

2014-16 Executive Progress Report

Commonwealth of Virginia
Secretary of Commerce and Trade
Department of Labor and Industry

At A Glance

It is the mission of the Virginia Department of Labor and Industry to make Virginia a better place to work, live, and conduct business by promoting safe and healthy workplaces; protecting children from hazardous employment; developing job training opportunities through registered apprenticeship; supporting best employment practices; and assuring safe operation of boilers and pressure vessels.

Staffing 146 Salaried Employees, 7 Contracted Employees, 191 Authorized, and 9 Wage Employees.

Financials Budget FY 2015, \$14.62 million, 52.33% from the General Fund.

Trends
➔ Revenue Collections
⬆ Number of Customers
⬆ Non-English Speaking Customers

Key Perf Areas
➔ Number of credentials issued annually
➔ Number of occupational hazards identified

Legend
⬆ Increase, ⬇ Decrease, ➔ Steady

Productivity
Legend
⬆ Improving, ⬇ Worsening, ➔ Maintaining

For more information on administrative key, and productivity measures, go to www.vaperforms.virginia.gov

Agency Background Statement

The Department of Labor and Industry (DOLI) was originally created in 1898 as the Bureau of Labor and Industrial Statistics for Virginia state government. Its purpose was to compile accurate information on both raw materials and labor and also to report on the activity of the principal industries of the day in the Commonwealth.

DOLI's current role is as an Executive Branch agency whose powers and mandates are set forth in Title 40.1 of the Code of Virginia. These responsibilities as set out include:

- Occupational safety and health protection of employees in the workplace;
- Boiler and pressure vessel safety;
- Licensed asbestos and certified lead contractor notification and inspection;
- Enforcement of the Virginia Asbestos NESHAP Act;
- Role of the Department in regard to labor unions, strikes, etc.;
- Child labor protections, minimum wage, equal pay, and payment of wage; and
- Registering agency for voluntary apprenticeship.

Major Products and Services

The Department of Labor and Industry is mandated by Title 40.1 of the *Code of Virginia* with the maintenance and operation over the following areas: Boiler Safety, Labor Law, Occupational Safety and Health, and Registered Apprenticeship. These areas are covered by the following programs:

Boiler and Pressure Vessel Safety - This inspection and certification program promotes the safety of all Virginians by overseeing regular inspections and repairs of boilers and pressure vessels covered under the Boiler and Pressure Vessel Safety Act and located in workplaces, apartments, and establishments open to the public. The Department's oversight assures the safe operation of these powerful systems. The Safety and Health Codes Board is responsible for the promulgation of the Boiler and Pressure Vessel regulations enforced by the Department.

Labor and Employment Law - This Division administers and enforces state labor laws governing payment of wages, minimum wage, child labor protections, equal pay, the right to work, dissemination of personal information, medical examination and testing, and certain other provisions related to the workplace. The Division, working whenever possible through mediation, seeks to help businesses and employees resolve disputes and return to work.

Registered Apprenticeship - This "earn-and-learn" training model is a unique, flexible training system that combines job-related technical instruction with structured on-the-job learning experiences. It meets the needs of both employers and workers by providing the opportunity for workers seeking high-skilled, high-paying jobs as a pathway to a better and more financially secure future and for employers seeking to build or maintain a qualified workforce. DOLI's responsibilities include: registering apprenticeship programs that meet federal and state standards; protecting the safety and welfare of apprentices; issuing nationally recognized and portable Certificates of Completion to apprentices; promoting the development of new programs through marketing and technical assistance; assuring that all programs provide high quality training; and assuring that all programs produce skilled competent workers.

Virginia Occupational Safety and Health (VOSH) - DOLI administers and enforces occupational safety and health state plan program activities in Virginia. DOLI partners with the U. S. Department of Labor - OSHA to administer the state plan agreement, as authorized for this purpose under the provisions of Section 18 (e) of the federal Occupational Safety and Health Act. The VOSH State Plan applies to all public and private sector workplaces in the Commonwealth, with certain exceptions specified at 29 CFR 1952.375, which include: federal employees, the U.S. Postal Service, private sector maritime, federal military facilities, and other federal enclaves where the state has ceded jurisdiction to the federal government. The *Code of Virginia*, § 40.1-2.1, authorizes the Commissioner of Labor and Industry to enter into such agreements with federal OSHA to assist in enforcement of the federal Act. The Safety and Health Codes Board is responsible for the promulgation of occupational safety and health regulatory standards enforced by DOLI through the VOSH Program.

