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The Honorable Margaret "Lyn" McDermid  
Secretary of Administration

The Honorable Barry D. Knight, Chair  
House Appropriations Committee

The Honorable Janet D. Howell, Co-Chair  
Senate Finance and Appropriations Committee

The Honorable George L. Barker, Co-Chair  
Senate Finance and Appropriations Committee

*House Bill 270 and Senate Bill 219 required that the Virginia Department of Human Resource Management lead a multi-agency Work Group, composed of agency leaders and human resources staff from state agencies most likely to be in need of staffing assistance during emergencies. The purpose of the Work Group was to examine the feasibility of, funding for, and policies and procedures necessary for providing support to agencies during staffing emergencies.*

Respectfully Submitted,

A handwritten signature in blue ink that reads "Janet L. Lawson".

Janet L. Lawson  
Director



**Virginia Department of Human Resource Management**

# **Report to the Governor and General Assembly**

**Report on the feasibility of establishing funding,  
policies, and procedures to support agencies during  
staffing emergencies.**

**December 2022**

## Executive Summary

[House Bill 270](#) and [Senate Bill 219](#) required that the Virginia Department of Human Resource Management lead a multi-agency Work Group, composed of agency leaders and human resources staff from state agencies most likely to be in need of staffing assistance during emergencies. The purpose of the Work Group was to examine the feasibility of, funding for, and policies and procedures necessary for providing support to agencies during staffing emergencies.

These bills adopted a recommendation from JLARC's November 2021 Organizational Performance Review of the Virginia Employment Commission, which encountered unprecedented challenges, including staffing, throughout the course of the Pandemic.

### Agency Work Group Partners:

*Virginia Employment Commission*  
*Carrie Roth, Commissioner*  
*Jeff Ryan, Deputy Commissioner*  
*Shelby Perry, Human Resources Director*

*Department of Behavioral Health and Developmental Services*  
*Stacy Pendleton, Human Resources Director*

*Department of Corrections*  
*Harold Clarke, Director*  
*Joseph Walters, Deputy Director of Administration*  
*Lucinda Childes-White, Human Resources Director*

*Virginia Department of Health*  
*Dr. Colin Green, Commissioner*  
*Tiffany Ford, Deputy for Administration*  
*Twinkle Oliver, Human Resources Director*

*Department of Motor Vehicles*  
*Linda Ford, Acting Commissioner*  
*David Mitchell, Deputy for Administration*  
*Almas Floyd, Acting Human Resources Director*

### Consulting Agency Partners

*Department of Planning and Budget*  
*Jon Howe, Associate Director, Budget Operations and General Government*

*Virginia Information Technologies Agency*  
*Bob Osmond, CIO*

*Department of General Services*  
*Joe Damico, Director*

*Department of Emergency Management*  
*Shawn Talmadge, State Coordinator*  
*Stephanie Asbell, Human Resources Director*

## Background

[House Bill 270](#) and [Senate Bill 219](#) require that the Virginia Department of Human Resource Management shall:

- *lead a multi-agency Work Group, composed of agency leaders and human resources staff from state agencies most likely to be in need of staffing assistance during emergencies, to examine the feasibility of, funding for, and policies and procedures necessary for*
  - *(i) granting agencies exemptions from certain competitive hiring requirements during emergencies;*
  - *(ii) requiring selected state agency staff to temporarily support other agencies in need of staffing assistance during emergencies through existing or new state initiatives; and*
  - *(iii) providing necessary funding to cover the associated costs. The Work Group shall propose criteria to determine under what circumstances these emergency hiring practices may be invoked and a process for invoking this authority as well as terminating it.*

*The Work Group shall submit its findings to the Secretary of Administration and the Chairs of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by December 1, 2022.*

- Several state agencies experienced crippling staffing shortages in 2020 and 2021 due to the impact of the Pandemic, which included:
  - School / Daycare Program closures and increased family responsibilities
  - Employee illness and / or quarantine requirements
  - Employee job-related stress / burnout from ongoing mandatory overtime
  - Turnover attributable to competitors in both related and unrelated sectors offering higher salaries for less stressful jobs
  - A growing interest in full-time remote work engagements
  - Public transportation closures / limitations
- Special and Exceptional Pay incentives to sustain or boost attendance had limited impact after initial implementation.
- In 2020 and 2021, leadership from VDH, DBHDS, and the VEC met with Cabinet Secretaries, the Chief of Staff, and representatives from DHRM, VDEM, DPB, VITA, and the Virginia National Guard to request emergency staffing assistance.
- Several preliminary emergency staffing strategies / considerations were identified, along with their implementation obstacles and challenges.

