

**REPORT OF THE  
JOINT SUBCOMMITTEE STUDYING THE  
FEASIBILITY OF UNEMPLOYMENT COMPENSATION  
FOR SELF-EMPLOYED PERSONS**

**TO**

**THE GOVERNOR**

**AND**

**THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 24**

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF PURCHASES AND SUPPLY  
RICHMOND**

**1978**

**MEMBERS OF SUBCOMMITTEE**

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**Report of the**  
**Joint Subcommittee Studying the**  
**Feasibility of Unemployment Compensation**  
**For Self-employed Persons**

**To**

**The Governor and the General Assembly of Virginia**

**Richmond, Virginia**

**October, 1977**

To: Honorable Mills E. Godwin, Jr., Governor of Virginia

and

The General Assembly of Virginia

**INTRODUCTION**

In the aftermath of the 1975 Kepone contamination of the James River and parts of the Chesapeake Bay, many self-employed persons who depended on these waters for their livelihoods found themselves suddenly unable to pursue their work. This was due to the subsequent governmental edict which banned aquatic life from being removed from the polluted waters and sold at the marketplace. Many of the persons so affected were self-employed watermen and, therefore, were not eligible to receive unemployment compensation benefits due to their self-employed status. Consequently, some of those persons were subjected to severe economic hardships with origins over which they had no control. House Joint Resolution No. 94 was introduced at the 1976 General Assembly as an effort to rectify this situation.

**HOUSE JOINT RESOLUTION NO. 94**

Directing the House Labor and Commerce Committee and the Senate Commerce and Labor Committee to study the feasibility and desirability

of enacting legislation making self-employed persons eligible to receive unemployment compensation.

WHEREAS, self-employed persons are as subject to unemployment as those persons who are in the employ of others; and

WHEREAS, many self-employed persons become unemployed as a result of compliance with executive or legislative mandates due to natural and man-made disaster; and

WHEREAS, the present unemployment compensation laws do not provide coverage for self-employed persons; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the House Labor and Commerce Committee and the Senate Commerce and Labor Committee are directed jointly to study the feasibility and desirability of enacting legislation making self-employed persons eligible to receive unemployment compensation in all or certain cases. For the purpose of this study the committees may obtain the services of up to five citizen advisors, three to be appointed by the Chairman of the House Committee and two by the Chairman of the Senate Committee. Upon completion of their study, the committees shall prepare and introduce legislation that they deem appropriate.

George H. Heilig, Jr. of Norfolk, a member of the House of Delegates of Virginia, was elected Chairman. Also appointed to serve from the House of Delegates were Norman Sisisky of Petersburg and Alson H. Smith, Jr. of Winchester.

Appointed to serve from the Senate of Virginia were Peter K. Babalas of Norfolk and Elmon T. Gray of Waverly.

L. Willis Robertson, Jr., Thomas R. Oliver, Jr., and Hugh P. Fisher, III of the Division of Legislative Services served as staff to the Subcommittee.

## WORK OF THE SUBCOMMITTEE

The Subcommittee met on several occasions with representatives from the AFL-CIO, the Virginia Employment Commission, and the Virginia Manufacturing Association. Initially, the Subcommittee directed its efforts toward determining the feasibility of providing unemployment compensation for self-employed persons.

After a review of other states' policies in regard to this concept, it was determined that only one state, California, afforded unemployment benefits to unemployed self-employed persons. Their program is voluntary; and of the large number of persons who could have availed themselves of the program, only about 200 have chosen to do so. The Virginia Employment Commission voiced its concern that such a program, aside from its costs, would be difficult to administer and quite easy to defraud. The Commission felt that questions concerning how to ascertain when a self-employed person was unemployed were sure to arise and could prove difficult to answer. It was also brought to the attention of the Subcommittee that federal relief for Virginia watermen under the Disaster Relief Act had not been fully explored by the Executive branch. In light of this disclosure, the Subcommittee recommended in 1976 that further action in this direction would be premature until the federal avenues for relief had been fully explored.

In a September, 1976, memo to the Subcommittee concerning the State's status in regard to federal disaster relief for Kepone damages, the Virginia Employment Commission stated that although they were of the opinion that this avenue of relief should be fully pursued and applied for, their proposal to do this was denied either at the Secretary level or at the Governor's desk for three reasons: (1) it was felt that the problem would not qualify as a "major disaster" within the meaning of the federal act which primarily speaks of natural disasters; (2) due to the geographic diversity of the impact of the pollution, no single locality would qualify; and (3) insufficient State and local funds had been expended to qualify for federal aid. The Commission stated further that it felt that federal aid probably could have been obtained and that the actual reason for not applying for federal relief was to avoid further adverse publicity, which could contribute to more unemployment for Virginia's already belabored seafood industry. In any event, the application for federal relief which must emanate from the Governor's Office was never filed.

At its next meeting, the Subcommittee decided that it would give scrutiny to the feasibility of creating a two to four million dollar State Disaster Unemployment Assistance program. This program could be funded either from the general fund or from an additional employer tax. In pursuit of these concepts, the Subcommittee confronted several practical problems. It would be difficult to wrest an additional two to four million dollars from the already strained general fund. Most employers feel that their contributions to the system are high enough and many contend that it is simply unfair to expect all employers to pay for the problems created by a single employer.

The Subcommittee also determined that the Federal Disaster Relief Act requires a Governor, upon application for disaster relief, to certify that there are no State or local funds available for this purpose. Hence, if a State fund were enacted, it would simply be tantamount to substituting State funds for federal funds. Additionally, Mr. William Welfley of the Virginia Employment Commission told the Subcommittee members that they should move cautiously in creating a State-funded disaster unemployment assistance program until the full extent of the federal program is known by the Commission and the Executive branch. Possibly, Virginia's unemployed, self-employed watermen could have received benefits under the federal program had the application been filed shortly after the extent of the Kepone damage became evident.

## CONCLUSION

In conclusion, for the following reasons, the Subcommittee is of the opinion that it has done what can practically be done at present.

1. A State Disaster Unemployment Assistance program is impractical for several reasons: (i) Additional funds would have to be appropriated from the general fund or from an additional tax on employers; (ii) The very existence of such a fund would probably render Virginia ineligible to receive federal Disaster Unemployment Assistance as the Governor must certify that there are no State or local funds available to handle the disaster; and (iii) Federal avenues of relief need to be fully explored before the Virginia Employment Commission would recommend State Disaster Unemployment Assistance, because the Commission holds that federal relief might have been forthcoming had the application been filed shortly after the Kepone tragedy became evident.

2. A program of unemployment compensation for self-employed persons would be expensive, difficult to administer, and an inviting target for fraudulent claims.

As previously stated, the Subcommittee feels that although the problem which precipitated this study still exists to a degree, there may be other avenues of relief presently available and that further action at this time is not recommended.

Respectfully submitted,

George H. Heilig, Jr., Chairman

Peter K. Babalas

Elmon T. Gray

Norman Sisisky

Alson H. Smith, Jr.