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Newsletter

Virginia Association of Broadcasters

January 2009

Congress Split Over DTV Transition Delay

With less than three weeks to go until the scheduled Digital Television Transition, the U.S. Senate unanimously passed a second bill aiming to delay the switch from February 17 to June 12.

"This transition is going to hit our most vulnerable citizens — the poor, the elderly, the disabled, and those with language barriers— the hardest," says Senate Commerce Committee Chairman Jay Rockefeller, of West Virginia. "Over 2 million Americans are waiting to receive a coupon to help them offset the cost of equipment that will help them manage the transition. Millions more don't have the proper information they need."

After the Senate passed the initial bill delaying the DTV transition, the measure failed to gain the required two-thirds support in the House under special rules adopted for the vote.

"In my opinion, we could do nothing worse than to delay this transition date," said Joe Barton of Texas, the top Republican on the House Commerce Committee. "The bill is a solution looking for a problem that exists mostly in the mind of the Obama administration."

"The House will have a second chance next week to implement this delay," says Rockefeller. "I am hopeful they will pass this bill so we can send it to President Obama."

Texas Republican Kay Bailey Hutchison and Senator Rockefeller worked out a compromise which would make the delay voluntary, so television stations could go ahead and drop analog transmission on February 17.

"NAB supports legislation passed unanimously by the full Senate that moves the DTV deadline to June 12,

while providing flexibility to local stations in adjusting to the new date," says NAB Executive Vice President Dennis Wharton. "We are especially appreciative of the tireless efforts of Commerce Committee Chairman Rockefeller and Ranking Member Hutchison in crafting the compromise bill."

"Virginia broadcasters are prepared to make the transition on February 17," says Douglas Easter, Executive Director of the Virginia Association of Broadcasters. "We will of course cooperate with Congress and the new administration, but it is our hope that if a new digital transition bill is signed by President Obama, that it will include the provision which makes the delay voluntary, so the decision may be made by each station individually."



VAB Honors 92.9 The Wave



The Virginia Association of Broadcasters has presented the 2008 Laurence E. Richardson Community Service Award to WVBW-FM 92.9 The Wave, a Max Media station. The annual award was presented on January 21 at the VAB Legislative Gala in recognition of the station's Wave Goodbye to Kids Cancer Radiothon.

WVWBW donated on-air, online, and on-site promotional support for the two-day fundraising event last March that raised over \$80,000 for the Children's Hospital of the Kings Daughters, a 186 non-profit children's hospital located in Norfolk, Virginia.

"This is our opportunity to give back to the children and their parents

who have been dealing with the devastating effects of childhood cancer and provide hope for the future," says Dick Lamb, host of The Morning Wave and Vice-President of Radio Operations for Max Media.

The award is a perpetual trophy presented in the name of Laurence E. Richardson, a past president of the Virginia Association of Broadcasters, who set an impressive example of community service for all broadcasters. The trophy is given to the Virginia station that is judged, through its community service efforts, to have created the greatest resulting benefit to the local community during the past year. In determining the winner, impartial judges use specific criteria, including supporting documents from local organizations. The judges this year were from the National Association of Broadcasters.

A very special thank you to all twelve stations that submitted entries this year for their continued service to their community! ♦



VAB Newsletter

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Robert Scutari	<i>WJLA-TV, Arlington</i>

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Boucher Takes Telecom Subcommittee Chair

U.S. Representative Rick Boucher (D-VA) has been chosen to take the gavel of the U.S. House Energy and Commerce Committee's Subcommittee on Communications, Technology and the Internet, a position which places him at the forefront of telecommunications policy in the House of Representatives. The post gives him the opportunity to further his longstanding work on a range of telecommunications issues.

"I am pleased to have the opportunity to chair the Subcommittee on Communications, Technology and the Internet for the 111th Congress," says Boucher. "The new position gives me the opportunity to further my work to shape telecommunications policy, including expanding access to broadband and ensuring a successful DTV transition."

Boucher has served for two decades on the House Judiciary Committee's subcommittee with jurisdiction over the Internet and intellectual property. As one of only three Members of the

House to serve on both the Energy and Commerce and Judiciary Committees—the two committees most involved in crafting Internet and information technology policy—Congressman Boucher is uniquely positioned to lead congressional efforts in this arena. He is also a co-founder and current co-chair of the Congressional Internet Caucus, which serves as an educational resource for the Congress on Internet related policy matters. The caucus has grown to more than 170 members of the House and Senate.

The National Association of Broadcasters Executive Vice President Dennis Wharton said the NAB has enormous respect for Boucher and wishes him great success in his new role. "We look forward to working with... Mr. Boucher... in the new Congress, and in continuing to make the case that the news, entertainment and emergency lifeline services provided by free and local broadcasting are worth preserving and strengthening." ❖

Does your company have news to share? Please email press releases to derek.breen@easterassociates.com.

Over 300 State Legislators, Agency Heads and Broadcasters Come Together For 2009 VAB Gala



Two-Year Period For Completing EEO Menu Option Activities For Virginia Radio Stations Will End Soon

