

The Power of Radio: Storm Makes Case for Over-the-Air Radio

Snowfall crippling a city would typically be a great opportunity for local stations to connect with listeners. But what makes the storm that hit Atlanta an example of why broadcast radio can't be beat in times of crisis is what transpired on the city's highways Tuesday night. It also helped make the case for radio's one-to-many infrastructure.

Thousands of drivers were stranded in their cars for hours with nothing but the radio to keep them company as cell phone service became overwhelmed. "Those people trapped in their car all night long weren't listening to Pandora," Cumulus Media's Atlanta market manager Jeff Brown says. "Radio was a lifeline." Throughout the night Cumulus' "All News 106.7" WYAY and Cox Media Group's news/talk WSB (95.5, 750) both went into overdrive with news, weather and traffic reports, although it's the call-ins that were likely most impactful with listeners.

"It's like you're in a war and you want intelligence about what's going on so you can survive," WSB program director Pete Spriggs says. "They felt that we were talking to them and we were giving them companionship, and that's what radio is great at — it's great at being a passenger in your car when you're driving."

It wasn't just the news and talk stations that went wall-to-wall with coverage. So did Atlanta's top-rated music station, urban "V-103" WVEE. PD Reggie Rouse says CBS Radio-owned station stopped playing music yesterday morning to put listeners and local officials on the air. "Sometimes you have to let listeners talk — and this was that type of situation," he says. "Yes we want to play the hits and we want to win 12+ ratings — but we have to service the community." Rouse, who worked an overnight shift when the regular host couldn't make it into the station, sees it as WVEE's live-and-local advantage when competitors are airing syndicated programming.

Beyond Atlanta, the Birmingham, AL market was also particularly hard hit. There the Clear Channel cluster went wall-to-wall with an eight-station simulcast across all the signals in

its cluster to maximize resources.

The roads weren't the only things congested during Atlanta's rare snowstorm this week. As tens of thousands of motorists were stuck on the highway, cell phone systems were overloaded in what's become a predictable situation in crisis situations. Radio staffers were a lot more reliable, like a traffic reporter who worked nearly 24 hours or the talk show host who pulled a second shift — taking listener calls all night long.

Rouse says radio helped calm fears. "We were getting calls from a lot of female listeners stuck in their car with their kids — and people trying to reach their family members," he says. "We're the only media that could give them the kind of information that they needed."

The storm didn't just catch local highway departments off guard. At every cluster there were horror stories of coworkers who spent 12 hours or more on the road. Most Cox-Atlanta staffers slept on station couches since the International Poultry Expo was in town, leaving few hotel rooms to be had. CBS Radio was able to get a few rooms, but that meant staff doubling up. Cumulus was also able to book rooms for morning drive talent, but the storm and gridlocked traffic kept them from getting to the hotels.

Brown says they're happy with the growth of "All News 106.7" WYAY, but an event like this can be a breakout moment for an all-news brand. "There can be seminal, galvanizing moments for a station both external and internal," he says. "That esprit de corps that you get from getting through this together give you more moxy, and that's bigger than a one-day ratings extrapolation in PPM."

Across the street at Cox's WSB, Spriggs thinks Mother Nature gave every station an opportunity to shine. "You always have competitors that are nipping at your brand, so if you can perform at times like this it is absolutely going to have long term positive effects," he says. "For me, something like this is better than a \$500,000 ad campaign — it just brings the audience in."

Article courtesy of insideradio.com. ■

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Upcoming

February 2014

Legislative Dinners Planned
See page 7 for details.

February 24-26, 2014

State Leadership Conference,
Washington, DC

May 7-8, 2014

Best of the Best Session
(Leadership & Case Study
Assignments), Omni,
Charlottesville

June 19-21, 2014

77th Annual Summer
Conference, Hilton, VA Beach

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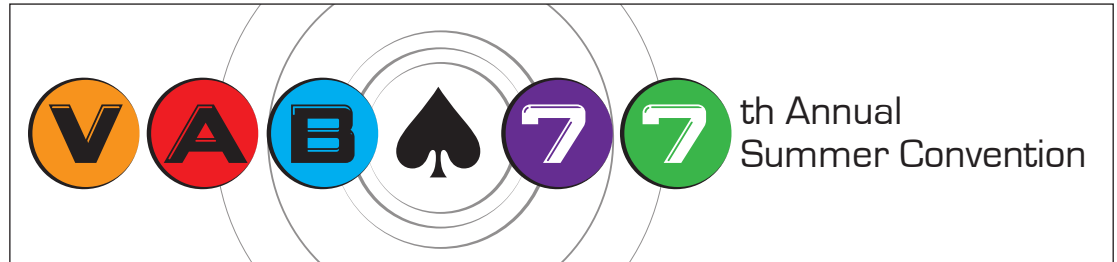
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Station Award Entries Now Being Accepted



Make plans today to attend the VAB's 77th Annual Summer Convention taking place June 19-21, 2014 at the Hilton Virginia Beach Oceanfront Hotel!

The Virginia Association of Broadcasters Station Awards Program is sponsored annually by the VAB to recognize outstanding achievement by Virginia radio and television broadcasters. This competition was established to encourage the highest standards of reporting, community service and production creativity. It brings the ultimate prize-peer recognition to members of the broadcast industry in Virginia.

Visit www.vabonline.com to download the official Station Awards Call for Entries brochure. This year, the award entries will be judged by the West VA Broadcasters Association. All entries MUST be postmarked by Friday, April 11th. Award winners will be announced at the Awards Banquet on Friday, June 20.