- Strategies included the mandatory redeployment of employees from one agency to another, providing that option would not create new staffing gaps elsewhere; expanded contracts with employment agencies, which come at a significant cost to the Commonwealth; and the deployment of the of National Guard. These options required broad, central tactical planning and direction; funding; expedited criminal background checks; training; and in the case of the National Guard, a change in their mission and guiding laws under the Code of Virginia. There were also questions regarding the Governor’s authority to mandate the redeployment of state employees.
- DHRM supported the VEC’s approach to speed the hiring process without compromising its integrity. The agency bypassed panel interviews and was able to quickly employ several hundred workers. The agency reported experiencing long delays in acquiring additional rental space for the new employees, and were required to complete an RFP. Also, laptops were not available due to industry-wide supply chain shortages. VITA reports that it was able to implement Virtual Desktop Infrastructure (VDI), an alternative technology that allows a user to create a secure, virtual state computer within a personal computer so that the employees could access the VEC network and files.
- The Voluntary Temporary Reassignment Program for state employees was established by DHRM in 2020 to assist the VDH meet its need for more than 1,000 additional Contract Tracers. While employees in other agencies were interested in these temporary transfers, there was no funding mechanism in place to reimburse “lending agencies” for the temporary absence of employees whose work was exclusively funded by grants and other special fund sources. There was also no available funding for the lending agencies, whose continued payments to loaned staff, left them unable to hire their own temporary replacements or pay overtime for reassigned work.
- Because agencies can and do encounter staffing challenges for a variety of reasons, including the current labor shortage, there was consensus among Work Group members that declaring a “staffing emergency”, as referenced in the legislation, would require measurable criteria for an agency to access exceptional support for resources.

## Considerations / Findings

### Scope and Context of Study

The genesis of this study was the result of universal and unprecedented staffing issues across state government within the context of a global pandemic. Strategies considered in 2020 and 2021 to mitigate labor shortages, including the deployment of staff from one agency to another, were difficult to implement without triggering a harmful domino effect across agencies. Changing laws governing the activation and use of National Guard personnel to staff state agencies could not be easily accomplished. Work Group participants agreed that

developing comprehensive solutions for the next universal crisis requires a Continuity of Government solution under the command of the VDEM State Coordinator.

For these reasons, the scope of this report addresses multiple solutions for quickly responding to staffing emergencies in individual agencies. This requires establishing measurable criteria for distinguishing staffing shortages from staffing emergencies; and examining the authority and process required for easing policy and regulatory restrictions in hiring, procurement, and technology that are perceived as barriers to an agile response.

### **Defining and Measuring a Staffing Emergency**

All Work Group agencies have long-standing experience in mitigating staffing shortages, including severe shortages, that impact organizational performance and citizen services. Internal strategies for temporarily shifting staff, engaging employment agencies, requiring overtime, and offering cash incentives have proven effective in managing the moment. The extended stress of the Pandemic diluted the effectiveness and lifespan of these strategies.

Because state agencies represent distinct lines of business, there was consensus that in addition to a standard set of measurable criteria for all, agencies must also be able to make a compelling business case to access emergency relief. There was agreement that the following criterion should be included in any agency emergency staffing request to delineate staffing shortage versus staffing emergency:

- How current staffing arrangements present an imminent health and / or safety risk to the public.
- How the agency is unable to comply with state, federal, and / or third-party staffing requirements, risking the loss of accreditation and / or funding.
- How major project delays present substantial and measurable financial liabilities to the Commonwealth.
- Sustained inability to meet established turnaround times for essential public services, such as benefits payments, driver / vehicle services, and tax refunds, that can have a ripple effect on housing, medical services, and social services programs.
- How mitigation strategies identified in the agency's Continuity of Operations Plan (COOP) have been exhausted.