By Coe Ramsey & Stephen Hartzell

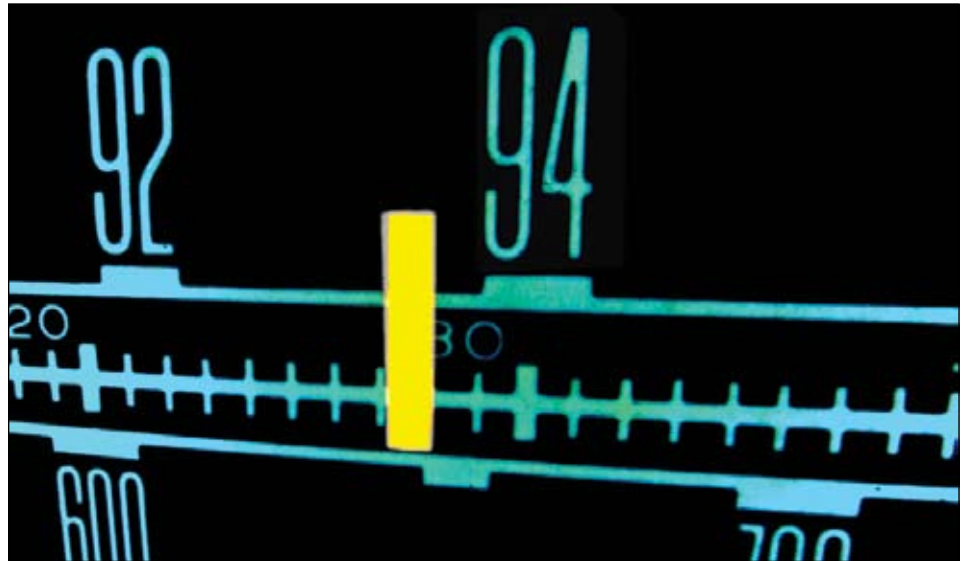
The FCC's EEO rules require stations to engage in specific non-vacancy outreach efforts. The applicable two-year period for which the EEO menu options must be completed generally extends from the time a station files its renewal application to the second, then fourth, and then sixth anniversary thereof. For Virginia radio stations, the current two-year period ends June 1, 2009, which means that radio stations that are not already on track to satisfy their EEO outreach requirements have a little more than four more months to complete the required number of menu options. (For Virginia television stations, the most recent two-year period ended June 1, 2008.)

Broadcasters may select the initiatives in the outreach menu that they believe will be most effective for their stations. Every two years, stations that have more than 10 full-time employees and are not located in a "smaller market" must engage in at least four of the initiatives on the menu, and stations that are located in a "smaller market" or have five to ten full-time employees must engage in at least two of the initiatives. Stations with fewer than five full-time employees are not required to engage in any menu option activities. For purposes of the FCC's EEO rules, a "full-time" employee is one who works 30 or more hours per week.

A "smaller market" is a community that is located in a county that is outside of all metropolitan areas, as defined by the federal Office of Management and Budget ("OMB") or is located in a metropolitan area that has a population of fewer than 250,000 people. The most recent list of metropolitan areas is available on the Internet at <http://www.census.gov/population/cen2000/phc-t29/tab02b.pdf>.

The menu options, as set forth in the FCC's rules, are as follows:

- Participation in at least four job fairs by station personnel who have substantial responsibility in making hiring decisions.
- Hosting of at least one job fair.



- Co-sponsoring of at least one job fair with organizations in the business and professional community whose membership includes substantial participation by women and minorities.
- Participation in at least four events, including conventions, career days, workshops, and similar activities, sponsored by organizations representing groups present in the community interested in broadcast employment issues.
- Establishment of an internship program designed to assist members of the community to acquire skills needed for broadcast employment.
- Participation in job banks, Internet programs, and other programs designed to promote outreach generally (i.e., outreach that is not primarily directed to providing notification of specific job vacancies).
- Participation in scholarship programs designed to assist students interested in pursuing a career in broadcasting.
- Establishment of training programs designed to enable station personnel to acquire skills that could qualify them for higher level positions.
- Establishment of a mentoring program for station personnel.
- Participation in at least four events or programs sponsored by educational institutions relating to career opportunities in broadcasting.
- Sponsorship of at least two events in the community designed to inform and educate members of the public about employment opportunities in broadcasting.
- Listing of each upper-level category opening in a job bank or newsletter of media trade groups whose membership includes substantial participation by women and minorities.
- Provision of assistance to unaffiliated non-profit entities in the maintenance of web sites that provide counseling on the process of searching for broadcast employment and/or other career development assistance pertinent to broadcasting.
- Provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination.
- Provision of training to personnel of unaffiliated non-profit organizations interested in broadcast employment opportunities that would enable them to better refer job candidates for broadcast positions.
- Participation in other activities designed by the station reasonably calculated to further the goal of disseminating information as to employment opportunities in broadcasting to job candidates who might otherwise be unaware of such opportunities.

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SPECIAL SECTION: 2009 Industry-Related Legislation

VAB lobbyists are monitoring the following legislation currently before the 2009 Virginia General Assembly, which convened January 14, 2009. Members are encouraged to provide feedback to legislators by calling the General Assembly's toll-free constituent viewpoint hotline at (800) 889-0229.

HB 1619 Solicitation in highway right-of-way

Grants Hanover County and the Town of Ashland the power to regulate the solicitation of contributions and distribution of materials, etc., in highway rights-of-way.

Patrons: Peace and Hargrove

HB 1634 Campaign finance

Prohibits any General Assembly member, the Governor, Lieutenant Governor, or Attorney General from attending any event held during a regular session of the General Assembly that is sponsored by any political party committee, registered lobbyist, or any organization, group, or person from whom the member or statewide official received a campaign contribution during the previous calendar year.

Patrons: Saxman and Landes

HB 1676 Distribution of handbills, etc. on highways

Grants Spotsylvania County the same power granted Arlington and Henrico Counties, the City of Richmond, and the Town of Vienna to prohibit distribution of handbills, etc., on highways.

Patron: Orrock

HB 1730 Tax legislation

Requires a sunset date of no more than four years on all taxation bills that add or increase a state or local tax, prior to reporting of the bill by a committee of the General Assembly.

