

Walden Bullish on Spectrum Legislation's Prospects



The chairman of the House Energy and Commerce Communications and Technology Subcommittee says he is confident that House and Senate negotiators will include his version of spectrum legislation in a payroll tax package given that it would generate more cash to pay down the deficit than the Senate Commerce Committee's version.

Rep. Greg Walden, R-Ore., outlined an aggressive agenda for his panel for this year, including pushing for legislation to free up more spectrum for wireless broadband and to help build a national broadband public safety network.

Walden and Energy and Commerce Chairman Fred Upton, R-Mich., are among the House conferees picked to help negotiate the differences between the House and Senate versions of legislation that would extend a payroll tax holiday and other tax breaks. The House's payroll tax bill, passed last month, included the spectrum legislation authored by Walden that was approved by his subcommittee in November.

The Senate Commerce Committee approved its own version of spectrum legislation last summer. Both the Walden and Commerce

bills would authorize auctions to entice broadcasters to voluntarily give up some of their spectrum for a share of the money generated. Among the notable differences between Walden's measure and the Senate Commerce bill is that his would generate about \$10 billion more for deficit reduction, Walden said.

Another provision that has emerged as a point of contention in recent weeks is language in the House bill that would bar the FCC from limiting which companies could participate in incentive auctions. FCC Chairman Julius Genachowski earlier this month urged lawmakers not to limit the commission's flexibility to structure the auctions as it sees fit.

Following his speech, AT&T voiced concern that the FCC may try to keep it and other large wireless operators from bidding for the spectrum that broadcasters give up at auction. Walden said the language included in his bill would ensure the FCC can't pick winners and losers. He added that the commission would still have authority to address concerns over market concentration even after an auction is conducted.

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Spectrum continued

"The only reason the chairman is upset about the provision is that he wants to exclude one of two market participants," Walden said, referring to the nation's two biggest wireless firms: AT&T and Verizon Wireless. "I don't think it's good public policy."

Walden said he believes it's likely that some version of the spectrum legislation will be included in the payroll tax package the House and Senate negotiators are trying to hammer out. The conference committee met for the first time Tuesday. "I would think given the need to pay for the various components of the [payroll] legislation...it would cause a problem if it dropped out," he said. The Congressional Budget Office has estimated that Walden's spectrum legislation would generate \$16.7 billion for deficit reduction compared with just \$6.5 billion for the Senate bill, authored by

Commerce Chairman Jay Rockefeller, D-W.Va.

Walden also said the full Energy and Commerce committee plans to mark up FCC reform legislation on Feb. 7. While praising Genachowski for making some progress in overhauling how the FCC conducts its business, Walden said changes promoting transparency need to be codified into law. Democrats, however, have been critical of a provision that would limit the FCC's ability to demand conditions from merging companies in the name of the public interest. "All we're saying is that you can't use leverage on mergers...to achieve effects in the marketplace that you don't statutorily have the right to do," Walden said. ■

Article courtesy of Juliana Gruenwald from the National Journal.

Arbitron Boasts About Radio's Reach

ARBITRON has released a new report named "Radio Delivers: Winter 2012." In it, the ratings company touts both sales and listener-ship data that's sure to have GMs, GSMs and PDs smiling. The highlights include:

- ▶ 241 million American Adults listen to radio each week
- ▶ Each week across America, radio is heard by 94% of Adults 18-34, 95% of Adults 18-49, 95% of Adults 25-54 and 95% of Adults 35-64
- ▶ Each week radio reaches 95% of all Hispanics and 93% of all African-Americans
- ▶ Americans listen to radio for more than 14.6 billion hours each month
- ▶ You can reach 90% of Americans on the radio between 6 a.m. and 7 p.m. during the work week
- ▶ 70% of Americans tune in to radio each day for nearly 2 hours and 45 minutes
- ▶ Every week, radio reaches 91% of people who vote
- ▶ New research shows radio delivers more than 93% of its lead-in audience during commercial breaks

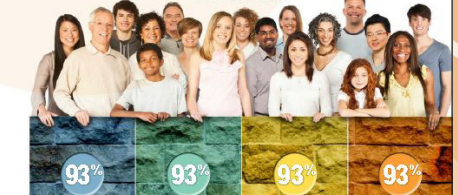
"Radio continues to be vital to millions," concludes ARBITRON, "which is why its audience during programming and commercial breaks has remained consistently high month after month, quarter after quarter and year after year."

