

NACo NATIONAL ASSOCIATION of COUNTIES

CountyNews

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Government stays open, but threat not over

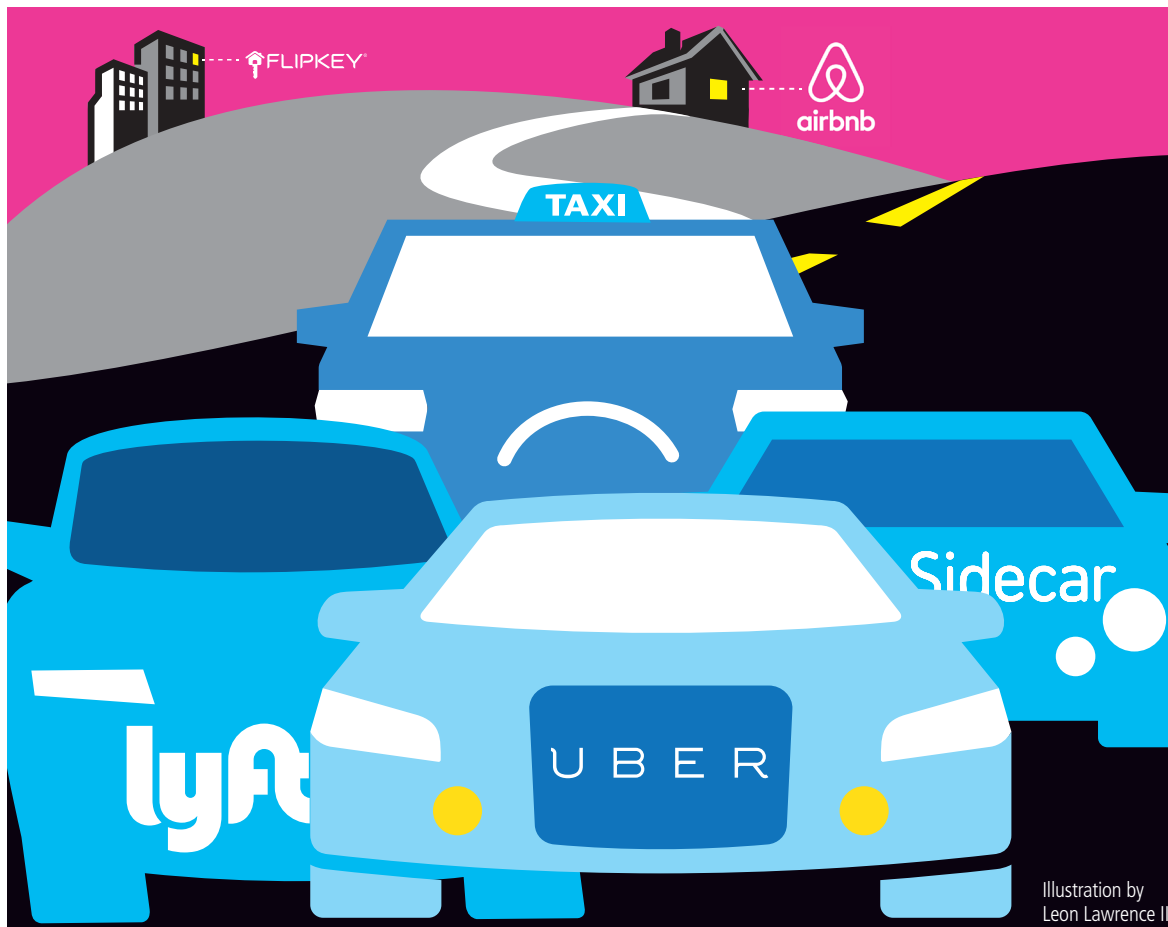
By **AUSTIN IGLEHEART**
LEGISLATIVE ASSISTANT

Facing a looming deadline, Congress passed a temporary funding bill to avoid a government shutdown and continue funding for federal programs through Dec. 11. The temporary measure, known as a Continuing Resolution (CR), became necessary with FY15 coming to a close on Sept. 30 and no clear resolution on the horizon for the FY16 appropriations process.

The CR, which passed the Senate by a vote of 78–20 and the House by a vote of 277–151, keeps the federal government operating at essentially FY15 funding levels for 10 weeks while Congress works to reach an agreement on a final FY16 spending measure.

Though both chambers have reported all 12 of the individual appropriations bills out of committee, the House has only passed

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'DISRUPTORS' CHALLENGE COUNTIES AUTHORITY

By **CHARLES TAYLOR**
SENIOR STAFF WRITER

In your county, the hottest street-food from Paris or Phnom Penh may have joined the ranks of hot dog and taco trucks at curbsides, redefining “meals on wheels.”

Want a room or a ride? Services like Airbnb and Uber have broken the mold of traditional taxi service and vacation rentals — and remade them with lightning speed, and, often, at lower costs.

As for food trucks, they compete — unfairly, some say — with bricks-and-mortar restaurants.

These are the disruptors, and they're redefining counties' roles as regulators.

They include ride-booking services, like Uber, Sidecar and Lyft, the for-hire cars with the pink moustaches on their grilles. And home-sharing pioneers Airbnb, VRBO and FlipKey.

Clayton Christensen, a Harvard Business School professor, calls the birthing of these new

players “disruptive innovation,” the process by which new products or services start up quickly, grow relentlessly and eventually displace established competitors.

The Center for State and Local Government at George Mason University (GMU) in northern Virginia recently released a report on the “sharing economy” and the implications of disruptors for local governments in Virginia. Frank Shafroth, who directs the program,

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Questions about redistricting, labor relations on the docket for counties this Supreme Court term

By **LISA SORONEN**
STATE AND LOCAL LEGAL CENTER WASHINGTON, D.C.

The U.S. Supreme Court's last term was big for local governments because the court decided a number of important cases against them,

most notably *Reed v. Town of Gilbert, Arizona* (2015), holding that strict scrutiny applies to content-based sign ordinances. The October 2015 term is one to watch and not just because the court has accepted numerous cases on controversial topics affecting local

governments. Adding to the intrigue, many of the court's decisions this term are likely to be discussed by the 2016 presidential candidates as the campaign heats up.

See **SUPREME COURT** page 6

Congressional support grows to repeal 'Cadillac Tax'

By **BRIAN BOWDEN AND MIKE BELARMINO**
ASSOCIATE LEGISLATIVE DIRECTORS

Efforts to repeal the 40 percent excise tax on employer-sponsored health coverage (sometimes referred to as the “Cadillac tax”) recently received a big boost as the Senate introduced two bills to repeal the controversial tax that will impact many counties when it goes into effect in 2018.

On Sept. 17, Sens. Dean Heller (R-Nev.) and Martin Heinrich (D-N.M.) introduced S. 2045, the Middle Class Health Benefits Tax Repeal Act of 2015 — bipartisan legislation to repeal the excise tax. The bill currently has 13 co-sponsors (as of Sept. 25).

On Sept. 24, Sen. Sherrod Brown (D-Ohio) introduced S. 2075, the American Worker Health Care Tax Relief Act of 2015, which also repeals the tax but includes a non-binding “Sense of the Senate” clause demanding

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Author explores why new federal grant rules matter to counties ► **Page 12**

December 11 government shutdown looms if no budget agreement

GOVERNMENT *from page 1*

six of these while the Senate has not passed any. The following provisions of importance to counties are included in the Continuing Resolution:

Spending Adheres to the Budget Control Act 2011

Under the CR, discretionary defense spending and discretionary non-defense spending are slightly reduced relative to FY15 levels, consistent with the top-line spending limits set by the Budget Control Act of 2011 (S.365). A temporary freeze on new defense contracts would also be put in place as a way to limit defense-spending growth.

Support for Wildfire Suppression, PILT Program

The CR also provides \$700 million in emergency funding for the U.S. Forest Service to suppress wildfires, which have been particularly severe this season and have strained fire suppression budgets. The emergency funding will not count against overall spending caps. This funding could prove crucial for counties that have experienced severe wildfires by boosting the Forest Service's ability to help fight them. Furthermore, the CR includes language intended speed up dis-

bursement of the remaining \$37 million in Payments in Lieu of Taxes (PILT) payments for FY15. PILT funding is vital to counties across the nation containing federal land within their boundaries, helping them pay for services ranging from education to public safety.

Extends Preemption of County Sales Tax Authority

The CR also contains a provision that temporarily extends the Internet Tax Freedom Act (ITFA). The length of the extension matches the period that is ultimately adopted for the CR (through Dec. 11). The ITFA, enacted in 1998, was originally intended to be a temporary prohibition of state and local taxation of Internet access so that the Internet would have an opportunity to grow as an industry. However, this preemption of state and local tax authority has been extended several times, and given the growth and changing uses of the Internet, NACo has opposed attempts to make the prohibition permanent.

Immigration Programs Extended

The CR extends several immigration programs: E-

Verify, which helps employers determine whether prospective employees are eligible to work in the U.S.; the EB-5 Investor Visa program, through which foreign investors can obtain U.S. green cards; and the Conrad 30 Waiver Program, which helps attract medical doctors to rural and underdeveloped communities by providing visas for doctors willing to serve such areas.