Patrons: Cole and Frederick

HB 1781 Juvenile records

Allows the Department of Juvenile Justice to share with law enforcement the information of a juvenile, without request, if the Department reasonably believes that it would aid in a criminal investigation involving a predicate criminal act or a criminal street gang as criminal street gang is defined in § 18.2-46.1. The bill also provides that a local court services unit shall provide information on criminal gang activity to the State Police, a local police department, a sheriff's office, or the locally designated gang coordinator, gang task force, or law-enforcement task force, and that the information shall include identifying information of the juvenile.

Patron: Albo

HB 1785 Disclosure requirements

Adds to the list of exceptions to disclosure requirements a disposition of a lot by a sale at an auction, where the association disclosure packet was made available as part of an auction package for prospective purchasers prior to the auction sale.

Patron: Hull

HB 1786 Retail Sales and Use Tax

Removes the sunset date (July 1, 2019) from the exemption for purchases made for use in the production of audiovisual works.

Patron: Hull

HB 1843 Civil commitment of sexually violent predators

Makes a number of changes, including requiring that the court records for certain sexual misdemeanors be retained for 100 years rather than 10 years; allowing access to juvenile court and records of the Department of Juvenile Justice; addressing challenges to filing defects, including defendants under the Commitment Review Com-

mittee; removing the requirement that victims of certain crimes must have suffered physical bodily injury in order for certain prisoners to be referred to Commitment Review Committee; allowing access to sealed records; extending from 60 to 90 days the time for a probable cause hearing and allowing the respondent to waive his right to such hearing; setting a standard for the court to find probable cause; allowing hearings to be conducted using two-way electronic video and audio communications systems and telephonic communication for witnesses; and extending from 90 to 120 the number of days after the probable cause hearing for conduct of the trial.

Patron: Griffith

HB 1845 Remote access to land records

Allows for occasional remote access to land records by the general public and sets a fee in an amount not to exceed the usual copying fee. Such occasional remote users will not be charged the \$50 per month subscriber fee.

Patron: Lingamfelter

HB 2043 Port Authority

Provides that records of the allowances or reimbursements for expenses paid to any officer or employee of the Authority or any entity, including but not limited to any entity operating a terminal on behalf of the Authority, that are incurred for business development or marketing of the ports of the Commonwealth shall be open to public disclosure in accordance with the Freedom of Information Act. The bill exempts from public disclosure those portions of such records that would identify specific business development or marketing activities with existing or future parties with whom the Authority has formed, or forms, any arrangement for the shipment of goods and cargoes through the ports, if disclosure of such information would be harmful to the competitive position of the Authority.

Patron: Gear

HB 2144 Concealed handgun permit applications

Protects from public disclosure permittee names and descriptive information held by the Department of State Police for purposes of entry into the Virginia Criminal Information Network. However, the information would still be available to law-enforcement agencies, officers, and agents in the course of law-enforcement duties, and nonidentifying statistical information would be available to the general public.

Patron: Nutter

HB 2181 Freedom of Information Act

Exempts from the mandatory disclosure requirements of FOIA documentation or other information that describes the design, function, operation, or implementation of internal controls over the Commonwealth's financial processes and systems, and the assessment of risks and vulnerabilities of those controls, including the annual assessment of internal controls mandated by the Comptroller, the disclosure of which would jeopardize the security of the Commonwealth's financial assets. However, summary reports relating to the soundness of any fiscal process shall be disclosed in a form that does not compromise the internal controls.

Patron: Phillips

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HB 2201 Innovation & Entrepreneurship Investment Authority
Merges the Innovative Technology Authority (ITA), and the Virginia Research and Technology Advisory Commission into a single entity, named the Innovation and Entrepreneurship Investment Authority (IEIA). The IEIA will have 10 members as follows: three presidents of state institutions of higher education, the Secretary of Technology, and six nonlegislative citizen members representing the entrepreneurial, investment, and science and technology communities. The IEIA will continue the work of the ITA, with heightened responsibilities regarding the oversight of research and development efforts in the Commonwealth.

Patrons: Vanderhye, Bouchard, Byron, Landes, May and Scott

HB 2266 Freedom of Information Act

Expands the current record exemption for the names, addresses, and telephone numbers of complainants relating to zoning enforcement complaints made to a local governing body to also include complaints relating to the Uniform Statewide Building Code or the Statewide Fire Prevention Code.

Patron: Ware, O.

HB 2269 Expenditures

Requires the annual report of expenditures provided by the school board to the appropriate governing body to also be made available to the public in sufficient detail for citizens to readily identify how appropriated funds have been spent.

Patron: Poindexter

HB 2421 Freedom of Information Act

Clarifies that the definition of public record does not include correspondence, messages or other records or portions thereof created or received by a public employee, appointee or officer that relate to personal matters and do not address public business; however such records may be disclosed in the discretion of the custodian.

Patron: May

HB 2426 Government Data Collection and Dissemination Practices Act

Extends from July 1, 2009, to July 1, 2010, the implementation of the prohibition against collecting an individual's social security number unless collection of such number is (i) authorized or required by state or federal law and (ii) essential for the performance of that agency's duties. The bill contains several technical amendments, all to become effective July 1, 2010.

Patron: May

HB 2427 Protection of Social Security Numbers Act

Provides that the first five digits of a social security number contained in a public record shall be confidential and exempt from disclosure under the Freedom of Information Act. The bill does allow release of a social security number under certain limited circumstances, including proper judicial order; to federal, state or local law-enforcement or correctional personnel; by one agency to another agency in Virginia or to an agency in another state, district, or territory of the United States; and to any data subject exercising his rights under the Government Data Collection and Dissemination Practices Act. The bill provides for penalties for violation.

Patrons: May, Iaquinto and Sickles

HB 2471 Freedom of Information Act

Provides that the disclosure of the names of individual teachers is not required under FOIA in response to a request for the official salary or rate of pay of employees of a local school board.