Find the survey at www.arbitron.com/radiotoday. ■

Article courtesy of AllAccess.com.

241 Million American Adults Listen to Radio Each Week

That's **93%** of everyone in this country listening to radio each week. As the past four quarters demonstrate, radio listening remains strong and consistent.



2012 General Assembly Session: VAB Legislation

HB 141: Freedom of Information Act; exempts personal information in constituent correspondence.

Chief patron: Cole

Summary as introduced: Freedom of Information Act; personal information in constituent correspondence. Provides an exemption from the mandatory disclosure provisions of the Freedom of Information Act (FOIA) for the names, physical addresses, telephone numbers, and email addresses contained in correspondence between an individual and a member of the governing body, school board, or other public body of the locality in which the individual is a resident, unless the correspondence relates to a public matter before such public body. The bill provides that no record that is otherwise open to inspection under FOIA shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any such correspondence.

HB 1105: Freedom of Information Act; electronic communication meetings.

Chief patron: Greason

Summary as introduced: Virginia Freedom of Information Act; electronic communication meetings. Revises the rules for which meetings of state public bodies may be conducted by audio or video means. The bill provides that (i) at least one member of the public body must be physically assembled at the principal meeting location, (ii) the quorum of the public body is determined by members participating in person or by elec-

tronic means in the meeting, (iii) a member of the public shall pay for the documented marginal cost that a public body may incur in expanding public participation to the meeting, and (iv) the number of meetings a public body may conduct through electronic communications means is limited to 50 percent of its regular meetings in any calendar year. The bill contains technical amendments.

HB 25: Concealed handgun permits; confidentiality of permittee information.

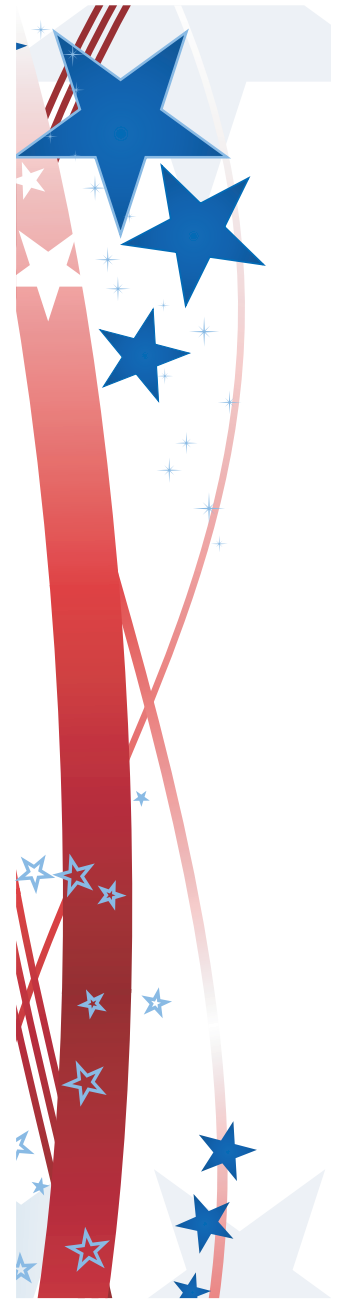
Chief patron: Cole

Summary as introduced: Concealed handgun permits; confidentiality of permittee information. Prohibits the clerk of the court from disclosing information contained on a concealed handgun permit application or on an order issuing a concealed handgun permit.

HB 1149: Freedom of Information Act; electronic communication meetings by local and regional public bodies.

