Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER SEVENTY-FOUR (2020)

PROTECTING BUSINESSES FROM INCREASING COST OF UNEMPLOYMENT INSURANCE

Importance of the Issue

Due to the novel coronavirus (COVID-19) public health emergency, many Virginians are out of work due to business closures, school closures, and other health-related emergencies. The United States Department of Labor has greatly expanded the definition of who is eligible for unemployment compensation benefits, the period of time a person may be on unemployment compensation benefits, and the amount of unemployment pay a dislocated worker receives per week. The increase in workers who are eligible as well as the increase in funds distributed to families in the Commonwealth has depleted the Virginia Unemployment Insurance Trust Fund, and resulted in greatly increased levels of employer benefit charges and anticipated increases in the tax rates of covered employers under the *Virginia Unemployment Compensation Act*.

In response to this crisis, the United States Department of Labor's Employment and Training Administration has issued guidance letters (Federal Guidance) regarding the broad, emergency flexibility that States have to provide temporary relief to unemployed individuals and employers directly impacted by COVID-19. Pursuant to that guidance and its own authority, the Virginia Employment Commission (Commission) has already taken action with the United States Department of Labor to secure benefits for Virginians and request and repay Title XII advances from the Federal Unemployment Account.

However, there is still work that the Commission can do to lessen the tax burden on businesses that has resulted from record unemployment. Under the Federal Guidance, the Virginia Employment Commission may also relax its ordinary requirements in calculating the annual statement of the employers' benefit charges and taxes for the preceding fiscal year because of the historic demands on the Commonwealth's unemployment system and resulting employer benefit charges during this pandemic. Pursuant to that guidance, the Virginia Employment Commission must take action to provide relief to employers whose experience rating accounts have been chargeable with overwhelming amounts of benefits attributable to record high rates of unemployment during the COVID-19 pandemic.

Directive

Therefore, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia, Section 2.2-104 of the *Code of Virginia*, Item 131, Section F, Chapter 56 of the Acts of Assembly of the 2020 Special Session I, § 44-146.17 of the *Code of Virginia*, in furtherance of Amended Executive Order 51 (2020), and my continuing and ultimate authority and responsibility to act in such matters, I hereby delegate to the Commissioner of the Virginia Employment Commission the following authority and responsibility. The Commissioner shall:

- Calculate the appropriate tax rate of each covered employer whose experience rating account has been chargeable with benefits for the second quarter (April 2020, May 2020, and June 2020) of the calendar year 2020;

- Modify the annual computation to omit addition of the benefits for the second quarter (April 2020, May 2020, and June 2020) of the calendar year 2020, that she may calculate and provide to every covered employer by December 31st, or as soon as practical thereafter, a statement of the employer's benefit charges and taxes for the preceding fiscal year under Article 4 of Title 60.2 of the *Code of Virginia*, and as contained in the *Virginia Unemployment Compensation Act*;

- Calculate a proper variation in the computation of the employers' benefit charges for the preceding fiscal year;

- Execute any necessary agreements with the United States Department of Labor related to continued implementation of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), 15 U.S.C. § 9001, et seq., for such other temporary tax relief for such covered employers during this public health emergency.

Effective Date of this Executive Order

This Executive Order shall be effective upon its signing and remain in full force and effect until the expiration of Amended Executive Order 51 unless sooner amended or rescinded.

Given under my hand and under the Seal of the Commonwealth of Virginia this 22nd day of December, 2020.

Ralph S. Northam, Governor

Attest:

Kelly Thomasson, Secretary of the Commonwealth