Final Appropriations Package Remains Unclear

Now that Congress has passed the CR, it is unclear what is in store for the appropriations process. House conservatives may demand that a provision to defund Planned Parenthood be added to any appropriations package, despite the Senate's failure last week to advance a CR that included similar language, voting 47-52 against consideration of that measure. Speaker John Boehner (R-Ohio), who on Sept. 25 unexpectedly announced his retirement, has urged members to look for ways outside of the appropriations process to target Planned Parenthood, though it is unknown whether they will follow his lead. Democrats, for their part, have vowed to oppose any measure that defunds Planned Parenthood and any measure that increases defense spending without matching the increase dollar-for-dollar with domestic spending increases. Given the tension between the chambers and between the parties within each chamber, it's uncertain whether these differences will be resolved in time to avoid a government shutdown when the CR expires on Dec. 11. As always, counties are encouraged to follow the appropriations process closely, as several provisions relevant to counties are included in the CR and could be included in a final appropriations package. Furthermore, continued inaction by Congress could have serious consequences for counties as they consider their budgets for FY16.

(Jessica Monahan, associate legislative director, also contributed to this report.)



When I was sworn in as NACo's president this past summer, I spoke about how we are entering a new phase of promise and opportunity. I'm pleased to welcome you to the first monthly column designed to provide perspectives and updates on our progress. As president, I'm honored to meet with many counties, state associations of counties, NACo affiliates and public and private sector partners. Since July, NACo leaders have been to more than 20 state association meetings. I participated in meetings in Alabama, Montana, North Carolina, South Carolina and Wisconsin. During each trip, I learn how local leadership can help overcome some of our most pressing challenges.

As part of my Safe and Secure Counties initiative, I had the opportunity to join a group of NACo leaders in Whitefish, Mont. in Flathead County for a roundtable discussion on intermodal transportation and freight rail safety issues. The event brought us together with BNSF Railway, one of the largest freight railroad networks in North America that primarily services the western United States. Our discussions explored several issues but primarily focused on our shared goal of keeping communities safe and secure. The presence of freight rail in counties can present opportunities as well as risks ranging from the transportation of hazardous materials to trespassing and public grade crossings. Aside from gaining a greater understanding of rail transport policy issues, like the U.S. Department of Transportation's enhanced tank car standards for flammable liquid and the challenges related to implementation of Positive Train Control technology, we discussed ways railroads can work with counties to better prepare for potential disasters. I encourage county responders to use training opportunities and

cutting-edge tools like the industry's AskRail app, which provides first responders with immediate access to data about the types of hazardous materials being transported so they can properly respond to emergencies. Overall, the experience was informative and facilitated idea-sharing between NACo leaders and BNSF. My greatest takeaways from the meeting were the need for counties to be well informed about the impacts of rail transport on our communities and the importance of working with rail providers to keep our land and residents safe.

QUICK TAKES

TOP RECIPIENTS OF FEDERAL AIRPORT FUNDS

County	Amount
San Francisco City & County, Calif.....	\$45.7 million
Broward County, Fla.	\$33.1 million
Louisville Jefferson County Metro Government, Ky.	\$31.3 million
Clark County, Nev.....	\$31.0 million
Philadelphia County, Pa.	\$29.1 million

Source: Federal Aviation Administration and Office of Aviation Analysis, U.S. Department of Transportation data, 2014

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Lost taxes squeeze some county economies

DISRUPTORS *from page 1*

said other localities can learn from it as well.

“If you think about Airbnb, it’s land use, it’s zoning, it’s taxes, it’s public safety, all issues that are unique to local governments,” he said, adding that “Uber issues” hit close to home too. (The report, *The Sharing Economy: Implications for Local Government Leaders*, is available from the center.)

Need a Lyft?

Transportation Network Companies (TNC) like Uber and Lyft allow potential passengers to book rides using their smartphones or computers in seamless transactions that can be paid by credit card when a ride is booked. They’ve become a popular alternative to taxicabs in many cities in the United States and worldwide.

Shafroth said the national media sometimes give the impression that ride-sharing is an issue for airports and states to deal with. “It is county and city; it’s not a state issue.”

In Broward County, Fla., commissioners are still, after several months, wrangling with crafting a new ordinance for TNC’s. A recent Board of County Commissioners meeting, which attracted scores of stakeholders, spent seven hours on the issue with no final resolution.

In Maryland’s Prince George’s County, officials are considering adding a 25-cent surcharge on TNC rides. The proceeds would be used to improve bus service and make more taxicabs handicapped-accessible.

Broward County Commissioner Barbara Sharief said there are issues of fairness to the legacy taxi industry, which has long had to pay licensing fees, been subject to safety inspections and driver background checks, and required to carry sufficient insurance to cover liability for themselves and their passengers. When Uber began operating in the county, it did so without meeting those requirements.

And because TNCs have low overhead — Uber doesn’t own the vehicles, the independent-operator drivers do — they are also able to beat taxis on price.

Sharief said Uber reported providing one million trips in the 10 months of operation at an average cost to riders of \$15 per trip. “So we’re looking at ... they’ve made about \$15 million in Broward County in 10 months.”

After the county banned Uber,

it tried an end run around local government and went to the state Legislature, seeking — unsuccessfully — legislation covering the entire state that would have trumped localities’ ability to regulate the industry. So now the county and the company are trying to reach a compromise.

Our Home is Your Home

Similar to TNC’s, home-sharing services allow a “guest” to go online and rent from a listed “host” anything from a space on someone’s couch to a room to a suite to an entire house.

Sonoma County, Calif. supervisors are updating ordinances that apply to short-term rentals offered by residents and some vacation rental companies. Passed just four years ago, it already needs revision, according to Susan Gorin, chair of the Board of Supervisors. The topic is a hot one.

“I’ve attended local government conferences where all you have to do is mention vacation rentals and the entire room goes into an uproar,” she said. “Because local government is really being challenged to both ensure the safety of our visitors and collect the TOT (transient occupancy tax) — and to bring some balance into neighborhoods,

so that the lodging part of the rentals does not dominate the activities of the neighborhoods.

Her “best guess” is that the county could be missing out on \$500,000 to \$1.3 million in bed taxes from short-term rentals.

Another issue that Gorin mentioned was “outraged neighborhood associations who simply do not want vacation rentals dominating their neighborhood and affecting the quality of life....”

Short-term rentals that don’t pay TOT also disadvantage the traditional lodging industry, she added. “They’re saying, we’re required to comply with ADA requirements and undergo rigorous health and safety inspections, and yet homeowners are renting out their homes and are required to provide none of those safeguards for their visitors.”

Erich Eiselt, assistant general counsel for the International Municipal Lawyers Association, has written about disruptive transportation and housing providers. He said local governments want their residents to be happy. “People aren’t necessarily unhappy because the guy next door is renting out his house and not paying taxes on it.

“What they’re unhappy about is the guy next door who rented his house to 16 college kids and then went off with his family to Germany for a week and now [the renters are] cavorting on the front lawn at 4 a.m. with music going.” That, he said, is what makes neighbors call for code enforcement.

San Francisco Voters Take It to the Polls

Across the bay from Sonoma County, in San Francisco, city and county voters next month will decide the fate of Proposition F. It would, among other provisions, limit to 75 the number of days per year that a house or apartment could be rented short term (the current cap is 90 days), ban the rental of in-law units and require “Internet platforms” that are the backbone of home-sharing sites to stop listing units after they hit the 75-day maximum.

Proponents got the issue on the ballot to address a host of concerns. Among them, which Gorin also mentioned in Sonoma, is residents’ belief that short-term rentals are causing some landlords to evict long-time

tenants and hold back units exclusively for the short-term rental market, exacerbating the shortage of affordable housing.

In advertising campaigns against Prop F and on its website, Airbnb argues that “home sharing and Airbnb are helping to fight economic inequality by giving every resident the opportunity to turn their apartment or home into an economic asset.”

The company has begun collecting occupancy taxes in several states, but not nationwide, in an ef-

fort to preempt states and localities from imposing restrictions. Locations include Multnomah County and Portland, Ore., San Francisco and several other California localities, Washington, D.C. and North Carolina, according to Airbnb’s website.

Of the sharing economy, Eiselt said, “I think it is a phenomenon that is here and isn’t going away, so approaching it with an attitude that you’re going to stamp it out and prevent it is probably not an effective posture.”

Profiles in Service

Rushern L. Baker, III
NACo Board of Directors
County Executive
Prince George’s County, Md.

Number of years active in NACo: 5

Years in public service: 13

Occupation: County executive

Education: Howard University B.A., J.D.

The hardest thing I’ve ever done: Being county executive of Prince George’s County, Md.

Three people (living or dead) I’d invite to dinner: Richard Wright, Malcolm X, Abraham Lincoln.

You’d be surprised to learn that: I delivered my oldest daughter on the shoulder of a highway.

The most adventurous thing I’ve ever done is: Running in and completing the 2015 Boston Marathon.

