

Virginia Town & City

VOLUME 17

JANUARY 1982

NUMBER 1

Roanoke Public Library
706 S. Jefferson Street
Roanoke, Virginia 24011

Inside:

- Pull Out Section Featuring Session Hints and Map of Capitol Square
- Tax Deductions for Elected Officials

Insurance Program Update

The Virginia Municipal Group Self Insurance Association continues to grow with over 90 members and an annual premium in excess of \$2.75 million. New members are being added each month. The Members' Supervisory Board, chaired by Vienna Mayor Charles A. Robinson, Jr., is in the process of making a dividend declaration for the first fund year which ended June 30, 1981. The dividend, which must be approved by the State Bureau of Insurance prior to distribution, will be announced this spring. This workmen's compensation pooling program is open to all Virginia political subdivisions including cities, towns, counties, school boards and special districts. If you desire further information on the program please contact Hall Risk Management at (804) 285-8525.

Health insurance has been explored as a possible additional line

of coverage for insurance pooling; however, VML staff feels that given the current options available for group health insurance, a self insurance pool is not feasible at this time. The health insurance pooling option will be kept under consideration should the prospects for successful implementation improve. Also, the staff is exploring the feasibility of establishing a traditional group health insurance program for local governments only. To achieve this objective an insurance carrier would have to be identified to underwrite the program. It also would have to be determined whether or not a rate structure could be adopted which would provide a savings over current health insurance alternatives.

Other lines of insurance are also under consideration for pooling programs. Traditional coverages such as automobile, general liability and

fire insurance could be written on a pooled basis similar to the workmen's compensation program. Section 38.1-915 of the *Code of Virginia* provides for the creation of a captive mutual company on a letter of credit basis. Given the strong interest of local governments in pooling other lines of insurance in addition to workmen's compensation, VML staff has given serious attention to the possibility of creating a captive mutual program. The legislation calls for the Bureau of Insurance to adopt regulations to implement the provisions of the law. The regulations have not yet been developed but as soon as they are available a determination will be made as to the feasibility of establishing such a program.

For further information contact Bradley Harmes at the League office.

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On the Cover

The Capitol Building at night. Designed by Thomas Jefferson, the building was started in 1785 and finished for use in 1788. The building houses the famous Houdon life-size statue of George Washington. The photograph is courtesy of the Virginia Department of Highways and Transportation.

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Elected Officials and Income Taxes—What You Should Know

By Robert W. Spence and T. Teal Dakan

EDITOR'S NOTE: *Permission to print this article was given by the Kansas Government Journal and the authors. With the assistance of VML Staff Attorney Clay Wirt and George Warthan, an attorney with the firm of Wallerstein, Goode and Dobbins, the article has been adapted for Virginia local officials.*

Because of the complexity of the income tax law, as it applies to different types of taxpayers, there are many opportunities for tax savings. Such benefits can only be obtained through knowledge of the income tax law and proper planning. This article highlights some of the major income tax matters of concern to a municipal official in running for and holding a public office.

Campaign Contributions and Expenses

If you hold an elective office it is important to understand the rules governing campaign contributions and expenses. If a candidate makes expenditures of his/her own funds for campaign purposes, even though holding a public office is considered a trade or business, he/she will receive no business expense deduction for federal income tax purposes. This makes running for public office with personal funds a rather expensive proposition.

If, however, the campaign is to be funded by contributions from others, the candidate may be eligible for tax-exempt treatment as a political organization. A political organization may be as structured as a political party or as simple as a separate bank account maintained by the candidate. The organization is not taxed on contributions received nor does it receive a deduction for expenditures for campaign purposes. Only when assets are not currently employed for political purposes, but are invested for use at a later date, is taxable income generated. Even when investment income is used for exempt purposes, it will still be subject to tax.

A political organization is taxed

much the same as a corporation. Ordinary income is taxed at 46 percent and capital gains are taxed at 28 percent. A political organization which has any taxable income must file Form 1120-POL on or before the 15th day of the third month following the end of the organization's taxable year.

If, at the end of the campaign, excess funds remain they may be retained for future campaigns or disposed of in several ways without resulting in income to the candidate. A political organization may contribute any amount to or for the use of another exempt political organization, including a newsletter fund, to the general fund of the U.S. Treasury or similar state or local funds, or to an exempt public charity without affecting its tax status. It is important to note, however, that any funds diverted from a political organization for the personal use of the candidate will be taxable as ordinary income to the candidate.

If a payment out of campaign funds satisfies a legal obligation or pays a personal expense of the candidate, it may be treated as a diversion for his personal use. The law provides, however, that amounts expended which benefit the candidate directly in connection with his campaign are not diversions for personal use. For example, self improvement courses directly related to the campaign, such as voice or speech lessons, are not to be treated as diversions. Reasonable expenses of preparing to take office, or meals provided the candidate and the candidate's staff during the campaign, are also not considered diversions.

The law provides for a limited credit for political contributions made by individuals. The amount of the credit is equal to one-half of the amount of political contributions paid during the tax year, limited to \$50 (\$100 if married filing jointly). Political contributions include contributions to a candidate, a political organization or a newsletter fund.

Newsletters

Expenditures made out of personal funds for the preparation and circulation of the newsletter are deductible as an employee business expense only if you itemize deductions. A different treatment is required if you receive contributions or paid subscriptions

for the newsletter.

A fund established exclusively for the preparation and circulation of a newsletter to constituents is treated as an exempt political organization. The tax treatment is similar to that of other political organizations except that transfers from a newsletter fund to a political organization which is not a newsletter fund are not allowed. An official wishing to establish such a fund could transfer the surplus from his exempt campaign organization into a newsletter fund without affecting the tax status of either organization. As with other political organizations, the newsletter fund is taxed only on net investment income.

Business Expenses

A public official is allowed a deduction from gross income for certain expenses related to his performance of services as an employee. Included in this category are transportation, travel, and other expenses incurred under a reimbursement or allowance arrangement.

Transportation expenses incurred by an employee in the regular course of business are deductible in arriving at adjusted gross income. The term transportation is distinguished from travel in that it does not include meals and lodging and it refers to the employee's transportation while not away from home. Transportation does not include the cost of commuting to and from work, as this is considered a non-deductible personal expense. The following examples may help clarify these rules.

Assume the taxpayer is a city councilman in a suburb of Richmond and also has a job in downtown Richmond. Also assume the following:

Distance in Miles	From	To
15	Home	Work
2	Home	City Hall
13	Work	City Hall

If, on the day of a 7:00 p.m. city council meeting, the taxpayer travels from home to work (no tax deduction) to home for dinner (no tax deduction) then to city hall (no tax deduction) and back home (no tax deduction), he/she is not entitled to a tax deduction for any of the mileage driven. This mileage is all considered to be commuting expense. However, if the taxpayer

About the Authors

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travels from home to work and then to city hall and back home, he/she is entitled to a deduction based on the 13 miles from work to city hall.