Should you have any questions or concerns, please call Christina Sandridge in the Association office at 434-977-3716 or email, christina.sandridge@easterassociates.com. ■



2014 Best of the Best Class Meet & Greet

VAB Board Members joined the 2014 class for a dinner to kick off their first Leadership session. The dinner took place at the Downtown Grille in Charlottesville in November. ■

2014 General Assembly Session

(as of January 27, 2014)

HB 56 Multi-jurisdiction grand juries; numerous changes to laws governing.

- ▶ *Chief patron:* Loupassi
- ▶ *Summary as introduced:* **Multi-jurisdiction grand juries.** Makes numerous changes to the laws governing multi-jurisdiction grand juries, including (i) allowing a grand jury to issue a report that there is insufficient probable cause to return an indictment as a "true bill," (ii) increasing from six months to 12 months the period of time that a term of a grand jury may be extended, (iii) providing that the grand jury's subpoena power must be executed through special counsel and that such subpoenas must be returnable for a specific meeting of the grand jury, (iv) allowing for the designation of specialized personnel for investigative purposes, known as sworn investigators, who may participate in grand jury proceedings at the request of special counsel or the grand jury, (v) providing that copies of tapes, notes, and transcriptions of grand jury proceedings will be maintained by the clerk of the circuit court in whose jurisdiction the multi-jurisdiction grand jury sits, and (vi) providing that the testimony of a witness before the grand jury may serve as the basis for a charge of perjury. The bill also expands who must keep secret what occurred during a grand jury proceeding to include witnesses, their counsel, attorneys for the Commonwealth, special counsel, and sworn investigators.
- ▶ 01/27/14 Senate: Referred to Committee for Courts of Justice

HB 95 Legal notices; advertisement by locality on websites, radio, or television.

- ▶ *Chief patron:* Head
- ▶ *Summary as introduced:* **Legal notices; advertisement by locality.** Allows localities with a population of 50,000 or greater to meet certain notice requirements by utilizing their websites, radio, or television instead of a newspaper of general circulation.
- ▶ 01/23/14 House: Subcommittee failed to recommend reporting (3-Y 7-N)

HB 100 Concealed handgun permits; references to issuance of handgun permit before July 1, 2008.

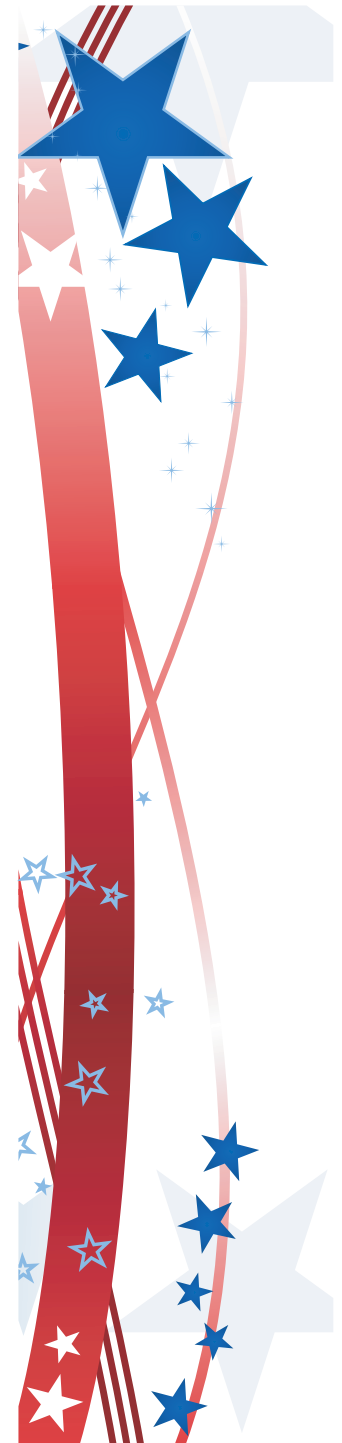
- ▶ *Chief patron:* Lingamfelter
- ▶ *Summary as introduced:* **Concealed handgun permits; records.** Provides that any references to the issuance of a concealed handgun before July 1, 2008, from any order book or other records maintained by a circuit court clerk are exempt from the requirement that such orders be withheld from public disclosure. The bill also directs circuit court clerks to issue replacement permits to permit holders who undergo a lawful name change.
- ▶ 01/22/14 House: VOTE: BLOCK VOTE PASSAGE (97-Y 0-N)
- ▶ 01/23/14 Senate: Referred to Committee for Courts of Justice

HB 193 Virginia Freedom of Information Act; participation in meetings, in emergency or personal matters.

- ▶ *Chief patron:* Minchew
- ▶ *Summary as introduced:* **Virginia Freedom of Information Act; participation in meetings in event of emergency or personal matters.** Removes the requirement that a public body approve by a majority vote of the members present at a meeting the remote participation in the meeting by one of its members. The bill instead requires the public body to approve by a majority vote a policy allowing participation of its members by electronic communication. Once adopted, the public body shall apply this policy uniformly to its entire membership, without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.
- ▶ 01/10/14 House: Assigned GL sub: Subcommittee #2

