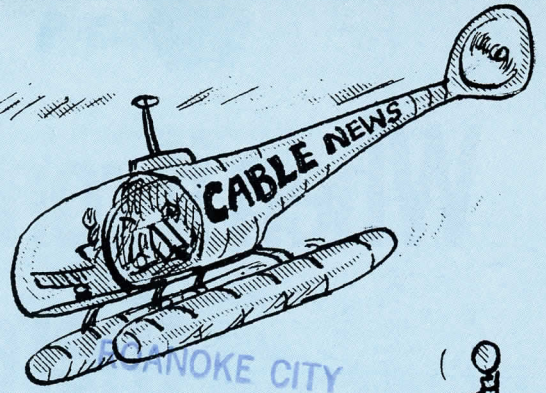


Virginia Town & City

Volume 19
Number 12
December 1984



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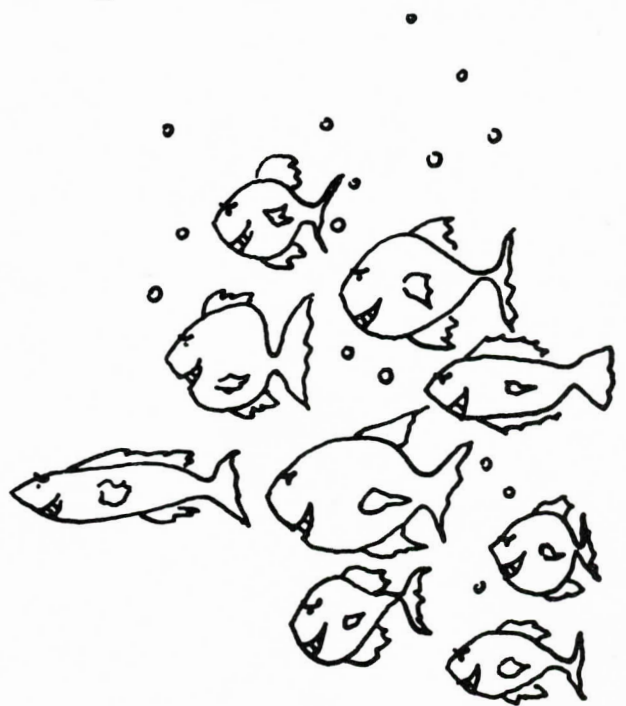
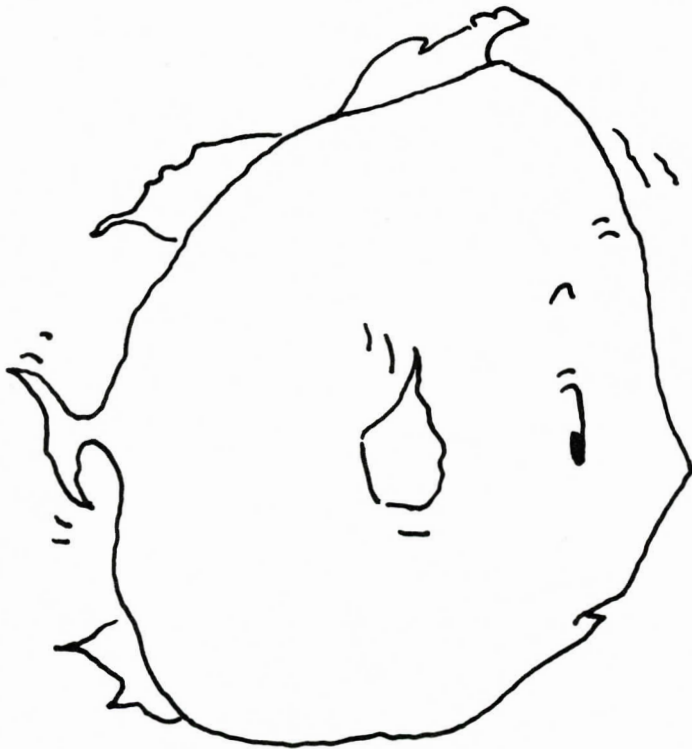
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On the Cover

Alexandria City Manager and sometimes cartoonist Douglas Harmon gives us some humorous insights into the recently signed cable legislation. On page 14, author Nicholas P. Miller gives more serious insights into the legislation.

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Delegate Hall lists some do's and don'ts for lobbying at the General Assembly.

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For your convenience, the Virginia Municipal League presents this list of companies offering products and services to Virginia local governments. This guide was created for your continued use throughout the year and is meant to be removed from the magazine.

9 The Future: What Virginians Think**By Daniel M. Johnson and J. Sherwood Williams**

In a recent public opinion poll, Virginians revealed their perceptions of the commonwealth's future. Here, authors Johnson and Williams focus on their findings related to public education and the role of state government.

14 The Cable Compromise**By Nicholas P. Miller**

Miller tells what the Cable Communications Policy Act of 1984 means to Virginia local governments.

15 Highlights of the Cable Bill**19 Commentary: Education and Economic Development****By Carol Amato and Ralph Hambrick**

"What we do now to improve education at all levels will pay dividends in the economic prosperity we can expect to enjoy in the future."

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People

Roanoke Mayor Receives Award

Roanoke Mayor and VML Fourth Vice President **Noel C. Taylor** recently received the American Spirit Award, a national award presented by the U.S. Air Force. Only four others in the entire nation have received this award. The U.S. Air Force southeastern district commander presented the award to Taylor in a recent city council meeting.

The award nomination states that Dr. Taylor's life "exemplifies the character of a true American patriot It is not the fact that Noel C. Taylor is a minister or mayor of Roanoke that makes him what he is or what he represents. He uses these positions as two extra arms to further help the people of Roanoke and Virginia."

Bedford Appoints Finance Director

The city of Bedford has appointed **Barry W. Thompson** director of finance, replacing **C. D. Klotz Jr.** who

resigned for health reasons. Thompson was selected from a field of more than 20 applicants. He was formerly a senior systems representative specializing in municipal accounts with Burroughs Corp. He holds a degree in business administration and management from Lamar University in Beaumont, TX. He is married and the father of a son.

Norfolk Manager Makes Appointments

Norfolk City Manager **Julian F. Hirst** has advanced the division of data processing to departmental status and appointed **Philip W. Cronk**, former data processing manager, director of the new department. Cronk's responsibility is to provide cost effective centralized and distributed data processing support to city departments and other organizations. The department has 47 employees and a \$2,344,307 budget.