Another example would be attendance at a committee meeting during the day. If the taxpayer travels from home to work (no tax deduction) to city hall (deductible) to work (deductible) and then to home (no tax deduction), he/she is entitled to a deduction based on the 26-mile round trip to city hall. A similar deduction would be allowed for any transportation to the city and back to work if the trip has a city-related business purpose. This would include meetings with constituents, city officials or employees, and civic groups or leaders.

Transportation may include the cost of traveling by cab, bus, subway and other similar forms of public transit or the cost of using a personal automobile, as determined under one of two acceptable methods. Under the "regular" method, the total amount of actual expenses, including depreciation, is multiplied by a fraction—the numerator of which is the miles driven for business purposes and the denominator of which is total miles driven for the period. Under the "optional" method, the automobile expense deduction is computed by multiplying the number of business miles driven by standard mileage rates. The standard mileage rates are 20 cents per mile for the first 15,000 business miles and 11 cents per mile for business mileage in excess of 15,000 miles. Automobile expense is computed on page two of Form 2106 (Employee Business Expenses).

Travel expenses incurred by an employee in the regular course of employment while away from home are also deductible in determining adjusted gross income. Travel expenses may include transportation, meals, lodging and other expenses related to business travel.

Business expenses incurred by an employee under a reimbursement or allowance arrangement may also be deducted for adjusted gross income by the taxpayer, while any reimbursement for such expenses is included in gross income. If an employee is reimbursed in an amount which is less than his total expense, and the reimbursement is intended to cover all types of expenses, a portion of expenses other than travel and transportation (see listing below) may be deducted in arriving at adjusted gross income.

In addition to those categories listed above, you may pay for other miscellaneous items as a result of your position. Except as noted above, these expenses are deductible only as itemized deductions and may include the following:

- The cost of long distance telephone calls and telegrams relating to municipal business is deductible. In addition, if you have a separate telephone installed exclusively for municipal business the entire cost of this phone could be deductible. In the absence of a separate phone, the basic rate would not be deductible.
- Stationery, postage and supplies used in connection with municipal business are deductible.
- Dues to organizations you normally have not belonged to prior to being a municipal official, but now belong to since it is instrumental to your holding such an office are deductible expenses. Examples include civic and political organizations. Dues to organizations of which you are usually a member may be deductible, in part, to the extent that you can show a relationship to municipal business.
- The cost of obtaining additional publications such as newspapers or magazines because of your position as a municipal official is a deductible business expense. If you have previously incurred this expense for personal reasons and on a normal basis, the cost would not be deductible.
- The cost of Christmas cards to other officials, constituents, or community leaders is a form of advertising expense related directly to your business as a municipal official and as such is a deductible expense.
- The cost of entertainment and gifts in connection with municipal business is deductible. Entertainment includes activities generally considered to be entertainment, amusement or recreation. For example, food or refreshments a public official may provide in connection with a gathering involving municipal business is considered entertainment. Likewise, incidental gifts (business gifts) to employees or other individuals directly related to the conduct or municipal business are also

deductible. These gifts, such as candy, food, flowers, etc., are limited to \$25 per year per recipient.

- The cost of attending banquets, speaking engagements, or other similar affairs which are directly related to municipal business is also deductible. Such cost may include the cost of the meal, tuxedo rental, travel expense, and any other incidental costs involved with your attendance at such events.
- Subject to strict limitations, you may take a deduction for an office at home. An official may deduct expenses attributable to the portion of the home used exclusively and on a regular basis as his/her principal place of business or a place where constituents and other officials deal with the official in the normal course of business. Any deduction which meets the above conditions is limited to the gross income generated from such a location (i.e. your compensation from the city). Additionally, because you are considered an employee, the maintenance of an office in your home must be for the convenience of the employer (i.e., if an office is provided by the city, you would not be allowed a deduction for an office in your home.)

It is important to note that all of the business expenses discussed above are only deductible if the expenditure was made out of personal funds. If you are reimbursed for such expenses by your municipality or any person, your deduction is limited to the excess of your expenses over the reimbursement. Additionally, any reimbursement in excess of actual expenses paid is includable as ordinary income on your tax return. Except as noted above, business expenses are deductible without regard to related compensation. For example, an official who received only \$1 per year would be allowed to deduct all valid business expenses even though they may exceed his/her compensation.

Personal Expenses

The income tax law specifically states that no deduction will be allowed for personal, family or living expenses. For example, a babysitter or housekeeper hired because of extensive involvement with your regular job and/or position as an official would be considered a personal expense and nondeductible.

(Continued on next page)

Perhaps the most pertinent example involves the deductibility of a spouse's expenses when accompanying you on business. Numerous cases and rulings conclude that such expenses of a spouse represent nondeductible personal expenses unless it can be adequately shown that the spouse's presence on the trip has a bona fide business purpose.

In establishing a bona fide business purpose, you must show that the spouse's presence is not merely for pleasure, but is directly related to municipal business and necessary to its conduct. For example, it would appear to be difficult to establish a bona fide business purpose for your spouse's attendance at the Annual Conference unless that spouse is also a public official. You should be aware that any reimbursement you receive to cover such a personal expense is included in your gross income, even though you receive no deduction for the related expenses.

State Tax Considerations

Virginia income tax law generally follows federal law with respect to business expense deductions. As a result, you will receive the full benefit of business deductions claimed on the federal return on your Virginia income tax return.

Record Keeping

It is important to maintain adequate records for income tax purposes because you must be able to substantiate all items of income and expense at the request of the IRS. Failure to maintain such records may result in additional tax being assessed due to disallowance of deductions or inclusion of additional income by an examining agent.

Should you establish a campaign fund, as previously discussed, you must keep records which indicate the sources and uses of the funds. Failure to maintain such records may result in additional taxable income to you because an IRS agent may contend that funds were diverted to your personal use. Because a newsletter fund is even more restricted in its activities than a campaign fund, it is also vital that proper records be maintained.

For both types of funds, a record should be kept listing all sources of funds, both from contributions and investment income. All expenditures from the funds should be made by check and, where available, receipts detailing amount, date and nature of the ex-

pense should be retained. In situations where it is not obvious, a record should be made of the particular expenditure's relationship to campaign activities or the production of a newsletter as the case may be.

The amount, time, place and business purpose of any business expenditure should be recorded to arrive at an accurate tax deduction. In the absence of adequate records, a taxpayer may, at the discretion of the IRS, be allowed a deduction for certain expenses based on sufficient evidence corroborating his own statement. It is, however, significant to note that no amounts expended with respect to travel away from home, entertainment or gifts will be allowed as a deduction unless proper substantiation is provided. Expenses under these three categories should be recorded as follows:

Travel: (a) The amount spent daily while traveling away from home including transportation, meals, lodging, etc.; (b) The dates of departure and return, and the number of days spent away from home on business; (c) The destination or locality of the trip, designated by city, town or similar description; and (d) The business reason for the trip.