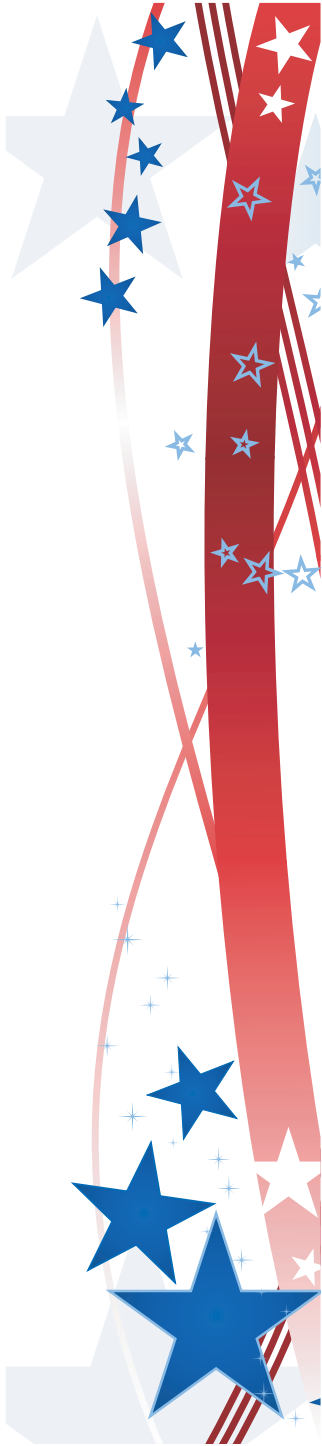
HB 310 First informer broadcaster; access to an area affected by disaster for news.

- ▶ *Chief patron:* Lingamfelter



continued on page 4

General Assembly *continued*



Summary as introduced: First informer broadcaster. Permits radio and television personnel with proper identification cards to access their broadcasting station within any area declared a state of emergency area for the purpose of providing news, public service and public safety information and repairing or resupplying their facility or equipment.

REQUESTED BY THE VIRGINIA ASSOCIATION OF BROADCASTERS

► 01/24/14 House: Reported from Militia, Police and Public Safety with substitute (21-Y 0-N)

HB 339 FOIA; exempts certain proprietary records of Department of Rail and Public Transportation.

► *Chief patron:* Anderson

► *Summary as introduced:* **Virginia Freedom of Information Act (FOIA); certain proprietary records of the Department of Rail and Public Transportation.** Removes obsolete references to applicable federal law in the records exemption for the Department of Rail and Public Transportation. The bill also provides that certain proprietary records provided by the National Railroad Passenger Corporation to the Department are also exempt from the mandatory disclosure provisions of FOIA.

► 01/10/14 House: Assigned GL sub: Subcommittee #2

HB 406 Evaluate Tax Preferences, Joint Subcommittee to; required to report to General Assembly annually.

► *Chief patron:* Toscano

► *Summary as introduced:* **Joint Subcommittee to Evaluate Tax Preferences.** Requires the Joint Subcommittee to report to the General Assembly annually by October 1 its recommendations with regard to existing tax preferences. The bill provides for the Joint Subcommittee to adopt an initial schedule for reviewing Virginia's tax preferences by October 1, 2014, and to update the schedule by October 1 of each year thereafter, as necessary, for purposes including but not limited to incorporating newly enacted tax preferences. The bill also provides

that performance measures established by the Joint Subcommittee for economic development tax preferences require the creation or maintenance of a minimum number of new full-time jobs for which (i) the average wages are at least equal to the prevailing average wage in the county or city in which the economic development project is located, and (ii) standard fringe benefits are paid or provided by the employer.

► 01/03/14 House: Referred to Committee on Rules

HB 442 Income tax, corporate; market-based sourcing.

► *Chief patron:* Davis

► *Summary as introduced:* **Corporate income tax; market-based sourcing.**

Changes the way the sales factor is determined, for purposes of the corporate income tax, so that it will be market-based sourcing rather than costs of performance, which is the current method used. The provisions of the bill would become effective beginning on January 1st of the year following the calendar year in which the Department of Taxation publishes guidelines to implement market-based sourcing, but in no event later than January 1, 2016.

► 01/24/14 House: Subcommittee recommends laying on the table

HB 533 Governor; state agencies' use of public media to influence proposed actions.

► *Chief patron:* Marshall, R.G.

► *Summary as introduced:* **Governor; state agencies' use of public media to influence proposed executive or legislative action prohibited; exception.** Requires the Governor to ensure that neither the Virginia Department of Transportation nor the Commonwealth Transportation Board uses or attempts to use appropriated funds or grant or contract funds to solicit pressure on state or local government officials in relation to pending or proposed executive or legislative matters relating to any proposed safety-related or congestion management-related highway project or program through the use of public media. The bill excludes (i) the

publication of notices in accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the Public-Private Transportation Act of 1995 (§ 56-556 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.); (ii) the soliciting of public comment or soliciting as may be required or permitted by law; or (iii) other ministerial acts if there is no attempt to use appropriated funds in violation. The bill defines “public media” and provides that the provisions of the bill shall not be construed to inhibit the necessary flow of information and communication between the executive and legislative branches of government but are intended to prevent any inappropriate or undue influence on executive or legislative matters or processes.

► 01/21/14 House: Referred to Committee on Appropriations

HB 788 Virginia Freedom of Information Act; out-of-state requests for records.

► *Chief patron:* LeMunyon

► *Summary as introduced:* **Virginia Freedom of Information Act; out-of-state requests for records.** Sets out the process for public bodies to respond to record requests made by out-of-state requesters.

► 01/10/14 House: Assigned GL sub: Subcommittee #2

HB 789 Virginia Freedom of Information Act; participation in meetings in event of emergency, etc.

► *Chief patron:* LeMunyon

► *Summary as introduced:* **Virginia Freedom of Information Act; participation in meetings in event of emergency or personal matters.** Removes the requirement that a public body approve by a majority vote of the members present at a meeting the remote participation in the meeting by one of its members in the event that an emergency or personal matter prevents his attendance in person at the meeting.

► 01/10/14 House: Assigned GL sub: Subcommittee #2

HB 837 Virginia Freedom of Information Act; state agencies to post notice of allowable charges.