Chief patron: Dudenhefer

Summary as introduced: Freedom of Information Act; electronic communication meetings by local and regional public bodies. Expands the authority for the conduct of electronic communication meetings to all public bodies. Currently, local public bodies are prohibited from conducting public meetings in this manner, except when the Governor declares a state of emergency. The bill contains technical amendments. ■



Garry Marshall to be Inducted into NAB Broadcasting Hall of Fame



The National Association of Broadcasters has announced that Garry Marshall, legendary Hollywood actor, director, writer and producer, will be inducted into the NAB Broadcasting Hall of Fame during the 2012 NAB Show Television Luncheon on April 16. NAB Show, held in Las Vegas, is the annual conference and expo for professionals who create, manage and distribute entertainment across all platforms.

"Recognizing Garry Marshall for his extraordinary contributions to television history is a tremendous opportunity that NAB is honored to be a part of," said Marcellus Alexander, NAB Executive Vice President of Television. ■

HUMAN RESOURCES

John G. Kruchko is a Partner with the Management Labor & Employment Law Firm of Kruchko & Fries in McLean, Virginia; Kevin B. McCoy is also a Partner with the Firm. For more information, please contact Mr. Kruchko or Mr. McCoy at 703/734-0554 or JKruchko@KruchkoandFries.com, or KMcCoy@KruchkoandFries.com. This article is published for general information purposes, and does not constitute legal advice.

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Resolutions to Help Put Your “Labor and Employment” House in Order

By a show of hands, how many of you resolved to change, add, subtract or modify some aspect of your life in 2012 (I’m raising my hand)? Also by a show of hands, how many of you have resolutions that are “hold-overs” from previous New Years’ resolutions that went unfulfilled (...raising my hand here, too)? How many of you have actually resolved to be more diligent about your New Year’s resolutions (... no comment)?

The trouble with resolutions is that in our personal lives we tend to think of them as aspirations, or a “wish list,” and not as actual goals that are worth giving up some of our evenings or Sunday afternoons to accomplish. By contrast, resolutions made by companies tend to be more pragmatic and goal oriented – seen more as an additional opportunity to identify further metrics of success and to set out a “plan of attack” for

accomplishing them. While I have no doubt your business has already set some New Year’s resolutions for itself, your organization should seriously consider adding a few Labor and Employment oriented resolutions to its cache. I could give you a dozen resolutions, but let us start with just four; the four Labor and Employment resolutions from which your business could derive the most benefit.

Conduct a Wage and Hour Audit

Do you know whether your employees are properly classified as employees or independent contractors? Do you know whether your employees are appropriately categorized under the Fair Labor Standards Act as either “exempt” or “non-exempt”? Are you paying your employees correctly for overtime hours they work in a given week? Are you withholding the appropriate amount of taxes from your employees’ paychecks? If your answer to any of these questions is either “no,” or “I don’t know,” then your company needs to perform

a wage and hour audit. A wage and hour audit should be performed at least once every few years, and it is absolutely critical to determining whether your organization is in continued compliance with federal and state laws governing employment classifications, wages and taxes.

Violating the law in this area is not only easy to do, but it is not dependent on your intent. The U.S. Department of Labor, the Internal Revenue Service, and a host of corollary state agencies will not be sympathetic to the “I’m sorry; I didn’t know” argument. From their perspective, you are either in compliance or you are not. The penalties for non-compliance can be steep – ranging from fines and penalties, to back taxes, and even unpaid wages (with interest) to those employees you may have improperly paid. This is simply not a risk worth running....especially since it can all be avoided with a wage and hour audit that you (or your employment counsel) can complete in relatively short order.

Review Your Non-Competition and Non-Solicitation Agreements

In most states, the laws governing the enforceability of restrictive covenants (i.e., covenants not to compete and covenants not to solicit clients) are not contained in statutes. Instead, they are governed by each and every court decision in which one of these agreements is at issue. So literally, the law in this area can change (usually in small ways) several times a year.

If your business is like most, you have employees who signed a restrictive covenant when they began their employment. The only problem is that many of those employees began employment three, five or even ten years ago. In that period of time, the laws surrounding the enforceability of these agreements may have changed so dramatically that it is entirely possible the restrictive covenant is no longer enforceable. Such agreements need to be reviewed every two years to make sure there has been no intervening change in the law that might negatively affect their enforceability.