Entertainment: (a) The amount and description of each expenditure for entertainment; (b) The time and place the entertainment was provided; (c) The business reason for the entertainment and the nature of any business discussion held; and (d) The business relationship of the person or persons entertained.

Gift: (a) The cost and description of the gift; (b) The date of the gift; (c) The business reason for the gift; and (d) The business relationship of the recipient.

The Internal Revenue Code has defined "adequate records" as consisting of an account book, diary, statement of expense or similar record and documentary evidence which, in combination, are sufficient to establish the validity of each expenditure claimed as a deduction. It is not necessary to record information in a diary, etc. if it would duplicate information reflected on a receipt. Ideally a diary and documentary evidence will compliment one another. It should be noted that a cancelled check alone is normally not sufficient documentary evidence, while a cancelled check combined with a receipt is clear evidence of the nature of an expense.

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People

Appointments

The Abingdon Town Council appointed **M. Lavern Bechtel** as Town Manager effective this month. Mr. Bechtel comes to Abingdon from Henderson, North Carolina where he had served since February, 1978 as the City's first manager. Prior to his appointment in North Carolina, he served as treasurer, city clerk and auditor, assistant city manager and acting city manager during a four year period for the City of Leesburg, Florida. He was also city manager of Valdosta, Georgia from 1970 to May of 1972.

The Shenandoah Town Council named **Larry E. Dovel** as the Town Superintendent. He succeeds Pat Thomas who resigned his post in November. Mr. Dovel has worked for the Town of Shenandoah since March of 1976 and prior to his appointment, he was the certified water and sewer plant operator.

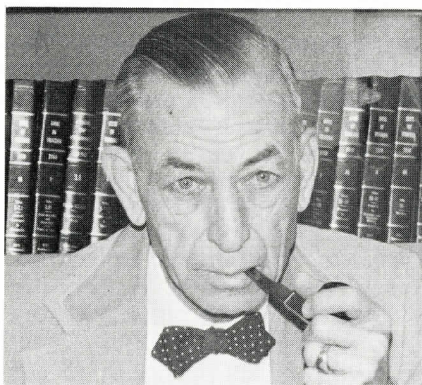
George C. Snead, Jr., County Administrator of Craig County since 1975, was named Roanoke's Director of Administration and Public Safety. Mr. Snead holds an undergraduate degree from the Citadel and a graduate degree from the University of North Carolina.

Robert L. Masden was named Human Services Director for Chesterfield County. Serving with the Secretary of Human Resources Office for the State, Mr. Masden was assistant for governmental services and had been acting assistant for management services when he was appointed.

Carl F. Henrickson, Chairman of the Loudoun County Board of Supervisors, was nominated to serve as Chairman of the Metropolitan Washington Council of Governments.

Wayne C. "Ted" Reed will become City Manager of Franklin on February 1. Now serving as manager for the City of Buena Vista, Mr. Reed was also town manager of Purcellville. He replaces Harold S. Atkinson of Franklin who retired December 31.

Wytheville Town Manager Carter Beamer appointed **Sandy F. Tarter** as the Town's Recreation Director. Mrs. Tarter previously taught school in Wythe, Bland and Pulaski Counties.



Brent Remsburg retired as Abingdon's Town Manager on December 31. Serving as Abingdon's manager since 1972, Mr. Remsburg also served the towns of Vienna and Herndon in the same capacity. A native of Lynchburg, he studied civil engineering at Washington and Lee University. In his early years, he was chief of Martinsville's engineering department, and was town engineer and assistant town manager in South Boston. In all, Mr. Remsburg's public service career spans 46 years.

Mr. Remsburg was recently designated a Paul Harris Fellow, a prestigious award named in honor of the founder of Rotary International. Since 1956, Mr. Remsburg has had perfect attendance at all Rotary regular meetings.

Resignations

Michael Shelton, Town Manager of Berryville, resigned his position to become the Personnel Director of Virginia Western Community College. Mr. Shelton will also pursue a masters in public administration.

Cedar Bluff Town Manager **Bob Shamblin** resigned his post in October. His successor is expected to be named this month.

Council Changes

Robert Edward Pruitt was appointed to the Glade Spring Town Council, replacing Paul Curry.

Bobby Eanes resigned his post as councilmember of Boones Mill.

Big Stone Gap Town Council named **Louis Collier** to fill the council seat left vacant by the death of Harry Meador. Mr. Collier is manager of training services for Westmoreland Coal Company and he holds a graduate degree from East Tennessee State University.

Deaths

James W. Boaz, former Mayor of Stuart, died October 21.

Frank H. Webb, who served as Roanoke's police superintendent for 15 years and was a member of the force for 32 years, died November 17. He served as President of the VACP in 1957-58.

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The Henrico Firefighters Decision

Local Officials Need to Know What It Means— And What It Doesn't

By James V. Meath

On May 12, 1981, the United States Court of Appeals for the Fourth Circuit in Richmond issued a decision in the case of *Henrico Professional Firefighters Association, Local 1568, et al v. The Board of Supervisors of Henrico County, et al*, 649 F.2d 237 (4th Cir. 1981). The decision has gone unnoticed by many attorneys as well as many local officials.

The main tenets of the holding, however, have been acclaimed by the representatives of the Henrico Professional Firefighters Association (hereinafter, the Association) and other public employee groups who seek to represent public employees across the Commonwealth. The Court found that the policy of the County of Henrico (hereinafter, the County) of not allowing a chosen representative of an employee association to address the Board of Supervisors at an open meeting was unconstitutional. The Board of Supervisors refused to allow a representative of the Association to speak as a representative of the group of employees. The County's position and argument relied upon established Virginia public policy which forbids local governments from recognizing a labor organization as the exclusive representative of a group of public employees, and hence from negotiating collective bargaining contracts with such organizations.¹

To enter into lengthy legalistic scrutiny of how the Court reached its conclusion in the case really would not be appropriate here. One only needs to recite a small portion of the dialogue that took place during the oral argument to see the logic utilized by the Court. For ex-

ample, the Board admitted that the rule it invoked to *deny* the Firefighters' representative the right to address the Board would nonetheless *permit* a representative of a group of trash haulers to appear before it to speak about the County's policy of trash removal. In view of this, the Court observed that the Board's policy was that *anyone*, including employees, could address the Board at a regularly scheduled meeting on any matters on which the Board was empowered to act, the single exception being a representative of an association of employees. Thus, the Court held that the Board was discriminating against the Association solely on the basis of its *status* as an organization representing employees. The above policy was found to constitute a denial of the equal protection afforded by the First and Fourteenth Amendments.

