

VIRGINIA EMPLOYMENT COMMISSION

**REPORT ON AUDIT
FOR THE YEAR ENDED
JUNE 30, 2008**



AUDIT SUMMARY

Our audit of the Virginia Employment Commission for the year ended June 30, 2008, found the following:

- proper recording and reporting of transactions, in all material respects, in the Commonwealth Accounting and Reporting System and in the Employment Commission's Tax and Benefits Systems;
- internal control matters that require management's attention and corrective action; and
- noncompliance with applicable laws and regulations or other matters that is required to be reported.

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AUDIT FINDINGS AND RECOMMENDATIONS

Review Wage Discrepancies

The Virginia Employment Commission's Tax and Wage Information Processing (TWIP) Unit is not reviewing and correcting wage discrepancies identified on various wage discrepancy reports in a timely manner. Employers report wages paid to employees to the Employment Commission, which verifies the amounts reported against other sources of information. Differences between the amounts reported to the Employment Commission and the other sources appear on various wage discrepancy reports, which the TWIP Unit should review and resolve. Unresolved wage discrepancies could affect the amounts employers pay in Unemployment Insurance taxes and could affect the amount of benefits employees can receive.

We sampled 17 wage discrepancies and determined that the TWIP Unit personnel had not reviewed five discrepancies resulting in no actions to correct the wage discrepancies. Our audit found that the TWIP unit corrected three of the discrepancies within one day of our review, while the remaining two require the TWIP Unit to either follow-up with the employer or the employer's payroll services firm.

We recommend that the Employment Commission implement a quality assurance program or supervisory review of wage discrepancy processing to ensure that TWIP Unit personnel are reviewing and implementing corrective actions for all discrepancies as set forth in the Employment Commission's policies.

FOLLOW-UP ON PRIOR AUDIT FINDING

Properly Complete Employment Eligibility Verification Forms

The Employment Commission has not made significant progress in relation to our prior year finding of improperly completing Employment Eligibility Verification forms (I-9) in accordance with guidance issued by the US Citizenship and Immigration Services of the United States Department of Homeland Security. The guidance requires the employee to complete, sign, and date Section 1 of the I-9 form on or before the first day of employment. Additionally, the employer or designated representative must complete, sign, and date Section 2 of the I-9 form within three business days of employment.

In our review of I-9 forms for all employees hired after the Employment Commission's implementation of new procedures during fiscal year 2008, we noted the following noncompliance:

- One form was not dated by the employee;
- Two forms were not dated and initialed by the employer after a correction was made; and
- One form indicated the employee's effective date of hire rather than the employee's actual first day of work.

The federal government has increased its enforcement efforts requiring employers to ensure that all new employees are legally entitled to work in the United States. Based upon the number of errors found during audit testwork, we considered this finding to be a significant internal control weakness and non-compliant with federal regulations.

While training provided to staff in November of 2007, based on our prior year audit recommendation, had a positive impact in regards to reducing I-9 errors, we continue to recommend that the Human Resources Division regularly communicate with staff on the importance of properly completing I-9 forms, which should

include the appropriate way to correct errors, and ensure they continuously review the I-9 forms for compliance with federal regulations.

SELECTED AGENCY INFORMATION

The Employment Commission's mission is to promote economic growth and stability by delivering and coordinating workforce services to include policy development, job placement services, temporary income support, workforce information, and transition and training services. The Employment Commission accomplishes this goal through the Unemployment Insurance, Job Service, and Workforce Investment Act programs. The Employment Commission also compiles and provides labor market and economic information through the Economic Information Services Division.

The Unemployment Insurance program makes benefit payments to workers who are unemployed through no fault of their own, ensuring they have minimal income during the course of a job search. The Employment Commission collects unemployment taxes from employers and uses these taxes to pay benefit claims. The tax collections go into the Unemployment Trust Fund for which the Employment Commission is the trustee. The Employment Commission pays all unemployment insurance benefit payments from the Trust Fund.