Patrons: Hugo and Cole

HB 2549 College Savings Plan

Provides for: (i) the exclusion of certain financial records of the Virginia College Savings Plan from the Freedom of Information Act; (ii) the authorization for closed meetings of the Board of the Virginia College Savings Plan in certain circumstances; (iii) the expansion of the Virginia College Savings Plan Board from eight to 11 members; (iv) the creation of two advisory committees to the Board; and (v) the authority for the Virginia College Savings Plan Board to establish scholarships or matching grant programs for qualified students. The bill also renames the individual hired by the Virginia College Savings Plan Board to direct, manage, and administer the Plan as the "chief executive officer," rather than the current designation of "executive director."

Patron: Cox

HB 2550 Economic development

Authorizes the Virginia Public Building Authority and the Virginia Resources Authority to finance economic development initiatives for major employment and investment projects (MEI projects) performed by state and local government entities. An MEI project is defined as a high impact regional economic development project in which a private entity is expected to make a capital investment in real and tangible personal property exceeding \$250 million and create more than 400 new full-time jobs, and is expected to have a substantial direct economic impact on surrounding communities. The bill also establishes the MEI Project Approval Commission to review financing for individual incentive packages for MEI projects to be financed by the Virginia Public Building Authority.

Patron: Cox

HB 2639 Freedom of Information Act

Exempts from the mandatory disclosure provisions of the Freedom of Information Act (i) personal information contained in the Veterans Care Center Resident Trust Fund concerning residents or patients of the Virginia Veterans Care Center and (ii) records maintained in connection with fundraising activities by the Veterans Services Foundation to the extent that such records reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the record. The bill provides, however, that it shall not be construed to authorize the withholding of records relating to the amount, date, purpose, and terms of the pledge or donation, or the identity of the donor unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. Nor does the exclusion provided by the bill apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

Patron: Jones

HB 2650 Citizens' Right to Know: Pretrial Release Act

Requires all pretrial services agencies in the Commonwealth to keep detailed records of its recommendations and case records for each defendant for whom it recommends pretrial release or for whom it does not recommend pretrial release, which records shall be open to the public. The pretrial services agencies are also required to file an annual report with the Department of Criminal Justice Services. The bill also provides for sanctions in the form of budget reduction for any noncomplying program.

Patron: Bell

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SB 850 Budget Bill.

Budget Bill amending Chapter 879, 2008 Acts of Assembly.

Patron: Colgan

SB 880 Game and Inland Fisheries, Department of

Provides that records of the Department shall be subject to the disclosure provisions of the Freedom of Information Act, except that personal information, as defined in §2.2-3801, of individual applicants for or holders of any hunting, fishing, boating, or trapping license issued by an agent of the Department shall be withheld from public disclosure, provided that such individuals have requested that the Department not disclose such information. However, statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify individual applicants or licensees shall be disclosed. The bill provides, however, that such information may be released (i) in accordance with a proper judicial order, (ii) to any law-enforcement agency, officer, or authorized agent thereof acting in the performance of official law-enforcement duties, or (iii) to any person who is the subject of the record.

Patron: Stuart

SB 894 Biennial appropriation act

Provides that the Commonwealth's biennial appropriations shall start on July 1 of odd-numbered years beginning with the biennial appropriation act for the period July 1, 2013, through June 30, 2015. The bill would require that the fiscal year beginning July 1, 2012, would not be a part of any biennial appropriation act (i.e., it would be a single-year budget).

Patron: McDougle

SB 895 Budget bill and gubernatorial amendments

Requires that the Governor's submission of the budget bill and his gubernatorial amendments proposed to the general appropriation act include alternative revenue estimates under a "best case" scenario and under a "worst case" scenario.

Patrons: McDougle; Delegate: Pollard

SB 899 Distribution of handbills, etc

Adds Spotsylvania County to the list of localities that may prohibit distribution of handbills, etc., to occupants of motor vehicles on highways and adds Hanover County to the list of localities that may adopt ordinances regulating the distribution of handbills, etc., to occupants of motor vehicles on public roadways and medians.

Patron: McDougle

SB 928 Confidentiality of court records

Provides that any person, agency, or institution that may inspect juvenile case files shall be authorized to have copies made of such records, subject to any restrictions, conditions, or prohibitions that the court may impose. This bill is a recommendation of the Committee on District Courts.

Patron: Marsh

SB 935 Remote access to land records

Allows for occasional remote access to land records by the general public and sets a fee in an amount not to exceed the usual copying fee. Such occasional remote users will not be charged the \$50 per month subscriber fee.

Patron: Smith

SB 936 Enterprise Applications Program

Provides for the Virginia Enterprise Applications Program (VEAP) within the Office of the Secretary of Technology to create and maintain a searchable database website containing information on state rev-

enues, appropriations, and expenditures. Under the bill, the Director of VEAP shall develop a pilot searchable database website available for public use no later than July 1, 2010. Beginning in July 2011, the searchable database website shall be updated for (i) fiscal years that ended prior to July 1, 2009, and (ii) for future fiscal years not later than 60 days following the close of the fiscal year. The Director of VEAP, the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission shall work together to coordinate efforts in obtaining, summarizing, and compiling information in order to avoid duplication of efforts. The website shall be made available in a format designed to encourage the greatest amount of use by the general public. The website shall provide access to all levels of budget spending in state government.

Patrons: Cuccinelli, Petersen, Smith and Vogel; Delegates: Cline, Frederick and O'Bannon

SB 1014 Freedom of Information Act

Expands the current record exemption for the names, addresses, and telephone numbers of complainants relating to zoning enforcement complaints made to a local governing body to also include complaints relating to the Uniform Statewide Building Code or the Statewide Fire Prevention Code.