Now, depart from the legal analysis—what does this decision mean to you who are routinely called upon to conduct the business of our cities, towns and counties? It simply means that when a public body has a broad policy of allowing all to speak before it, it cannot deny any *one* group that right without showing some *compelling* reason for such denial.

"Even though local bodies cannot deny any one group the right to speak without a compelling reason, it does not totally restrict elected officials."

Though public employee unions have hailed this decision as a major one in their attempts to gain support in the Commonwealth, it is incumbent on us to recognize what the decision does *not* say. The decision is a narrow one which does *not* strip us of our management rights, or our ability to control our meetings, or the right to restrict agendas, or the power to terminate public debate and comment. The decision in no way restricts our ability to go into executive session to discuss matters which fall within the ambit of Section 2.1-344 of the *Code of Virginia*, as amended. As the Fourth Circuit observed, Justice Oliver Wendell Holmes opined over

sixty-five years ago that "the Constitution does not require all public acts to be done in town meetings or an assembly of the whole."²

Moreover, the Fourth Circuit was specific in stating that the decision only relates to the request by the representative of an association of employees to be heard. The decision does not in any way dilute our strong position that:

- we do not need to recognize any such association as representing employees;
- we do not have any duty to negotiate with any such association; and
- we do not have any duty to respond to the requests of any such association once they have been given the opportunity to be heard.

The above is well established legal doctrine as espoused by the United States Supreme Court, and cited by the Fourth Circuit:

...the First Amendment does *not* impose any affirmative obligation on the government to *listen*, to *respond* or ... to *recognize* the association and bargain with it." (emphasis added)³

The greatest harm that can result from this ruling is for us to become intimidated by employee associations, or for us to read the decision too broadly. We may be certain that public employee unions will attempt to use it as a means of gaining credibility with the employees and with the local governing body. It is up to that body to be sure that the representative of the employee group gets no more than any other person who seeks to address the body at a public meeting. This means that if the subject matter sought to be discussed by the representative is incongruous with that of the agenda items previously announced for that particular meeting, then the representative should be put off until a later meeting. Similarly, if the subject matter sought to be discussed by the representative is properly an item for executive session, then no reluctance to so inform the representative should be exhibited by the Board. In short, we should not treat the employee represen-

(Continued, page 15)

¹ O'Brian v. Leidinger, 452 F Supp. 720, 722 (E.D.Va. 1978). See *Commonwealth v. County Board of Arlington Co.*, 217 Va. 588 (1977).

About the Author

Mr. Meath is a partner in the Richmond law firm of Bowles and Bowles. Prior to entering private practice in the areas of labor and employment law, he received a graduate degree in Urban Affairs from VPI & SU and was assistant town manager for the Town of Blacksburg and served a six-month term as acting town manager. He also served as a member of the Montgomery County School Board.

² 649 F.2d at 240, citing *Bi-Metallic Investment Co. v. State Board of Equalization*, 239 U.S. 441, 445 (1915).

³ 649 F.2d at 244, citing *Smith v. Arkansas State Highway Employees, Local 1315*, 441 U.S. 463, 465 (1965).

Finding Your Way During The Session

By Charlotte Kingery, Editor

"This is a helper for those of you who need to know how to get a copy of a bill, where a committee room is, how to get a list of meetings, and how to find your state legislators. For all others, this is a great reminder."

Location: The General Assembly Building borders Broad, 9th and Capitol Streets; the Capitol is centrally located in Capitol Square (see map on the following page).

Parking: Parking is available on Broad Street, at the Project One Parking Lot at 6th and Broad, or at the 7th Street Parking Deck between Marshall and Broad Streets. Parking is also available on 8th Street at St. Paul's Episcopal Church.

On Main Street near the League office, the F&M Plaza at 12th Street has public parking, or the Exxon Station at 13th and Main Streets is convenient.

VML Office: The League is at 1011 East Main (see the map on the following page). If you want a League staff member to accompany you around the Capitol or the General Assembly Building, call or visit the VML office.

Lunch: The Capitol has a sandwich bar on the first floor and there are numerous restaurants in Shockoe Slip, near 12th and Cary Streets.

Finding out the Activities: In the General Assembly Building, the Legislative Information Desk is on the first floor. Legislative Information is also on the first floor of the Capitol, across from the snack bar. Both information desks have access to a computer which can tell you where a bill is, the bill's amendments and the committee and floor votes. Each desk has a calendar of events for that day which lists most of the committee and subcommittee meetings.

Standing committees have scheduled times; Legislative Information has the times and locations. A list of legislators serving on the committees and the subcommittees they serve on is also available from Legislative Information.

Some dockets (agendas) are available at the Legislative Information Desk; however, to get a docket for a particular committee meeting, see the committee clerk. The committee clerk is usually in the com-

mittee room sometimes as much as fifteen minutes before the meeting is called to order. If the bill you want to hear is not listed, you can discuss it with the clerk. It is best, however, if you can contact a League staff member prior to coming to Richmond to find out when the bill will be brought before the committee and what its status is.

Speaking to a Committee: If you want to address a committee, let the committee clerk know you are present and want to speak. If it is a controversial item, speakers are often asked to sign up and a list is given to the committee chairman. If you are speaking on behalf of the Virginia Municipal League, a staff member can assist you in preparing your remarks and attend the committee meeting with you.

Typewritten remarks are not necessary but are beneficial since not all of the committee members are present and letting them know your position strengthens your visit to Richmond.

Committee Rooms: On the first floor of the Capitol, the Committee Rooms are listed as 1, 2, 3 and 4.

The General Assembly Building houses Committee Rooms A, B, C, D on the first floor and the House Appropriations Committee on the ninth floor. Most of the smaller committee rooms on the other floors are used for subcommittee meetings and not for the full committee.

Getting a Bill: A copy of any bill can be mailed to you by calling or writing Legislative Information, P.O. Box 406, Richmond 23203, (804/786-6530), or Division of Legislative Automated Systems, P.O. Box 645, Richmond 23209, Attention Doug Mitchell (804/786-6984). Photocopies of certain bills are available from VML staff.

If you are in Richmond, the Bill Room is on the lower level of the General Assembly Building. If it is a controversial item, only one or two copies are distributed per person.

Contacting your Legislator: All state legislators have offices in the General Assembly Building. A directory near the elevators and mail room lists all of their offices.

At noon each day both houses convene so do not plan to visit your legislator's office at that hour. If you are unable to talk with your representative, an aide may be able to assist you. It is better, however, to make an appointment with your legislator before coming to Richmond. Don't delay, as the session progresses more of the legislators' time is spent in committee and subcommittee meetings, and on the House/Senate floor.

The first VML Legislative Bulletin publishes each legislator's Richmond room number and telephone number. The key official in each member locality receives the Legislative Bulletin.

Assistance from the VML Office: The League has access to the same computer used by Legislative Information and after 9:30 a.m., we can give you which committees are meeting that day, floor and committee votes, any amendments to a particular bill and at the conclusion of the session, legislation approved by the Governor.