UNEMPLOYMENT TRUST FUND

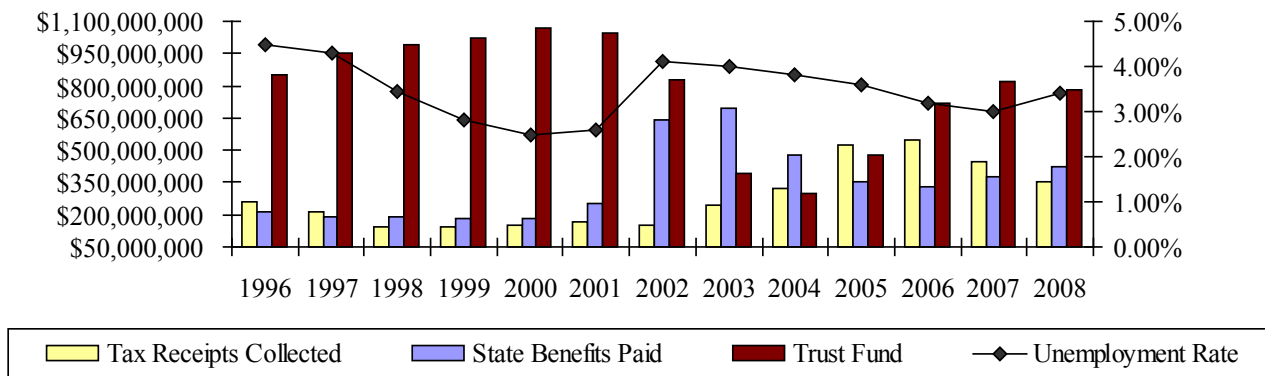
The Unemployment Trust Fund's solvency factor applicable for calendar year 2009 decreased to 64.4 percent versus 70.4 percent in calendar year 2008. For the first time since 2004, taxes collected did not exceed benefits paid, resulting in a decrease in the Trust Fund balance from \$822 million in 2007 to \$799 million in fiscal year 2008. The Employment Commission expects this downward trend to continue in the coming years.

As a result of the economic downturn in 2001, the Governor issued, on November 14, 2001, an Executive Order increasing all unemployment benefits by 37.3 percent for a six month period starting September 9, 2001. In 2002, the General Assembly extended these benefit amounts through January 4, 2003, and, as the economy worked towards recovery, reduced the increased benefit levels over the next year and a half. Since 2004, the General Assembly has passed legislation increasing the maximum benefit levels. The following chart summarizes these changes in the benefit amounts.

	<u>Minimum</u> <u>Weekly Benefit</u>	<u>Maximum</u> <u>Weekly Benefit</u>
September 9, 2001 - January 4, 2003	\$69	\$368
January 5, 2003 - July 5, 2003	59	318
July 6, 2003 - July 3, 2004	50	316
July 4, 2004 - July 2, 2005	50	326
July 3, 2005 - July 2, 2006	54	330
July 3, 2006 – June 30, 2007	54	347
July 1, 2007 – July 5, 2008	54	363
July 6, 2008 - Present	54	378

The following illustration presents historical trends, which show the changes in tax collections, benefit payments, the Trust Fund balance, and the unemployment rate over the past several years.

Trends in the Unemployment Trust Fund



Note: The Trust Fund balance also includes interest credited to the account. The unemployment rate represents the average rate for the entire fiscal year.

The Trust Fund's solvency level has an inverse relationship to the amount of employer tax rates. As the Fund's solvency decreases, the tax rates increase. The Employment Commission levies taxes on employees' wages reported by employers according to rates set by the General Assembly. Under current law, employers only pay taxes on the first \$8,000 of each employee's wages. The tax rates imposed on employers consider the Trust Fund's solvency and the employment histories of individual businesses, referred to as the experience rating. This rating requires employers with a history of higher unemployment claims to pay a greater rate and allows those with fewer claims to pay less or nothing at all.

The Unemployment Compensation Act sets the lowest tax rate at zero as long as the Trust Fund solvency remains at or above 100 percent. Since fiscal year end 2002, the Trust Fund solvency has remained below 100 percent; therefore, all employers paid unemployment taxes during calendar years 2003 through 2008. For calendar year 2009, the minimum rate that an employer could be required to pay on taxable wages is 0.18 percent, while the maximum rate is 6.28 percent.

An additional adjustment to the tax rate for calendar years 2003 through 2008 was the inclusion of the pool tax. The pool tax represents a levy to recover benefits not chargeable to a specific employer, known as pool costs. The Employment Commission must add this pool tax when interest income does not cover pool costs. The pool tax for calendar year 2009 will increase from .02 percent in calendar year 2008 to .08 percent in 2009.

State law requires a fund-building tax rate of 0.2 percent to the employer tax rates if the fund balance drops below 50 percent, which helps the Trust Fund to remain solvent. The Employment Commission calculated the Trust Fund solvency as 70.4 percent for calendar 2008 and 64.4 percent for 2009. Since the Trust Fund solvency is above 50 percent for calendar years 2008 and 2009, the fund-building tax rate does not need to be included in these respective calendar years.

