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Management
Special
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Vol. 10, No. 43

COUNTY NEWS

"The Wisdom to Know and the Courage to Defend the Public Interest"

Oct. 30, 1978

NACo
Washington, D.C.

MEMBERSHIP DRIVE—At its meeting last week, the Council of Intergovernmental Coordinators (CIC) launched an effort to increase participation and membership of western counties. Here Gwenn Baskett, Cuyahoga County, Ohio, newly elected CIC president, discusses the campaign with Ed Grobe, CIC vice president for membership and grants administrator of Ingham County, Mich.

CIC FEDERAL AID BRIEFING

New Laws, Funding Outlined for Officials

WASHINGTON, D.C.—Many important pieces of legislation were passed by the 95th Congress, especially in its closing weeks. What they were and what they will mean for counties was the focus of a Federal Aid Briefing sponsored by NACo and its affiliate, the Council of Intergovernmental Coordinators (CIC) here Oct. 22-25.

The conference was attended by more than 200 county officials from throughout the United States. Suzanne H. Muncy, 1977-78 CIC president and intergovernmental grants coordinator for Montgomery County, Md., presided.

CETA REENACTMENT

Eligibility standards, funding formulas and allocation of funds and wages for the new CETA program were outlined by Jon Weintraub, NACo associate director for employment.

In Title II (a), (b) and (c) of the act, economically disadvantaged persons who are unemployed, underemployed or in school, have had seven consecutive days of unemployment or are on a federal welfare program will qualify, said Weintraub.

Part (d) of Title II, he explained, applies to economically disadvantaged persons who have been unemployed 15 weeks or on a federal welfare program.

Public service job funds in Title II (d) will be distributed through a formula of 25 percent for each of the following factors: numbers of unemployed, numbers of unemployed over 4.5 percent, numbers of unemployed over 6.5 percent and numbers of low income persons 18 years of age and older, Weintraub said.

Wage ceilings, Weintraub noted, will be indexed on the basis of local average wages to the national average wage with a ceiling between $10,000 and $12,000. Local wage supplements for public service jobs cannot exceed 10 percent.

NATIONAL ENERGY ACT

The conservation sections of the newly passed National Energy Act were examined by Michael Willingham, acting director of state specific programs conservation and solar application, U.S. Department of Energy (DOE). Willingham stressed that states, then local governments, will have to conduct an energy audit before they can move on to the technical assistance portions of the legislation.

County officials complained that their participation in the technical assistance stage of the plan hinged on the state's having first completed an audit and developed a plan. Willingham explained that the state audit and plan became the basis for state grant decisions.

Jerry Duane, DOE solar applications office, discussed the $9 million program of small grants for solar projects, with a cap of $50,000 on individual grants. Funding, he said, is allocated on the basis of the population in the federal region and selection of the grantee is made by a panel of business, government and community leaders who serve as a state review board. (For more on the energy act, see pages 3 and 4.)

FEDERAL AID REFORM

"In the wake of Proposition 13, Congress needs to recognize that federal paperwork, regulations and redundancies impose a high cost on the public sector," said Carl Stenberg of the Advisory Commission on Intergovernmental Relations (ACIR) in a panel session on federal aid reform.

Stenberg said there is "growing sentiment that Congress is part of the red tape mess" because it saddles some programs with "Byzantine organization and laborious paperwork."

Stenberg said that ACIR will concentrate its efforts in the next session of Congress on seeking passage of two proposals that would cut down on red tape and set up a

