

## Department of Planning and Budget 2024 Session Fiscal Impact Statement

**1. Bill Number:** SB381

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Ebbin

**3. Committee:** Finance and Appropriations

**4. Title:** Unemployment compensation; employer failure to respond to requests for information; claim determination; notice requirements

**5. Summary:** Provides that an employer's failure to respond timely or adequately to a written request for information relating to an unemployment claim results in a waiver of all of such employer's rights in connection with the claim, including participation and appeal rights, unless such employer demonstrates that good cause exists for such failure. The bill requires the Virginia Employment Commission to provide written notice for each instance of untimely or inadequate employer response to such requests and specifies that such notice may be delivered through the Employer Self-Service Tax System website maintained by the Commission. The bill also requires the Commission to provide each employer with information regarding deadlines for timely and adequate responses to such requests. Such provisions of the bill apply to erroneous payments established on or after January 1, 2025. The bill states a deputy shall only examine or consider in the claim review process information or evidence from an employer or third party if the deputy (i) has provided the claimant with a reasonable opportunity to review and respond to all potentially disqualifying issues or conflicting or otherwise adverse material facts within such information or evidence, (ii) has documented all material responsive information received from the claimant pursuant to clause (i), and (iii) considers material responsive information in the deputy's evaluation of the claim. The bill requires such deputy to provide the reasoning behind the decision, as described in the bill, and a short statement of case-specific facts material to the determination together with any notice of determination upon a claim. This bill is a recommendation of the Commission on Unemployment Compensation.

The substitute bill provides that upon the Commission's second determination within the applicable review period that an employer failed to respond timely or adequately to a written request for information relating to a claim, the Commission shall assess upon the employer a civil penalty of \$100. Currently, the penalty is \$75 after the third determination.

The second enactment of the bill provides that the provisions of the act shall become effective on January 1, 2025.

**6. Budget Amendment Necessary:** See item 8.

**7. Fiscal Impact Estimates:** Preliminary.

- 8. Fiscal Implications:** It is anticipated that implementation of this bill by the Virginia Employment Commission (VEC) will require additional resources. The bill requires VEC to provide written notice for each instance of untimely or inadequate employer response to such requests and specifies that such notice may be delivered through the Employer Self-Service Tax System website. To do so, system changes will be necessary to accommodate the expanded requirements related to information contained within adjudication decisions and to alter the current accounting for delinquent separation reports. These changes are estimated at a one-time cost of \$275,000 based on prior, similar projects. Additionally, the new requirement in the bill to mail notices to some employers is estimated to cost \$108,000 annually based on current projected volumes.

As a nongeneral fund supported agency, primarily reliant on federal funding, the agency cannot absorb these costs. The estimated expenditure impact of this bill to VEC is \$329,000 in the first year of the program, and \$108,000 in each subsequent fiscal year. The introduced budget bill, HB30/SB30, authorizes VEC to promulgate emergency regulations to establish and implement an administrative fee for the purpose of supporting critical technology and staffing requirements. It is possible that revenue from this fee could be used to offset the costs of this bill; however, the agency will not be able to begin collecting revenue from this fee until May 2025. It is anticipated that the fee may generate up to \$13.7 million, of which \$13.48 million is needed to address critical staffing and technology requirements.

VEC anticipates that by increasing access to relevant information for adjudication, more accurate decisions may result in a neutral or marginal impact to benefit payments from the Unemployment Insurance Trust Fund. Civil penalties collected pursuant to this bill shall be paid into the Special Unemployment Compensation Administration Fund

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

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.