

## THE REST OF THE STORY

Since April 8, media outlets – and others - have devoted an inordinate amount of time talking about the one bill that would have obligated Virginia employers to years of additional costs for EXPANDING unemployment insurance (UI) benefits to people who have never received them in the first place.

Before we discuss – again - what was in SB 1495, let's talk about what UI is and what's not being said:

**What is unemployment UI?** UI is an insurance program that pays defined benefits to individuals who become unemployed through no fault of their own and who are available for and are looking for full time work. It is funded entirely by employers through taxes – both federal and state - on each job. It must operate within federal parameters, but otherwise states have great latitude to determine benefits and other program features.

It can be “modernized” or EXPANDED in ways suggested by SB 1495, but its costs will go up as more benefits are paid to people not previously admitted to the program.

What's not being said?

- **not one unemployed person in Virginia who is eligible for benefits today will lose a penny because SB 1495 did not pass. In fact, it's likely many will receive an additional \$25/week, a federal tax deduction on the first \$2,400 of benefits - courtesy of the federal stimulus package - AND an additional 13 weeks after the April 8 passage of HB 1889,** a bill sponsored by Delegate Sam Nixon and amended by the Governor to take advantage of money in the federal stimulus package. **That measure will make some eligible to receive 59 weeks of benefits** (*the regular 26 weeks + the current 20 week extension + 13 more weeks*) - **courtesy of Virginia businesses who will pay for it all.** While the total costs are not known, HB 1889 will be in the millions of dollars. That doesn't sound like a benefit cut, for anyone, during these difficult times. It's rarely mentioned, but it passed on April 8 – 139-0!
- **as a result of legislation (SB 1040) passed in 2003 and patroned by Senator John Watkins, Virginia will receive \$62.5M in federal stimulus money NOW to pay benefits to existing claimants and lessen the impact on a trust fund that will be broke by the end of the year.** It's rarely mentioned, but it too passed the General Assembly - 139-0. It's also rarely mentioned that even with this new money, Virginia will start borrowing money next year to pay for existing benefits - not EXPANDED ones.
- **courtesy of the federal stimulus and action by the General Assembly on April 8 (HB 2024), unemployed workers will now have 65% of their health insurance premiums paid for them.** HB 2024 was Delegate Danny Marshall's bill. The measure passed 138-0. That's not often mentioned and it will cost millions of dollars.

- **Some of the lowest income workers in Virginia will not be removed from the UI rolls this July under a bill sponsored by Delegate Sam Nixon. It too passed the 2009 General Assembly – 138-0.** At the request of the Governor, last year, business agreed to postpone that decision until next year. The underlying bill (HB 547) passed in 2008 was also Delegate Nixon’s bill and it passed 138-0. **It’s rarely mentioned in this debate, but it will keep hundreds of unemployed, mostly low income workers on the rolls for at least another year, paid for entirely by Virginia businesses.**

**All of the things mentioned above passed with overwhelming bipartisan support, and thousands of unemployed people will benefit from the millions of dollars to come. It’s rarely mentioned in this recent debate that continues to focus on the one bill that did not pass.**

**So let’s talk about the one bill that did NOT pass.** It was a piece of the federal stimulus package passed earlier this year that will bring about \$4.8B to Virginia. Much of that money is already being put to use, but **the \$125M contained in SB 1495 was rejected because it came with too many strings attached.** Here’s what was wrong with that bill:

- **In order to receive the \$125M in employer (FUTA) money, we would have to EXPAND permanently Virginia’s UI laws for a temporary benefit.** Even the Governor noted this permanent vs. temporary relationship (on HB 2024) when he wrote that the health care benefits provision “expires upon expiration of stimulus money.” Under SB 1495, on the other hand, when the stimulus monies run out, and they will, the program does not end and Virginia employers would be left to foot the on going bill.
- **Some have argued that we could just EXPAND our laws until the federal stimulus dollars run out and then repeal the two new law changes – thereby avoiding the strings.** That has some appeal, except it likely can’t happen and won’t happen. Here’s why. Federal guidelines inform states applying for these funds that their *“applications should only be made under provisions of state laws that are currently in effect as permanent and not subject to discontinuation. This means that the provision is not subject to any condition – such as an expiration date, the balance in the state’s unemployment fund, or a legislative appropriation – that might prevent the provision from becoming effective, or that might suspend, discontinue, or nullify it.”* People may disagree over exactly what this all means, but we need to just be honest and recognize that once benefit EXPANSIONS are enacted on a “permanent” basis in “good faith”, the likelihood that they ever will be repealed is **practically zero.** If Congress had intended that the condition of distribution of these funds could be temporary and subject to discontinuation, it would have said so. It did not. If the Governor had intended that SB 1495 be temporary, he would have returned the bill during the veto session with a “sunset” clause or placed the changes in the budget. He did not.