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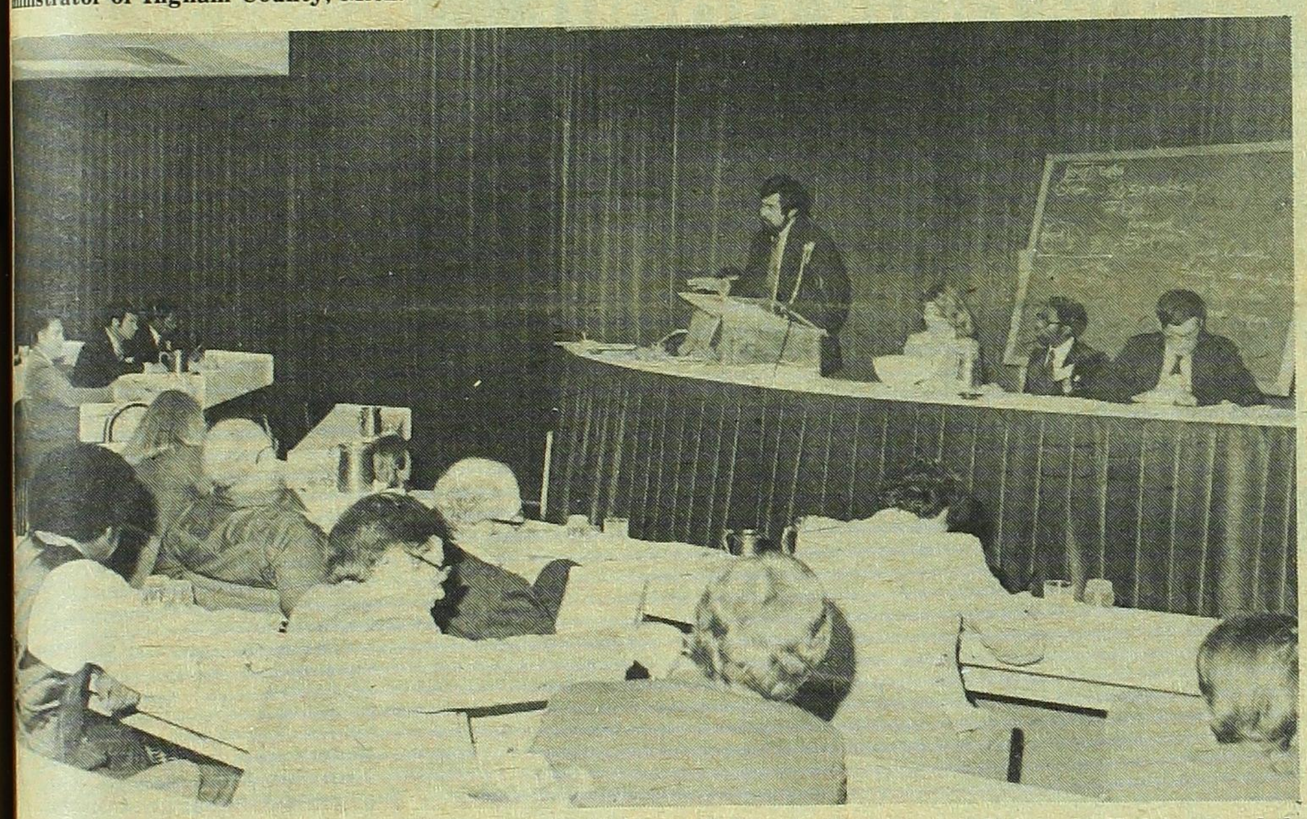

CONFERENCE DRAWS 200 OFFICIALS—Over 200 county grants administrators and elected officials attended the Annual National Federal Aid Conference sponsored by NACo and its affiliate, the Council of Intergovernmental Coordinators. Above, from left, Merv Tano, Office of Human Development Services, HEW; Sara Downey, special assistant to the commissioner, Administration on Aging, HEW; Kenneth White, NACo/CIC director from Guilford County, N.C., and Cliff Hendrix, director, Office of Policy Analysis, Administration on Aging, HEW, discuss the newly reenacted Older Americans Act.

Kendig Takes County Post

WASHINGTON, D.C.—After 15 years with NACo, Deputy Executive Director Rodney L. Kendig has left the association to become county administrator in Escambia County, Fla.