Speaking of changes in the law, of special interest for Virginia employers is the fact that the Virginia Supreme Court recently issued a decision that essentially overturned that Court's long-held standard governing the enforceability of restrictive covenants. So if your Virginia organization utilizes either covenants not to compete or non-solicitation covenants, there is a good chance the language in those covenants is no longer enforceable and needs to be revised.

Create a Comprehensive Social Media Policy

I know there are many people who are still getting accustomed to using e-mail and the internet. However, the reality today is that a broad swath of the workforce is actively engaged in using one or more online social media sites, such as Facebook; LinkedIn; Flickr; MySpace, etc. Up until recently, the biggest concern for employers was the fact that such employees' use of these sites might interfere with the amount of time spent doing their job. While that remains a legitimate point to address, there are much bigger concerns.

For example, online bullying of co-workers or subordinates can lead directly to discrimination or harassment complaints. It does not matter that the offending behavior (i.e., an online Facebook post) occurred at 11pm at night, long after the offices were closed. In addition, employees can knowingly (and sometimes inadvertently) disclose confidential company information or trade secrets. Even worse, a well-intentioned employee boasting about the prowess of his or her company's business might unknowingly subject the company to an FTC violation (for publicly traded companies), if the employee fails to disclose his or her role and relationship with your company.

However, creating a social media policy is not as simple as it might seem. The National Labor Relations Board ("NLRB") has issued a series of decisions (affecting both union and non-union employers) addressing how restrictive employers can and cannot be in limiting their employees' use of social media. Moreover, on January 24, 2012, the NLRB's Office of General Counsel issued a report to its senior regional staff outlining many common social media provisions that it now considers to be violations of the National Labor Relations Act. Even if your company is non-unionized, it

is still unlawful to interfere with your employees' ability to confer with each other about the terms and conditions of their employment. For these reasons, it is best to utilize the skills of your Labor and Employment counsel so you don't end up creating a policy that does your organization more harm than good.

Make Sure Your Supervisors Undergo Harassment and Retaliation Training

Every organization (no matter the size) should put their supervisors and managers through harassment and retaliation training at least once every two years. There are two really good reasons why.

First, harassment and retaliation claims are two of the fastest growing types of employment litigation. Retaliation litigation, in particular, has jumped exponentially in the past several years. It is therefore imperative that your management understands what constitutes retaliation so that they know how to avoid it.

Second, in order to mount a successful defense to harassment or retaliation claims, employers must be able to demonstrate that they have adequately trained their managers on recognizing and avoiding such violations --- and that such training was done recently. If the managers in your organization last underwent training three or more years ago, it is imperative that they renew that training this year. Otherwise, your managers' previous training (although educationally worthwhile) will be of virtually no legal benefit when it comes to defending the company's alleged misconduct.

So, Be It Resolved ...

Keeping your organization healthy with respect to Labor and Employment issues is a little like keeping your body healthy. The old adage that an "ounce of prevention is worth a pound of cure" is particularly applicable with respect to this area of the law. Doing one (or even, all) of the above resolutions will cost the company exponentially less time and money than defending even a single lawsuit. So in 2012, resolve to be proactive instead of reactive, and make sure your organization's Labor and Employment efforts are "up to snuff" before the government or a disgruntled employee knocks on your office door. ■

“Keeping your organization healthy with respect to Labor and Employment issues is a little like keeping your body healthy. The old adage that an “ounce of prevention is worth a pound of cure” is particularly applicable with respect to this area of the law.”

Article courtesy of John G. Kruchko and Kevin B. McCoy, Kruchko & Fries.

How to Submit to the VAB Job Bank

Jobs that are printed in the newsletter are pulled directly from the online Job Bank. To include your listing:

- ▶ Go to **www.vabonline.com**. Login with your user name and password.
- ▶ Be sure to include your station ID or company name, information on how the applicant can apply and where to send the applications materials.