My favorite way to relax is: Reading.

I’m most proud of: Along with my wife, raising three wonderful children into caring, and compassionate young adults.

Every morning I read: *The Washington Post*.

My favorite meal is: Black beans and rice.

My pet peeve is: People afraid to fail.

My motto is: “Each generation must discover its mission, fulfill it or betray it, in relative opacity.” - Frantz Fanon

The last book I read was: *Franklin D. Roosevelt, Champion of Freedom*, Conrad Black.

My favorite movie is: *Henry V* with Kenneth Branagh.

My favorite music is: Classical.

My favorite president is: Lincoln.

My county is a NACo member because: “A raising tide lifts all ships.” We cannot improve Prince George’s County without the partnerships of fellow counties across this nation and knowledge and guidance of best practices of governance that NACo provides.



A dream I have is to: Open up a bookstore and coffee shop.

DISRUPTORS DEFINED

George Mason University’s report, *The Sharing Economy: Implications for Local Government Leaders*, defines the disruptive economy as technology and business process that drastically change the way business is conducted.

The disruption occurs in the way consumers access services or products and creates new ways to generate revenue, as well as offering changing career opportunities.

The accelerated pace of change in a disruptive economy may significantly conflict with government regulation and taxation. It can lead to well-established company becoming obsolete: Think of Blockbuster being disrupted by Netflix and Borders bookstores being disrupted by Amazon.

CAMERA SHY

Data costs from body cameras worries some counties.

By CHARLIE BAN
SENIOR STAFF WRITER

With \$45,000 in hand, Sheriff Barry Virts was excited about buying body-worn cameras for his deputies in Wayne County, N.Y.

“It’s something I’ve been pushing for, and have been excited about,” he said. “When our deputies leave their homes to go on the road, they know to act like they’re on camera all the time, because everyone has them these days.”

But not the deputies. When the county’s chief information officer looked into the cost of storing the data from the cameras — video is particularly large — estimates ranged from \$120,000 to \$192,000 to buy a new server.

“The front-end costs aren’t bad, but the back-end is prohibitive,” Virts said. “I had to table the plan because what I’d have to give up in budget and patrol time would be too much.”

Adding to the complexity is the download time for the cameras. Virts said tests took about 50 minutes for a complete download. In addition, one or two staff members would be needed to index the files.

“Body cameras are a very useful tool, but they’re not a cure-all,” he said. “At this cost, I can’t justify it to the taxpayers.”

The cost is a reckoning point for a lot of counties as the cameras spread even faster on the heels of high-profile allegations of police misconduct over the past two years.

Baltimore County, Md., with the 21st largest sheriff’s department in the country, will outfit its 1,435 officers with cameras at a cost of \$1.25 million for the cameras, and \$5.6 million for maintenance and data storage for five years. The \$7.1 million total will also include the cost of hiring at least 21 additional full-time personnel in several departments to manage the program, with the annual program cost reaching an estimated \$1.6 million.

In smaller Muskingum County, Ohio, the sheriff’s office is expected

to spend about \$45,000 for the cameras and first year of data storage, and about \$35,000 for data storage in each year to follow, according to *The Times Recorder*.

In mid-September, the Bureau of Justice Assistance’s Body-Worn Camera Pilot Implementation Program awarded \$19 million in matching grants to local law enforcement agencies, with \$1.5 million going to nine counties. Miami-Dade County received \$1 million — on par with five cities — and Hamilton County, Ohio scored \$139,500. The grant program was part of the Obama Administration’s three-year \$75 million proposal that will ultimately pay for 50,000 body cameras and associated costs. Cameras themselves typically run between \$500–\$700 each.

Wyandotte County, Kan.’s \$88,000 portion of a \$352,000 shared with Kansas City, Kan. will go toward the long-term cost for keeping records.

“All of that money will go to buy storage space for data,” said department PIO Lt. Kelli Baliff. “The expenses will be staggering.”

The county had already spent \$70,000 for cameras and some server space before learning it had won the grant. The department is finalizing its camera policy, developing a training plan and synchronizing the body cameras with in-car cameras.

“We’d like to have that finished by December,” she said. “Once we have these operational, it will help us be more transparent and make our community relations better.”

Data storage costs depend on the volume of data being preserved, and those policies vary. The *News and Tribune* reports that Pierce County,

Wash. is holding off on acquiring cameras until the state’s public records laws are updated for the digital age.

Henrico County, Va. will spend \$100,000 a year to license software from its vendor and for cloud storage.

“We have a six-hour training session from Fair and Impartial Policing, which includes two hours of body camera training,” said Lt. Dennis O’Keefe, who coordinates the police department’s body camera program. “Once they upload the videos, officers can view them, but they can’t alter or delete them.”

The county policy stores non-evidentiary videos for 90 days, and evidentiary videos for 180 days, or longer, if flagged. From March to September 2015, Henrico County’s growing number of cameras have gathered 38,000 videos, which take up 4.24 terabytes of storage space.

The Scott County, Mo. Sheriff’s Office has established 71 categories for recordings. They range from two weeks — for recordings of admin-

istrative tasks — to five years, for arrests and search warrant execution. Recordings involving the use of force must be manually deleted, according to the *Southeast Missourian*.

Sonoma County, Calif.’s draft video retention policy makes relatively cut-and-dry distinctions between what should and should not be saved.

“For the vast majority of police encounters with the public, there is no reason to preserve video evidence, and those recordings therefore should be deleted relatively quickly,” it says. “Retention periods should be measured in weeks not years, and video should be deleted after that period unless a recording has been flagged.”

That policy puts three conditions on video flagging: an incident involving the use of force, an incident that leads to detention or an arrest, or an incident in which a formal complaint has been registered.

Several companies offer secure remote storage options, but they too

are expensive. Some sheriff offices have had the good fortune of upgrading their servers while planning their camera purchase. Parke County, Ind. is one of them. It had just finalized, in September, its body-worn camera policy, much of which defers to state public record retention laws.

“When our deputies file the videos at the end of the shift, they categorize what’s on them,” said Sheriff Justin Cole. “If there’s nothing worth keeping, we don’t keep it.”

Some counties are financing camera purchases and data storage outside of the normal county budget process. Lee County, Ga. purchased cameras with money seized in drug forfeitures.

DeWitt County, Ill. has had cameras for two years and is saving money as a result. A vendor left four cameras with the department, which went to two deputies on patrol and two in corrections. In the course of daily work in the jail, one of the corrections officers’ camera captured video of an inmate doing pushups.

“That inmate had complained that we had blocked his access to medical care for his shoulder,” Chief Deputy Mike Walker said. “We had evidence his shoulder was fine, and it saved us from litigation.”

Likewise, footage from incidents during arrests can help stem the flow of court cases.

“Our state’s attorney can show a defendant video from an incident and more than a few times that has convinced them that a plea bargain was in their best interest,” Walker said. “That’s saving the county money it would have to spend on a trial.”

When it comes to storage, Walker said the county’s recent server upgrade gives the department ample space for the records. The deputies are big fans of the cameras.

“They were kind of cynical about them at first, but after they had them for a few months and we took them back while we decided what to do about them, they kept asking when they’d get them back,” Walker said.

As for Wayne County, N.Y., Virts is hoping to give his deputies the cameras someday soon.

“Whenever the technology improves and gets more affordable, I want to buy them,” he said. “I absolutely feel they will be an asset to the department.”

The Department of Justice’s Bureau of Justice Assistance offers an online body-worn camera toolkit with implementation guidelines and best practices at <https://www.bja.gov/bwc/>.