"I have accepted the challenge and opportunity to serve on the front lines of county government with a growing county," Kendig said. "While this offer came suddenly, my family and I determined very quickly to take this unexpected opportunity. I will miss NACo. It has been a challenging and rewarding part of my life for so long.

"However, this is a great career growth opportunity to apply within a county all that I have learned from elected and appointed county officials and my colleagues during the years," Kendig explained. "I find Escambia County an especially dynamic framework in which to return directly to the people. It is one of the ways I can express my appreciation for all that everyone has taught me," he added.

Escambia County, with a population of 280,000, is the westernmost county in Florida. With a budget of nearly $100 million, it provides a full range of county and municipal type services. Kendig said the county's five-member board is a cross-section of the community which is relatively rural in many parts and quite urbanized in others.

"I will have many resources to draw on," Kendig explained. "Escambia County has a good legal base in the state constitution and state law. Moreover, Florida has a vigorous state assocation of counties directed by John Thomas. The challenges that lie ahead for counties at the national level can be met under Bernie's (NACo Executive Director Bernard F. Hillenbrand) creative and dynamic leadership. I especially anticipate working with the full service national organization.

"There are so many people to thank. I appreciate the privilege of having worked for the finest group of local or state officials ever. I particularly want to thank Bernie, who has been a wise and generous tutor."

Hillenbrand called Kendig's con-

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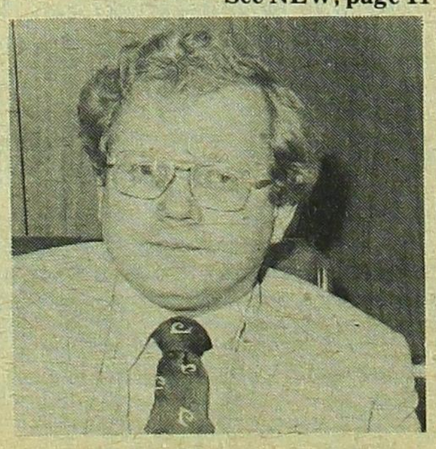

Kendig

NACMO Meeting This Week

Over a thousand county officials are expected Oct. 29 through Nov. 1 in Maricopa County, Ariz., for the National Association of County Manpower Officials' (NACMO) annual conference. Speakers from Congress, the Administration and county CETA programs will be discussing the new CETA legislation (see summary on page 12) and plans for revamping the program regulations.

Meanwhile, the Labor Department made plans last week to give prime sponsors 10 percent of their fiscal '79 CETA funds immediately to cover current cash needs. The year's full allocations will probably be announced early next month.

Analysis of National Energy Act

More than a year ago President Carter called the energy crisis facing the nation "the moral equivalent of war." But Congress was slow to heed the call to arms. In fact, passage of a National Energy Act was a cliffhanger until the very end of the 95th Congress. The final product—much different from what the President had envisioned—is divided into five sections: utility rate reform, energy taxes, natural gas pricing, coal conversion and conservation. What this means for both counties and consumers is detailed in a special report. See pages 3 and 4.

CIC Elects Officers, Directors

MAHONEY HONORED—Suzanne Muncy, immediate CIC past president and newly elected CIC representative to the NACo board, presents the first CIC distinguished service award to James K. Mahoney. Mahoney, who retired from county government several months ago, is a CIC past president. He was honored at a special awards luncheon as a primary initiator in developing the council 12 years ago and for a decade of active service to the organization.

Continued from page 1

procedure to encourage the consolidation of grant programs. These bills, introduced this year but not passed, are the Federal Assistance Paperwork Reduction Act and the Smaller Communities Act.

Another ACIR spokesman, Michael Mitchell, outlined efforts in the Executive Branch to simplify grant procedures. He said that ACIR has monitored the implementation of President Carter's federal aid reform measures announced last year. On the basis of this monitoring project, ACIR has developed a series of recommendations for the President.