Cronk has headed the division of data processing since January 1983, and he served as fiscal systems manager for the city's finance department from 1974 to 1982. Before joining the city, Cronk

held several positions as an officer in the U.S. Navy. He studied at the Navy Supply Corps School in Athens, GA, earned a bachelor of science degree in engineering from the U.S. Naval Academy in Annapolis, and obtained a master of science degree in management-data processing from the U.S. Naval Post Graduate School in Monterey, CA. He holds the Certified Data Processor award from the Institute for Certification of Computer Professionals and has served as an instructor at the University of Virginia, Hampton Roads Education Extension Center and as a consultant for the University of Virginia.

In another move, Hirst appointed **James A. Waller Jr.** purchasing agent for the city of Norfolk. Waller has 11 years experience as the city's assistant purchasing agent. In addition, he worked for Newport News Shipbuilding and Dry Dock Co. from 1967 to 1971 in several capacities including contract administrator, senior planner and industrial engineer.

Waller holds a bachelor of science in industrial engineering from North Carolina State University and a master of business administration from the College of William and Mary. He is a Certified Public Purchasing Officer of the National Institute of Governmental Purchasing.

Alexandria Fills Treasurer's Post

The city of Alexandria announced the appointment of **Raymond Kurlander** as its new treasurer. Kurlander was the top accounting and auditing executive at the Civil Aeronautics Board (CAB) for 27 years.

While at CAB he served as director of the Bureau of Accounts and Statistics, director of the Bureau of Accounts and Audits, comptroller, and acting managing director. Kurlander was also designated as the Airline Industry's Chief Accountant and Auditor.

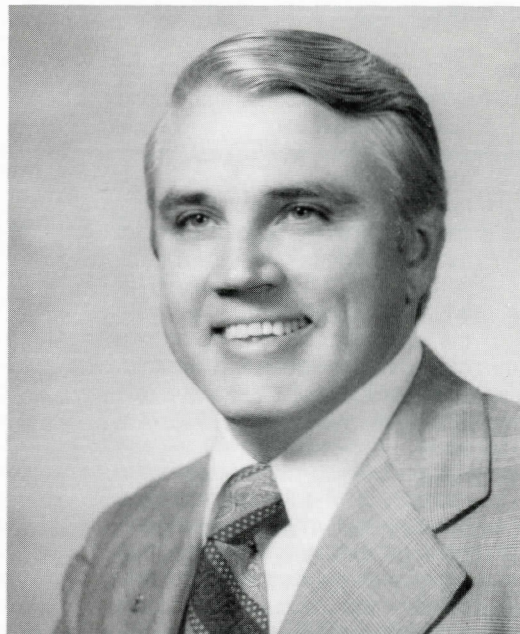
He received the CAB Meritorious Service Award, the highest award given to its employees, and he received the Association of Government Accountants' Outstanding Achievement Award for leadership in financial management. Kurlander was recognized also by the American Institute of Certified Public Accountants for his assistance and support in the preparation of the institute's recent publication, Industry Audit Guide for Audits of Airlines.

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Tips on Lobbying



By Delegate Franklin P. Hall

In dealing with the legislature there are a number of cardinal rules of which one should be ever mindful.

The first step for anyone planning to work with the General Assembly is to examine the body of people with whom one hopes to work. The Virginia General Assembly consists of 140 different individuals, each of whom has a different experience, perspective, style, approach and comprehension of the problems to be confronted. To stop at this however, would be to miss the mark and oversimplify the problem.

A second consideration to be scrutinized is the legislator's objective. What is he trying to accomplish? In addition, how does he perceive his job? In my mind there is absolutely no question that every legislator without exception will do his best for his district and for the people of the commonwealth. The difficulty lies in selecting what is best in the many situations delegates and senators face.

In all too many instances, legislators know what they want to do but fail to comprehend the full ramifications of a particular piece of legislation. They fail to understand the import of a bill beyond its stated purpose and the consequences beyond the bill's intent. This kind of concern is what conscientious legislators worry about. It is at this point that legislators need the help of what is known as the professional lobbyist.

Webster defines a lobbyist simply as a person who influences legislation. He further suggests that this influence is perhaps based on something other than the merits of a particular proposal. Black's Law Dictionary takes a more

legalistic approach and basically states that a lobbyist is one who attempts to influence or persuade members of a legislative body. Both are simplistic statements and do not deal with the substantive attributes of the lobbyist.

I would like to submit to you my own definition of a good lobbyist and submit that every good lobbyist should provide the following functions:

- research and technical assistance
- education
- persuasion

First, in the area of research and technical assistance any good lobbyist has a wealth of information regarding the proposals which interest him. This may include the cost of a particular proposal, the number of other states that have considered and/or implemented such legislation, the implementation experience of those states, the effect of such a proposal on the public and the citizen reception to the bill. Also, the lobbyist can provide an abundance of information regarding the technical terminology involved in legislation. He or she can uncomplicate complex verbiage, bringing it down into an everyday language that is more readily understood by members of the public at large.

A second and equally important function of the good lobbyist is providing education for the members of the General Assembly. In other words, what does a particular piece of legislation really do? Why is it needed? What particular ills will it cure? Who will benefit by it? How will they benefit by it? A good lobbyist will be able to advise members

of the General Assembly about the present state of the law and explain how the proposal will change the law.

The third function of the lobbyist, and the one most often viewed by the public, is that of persuasion. In order to persuade, the lobbyist must illustrate the obvious need for his proposal by way of examples and support of key people from a legislator's home district. Note that the emphasis here is on "key" people, not necessarily on numbers of people.

In addition, a good lobbyist will garner support from the district and from those in the industry that is affected by his proposal. He will show the legislator how support for his particular bill will benefit the people back home. Furthermore, the lobbyist will illustrate through various letters and calls that the people back home not only need and want this legislation, but also that the legislation will bring benefit to the member's district.

Research and technical assistance, education of the membership and persuasion are examples of important lobbying functions, but they are by no means all inclusive. Rather, they are suggestions of the kinds of things that good lobbyists do as they carry out responsibilities to clients and members of the legislature.

Tangible results may begin to appear as the lobbyist carries out his responsibilities. The following check list of do's and don'ts can be helpful in obtaining these results. The list is in no order of priority but suggests some of the important things every person attempting to

influence the legislature should consider.

Do . . .

