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## Small Business Commission

Executive Summary of 2021 Interim Activity

<http://dls.virginia.gov/commissions/sbc.htm>

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Pursuant to the powers and duties authorized under § 30-183 of the Code of Virginia, the Virginia Small Business Commission (the Commission) held two meetings during the 2021 interim with Delegate Alfonso H. Lopez, chair, presiding.<sup>1</sup> Materials presented at the meetings are accessible through the [Commission's website](#).

The Commission's meetings occurred on July 27, 2021, and December 1, 2021. Pursuant to HJR 687, which was enacted by the 2019 Session of the General Assembly, the Commission studied information and policy proposals related to the real estate tax assessment, appeals process, and other matters affecting small businesses. It did not recommend any changes to existing policy.

### July 27, 2021, Meeting

- **Presentation: Small Business Provisions in the Governor's Introduced Budget for the Upcoming Special Session (Special Session II of 2021)**

Deputy Secretary of Commerce and Trade Cassidy Rasnick began with an overview of the Rebuild Virginia Small Business Grant Fund Program (the Program) and provided detail of the scope of the Program, amount of grant funds disbursed, and geographic distribution of grants. She discussed proposed funding for the Program in the upcoming Special Session II using funds from the federal American Rescue Plan (ARP) Act. The proposal would allocate up to \$250 million in ARP funding, with \$169 million to cover existing applications to the Program and \$81 million for new applications.

Delegate Christopher T. Head asked to clarify the timeline for disbursement and expressed concern that the time needed to disburse the grants raised questions as to the effectiveness of the Program in getting funding to businesses that need it. Deputy Secretary Rasnick responded that there are considerable conditions attached to the federal funding used in the Program and that her staff has remained in close contact with applicants throughout the process.

Senator John J. Bell asked for examples of success stories and businesses that were greatly assisted by the Program. Deputy Secretary Rasnick noted that upwards of 3,000 businesses were helped by the Program and that sole proprietors were included in the Program but were excluded from the federal Paycheck Protection Program (PPP). This meant that more Small, Women-owned, and Minority-owned (SWaM) businesses could access the Program. Senator Bell noted that tourism-related businesses were hit particularly hard by the COVID-19 pandemic and asked about disbursements to that sector. Deputy Secretary Rasnick said that the Program was originally limited to firms required to close by executive orders, but this was later loosened, allowing many tourism-

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<sup>1</sup> The Commission, chaired by Delegate Alfonso H. Lopez with Senator John J. Bell serving as vice chair, was also comprised of the following members: Delegate Kelly K. Convors-Fowler, Delegate Suhas Subramanyam, Delegate Rodney T. Willett, Delegate Tony O. Wilt, Delegate Christopher T. Head, Senator Frank M. Ruff, Jr., Senator Lynwood Lewis, Jr., Senator Jennifer L. McClellan, Vickie Williams-Cullins, Kunal Kumar, Jorge Yinat, Jay Challa, Quan Boatman, and Matthew Nusbaum.

related businesses to participate.

Delegate Rodney T. Willett asked about the roughly 9,000 pending applications to the Program. Deputy Secretary Rasnick responded that due to staff dismissals, those applications have not been processed. Jay Challa asked about working with the U.S. Small Business Administration (SBA) as well as reaching out to rural and other hard-to-reach businesses to ensure awareness of the Program. Deputy Secretary Rasnick noted that outreach had been a focus of the Program from the beginning. Vickie Williams-Cullins asked whether the Program is completely closed now, and Deputy Secretary Rasnick responded that the Program is closed but will reopen once new funding is authorized. Jorge Yinat asked whether the amount of proposed funding would be sufficient for the number of applications and approval rates. Deputy Secretary Rasnick responded that, based on the average size of the grants provided, she is confident that the Program can accommodate all applicants.

Deputy Secretary Rasnick then gave an overview of proposed funding in the upcoming Special Session II for tourism and other rebuilding purposes, including the Industrial Revitalization Fund and the Virginia Main Street Program. Ms. Williams-Cullins asked whether these programs are for nonprofits or for businesses, and Deputy Secretary Rasnick responded that localities must apply for the funds, but they may be used for nonprofits or for businesses.

