

2018-20 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, 190 Authorized, and 14 Wage Employees.

Financials Budget FY 2019, \$17.25 million, 58.21% from the General Fund.

Trends Legend ↑ Increase, ↓ Decrease, → Steady

Key Perf Areas → Number of occupational hazards identified
→ Number of boiler inspections
Productivity → Cost per apprentice
Legend ↑ Improving, ↓ Worsening, → Maintaining

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

Background and History

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
- Registration 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 and Employment 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 and inspection activities help assure 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, payments for employer required medical examination and tests, 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-while-you-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 and maintain a qualified workforce.

DOLI's responsibilities for this program include: registering apprenticeship sponsors; 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 meet federal and state standards; 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 - Occupational Safety and Health Administration (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 (OSH 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. These exceptions 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 at § 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 OSH 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 under § 40.1-22 of the Code of Virginia.

- Compliance Program - The VOSH compliance program enforces the occupational safety and health regulations promulgated by 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. Finally, 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 or VOSH. 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, primarily small businesses, 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 primarily large businesses and 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. Both programs recognize Virginia businesses that develop and implement exceptional safety and health management systems that include the following elements:
 - Management leadership and employee involvement
 - Worksite analysis
 - Hazard prevention and control
 - Safety and health training

Customers

Customer Summary

The Agency anticipates modest but steady growth in its customer base. The demand for skilled workers is increasing at a rate that exceeds what would traditionally be expected following a slow economic recovery. The ongoing rate of change of technology in the workplace, workforce demographics, and increased customer expectations will necessitate modifications and enhancements to the Agency'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	Minors under 16 working in Virginia (data from internal DOLI database)	15,636	15,636	Increase
Adult	Parents of minors under 16 working in Virginia (based on data from internal DOLI database presuming two parents for each employed minor)	15,636	31,272	Increase
Business and Finance	Attorneys (data from Virginia State Bar)	8,634	32,395	Stable
Employee	Employees working in Virginia (data from Bureau of Labor Statistics)	4,017,400	4,017,400	Increase
Employee	Registered Apprentices (data from internal DOLI database)	13,486	13,486	Increase
Employer/ Business Owner	Employer Sponsors of Registered Apprentices (data from internal DOLI database)	2,193	2,193	Increase
Employer/ Business Owner	Employers in Virginia (data from Bureau of Labor Statistics)	267,500	268,139	Increase
Employer/ Business Owner	Owners/Users of boilers and pressure vessels (data from internal DOLI database)	24,625	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 and Performance Management

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 2019	FY 2020
01000	General Fund	\$10,042,820	\$10,042,820
02181	Doli Special Revenue Fund	\$855,916	\$855,916
02800	Appropriated Idc Recoveries	\$915,759	\$915,759
10000	Federal Trust	\$5,438,150	\$5,438,150

Revenue Summary

The Department's programs contribute significant revenues to the state that offset program costs. For state fiscal year 2018, the Department's revenues represented 62% 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 2016, the Department enhanced economic development and made Virginia a safer and healthier place to live and work. The Agency's occupational safety and health compliance staff identified 14,724 occupational safety and health hazards. The Agency's boiler and pressure vessel safety staff issued 35,965 inspection certificates for covered boiler and pressure vessel objects. The cost of providing Registered Apprenticeship services was approximately \$110 per registered apprentice. The increase in this cost is partially as a result of the transfer of the apprenticeship related instruction administrative responsibilities, duties, and authorities from the Virginia Community Colleges System to DOLI effective state fiscal year 2016.

Selected Measures

Measure ID	Measure	Alternative Name	Estimated Trend
M181SA12003	Number of instances of occupational safety and health hazards identified.	Number of occupational hazards identified	Maintaining
M181SA12007	Number of inspection certificates issued for boiler and pressure vessel objects.	Number of boiler inspections	Maintaining
M181SA12002	Cost of providing registered apprenticeship services per registered apprenticeship participant.	Cost per apprentice	Maintaining

Key Risk Factors

Diminished Resources: The decline of resources (funding, staffing) continues to present significant challenges for all agency programs in fulfillment of the Department's mission.

For instance, fifty-nine (59) Compliance Safety and Health Officer positions, twelve (12) of which are unfunded (20% of available staff), are responsible for addressing safety and health issues for over 266,000 Virginia businesses and 3.87 million employees. A continuous lack of funding for CSHO positions has resulted in thousands of inspections not occurring and tens of thousands of serious workplace hazards not being identified and corrected.