For your convenience, however, a Status Report on bills monitored by the League is published with the VML Legislative Bulletin. You may want to consult the Status Report before calling the VML office.



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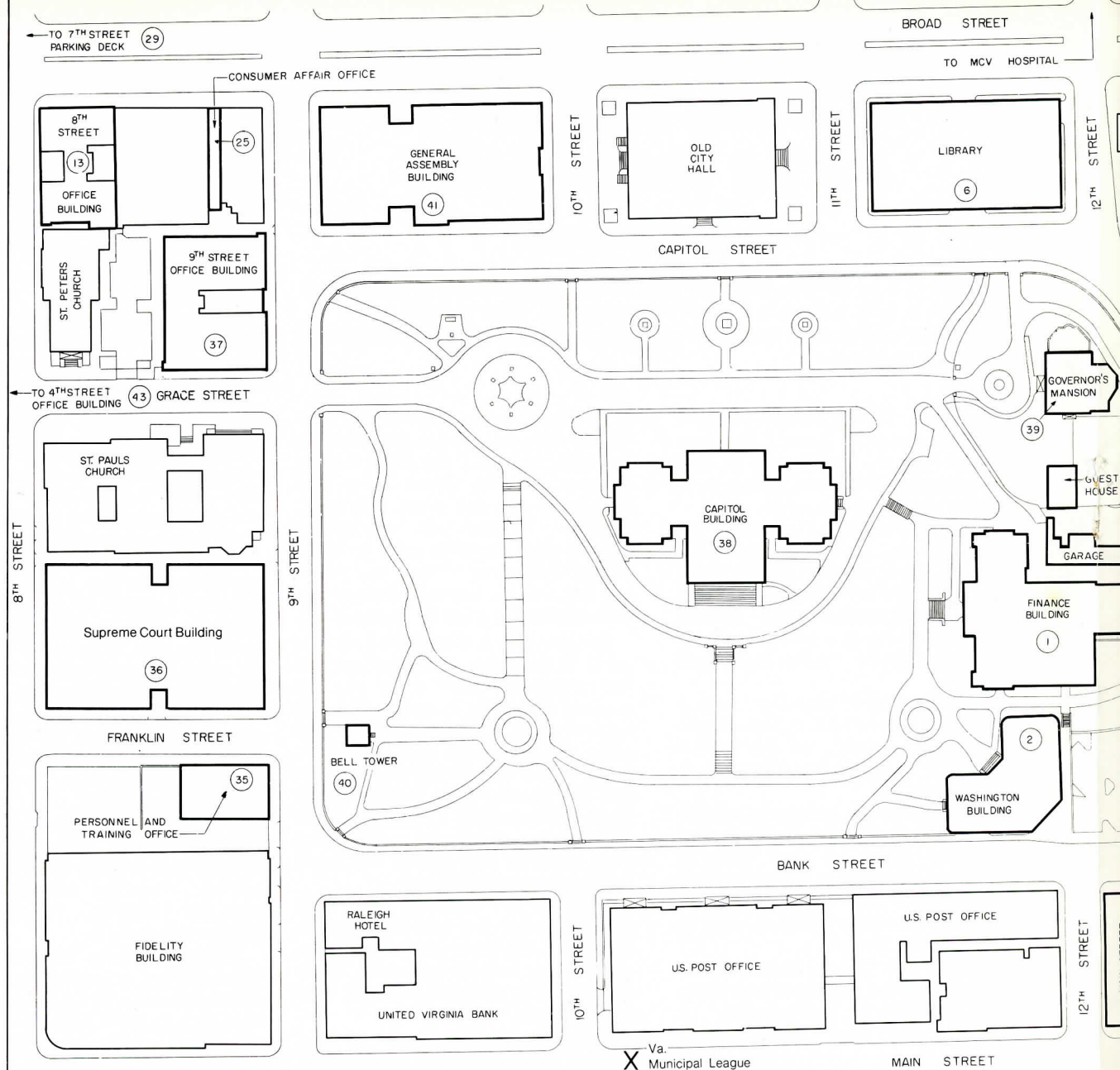
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This is a listing of State agencies and departments that local governments frequently use. Most are on the above map or are nearby; however, those with an asterisk are not in the immediate downtown area. All telephone numbers are in the 804 area code.

Governor, Office of the, Third Floor, State Capitol, 23219, 786-2211

Lt. Governor, Office of the, State Capitol, Supreme Court Building, 23219

Attorney General, Office of the, 101 North 8th Street, Supreme Court Building, 23219, 786-2071

Governor's Cabinet

Administration and Finance, Secretary of, 613 Ninth Street Office Building, 23219, 786-1201

Commerce and Resources, Secretary of, 514 Ninth Street Office Building, 23219, 786-7831

Commonwealth, Secretary of the, 112 Ninth Street Office Building, 23219, 786-2441

Education, Secretary of, 606 Ninth Street Office Building, 23219, 786-1151

Human Resources, Secretary of, 5th Floor, Ninth Street Office Building, 23219, 786-7765

Public Safety, Secretary of, 503 Ninth Street Office Building, 23219, 786-5351

Transportation, Secretary of, 633 Ninth Street Office Building, 23219, 786-7639

Agencies

Aging, Office On, Suite 950, 830 East Main Street, 23219, 786-7894

Auditor of Public Accounts, P.O. Box 1295, 23210 (Fidelity Building, 9th and Main Streets), 786-5199

Criminal Justice Services Commission, Third Floor, State Finance Building, Capitol Square, 23219, 786-2139