- tell it like it is, be sincere and don't pull punches.
- give the member the bad news along with the good news.
- tell the member about the arguments against the proposal as well as those arguments in favor of it.
- complete your homework early. In other words, take time to educate the member on a one-on-one basis before he goes to Richmond. Don't wait until the session starts to gather support for your proposal.
- respond if asked. Advise the member of who the opposition is, not only in terms of other members, but also which special interest groups are opposed to the proposal.
- determine what committee will most likely handle the legislation in question.
- find out who the key members on that committee are. Determine the appropriate subcommittee and identify those persons subcommittee members listen to, whose judgment they trust and the persons they frequently consult for advice.
- have the people back home get in touch with key members of the committee and advise the members of their support for the proposal.
- make sure if there is going to be a public hearing that the right witnesses appear on your behalf. Before you can determine the right witnesses, decide what is needed for the hearing. Is the hearing designed to educate the committee on the technical aspects of your proposal? Is it merely to gain support on the committee for the legislation? Is it to counter arguments that may have been made against your proposal?
- select your chief patron carefully. Preferably he or she should be someone on the committee who

will hear the bill and who will work well with its other members.

- work closely with the chief patron not only in marshalling support for the proposal, but also in steering it through the legislative progress.

Now that we have discussed what we should do, let's turn to a list of "don'ts." Once again, we are not looking at any particular order, but rather we are considering some of the things that should be avoided.

Don't . . .

- wait until the session starts to begin work on your proposal.
- assume that members have read the material you have mailed them. Even though you may have sent a great deal of information, it is safe to assume that most members haven't had time to fully read and comprehend all the material forwarded to them.
- assume that a given member will be either for you or against you. Take the time to talk with the legislators individually and ask for support. Seek their guidance and hear their views on the issue.
- wait until the bill is before the committee to let the members know the arguments for and against your proposal. Each member should be familiar with the pro and con arguments and should be in a position to ask intelligent questions when the bill comes up for committee discussion.
- rely on one member to get the support of another. If he or she agrees to do so, great. Consider it icing on the cake, but do not rely upon a legislator to do your work for you. A good lobbyist will organize support himself.
- assume that any one approach will work on all members of the General Assembly. It would be foolhardy to think that all members will respond to a good letter, a good summary or even to a good one-on-one approach. It is important that you use all the tools at your command including correspondence, one-on-one visits, tele-

phone calls from people back at home, calls from experts in the area who can answer questions and briefings on the details of any technical aspects involved.

- underestimate the value of a good individually written letter from a constituent back home. Encourage constituents to explain why they feel the legislation is positive and why they are seeking the support of their representative.
- assume that because a bill was reported out of committee by a good vote that your worries are over. There is many a slip between the cup and the lip and so it is with legislation. Once the committee has reported a bill, you should contact key members on the committee who if needed will be prepared to speak in support of the issue on the floor.

As you can see, the list of do's and don'ts can go on and on. This list is in no way comprehensive, rather it is intended as a starting point for you in considering what should and should not be done in handling a piece of legislation.

Let no one suggest that lobbying is not an important function of the legislative process. To the contrary, in a state such as ours where we have a part-time citizens' legislature without sufficient staff or time to delve into the nuances of all the pieces of legislation, it is most important that legislators be able to call upon lobbyists for facts, research and help in understanding the ins and outs of a particular proposal. Legislators need help in terms of education and/or understanding. More important, legislators need reliable resources on whom they can depend. Legislators need lobbyists with candor, sincerity and a straightforward answer. The greatest asset a lobbyist has is his or her credibility. Legislators need to know they can call upon a given lobbyist with a question and be confident that he or she will tell it like it is, whether for or against his client.

Even though you may do all the things suggested here, even though you may take all the precautionary steps, dot all the i's and cross all the t's, sometimes you will lose. Sometimes you will lose because the timing is wrong. Sometimes you will lose because public opinion is running against you. If you have performed your job well, however, you can be assured you have served your employer, the legislature, the individual delegates and senators and the people of Virginia. As the session closes, your success rate should reflect the integrity with which you have labored.

About the Author

Delegate Hall is a senior partner in the Richmond law firm of Hall and Hall and has been a member of the House of Delegates since 1976.



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The Future

What Virginians Think

**By Daniel M. Johnson and
J. Sherwood Williams**

In human affairs the logical future, determined by past and present conditions, is less important than the willed future, which is largely brought about by deliberate choices.

René Dubos

Americans are displaying an unprecedented interest in the future as documented by the growth in books and articles devoted to future views. Perhaps this is due to the way we allow certain dates to symbolize the future, such as 1984 and the year 2000. As we experience and approach these symbolic years, we somehow feel "closer" to the future, and this feeling of closeness gives rise to greater interest.

This interest in the future is frequently used by different sectors of society to help them achieve various objectives. Those in the world of business and commerce capitalize on our curiosity about the future to market their goods and services. Likewise, those in the public sector — lawmakers, county supervisors, council members and administrators — employ this interest in the future to advance ideas, priorities and programs.

For more than a decade, states and major cities across the country have formalized these interests by establishing forums, committees and commissions to think seriously about the future and to formulate questions, identify issues, gather data and make projections in order to foster informed decision-making or, more importantly, to advance a particular "model" of the future.

The Survey Research Laboratory at Virginia Commonwealth University carried out a statewide survey in November 1983 to assist the commonwealth in taking a systematic look at its future. The survey obtained a "representative" response from citizens across the state to questions about the future in an effort to gain a better understanding of its

citizens' perceptions and priorities for the future.

Images of Virginia

The people of Virginia describe the commonwealth as a desirable place to live. The great majority, in fact, described it as a "very desirable" state in which to live. However, most people expect life in Virginia to change in the next 20 years. Only one in eight expect life in Virginia to remain pretty much as is while nearly one of three foresee life being "very different" 20 years from now. Most, however, anticipate only moderate change in the next 20 years.

What kind of changes do people expect and will these changes make their personal lives better, worse or leave them unchanged? The majority of people surveyed are optimistic about the future and anticipate their lives will be better 20 years from now. Only about one-fourth foresee their lives getting worse. In some regions, however, pessimism is more prevalent. For example, in Northern Virginia about one in five of those responding see their lives changing for the worse, and only about half feel their lives will be better in the future.

It's interesting to note that those surveyed generally tended to be slightly less optimistic in their predictions for others than they were for themselves. While 63 percent said they think their personal lives will be better 20 years from now, only 50 percent said they think the lives of most Virginians will be better.