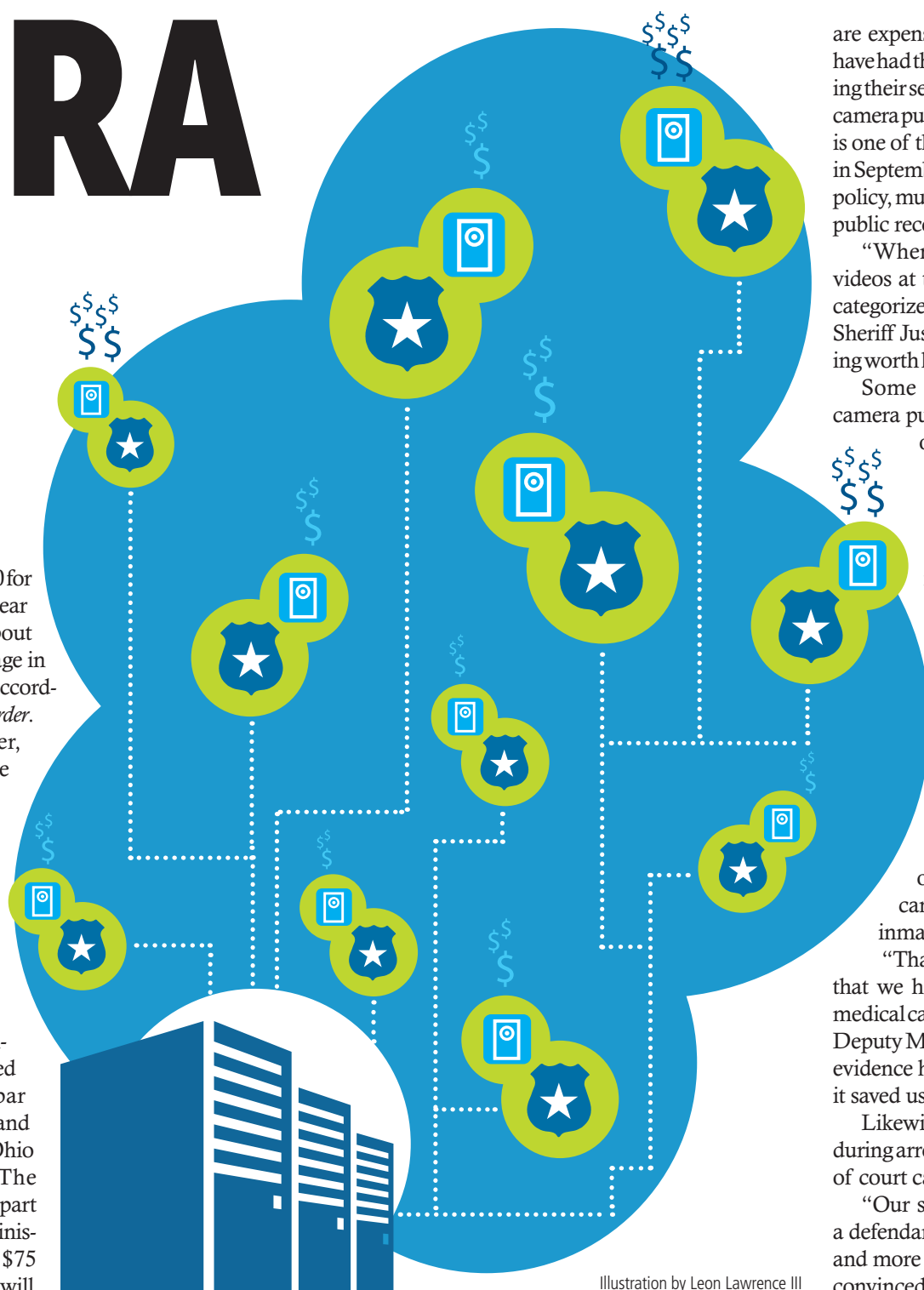


Illustration by Leon Lawrence III

NACo on the Move

► NACo Officers, County Officials

• NACo First Vice President **Bryan Desloge** was a featured speaker at the Nevada Association of Counties Annual Conference in Clark County (Las Vegas), Sept. 29–Oct. 1.



Desloge

• King County, Wash. Executive **Dow Constantine** was among local leaders who met in Seattle with visiting Chinese President Xi Jinping, Sept. 22 on the first leg of Xi's U.S. trip. Constantine said they discussed King County's commitment to combating climate change and the opportunity for the U.S. and China to cooperate to create solutions to their greatest shared global challenge.

► NACo Staff

• **Rob Hagans** has joined NACo as its new chief financial officer. Hagans has more than 35 years of work experience in nonprofits, the public sector and financial management. Most recently, he was the executive vice president and chief financial officer for AARP. Prior to AARP, he served as finance director for Prince George's County, Md.



Hagans

• **Joel Griffin** begins a stint at NACo's Financial Services Corporation (NACo FSC) as a new program manager where he will be responsible for managing NACo's Retirement Institute and the NACo Deferred Compensation Program. Before joining NACo, Griffin worked as a research associate with The Heritage Foundation. There he conducted extensive research on tax, federal spending and economic policy.



Griffin

• **Hadi Sedigh** has been appointed as the new associate legislative director for

the Justice and Public Safety Policy Steering Committee in addition to being the primary legislative staff liaison to the Human Services and Education Policy Steering Committee, and the Immigration Task Force. Before joining NACo, Sedigh was the legislative fellow in the office of Rep. Yvette Clarke (D-N.J.).

• **Jack Peterson** has moved to the Legislative Affairs Department as a legislative assistant. Peterson will support the Human Services and Education Policy Steering Committee and serve as the primary staff liaison to the Veterans and Military Services Committee. Previously, he supported NACo's association management services for the National Association of County Veteran Service Officers and the National Association of Pretrial Services Agencies. Before joining NACo, Peterson worked as a government relations associate for Urban Swirski & Associates



Peterson

• **Jacob Terrell**, former legislative assistant, has been named the new associate legislative director for the Telecommunications and Technology Policy Steering Committee.

Prior to joining NACo, Terrell spent seven years working on Capitol Hill in a number of capacities including as a congressional aide for Sens. Jim Webb (D-Va.) and John McCain (R-Ariz). During his time on Capitol Hill, he worked on issues related to cybersecurity, homeland security, education, the judiciary and welfare.



Terrell

• **Emilia Istrate**, research director, represented NACo at the International Economic Development Council Conference, Oct. 2–6 in Anchorage Borough, Alaska. She was also the keynote speaker at the Idaho Association of Counties Annual Conference, held Sept. 28–30 in Ada County (Boise).

Issues before court cover wide range

From SUPREME COURT page 1

Here is a preview of the most significant cases for the local governments that the court has agreed to decide to date.

Public Sector Collective Bargaining

In *Friedrichs v. California Teachers Association*, the court will decide whether to overrule a nearly 40-year-old precedent requiring public sector employees who are not union members to pay their "fair share" of collective bargaining costs. More than 20 states have enacted statutes authorizing "fair share."

In *Abood v. Detroit Board of Education* (1977), the Supreme Court held that the First Amendment does not prevent public employees who do not join the union from being required to pay their "fair share" of union dues for collective bargaining, contract administration and grievance adjustment. The rationale is that the union may not discriminate between members and nonmembers in performing these functions. So no free-riders are allowed.

In two recent cases the court's more conservative justices, including Associate Justice Anthony Kennedy, have criticized *Abood*.

If the court doesn't overrule *Abood*, it may, instead, make it more difficult for unions to collect dues for political purposes from non-members.

Two foundational principles for public sector collective bargaining in the United States are at play in the

Abood case. Overturning either of them would mean a major change in the law that would substantially weaken public sector unions.

Redistricting

The U.S. Constitution Equal Protection Clause "one-person one-vote" principle requires that voting districts have roughly the same population so that votes in each district count equally. But what population is relevant—total population or total voting population—and who gets to decide? The court will answer these questions in *Evenwel v. Abbott*.

Over the last 25 years, the Supreme Court has repeatedly refused to decide (in cases all involving local governments) whether total voter population must be equalized in state and local legislative districts.

According to election law professor Richard Hasen, "lawmakers from urban areas dominate many state legislatures because of the huge influx of non-citizens, both legal and illegal, into predominantly urban settings. This greatly increases the population of non-voters who can be and are used to fill in urban legislative districts."

Plaintiffs claim that total voter population must be the metric. They argue their votes are worth less than other voters because they live in districts that substantially deviate from the "ideal" in terms of number of voters or potential voters.

The lower court disagreed because the Supreme Court has never held that any particular population

metric is unconstitutional. Most state legislatures use total population not total voting population data.

Asset Forfeiture

The question in *Luis v. United States* is whether preventing a criminal defendant to use assets not traceable to a criminal offense to hire counsel of choice violates the Sixth Amendment right to counsel.

Local law enforcement often receives asset forfeitures related to drug crimes.

This case comes on the heels of *Kaley v. United States* (2014) where the Supreme Court held 6–3 that defendants may not use frozen assets, which are the fruits of criminal activities to pay for an attorney.

Luis argues that it is "inconceivable" that she may not use "her own legitimately-earned assets to retain counsel." The federal government responded that per her reasoning criminal defendants "could effectively deprive [their] victims of any opportunity for compensation simply by dissipating [their] ill-gotten gains."

The 11th Circuit ruled against Luis, who was indicted on charges related to \$45 million in Medicare fraud.

Local Governments Sued Out-of-State

In *Franchise Tax Board of California v. Hyatt*, the court will decide whether states must extend the same immunities that apply to them to foreign local governments (and

See SUPREME COURT page 10

NACo publication explains Cadillac Tax

From CADILLAC TAX page 1

that any repeal include an offset. Brown's bill currently has nine co-sponsors (as of 9/25).

Two bills have already been introduced in the House — H.R. 2050, the Middle Class Health Benefits Tax Repeal Act by Rep. Joe Courtney (D-Conn.) and H.R. 879, Ax the Tax on Middle Class Americans by Rep. Frank Guinta (R-N.H.). Together, the two House bills have more than 240 co-sponsors.

NACo supports all legislative efforts to repeal the excise tax on employer-sponsored health coverage, and encourages county officials to contact their congressional representatives to urge them to do the same.

The tax, a provision in the 2010 Affordable Care Act, will impose

a 40 percent excise tax on the amount of employer-sponsored coverage that exceeds statutorily established thresholds. It applies to all employers, public and private, and is projected to significantly impact the health coverage provided to employees as employers implement changes to avoid the excise tax in 2018 and beyond.