Delegate Lopez asked about the base amount of funding for the Industrial Revitalization Fund and noted that the \$45 million in proposed new funding is a substantial increase from the \$3 million typically allocated annually.

- **Presentation: Overview of the 2020 JLARC Report on Operations and Performance of the Department of Small Business and Supplier Diversity**

Justin Brown, Senior Associate Director, explained the results of the Joint Legislative Audit and Review Commission's (JLARC) report regarding the performance of the Department of Small Business and Supplier Diversity (DSBSD). He also explained some of the issues surrounding small business certification, the definition of a small business, DSBSD's business assistance programs, the Commonwealth's SWaM procurement goals, and other related topics.

Regarding the definition of "small business," Delegate Lopez noted that there have been issues with the so-called "and" requirements, meaning that a business must meet both employment and gross receipts thresholds as opposed to just one of the two criteria in order to be defined as a small business. Mr. Brown noted that there is no single definition of a small business and that different definitions may be appropriate in different industries. Delegate Lopez suggested that the SBA may set the size of small businesses at a regional level and that a more diverse approach that takes into account differences in industries would be better.

Senator Bell asked whether the definition of small business considers full-time equivalent (FTE) positions or total employment in making classification determinations. Mr. Brown noted that the number of FTEs is typically the method used.

Mr. Challa noted that "one size fits all" is a suboptimal approach, and Mr. Brown stated that when other states have adopted new standards, they were typically happy with the results.

The presentation then turned to Governor Ralph Northam's target for 42 percent of state procurement to go to SWaM businesses, and Mr. Brown discussed data showing how many state agencies are meeting the SWaM procurement goals. Delegate Lopez noted that since the SWaM qualification metrics are permissive, there's a question of whether the program is meeting its objectives.

Mr. Challa asked about initiatives to increase small business procurement for those agencies that



have not met the SWaM procurement goals. He also noted the difficulty small businesses have in being awarded information technology contracts. Mr. Brown responded that there have been some attempts to address that issue, but it is challenging, and he would like to see more analytics involved.

Quan Boatman asked whether there are SWaM procurement success stories that could be shared between agencies. Mr. Brown noted that some agencies do not do a lot of procurement but still have made a direct effort to find SWaM vendors.

Ms. Williams-Cullins expressed concern about the change in leadership at DSBSD. Mr. Brown noted the importance of ensuring continuity and building culture when such changes occur.

Kunal Kumar asked about the proportion of procurement allocated specifically to women-owned and minority-owned businesses. Mr. Brown responded that about one-third of state procurement goes to SWaM businesses and about one-third of that figure goes to women-owned and minority-owned businesses.

Delegate Lopez noted that the JLARC study has been an eye-opener and that these SWaM procurement initiatives are critical. Mr. Challa asked for a list of agencies that are not meeting the SWaM procurement target.

- **Presentation: Small Business Perspective on Paid Sick Leave**

Claus Ihlemann, President of Decorum Furniture in Norfolk, discussed the paid sick leave program that his company provides to its employees. He noted the importance of such program for the employees and how providing this benefit has positively impacted the business.

Delegate Tony O. Wilt asked how many employees Mr. Ihlemann's company has, and Mr. Ihlemann responded that it has about 20 employees.

- **Presentation: Impact on Workers of Lack of Access to Paid Sick Leave**

Shambhunath Borah, a representative of the Service Employees International Union Local 32BJ, spoke about the importance of sick leave for service workers as well as for the people with whom they come into contact such as travelers. He noted that for workers of modest means, sick leave is critical for their well-being as well as that of their families. Michael Wilson, Vice President of the United Food and Commercial Workers Local 400, noted that the labor movement has been seeking sick leave for employees across the country and that the COVID-19 pandemic has highlighted the importance of food workers and their health.

- **Presentation: Learning from Other States**

Ruth Milkman, Distinguished Professor of Sociology at the Graduate Center of the City University of New York, discussed the impact of paid sick leave initiatives outside of Virginia and particularly in New York City, which enacted a sick leave program beginning in 2014. She presented her findings from a 2016 study of employers' experiences with the sick leave program. Her research found that many of the concerns raised at the time the sick leave program was passed by the New York City Council regarding cost, burden on employers, and unemployment turned out to be unfounded, and employers on the whole saw no significant change to their business practices.