Account Executive Richmond, VA

CW Richmond is now interviewing for Account Executives. If you are an energetic and creative problem solver who is not afraid of hard work, we want to meet with you! Send resume with cover letter and salary requirements to: CW Richmond, 5710 Midlothian Turnpike, Richmond, VA 23225 Attn: David Hayes or email to dhayes@cwrichmond.tv. EOE.

Editor/Photojournalist Harrisonburg, VA

WHSV-TV expanding its newsroom and is accepting resumes for a full-time Photojournalist/Editor who can use good judgment to acquire technically accurate and compelling visuals. Candidates must be able to shoot on P2 and be familiar with non-linear editing. A thorough knowledge of ENG practices is required. Mail DVD and resume to: WHSV-TV, Attn: Kay Norred, News Director, 50 North Main St., Harrisonburg, VA 22802. You may also email resumes to knorred@whsv.com. WHSV-TV is a drug free workplace. EOE.

Digital Content Producer Portsmouth, VA

WAVY/WVBT is looking for a full time Digital Content Producer. Applicants must be innovative, reader-focused and full of creativity. Daily online experience in design and editing, along with a track record of accurate work, is a big plus. Degree in journalism or related field and previous experience at a daily newspaper or news site required. Proficiency in Adobe Photoshop, Dreamweaver, and Basic HTML preferred; CSS, Flash and other relevant technology skills a big plus. Send resumes and inquiries to Tim Moreau, Digital Media Director, tim.moreau@wavy.com EOE.

Sales Representative Roanoke, VA

WVBE "VIBE 100/97.7" Vibe 100 is looking for a person with a passion for sales and service to others. Sales and/or some media experience is preferred and good computer skills are necessary. Skills

developing revenue from Social Media, and digital platforms is a plus. Candidate must be highly motivated, have an outgoing personality, excellent verbal and written communication skills. High school diploma or equivalent and a valid drivers license with good driving record. Email applications with resume to: cskinner@wheelerbroadcasting.com or apply online at www.wheelerbroadcasting.com. EOE.

Account Executive Norfolk, VA

Sinclair Communications is looking for creative people who enjoy the fast-paced, highly challenging world of radio marketing and sales. We seek winners who have at least two years of outside sales experience. Apply now by calling 757/640-8500, or fax your resume to 757/640-8552. EOE.

Radio Marketing Consultant Fredericksburg, VA

The Star Radio Group, WFLS, WVBX, WWUZ and WNTX-AM is seeking an energetic, experienced person to partner with local businesses to develop successful marketing campaigns. The successful candidate must possess strong communication skills, organizational skills, customer service skills, selling skills and the ability to work in a competitive, diverse market. Please send your cover letter, résumé, and salary requirements to: WFLS/WVBX/WWUZ/WNTX-AM Radio ATTN: Human Resources 616 Amelia Street Fredericksburg, VA 22401 Fax: 540/374-5449 Email to jobs@freelancestar.com. EOE.

Sales Representative Roanoke, VA

WSLC – Star Country Mel Wheeler Inc. has a rare opening for a sales representative on our staff. Sales and/or some media experience is preferred and good computer skills are necessary. Skills developing revenue from Social Media, and digital platforms is a plus. Candidate must be highly motivated, have an outgoing personality, excellent verbal and written communication skills. High school

diploma or equivalent and a valid drivers license with good driving record. Email applications with resume to: cskinner@wheelerbroadcasting.com or apply online at www.wheelerbroadcasting.com. EOE.

Multi-Platform Sales Account Executive Portsmouth, VA

Be a part of the expanding and exciting world of multi-platform marketing and join the most successful sales team in the Norfolk, VA market selling Television, Internet and Mobile advertising solutions. Applicants must have excellent communication, organizational, computer and follow-through skills. College degree or equivalent experience preferred. Please send cover letter and resume to Local Sales Manager WAVY-TV/WVBT 300 WAVY Street Portsmouth, VA 23704 or jobs@wavy.com No phone calls, please. EOE.