To better understand the tax and how it affects counties, see NACo's publication titled *Excise Tax on High-Cost Employer Sponsored Health Coverage: What Counties Need to Know*.

Counties employ more than 3 million employees and spend approximately \$20 billion to \$24 billion annually on health insurance. Unable to match salaries in the private sector, county governments provide quality health insurance as means to compete

in the job market and to retain a quality workforce.

NACo and partners have engaged in intense advocacy efforts through the Alliance to Fight the 40, a broad-based coalition comprising public and private sector employer organizations, unions, health care companies, businesses and other stakeholders that support employer-sponsored health coverage.

On the regulatory side, the Internal Revenue Service is still moving forward with plans to develop the rules guiding the implementation of the excise tax. On May 15, NACo submitted official comments to the IRS outlining counties' concerns. On July 30, the IRS issued its second notice requesting comments on potential approaches the agency may take to implement the provision.



COUNTY INNOVATIONS AND SOLUTIONS



Teenagers work up appetites on soccer fields in Chesterfield County, Va. The county's economic development office has coordinated with local businesses so they can be ready for athletes and their families when they come to town for large tournaments. Photo courtesy of Chesterfield County Economic Development

Rallying Businesses Wins Repeat Business for Sports Tourism in Chesterfield County, Va.

By CHARLIE BAN
SENIOR STAFF WRITER

They came in caravans of SUVs and minivans, and the locals in Chesterfield County, Va. were caught unaware. Families with hungry teen-aged athletes, looking for anything edible near the growing number of athletic fields in the county.

"There were sandwich shops with lines coming out their doors," said John D. Watt, tourism project manager at Chesterfield Economic Development, recounting some weekend sights. "Restaurants had run out of food. They weren't ready for what was coming. And the kids were playing all day, so they were hungry."

The big draws — soccer, lacrosse, field hockey, baseball and softball — are bringing visitors at a one-time rate that may someday rival Civil War sites, but annual tournaments will keep them coming back year after year.

The biggest events — currently a girls' lacrosse tournament — can draw 15,000 people from outside of the county, selling out hotels. County estimates pegged the economic impact from sporting events at \$12.5 million in FY11 and \$25.3 million in FY14.

But early on, those businesses did not have a game plan to take advantage of the visitors.

"We weren't unified in helping the area prepare," Watt said. "There were a lot of parts of the community that could be affected by sports visitors, and if we could get on the same page, everyone would benefit."

Since 2012, the county's economic development office has coordinated a more inclusive planning and outreach effort to have the community ready for the athletes and their families.

"We have three targets: helping local businesses be prepared for the uptick in customers, provide a good experience for visitors and to be supportive of event promoters," Watt said. "We recognize we have a lot of competitors out there, communities building the same infrastructure we have, so doing what we can to provide a good experience for everyone is the follow through for all of the planning work we've put in."

That started with county staff making door-to-door trips to 60 local businesses, letting them know large events were coming up and they could expect more customers than usual.

"We literally pulled out a map, identified the shopping centers where visitors would gravitate and let them know there'd be hungry people coming soon," Watt said. "When you're involved in the day-to-day operation of a business, you're probably not thinking about out-of-state lacrosse families coming to town. It was the right role for the county, to make the effort and make a difference."

Watt, who took responsibility for the effort, built an email database for contacting these businesses and works with the Chamber of Commerce to get the word out in advance of major events.

"The national chains usually get hit first because they have name

recognition, but our independent businesses also see a spike in customers," he said. "We're three years in now and everyone has an idea what to expect, when to expect it, and we have a way of getting in touch with them."

The promotional costs for the effort — \$600 a year to print materials and for gas for door-to-door trips — are low, and the return is high: a business community prepared for higher volume at the right times.

County officials are excited about a new field hockey tournament in late November, a tourism dead zone.

"The hoteliers are ecstatic, Thanksgiving week is hard," Watt said. "We've also found the crowds get bigger when girls' competitions are in town. You see whole families out and about."

This follows the late-September UCI Road World Championships bicycling event. Though the competition was limited to downtown Richmond, Chesterfield still played host to several national teams.

"The region as a whole was getting amazing pickup on social media from the championships," Watt said. "We had six teams staying in Chesterfield and people would get excited to see the Russian team or the Portuguese team out on the roads."

County Innovations and Solutions features award-winning programs. "Sports Tourism Support to Business" was named best in category for community and economic development programs among entries for the 2015 NACo Achievement Awards.

EPA seeks input on MS4 regs

Due to a recent court settlement, EPA has updated its schedule to revise the agency's Phase II stormwater requirements for "small" (those serving populations of fewer than 100,000) municipal separate storm sewer systems (MS4). The EPA is asking local and state governments for feedback by mid-October on several avenues they are considering before they go through the formal rule-making process.

The rule-making stems from a 2003 case *Environmental Defense Center (EDC) v. EPA* decided in the 9th Circuit Court. The court found deficiencies in the procedures used in the Phase II stormwater permit program.

Specifically, the court found that the MS4 permit process was defective because there was a lack of permitting authority review and

public participation in the process.

However, since EPA had not acted on the 2003 court decision, EDC and the Natural Resources Defense Council — in December 2014 — sued EPA for not updating the permits process. As a result of the settlement, EPA will issue a proposed rule by Dec. 17 and finalize it by Nov. 17, 2016.

The settlement also included a commitment by the EPA to address stormwater runoff from logging roads. In 2013, EPA exempted logging roads (including county-owned roads) from regulation. However, the agency has yet to determine whether other types of forest roads, such as those used for oil and gas extraction, should be regulated under the federal stormwater program.

To see the options under consideration, go to NACo's website at <http://www.naco.org/MS4-Remand-Rule>.

What's in a Seal?

Fulton County, Pa.

Fulton County, located in south-central Pennsylvania, was founded in 1850 when a state senator, who was initially opposed to separating Fulton County from Bedford County, agreed to change his vote if he were given the authority to name the county. The name under consideration was Liberty, but the senator proposed the county be named for Pennsylvania native and inventor, Robert Fulton.

An 8th class county, Fulton has the fourth-smallest population in the Commonwealth with just under 15,000 residents spread over approximately 435 square miles. Several of Fulton County's 13 municipalities have names recalling the Scotch-Irish settlers who arrived in the 1700s: Ayr, Bethel, Belfast and Dublin townships.

Fulton County's seal was designed in 2013 by county commissioner and Ayr Township resident Irvin Dasher. The seal's outer edge resembles a gear, honoring Fulton County's industry. Multinational corporations JLG Industries, builder of primarily boom and scissor lifts, and Mellott Manufacturing, a leading international innovator in the rock crushing and screening business, began decades ago as small local businesses. Other significant industries include agriculture, building construction and medical services.

Mountains and farm fields typical of the region set up the seal's background and, in the foreground, a pair of crossed muskets with barrels pointing skyward acknowledge the county's colonial beginnings. The milk can is a reminder of the county's rich agricultural history. Fulton County currently boasts more cows than people. Under the milk can, a tomahawk represents the Native American conflicts experienced by initial settlers, such as the Great Cove Massacre in 1755.

Earlier, in 1750, the governor of Pennsylvania, to appease the Delaware and Shawnee Indians, ordered the burning of settlers' cabins in the northern part of Fulton County, giving the town of Burnt Cabins, in Dublin Township, its name.

(Information for *What's in a Seal* was provided by the Fulton County, Pa. Board of Commissioners.)

Sage Grouse remains off Endangered Species Act list

By ERYN HURLEY
LEGISLATIVE ASSISTANT

Department of Interior Secretary Sally Jewell has released a statement announcing that the greater sage grouse will not be extended Endangered Species Act (ESA) protections, due to successful landscape-scale conservation efforts across the United States.

The potential listing of the sage grouse, a ground-dwelling bird whose habitat spans 11 western states, had sparked major controversy over the years because a listing would result in restricted land-use and energy development in the bird's habitat.

Earlier this year, DOI released its 10-state conservation plan that was designed to protect sage grouse habitat and economic development across the western United States. The plan was designed to conserve critical habitat by limiting energy development in core habitat areas and by working with the U.S. Bureau of Land Management (BLM) and the energy industry on mitigation efforts to improve existing habitat and reduce the risk of wildfire.

The conservation plan was criticized by some lawmakers and stakeholders who believed it would unnecessarily restrict land use and place an undue burden on western energy development. Western

officials criticized DOI for not adhering closely enough to state conservation plans and argued that existing state plans have proven to be successful without further federal intervention.

In a Sept. 22 announcement, Jewell stated that collaborative efforts by the BLM, U.S. Forest Service, state agencies and private partners, had significantly reduced the threats to the greater sage grouse across 90 percent of the species' breeding habitat.

Subsequently, after evaluating the bird's population status, along with an analysis of current scientific information and ongoing efforts through federal and state

"THE TWO MAIN THREATS TO THE GREATER SAGE GROUSE IN IDAHO ARE FIRE AND INVASIVE SPECIES."