Patron: Edwards

SB 1129 Warrants, local

Authorizes local governments to publish information relating to warrants paid by the locality. The warrant information that could be published would be the names of payees, amounts paid, the serial numbers of warrants, and dates of payments. Information on warrants relating to tax refunds could be published only if the information was aggregated or classified so as to prevent the identification of the payee of the tax refund.

Patron: Petersen

SB 1251 College Savings Plan

Provides for: (i) the exclusion of certain financial records of the Virginia College Savings Plan from the Freedom of Information Act; (ii) the authorization for closed meetings of the Board of the Virginia College Savings Plan in certain circumstances; (iii) the expansion of the Virginia College Savings Plan Board from eight to 11 members; (iv) the creation of two advisory committees to the Board; and (v) the authority for the Virginia College Savings Plan Board to establish scholarships or matching grant programs for qualified students. The bill also renames the individual hired by the Virginia College Savings Plan Board to direct, manage, and administer the Plan as the "chief executive officer," rather than the current designation of "executive director."

Patron: Miller, Y.B.

SB 1277 Land records

Requires, beginning July 1, 2012, that social security numbers not be contained in land records posted via secure remote access to the Internet.

Patron: Newman

SB 1282 Health Professions, Department of

Prohibits the Department of Health Professions from providing a list of home addresses and other personal information of individuals licensed as health professionals to any private entity for resale to another private entity or the public. The bill also directs the Enterprise Application Public-Private Partnership Office to take appropriate action to prevent the sale of any list of home addresses and other personal information of individuals licensed as health professionals by Virginia Interactive or any other private entity.

Patron: Newman

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SB 1316 Freedom of Information Act

Strikes the requirement to publish an index of computer databases and amends the requirement to publish a statement of rights and responsibilities to ensure that the public can find out generally what types of public records a public body has and what exemptions may apply to those records. This bill is a recommendation of the Freedom of Information Advisory Council.

Patrons: Houck; Delegate: Griffith

SB 1317 Electronic meetings by Air Pollution Control Board and State Water Control Board

Requires that any electronic communication meetings (teleconference) shall be held in compliance with the provisions the Freedom of Information Act, except that a quorum of the Board is not required to be physically assembled at one primary or central meeting location. The bill also requires that discussions of the Air Pollution Control Board or the State Water Control Board held via such electronic communication means shall be specifically limited to a (i) review of certain decisions of the Director, (ii) determination of the Air Pollution Control Board or the State Water Control Board whether or not to grant a public hearing or Board consideration, or (iii) delegation of the permit to the Director for his decision. No other matter of public business shall be discussed or transacted by the Air Pollution Control Board or the State Water Control Board during any such meeting held via electronic communication. The bill also clarifies when certain public hearings may be held and who may preside over the public hearings. This bill is a recommendation of the Freedom of Information Advisory Council.

Patrons: Houck; Delegate: Griffith

SB 1318 Government Data Collection and Dissemination Practices Act

Extends from July 1, 2009, to July 1, 2010, the implementation of the prohibition against collecting an individual's social security number unless collection of such number is (i) authorized or required by state or federal law and (ii) essential for the performance of that agency's duties. The bill contains several technical amendments, all to become effective July 1, 2010. This bill is a recommendation of the Freedom of Information Advisory Council.

Patrons: Houck; Delegate: Griffith

SB 1319 Freedom of Information Act

Clarifies that minutes of public meetings must be in writing. The bill also contains a technical amendment. The terms "include" and "in writing" that appear in the bill are defined in Title 1 to mean, respectively, "include, but are not limited to," and "any representation of words, letters, symbols, numbers, or figures, whether (i) printed or inscribed on a tangible medium or (ii) stored in an electronic or other medium and retrievable in a perceivable form and whether an electronic signature authorized by Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1 is or is not affixed." This bill is a recommendation of the Freedom of Information Advisory Council.

Patrons: Houck; Delegate: Griffith

SB 1332 Private entities

Provides that a private entity that operates, manages, or supervises any portion of the state highway system and receives funding from the Commonwealth or any of its political subdivisions shall be considered a public body for purposes of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) of the Code of Virginia as it relates to that portion of the private entity's business operations responsible for operating, managing, or supervising the portion of the state highway system.

Patron: Cuccinelli

SB 1344 Freedom of Information

Amends an existing records exemption for economic development records to include records related to the retention of existing business, and to allow the exemption to be used by all public bodies subject to FOIA. The bill makes corresponding amendments to the existing meetings exemption that allows discussion of such records in closed meetings.

Patron: Reynolds

SB 1456 Innovation and Entrepreneurship Investment Authority

Merges the Innovative Technology Authority (ITA), and the Virginia Research and Technology Advisory Commission into a single entity, named the Innovation and Entrepreneurship Investment Authority (IEIA). The IEIA will have 10 members as follows: three presidents of state institutions of higher education, the Secretary of Technology, and six nonlegislative citizen members representing the entrepreneurial, investment, and science and technology communities. The IEIA will continue the work of the ITA, with heightened responsibilities regarding the oversight of research and development efforts in the Commonwealth.

Patrons: Petersen, Barker, Herring, Puller, Stolle, Vogel and Whipple

SB 1478 Freedom of Information Act

Provides a record exemption under the Freedom of Information Act for the names, addresses, and telephone numbers of complainants relating to Uniform Statewide Building Code or Statewide Fire Prevention Code enforcement made to the local governing body. The bill specifies that nothing shall prevent the disclosure of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster, or other catastrophic event.

Patron: Locke

SB 1505 Freedom of Information Act

Clarifies that enforcement actions under the Freedom of Information Act take precedent over other general provisions of law relating to writs of mandamus or injunction.

Patron: Puller

SJ 347 Constitutional amendment

Provides that any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for the employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is against public policy and an illegal combination or conspiracy.