- **Compliance Program** - The VOSH compliance program enforces these occupational safety and health regulations of the Safety and Health Codes Board for general industry, construction, and agricultural industries in both the private and public sectors, as well as public sector maritime. The priority of safety and health enforcement inspections are conducted as follows: reports of imminent danger, fatalities and catastrophes, complaints and referrals, accidents, and follow-up or monitoring inspections. Subsequent to these, planned inspections are also carried out through both special emphasis inspection programs, targeting specific hazards which may exist across multiple industry classifications, as well as randomly selected inspections of industries which have been classified as high hazard workplaces by federal OSHA. In addition, the VOSH Program conducts inspections for federal EPA under the demolition and renovation provisions of the asbestos NESHAP standards.
- **Asbestos Notification Program, Project Permits, and Fees, and Lead Notification Program, Project Permits, and Fees** – Each program requires all active certified asbestos contractors or licensed lead contractors, respectively, to provide written notification and any applicable fees to the Department for any abatement activity that is covered by their specific regulations.
- **The Office of Research and Analysis** – This Office is responsible for the Survey of Occupational Injuries and Illnesses, which is conducted in cooperation with the Bureau of Labor Statistics (BLS), U.S. Department of Labor, and which produces estimated injury and illness rates by industry. The annual Census of Fatal Occupational Injuries, also conducted through the BLS, provides a detailed report on all workplace fatalities.

VOSH also provides free consultative, outreach, and training services to encourage and provide assistance to Virginia's employers to enhance safety and health protections for their employees. Components of this program include:

- Consultation Services - To help employers better understand and voluntarily comply with VOSH Standards, DOLI provides free, onsite consultation services without issuing citations or penalties. This program helps employers identify and correct potential safety and health hazards.
- Other Voluntary Programs - DOLI offers two other voluntary programs to promote and recognize exceptional safety and health efforts in Virginia businesses. The Voluntary Protection Program (VPP) covers large businesses with over 250 employees at a single worksite. The Safety and Health Achievement Recognition Program (SHARP) is for small, high-hazard businesses with 250 or fewer employees. Management, employees, and VOSH work together to establish strong cooperative relationships.

Customers

Customer Summary

The Agency anticipates modest but steady growth in the size of its overall customer base across all programs. However, in the case of apprenticeship the demand for skilled workers in the marketplace continues to increase at a rate that significantly exceeds what would historically be expected with a slowly expanding economic recovery.

All Department Divisions have historically noted an increase in the number of customers who are not fluent in English and who primarily or only speak Spanish. The Department has taken all feasible steps within available staffing and funding resources to accommodate this change in customer base. Additionally, over the last several years, there have been increases in both Korean and Russian speakers who have limited or no facility in English.

Although the trend for all three of these groups continues upwards, the Department lacks the resources necessary to modify existing customized business application systems to capture and track this demographic. These changes in workforce demographics, the continued transformation of the workplace due to technology, and new and increased customer expectations will necessitate proactive modifications and/or enhancements to the Department's processes, services, and technological investments.

Customer Table

| Predefined Group | User Defined Group | Number Served Annually | Potential Number of Annual Customers | Projected Customer Trend |
|-----------------------------|---|------------------------|--------------------------------------|--------------------------|
| Child | Minor children working in Virginia (data from internal DOLI database) | 7,603 | 7,603 | Stable |
| Adult | Parents of minors working in Virginia (based on data from internal DOLI database presuming two parents for each employed minor) | 7,603 | 15,206 | Stable |
| Business and Finance | Attorneys (data from Virginia State Bar) | 31,752 | 31,752 | Stable |
| Employee | Employees working in Virginia (data from Bureau of Labor Statistics) | 3,788,200 | 3,811,200 | Increase |
| Employee | Registered Apprentices (data from internal DOLI database) | 13,861 | 13,861 | Increase |
| Employer/ Business Owner | Employer Sponsors of Registered Apprentices (data from internal DOLI database) | 2,004 | 2,004 | Increase |
| Employer/ Business Owner | Employers in Virginia (data from Bureau of Labor Statistics) | 240,556 | 241,132 | Increase |
| Employer/ Business Owner | Owners/Users of boilers and pressure vessels (data from internal DOLI database) | 25,000 | 40,000 | Increase |
| Employer/ Business Owner | Inspection Companies that inspect boilers and pressure vessels (data from internal DOLI database) | 23 | 27 | Increase |
| State Agency(s), | Safety and Health Codes Board | 1 | 1 | Stable |
| State Agency(s), | Virginia Apprenticeship Council | 1 | 1 | Stable |