-SEN. JIM RISCH (R-IDAHO)

-SEN. MIKE CRAPO (R-IDAHO)



conservation plans, the U.S. Fish and Wildlife Service (FWS) concluded that the sage grouse no longer needed protection under the ESA.

While the sage grouse decision represents a positive outcome for conservation efforts on both federal and state levels, DOI has been criticized for failing to collaborate with and recognize individual state needs concerning protection of sage grouse populations and habitat.

In reacting to Jewell's statement, Sens. Jim Risch (R-Idaho) and Mike Crapo (R-Idaho)

criticized DOI for its lack of attention to local recommendations, stating, "The two main threats to the greater sage grouse in Idaho are fire and invasive species. The secretary adopts a plan that relies heavily on regulation of the mining, oil, and gas industries when it should focus more heavily on fire control."

NACo has consistently opposed the listing of the greater sage grouse under the ESA and supports the decision that the greater sage grouse does not warrant Endangered Species Act protections.

NEW IN OCTOBER FROM NACo's

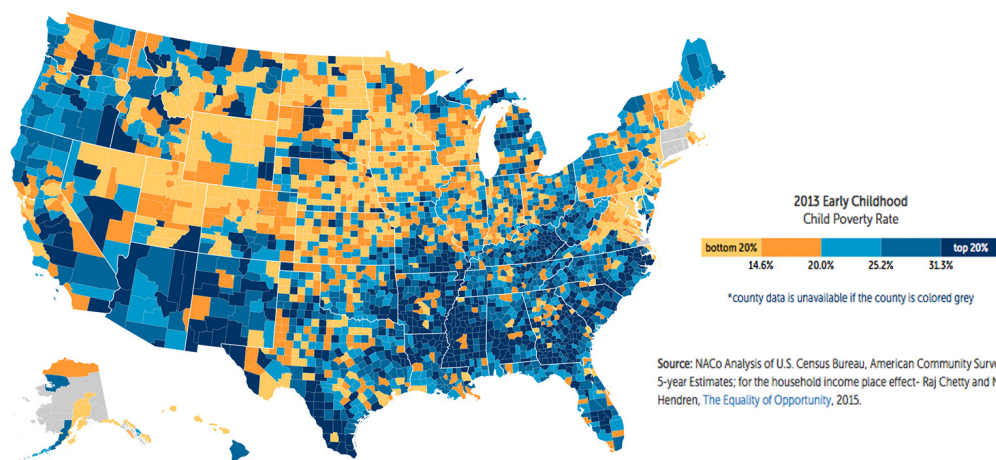
COUNTY EXPLORER

67% of children living in poverty are in **10% of counties.**

36% of county jails hold one or more juveniles (under 18), as of June 2013.

48% of counties received, within their jurisdiction, more than \$100 million in 2013 in federal medical benefits payments, including Medicare, Medicaid, Children's Health Insurance Program (CHIP) and TRICARE Management Program (formerly called the Civilian Health and Medical Plan of the Uniformed Services).

The payments are made directly or through intermediaries to vendors for care provided to county residents fulfilling the conditions of the federal programs.



Source: NACo Analysis of U.S. Census Bureau, American Community Survey 2009-2013 5-year Estimates; for the household income place effect- Raj Chetty and Nathaniel Hendren, The Equality of Opportunity, 2015.

www.NACo.org/CountyExplorer

CN JOB MARKET

Director, Independent Office of Law Enforcement Review and Outreach — SONOMA COUNTY, CALIF. **Salary:** \$127,252 – \$154,676 annually

Sonoma County, conveniently located 30 miles north of San Francisco, is home to almost 500,000 residents and offers a wide variety of restaurants, art and music festivals, farmers' markets, and concert venues. The County is seeking a Director, Independent Office of Law Enforcement Review and Outreach who will establish the Office's operations in order to implement the recommendations of a community task force to establish an office of independent review.

The incoming Director must be someone who inspires trust by acting with integrity, has an interest in understanding and embracing the "culture" of Sonoma County, and will conduct comprehensive outreach to the community including members of the former Task Force, interested community members, schools, community based organizations, businesses, and other stakeholders.

This is an exciting opportunity for an individual who is dynamic, fair and honest, independent,

creative, and has the ability to establish structure and processes in this important new organization and position.

The ideal candidate will possess at least four years of related legal experience, typically civil rights and/or criminal law, and experience working with individuals of diverse ethnic, cultural, and socio-economic backgrounds. Prior professional level experience in a law enforcement oversight/audit organization, bilingual English/Spanish skills, supervisory experience, and possession of the Certified Practitioner of Oversight (CPO) Credential are desirable qualifications.

The position requires possession of a Juris Doctor Degree or equivalent from an accredited U.S. law school and current active membership in the State Bar of California. The salary range is \$127,252–\$154,676 annually and is dependent upon qualifications.

Sonoma County offers a competitive total compensation package. If you are interested in this outstanding opportunity, please apply online at <http://www.bob-murrayassoc.com>. Please contact Bob Murray or Gary Phillips at 916.784.9080 should you have any questions. Brochure available. **The first review of resumes will begin November 6.**

Financial Services News

Rebalance Your Assets Automatically through NACo's Deferred Compensation Plan

NACo and Nationwide have found ways to make retirement planning decisions easier and even somewhat automatic.

Paperless Delivery

NACo Deferred Compensation Plan participants have the opportunity to receive their account documents via paperless delivery. Participants who choose to enroll will be notified when their quarterly account statements, transaction confirmations and other plan correspondence are available online. It's a free, secure and environmentally safe way to receive account information.

Enrolling is easy. Participants:

- log in to their online account
- select "Contact Preferences" (located on the left-side navigation of the account overview page), and
- follow the steps to enroll.

Automatic Asset Rebalancing

Investors of all types enroll and pick investment options with all of the right intentions, but what happens if over time the mix of investments gets out of whack? Participants then could end up taking on more market risk than intended, or not investing as aggressively as intended because, over time, market conditions favored one type of investment over some others. That's why NACo Deferred Compensation Plan participants may want to consider using automatic asset rebalancing.

An asset rebalancing strategy is a commitment to periodically buy and sell funds to bring an account back to the preferred mix of stock and bond funds, and short-term investments. Making regular adjustments to counteract the effect of market performance differences by selling some of the portfolio's investments that have performed the best and investing more in areas that have fallen behind can help keep an investment strategy on target.

Essentially, rebalancing helps participants stick to their investing plan regardless of what the market does. As with any investing strategy, rebalancing and diversification cannot

prevent investors from losing money. However, these strategies may help reduce the effects of market volatility and potentially limit losses. Nationwide representatives can explain the rebalancing options, including how frequently the account is rebalanced and what portion of assets can be rebalanced. (Note: Target maturity date or asset allocation funds periodically rebalance on their own.)

Professionally managed Account Service

The quality of participants' retirement may depend on how well they manage their investments through their NACo Deferred Compensation Plan account. Participants who are uncertain about their ability to reach their goals or simply lack the time or the desire to do it, may select a "do it for me" solution and have their accounts managed by investment managers.

This investing approach provides professional fund selection and asset allocation; periodic portfolio adjustments intended to help keep participants on track toward their goals, ongoing communications; and no minimum

ONLINE BENEFICIARY DESIGNATION

The online beneficiary designation feature helps participants keep designations up to date

We know that members' legacy to their families is always a retirement planning priority. That's why it is especially important that beneficiary designations are kept up to date on all-important accounts like their NACo Deferred Compensation Plan accounts. Nationwide makes it easy to monitor and change beneficiaries, just by logging into their account.

account balance or cancellation fees. Under the Nationwide ProAccount, participants contract with Nationwide Investment Advisors, LLC (NIA), to provide the managed account service.

Participants will be assessed an annual fee of up to 1 percent, which is in addition to any asset or service fees they may incur through the deferred compensation plan and any management fees, charges or expenses associated with each investment option.

The Nationwide ProAccount fee is deducted quarterly, in arrears. NIA contracts with Wilshire Associates Incorporated, a leading global investment firm, as the Independent Financial Expert for Nationwide ProAccount. Counties interested in learning more about ProAccount as a component of their deferred compensation offering can contact NACo or their Nationwide representative.

Automatic Increase Account Option Starts Next Year

Starting February 2016, participants can also set their account to automatically increase their contribution amount according to a specified date and amount.

It's an easy way to stay on top of managing their accounts. Participants interested in this approach can talk with their Nationwide representative about this and other ways to enhance their approach to saving for retirement.

For information about the NACo Deferred Compensation Program, contact David Thompson, president and managing director, NACo Financial Services, at dthompson@naco.org or 202.942.4240.

Nationwide Retirement Solutions (Nationwide) makes payments to the National Association of Counties (NACo), NACo PEB LLC and the NACo Financial Services Center Partnership (FSC) for services and endorsements that NACo provides for all its members generally related to Nationwide's products and services sold exclusively in public sector retirement markets. More detail about these payments is available at www.nrsforu.com.