Patrons: McDougle, Blevins, Cuccinelli, Hanger, Hurt, Martin, Newman, Norment, Obenshain, Quayle, Ruff, Smith, Stolle, Stosch, Stuart, Vogel and Wampler

The Virginia General Assembly dates from the establishment of the House of Burgesses at Jamestown in 1619. It is heralded by Virginians as the "oldest continuous law-making body in the New World." The General Assembly's chief responsibilities are to represent citizens in the formulation of public policy, enact laws of the Commonwealth, approve the budget, levy taxes, elect judges and confirm appointments by the Governor.



Labor Union Initiatives In The 111th Congress

By John G. Kruchko & Paul M. Lusky

As the 111th United States Congress begins, employers may want to consider what changes in laws affecting employment are likely to result from a Congress with a large Democratic majority and a newly-elected Democratic President. Labor unions believe they are primarily responsible for Mr. Obama's election and the significant gains made by Democrats in the House and Senate. Consequently, they will expect payback in the form of strong support from Congress and the new President for their legislative agenda.

At the top of the union agenda is the mislabeled Employee Free Choice Act ("EFCA"). This proposed legislation will bring about the greatest change in the nation's labor policy since the passage of the Taft-Hartley Act in 1947. Contrary to the title of the legislation, the Employee Free Choice Act will bypass the secret ballot election as a means of determining whether employees wish to organize into labor unions, and will force employers to bargain with unions who have secretly intimidated, cajoled, bribed, or misled employees into signing a document designating that union as the collective bargaining representative of the employee.

Under the current law, if a union obtains signatures of more than 50% of an employer's employees in an appropriate bargaining unit on authorization cards, the union may demand recognition from the employer as the collective bargaining representative for the employees in that unit. However, the employer may decline to recognize the union, because

it has no way of knowing what promises, threats or misrepresentations were made to employees to induce them to sign the cards. The union is then free to file a petition with the National Labor Relations Board seeking a secret ballot election, supervised by agents of the Board, to determine whether the employees really wish to be represented by the union. Prior to the election, both the employer and the union have the opportunity to provide information to the employees regarding the pros and cons of union membership, and the consequences of their decision to be represented by a union. Employees are thus able to make an informed and secret choice as to whether to join a union.

The Employee Free Choice Act will drastically change this procedure. This proposed law provides that if a union secures the signatures of a majority of the employees in an appropriate unit, the National Labor Relations Board will certify the union as the collective bargaining representative for that bargaining unit without holding any type of secret ballot election. Since card signing normally takes place in secret and away from the employer's place of business, the employer will not usually be aware that union organizing is taking place, and thus will have no opportunity to present information to employees regarding the negative effects of the employees' decision to organize. Employees will be making the decision to join a labor union without critical information regarding union dues, fines and assessments; the union's strike record; the collective bargaining process and the fact that employees may not receive any

increase in wages or benefits as a result of bargaining.

As if this major change in labor policy was not significant enough, the EFCA makes further changes to the National Labor Relations Act. Once a union is certified, the employer must commence bargaining with that union within 10 days of receiving a written request. If the parties are unable to reach an agreement within a 90-day period, the union may request the Federal Mediation and Conciliation Service ("FMCS") to enter the negotiations and attempt to mediate a settlement. If mediation is unsuccessful after 30 days, the FMCS must refer the dispute to an arbitration board which will determine the terms of the collective bargaining agreement (wages, benefits, hours and working conditions) which will be binding on the employer for a period of two years. The EFCA thus removes control of labor costs from the employer and gives a board of total strangers absolute authority to determine the employer's costs of doing business.

At this point in time, it appears that some sort of labor law "reform" is inevitable. Both the President and Congressional Democrats have promised their "Big Labor" supporters that a bill will be passed. The new Secretary of Labor appears to be a staunch EFCA supporter, and will be tasked with leading the fight for passage, even though the National Labor Relations Act ("NLRA") is not enforced by the Department of Labor. The EFCA is the number one item on Labor's agenda for the new Congress.

In addition to the EFCA, Congress
(continued on next page)

Congress Labor Unions

(continued from previous page)

will face several other union initiatives. For example, labor will likely introduce a proposal to change the meaning of the term "supervisor" under the NLRA. This bill, designated the RESPECT Act when introduced in 2007, would significantly reduce the number of employees who could be classified as supervisors under the NLRA. Obviously, the result would be that more employees could be organized by unions thus dramatically increasing the pool of potential dues available to unions.

Congress will probably also see an effort by unions to pass federal legislation preempting right-to-work laws in over 20 states that currently prohibit unionized employees from being forced to pay union dues. Once again, like the EFCA, passage of this legislation would lead to increased organizing and more revenue for unions.

Unions will also back an increase in

the minimum wage even though legislation passed in 2007 created a three-step increase in the minimum wage that will culminate in an increase to \$7.25 an hour on July 1, 2009. Some of the more radical union proposals would result in a minimum wage of \$10 an hour in 2010. Further, unions want future annual increases tied to inflation so that the minimum wage would not be a political "football" in the future. President Obama also supports an increase in the minimum wage and proposals for indexing the minimum wage to inflation.

Finally, in the civil rights area, employers should anticipate that unions will support passage of a law that will uncap current limits on damages in employment discrimination cases. Further, labor will undoubtedly back passage of legislation extending the statute of limitations for bringing lawsuits against employers for discriminatory pay practices.

Employers should contact their lobbyists, their chambers of commerce, and their trade organizations to urge these

groups to oppose passage of the EFCA and other labor initiatives harmful to business interests. Employers must become much more active and vocal if they wish to stop passage of union initiatives supported by a Congress with a substantial Democratic majority. In some cases, union legislation will have substantial support and only a Republican filibuster will block passage. This is a difficult procedural maneuver and only a concerted lobbying effort by employers will activate such an effort by the minority party in Congress. ❖

©2009 Kruchko & Fries. John G. Kruchko is a partner with the Management Labor & Employment Law Firm of Kruchko & Fries in McLean, Virginia. Paul M. Lusky is a partner with the Firm. For more information, please contact Mr. Kruchko at (703) 734-0554 or Mr. Lusky at (410) 321-7310; or jkruchko@kruchkoandfries.com, or plusky@kruchkoandfries.com. This article is published for general information purposes, and does not constitute legal advice.