It is important to convey that the Work Group is convinced that the Commonwealth's long-time minimum staffing approach has all but erased bench strength, and the concomitant ability to absorb work resulting from turnover, maintain continuity of public service, and plan for succession. Even when considered "fully staffed", workloads can be unrealistic. Salaries that lag, or significantly lag the market was also an expressed concern, particularly when so many employers pay well above the minimum wage for entry-level jobs in safer / less stressful environments.

## Hiring Policy

The Commonwealth's hiring policy is designed to ensure an efficient and consistent competitive process that promotes equal opportunity and a high performing, diverse workforce. The policy includes both requirements and best practices. Policy states that no one may be hired into a classified position without having been interviewed. It also *recommends* the use of interview panels as a best practice. State agencies have widely adopted this practice as a default policy. The use of interview panels may be waived without a policy exemption when there exists an urgent need to speed the hiring process.

Work Group members expressed an interest in "direct hiring" for critical positions. For example, they would like to be able to hire on the spot at job fairs, or with walk-in applicants based on a resume and immediate interview. This would not require a policy exemption. The new hire would still need to complete a state job application as part of onboarding, and the employment offer letter would need to state that continued employment is contingent upon a successful reference and / or background check.

There is also interest in establishing a Temp-to-Hire program, specifically aimed at current wage employees. This is a common practice in the private sector. In state agencies, wage employees undergo the same training as full-time employees, and background checks if required. The ability to quickly transition wage employees to full-time status, non-competitively, is a feasible solution. Currently, agencies are permitted to hire wage employees without competition. That practice would need to be amended to maintain the integrity of the Commonwealth's merit-based, competitive employment program and reputation.

## Wage Employment - Impact on Staffing

Nearly all state agencies employ wage employees, hourly workers in non-benefitted jobs where work hours are limited to 1,500 hours per year. For decades, HR Policy has stated that wage employment is intended to cover peak workloads and seasonal or short-term needs. This is an effective option for agencies that manage seasonal programs, such as parks and recreation, or special projects, and for student employment in colleges and universities.

Most state agencies however, are compelled to employ wage workers to meet day-to-day essential operational needs where agency budgets are not sufficient for hiring the full-time staff needed. Contract workers, which are usually more costly than hiring salaried staff, are also engaged for long-term staff augmentation.

During periods of normalcy, agencies are able to make these temporary arrangements work. Agencies that regularly endure staffing shortages of a severe or "emergency" nature are faced with unsustainable solutions, such as mandatory overtime that extends for months, and the work hours limitations of wage employees. Not only does this workplace environment impact

employee morale and agency reputation, it discourages viable job applicants.

## Procurement

The [State Procurement and Surplus Property Manual](#) (Chapter 9) includes provisions for emergency procurement of goods and services. The manual defines “emergency” as:

*An occurrence of a serious and urgent nature that demands immediate action. Emergency procedures may be used to purchase only that which is necessary to cover the requirements of the emergency. Subsequent requirements shall be obtained using normal purchasing procedures. The potential loss of funds at the end of a fiscal year is not considered an emergency.*

Effective July 1, 2023, § 2.2-4303. Methods of procurement, is amended as follows:

*F. In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The public body shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Department of General Services' central electronic procurement website or other appropriate websites, and in addition, public bodies may publish in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Posting on the Department of General Services' central electronic procurement website shall be required of any state public body. Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.*

DGS is confident that it is prepared to support agencies that meet the criteria for a “staffing emergency” where space, supplies, or services require an immediate solution.

## Technology

The Virginia Information Technology Agency (VITA) states that it is prepared to provide resources to an agency during a staffing emergency. While supply chain issues continue, as with the VEC, VITA is poised to move quickly to provide interim alternative technology solutions that support the continuity of essential business services.



## **Redeployment of Workforce**

The Work Group believes there is value in the temporary transfer of employees from one agency to another where similar / related skillsets exist. It can be difficult to identify certain skillsets and specialization from job / role titles alone. In such cases, reliance on standard occupational codes and agency work titles would be utilized. For many administrative and business support roles, identifying potential worker pools would be easier.

There is nothing in the Code of Virginia that prevents the Governor, as Chief Personnel Officer, from temporarily redeploying classified staff across agencies. This has been practiced on a small scale in past Administrations, typically at the leadership level.

