

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB1293

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

2. Patron: Delaney

3. Committee: Commerce and Labor

4. Title: Unemployment compensation; penalty for failure to file reports.

5. Summary: Increases the penalty, from \$75 to \$100, that the Virginia Employment Commission is required to assess an employer who fails to file a report required under Title 60.2 (Unemployment Compensation) with respect to wages or taxes.

6. Budget Amendment Necessary: No. See Item 8, below.

7. Fiscal Impact Estimates: Preliminary. See Item 8, below.

7a. Expenditure Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Positions</i> | <i>Fund</i> |
|--------------------|----------------|------------------|-------------|
| 2018 | 0 | 0 | n/a |
| 2019 | \$150,000 | 0 | NGF |
| 2020 | 0 | 0 | n/a |
| 2021 | 0 | 0 | n/a |
| 2022 | 0 | 0 | n/a |
| 2023 | 0 | 0 | n/a |
| 2024 | 0 | 0 | n/a |

7b. Revenue Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Fund</i> |
|--------------------|----------------|-------------|
| 2018 | 0 | n/a |
| 2019 | \$477,900 | NGF |
| 2020 | \$477,900 | NGF |
| 2021 | \$477,900 | NGF |
| 2022 | \$477,900 | NGF |
| 2023 | \$477,900 | NGF |
| 2024 | \$477,900 | NGF |

8. Fiscal Implications: It is anticipated that this bill will have a nongeneral fund expenditure and nongeneral fund revenue impact to the Virginia Employment Commission (VEC). VEC will incur a one-time cost in FY 2019 of approximately \$150,000 for the vendor to make changes to the software system to accommodate the change in the penalty amount. However, the costs can be absorbed within existing resources.

Additionally, VEC anticipates that this bill may result in an increased number of employer tax appeals arguing that certain employees are independent contractors rather than employees and challenging the agency's classification. Consequently, this bill may result in more tax or liability appeals to VEC's Administrative Law Division from initial tax determination letters or other agency action inviting such a due process appeal. Over the past several years, the Administrative Law Division has handled less than 10 tax hearings per annum, but they are time consuming. Most settle with VEC bringing the employer into compliance prior to a hearing date before the Commission. Overall, VEC does not anticipate any significant increase in costs for its Administrative Law Division's handling of appeals or the Office of Attorney General's representation of the agency if this bill is enacted. It is anticipated that any expenditure impact to VEC can be absorbed with existing resources.

The revenue projection for FY 2019 and each year thereafter is based on assessed penalties totaling \$1,433,700 in calendar year 2017. Using this figure and that the bill increases the current penalty by one third, the revenue impact is estimated at \$477,900 million annually. However, if the additional penalty is a deterrent to delinquent filing, VEC may see a decrease in penalty fees collected.

9. Specific Agency or Political Subdivisions Affected: Virginia Employment Commission; Office of Attorney General.

10. Technical Amendment Necessary: No.

11. Other Comments: None.