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NRM-13460AO-NX (09/15)

Benefits of paperless delivery

Faster & Secure



- Email notification is sent as soon as information is available online
- Email arrives before postal mail
- The email will not contain actual statements. It simply notifies account holders to log on to their account to access it

Fits mobile lifestyle



- Eliminates the need to keep a paper file
- Statements are stored securely online for six years¹
- New "Document Center" keeps participant statements, account correspondence, correspondence and tax documents in one handy location¹

Efficient



- Eliminates the need to shred printed statements before discarding
- Less environmental impact

¹ These benefits are available to all participants whether or not they opt-in to paperless delivery.

Affirmative action faces new test

SUPREME COURT from page 6

states) sued in their state courts. *Hyatt* is important to local governments who are often sued out-of-state.

The Franchise Tax Board (FTB) of California concluded that Gilbert Hyatt didn't relocate to Nevada when his tax returns indicated he did and assessed him \$10.5 million in taxes and interest. Hyatt sued FTB in Nevada for fraud among other claims.

In *Franchise Tax Board of California v. Hyatt* (2003) the Supreme Court held that the Constitution's Full Faith and Credit Clause does not require Nevada to offer FTB the full immunity that California law provides.

A Nevada jury ultimately awarded Hyatt nearly \$400 million in damages.

The Nevada Supreme Court refused to apply Nevada's statutory cap on damages to Hyatt's fraud claim, reasoning that Nevada has a policy interest in ensuring adequate redress for Nevada citizens that overrides providing FTB the statutory cap because California operates outside the control of Nevada.

Hyatt has also asked the Supreme Court to overrule *Nevada v. Hall*

(1979), holding that a state may be sued in another state's courts without consent. If the court overrules this case, the question of whether the immunities a state enjoys must be offered to a foreign local government (or state) will be moot.

Affirmative Action

For the second time, the court has agreed to decide whether the University of Texas at Austin's race-conscious admissions policy is unconstitutional in *Fisher v. University of Texas at Austin*.

Even though this case arises in the higher education context, the Supreme Court decides relatively few affirmative action cases so all are of interest to local governments that use race as a factor in decision-making.

Per Texas's Top 10 Percent Plan, the top 10 percent of Texas high school graduates are automatically admitted to UT Austin, which fills about 80 percent of the class. Most other applicants are evaluated through a holistic review where race is one of a number of factors.

Abigail Fisher claims that using race in admissions is unnecessary

because in the year she applied, UT Austin admitted 21.5 percent minority students per the Top Ten Percent Plan.

The Supreme Court has held that the use of race in college admissions is constitutional if race is used to further the compelling government interest of diversity and is narrowly tailored.

In the first *Fisher* case, the court held that the 5th Circuit, which upheld UT Austin's admissions policy, should not have deferred to UT Austin's argument that its use of race is narrowly tailored.

When the 5th Circuit relooked at the plan it concluded that it is narrowly tailored.

Only time will tell whether the court agrees.

Conclusion

The court's docket is only about half full right now. Interestingly, it hasn't yet accepted a Fourth Amendment or qualified immunity case yet, but no term would be complete without a few such cases. Of interest to the court may be a case involving whether cellphone location data may be obtained without a warrant.

CN SPOTLIGHT



A HIGH POINT FOR THE LUCC SYMPOSIUM

Members of NACo's Large Urban County Caucus (LUCC), meeting in King County, Wash., tour a marijuana production plant during a mobile workshop at the annual LUCC Innovation Symposium. The site visit, Oct. 2, allowed participants to explore what's involved in a marijuana producer/processor business and hear what lessons Washington counties have learned in confronting the process. The recreational use of marijuana became legal in Washington state in 2012. Its first legal retail shop opened in 2014. The three-day LUCC symposium focused this year on how counties maintain a safe and secure America. Photo by Hadi Sedigh

LEARN MORE DURING OCTOBER



National Cybersecurity Awareness Month

The month of October has been designated National Cybersecurity Awareness Month by President Obama, who recognized the importance of cybersecurity awareness and resiliency.

In collaboration with the Department of Homeland Security, NACo will dedicate a webinar each week to a specific theme related to cybersecurity and its ramifications for the public and private sectors. Check "Events" at NACo's website for webinar registration information.

WEEK ONE: CREATING A CULTURE OF CYBERSECURITY AT WORK

OCT. 7 • 2-3 P.M. EDT

Organizations and employees of both the private and public sectors are accountable for maintaining the protection of sensitive information. This week's panel of featured speakers will focus on the available resources and education to enhance cybersecurity practices in the workplace.

WEEK TWO: CONNECTED COMMUNITIES — STAYING PROTECTED WHILE ALWAYS CONNECTED

OCT. 15 • 2-3 P.M. EDT

The Internet is always available at our fingertips. This week's panel will focus on understanding the applications and technology of mobile devices as well as everyday safety tools.

WEEK THREE: YOUR EVOLVING DIGITAL LIFE

OCT. 21 • 2-3 P.M. EDT

This week's featured speaker will discuss the future of technology and best cybersecurity practices.

WEEK FOUR: BUILDING THE NEXT GENERATION OF CYBER PROFESSIONALS

OCT. 28 • 2-3 P.M. EDT

This week's speakers will discuss the importance of increasing cybersecurity awareness in schools at all levels. The promotion of cybersecurity education will heighten the cyber workforce for tomorrow.





News From the Nation's Counties

► ARIZONA

MOHAVE COUNTY is getting support from neighboring **LA PAZ COUNTY** and the **ARIZONA ASSOCIATION OF COUNTIES** in a fight against a proposed **water rights transfer** that's now before the state Supreme Court. The supporters filed a brief advancing the county's position, havasunews.com reported.

The county opposes a mining company's plan to transfer its water rights from one location in the county to another site that would serve a copper mine in **YAVAPAI COUNTY**.

Arizona's Department of Water Resources said Mohave didn't have standing to object. The Supreme Court agreed to hear the case, scheduling oral arguments for this month.

► ARKANSAS

Counties are unhappy with an idea being floated by the Governor's Working Group on Highway Funding: It would **make cities and counties responsible** for some of the state's 16,418 miles of roads.

"I think the idea of offloading these roads on counties is ridiculous," **DALLAS COUNTY** Judge Jimmy Jones told KATV News. "We have a tremendous amount of logging traffic on Dallas County roads, and that infrastructure is critical to the timber industry. If our county is mandated to take over those roads, we will simply not be able to provide maintenance."

The **ASSOCIATION OF ARKANSAS COUNTIES** also opposes the potential shift.

► CALIFORNIA

CONTRA COSTA COUNTY supervisors voted to restore primary **health care services to undocumented adults** living in the county. That makes 46 of the Golden State's 58 counties that offer such benefits to provide non-emergency care to immigrants who entered the country illegally.

The program isn't full insurance, KPCC-FM News reported. It will, however, provide access to preventive services, which officials hope will cut down visits to the emergency room and save the county money in the long run.

"It's just the right thing to do for people, especially undocumented adults who are not covered under the Affordable Care Act," said Supervisor John Gioia, a key supporter.



► ARIZONA

The solar installation at the City of Flagstaff-Sheriff's Office Law Enforcement Administrative Facility (LEAF) in **COCONINO COUNTY** is one of **three solar arrays** that came online recently as the result of a public-private partnership between the county and SunEdison.

Solar arrays have also been installed at the County Health and Community Services building, and the County Jail and Juvenile Services buildings, all located in Flagstaff. The 1.2-megawatt solar installation is expected to generate 2.1 million kWh in the first year, and will offset at least 30 percent of the county's electric consumption.

SunEdison financed the \$5.6 million project. The company owns the solar panels and system, and the county leases solar space in parking areas and on roofs in return for the energy produced at a lower set rate over the next 25 years. This is expected to save the county \$2.7 million in energy costs. Photo by Josh Biggs

► FLORIDA

PINELLAS COUNTY could land its third **Major League Baseball spring training complex**. The Atlanta Braves, nine-time baseball All-Star Gary Sheffield and a local developer want to build a stadium, arena, practice fields and hotels on the site of a former landfill.

A county evaluation committee recently scored the Braves' plan tops out of three bids from developers responding to a county request for proposals, the *Tampa Bay Times* reported.

The Braves-led group would purchase the land for \$20 million, paid over 40 years in \$500,000 installments, to create an "international destination" for amateur and professional sports. The new facilities could be open in time for the 2018 season.

► GEORGIA

FORSYTH COUNTY has proposed new **licensing requirements for massage parlors** and their employees in an effort to crackdown on illegal activities, mainly prostitution, *Forsyth County News* reported.

At a County Board public hearing, County Attorney Ken Jarrard explained the county would require annual licenses and renewals for massage parlors and spas that give massages.

Sheriff Duane Piper has said regulation is needed because stricter ordinances in neighboring jurisdictions are making Forsyth County an attractive place to do business.

► MARYLAND

Counties **can't ban medical marijuana facilities**, according to the state attorney general's

office. But **ANNE ARUNDEL COUNTY** Executive Steve Schuh is backing legislation that would prevent people from growing, processing or dispensing medical marijuana in all zoning classifications.