► *Chief patron:* Keam

► *Summary as introduced:* **Virginia Freedom of Information Act (FOIA); state agencies to post notice of allowable charges for producing records.** Requires state agencies in the executive branch to post on their respective websites (i) a general summary or range of charges that they may lawfully assess in accordance with the limitations specified in FOIA for the production of public records, including when requested public records will be provided free of charge, or (ii) a general method of how a charge for the production of records will be determined in accordance with the limitations specified in FOIA.

► 01/16/14 House: Subcommittee recommends reporting with amendment(s) (6-Y 0-N)

HB 1018 Appellate proceedings; audio and audio-visual records, circuit court opinions, fees.

► *Chief patron:* Kilgore

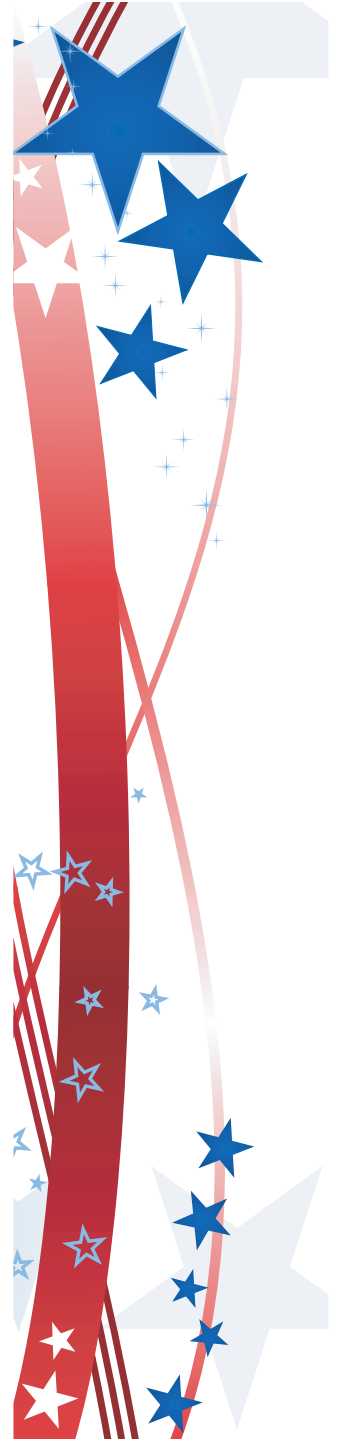
► *Summary as introduced:* **Appellate proceedings; audio and audio-visual records; circuit court opinions; fees; access.** Requires the appellate courts to produce audio or audio-visual recordings of oral arguments and to make such recordings available to the public without charge. The bill also clarifies that clerks are not required to charge fees for access to or copies of orders and opinions and, further, that a clerk may not restrict redistribution of publicly accessible court records. The bill contains a delayed effective date.

► 01/16/14 House: Assigned Courts sub: Civil Law

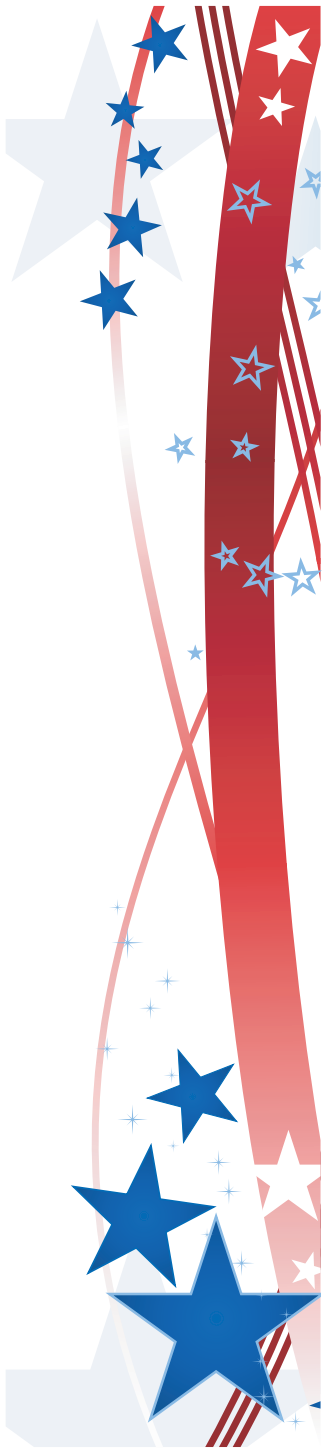
HB 1221 State Lottery Department; election to withhold disclosure of personal identifying information.

► *Chief patron:* Leftwich

► *Summary as introduced:* **State Lottery Department; election to withhold**



General Assembly *continued*



disclosure of personal identifying information of prize winners. Provides for a lottery prize winner to elect to withhold from public disclosure his name and other personal identifying information, except that the prize amount and the hometown of the prize winner shall continue to be disclosed as provided in current law.

► 01/24/14 House: Assigned GL sub: Subcommittee #3

HJ 96 Virginia Freedom of Information Act; report.

► *Chief patron:* LeMunyon

► *Summary as introduced:* **Study; Virginia Freedom of Information Act; report.**

Directs the Virginia Freedom of Information Advisory Council to study all exemptions contained in the Virginia Freedom of Information Act to determine the continued applicability or appropriateness of such exemptions and whether the Virginia Freedom of Information Act should be amended to eliminate any exemption from the Virginia Freedom of Information Act that the Virginia Freedom of Information Advisory Council determines is no longer applicable or appropriate. The bill requires the FOIA Council to report its findings and recommendations by December 1, 2016.

► 01/07/14 House: Referred to Committee on Rules

SB 119 State Corporation Commission; availability of records.