UNIFORM SELECTION GUIDES

Analyzing the newly issued uniform guidelines on employee selection procedures, Dr. Kenneth Millard of the U.S. Civil Service Commission told the county officials that the basic thrust of the guidelines is to determine if employee selection has an "adverse impact" on any race, ethnic grouping or sex.

Millard said the "bottom line" is the "final results ... if the results are okay, then why look into them." He said there are key aspects for determining adverse impact and some of them are:

- An 80 percent rule-of-thumb. (For example, there are 100 applicants of whom 50 men and 35 women are hired. That gives a 50 percent rate for men and 35 percent for women. Comparing 35 to 50 gives a selection rate of 70 percent and that rate could be the basis for an adverse impact decision.)
- Annual determination of adverse impact.
- Careful record-keeping as a basis for determination.

Millard advised the following steps to remove adverse impact in a selection process:

- Substitute other procedures that are proven lawful.
- Develop procedures that are closely job-related.
- Validate the procedure through one of the three currently recognized validation procedures (criterion-based, content and construct validity).
- Adhere to the guidelines' technical standards.
- Adhere to stringent documentation requirements.

An edited transcript of the session may be obtained from Chuck Loveless, NACoR research associate.

OTHER SESSIONS

Additional sessions were held on LEAA program, rural development and transit for rural areas, community development, highways and bridges, the cultural arts, environment, OMB circulars, and initiatives to improve grants administration, grantsmanship issues and indirect costs. The conference was opened with a legislative rundown of both sessions of the 95th Congress by NACo legislative representatives.

CIC ELECTIONS

The following NACo/CIC 1978-79 officers and board of directors were elected during the business meeting: president, Gwenn Baskett, federal aid coordinator, Cuyahoga County, Ohio; vice president, Roy Wilt, federal funds coordinator, Jefferson Parish, La.; vice president for training, Laura Muckenfuss, grants administrator, Greenville County, S.C; vice president for membership, Edward Grobe, grants administrator, Ingham County,Mich.; vice president for conferences, Richard Bingham, executive director, St. Clair Regional Planning Commission, St. Clair County, Mich.; NACo board representative, Suzanne Muncy, intergovernmental coordinator, Montgomery County, Md.:

Board of directors members Lynn Feveryear, director of community development programs, Salt Lake County, Utah; Ernest Jahnke, director of the Department of Intergovernmental Funding, Maricopa County, Ariz.; Laura Nolan, intergovernmental relations, Suffolk County, N.Y.; Kenneth White, federal aid coordinator, Guilford County, N.C.; Kathryn Klein, grant coordinator, Montgomery County, Ohio; Jas Shekon, Fayette County, Ky.; Clifford Tuck, intergovernmental coordinator, Shelby County, Tenn.; William Gordon, grant coordinator, Sullivan County, N.Y.

NACo/CIC regional presidents for 1978-79 are: Region I, John Quigley, Essex County, Mass.; Region II, Ralph Mingolelli, Syracuse, N.Y.; Region III, Lee Sosnowski, Anne Arundel, Md.; Region IV, Scott Crawford, Orange County, Fla.; Region V, Jim Curran, Wayne County, Mich.; Region VI, Larry St. Amant, East Baton Rouge Parish, La.; Region VII, Dean Sykes, Douglas County, Neb.; Region VIII, Gregg Goodwin, Salt Lake County, Utah; Region IX, Paula Carroll, Los Angeles County, Calif.

Under new CIC bylaws, individuals may join this council if they are from a NACo member county and are designated intergovernmental coordinator by a county or multicounty board. Anyone interested in CIC membership, contact Linda Church of the NACo staff.

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National Energy Act

What It Means for Counties, Consumers

With much of his Administration's prestige on the line, President Carter pulled out all the stops in the closing days of the 95th Congress to get the National Energy Act passed. In a last-minute flurry of horse-trading and arm-twisting, the NEA finally emerged after its lengthy period of incubation.

While the President has been quick to proclaim a victory, the fact is that the bill emerged in a much altered form. Many of the pieces considered most important by the President fell by the wayside. People are already talking about a "son of national energy act" and some of the proposals which were not adopted will almost certainly be revived.