Nonbinding legal advice from the attorney general's office says jurisdictions can't ban those activities "unless a situation unique to that county makes one or more types of facilities inappropriate," according to *The Capital*.

► MISSOURI

The **ST. LOUIS COUNTY** Police Board adopted a policy that bars police from using dogs for crowd control, according to the *St. Louis Post-Dispatch*. The decision comes after a post-Ferguson, Mo. report from the U.S. Department of Justice (DOJ) that criticized the practice.

Police Chief Jon Belmar told the board that his department did not use dogs in that manner, despite DOJ's "strong implication that we did."

He said he reviewed a draft of the report that contained information that the police department "strongly disagreed with." He added that DOJ has promised to provide an amended copy.

► NEW YORK

MONROE COUNTY legislators may tighten up policies for employee use of **taxpayer-provided take-home vehicles**.

Announced legislation would limit who could be assigned take-home cars and would require employees with county cars to submit a monthly accounting of all miles driven in the vehicles. The

POINT OF VIEW

The OMB Uniform Guidance: What It Is and Why It Matters to Counties and Nonprofits

By DAVID L. THOMPSON

NATIONAL COUNCIL OF NONPROFITS

Historic grants reforms published by the federal government in late 2014 are now the law of the land. The reforms apply to federal grant funds that flow to states, counties, cities and nonprofits throughout the U.S.

If the federal reforms are implemented as intended, they promise to enhance programs and improve the lives of constituents and communities that counties and nonprofits jointly serve.

The downside of ignoring the new rules — missed cost savings, lost opportunities, and embarrassing adverse audit findings and challenges — makes attention to these details a priority for counties and nonprofits alike. With those shared realities in mind, this article provides information about the new reforms that must now be followed to receive federal grants that pay for a great deal of the day-to-day work we all do.

The *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, commonly known as the OMB Uniform Guidance became

effective on Dec. 26, 2014 and apply to new or newly-revised contracts or grants using federal grant funds. The primary goal of the reforms is to provide consistency in the processes and procedures used in managing federal funds by all federal and non-federal entities.

But what systems changes are needed at the local level? And will these changes ultimately bring about desired improvements or avoidable disruptions to operations and programs? The answers to these and many other questions are the same for county governments and nonprofits: It all depends on how the new rules are implemented.

Of interest to counties and nonprofits providing services on their behalf, the OMB Uniform Guidance:

- **Consolidates and streamlines OMB Circulars:** The guidance seeks to reduce confusion, inconsistency and compliance costs by melding multiple OMB Circulars — including A-87 and A-102 for state and local governments and A-122 and A-110 for nonprofits, and A-133 for both — into one set of federal regula-

tions. Common administrative procedures, common definitions, common timelines and common cost allocation rules should allow everyone to “speak the same language” when applying the rules to their work on the ground.

- **Clarifies direct costs:** The new regulations clarify numerous cost allocation rules and specify more costs that are reimbursable as direct costs. For instance, in certain circumstances, program administration (e.g., secretarial staff dedicated to a specific program) can be reported as direct, rather than as indirect costs, and therefore are recoverable.

- **Requires payment of indirect costs:** The grants reforms require pass-through entities (such as counties) to reimburse sub-recipients for their reasonable indirect costs when federal dollars are in the funding mix. This requirement means that counties must be paid for their indirect costs and, in turn, they must pay nonprofits for their indirect costs on grants and contracts.

The requirement reportedly was included in response to numerous government and independent studies demonstrating that failure

to reimburse non-federal entities for legitimate and necessary indirect costs undermines both the sustainability of the entity doing the work and the effectiveness of the federal programs.

- **Raises the single audit threshold** from \$500,000 to \$750,000, thereby reducing the costs and administrative burdens for up to 5,000 smaller organizations.

- **Reduces the complexity in reporting:** The rules simplify and streamline reporting requirements regardless of the federal funding stream.

The challenge for counties and nonprofits alike is that the federal government is offering very little training on how the rules should be converted into systems changes. Yet, thousands of government officials and employees working at the local, state and federal levels are being called on to make thousands of decisions and then explain those decisions to thousands of nonprofit program, grants and contracting personnel.

Without prompt, consistent and transparent training, the likelihood is great that there will be inconsistency, misinterpretations and confusion that will adversely

affect program and procurement efficiency.

The adverse consequences of failure to adequately implement the grants reforms can be severe, potentially resulting in disruptions of service that hurt the public, add costs, create negative audit findings and delay the realization of intended benefits of the federal grants reforms.

The OMB Uniform Guidance — given the right set of circumstances — can deliver on the promise that individuals receive the quality services they need when they need them; taxpayers get full value for the programs they are funding, and our communities are made stronger through efficient and effective partnerships between governments and nonprofits. The National Council of Nonprofits’ network of state associations of nonprofits stands ready to work with counties and states to promote these important goals through full implementation of the federal grants reform.

David L. Thompson is vice president of public policy for the National Council of Nonprofits, the nation’s largest network of charitable nonprofits.

Day resource center planned in Wisconsin

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policy would prohibit all personal use of county-owned cars.

State Comptroller Thomas DiNapoli said Monroe County is the most fiscally stressed local government in New York, a condition county officials have said is largely the state’s responsibility, due to an overwhelming burden of unfunded mandates, especially Medicaid expenses, *The Democrat and Chronicle* reported.

► NORTH CAROLINA

The WAKE COUNTY Board of Commissioners sharply expanded the **groups protected** under its employment policy, banning job discrimination based on gender identity, sexual orientation, pregnancy, genetics, veteran status and other characteristics.

Commissioners said the policy governing the county’s nearly 4,000 employees needed modifications because the original protections touched on only a few categories

such as age, race and religion, the *News and Observer* reported.

► SOUTH DAKOTA

The BROWN COUNTY Commission’s appeal of a state decision on **pipeline property taxes** may have wide-reaching consequences. In its appeal to the Hughes County Circuit Court, Brown County claimed the state isn’t assessing as much money on the pipeline as it should, thus depriving local governments of property tax revenues.

It’s the first such appeal in recent memory of the state’s authority to assess property taxes on pipelines, utilities, railroads and other industries in what’s known as central assessment, according to the *Argus Leader*.

“In my tenure here, I don’t remember anybody doing it,” said Bob Wilcox, the executive director of the South Dakota Association of County Officials.

If it turns out that the state has undervalued the energy company, NuStar’s, pipeline, then it’s possible that other pipelines and industries, which are centrally assessed by the state, could see their tax bills challenged by local governments.

► UTAH

Ballots that go out to SALT LAKE COUNTY residents in early October will contain an **insert advising voters** where they can get more information about a quarter-cent sales tax hike for local transportation projects.

State law requires only that educational materials be posted to the state elections website, but the county will spend \$14,000 to print the inserts, and possibly \$3,500 more to mail pamphlets to voters’ homes upon request.

“None of us likes spending [more] money, but to err on the side of providing more information for voters is important,” County Council Chairman Richard Snelgrove told the *Salt Lake Tribune*.

► VIRGINIA

- **ARLINGTON COUNTY** adopted an **affordable housing master plan** as part of the county’s comprehensive plan. It’s the culmination of a three-year community effort and focuses on increasing the supply of affordable housing for renters (targeting 22,800 affordable units by 2040) and owners (2,700 affordable ownership units), ensuring access and contributing to a sustainable community.

The latter goal will involve geographic distribution of affordable housing, preserving affordable housing where it exists and locating housing close to transit.

- Planners in GLOUCESTER COUNTY are working on a new set of rules to accommodate **large solar facilities**.

A proposed amendment to the county’s zoning ordinance would allow solar-energy facilities to be constructed “by right” in both industrial and rural countryside districts but would require a conditional use permit everywhere else. It is similar to a small wind energy facilities ordinance passed several years ago, the *Daily Press* reported.

- The NELSON COUNTY Board of Supervisors will ask the **Federal Energy Regulatory Commission** (FERC) to ensure the proposed Atlantic Coast Pipeline avoids or minimizes impact to sites that are listed or eligible to be listed on the Virginia Landmarks Register and National Register of Historic Places.

The board passed a resolution petitioning FERC to comply fully with Section 106 of the National Historic Preservation Act of 1966

that requires federal agencies to take into account their actions on historic properties, the *Daily Progress* reported.

FERC has the final approval of the proposed 550-mile pipeline that could run through Nelson County.

► WISCONSIN

DANE COUNTY will purchase property on which it plans to build a **day resource center** for the county’s homeless population.

The 19,000-square-foot building would have to be renovated and would include private offices for service providers, meeting rooms, showers, storage space, laundry facilities, meals and other services and facilities. It would focus both on meeting basic needs and providing services like training, mental health services and drug addiction treatment, *The Cap Times* reported.

The site sits less than two miles from the Capitol and is accessible via bus and near emergency overnight shelters, several free meal sites and the Madison Central Library.

(News From the Nation’s Counties is compiled by Charles Taylor and Charlie Ban, senior staff writers. If you have an item for News From, please email ctaylor@naco.org or cban@naco.org.)