In addition, staffing is currently at a critical level based on the 59 benchmark positions (twelve (12) of which are unfunded) that were established for the VOSH Program. In 1984, three years after the VOSH Program achieved operational status, there were 109,238 employers and 2,098,046 employees in the Commonwealth. More recently, the Virginia Employment Commission, Quarterly Employment and Wages Report for 2017 indicates that VOSH has jurisdiction over approximately 3,876,600 workers in 266,488 establishments – a 143.9% increase in establishments and a 84.7% increase in employees.

Information Technology Demands: Increasing technology changes and related costs continue to present critical challenges to meeting program business needs and security standard requirements including staff support, infrastructure, equipment, software, development, ongoing maintenance and related service provider support.

Workforce Impact: DOLI has experienced a variety of significant ongoing personnel challenges in recent years, chief among them, the impact of continued statewide budget constraints and resulting Agency funding shortfalls. This situation has been exacerbated by continued slow economic growth. 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 personnel services constitute nearly three-quarters 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, when allowed to hire, it is difficult to retain these younger highly skilled employees due to non-competitive compensation and a lack of robust career track due to agency size when compared with similar positions in the federal government, the private sector, or larger state agencies. Therefore, continued efforts to maintain open and frequent communication and support are viewed as 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 state fiscal year 2016.

Statistics Table

Description	Value
Awarded Registered Apprenticeship Certificates of Completion	1,853
Active registered apprenticeship participants	13,486
Active Registered Boilers and Pressure Vessels (as of September 29, 2017)	74,961
Mailed Boiler/Pressure Vessel Certificate Expiration Reminder Notices (as of October 1, 2017)	9,391
Number of Processed Employment Certificates and Theatrical Permits for Youth Workers	15,636
Employment Certificates Investigated	919
Number of occupational safety/health inspections of worksites	2,167

Management Discussion

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. The Department has historically been engaged by an ever-increasing cohort of customers who are unilingual Spanish speakers. As resources have permitted, DOLI has developed Spanish translations of the agency website and made informational posters and other materials available. In addition, DOLI offices provide access to phone translation services, as well as staff who are fluent in Spanish who serve as translators on an as needed basis. To a lesser degree, DOLI is increasingly encountering customers who primarily speak languages other than English and Spanish, which challenge the Agency's ability to meet service delivery demands. Agency employees continue to focus on greater efficiency, while increasing the effectiveness of our services that enhance economic development. Where it is advantageous to do so, 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 VOSH Program by multiplying the size and expertise of our Voluntary Protection Program, and eventually expand into the construction industry and other mobile workforce industries;
- Improve the efficiency of the child labor online employment certificate processes;
- Work to further expand Registered Apprenticeship for both sponsors and apprentices, especially where opportunities arise in emerging industries, particularly in advanced manufacturing, health care, IT/Cybersecurity, and the business and professional services 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 VOSH Program utilizes integrated software systems developed, supplied, and supported by the Occupational Safety and Health Administration (OSHA) of the United States Department of Labor. The Office of Research and Analysis utilizes software and hardware systems developed, supplied, and supported by Bureau of Labor Statistics (BLS) of the U.S. 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 significant job enlargement for existing staff due to the inability to recruit, recruit successfully, or retain existing staff, 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. As noted previously, the Agency continuously faces stiff competition from private sector organizations, federal agencies, and larger state agencies which are also seeking to hire similarly trained and skilled employees and who can offer more lucrative compensation packages.

The Department has expanded services to a continually increasing number of customers, even with far fewer employees and greatly diminished resources. A decline in federal and state funding has directly impacted staffing availability resulting in a major decrease in the number of Agency employees in terms of approved and funded positions. It has also caused significant salary compression which, over time, has compounded the loss of experienced long-term employees who leave the Agency for more lucrative employment elsewhere. In general, allocations for technology, staff training, and salaries have fallen far behind the pace of the rising costs of doing business in the Commonwealth.

As one means of retention, a detailed orientation program continues to acquaint new agency employees with the many advantages of employment within the agency. Due to the size of the Department, there are limited opportunities for internal advancement. However, DOLI has established several new Registered Apprenticeship Programs within the department to enhance career growth for its employees. The Division of Labor and Employment Law and the Division of Registered Apprenticeship now offer Registered Apprenticeship opportunities when vacancies occur within their Divisions in certain roles. The Department also continues to mentor new staff in the VOSH Program.

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 County, 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.