Following the progress of the National Energy Act has been like drawing pictures in quicksand. However, now that action has been completed, a detailed analysis of the bill's five sections is possible. A section by section analysis is contained in this special report.

Utility Rate Reform

The purpose of this section is to reduce the need for building new electric generating facilities by cutting overall energy use and reducing peak demand. Under the original proposal, this was to be accomplished by granting the federal government broad authority to mandate certain rate reforms. However, many people felt that this was an unwarranted federal intrusion into an area traditionally the domain of state public utility commissions. As a result, the final version only encourages the federal government to advocate reforms and requires public utility commissions to "consider" the reforms.

Despite this, the law is not quite as toothless as it might seem. The Department of Energy can intervene in state proceedings to advocate reforms and could appeal commission decisions in state courts. In addition, within two years after the date of enactment each public utility commission must consider five federal standards and within three years of enactment must consider an additional set of six federal standards. However, even after consideration the commissions are under no obligation to accept the standards.

A major provision of this section which has largely gone unnoticed deals with cogeneration and renewable power producers. The act establishes a number of incentives for the production of energy from solar and other renewable energy sources and the use of industrial waste heat for cogenerating electricity. The Federal Energy Regulatory Commission (FERC) has been directed to establish guidelines for utilities to purchase power from small-scale alternate energy producers and cogenerators.

In order to meet the costs associated with the increased responsibilities required by this act, the Department of Energy will make grants to public utilitiy commissions. These funds must supplement, rather than supplant, state funds. State offices of consumer services are also eligible for federal assistance, and additional assistance is available to states for funding innovative rate structure initiatives.

Energy Taxes

When originally submitted by the President, this section of the National Energy Act had a combination of "carrots and sticks" designed to promote conservation and alternative energy applications. During its travels through Congress almost all of the tax disincentives were removed. Most notably, the crude oil equalization tax (COET), called by Carter the centerpiece of the act, and taxes on businesses using oil and natural gas were removed. What remains are tax credits, estimated in the range of $1 billion in the first year, for homeowners and businesses which install energy-saving devices or solar equipment.

The most popular provisions of this section are the residential conservation and solar tax credits. Under the conservation provision, a homeowner could receive a credit of up to 15 percent of the first $2,000 spent on specific energy-conserving devices, up to a maximum of $300. The solar tax credits provide a credit of up to 30 percent of the first $2,000 and 30 percent of the next $8,000 spent on solar or other alternate energy equipment, to a maximum of $2,200. In both cases the credit would only apply to installations made after April 20, 1977 and before Dec. 31, 1985. The conservation tax credits apply only to homes existing on the date of enactment of the act, while the solar credits apply to both new and existing homes.

The act also provides tax credit of 10 percent for businesses which invest in business property energy resources other than oil and natural gas. At the same time the existing 10 percent investment tax credit and accelerated depreciation for investments in oil and gas boilers were removed, except in those cases where required by air pollution standards.

Another major provision of this section is the so-called "gas-guzzler" tax. Starting in 1980 any car which gets less than 15 miles per gallon would be subject to a tax ranging from $200 to $550. The tax would gradually increase each year until in 1986 any car receiving less than 23.5 miles per gallon would be subject to a tax ranging between $500 and $3,500.

In addition to these major provisions the act also provides tax breaks for the following:

- **Gasohol:** encourage the production of alcohol fuels;
- **Buses:** encourage the building of energy-saving buses;
- **Van-pooling:** a 10 percent investment credit would be available to employers who purchase vans for pooling;
- **Recycled oil:** exempt recycled oil from existing tax of 6 cents per gallon;
- **Geothermal:** allow deduction of intangible drilling costs.