Mr. Kumar asked which industries the businesses in the study represented and, specifically, the percentage that were in the retail and hospitality industries. He also asked about the impact of the sick leave program on tipped workers. Ms. Milkman responded that about one-quarter to one-third of the businesses in the study were from the retail and hospitality sectors but referred Mr. Kumar to the



report for details. She also stated that tipped workers are less likely to take advantage of sick leave due to the potential for lost income and instead choose to swap shifts with coworkers.

Senator Bell asked about the impact the sick leave program had on employee retention and productivity. Ms. Milkman replied that virtually all businesses reported no effect on retention or productivity.

Mr. Challa noted that better benefits tend to lead to greater retention and productivity and asked about the use of available leave by employees. Ms. Milkman replied that workers typically use less than the maximum amount of leave available to them.

Delegate Wilt asked whether the workers referenced by the study who did not have access to leave before the sick leave program was enacted were part-time or full-time employees. Ms. Milkman said that she was not sure but noted that part-time workers typically have less access to sick leave benefits.

Delegate Head asked for the percentage of total workers that had no access to leave before the enactment of the sick leave program, and Ms. Milkman responded that 1.5 million out of four million workers were uncovered. He also asked if the study differentiated between paid time off and sick leave. Ms. Milkman responded that employers who provide paid time off satisfy the requirements of the program.

- **Presentation: Understanding Access to Paid Sick Leave in Virginia**

Farrah Stone Graham, Poll Director for the L. Douglas Wilder School of Government and Public Affairs at Virginia Commonwealth University, discussed polling data regarding Virginia workers' access to sick leave. She noted that 58 percent of Virginia workers have access to sick leave and gave an overview of some disparities between different categories of workers.

Delegate Head asked whether the poll asked about sick leave specifically or paid time off in general, noting the importance of the way questions are asked in polling. Ms. Graham responded that the question was asked about sick leave, but the responses depended on how workers interpreted the question.

Delegate Wilt asked for more detail regarding the disparity between minority and non-minority workers in access to sick leave. Ms. Graham noted that the survey was not done at an occupational level.

- **Discussion of Legislative Ideas**

Delegate Lopez noted that he has had discussions with Commission members as well as members of the public regarding legislative initiatives. He also invited the non-legislative members of the Commission to bring to the legislative members any issues that they come across or that are brought to them. He expressed his appreciation for JLARC's work regarding SWaM procurement and mentioned that he will be working on the issue in the upcoming session.

Delegate Lopez then stated that he would like to have two to four additional meetings before the next regular session and encouraged an open dialogue over the coming months on issues of importance to small business owners.

Senator Bell mentioned his recently passed bill (SB 1299, 2021 Special Session I) to allow to-go alcohol sales and indicated that he would like to make that policy, which currently will expire on July 1, 2022, permanent. He also mentioned that his best bills in the General Assembly have come from



concerns raised by constituents and individuals and noted his concern for the tourism industry.

Delegate Willett commented on the change in leadership at DSBSD and noted that without strong leadership at the department, the General Assembly's initiatives may not be as successful. Delegate Lopez noted there may be a need for additional staffing at the agency. Ms. Williams-Cullins asked whether the structure of DSBSD should be changed to promote continuity.

Mr. Kumar expressed his support for Senator Bell's SB 1407 (2021), which sought to regulate certain electronic gaming machines, and noted that such machines are a key source of revenue for many small businesses. Senator Bell discussed Illinois's approach to regulating such machines and the impact that has had on businesses.

Mr. Challa noted the importance of properly defining what constitutes a small business and said that "one size fits all" is not the right approach. He also discussed outreach to agencies that are not meeting SWaM procurement goals.

Delegate Head expressed his concern about certain proposals that have been offered in the past regarding sick leave policies and urged his colleagues to address the issue carefully. He noted that employers have a range of different leave policies and that the cost of such policies may be higher to some businesses than others.

Mr. Kumar mentioned the struggle many businesses are having finding labor and suggested that the Commission should be mindful of this issue, and Delegate Lopez concurred. Ms. Williams-Cullins also agreed and mentioned the need to support a wide range of businesses.