► *Chief patron:* Watkins

► *Summary as introduced:* **State Corporation Commission; availability of records.**

Requires the State Corporation Commission to make available for public inspection records that are related to matters related to the Commission's operational responsibilities and operational functions, including revenues, expenditures, financial management and budgetary practices, personnel policies and practices, and procurement policies and practices. Disclosure of the records is not required if the records are otherwise covered by applicable legal privileges; disclosure of such records could threaten the safety or security of the

Commission's employees, physical plant or information technology assets or data; or the records are not publicly available from other public entities. In addition, the requirement does not apply to records related to the Commission's formal or informal regulatory or legal proceedings or activities. Records held by the clerk of the Commission related to business entities shall be made public or held confidential in accordance with laws and regulations applicable specifically to such records.

► 01/24/14 Senate: Read third time and passed Senate (37-Y 0-N)

SB 161 FOIA; participation in meetings in event of emergency or personal matters.

► *Chief patron:* Favola

► *Summary as introduced:* **Virginia Freedom of Information Act; participation in meetings in event of emergency or personal matters.** Removes the requirement that a public body approve by a majority vote of the members present at a meeting the remote participation in the meeting by one of its members in the event that an emergency or personal matter prevents his attendance in person at the meeting.

► 01/27/14 Senate: Reported from General Laws and Technology with substitute (13-Y 0-N)

SB 212 Virginia Freedom of Information Act; working papers and correspondence, General Assembly members.

► *Chief patron:* Petersen

► *Summary as introduced:* **Virginia Freedom of Information Act; working papers and correspondence of members of the General Assembly.** Limits the record exemption for working papers and correspondence of members of the General Assembly by providing that such records are protected to the extent they pertain to the drafting or amending of legislation. The bill also provides that any new disclosures required by members of the General Assembly pursuant to the provisions of this bill shall apply to such records received or created on or after July 1, 2014.

► 01/03/14 Senate: Referred to Committee on General Laws and Technology

SB 226 Employment contracts; enforcement, applicable law.

- ▶ *Chief patron:* Petersen
- ▶ *Summary as introduced:* **Employment contracts; enforcement; applicable law.** Provides that Virginia courts shall not enforce any provision of an employment contract if the provision is invalid or unenforceable under the laws of Commonwealth. The measure also provides that a choice-of-law provision in an employment contract that states that the laws of another state or other jurisdiction shall apply with regard to the interpretation or enforceability of a provision of the contract is void and unenforceable.
- ▶ 01/15/14 Senate: Continued to 2015 in Courts of Justice (15-Y 0-N)

SB 387 FOIA; exempts certain proprietary records of Department of Rail and Public Transportation.

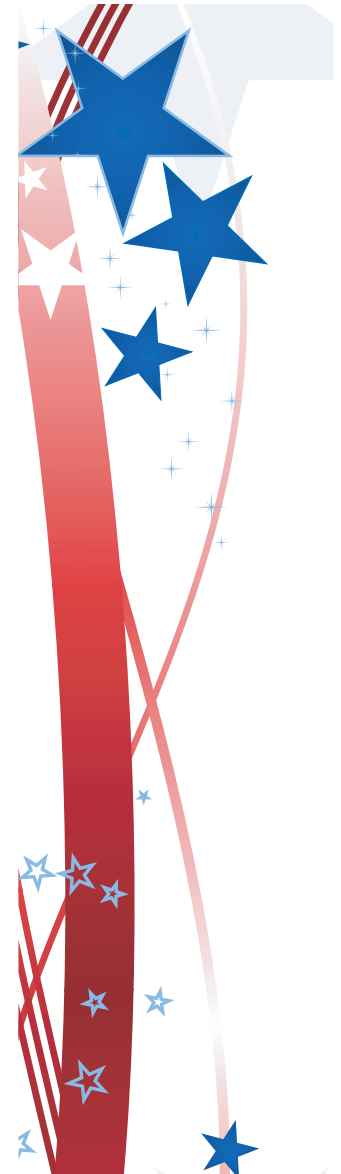
- ▶ *Chief patron:* Reeves
- ▶ *Summary as introduced:* **Virginia Freedom of Information Act (FOIA); certain proprietary records of the Department of Rail and Public Transportation.** Removes obsolete references to applicable federal law in the records exemption for the Department of Rail and Public Transportation. The bill also provides that certain proprietary records provided by the National Railroad Passenger Corporation to the Department are also exempt from the mandatory disclosure provisions of FOIA.
- ▶ 01/07/14 Senate: Referred to Committee on General Laws and Technology

SB 472 Legal notices; advertisement by localities.

- ▶ *Chief patron:* Smith
- ▶ *Summary as introduced:* **Advertisement of legal notices by localities.** Allows localities to meet certain notice requirements by utilizing their websites, radio, or television rather than being limited to a newspaper of general circulation.
- ▶ 01/08/14 Senate: Referred to Committee on Local Government

SB 583 General Assembly; testimony under oath before committee or subcommittee.

- ▶ *Chief patron:* Garrett
- ▶ *Summary as introduced:* **General Assembly; testimony under oath before committee or subcommittee.** Authorizes the chairman or at least one-third of the total membership of a committee or subcommittee to request any person addressing the committee or subcommittee to take an oath to testify truthfully. Any person who takes the oath and then knowingly makes a false statement to the committee or subcommittee is guilty of a Class 1 misdemeanor.
- ▶ 01/10/14 Senate: Referred to Committee on Rules ■



Upcoming Legislative Dinners

- ▶ **February 3, 2014:** Roanoke/Southwest Virginia Legislative Dinner
- ▶ **February 5, 2014:** Hampton Roads Legislative Dinner
- ▶ **February 17, 2014:** Charlottesville/Harrisonburg Legislative Dinner
- ▶ **February 20, 2014:** Richmond Legislative Dinner

All dinners will be held at Morton's in Richmond. To RSVP, please contact Christina Sandridge at (434) 326-9815 or email christina.sandridge@easterassociates.com. ■

Unions Won the Majority of Representation Elections in 2013

John G. Kruchko is a Partner with the Management Labor & Employment Law Firm of Kruchko & Fries in Tysons Corner, Virginia. Paul 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.

