



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

16 VAC 15-30 Adjudication
Virginia Employment Commission
Town Hall Action/Stage: 6095 / 9927
March 23, 2023

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 these economic impacts.¹

Summary of the Proposed Amendments to Regulation

The Virginia Employment Commission (VEC) proposes to update the regulation to reflect that first level appeals can be filed through its new online portal (i.e., a webpage on the VEC website), that an appeal decision can be delivered through the portal, and that a request for reopening of an appeal can be submitted through the portal.

Background

Currently, this regulation provides that first level appeals shall be filed in person, by mail, by fax, or “by the Internet at a site or address specified by the commission.” The filing option by an Internet address is currently interpreted by VEC to be a link to a webpage as opposed to at a webpage.

In late 2021, VEC started using a new online portal for unemployment claim filing and processing. Among other purposes, the portal was designed to cater to the appeals-related needs of claimants, employers, attorneys, and other parties. This portal made it possible for the

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.

stakeholders to access their case information online at a centralized location by registration (i.e., by username and password). However, the current regulatory language regarding approved ways to file a first level appeal does not encompass filing of an appeal through this portal. For this reason, VEC proposes to add in the regulation that a first level appeal can be filed “[b]y an electronic format as prescribed by the commission.” VEC interprets the phrase “an electronic format” to include through its new portal.

Similarly, the current language requires that an appeal decision be delivered and a request for reopening of an appeal be submitted by mail. VEC proposes to replace the word “mail” with the phrase “in a format prescribed by the commission.” Instructions about approved formats are usually provided along with relevant documents such as a decision. VEC states that these proposed changes do not eliminate the delivery of a decision or the submission of a request by mail. Instead, VEC states that the changes will mean that the commission can issue an appeal decision through its portal and a request for reopening can be submitted through the portal in addition to by mail.

Estimated Benefits and Costs

To the extent that an online portal differs from an online webpage, the proposed addition of filing of a first level appeal against an unemployment claim through VEC’s new online portal would expand the methods by which an appeal can be filed. The portal is accessible by registration to all interested parties including employers, claimants, and attorneys. In addition, the other changes that would allow the commissioner to deliver an appeal decision through the portal and allow a party to request reopening of the case through the portal in addition to mail would expand the means of processing an appeal.

With these changes, affected parties would likely use the portal if it is more convenient for them. Since the regulatory text retains all of the existing options for filing an appeal, delivering a decision, and requesting a reopening, adding a new option to use the portal would not be costly and may produce net benefits to employers (i.e. appellants) as well as claimants or their legal counsel.

VEC reports that the new online portal has other features and capabilities in addition to filing of first level appeals. The estimated cost of the portal pertaining to appeals-related features is approximately \$250,000. However, some of this cost would be offset by benefits to VEC to

the extent the portal improves the efficiency of appeals processing for VEC relative to existing methods.

Finally, updating the regulatory language to reflect the current use of the portal for several purposes would benefit potential users who may not have been otherwise aware of this option.

Businesses and Other Entities Affected

The proposed changes primarily affect entities involved with first level appeals. Since February 2022, there have been 50,923 first level appeals filed with the commission. No entity appears to be disproportionately affected.

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, the proposed changes provide additional methods for filing a first level appeal, issuing a decision, and submitting a request for reopening, but do not take away any existing options. Thus, no direct adverse impact is indicated.

Small Businesses³ Affected:⁴

The proposed amendments do not 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 proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

Localities⁵ Affected⁶

The proposed amendments do not introduce costs for local governments or particularly affect any locality.

Projected Impact on Employment

The proposed amendments do not appear to have a direct impact on total employment.

Effects on the Use and Value of Private Property

No significant impact on the use and value of private property or real estate development costs is expected.

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.