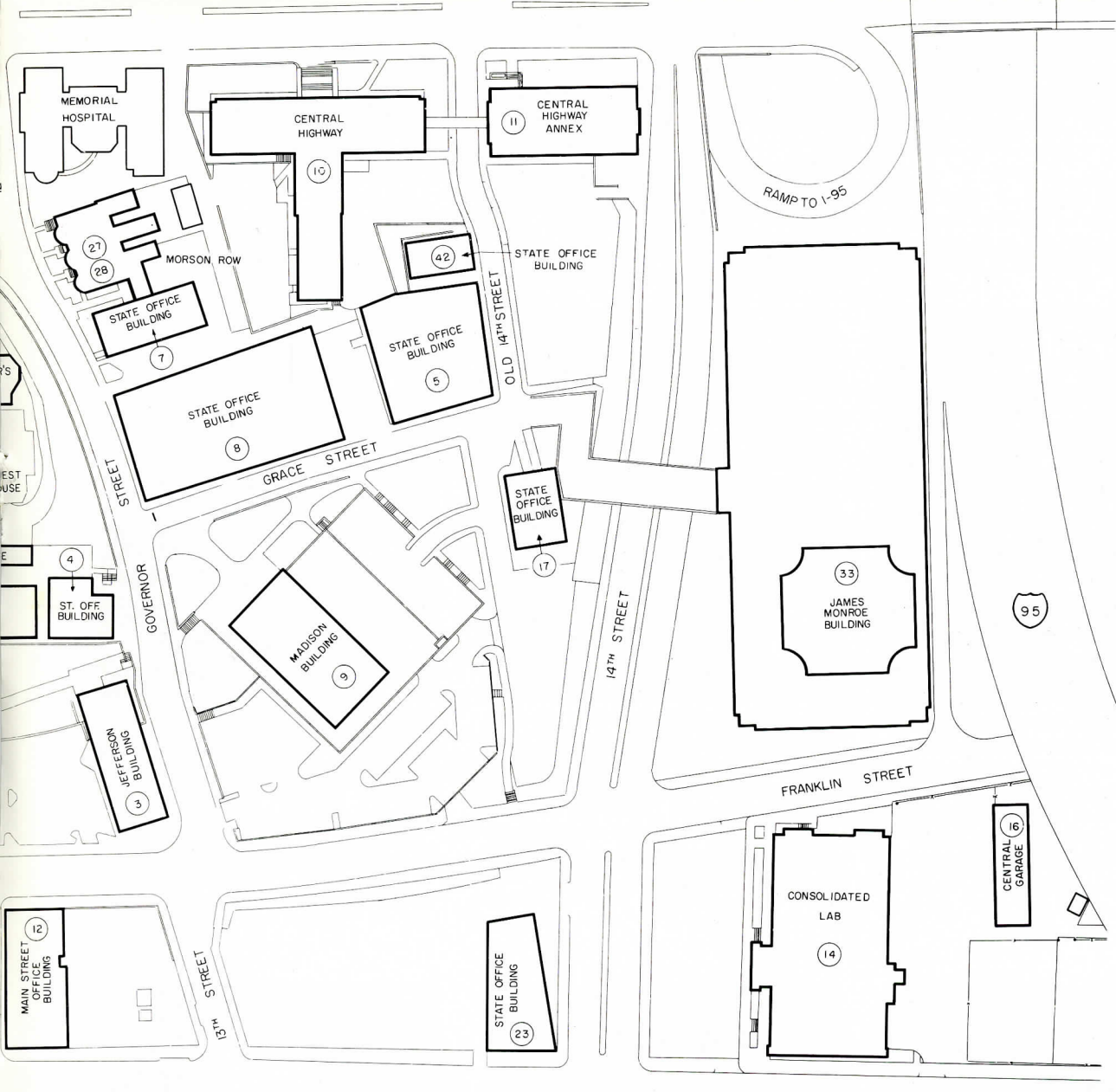
Education, Department of, P.O. Box 6Q, 23216 (18th-25th Floors, Monroe Building), 225-2020

Elections, State Board of, Room 101, 9th Street Office Building, 23219, 786-6551

Emergency and Energy Services, Division of, (Operations) 310 Turner Road, 23235, 323-2300 or (Administration) 7700 Midlothian, Virginia 23235, 745-3450*

Employment Commission, Virginia, 703 East Main Street, 23219, 786-3001

Environment, Council on the, 903 Ninth Street Office Building, 23219, 786-4500



Fire Services Commission, Virginia State, 5001 West Broad Street, Suite 217, 23230, 281-9441*

Fire Services Training, Office of, P.O. Box 706, Ashland 23005, 798-1311*

General Services, Department of, 209 Ninth Street Office Building, 23219, 786-6152

Health, Department of, 4th Floor, James Madison Building, 109 Governor Street, 23219, 786-3561

Highways and Transportation, Department of, 101 North 14th Street, Monroe Building, 23219, 225-2137

Housing and Community Development, Department of, 205 North 4th Street, 23219, 786-7891

Industrial Development, Division of, 1000 Washington Building, 23219, 786-4486

Legislative Information, First Floor, General Assembly Building, 910 Capitol Street, 23219, 786-7281 or First Floor, Capitol Building, 786-6530

Legislative Services, Division of, P.O. Box 3 AG, 23219 (Second Floor, General Assembly Building, 910 Capitol Street), 786-3591

Local Government, Commission on, 1001 East Main Street, Heritage Building, 23219, 786-6508

Local Government Management Relations, Office of, 12th Floor, Monroe Building, 101 North 14th

Street, 23219, 225-2144

Mental Health and Mental Retardation, Department of, P.O. Box 1797, 23214 (13th Floor, Madison Building 109 Governor Street), (786-3921)

Motor Vehicles, Division of, P.O. Box 27412, 23269 (2300 West Broad Street), 257-0523*

Personnel, Department of, 12th Floor Monroe Building, 101 North 14th Street, 23219, 225-2131

Planning and Budget, Department of, P.O. Box 1422, 23211 (4th Floor, 9th Street Office Building), 786-7455

Retirement Service, Virginia Supplemental, P.O. Box 3X, 23207 (11 North 6th Street), 786-3831

Supreme Court, Virginia, 100 North 9th Street, 23219, 786-2251; Law Library, 786-2075

Taxation, Department of, P.O. Box 6L, 23282 (2220 West Broad Street), 257-8000*

Uniform Building Code, Office of, 4th Floor, 205 North 4th Street, 23219, 786-5041

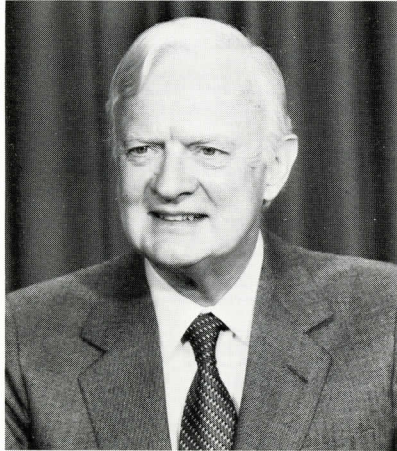
Water Control Board, State, 2111 North Hamilton Street 23230, 257-6384*

Welfare, Department of, 8007 Discovery Drive, 23288, 281-9236*

Virginia Municipal League, P.O. Box 753, 23206 (1011 East Main Street), 649-8471

Virginia's Congressional Delegation

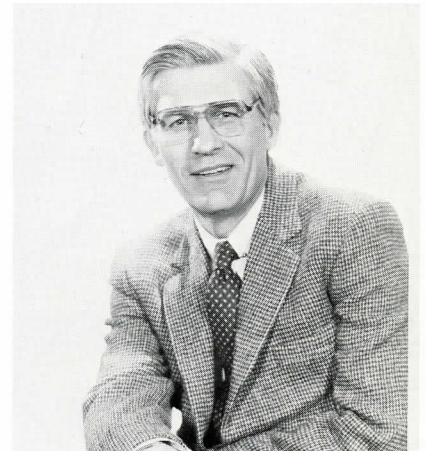
Washington Addresses: United States Senate, 20510 or Congress of the United States, House of Representatives, 20515.