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Year after year, the NLRB's elections reports show that unions win most of the representation elections conducted by the Board. Nevertheless, the NLRB cannot even conduct an election until a union demonstrates that it has the support of at least 30% of the employees in a potential bargaining unit. Employers can legally prevent a union from gaining such support.

Lost in all the noise and hubbub regarding the NLRB's abortive proposal to create a comprehensive "quickie" election rule is the fact that unions have for years enjoyed a sizeable winning percentage in representation elections before the Board. This trend continued in 2013. The NLRB's election reports for the first eleven months of 2013 show that unions won 64% of the RC elections conducted by the Board. As a result, more than 32,000 employees are newly represented by unions.

Almost no industry was untouched by union activity in 2013. Predictably, unions were very successful in organizing guards and security personnel and employees in the gaming industry (e.g., Las Vegas casinos). It also appears that health care industry employers were particularly vulnerable to union organizing. Of the RC elections won by unions during the first eleven months of 2013, almost 14% involved health care employees.

Health care industry representation elections also produced some of the biggest victories for unions. For example, in April, 2013, the California Nurses Association was certified as the bargaining representative of over 430 nurses at the Queen of the Valley Medical Center in Napa, California. In October, 2013, the Service Employees International Union (SEIU 1199NW) was certified as the representative of over 650 medical technologists, dietary aides, housekeeping

staff, nursing assistants and other laboratory staff at PeaceHealth St. Joseph Medical Center in Bellingham, Washington. More recently, on December 10, 2013, over 230 RNs at Providence Hospital in Washington, D.C. voted for representation by National Nurses United (NNU).

Of course, unions scored significant victories in other industries. In November, 2013, the Machinists Union was victorious in an election involving over 1700 employees at the Alliant Techsystems plant in Independence, Missouri. In September, 2013, Paperworkers Union Local 675 won the right to represent over 800 employees at the MeadWestvaco plant in Covington, Virginia. In June, 2013, the Teamsters Union was certified as the bargaining representative of more than 370 bus drivers working for First Student, Inc. in Seattle, Washington. The Transport Workers Union won the right to represent over 300 gaming employees at Bally's in Las Vegas on June 1, 2013 when casino dealers voted overwhelmingly for the union. A few months later, in November, 2013, dealers at the Flamingo Hotel casino in Las Vegas voted to join the UAW.

Increased organizing activity by unions can be industry-specific or it can be driven by employee discontent within a particular plant or company. Employers should be proactive in communicating to employees the advantages of remaining non-union. Nothing invites organizing quicker than employer compla-

agency regarding the need for an effective union avoidance program. As demonstrated by the election results at the NLRB during 2013, an employer who waits until it receives a representation election petition before it communicates its position on unions to employees will probably lose the election. Then, the law requires the employer to bargain with the union about wages, hours and other terms and conditions of employment for its employees.

Employers should also not be too encouraged by the defeat of the Board's "quickie" election rule in the courts. President Obama's nomination of labor-friendly members to the NLRB created an agency eager to issue a revised election rule that will pass legal muster or make other changes to its procedures so as to make it easier for unions to win representation elections. Indeed, it appears the Board is still fixated on creating of a new version of the "quickie" election rule. The NLRB's semiannual regulatory agenda, issued on November 26, 2013, focused on only one issue -- proposed changes to the Board's rules that will speed up union representation elections.

Given the Board's apparent goal of continuing to shorten the time period between a union's petition for a representation election and the election itself, it would seem prudent for every employer that wants to remain nonunion to adopt a comprehensive union avoidance program. Here are some steps employers can take now to reduce their vulnerability to union organizing:

- ▶ Supervisors should receive regular training on the signs of union organizing and how to respond if they see union activity. If supervisors are not provided with information about unions or are not trained in proper communication skills, an employer's attempt to counteract a union organizing drive is doomed to failure.
- ▶ Develop a company policy statement on unions that emphasizes the positives of open and direct communication between employees and supervisors and the fact that labor unions are not in the best interests of employees. Given the covert nature of union organizing and the Board's desire for speedy elections, employers must be more aggressive in communicating their position about unions to employees.

- ▶ Use enhanced orientation of new employees to explain the company's position on unions and the dangers of signing union authorization cards before learning all the facts about union representation. Experience tells us that when an employer fails to communicate its position on unionization, employees believe the employer does not care whether they join a union.
- ▶ Schedule regular meetings with current employees to survey attitudes and communicate information about the company to employees. Employees should be encouraged to communicate their concerns and suggestions to management.
- ▶ Audit your employee relations program to ensure its effectiveness. Do supervisors treat employees fairly and without favoritism, discrimination or harassment? Is the grievance procedure effective in resolving complaints quickly and fairly?
- ▶ Are the wages and benefits provided by the company competitive with those of other businesses in its industry? Wages and benefits should not be so far below the norm so as to provide organizing issues for the union.
- ▶ Ensure that policies are in place to legally restrict organizing activity by employees and outside union organizers. Review your no solicitation/no distribution policy to ensure its legality. Implement a policy restricting trespassing by non-employees on company property.

