



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

16 VAC 5-60 Benefits
Virginia Employment Commission
Town Hall Action/Stage: 5956 / 9615
June 27, 2022

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 14 (as amended, July 16, 2018). The analysis presented below represents DPB's best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

The Virginia Employment Commission (VEC) proposes to revise several timelines in the administration of unemployment benefits and also update language to reflect current practices.

Background

VEC is charged with aiding employment stabilization under its duty to administer the Virginia Unemployment Compensation Act for the welfare of the citizens of the Commonwealth through unemployment benefits, the labor exchange system, job services programs, and solvency of the administered trust fund. This chapter of the regulation contains rules for administration of unemployment benefits.

VEC reports that the federal Workforce Innovation and Opportunity Act required dramatic changes in how it delivered services across the Commonwealth. Consequently, starting in September 2018, VEC has modernized its unemployment claim filing process by shifting away from pen-and-paper based claim filing to online filing, which necessitates making changes

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.

to some claim processing timelines. VEC also proposes to revise one of the filing timelines to reflect a best practice recommended by the United States Department of Labor (USDOL). VEC also proposes amendments to this chapter to reflect the revised claim filing timelines and the description of the process currently in effect.

Estimated Benefits and Costs

VEC proposes to update the time period for filing a new claim for benefits for partial unemployment (i.e. working less hours in a week than the regular hours) from 14 days to 10 days after the employee receives evidence of partial unemployment from his or her employer. According to VEC, under the old system (before modernization), the employee was at the mercy of the employer to file partial unemployment. But under the new system, the employee can file online or over the phone and the necessary form is then mailed to them. Because the employee is now responsible to provide their form to the employer, VEC reports that 10 days is sufficient under the new approach. VEC reports that this change is to ensure timely processing of partial claims now that claim-related forms can be filed electronically. Additionally, the 10-day requirement is now standard for any document the benefits division gives claimants to be completed and returned.

Similarly, VEC proposes to update the timeline to file the first continued claim form from within 28 days of the day the initial claim was filed to within 21 days. In the past, claimants had 28 days to file their first claim from the date of the initial application, or risk having to renew their application for benefits. However, USDOL recommends allowing a shorter time period, 21 days, to file a continued claim following the initial application. Consequently, VEC adopted the new 21-day standard in 2016 and now proposes to update the regulation to reflect this change in practice.

The last timeline being proposed to be updated is an increase from 8 days to 10 days in the time allowed for employing units to complete and return their report of separation and wage information. This change reflects current practice, and will update the regulation regarding the time employers currently have to complete and submit the separation and wage information when a worker is terminated.

The remaining proposed changes are updates of the language to reflect changes in the description of the processes. For example, language regarding mass separations is being

amended as such separations are handled differently following the recent modernized process. Another example is the addition of new language to include an additional reason the claimant may cancel their initial claim to account for agency errors, expand filing methods, and remove processes no longer applicable.

Based on information available from VEC, all of the proposed changes reflect current practices and the agency is not aware of any complaints due to the changes in timelines included in this action. Thus, none of the proposed changes appear to have a significant economic effect other than updating the language for consistency with ongoing processes, practices, and procedures used by the agency.

Businesses and Other Entities Affected

The proposed amendments apply to all individuals and businesses required to file or report an unemployment benefit claim or event.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.² An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, VEC has not received any complaints due to the proposed timeline changes in claims processing and reporting. Thus, based on information available from VEC, no individual or business appears to be adversely affected by the proposed changes to definitions.

Small Businesses³ Affected:⁴

The proposed amendments do not appear to adversely affect small businesses.

² 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. 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.

³ 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.”

⁴ 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

Localities⁵ Affected⁶

The proposed amendments do not disproportionately affect any particular localities and do not introduce costs for local governments.

Projected Impact on Employment

The proposed amendments do not affect employment.

Effects on the Use and Value of Private Property

The proposed amendments do not affect the use and value of private property or the real estate development costs.

proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁵ “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.

⁶ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.