The survey also sought to measure the degree to which people feel involved, the extent to which they feel their opinions count. They were asked, "How much influence do you feel people like yourself have in determining the future of Virginia?" More than 85 percent reported they feel their views count in some way, one in four said they feel they have "a lot" of influence in determining the future of Virginia, and only 15 percent felt they have no influence at all. An

overwhelming majority (89 percent) felt they are able to influence the future of their own communities.

The feeling of ability to control one's own life and future is essential in a free society, and it is important to take stock of these feelings. More than three-fourths of those interviewed feel they exert a lot of influence over their own personal future. Interestingly, even though registering more pessimism about the future, a larger proportion of people living in Northern Virginia feel they exert "a lot" of influence over their own future. As could be expected, older people feel less control over their future than younger people, and the same is true of persons with less education and income.

Perceptions of Education

In 1983, the nation's attention was redirected to the nature and needs of education. Education has also been a topic of concern in Virginia, and one major objective of the survey was to find how Virginians view their public schools. As an indicator of the public's overall assessment of public education in their communities, respondents were asked to rate their schools as excellent, good, fair or poor.

The results: more than two-thirds (67.9 percent) rated their schools as good or excellent, while one in three (32.1 percent) thought their schools were fair or poor.

Some significant variations occurred in our view of schools from region-to-region throughout the state. Northern Virginians were more than twice as likely to rate their schools excellent, while almost half the residents of communities in eastern and southwest Virginia say their schools are fair or poor. These perceptions carry over into comparisons people make between their communities' schools and schools elsewhere. For example, a large majority of Northern Virginia residents feel their schools are better than schools

elsewhere, while only a small minority of residents in Southwest Virginia feel their schools are superior.

It is also significant that higher ratings were given to public schools from people in the age group most likely to have children in school. Likewise, those with higher incomes and more education were more positive about their schools.

Perhaps more important is the fact that the vast majority of those surveyed (72 percent) want and expect changes in public education. More than three-fourths expect some or a lot of change in Virginia public education over the next 20 years, but Northern Virginians indicated they expect less change than their counterparts downstate. The greatest appeals for significant changes in public education came from eastern and northwest Virginia. More than 44 percent of the respondents in these two regions said that public education should change a lot.

What kind of changes do Virginians want in future education? What goals should be set for public education in Virginia? The survey findings suggest Virginians strongly support establishment of high and far-reaching goals for public education. As one of several indicators show, nine out of ten agree that "Virginia should be a national leader in the field of education," and these expectations are even slightly stronger in eastern and Southwest Virginia.

One of the most important components of education is, of course, the quality of instruction. Here again, the results of the survey were quite clear: nine out of ten respondents statewide supported the idea that "Virginians should pay higher salaries to attract and keep better qualified teachers." Nowhere was this view more strongly expressed than in the eastern region of the state where more than 98.3 percent supported higher salaries for teachers as a way of attracting and keeping the best qualified instructors.

This sentiment is echoed by eight out of ten surveyed who said that Virginia should improve the education offered by our grade schools and high schools even if it means higher taxes. Again, the proportion expressing this view was highest in the eastern region of the state where nine out of ten took this position.

Statewide, nearly three-fourths agreed that Virginia should improve the quality of education offered by our colleges and universities, even if it means raising taxes.

Priorities for Government

Another major objective of the study was to seek a clearer picture of the public's view of the role of and priorities

for state government in Virginia. More specifically, the survey sought to determine relative degrees of importance Virginians attached to sixteen future policy objectives and/or service areas.

Overall, the survey found little support for the idea that state government should reduce services and programs in order to lower state taxes. To the contrary, the survey suggests there exists strong public support for an active role of state government in the provision of such services as insuring clean air and water, equal opportunities for all citizens regardless of race and sex and planning for the future.

Likewise, a strong majority of Virginians participating in the study, while recognizing that state government cannot do everything, said high importance should be placed on making health care affordable to all people, working to keep agriculture strong, training people so they can get jobs and helping the poor. A slightly lower percentage, but still a majority, said state government should also place high importance on bringing new industry to Virginia. Maintaining and improving state highways, regularly asking people about their views on state issues and problems, helping cities become better places to work and live and making sure all citizens have access to good, affordable housing were also viewed by the majority as issues of high importance for state governments. Approximately one-half of those participating in the survey said government should also place high importance on developing the state's coal and timber resources and helping small businesses.

Problems in the Commonwealth

A third objective of the study was to find out what Virginians think will be the most important problems we will face in the commonwealth 20 years from now.

The most frequently-cited problem area was the job market and economy. More than one-third responding to this question expressed concern about future job shortages, making enough to live on, automation and computers replacing people in the labor market. Some in this group also expressed fear of a possible future economic depression. It appeared that a large number of those expressing concern about the job market and economy were articulating a feeling of falling by the wayside of an active economy rather than a fear that the total economy would fail. If this impression is correct, it is a potentially significant dimension affecting future public support for advancing technology.

The second most frequently-cited

problem people think we will face 20 years from now is overpopulation and growth management. One of six respondents expressed concern about population growth in Virginia and/or government's lack of resolve or ability to control the more negative aspects of such growth.

The third most frequently cited problem centers on education. While a few of the dimensions of this have been discussed, it is clear that from the personal observations and/or experiences of citizens combined with local, state and national publicity on the problems of education, the public now views this as a problem area which will in all likelihood continue into the next century.

Other problem areas frequently cited were in the area of transportation, i.e. congestion, inadequate highways and highway maintenance. Environmental pollution was also one of the more frequently cited problems and included concerns over acid rain, air pollution, ground water contamination, pollution of our rivers and the Chesapeake Bay as well as problems associated with disposing of nuclear waste.

In Northern Virginia, concern centered largely on population growth and related problems of transportation and congestion. Downstate residents were concerned with a broader range of problems. They mentioned environmental problems such as ground water contamination, pollution of the Chesapeake Bay and nuclear waste disposal more than Northern Virginians.

Perceptions of the Future

What do Virginians think will happen in the future? Will the future bring increased disorganization, or will the institutions that have served the needs and interests of Virginians in the past continue to meet the increasingly complex problems of the future? What about Virginia's environment during the next 20 years? Do Virginians think it is likely to deteriorate, or will we be able to manage development of a cleaner, healthier environment? What about the lives of average men and women? Do people think "things" will be worse or better in the future? Is there a commitment to the future, or do people think one has to live pretty much for today and let tomorrow take care of itself? Can we control our future, or is it beyond our control? How will our basic institutions such as the family and church respond to the changes in values and lifestyles that are likely to be part of the future? Do we think these institutions will weaken as some have predicted, or are they likely to persist, perhaps even grow stronger in the future? And what about the econ-

omy? Are the expressed fears about the future stronger than the faith Virginians have in the economy and the promise of a higher standard of living? And how does state government fit into the image people have of the future?

