

Department of Planning and Budget 2013 Fiscal Impact Statement

1. Bill Number: SB775

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Watkins

3. Committee: Passed Both Houses.

4. Title: Unemployment compensation; noncharging of overpayments; penalty for fraudulent claims.

5. Summary: This bill provides that an employer shall not be relieved from a claimant's benefit charges relating to an overpayment of unemployment benefits when (i) the overpayment results from the employer's failure to respond timely or adequately to a request for information and (ii) the employer has established a pattern of failing to respond timely or adequately to such requests. A similar requirement is established for reimbursable employing units. A pattern of failing to respond timely or adequately to such requests exists if an employer fails to respond adequately to a request for information four times in a four-year period. After the first three such failures, the Virginia Employment Commission (VEC) is required to give the employer a notice, and is required to assess a \$75 civil penalty for a third failure. The VEC is required to monitor the implementation of this provision and report its findings periodically to the Commission on Unemployment Compensation.

The measure also provides that any person who is disqualified for unemployment benefits as a result of a fraudulent act or omission shall be assessed a penalty of 15 percent of the amount of any unemployment benefits received for which he was not entitled.

Finally, the bill allows benefit overpayments and penalties to be recovered through offsets and eliminates the provision that makes individuals who have obtained benefits as the result of fraud ineligible for benefits until such benefits have been repaid.

The enactment of a noncharging provision and a fraud penalty are required pursuant to the federal Trade Adjustment Assistance Extension Act of 2011. The measure is a recommendation of the Commission on Unemployment Compensation.

6. Budget Amendment Necessary: No. Virginia Employment Commission can absorb expenditure impact within its current budget.

7. Fiscal Impact Estimates: Final.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2013	-	-	-
2014	99,750	1.5	NGF
2015	99,750	1.5	NGF
2016	99,750	1.5	NGF
2017	99,750	1.5	NGF
2018	99,750	1.5	NGF

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2013	0	-
2014	225,000	NGF
2015	2,804,000	NGF
2016	2,011,000	NGF
2017	3,317,000	NGF
2018	2,322,000	NGF

- 8. Fiscal Implications:** With regards to the noncharging and fraud penalty aspects of the bill, ensuring that Virginia's unemployment compensation law conforms with the mandatory provisions of Federal Unemployment Tax Act (FUTA) will avoid all Virginia employers having their federal unemployment taxes increase due to the loss of the 90 percent FUTA tax credit. The FUTA tax is 6 percent of the first \$7,000 of wages paid to each employee annually. *Without the credit, the tax is \$420 per employee. With the 90 percent credit the tax is \$42 per employee.*

The fiscal implications for these two provisions are as follows:

Noncharging Provision

(Relieving an employer's tax account of benefit charges for an improper payment)

Expenditure Impact

The Virginia Employment Commission would incur additional support costs associated with the processing of appeals. Expenditure estimates based on the assumption that this law will likely generate 1,500 employer appeals annually on issues related to their accounts not being relieved of benefit charges. This is anticipated to require 1.5 additional positions worth of work at VEC. The average salary/benefits for classified appeals examiner is \$66,500 nongeneral fund annually. Therefore, an equivalent of ***1.5 positions worth of work would result in an annual cost of \$99,750 nongeneral fund starting in FY2014; however, VEC anticipates absorbing these costs within its current budget/appropriation.***

Revenue Impact

This legislation would impose additional charges (\$75 civil penalty) on some individual employers, producing additional revenue. To capture this impact, the latest annual appeals data was used to determine the benefits that would now be charged to employers, and the

trust fund model was used to determine the subsequent tax stream that these benefits would generate, resulting in ***\$2.6 million in additional nongeneral fund revenues starting in FY2015 (and ranging from \$1.8 million to \$2.9 million for the subsequent three fiscal years). This would be deposited into the Unemployment Compensation Trust Fund as required by federal law.***

Fraud Penalty Provision

(15 percent penalty on any individual receiving compensation due to fraud)

Revenue Impact

Based on actual fraud overpayments recovered in last fiscal year as a percentage of benefits paid (0.33%), the revenues generated by this provision would result in ***additional nongeneral fund revenues of \$225,000 starting in FY2014 and ranging from \$204,000 to \$222,000 over the subsequent four fiscal years). This would be deposited into the Unemployment Compensation Trust Fund as required by federal law.***

9. Specific Agency or Political Subdivisions Affected: Virginia Employment Commission.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: 02/15/2013

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