The following table compares the various taxes for calendar years 2008 and 2009.

	Calendar Year 2008		Calendar Year 2009	
	Tax Rates		Tax Rates	
	<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Maximum</u>
Tax rate	0.10%	6.20%	0.10%	6.20%
Pool tax	0.02%	0.02%	0.08%	0.08%
Fund-building tax	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
Total	<u>0.12%</u>	<u>6.22%</u>	<u>0.18%</u>	<u>6.28%</u>

The following table lists the projected fund balances and solvency rates for calendar years 2010 through 2012 based on projections calculated on December 17th, 2008.

<u>Fiscal Year End</u>	<u>Projected Fund Balance*</u>	<u>Tax Year</u>	<u>Solvency Rate</u>
2009	381.0	2010	30.9%
2010	74.9	2011	6.0%
2011	137.6	2012	10.5%

* in millions

Considering current unemployment trends and economic projections, the Employment Commission expects a significant decline in the fund balance and accompanying solvency rates in the next three years. If projected figures above are accurate, this decline will trigger a fund building tax rate in 2010 due to the solvency rate falling below the 50 percent threshold in 2009.

WORKFORCE INVESTMENT ACT

The Workforce Investment Act of 1998 (WIA) authorizes funds to provide the employment and training services of various programs and organizations through a system of one-stop career centers. In Virginia, the Virginia Workforce Centers provide these services locally.

Each Virginia Workforce Center provides services required by federal legislation plus services to meet the needs of the local community. Most Employment Commission locations are Virginia Workforce Centers, and there are centers operated by other partner organizations and contractors offering Employment Commission services. Virginia's system of one-stop career centers is the Virginia Workforce Network.

The Virginia Workforce Council assists the Governor in meeting the workforce training needs of the Commonwealth. This Council serves as the State Workforce Investment Board for the federal Workforce Investment Act (WIA). The Council provides guidance on workforce training issues and operation of Virginia Workforce Centers.

The Workforce Investment Boards establish and operate the Virginia Workforce Centers. These Boards provide a forum to assure that workforce training and employment initiatives meet the economic development and business needs of each local area.

Workforce Investment Act Federal Expenditures			
	<u>2006</u>	<u>2007</u>	<u>2008</u>
Adult program	\$11,974,239	\$11,666,229	\$11,972,655
Youth activities	11,973,139	12,387,822	12,046,895
Dislocated workers	<u>13,681,019</u>	<u>13,551,689</u>	<u>10,551,610</u>
Total	<u>\$37,628,397</u>	<u>\$37,605,740</u>	<u>\$34,571,160</u>

Note: Programs for adults and dislocated workers seek to improve employment, retention, and earnings of WIA participants and increase their educational and occupational skill attainment. Youth activities seek to increase the attainment of basic skills, work readiness or occupational skills, and secondary diplomas or other credentials.

Effective July 1, 2006, the responsibility for the administration of the WIA programs moved from the Employment Commission to the Governor's Office of Workforce Development and Workforce Council Support (Workforce Development). Throughout fiscal year 2007 and 2008, the transition of the WIA implementation activities occurred between the Employment Commission and Workforce Development. The Employment Commission continued to be the fiscal agent for this agency and provided compliance reporting to the Senior Advisor of the Office. Effective July 1, 2008, WIA transferred to the Virginia Community College System (VCCS), and this transfer includes grant administration, fiscal agent responsibilities, and compliance functions. The Employment Commission will provide consultation as needed to VCCS during the year that follows.

EMPLOYMENT COMMISSION ADMINISTRATIVE FUNDING

The Employment Commission's funding comes entirely from federal funds, mostly from the Unemployment Insurance, Job Services, and Workforce Investment Acts. This funding makes the Employment Commission susceptible to increases and decreases in funding based on the economy. When the economy is poor and unemployment is high, both benefits administered and funding increase. As the economy improves and unemployment decreases, the funding for the Employment Commission also decreases. Thus, the Employment Commission's funding reflects the cyclical movement of the economy, requiring the Employment Commission to either increase spending to support increased services or cut costs due to decreased services.