The responses suggest a very definite orientation toward the future. Yet, such orientations it must be remembered are subject to change, even radical change, in the face of significant economic, political and geopolitical events. In the absence of such events, it is clear that for the present Virginians reflect a strong sense of optimism that life with all its problems and changes will be better in the future.

Perceptions of our environment and future ecology reflect this optimism. More than two-thirds said Virginia will have a cleaner, healthier environment 20 years from now. However, younger adults were less likely to support this view than their older cohorts, and the more highly educated and upper income groups were less optimistic than those with limited education and lower incomes. Regional differences again show up in perceptions of the future of the environment. Residents in Northern Virginia are not as optimistic about having a cleaner, healthier environment as those living in Southwest and eastern Virginia.

Most Virginians disagree with the view that the life of the average man and woman is getting worse. Closer inspection reveals the harsh realities and prospects of those on the low end of the socioeconomic continuum. A clear majority of those with less than a high school diploma and those earning less than \$10,000 per year say life is getting worse, not better. Blacks and other minorities are more likely to share this pessimistic outlook. While it is clear that most Virginians express a faith that life is getting better for the average person, pockets of despair — some large and some small — can be found in every region, age cohort, income and educational level and ethnic group.

Where one is on the optimism-pessimism continuum affects and is reflected in one's future orientation. There are many dimensions to the future orientation concept, and the survey sought to obtain at least some indicators of this orientation. Respondents were asked to agree or disagree with the following statements: "nowadays, a person has to live pretty much for today and let tomorrow take care of itself," and "our futures for the most part are beyond our control."

A narrow majority disagreed with the view that one has to live pretty much for

today and let tomorrow take care of itself. It is statistically and socially significant that two-thirds of those with four years of high school or less share this present orientation as did most blacks and other minority respondents.

Most Virginians did not accept the view that our futures for the most part are beyond our control. However, a sizable minority statewide did agree with this rather extreme view, and a substantial majority of those with incomes of \$10,000 or less expressed a feeling of powerlessness over their futures. Similarly, such feelings are strong among those with limited education, blacks, other minorities and the elderly.

Some of society's basic institutions, i.e. the family and church, are likely to grow stronger in the next 20 years according to the view of more than six out of ten Virginians. Significant differences of opinion exist among social groups and demographic categories on this prognosis, however. Over half of those with college degrees and with incomes of \$50,000 do not feel family ties will be stronger in the future. Young people tend to be slightly less optimistic for the future of the family than their elders. Blacks and other minorities, however, are more optimistic that family ties will be stronger in the future.

Although most Virginians foresee a stronger reliance on churches and religions in the years ahead, there is a significant, positive relationship between age and optimism for the future of religion. More than nine out of ten of those 65 years and over foresee a stronger reliance on churches and religion in the future, while only half their cohorts 20 years old and younger foresee this reliance. Those with the lowest incomes are strongest in their prognosis for future reliance on churches and religion.

Notwithstanding the expressed fears described above, most believe that Virginians will have a higher standard of living in the next 20 years. This view is generally pervasive among social and demographic categories with two exceptions, i.e. age and region of residence. Young people, 29 years and under, are less optimistic that there will be a higher standard of living in the future, and residents of Southwest and Northern Virginia are more optimistic about a higher standard of living in the future than residents elsewhere in the state, particularly those living in Central Virginia.

Finally, how do Virginians foresee state government in relation to the future? Most Virginians want government officials to be concerned with the future

while they are addressing the problems of the present. More than three-fourths of those surveyed rejected the proposition that government officials should spend their time working on today's problems and leave the future for others to worry about, and nearly three-fourths of those surveyed say government in Virginia should place a high importance on planning for the future.

What about the quality of government? Will Virginians have better state government in the future? A strong majority believe the answer to this question is yes. Again, those with high incomes and high educational attainments are less optimistic about this than those lower on the socioeconomic scale.

Conclusions

The survey has helped to document certain general public perceptions in two important areas: education and state government.

With respect to education, the public is strongly supportive of establishing high and far reaching goals for public education at all levels. Equally important, the public seems willing to press for improved public education even if it means paying higher taxes.

The survey findings also reveal strong public support for an active, if not aggressive, role for state government in many of the traditional service areas and in particular in the comparatively new areas of environmental protection, equal opportunity and long-term planning for the future.

This article is based on data presented in an 80-page report compiled by the Survey Research Laboratory (SRL) for the Governor's Commission on Virginia's Future. The 519 adults contacted by random digit dialing responded to 12-minute telephone interviews. A sample of this size permits surveyors to be 95 percent confident that the percentages reported in the study are at least within plus or minus 4.5 percent of the population percentage. A complete copy of the report can be purchased from the Survey Research Laboratory, VCU, 312 N. Shafer St., Richmond, VA 23284-0001 for \$6.