Finance

Financial Summary

The Department of Labor and Industry is funded by State General Fund Appropriations, Federal Funds from the U.S. Department of Labor, and Special Revenue Funds from various sources including Indirect Cost Recoveries, Asbestos/Lead Project Permit Fees, Consultation and Voluntary Protection Program (VPP) Grant Matching Funds, and registration fees for the Virginia Safety and Health Conference.

Fund Sources

| Fund Code | Fund Name | FY 2015 | FY 2016 |
|-----------|---------------------------------------|-------------|-------------|
| 0100 | General Fund | \$7,648,633 | \$8,712,931 |
| 0200 | Special | \$809,539 | \$814,940 |
| 0280 | Appropriated Indirect Cost Recoveries | \$725,910 | \$733,150 |
| 1000 | Federal Trust | \$5,433,622 | \$5,433,622 |

Revenue Summary

The Department's programs contribute significant revenues to the state that offset program costs. For state fiscal year 2014, the Department's revenues represented 61% of annual agency expenditures. These revenues were a combination of fees collected in the Boiler and Asbestos programs, federal grants, and penalties collected by the Department's Virginia Occupational Safety and Health and Labor and Employment Law Divisions.

Performance

Performance Highlights

During state fiscal year 2014, the Department enhanced economic development and made Virginia a safer place to live and work. The Agency's occupational safety and health compliance staff identified 20,544 occupational safety and health hazards. The Agency's boiler and pressure vessel safety staff issued 37,710 inspection certificates for covered boiler and pressure vessel objects. The computed cost of providing registered apprenticeship services was approximately \$65 per registered apprentice.

Selected Measures

| Measure ID | Measure | Alternative Name | Estimated Trend |
|-------------|---|---|-----------------|
| M181SA12002 | Cost of providing registered apprenticeship services per registered apprenticeship participant. | Cost per apprentice | Maintaining |
| 181.0004 | Number of net apprenticeship credentials issued annually. | Number of credentials issued annually | Maintaining |
| M181SA12003 | Number of instances of occupational safety and health hazards identified. | Number of occupational hazards identified | Maintaining |

Key Risk Factors

Funding: The 2008-2009 recession, with its subsequent resulting slow economic recovery, continues to place constraints on the federal and state funding of Agency programs.

Information Technology Demands: Increasing technology changes and related costs present challenges to meeting technological business and security standard requirements, including infrastructure, equipment, software, and development expenditures.

Workforce Impact: DOLI has experienced a variety of significant ongoing challenges in recent years, chief among them, the impact of continued statewide budget crises and resulting Agency funding shortfalls. This situation has been exacerbated by the increased state unemployment rate since 2009, initially due to the recession, and then compounded by a continued slow economic recovery. This has resulted in a significant number of vacant Agency positions left unfunded or unauthorized to be filled. An additional factor, albeit not unique to DOLI, is an aging workforce. In an agency where personal services constitute 72% of the total Agency budget this takes on greater significance. As more and more of DOLI's most qualified workers retire or are nearing retirement, there is cause for serious concern because their departure results in a loss of significant institutional knowledge and expertise, leaving vacancies to be filled by younger, less experienced workers, who require training and/or other certifications. Subsequently, it is difficult to retain these younger highly skilled employees, due to non-competitive compensation, when compared with similar positions in the federal government or the private sector. Therefore, continued efforts to maintain open and frequent communication and support are imperative for the long term retention of existing younger staff, and to implement effective succession planning.