Nicole Riley, Virginia State Director of the National Federation of Independent Business (NFIB), noted that NFIB members need flexibility in any sick leave program that is enacted. She also encouraged the Commission to take more steps in the upcoming session to support small businesses, including full deductibility of PPP and other support programs.

## **December 1, 2021, Meeting**

- **Presentation: Joint Legislative Audit and Review Commission (JLARC)**

Justin Brown, Senior Associate Director, provided an update on JLARC Report 537 (Operations and Performance of the DSBSD) and JLARC Report 549 (JLARC Impacts: Actions Taken on Report Recommendations). He briefly summarized the first report, which covers the agency's programs, Virginia's statutory definition of "small business" (for the purpose of awarding preferences in public procurement), and incentives for procurement of small, women-owned, and minority-owned businesses. He noted that DSBSD has implemented a number of JLARC's recommendations, but the main focus for the future is to make Virginia's quantitative procurement goals, and agency planning to meet those goals, a process that adds value rather than merely being an abstract exercise. Mr. Brown discussed a variety of options for enhancing minority participation in public procurement based on other states' laws, past legislative proposals in the General Assembly, and relevant federal law. He emphasized that the most effective strategies for helping Virginia's state agencies meet their procurement targets would be those that focus on factors within agency control instead of setting targets that agencies are unable to meet.

- **Presentation: Small Business Majority**

Awesta Sarkash, Government Affairs Manager, discussed the concerns of small businesses during the COVID-19 pandemic and their priorities for recovering from the economic consequences of the pandemic. She explained that in a recent survey of Small Business Majority members, over one-fifth



of small businesses reported an expectation that they would struggle to survive the next few months. Ms. Sarkash spoke of the benefits to small businesses from the recently enacted federal bipartisan Infrastructure Investment and Jobs Act and observed that investment in physical infrastructure is one of the most effective ways of ensuring a business climate conducive to long-term growth. She stated that grant programs like Virginia's Rebuild VA program are a temporary measure focused on more immediate problems like cash liquidity. She advocated for investments in other programs that benefit small businesses and their employees, such as expanding the earned income tax credit, setting price limits on prescription drugs, and requiring businesses to provide paid family leave.

- **Presentation: Office of the Secretary of Commerce and Trade**

Deputy Secretary Cassidy Rasnick presented on the progress of the Rebuild VA program, a grant program established to provide financial assistance to small businesses and nonprofits during the pandemic. She noted that Rebuild VA has awarded grants to more than 4,000 businesses to date and that \$250 million has been spent and about \$200 million remains to be disbursed. Early rounds of grants were targeted at the business sectors most direly impacted by the pandemic, such as hotels, restaurants, and gyms. Deputy Secretary Rasnick emphasized that about half of the grant funds have been awarded to businesses in low-income communities. She indicated that there are about 8,000 grant applications pending, and she expects SBSD, which administers the program, to process those applications in about eight to 10 months.

- **Presentation: National Federation of Independent Business (NFIB)**

Nicole Riley, Virginia State Director, discussed the ongoing situation for small businesses during the pandemic. She noted that prior to the pandemic, NFIB regularly surveyed its members regarding the economic climate and their expectations for the future, and she added that during the pandemic, NFIB began surveying its members more frequently, targeting pandemic-related issues. Ms. Riley stated that several factors—the labor shortage, supply chain disruption, and inflation—are having a negative effect on the index of business optimism. She opined that a major cause of the labor shortage is that employees have been able to quit their jobs and take jobs that pay cash while collecting enhanced unemployment from the federal government. Senator Jennifer L. McClellan responded that, according to NFIB's survey results, the labor shortage worsened in the months after federal enhanced unemployment expired, which would seem to contradict Ms. Riley's account. Ms. Riley agreed that the labor shortage has worsened.

## **Policy Proposals**

The Commission did not formally recommend any changes to the current statutes of the Virginia Code and left discussions open should the Commission meet in the 2022 interim. Its findings consist of the research and comments of the Commission members over the course of its study.

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For more information, see the [Commission's website](#) or contact the Division of Legislative Services:

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