About the Authors

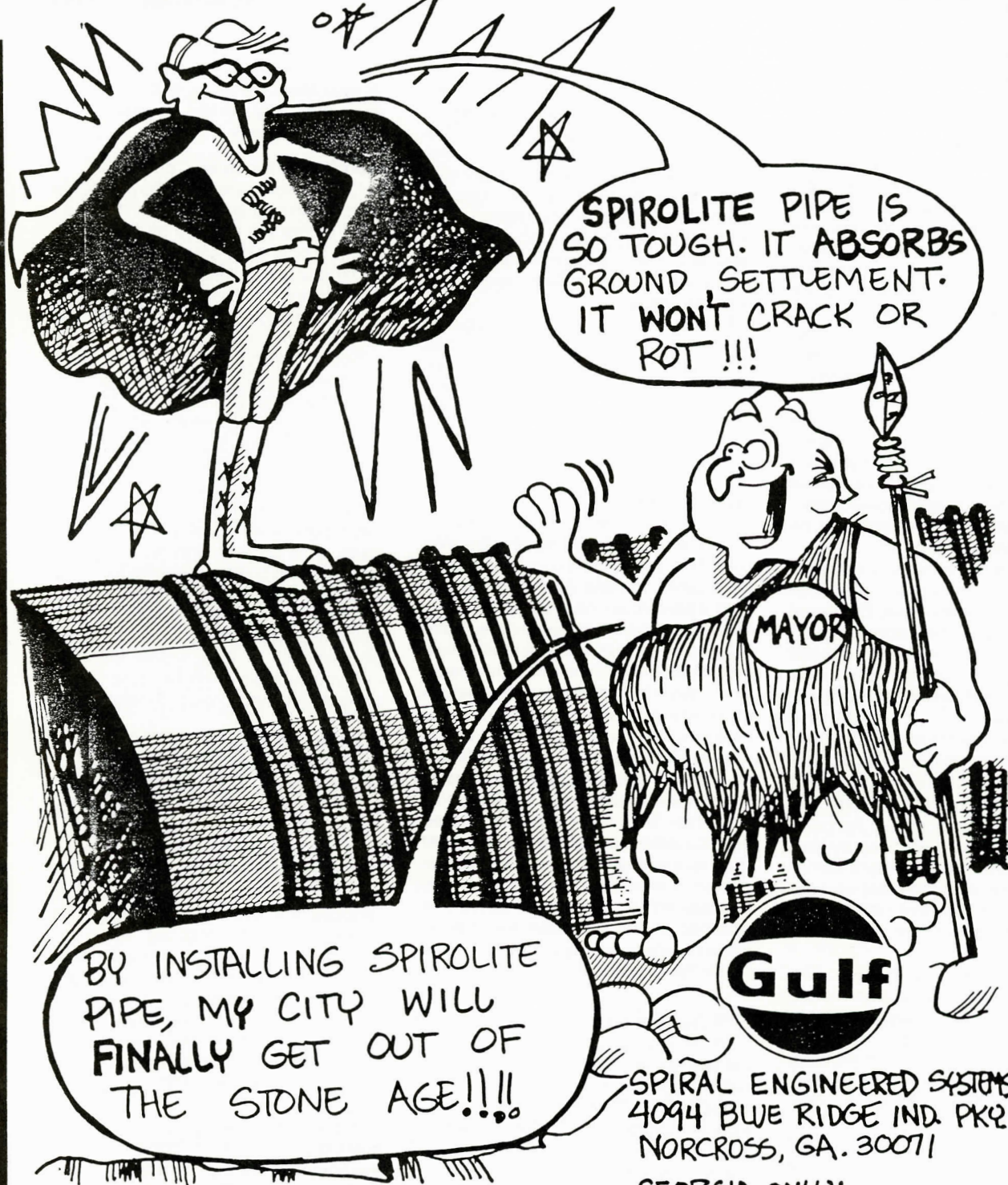
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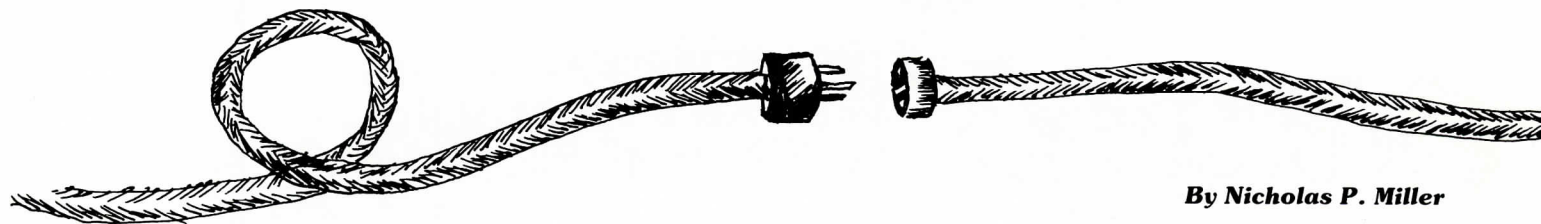
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The Cable Compromise



By Nicholas P. Miller

There's some good news and some bad news about cable television regulation. The good news is that after years of negotiating, Congress finally passed legislation. The bad news is that the legislation is not all good news.

The new law, the Cable Communications Policy Act of 1984, will impact on all of Virginia's 303 communities with cable television service and will have special impact on those with existing franchises which expire after June 1987. Municipal officers who oversee cable operations will have to become very smart very fast to make sure they know their rights and responsibilities in light of the new law.

The bill ratifies the jurisdiction of local governments to regulate cable, a great victory considering that the legislation originally contemplated by Congress would have emasculated local jurisdiction. The bill also imposes strict limits on certain regulatory activity.

The intent of the bill was to establish ground rules for regulating cable systems. The new law does that. Both local governments and the cable industry favored regulatory guidelines, but what regulation would require from either side was an issue that took more than four years to resolve.

In the final moments of the 98th Congress, a bill was passed with the approval of industry representatives and local government representatives. The bill's history points to one of its problems: to overcome objections by one side or the other the legislators sometimes settled on language that was deliberately vague. The first problem for local governments is to sort through the ambiguity.

Some things we know for sure. The law will preempt local government's right to regulate rates charged by cable operators within two years, limit franchise fees to a maximum of 5 percent, limit localities in the requirements they can impose in new requests for proposals (RFPs), set up specific procedures for granting or denying renewal requests and establish guidelines for contract modifications.

Rate Regulations

Beginning in December 1986, unless the Federal Communications Com-

mission (FCC) intercedes and reverses this provision of the bill, localities will no longer be able to regulate rates. It is unlikely the FCC will re-establish this rate regulation authority. Historically, FCC decisions have favored industry more often than local government. Currently, the commission shows a deregulation bias, and predictably the industry will lobby to a fare-thee-well to see rate regulations fall.

Most localities do not actively regulate rates, but the authority to do so has served as leverage to assure compliance with cable franchise agreements. Localities will now have to develop creative alternative ways to enforce compliance.

Franchise Fees

Provisions in the bill to establish franchise fees may prove helpful in the long run. The complicated, cumbersome procedures to raise fees to 5 percent from 3 percent are no longer necessary. However, many communities have been successful in the past in obtaining a combination of fees and concessions which taken together provided revenues in excess of 5 percent. Most of these methods have been invalidated by the new legislation in favor of a strict 5 percent cap. Exceptions are few, and to complicate matters the definition of "franchise fee" is not precisely spelled out. Localities benefitting in the past from revenues which may have been in excess of 5 percent will have to review the legislation carefully to determine whether or not they can reconstruct these revenues and how they can do so under the provisions of the law.

RFP Restrictions

In the past, local governments could identify specific community needs and call for specific programming to meet these needs. The new law prohibits specific programming requirements. This will have a limited impact on existing franchises. For example, a franchise holder may be able to drop Nickelodeon but will have to maintain children's programming agreed to.