- **Additionally, the costs and effect of the two provisions in SB 1495, individually and cumulatively, are not well known at this time, but eventually they will increase Virginia's taxes on jobs and further deplete the state's UI trust fund.** Media reports before the veto session, for example, pegged the bill's cost at around \$18.1 M/year. A week later, the state's Manufacturing Commission was informed that the costs were \$20.1M/year. Whatever their costs – they are additional costs, and they will have to be paid even when the stimulus money runs out. We know today – for example - that even without these new law changes, the state's trust fund solvency level will dip to 38.5% this June – triggering new taxes on Virginia employers - and to 20% by June 2010, and by next year, Virginia will start borrowing money – lots of it - from the federal government to pay existing – not EXPANDED - benefits. We also know now that the **AVERAGE STATE TAX ON JOBS** – even without these law changes – will go from \$98 per job this year to \$159 per job next year and to \$199 per job in 2012. **These are averages, with some employers already paying hundreds of dollars in state taxes for each job. These changes would not help this situation, now or when the federal monies run out nor will it help now to create or retain jobs.**
- **The AVERAGE STATE TAX ON JOBS that gets thrown around is just that, an average. Some employers pay hundreds of dollars in state taxes on each job.** The real state tax each employer pays is the sum of the employer's individual tax rate, a "pool tax" that comes and goes to recover charges that no one employer can pay, and a "fund builder" tax triggered when the trust fund solvency levels dips below 50%, as it will this year. These are things the General Assembly has some control over. What they can't control is the federal or FUTA tax on each job an employer must pay in addition to the state taxes. It's \$56/employee/year. **The current FUTA tax is scheduled to be automatically reduced for 2010 and thereafter, but with increased spending from this fund to pay benefits, it's likely to continue at the current or even a higher rate – again increasing the tax on jobs.**
- Some have argued that the extra \$125M could be used NOW to help offset the depletion of the trust fund noted above. As Delegate Sam Nixon said on the floor on April 8, that would be like spending (or counting) the money twice. Once to balance the fund and once to pay for the future benefits.
- Some also have argued that Virginia's AVERAGE STATE TAX ON JOBS of \$98 per year is too low - when compared to other states in the region – and we have room to "grow". North Carolina's state tax on jobs, for example, is \$342 per year. South Carolina's state tax on jobs is \$148 per year. They may even offer better benefits. **And they're already borrowing from the federal government to pay current benefits – not EXPANDED benefits.** By February, for example, North Carolina had borrowed over \$60 million; South Carolina almost \$133 million. Virginia has borrowed nothing – yet - but that will change next year.

- We recognize that these are difficult times for all, but we also recognize that we need to remain focused and honor our fiscal commitment to those who are currently unemployed and drawing benefits, even if that means we have to borrow money next year to do it. **EXPANDING benefits in the midst of a declining trust fund just doesn't make sense.**
- One thing still not well understood by many in the “part time worker” piece of SB 1495 is that benefits would be paid – for the first time ever - to people seeking part time work even if they were offered, and refused, suitable full time work. **That's a sure benefit disqualifier for any full time worker today.**
- While some would have you believe the benefits EXPANSIONS in SB 1495 are common features in most state laws, **no more than 20 states currently would qualify for stimulus money under the “part time” worker provision and no more than 5 states might qualify under the “job training” provision.** Informed sources also caution folks considering the job training provision to look twice before enacting it because, if applied broadly to any individual exhausting regular benefits, it could quickly bankrupt unemployment trust funds that are already in stress as it calls for an additional 26 weeks of benefits. It also requires states to pick winners and losers – as training for “approved” jobs will be covered while training for “unapproved” jobs will not.
- SB 1495 is really about EXPANDING benefits to former part time workers looking for part time work because those already laid off from full time employment in low demand industries can qualify for 59 weeks of benefits (after actions last week) if they're looking for full time work while they're in an approved job training program.

**Those interested in this debate need to remember that we often EXTEND benefits in tough times, as Sam Nixon's bill (HB1889) does or Danny Marshall's bill (HB 2024) does. But it's always temporary. SB 1495 was about EXPANDING benefits in a way we've never considered - not even in the recent 2009 session.**

**Delegate Nixon's prior comments about the House majority's willingness to receive the \$125M with no strings attached is right on.** We've done it before. This decade. It's call a Reed Act distribution, but the new Congress flatly rejected it in favor of what all states are reacting to now. The new Congress has conditioned the stimulus distributions on states "modernizing" or EXPANDING their laws to cover more folks. States and their employers - all of whom will have to pay for these “new” benefits when the stimulus monies run out - are rightly showing concern and taking exception to this new approach.