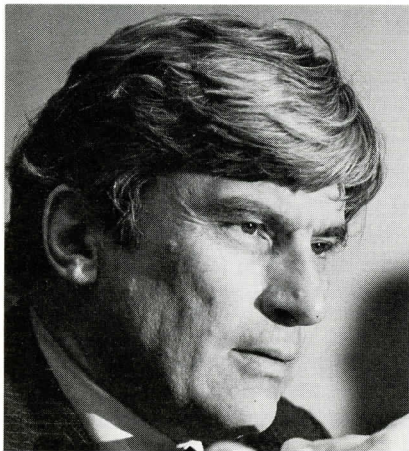
Senator Harry F. Byrd, Jr.
(Senator Byrd does not have District Offices.)
Committees: Armed Services, Finance, Joint Committee on Taxation
Legislative Aide: John I. Brooks



Robert W. Daniel, Jr.
Committee: Armed Services
District Offices: Room 215, Federal Building, Portsmouth, 23704, 804/441-6797
209 Post Office Building, Petersburg, 23803 804/732-2544
Legislative Aide: John Rayfield



Thomas J. Bliley
Committees: Energy and Commerce, District of Columbia
District Office: 510 East Main Street, Richmond, 23219 804/771-2809
Legislative Aide: David Mason



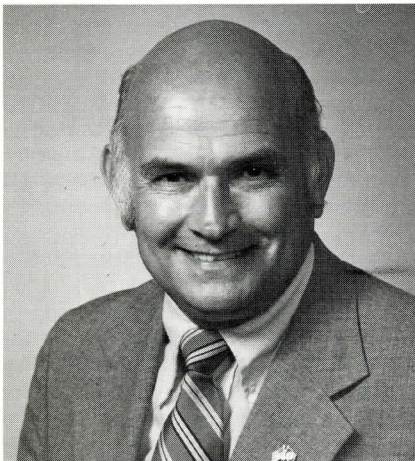
Senator John Warner
Committees: Armed Services, Energy and Natural Resources, Rules and Administration, Joint Committee on Printing
District Offices: 235 Federal Building, 180 West Main Street, Abingdon, 24210, 703/628-1858
805 Federal Building, 200 Granby Mall, Norfolk, 23510, 804/441-3079
Parcel Post Building, 1100 East Main Street, 2nd Floor, Richmond, 23219, 804/771-2579
Legislative Aide: Albert Applegate



J. Kenneth Robinson
Committees: Permanent Select Committee on Intelligence, Appropriations
District Offices: 112 Cameron Street, P. O. Box 714, Winchester, 22601 703/667-0990
100 Court Square Annex, P. O. Box 136, Charlottesville, 22902, 804/295-2106
Suite 305, 904 Princes Anne Street, P. O. Box 336, Fredericksburg, 22401, 703/373-0536
Legislative Aide: Chris Mathisen

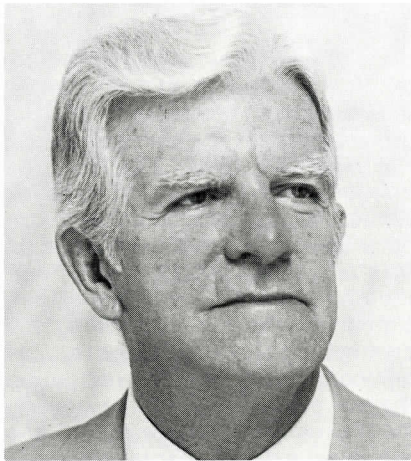


M. Caldwell Butler
Committees: Judiciary, Government Operations
District Offices: 1303 Allied Arts Building, 725 Church Street, Lynchburg, 24505, 804/845-1378
111 Federal Building & Post Office, 200 S. Wayne Avenue, Waynesboro, 22980 703/949-7758
402 Richard H. Poff Federal Building, 210 W. Franklin Road, Roanoke, 24005, 703/982-6200
Legislative Aide: Ms. Pat McBride



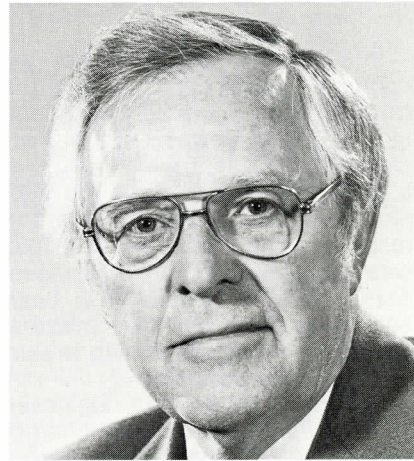
William C. Wampler

Committees: Agriculture, Select Committee on Aging
 District Offices: Arcade Building, Bristol, 24201, 703/466-9451
 309 North Washington Avenue, Pulaski, 24301, 703/980-3121
 Post Office Building, Big Stone Gap, 24219, 703/523-0530
 Legislative Aide: Jane Camp



W. C. (Dan) Daniel

Committee: Armed Services
 District Offices: 315 Post Office Building, Danville, 24541, 804/792-2180
 103 South Main Street, Abbitt Federal Building, Farmville, 23901, 804/392-6644
 Legislative Aide: Terry Hoyer



Stan Parris

Committees: Banking, Finance and Urban Affairs, District of Columbia
 District Offices: 6701 Loisdale Road, #116, Springfield, 22150, 703/922-7640
 Legislative Aide: Jack McGrath



Frank R. Wolf

Committees: Post Office and Civil Service, Public Works and Transportation
 District Offices: 1651 Old Meadow Road, Suite 115, McLean, 22102, 703/734-1500
 19 East Market Street, Room 4B, Leesburg, 22075, 703/777-4422
 Legislative Aide: Rita Ann Pfeiffer



G. William Whitehurst

Committees: Armed Services, Permanent Select Committee on Intelligence
 District Offices: 815 Federal Building, Norfolk, 23510, 804/441-3340
 Room 601, Pembroke One, Virginia Beach, 23462, 804/490-2393
 Legislative Aide: Mrs. Janie Whitehurst



Paul S. Tribble, Jr.

Committees: Armed Services, Budget
 District Offices: P. O. Box 188, Tasley, 23441, 804/787-7836
 P. O. Box 1183, Tappahannock, 22560, 840/443-4740
 Executive Tower, Box 59, 2101 Executive Drive, Hampton, 23666, 804/838-3287
 Legislative Aide: Bill Kling

Legal Guidelines

Recent Judicial Miscellany

By Howard W. Dobbins, General Counsel

In a recent Legal Guidelines, we commented with approval upon the United States Supreme Court decision in *City of Newport et al v. Fact Concerts, Inc., et al*, which held that a local government although subject to suit as a "person" within the meaning of 42 U.S.C., Section 1983 was not liable for punitive damages. Alas, our sigh of relief has been short-lived for the lower federal courts are already beginning to skirt the holding in Newport.