Radio EEO Menu

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For example, to fulfill the menu option outreach requirement, a broadcaster that has more than ten full-time employees and is not located in a "smaller market" could, during a two-year period, host one job fair, establish an internship program, participate in a scholarship program, and co-sponsor one job fair with an organization in the business and professional community whose membership includes substantial participation by minorities and women.

It is important to remember that these menu options, as with all of the other EEO program requirements, apply to "station employment units." Thus, a commonly owned station group in the same market where at least one employee is shared among the stations is required to undertake four menu options every two years for the entire group, not per station.

The FCC has not quantified the amount of effort that broadcasters must devote to the menu options. The rules permit broadcasters to perform the menu options on a joint basis, either with other broadcasters, organizations such as the VAB, or with a corporate licensee's cor-

porate headquarters. However, a station seeking credit for a particular menu option performed on a joint basis must have meaningful involvement in the activity. It is not sufficient for the station to merely lend its name to an activity or to provide money where the activity is otherwise entirely conducted by another entity. For example, the hosting of job fairs could be performed on a joint basis; however, insofar as a particular broadcaster's participation amounts to little more than attendance at the job fair, that broadcaster can only claim credit for attendance, even if it has been nominally designated a co-sponsor.

The FCC has clarified that a station cannot claim "sponsorship" credit for a menu option unless the station has meaningful input into the planning and implementation of a particular event. Events can be jointly sponsored, so long as each broadcaster seeking credit for sponsoring the event is actively involved in planning and implementing the event.

With respect to scholarship, mentoring, internship, and training programs, the FCC recognizes that corporate headquarters and broadcasters' associations often establish and administer such programs. In order to receive credit for participating in a corporate headquarter-

ers or association program, there must be meaningful involvement in the program by the station seeking credit. For example, for a scholarship program, the individual station must be involved in activities such as designing the program, soliciting prospective scholarship recipients, maintaining scholarship materials at the station, interviewing or selecting scholarship recipients, promoting the program on air, and evaluating the effectiveness of the program. For mentoring, internship, and training programs, a station can receive credit so long as personnel from the station are active participants in the programs.

Finally, each year the FCC randomly audits broadcast stations to evaluate their compliance with the EEO rules, and the FCC has been enforcing its EEO rules by imposing fines and reporting requirements—including on stations that fail to comply with the menu option activities component of the rules. Since the EEO rules require stations to evaluate their EEO programs, including participation in menu option activities, stations may wish to take the opportunity early in 2009 to "map out" and plan their outreach activities for the calendar year, with Virginia radio stations especially keeping the June 1, 2009, two-year deadline in mind. ❖

JANUARY JOB BANK

For the latest VAB job listings, check the employment section of www.vabonline.com. VAB members can post jobs, delete filled openings, and search our resume bank.

Account Executive

Account Executive TV3 Winchester (VA) is seeking an energetic, highly motivated advertising Account Executive. Previous outside sales and/or marketing experience is preferred, but not required. The successful candidate will research clients' advertising needs, work with the clients to craft advertising campaigns for television and internet, and meet sales revenue goals. The ideal candidate has excellent presentation and communication skills and the ability to multi-task in a fast-paced and fun industry. This position offers an attractive income package, full benefits, and unlimited potential for growth. All candidates must possess a good driving record. No phone calls please. Send cover letter and resume to openings@tv3winchester.com or TV3 Winchester, Attn: General Manager, 633 Millwood Ave., Winchester, VA 22601. TV3 Winchester is an Equal Opportunity Employer and a Drug-Free Workplace.

Marketing Consultant

The Charlottesville Radio Group is looking to expand their creative marketing team. By offering the best training and support in the business, we'll prepare you for a long, successful career in broadcast sales. If you have good communication and organizational skills with a creative streak...then you could be the perfect candidate. To take advantage of this opportunity fax or mail your resume/cover letter to: General Sales Manager 1140 Rose Hill Drive Charlottesville, VA 22903 Fax # 434-220-2304. The Charlottesville Radio Group is an Equal Opportunity Employer.

Account Executive

Account Executive position in Sales Department. Advertising sales background helpful. Send resume to: WRIC TV8 Personnel Department, 301 Arboretum Place, Richmond, VA 23236-3464, or fax your resume to (804) 330-8881, or email your resume to personnel@wric.com. NO phone calls please. EOE

Television Production Specialist (Part-time 26 hours/week)

Immediate opening for someone with strong working knowledge of television broadcast facility. Audio operation and character generator operation experience preferred. Other duties include studio set-up and maintenance, studio camera operation and floor direction, video tape operation, and other assigned duties. Early morning, late night and weekend work required. Send resume to: WRIC TV8 Personnel Department, 301 Arboretum Place, Richmond, VA 23236-3464, or fax your resume to (804) 330-8881, or email your resume to personnel@wric.com. NO phone calls please. EOE

Video Journalist

WRIC-TV is looking for a Video Journalist who can shoot, edit, and write. The ideal candidate must be able to work independently, generate story ideas, and produce innovative content for all newscasts. One year shooting and reporting experience preferred. Please send non-returnable DVD and resume to: WRIC TV8 Personnel Department, 301 Arboretum Place, Richmond, VA 23236-3464. NO phone calls please. EOE

Board Operator

Applicant must have current knowledge of digital broadcast studio operations and be computer proficient. Good verbal and written communications skills required. Experience in similar format preferred. Fax resume to 703.807.2248 or mail resume to WAVA, Attn: Bob Jones, 1901 North Moore Street, Suite 200, Arlington, VA 22209. Women and minorities encouraged to apply. WAVA is an equal opportunity employer.