Year after year, the NLRB's elections reports show that unions win most of the representation elections conducted by the Board. Nevertheless, the NLRB cannot even conduct an election until a union demonstrates that it has the support of at least 30% of the employees in a potential bargaining unit. Employers can legally prevent a union from gaining such support.

Ninety-three percent of employees working in private industry are nonunion. There are many reasons why these employees feel they don't need a union. ■

Article courtesy of Paul Lusky and John G. Kruchko, Kruchko & Fries.

Have News for the VAB Newsletter?

Send your news and announcements along with any photos to Marci Malinowski at marci.malinowski@easterassociates.com.

Meet the VAB's Best of the Best



Claudia Rupcich

Where did you grow up/go to school?

I was born in Caracas, Venezuela and moved to Ft.

Lauderdale, FL with my family when I was 8 years old. I was raised in South Florida until I went to college at UNC-Chapel Hill in North Carolina.

What was your first job in broadcasting?

Web managing editor and weekend reporter at WSET, ABC 13 News in Lynchburg, VA.

What is your career goal?

I'd love to be a reporter in New York City or back home in Miami. Ideally, I'd love to be able to incorporate my love for food and international cuisine in my work!

What are you most looking forward to learning/taking away from the Best of the Best Leadership program?

I'm very excited to meet other professionals from all aspects of our industry. I love learning from people who have been in this business for a long time, and I know this program will not only make me a better leader, but also a stronger journalist.

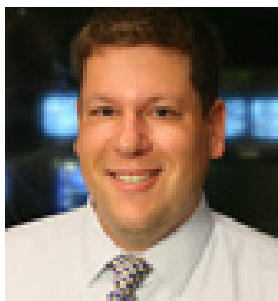
What do you like to do in your free time?

I love food, so I really like to explore new restaurants and then review them on Yelp. I also love to run, dance and travel.

If you could have dinner with somebody from the past, present or future who would it be and why?

I know this isn't exactly dinner, but ever since I was a little girl, I've been in love with the band Queen and particularly Freddy Mercury. I'd love to be able to meet him and see them perform live.

In this issue, the VAB takes a closer look at two members from this year's Best of the Best Leadership Program class.



Alex Friedman

Where did you grow up/go to school?

I've lived all over the south - VA, SC, GA, TX - but have called Charlottesville home since 1999.

I attended the University of Virginia and was lucky enough to get a job at the Newsplex upon graduating.

What was your first job in broadcasting?

My first job in broadcasting was working part-time on the weekends at the Newsplex while still in school at UVA. I updated our website and social media pages, listened to the scanners, and managed the assignment book.

What is your career goal?

It has always been a dream of mine to someday work for ESPN, and I think managing digital media for them would be a blast. I'd also like to become the director of all digital media at a major broadcast station/company.

What are you most looking forward to learning/taking away from the Best of the Best Leadership program?

I'm really looking forward to the DC trip. I think seeing the policy side of the broadcast industry will be extremely eye-opening. But more than that, I'm looking forward to sharing ideas with and learning from other people who have been recognized as leaders in their profession in broadcast.

What do you like to do in your free time?

I love playing golf, so you can often find me on the course or at the driving range whenever I have some free time. I can't get enough UVA sports - although football and basketball testing that theory right now - and I try to catch as many games as possible. I also enjoy checking out the growing number of breweries and wineries in Central Virginia.

If you could have dinner with somebody from the past, present or future who would it be and why?

Both of my grandfathers passed away before I was born, so I would definitely choose to have dinner with them. I'm named after my dad's father, and everyone tells me I'm just like my mom's father. It would be great getting to know them.

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.

Sales Representative Kingsport, TN

Holston Valley Broadcasting Corporation has an opening for a full time outside radio sales representative. We are seeking a self-motivated, hard working professional individual to join our sales team for, 98.5 WTFM, Classic Hits 102.7 WVEK, 95.9 WRZK (The HOG), and ESPN Tri-Cities. If you're looking for an exciting, challenging and rewarding career, send us your resume. Previous sales experience and a college degree is a definite advantage, but not a requirement. This is an outside sales position calling on local and regional businesses selling radio advertising. We offer an excellent benefits package including paid time off, health, dental, and life insurance, 401(K) plan, and training. HVBC is an EEO Employer. Send your resume to: Radio Sales Position 222 Commerce St, Kingsport, TN 37660 or email it to hr@hvbcgroup.com.

Announcer (Conservative News Talk) Arlington, VA

Salem Communications currently has a full-time position available for an Announcer on Intelligent Talk, 1260 WRC Radio. Duties include: voicing newscasts, traffic, weather and commercials and ability to use digital recording software. Must have a minimum of five years of on-air experience and experience with digital audio and digital editing systems. High School Diploma or GED. •Experience in a similar format preferred. •Must have legal right to work in the United States. To apply e-mail your resume to Bob Jones, Broadcast Operations Director, at bobj@wava.com. Salem Communications, Washington, DC (WAVA/Family Talk/ WRC Radio) is an Equal Opportunity Employer. Women and minorities are encouraged to apply. No relocation offered.

Director Richmond, VA

NBC12 seeks experienced director. Responsibilities include directing/ technical directing, pre-production, audio operation, floor directing, robotic camera operation. Experience with Kahuna HD Video switcher, Chyron/Thunder and audio consoles a plus. Social media competency required. Qualified applicants only apply on line at <https://careers-raycommmedia.icims.com>. Drug Screen required. EOE M/F/D/V.