Recently, in *Boyd v. Shawnee Mission Public Schools*, reported in 50 L.W. 2237, the United States District Court in Kansas held that a local government is not immune from liability for punitive damages and civil rights suits under 42 U.S.C., Section 1981. The District Court analyzing the Supreme Court opinions in *Newport* and in *Monell v. New York City Department of Social Services*, 436 U.S. 651, interpreted the higher court's ruling in *Newport* as applying only to Section 1983 cases and opining that the Thirteenth Amendment and Section 1981 cases hereunder specifically recognized that punitive damages are recoverable under appropriate circumstances in Section 1981 cases.

Local governments' legislative zoning prerogatives have received a further blow to the solar plexus, this time by the Supreme Court of the United States in *Metromedia, Inc., et al v. City of San Diego, et al*, 49 L.W. 4925 reversing a decision of the California Supreme Court.

In *Metromedia*, San Diego had enacted an ordinance to prohibit "outdoor advertising display signs" for the purpose of eliminating "hazards to pedestrians and motorists brought about by distracting sign displays" and "to preserve and improve the appearance of the City". The ordinance permitted two kinds of exceptions: on-site commercial advertising and signs falling within 12 specified categories, such as government signs, traffic signs, historical plaques, religious symbols, for-sale and for-lease signs, signs depicting time, temperature and news, approved temporary off-premises subdivision

directional signs and temporary political campaign signs. The ordinance was challenged on the grounds that it abridged First Amendment rights. The majority opinion, written by Mr. Justice White, concluded that the ordinance was unconstitutional on its face and that both First and Fourteenth Amendments foreclose similar interests in controlling the communicative aspects of billboards and that the regulation thereof must reconcile the government's regulatory interests with the individual's right to expression.

The majority in *Metromedia* further opined that insofar as it regulated commercial speech, the ordinance met constitutional requirements inasmuch as improving traffic safety and appearance of the city are substantial governmental goals. However, the general ban on signs carrying non-commercial advertising was invalid under both First and Fourteenth Amendments. The court pointed out that there was a broad exception for on-site commercial advertisements in the ordinance but no similar exception for non-commercial speech, and that whereas the use of on-site billboards to carry commercial messages relating to the commercial use of the premises was freely permitted by the ordinance, the use of otherwise identical billboards to carry non-commercial messages was generally prohibited and said that as the city tolerates billboards in some respects, it cannot choose to limit their content to commercial messages. Furthermore, the city may not conclude that the communication of commercial information concerning goods and services connected with a particular site is of greater value than the communication of non-commercial messages.

And in *Schad v. Borough of Mount Ephraim* decided by the Supreme Court on June 1, 1981 (No. 79-1640), the Supreme Court struck down another local ordinance which excluded live entertainment, including nude dancing. Here the Court held that an entertainment program may not be prohibited sole-

ly because it displays the nude human figure and opined further that nude dancing is entitled to protection under the First Amendment from official regulation. The Court asserted that although some regulation is permitted under the First Amendment, Mt. Ephraim's asserted justifications were not sufficient for the exclusion of such a broad category of protected expression.

And in *McColleston v. City of Keene*, 49 L.W. 2753, the United States District Court in New Hampshire invalidated in city's ordinance imposing a 10:00 p.m. curfew on children under 16 unless accompanied by parent, guardian, or parentally approved person on the grounds that it violated children's due process liberty interest, which is "an invaluable right that is essential to American citizenship". The District Court Judge cited the three justifications for affording minors rights that are not coextensive with those of an adult as set forth in *Bellotti v. Baird*, 443 U.S. 622 (1979): (1) the peculiar vulnerability of children; (2) their inability to make critical decisions in an informed, mature manner; and (3) the importance of the parental role in child rearing. The District Court concluded that although the first justification applied to Keene's ordinance and that the second might apply, the ordinance did not fit with the circumstances where the state may usurp the parental role and, therefore, the ordinance was invalid.

Finally, we are able to report one decision which is favorable to localities. In the case of *City of Long Beach v. Bozek*, reported in 49 L.W. 2739, the California Court of Appeals, 4th District, held that an individual who sues a municipality without probable cause and with actual malice is not protected from a municipality's malicious prosecution suit by First Amendment rights to petition for redress of grievances. Thus, in the case in which an individual filed suit against Long Beach and two of its police officers for false arrest, assault, battery, and false imprisonment which concluded in favor of the city, the city was entitled to seek punitive damages upon proof that the original suit had been instituted maliciously and without good cause.

(Firefighters, from page 8)

tative in a disparate manner, keeping in mind not to grant them special privileges vis-a-vis others.

Finally, it is up to the governing body to control our public meetings. In order to do this we must be confident in our knowledge of the law concerning the rights of individuals and/or representatives in petitioning local governing bodies. Failure at this above stated responsibility severely diminishes our credibility in the eyes of the public. Equally important is our obligation as an employer to maintain credibility with our employees. This cannot be accomplished by giving public employee unions ammunition, such as the instant decision, with which to attack policies and the underlying motivation for such policies. Indeed, we should not fear these groups at all—if in fact our “houses are in order” through the use of proper response systems and internal communication lines for our employees.

Thomas Jefferson stated in his *Notes on The State of Virginia*: Ignorance is preferable to error; and he is less remote from the truth who believes nothing, than he who believes what is wrong.

For your consideration, I submit the following:

- to believe that the recent decision of the Fourth Circuit in any way lessens our ability to deny recognition of public employee associations—is error; and
- to believe that the denial of public employee unions and associations access to the public forum represents an effective way to maintain the nonunion status of our cities, towns and counties—is serious error.

Three Cities Win Awards

Lexington, Norfolk and Virginia Beach won awards in the 1981 City Hall Public Information Awards competition, a national contest that honors municipalities for excellence in communicating with their employees and the public.

Awards were presented in Detroit by Raymond L. Bancroft, Editor-Publisher of *City Hall Digest* sponsor of the competition. Officials attending the awards ceremony were also delegates to the annual Congress of Cities of the National League of Cities.

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(Taxes, from page 6)

The taxpayer must retain his records and related substantiation for all deductions during the period that his tax return is subject to audit. Ordinarily, this period ends three years after the due date of the return in question. This period may be extended if the taxpayer so consents or if there has been a substantial omission from gross income. Furthermore, there is no statute of limitation in cases involving fraud.

Summary

The purpose of this article is to provide some basic information concerning the income tax law as it relates to your unique position as a public official.

While a substantial amount of tax planning can be accomplished by an individual who is familiar with the tax law, it is wise to review your affairs with a professional tax advisor. Because this is not a complete summary of the law, any question raised by this article should be discussed with your certified public accountant or other tax counsel.

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