Director of Sales

Saga Communications is looking for a Director of Sales for our three station cluster in Norfolk, VA. If you are a respected team leader who is passionate about direct local sales, goal-oriented and who believes in the value of training your staff on a consistent basis, we would like to talk to you. You must have at least three years of local sales management experience and be able to show us your accomplishments. Norfolk is a top 50 market; a great place to live—warm, friendly and very affordable. If interested, please forward your resume with cover letter to pkelley@tciradio.net or call Paul Kelley, VP/GM at 757-366-9900 ext. 3031. All inquiries will be held in strict confidence. EOE.

Air-Talent

WNOR/WAFX seek full-time air talent. Experience with MusicMaster and computer skills preferred. Send resume to Mr. Brown at foxpd@gmail.com or mail to Mr. Brown, c/o WNOB/WAFX, 870 Greenbrier Circle, Ste. 399, Chesapeake, VA 23320. EOE.

Account Executive

Sell Radio Advertising in the Washington, DC Metropolitan Area. Previous business to business sales experience preferred. Marketing and advertising experience a plus. Compensation includes Salary, Bonuses and Incentives plus Health/Life/401(k). Women and Minorities encouraged to apply. WAVA Radio is an Equal Opportunity Employer. Fax Resume to 703.807.2249 or mail resume to Tom Moyer, Station Manager, WAVA, 1901 North Moore Street, Suite 200, Arlington, VA 22209.

WCAV Producer

Producer WCAV in Charlottesville is looking for a creative thinker and an excellent writer to be our next producer. Ideal candidate will have existing newsroom experience, preferably in writing and or editing. If you think you have what it takes to take our newscasts to the next level, send or email a resume and recent show to: Griff Benner Assistant News Director WCAV/WVAW/WAHU 999 2nd Street, SE Charlottesville, VA 22902

General Sales Manager

WDBJ Television has an opening for an experienced General Sales Manager. This position is responsible for the company's overall sales efforts. Other responsibilities include, but not limited to: ? Developing strategic sales plans that result in an increase in sales and profitability ? Developing new sources of revenue in both traditional and new media ventures ? Monitoring local businesses to identify and develop new business opportunities ? Making sales calls with or without account executives ? Providing leadership, training, and motivation for an experienced sales team Job requirements: ? Demonstrated knowledge of all platforms of traditional television and digital product sales ? Demonstrated experience with inventory management and pricing ? Successful track record in sales management ? College degree or equivalent experience ? Excellent communication skills ? Strong computer skills Please send cover letter and resume to: Human Resources Manager Attn: General Sales Manager Position WDBJ Television, Inc. 2807 Hershberger Road Roanoke, VA 24017 or email: jobs@wdbj7.com WDBJ Television is an Equal Opportunity Employer.

Sales Assistant

WDBJ Television is currently accepting applications for a Sales Assistant. This position requires a well-organized person who is capable of multitasking under tight deadlines. Responsibilities include providing support for sales managers and account executives, creating sales

proposals and presentations, tracking sales progress and other general office duties. Ideal candidate must be a quick learner with the ability to positively interact with the sales staff, clients, and station departments. Qualifications include excellent communication skills, strong knowledge in Microsoft Word, Excel, and PowerPoint. Background and pre-employment drug screen required. Send cover letter and resume to: Human Resources Manager Attn: Sales Assistant Position WDBJ Television, Inc. P.O. Box 7 Roanoke, VA 24022 Or email: jobs@wdbj7.com WDBJ Television is an Equal Opportunity Employer.

Weekend Sports Anchor / Reporter

We're looking for a sports person who can do it all to join our sports team at a powerhouse NBC station in a great sports market. If you're not willing to hustle, shoot multiple games, and tell good stories...then don't apply here. We're an all-digital station producing HD newscasts with 4 live trucks including a satellite uplink van. We believe in covering LOCAL sports, which means the ACC and high schools. If you don't have strong on-air presence plus good shooting and editing skills, do not apply. If you think you've got what it takes, rush resume, non-returnable DVD, and completed NBC29 application packet, available for download at www.nbc29.com, to: HR Manager, 503 E Market St., Charlottesville, VA 22902. Unsolicited phone calls will result in your disqualification for the position. EOE.

Anchor/Reporter

Anchor/Reporter – Richmond's No. 1 news organization seeks anchor/reporter with proven track record of successful reporting. Schedule includes both dayside and nightside work. Send cover letter with salary requirements, resume and non-returnable demo tape to Nancy Kent Smith, News Director, NBC12, P. O. Box 12, Richmond, VA 23218. EOE M/F/D/V. Drug Screen required. EOE.

SUBMIT JOBS

Submit to VAB Newsletter:

- Please email the listing directly to derek.breen@easterassociates.com.
- Be sure to include your station ID or company name, information on how the applicant can apply and where to send the applications materials.
- Only jobs emailed to the VAB will be included in the newsletter.

Submit to the Online Job Bank:

- Go to www.vabonline.com
- Click on "Member Area" (top right menu)
- Log in. (If you do not know your login or password, please email christina.meyer@easterassociates.com)
- Upon login, you will see a menu at left. Select "Your Jobs." From here you can enter new jobs, edit jobs or delete job postings that have been filled.
- Don't forget, members can also view resumes by clicking on the "Resume Bank!"

Job Bank Questions:

Please contact Derek Breen at the Association office: 434-977-3716 or by email at derek.breen@easterassociates.com.

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If you've forgotten your username or password, email christina.meyer@easterassociates.com.