Advertising Sales Account Executive Central and Northern VA

WJMA-FM/WOJL-SAMFM/WCVA-AM/WVCV-AM Central and Northern Virginia. An excellent sales opportunity available selling and managing many of the clusters top billing and most active client accounts. Professional wanted with a minimum 2 years radio sales experience. Very good earnings to start, base salary, plus a lot of additional up-sell potential. Medical insurance benefits and paid holidays/vacation included. If you are career oriented and your work ethic includes doing whatever it takes to get the job done please send resume and cover letter to: elizabeth@wjmaf.com, or to Sales Manager, Piedmont Communications, Inc., P.O. Box 271, Orange, VA 22960. All applications are treated as strictly confidential. Piedmont Communications, Inc. is a dedicated E.E.O organization.

Multi Media Reporter Kingsport, TN

ABC19 WKPT is seeking a Multi Media Reporter to continue the expansion of our television news department. The successful candidate must possess at a minimum a Bachelors Degree in Broadcast Journalism or commensurate degree. Experience in reporting, videography and production of television

news and public affairs broadcasts is preferred. Multi Media reporters will be responsible for daily execution of assignments for newscast, websites and other media platforms. Some anchoring may be required. Familiarity with Kingsport and the Tri-cities TN/VA television market is a plus and Veterans are encouraged to apply. Versatility, adaptability, integrity and determination are required, as is the ability to work well with others and the community. Please submit your resume' and DVD to Director of News and Public Affairs, WKPT TV, 222 Commerce Street, Kingsport, TN 37660. No Phone Calls. Holston Valley Broadcasting Corporation is an equal opportunity employer.

Account Executive Richmond, VA

SWUPV/CW Richmond has immediate opening for experienced, motivated sales professional to effectively grow existing list of business, aggressively close new business and provide creative solutions to client challenges. 2-3 years media sales experience or demonstrable track record of sales success required. Excellent written and presentation skills required. Send cover letter w/ salary requirements and resume to Adam Brown, Local Sales Manager, WUPV, P. O. Box 12, Richmond, VA 23225 or adambrown@cwrichmond.tv. EOE M/F/H/V. Drug screen and MVR check required.

For a complete list of career opportunities, please visit www.vabonline.com/careers.



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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Stations that are uncertain about whether particular tones are “too close for comfort” would be well advised to contact legal counsel.

Beware: EAS Tones in Cable Network Commercial Result in \$200,000 Fine

Emergency Alert System (EAS) sound-alikes in advertisements have, again, recently drawn the attention of the Commission's Enforcement Bureau. The FCC's rules prohibit the broadcast of false, deceptive, or simulated alert signals in any circumstances other than in an actual national, state, or local area emergency or an authorized test of the EAS.

In November 2013, the FCC issued several releases (including an Enforcement Advisory and substantial fines against broadcasters) addressing alert signals used for any purpose other than a genuine alert or required test. Subsequently, in January 2014, the FCC fined a cable network \$200,000 for its broadcast of an advertisement containing tones that were apparently similar—albeit not identical—to the EAS tones. The advertisement, which was for a music CD, was not produced by the cable network, and it ran 14 times over a 6-day period. The FCC likened the use of simulated EAS tones to “crying wolf” and determined that “an average audience member would reasonably mistake the sounds for the sounds made by actual EAS codes.” In fact, one of the two complaints filed by viewers observed that the viewer “was afraid something bad was happening.” It is important for stations to understand that the rules against false alert signals apply to a station that transmits the signals or sounds even if that station did not create or produce the prohibited programming. In other words, broadcasters will be liable for airing advertisements with false EAS alerts even if they did not produce the spot.

The FCC is clearly in enforcement mode on this issue, which means that broadcasters need to exercise caution to avoid airing tones that mimic or simulate the EAS alert signal. The Enforcement Advisory from November 2013 cautioned broadcasters against the misuse and simulation of EAS alert signals and observed that the FCC was continuing to investigate other cases. According to the Enforcement Advisory, a “simulation” includes not only recordings of actual EAS codes or attention signals, but also sounds that mimic or are substantially similar to them, such that an average listener could reasonably mistake the sounds for

an actual EAS alert. By contrast, general alarms or other loud noises, including bells, claxons, and sirens are not considered “simulations” of EAS alert signals and are not prohibited. Unfortunately, at the margins it may be difficult to distinguish between permissible and impermissible sounds. The November 2013 Enforcement Advisory also warns that broadcasters could in some circumstances be liable for violations of other laws and Commission rules, such as the Commission's rules against the broadcast of hoaxes. A copy of the FCC's Enforcement Advisory from November 2013 is available at the following URL: http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db1106/DA-13-2123A1.pdf.

In addition, stations should avoid airing the wireless emergency alert (WEA) tones. You may recall that in May 2013, the FCC granted a one-year waiver to allow the broadcast of WEA tones in certain FEMA PSAs. The one-year waiver will expire on May 31, 2014. When the FCC issued its order granting the waiver, it made clear that airing the WEA tones on a broadcast station was as serious a violation as airing the EAS tones for any purpose other than an actual alert or required test. The reason the FCC granted the waiver for the FEMA PSAs was to facilitate public education. But the waiver applies only to FEMA PSAs that use the WEA tones in an appropriate fashion, i.e., “for the purpose of educating the viewing or listening public about the functions of their WEA-capable mobile devices and the WEA program.” In other words, stations cannot air the alert tones when conducting their own public education campaign about the WEA program (or about EAS) without running afoul of the law. A news story discussing how a WEA helped to find a missing child may be in the public interest, but including a demonstration of the WEA tones may result in FCC enforcement action.

Stations that are uncertain about whether particular tones are “too close for comfort” would be well advised to contact legal counsel. ■

Article courtesy of Stephen Hartzell, Attorney, Brooks, Pierce, McLendon, Humphrey & Leonard LLP.