During fiscal year 2008, the Employment Commission requested and received permission from the General Assembly to use approximately \$39 million in Reed Act funds for the administration of the Job Service and UI programs, which is slightly higher than in fiscal year 2007. This additional appropriation consisted of \$8.6 million in federal Wagner-Peyser Job Service Grant funding, \$9.9 million for administering the federal Unemployment Insurance Grant, and \$20.5 million to upgrade obsolete information technology systems.

Due to reduced federal grant funding, layoffs occurred in March 2008. As this reduction in funding continues into fiscal year 2009, staffing will remain a concern for the Employment Commission.



Commonwealth of Virginia

Walter J. Kucharski, Auditor

**Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218**

December 15, 2008

The Honorable Timothy M. Kaine
Governor of Virginia
State Capitol
Richmond, Virginia

The Honorable M. Kirkland Cox.
Chairman, Joint Legislative Audit
and Review Commission
General Assembly Building
Richmond, Virginia

INDEPENDENT AUDITOR'S REPORT

We have audited the financial records and operations of the **Virginia Employment Commission** for the year ended June 30, 2008. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Objectives

Our audit's primary objective was to evaluate the accuracy of the Virginia Employment Commission's financial transactions as reported in the Comprehensive Annual Financial Report for the Commonwealth of Virginia for the year ended June 30, 2008, and test compliance for the Statewide Single Audit. In support of this objective, we evaluated the accuracy of recording financial transactions on the Commonwealth Accounting and Reporting System and in the Employment Commission's Tax and Benefits Systems, reviewed the adequacy of the Employment Commission's internal control, tested for compliance with applicable laws, regulations, contracts, and grant agreements, and reviewed corrective actions of audit findings from prior year reports.

Audit Scope and Methodology

The Employment Commission's management has responsibility for establishing and maintaining internal control and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

We gained an understanding of the overall internal controls, both automated and manual, sufficient to plan the audit. We considered materiality and control risk in determining the nature and extent of our audit

procedures. Our review encompassed controls over the following significant cycles, classes of transactions, and account balances.

Unemployment Benefit Payments	Accounts Receivable	Payroll
Taxes and Cash Receipts	Accounts Payable	Expenditures
Federal Grants Management	Performance Measures	Network Security

We performed audit tests we deemed necessary to determine whether the Employment Commission's controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws and regulations. Our audit procedures included inquiries of appropriate personnel, inspection of documents, records, and contracts, and observation of the Employment Commission's operations. We tested transactions and performed analytical procedures, including budgetary and trend analyses.

Conclusions

We found that the Employment Commission properly stated, in all material respects, the amounts recorded and reported in the Commonwealth Accounting and Reporting System and in the Employment Commission's Tax and Benefit Systems. The Employment Commission records its financial transactions on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System and the Employment Commission's Tax and Benefit Systems.

We noted certain matters involving internal control and its operation and compliance with applicable laws and regulations that require management's attention and corrective action. These matters are described in the sections entitled, "Audit Findings and Recommendations" and "Follow-up on Prior Audit Finding."

The Employment Commission has taken adequate corrective action for three of the four audit findings reported in the prior year. The Employment Commission has not taken adequate corrective action with respect to the prior finding regarding Employment Eligibility Verification forms.

Exit Conference and Report Distribution

We discussed this letter with management on December 18, 2008. Management's response has been included at the end of this report.

This report is intended for the information and use of the Governor and General Assembly, management, and citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

AVP/wdh



COMMONWEALTH of VIRGINIA

Virginia Employment Commission

*Dolores A. Esser
Commissioner*

703 East Main Street

*Post Office Box 1358
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January 7, 2008

Mr. Walter J. Kucharski
Auditor of Public Accounts
Post Office Box 1295
Richmond, Virginia 23218

Dear Mr. Kucharski:

Thank you for the opportunity to review and respond to the Auditor of Public Accounts' audit report for the year ended June 30, 2008. Your comments and recommendations are appreciated and are given the highest level of importance and consideration as we continue to review and improve our practices and procedures.

In general, we concur with the findings and recommendations identified in your report. We will be developing a corrective action plan to address the audit findings and recommendations.

Again, we appreciate the opportunity to provide the Virginia Employment Commission's comments as part of your office's report of the financial records and operations of the Virginia Employment Commission for the year ended June 30, 2008.

Sincerely,

A handwritten signature in black ink that reads "Dolores A. Esser".

Dolores A. Esser

VIRGINIA EMPLOYMENT COMMISSION

Dolores Esser
Commissioner

Nick Kessler
Deputy Commissioner