Economic Impact Analysis
Virginia Department of Planning and Budget

16 VAC 5-20 – Unemployment Taxes
Virginia Employment Commission
May 14, 2001

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The Virginia Employment Commission (VEC) proposes to eliminate the requirement for reimbursable employers to post a surety bond or a security deposit.

Estimated Economic Impact

Nonprofit organizations may elect out of paying unemployment insurance taxes. These organizations are referred to as reimbursable employers. If VEC validates an individual's application for unemployment benefits, and a reimbursable employer is deemed the liable employer, the reimbursable employer is required to reimburse the unemployment trust fund (administered by VEC) for the cost of unemployment benefits paid to the individual. Under the current regulations reimbursable employers must either deposit money or securities equal to 1.0% of the employer's taxable wages for the most recent four calendar quarters, or file a surety bond equal to 1.0% of the employer's taxable wages for the most recent four calendar quarters, with the Chief of Tax at VEC's administrative office. The purpose of the deposit or surety bond requirement is to provide for funding to reimburse the unemployment trust fund for unemployment benefits paid out to former reimbursable employer employees when that reimbursable employer fails to pay their required reimbursement (due to bankruptcy, etc.).

VEC proposes to eliminate the requirement that reimbursable employers either post a surety bond or deposit money or securities. The proposed elimination of this requirement is clearly beneficial for the reimbursable employers. The reimbursable employers that currently file surety bonds would save the cost of the surety bond. According to VEC, the cost of a surety bond is approximately $3.50 per thousand dollars of liability. Reimbursable employers who choose the surety bond route must obtain a bond at least equal to 1.0% of the employer's taxable wages for the most recent four calendar quarters. Also, the reimbursable employers that currently deposit money or securities equal to 1.0% of the employer’s taxable wages would be able to use those assets in a more productive manner.

Without the surety bonds and security deposits, if a reimbursable employer fails to pay their required reimbursement (due to bankruptcy, etc.) and VEC is unable to obtain the full payment through the legal system, then the unemployment trust fund absorbs the cost of the unemployment payment. The agency believes that taxes paid by non-reimbursable employers (includes all for-profit organizations) would only have to be raised to pay for the absorption of such costs very infrequently; and on those rare occasions, the tax increase would be very small for each taxpayer. VEC cites that during the 15 years that reimbursable employers have been required to post a bond or deposit funds, the agency has drawn upon the bonds to reimburse the unemployment trust fund only once. In addition, there are currently only 360 reimbursable employers versus the approximately 161,000 employers who pay unemployment insurance.

The elimination of the surety bond or deposit cost will likely encourage organizations that are eligible to be reimbursable employers, but currently choose to pay unemployment insurance, to become reimbursable employers. The number of such eligible organizations that do not currently choose to be reimbursable employers is not known by VEC. Additional reimbursable employers will increase the likelihood that at any given time a reimbursable employer fails to pay their required reimbursement (due to bankruptcy, etc.) and VEC is unable to obtain the full payment through the legal system. Thus, the probability that the unemployment trust fund would absorb the cost of the unemployment benefits paid to laid off employees from reimbursable employers that failed to reimburse would increase. Given that there has been only one such occurrence in the 15 years that reimbursable employers have been required to post a bond or deposit funds, it would likely remain rare if the increase in non-profits that choose to be reimbursable employers is not large, and the new reimbursable employers are not significantly riskier than the reimbursable employers of the last 15 years. Since the number of new reimbursable employers and their riskiness in regard to failing to reimburse cannot be accurately estimated given the available data, the increase in the probability that the unemployment trust fund would absorb the cost of unemployment benefits paid to laid off employees from reimbursable employers that failed to reimburse is not known.

On those occasions that the unemployment trust fund absorbs the cost of the unemployment benefits due to employees of reimbursable employers that failed to reimburse, the cost will be added to the trust fund's pool cost charges. Under the current regulations, each year the unemployment trust fund acquires pool cost charges from: 1) benefit charges which cannot be assigned to an individual employer, 2) net transfer credits due to employment commissions in other states, and 3) the difference between the benefit charges of all employers with a maximum experience rating tax rate and the amount of the taxes resulting from applying the maximum experience rating tax rate against the payrolls of the same employers. Interest earned on the assets in the trust fund is used to pay the pool cost charges. When the pool costs exceed the value of the interest, non-reimbursable employers (includes all for-profit organizations) are charged a pool tax to pay off the excess pool cost charges. Thus, during years when the pool tax is in effect, i.e., when the pool costs exceed the value of the interest, the cost absorbed by the trust fund will lead to marginally higher pool taxes for non-reimbursable employers.

Businesses and Entities Affected

The proposed changes affect the 360[1] non-profit reimbursable employers in Virginia, the non-profit employers who currently pay unemployment insurance, purveyors of surety bonds, and, to a lesser degree, all for-profit employers. Non-profit organizations that choose to be reimbursable employers benefit by a reduction in their cost of doing business. The elimination of the reimbursable that employers either post a surety bond or deposit money or securities will negatively affect demand for firms that provide surety bonds.

[1] Source: VEC

Localities Particularly Affected

The proposed amendment will potentially affect all Virginia localities.

Projected Impact on Employment

The elimination of the requirement for surety bonds or security deposits will result in a decreased demand for surety bonds; this may produce a small negative impact on employment in firms that provide surety bonds. The elimination of the requirement will produce a small decrease in the cost of doing business in Virginia for nonprofit organizations; thus, this may produce a small positive impact on employment in nonprofit organizations. As has been discussed, the elimination of the requirement may in some years produce a very small increase in taxes for non-reimbursable employers. On its own, this occasional very small increase in taxes is unlikely to affect employment. If other very small cost increases occur simultaneously, there may be a marginally negative impact on employment.

Effects on the Use and Value of Private Property

The proposed changes will decrease the demand in Virginia for surety bonds. The value of purveyors of surety bonds may decrease slightly. On the other hand, reimbursable employers will be able to spend the assets previously tied up in surety bonds or deposits more productively. Thus, the value of nonprofits may increase slightly. In some years the cost of doing business for non-reimbursable employers may increase very slightly. Thus the value of these organizations may decrease by a commensurate very small amount.