; and that VEC may have timelier and more

accurate claims for unemployment, which could improve decision-making and reduce the number of appeals regarding unemployment claims/decisions.

Businesses and Other Entities Affected

The proposed changes would require employers to provide a copy of the “Notice to Workers” (form VEC-B-29) to separated employees. Based on the U.S. Bureau of Labor Statistics, VEC reports that the total number of separations (quits and discharges) in Virginia was approximately 1.9 million in 2023. No employer appears to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁴ As noted above, the required delivery of the “Notice to Workers” is not likely to introduce significant compliance costs on individual employers. Thus, an adverse impact is not indicated.

Small Businesses⁵ Affected:⁶

Although some of the affected employers are likely small businesses, the proposed amendments do not appear to adversely affect them.

³ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

⁴ Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁵ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

⁶ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

Localities⁷ Affected⁸

The proposed amendments do not introduce costs for localities nor disproportionately affect them.

Projected Impact on Employment

As discussed above, the required delivery of notification may result in more timely and accurate claims for unemployment benefits, but no direct and significant impact on total employment is expected.

Effects on the Use and Value of Private Property

No impact on the use and value of private property nor on real estate development costs is expected.

⁷ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁸ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.