Executive Assistant Harrisonburg, VA

WHSV is looking for an Executive Assistant that will take them to the next level. Must be a great multi-tasker and a good people person. Proficiency in Excel and Powerpoint and attention to detail a must. Duties also include receptionist and greeting guests. Must have a good driving record. Email resume and cover letter detailing your work experience and why we should consider you to Tim Merritt at tim.merritt@whsv.com. EOE.

Regional Credit Manager Richmond, VA

WWBT, Richmond, VA seeks a Regional Credit Manager (RCM). Successful applicant will handle credit and collection functions for 6 Raycom Media TV stations including credit checking, order approval/disapproval, collections, month end reporting, and other related functions. Strong communication skills, ability to resolve complex credit/collection issues, and skills using server based accounting system and Microsoft Office. Minimum 3-5 years experience required preferably in Media/Advertising. Send cover letter with salary requirements and resume to

Credit Manager, WWBT, 5710 Midlothian Turnpike, Richmond, VA 23225 or email tthurman@raycommedia.com. EOE.

**Multi-Talented Pro Wanted
Newport/Morristown, TN**

Bristol Broadcasting Company is looking for a combo person to do a morning show, help with programming and carry a local account list in the Cocke and Hamblen Counties area. Past radio experience essential. Salary plus commission. Apply with resume and aircheck to: billhagy@wxbq.com. No phone calls please. EOE.

**News Director
Charlottesville, VA**

The Charlottesville Newsplex (home of CBS19, ABC16, WAHU FOX27, and newsplex.com) is looking for a leader who can take our news team and content to the next level. The successful candidate will have working knowledge of every facet of newsroom operations; must be able to recruit, train, motivate, and teach by example. Excellent driving record is a MUST. If you think you have what it takes, rush your cover letter and resume to General Manager Brad Ramsey, brad.ramsey@newsplex.com, or to Brad Ramsey, Charlottesville Newsplex, 999 2nd Street SE, Charlottesville, VA 22902. No phone calls please. EOE.

**News Producer
Roanoke VA**

WFXR FOX 21/27 is now accepting applications for a qualified television newscast Producer. Responsibilities include, but are not limited to, produce, gather, organize and coordinate all elements involved in the assigned newscast. Successful candidates must have a solid working knowledge of TV production including graphics, pre-production and newsroom computers. Please apply by sending us a recent tape or DVD of your work, your resume and references to: Debbie Reardon, Creative Services Director, 2618 Colonial Ave., SW Roanoke, VA 24015. No phone calls please. EOE.

**Meteorologist/Reporter
Harrisonburg, VA**

WHSV-TV is looking for a weekend meteorologist and weekday reporter. The successful candidate will be able to translate complex weather science into relevant forecasts for viewers in a conversational way. Knowledge of broadcasting/reporting a major plus. Send

your resume, cover letter, three references and a link to your most recent weathercast to: Kay Norred, News Director, knorred@whsv.com. You may also mail your resume packet to WHSV-TV, 50 North Main Street, Harrisonburg, VA 22802. EOE.

**Videographer/Digital Editor
Roanoke, VA**

WSLS-TV is looking for a full time Commercial Production Videographer. Responsible for commercial production for both broadcast and digital site. Must have at least one year experience in school or in a television broadcast facility. Apply online at www.mediageneral.com/careers No phone calls please. EOE.

**Director
Roanoke, VA**

The Director is responsible for gathering any information necessary to air the newscasts and cut-ins, such as any graphics, special effects, or camera shots that may be needed. In addition, the Director is responsible for directing the actions of the Production personnel while the newscasts and cut-ins are on-air. Further, the Director is responsible for assessing the positive and negative points of each shows production, and logging them in a quality control report. Apply online at www.mediageneral.com/careers Background Check and Drug Screen required. EOE.

**Director
Richmond, VA**

NBC12 seeks experienced director for AM production team. Responsibilities include directing/technical directing, pre-production, audio operation, floor directing, robotic camera operation. Experience with Kahuna HD Video switcher, Pinnacle Deko/Thunder and audio consoles a plus. Social media competency required. Qualified applicants only send cover letter and resume to Judy Gibson, Human Resources Director, NBC12, P. O. Box 12, Richmond, VA 23218. EOE.