This option was explored during the Pandemic. DHRM identified a pool of Hearing Officers across state agencies, a skillset acutely needed by the VEC. DHRM contacted the employees, however, all expressed a strong desire to remain with their agencies because of their own work demands. Conversely, many employees were interested in temporarily serving as Contact Tracers at VDH. Ultimately, VDH was able to meet this need quickly utilizing employment agencies. In each case, the barriers faced with a redeployment solution were attributable to creating new staffing gaps in the “lending” agencies and a lack of funding to close those newly created staffing gaps during a global crisis.

The Adjunct Emergency Workforce (AEW) was jointly established in 2007 by DHRM and VDEM. It is currently administered by VDEM. This program provides opportunities for state government employees to support the Commonwealth’s Emergency Response and Recovery activities. During a declared emergency, qualified AEW participants may be offered temporary reassignment to close critical staffing gaps in Virginia Emergency Support Team (VEST) agencies. The AEW may be called upon to assist the public in a variety of ways including sheltering support, staffing max vaccination clinics, and providing other essential emergency services. Expanding the AEW application to support an individual agency during a staffing emergency is a feasible solution. The program has been successful, and because it is volunteer based, it attracts engaged employees who meet minimum qualification expectations.

### **Authority for Approving Staffing Emergency Request**

An expedient approval process is required. Any agency that minimally meets the Emergency Staffing criteria, with expectations of an extended emergency, should submit its request to the appropriate Cabinet Secretary and Chief of Staff for approval. Once approved, an agency should:

- Notify DHRM that alternate hiring practices (waiving interview panels and direct hiring) will take effect, and of any additional supportive needs.
- Consult with DGS to initiate any necessary emergency procurements.
- Advise VITA of any additional technology solutions that must be deployed quickly.

- Notify DPB of funding needs.

The Governor’s Cabinet and Chief of Staff should prioritize response in the event of multiple requests, and consider the need for redeployment of workers from other agencies, or activating the Adjunct Emergency Workforce.

## Conclusions / Recommendations

Easing hiring requirements and expectations, the limited redeployment of workers from one agency to another, and acquiring supportive funding are all feasible solutions for supporting agencies during a staffing emergency. None would require an Executive Order.

It is recommended that the Commonwealth:

1. Fully fund agencies’ full-time staffing needs to avert emergency staffing shortages, improve services, mitigate risks, and reduce reliance on unsustainable augmentation strategies.
2. Establish funding in central appropriations specifically to offset costs encountered by agencies during staffing emergencies.
3. Develop and adopt measurable criteria that clearly defines “staffing emergency”.
4. Establish the Emergency Staffing approval process and procedure for Cabinet-level endorsement of an agency’s request to utilize alternative hiring, staffing, procurement, and technology solutions.
5. Develop State HR Policy Guidance for alternative hiring solutions during a staffing emergency, including, but not limited to, waiving panel interviews and direct hiring, that maintain the integrity of employment law.
6. Pilot a Temp-to-Hire solution (wage to salaried status) in one or more agencies, with DHRM supporting the agencies in establishing uniform pilot standards and procedures.
7. Examine the July 2023 emergency procurement provisions to determine if they can be further streamlined to support agencies experiencing a staffing emergency.
8. Utilize the existing Adjunct Emergency Workforce as the first alternative for encouraging a voluntary, temporary redeployment of workers to essential, but lower risk roles. Incorporate pay incentives to encourage participation and recognize contributions.

9. Utilize the existing Adjunct Emergency Workforce to establish an Administrative Rapid Response Team to support the operational needs of an agency. The Team should be comprised of employees with expertise in finance, procurement, human resources, legal services, technology, customer service, and program management who can be quickly dispatched to provide relief in areas where most administrative requirements are standard across agencies. Incorporate pay incentives to encourage participation and recognize contributions.
10. Develop comprehensive solutions for a universal staffing emergency, including a broader mandatory redeployment of workers, as a component of the Commonwealth's Continuity of Government Plan. Solutions should be jointly developed by VDEM and DHRM, to be implemented at the direction of the Governor, and coordinated by the VDEM State Coordinator.