In new franchises, where the law prohibits localities from requiring services

such as children's programming, local governments will have to be very creative and very careful to assure that community needs are met.

Modifying Franchise Contracts

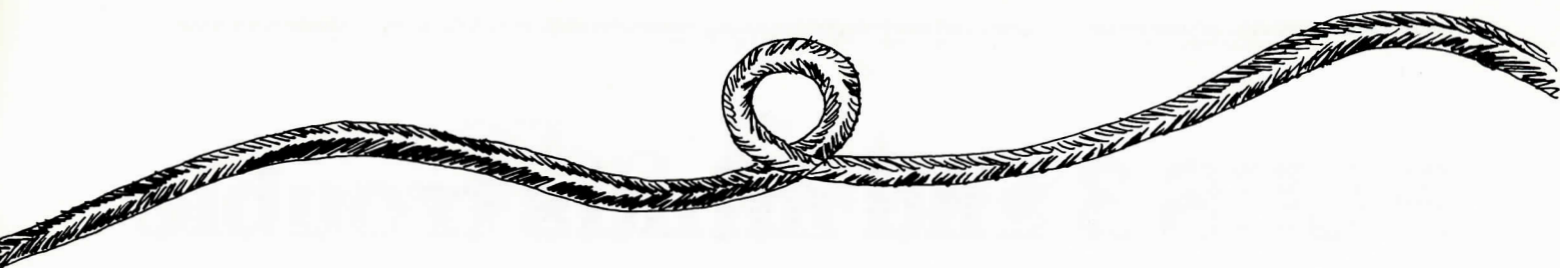
Some cable operators have sought contract modifications frequently — almost before the ink dries on the agreement. The new law creates a procedure cable operators must use in seeking modification of existing contracts and accompanying appeal procedures. The impact of this is unclear.

Some franchise holders may claim that this legislation entitles them to modify contracts while it does not. The law does allow contract modification based on the contention that the "mix, quality and level" of services will not be diminished by the changes proposed. This will prevent wholesale reductions in cable service and quality. On the other hand, local governments will no longer be able to respond to requests for modification simply by stating "a contract is a contract." They will have to sit down and talk with operators who seek to change agreements. If they follow the procedures outlined in the bill, they will be on solid ground to resist changes.

Franchise Renewal

The new cable legislation also creates a procedure for considering franchise renewal requests and provides appeal rights to cable operators. Through antitrust legislation, Congress has exempted public officials from damage award liability in antitrust suits. This reduces the likelihood of such suits against officials denying cable renewals. The amount of difficulty, time and cost in denying renewals will depend on a clear understanding of and a precise adherence to the renewal procedures set forth in the legislation. If followed exactly, communities will stand on firm ground when denying renewal requests.

In short, the new law passed by Congress is complicated. In some areas it is maddeningly vague; in others, absolutely precise. Changes in franchise fees and rate regulation could impact municipal revenues, and limitations in RFP specifications and contract modifications could affect quality of service.



Municipal officers responsible for cable operations have been regulating and negotiating under frequently uncertain guidelines. This legislation offers a new set of rules, which if followed carefully will simplify cable negotiations and improve cable service.

About the Author

Nicholas P. Miller is a partner in the Washington, DC, law firm of Preston, Thorgrimson, Ellis & Holman and is active in the practice of communications law. He has served as a special counsel to the National League of Cities for cable television and as counsel to Cities and Counties for Cable.

Highlights of The Cable Bill

from *Nation's Cities Weekly*

Rate Regulation

Section 623(c) grandfathers the regulation of rates for basic service, defined as any tier or multiple tier which includes local broadcast signals, and related charges for installation and the rental of a converter under franchises granted prior to the bill's effective date (Dec. 28, 1984) or renewed after the bill's effective date for the two-year period following the effective date.

Under section 623(e), the operator has the right to increase basic service rates which are subject to regulation by 5 percent per year without the approval of the franchising authority unless basic service rates are frozen under a franchise granted prior to the effective date of the bill. If the franchise provides for automatic annual increases in excess of 5 percent, those franchise provisions would apply in lieu of, but not in addition to, the 5 percent automatic increase.

Section 623 is silent as to whether rate freezes or guarantees for cable service and other communications service may be established and enforced in the franchise. It is possible, therefore, that the ability of cities to establish and enforce rate freezes in franchises may not be affected by the legislation.

Services, Facilities and Equipment

Section 624(c) authorizes a franchising authority to enforce any provision of a franchise in effect on the effective date of the bill with respect to services, facilities and equipment including requirements which are not related to the establishment and operation of the cable system, for the life of the franchise. Service, facility and equipment requirements of an existing franchise are explicitly subject to section 625 which establishes a process for modifying such franchise requirements.

For new franchises including franchise renewals granted after the bill's effective date, the franchising authority is entitled to establish minimum facility and equipment requirements in the Request for Proposals (RFP) and to enforce any facility or equipment requirement included in a franchise.

Also for new franchises, a franchising authority may not establish requirements in the RFP for video programming or other information-related services. A franchising authority may enforce service requirements by including in the franchise broad categories of video programming and other service requirements. For example, the franchise may require such categories of video programming as children's programming, programming in a foreign language, programming of interest to a minority group, news and public affairs programming or sports programming.

Modifications in Service, Facility and Equipment Requirements

Section 625 establishes a process for modification of the service requirements of new or existing franchises through negotiations with the franchising authority. However, the franchising authority may deny a proposed modification in the franchise's service requirements unless the mix, level and quality of services originally required by the franchise would be maintained under the proposed changes. The franchising authority is required to take final action on the operator's request for modification within four months of the request unless extended by mutual agreement.

Under section 625(e), no service requirement which related to public, educational or governmental access may be modified in any way.

Franchise Fees

Under section 622(b), a franchising authority may establish a franchise fee of up to 5 percent of the gross revenues derived from the operation of a cable system.

Specifically exempt from the franchise fee cap are taxes of general applicability, including utility taxes imposed on cable operators.

Under section 622(b), the franchise fee is to be calculated on the basis of the operator's annual gross revenues. The franchise fee payments may be prepaid or deferred by agreement between the operator and the franchising authority. This provision should ensure that franchise requirements for a minimum annual franchise fee payment are enforceable as long as the total franchise fee payments over the life of the franchise do not exceed 5 percent.