**Video Journalist
Richmond, VA**

NBC12, Richmond's No. 1 news operation seeks Video Journalist with on air experience and proven initiative in news gathering. Successful candidate will be accomplished in reporting and news videography. Proven track record in live remote reporting and web and social media competency required. Send cover letter, resume and non-returnable demo tape to

Nancy Kent Smith, News Director, NBC12, P. O. Box 12, Richmond, VA 23218 or send links to nkent@nbc12.com. EOE.

**Reporter
Richmond, VA**

NBC12, Richmond's No. 1 TV news station seeks reporter with proven track record investigating and reporting stories. Live remote reporting experience is critical. Two years minimum professional experience preferred. Excellent computer and internet skills required. 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.

**Community Web Producer
Richmond, VA**

Richmond's #1 news operation is seeking a Community Web Producer who can manage a portfolio of community sites. Responsibilities include recruiting and managing contributors, searching out sources of content, gathering and writing news items along with maintaining accuracy and integrity of the web sites. Successful candidate must have strong verbal and written communication skills, journalism background with knowledge of AP style, basic knowledge of HTML, graphics and solid grasp of basic computer skills. Send cover letter, resume and non-returnable demo tape to Nancy Kent Smith, News Director, NBC12, P. O. Box 12, Richmond, VA 23218. EOE.

**Digital Sales Specialist
Richmond, VA**

NBC12, the #1 TV Station in Central Virginia, seeks experienced Digital Sales STAR. Position reports to Internet Sales Director and is be responsible for day to day sales and support of our digital sales efforts. NBC12 is on the cutting edge of media companies with a product suite that includes Internet, mobile, SMS, email marketing, deals and social media. Ideal candidate must have experience building effective presentations, excellent communication skills, highly computer literate (Excel & Power Point), understand digital sales environment, but MOST of all, needs to know how to SELL! This position has tremendous upside potential for the right person. Email your resume to elumpkin@nbc12.com. Drug Screen and Motor Vehicle check required. EOE.



LEGALREVIEW

This legal review should in no way be construed as legal advice or a legal opinion on any specific set of facts or circumstances. Therefore, you should consult with legal counsel concerning any specific set of facts or circumstances.

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Period for TV Stations to Complete EEO Menu Options Ends June 1

Among other things, the FCC's EEO rules require stations to engage in specific non-vacancy outreach efforts every two years. For Virginia television stations, the current two-year period ends June 1, 2012, which means that television stations that are not already on track to satisfy their EEO outreach requirements have only a few more months to complete the required number of menu options. (For Virginia radio stations, the most recent two-year period ended June 1, 2011.)

Broadcasters may select initiatives from the FCC's 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. (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 or is located in a metropolitan area that has a population of fewer than 250,000 people.) 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 regularly works 30 or more hours per week.

A complete list of the 16 categories of outreach activities is listed in the EEO rule itself, which is available at <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=47&PART=73&SECTION=2080&TYPE=PDF> (open the PDF file and go to the second page).

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.

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, but a station seeking credit for a particular menu option performed on a joint basis must have meaningful involvement in the activity, by which the FCC means that the station has meaningful input into the planning and implementation of a particular event. 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 a job fair may be performed on a joint basis; however, insofar as a particular station'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. Similarly, for a scholarship program involving multiple stations, each station claiming "credit" must be involved in activities such as designing the program, soliciting scholarship applicants, maintaining scholarship materials at the station, interviewing or selecting scholarship recipients, promoting the program on air, and evaluating the effectiveness of the program.

Finally, each year the FCC randomly audits stations to evaluate their compliance with the EEO rules, and the FCC has been enforcing its EEO rules by imposing fines and reporting requirements. 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 2012 to "map out" and plan their outreach activities for the calendar year, with Virginia television stations especially keeping the June 1, 2012, two-year deadline in mind. ■

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