Agency Statistics

Statistics Summary

The following statistics provide a comprehensive snapshot of the magnitude of the Department's operations during calendar year 2014.

Statistics Table

| Description | Value |
|---|--------|
| Awarded Registered Apprenticeship Certificates of Completion | 4,167 |
| Active registered apprenticeship participants | 13,861 |
| Active Registered Boilers and Pressure Vessels (as of October 1, 2014) | 73,793 |
| Mailed Boiler/Pressure Vessel Certificate Expiration Reminder Notices (as of October 1, 2014) | 8,976 |
| Number of Processed Employment Certificates and Theatrical Permits for Youth Workers | 5,643 |
| Employment Certificates Investigated | 427 |
| Number of occupational safety/health inspections of worksites | 2,819 |

General Information About Ongoing Status of Agency

To the extent permitted by available resources, the Department continues to strengthen its programs, and to strive to make Virginia a safer, healthier, and more productive place to live and work. Agency employees continue to focus on greater efficiency, while increasing the effectiveness of our services that enhance economic development. The Department has partnered with other state and federal agencies, with local governments, and with private sector entities to make workplaces safer and healthier, while simultaneously lowering costs for employers.

Moving forward, the Department endeavors to:

- Further develop and refine Agency programs that make Virginia a safe, healthy, and productive place to work;
- Continue to work with employers, especially those who seek to strengthen their safety and health programs, and who understand the value and importance of employees returning safely home every night to their families;
- Work to increase the impact of the Virginia Occupational Safety and Health (VOSH) Program by multiplying the size and expertise of our Voluntary Protection Program, and eventually have workers focused on several industries located throughout Virginia;
- Improve the efficiency of the new child labor online work permitting processes;
- Work to further expand registered apprenticeship for both sponsors and apprentices, especially where opportunities arise in emerging industries, particularly in the green energy and advanced manufacturing sectors;
- Continue to be vigilant in inspecting boilers and pressure vessels to ensure safe operation and to protect the property and lives of Virginia's citizens; and
- Strengthen payment of wage collection procedures.

Information Technology

The Department of Labor and Industry's programs and related administrative support functions are sustained by customized business application systems. Each application provides agency programs the business functionality to comply with statutory responsibilities and best management practices. The Virginia Occupational Safety and Health Program utilizes integrated software and hardware systems that have been developed, supplied, and supported by the Occupational Safety and Health Administration (OSHA) of the United States Department of Labor. The remaining programs utilize software that was developed by external contract or internal resources.

Workforce Development

Like many other state agencies, the Department has experienced significant challenges in recent years, including recruiting and retaining qualified individuals, a limited training budget, and an aging workforce. An analysis of workforce planning data reveals that the Agency has witnessed a tremendous increase in the number of applicants for each position, many of whom do not possess the desired knowledge, skills, and abilities to effectively carry out the required duties. At the same time, the Agency continues to experience job enlargement due to the inability to recruit, or recruit successfully, for a significant number of positions. The nature of the tasks, duties, and responsibilities associated with many of the positions within the Department require skills that are very specialized, marketable, and in demand. The Agency continuously faces stiff competition from private sector organizations and federal agencies who are also seeking to hire similarly trained and skilled employees and who can offer more lucrative compensation packages.

As one means of retention, a detailed orientation program has been designed to acquaint new agency employees with the many advantages of employment within the agency. Employee satisfaction surveys and anonymous suggestion opportunities allow the agency to stay abreast of employee thoughts, concerns, and opinions as a means of retaining the most qualified employees. In an effort to expand internal skill sets and career development, cross-training opportunities are provided as well as other in-house training and leadership programs for the purpose of comprehensive workforce and succession planning, promoting teamwork, and maximizing the individual's potential. Due to the size of the Department, there are limited opportunities for internal advancement. However, the Department has also worked to establish and cultivate mentoring opportunities to assist employees with enhancing their performance in current positions.

Physical Plant

The Department maintains a central headquarters office in Richmond within a multi-agency state-owned building. It also maintains leased regional office spaces in Henrico, Manassas, Roanoke, and Norfolk, as well as field office spaces in Verona, Lynchburg, and Abingdon, which provide services throughout the Commonwealth. All of these properties are managed/leased through the Department of General Services-Division of Real Estate Services.