Renewal

Section 626 establishes a renewal process which may be activated at the option of the city or the operator. The provision, however, does not establish a presumption of renewal. A renewal application could be granted or denied under section 626(h) without utilizing the bill's renewal procedures and standards in any case in which the renewal procedures are not activated by either the franchising authority or the cable operator.

Grandfathering

Section 637 grandfathers the provisions of existing franchises for the life of the franchise except for those provisions which are in direct conflict with particular provisions of the bill (e.g. rate regulations, renewal, privacy).

Public, Educational and Governmental (PEG) Access

Section 637 authorizes franchising authorities to enforce PEG access requirements, including monetary payments for support of PEG use, in any franchise granted prior to the bill's effective date.

Under section 611(b), a franchising authority may establish minimum re-

continued on page 17

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(from page 15)

quirements for the set aside of channel capacity for PEG use on the subscriber network and for educational and governmental use on the institutional network in the RFP.

Section 611(d) requires that the franchising authority establish rules and procedures for the use of PEG access channels by the operator when those channels are not being used for PEG uses and for the cessation of operator use of PEG channels.

Buy Back

For a franchise granted after the bill's effective date or a franchise which does not include buy back provisions, the franchising authority or other purchaser is required to pay fair market value for the system as a going concern (e.g. the value of the system's assets and good will) but with no value to be attributed to the value of the franchise when the system is purchased after a denial of renewal (sec. 626(a) (1)).

Consumer Protection

Sections 632(a) and 632(b) authorize franchising authorities to establish and enforce customer service requirements, construction schedules and other construction-related requirements in the franchise.

Leased Access

Section 612 establishes federal leased access requirements for the provision of video programming that apply to systems with 36 or more channels. Under section 612(b), a cable operator is required to set aside a specific percentage of the activated channels on the subscriber network for use by providers of video programming in accordance with the following standards: (1) no channels on systems with fewer than 36 channels (unless channels are already required under provisions of a franchise in effect on the date of enactment of the bill); (2) 10 percent of channels, not including those set aside under the FCC's must carry rules, on systems with 36 to 54 channels; (3) 15 percent of channels, not including those set aside under the must carry rules, on systems with 55 to 100 channels; and (4) 15 percent of channels on systems with more than 100 channels.

Section 612(c)(1) authorizes the cable operator to establish the price charged to video programmers for the use of leased access channel capacity "at least sufficient to assure that such use will not adversely affect the operation, financial condition, or market development of the cable system."

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Education and Economic Development

Education at all levels has been examined critically and visibly in the past several years and months. A variety of commissions and task forces have issued reports, many stating an urgent need for educational reform. Such reports have included "A Nation at Risk: The Imperative For Educational Reform," "High School: A Report on Secondary Education in America," "Involvement in Learning: Recycling the Potential of American Higher Education" and "Corporate and Campus Cooperation: An Action Agenda." Each report points to the need for educational reform, and to varying degrees each volume draws the conclusion that what we do now to improve education at all levels will pay dividends in the economic prosperity we can expect to enjoy in the future.

A persistent sub-theme of many of these reports and in books like "Global Stakes" and "The Missing Connection Between Business and the Universities" is the need for a more meaningful relationship between business and higher education. Colleges and universities must not only provide quality education and research, they must provide education and research relevant to the economic needs of the locality, state and nation. Many business people consider education to be essential to any state or local economic development strategy for at least three reasons.

First, employers considering new locations or expansion of an existing operation often cite the availability of educational opportunity as a factor which influences their decision. Faced with employees' demands for good school systems for their children and continuing education for themselves, many businesses assess education in the same way they evaluate other factors in a move or expansion decision.

Second, employers must have access to a skilled workforce. While many businesses expect to provide specialized training, with very few exceptions business and industry look to educational institutions to produce workers who can read, write and compute and who are capable of functioning in rapidly changing work environments.

Third, employers often look to research universities to conduct basic research which can be applied in an industrial/business setting. Further,

many employers view higher education as a source of technical assistance and consultation.

In preparing for a conference on the relationship between economic growth, higher education and public policy, we recently had the opportunity to meet with a variety of leaders from Virginia business and industry to discuss their expectations and concerns. While business executives in Virginia generally gave higher education good marks, they did identify a number of issues which should be addressed to improve the contributions higher education makes to economic growth. Following are some of the issues which were mentioned.

Some thought Virginia should increase the quality of its educational offerings in several areas important to business and industry: basic education (reading, math, science, writing and oral communication at secondary and undergraduate levels) and undergraduate and graduate education in accounting, business administration, computer science, various technologies and law. Some private sector leaders indicated that they recruited out-of-state rather than from Virginia schools because they found out-of-state students in these disciplines better prepared than their Virginia counterparts.

Some business leaders think there has been a proliferation of higher education programs in Virginia and that there may be considerable duplication of effort across the state. They suggested that enrollment declines expected over the next five to ten years may provide the opportunity to consolidate programs and to focus resources on quality.

Some concern was expressed that Virginia colleges and universities devote inordinate attention to remedial instruction.

In some technical areas, demand is not sufficient to justify each state developing degree programs. Several business leaders suggested that Virginia develop interstate compacts to address the need to train Virginians in these fields.

One major employer recommended that engineering degree programs be returned to a five-year curriculum with two years of study in the liberal arts as required of all students. Considerable interest was expressed in emphasizing

liberal arts as well as technical education.

Several business leaders recommended that Virginia survey the quality of its college and university libraries and ensure they are adequate to support both high-quality teaching and research.

Business leaders observed that as a general rule Virginia's colleges and universities are geared to serving pre-employment students between the ages of 18 and 22. Funding formulas, course offerings and schedules should be updated to reflect the educational needs of older students. Additionally, college programs should emphasize lifelong career enhancement with coherent programs provided for adults who want to update skills or prepare for new careers. Courses and programs should be available at night and on weekends.

A high quality MBA program should be made available to adult students across the commonwealth.

Several small business chiefs noted that they need assistance in tapping college and university consultation and technical assistance.

An effort should be made to "package" information about higher education resources available at state and local levels so companies considering a Virginia location could be made aware of available resources.

State and local government clearly have a specific interest in the business/higher education connection and in the extent to which higher education is responsive to economic development needs. They should take greater advantage of higher education resources in managing economic development. This resource can be maximized by helping in the effort to raise the quality of elementary and secondary education and by assuring that the remedial role of higher education is minimized. State policy is clearly a critical factor in shaping what higher public education can do. Funding formulas and many other matters provide the framework within which higher education functions.

About the Authors

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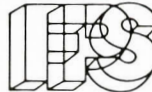
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