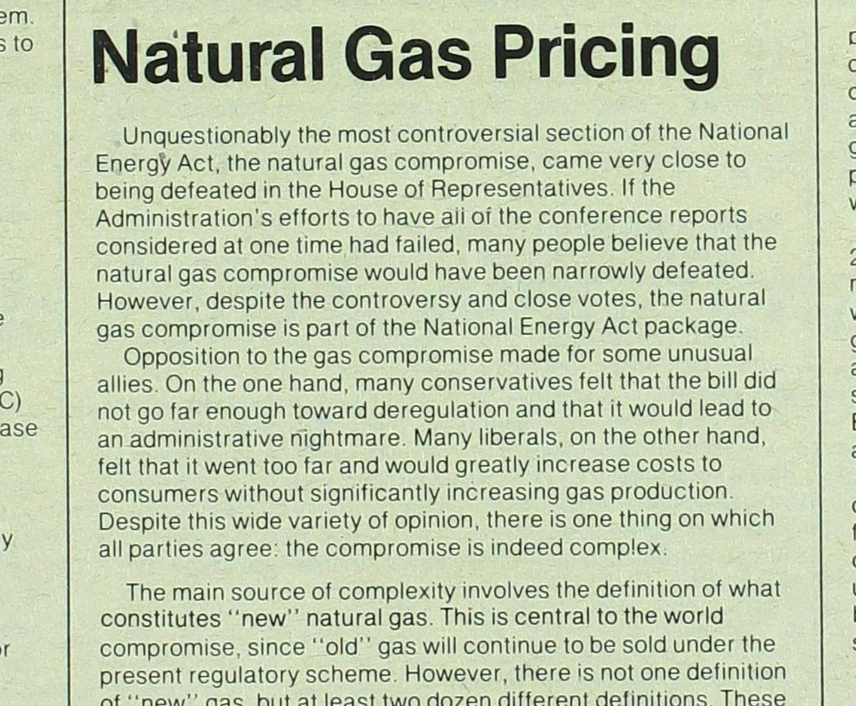
One of the concerns expressed during debate on this section was that there was already a shortage of insulation and that the tax credits would only increase demand and drive up prices. In conversation with a spokesperson for one of the largest insulation manufacturers, NACo was told that they are building four new plants and fully expect their competitors to do likewise.

Natural Gas Pricing

Unquestionably the most controversial section of the National Energy Act, the natural gas compromise, came very close to being defeated in the House of Representatives. If the Administration's efforts to have all of the conference reports considered at one time had failed, many people believe that the natural gas compromise would have been narrowly defeated. However, despite the controversy and close votes, the natural gas compromise is part of the National Energy Act package.

Opposition to the gas compromise made for some unusual allies. On the one hand, many conservatives felt that the bill did not go far enough toward deregulation and that it would lead to an administrative nightmare. Many liberals, on the other hand, felt that it went too far and would greatly increase costs to consumers without significantly increasing gas production. Despite this wide variety of opinion, there is one thing on which all parties agree: the compromise is indeed complex.

The main source of complexity involves the definition of what constitutes "new" natural gas. This is central to the world compromise, since "old" gas will continue to be sold under the present regulatory scheme. However, there is not one definition of "new" gas, but at least two dozen different definitions. These definitions involve everything from drilling new wells in existing fields to wells in discovered but not yet exploited fields to wells in newly discovered fields. Proponents maintain that the multiple definitions are necessary to ensure maximium new production, while minimizing the financial impact on the consumer.



Again, there is no agreement on how much additional gas will be produced because of the compromise and at what cost to consumers. The energy conference committee concluded that during the next seven years between .7 trillion and 1.4 trillion cubic feet (TCF) of additional gas would be produced at a cost to consumers of between $1 billion and $5 billion. However an analysis of the bill prepared by the Congressional Budget Office estimates that production would be much closer to the .7 TCF figure and costs to consumers over the next seven years would range between $8 billion and $16 billion.

The effect of this large increase on county government will be largely indirect. As the cost of natural gas rises, people on fixed incomes will have to struggle to meet their expenses. Increase in welfare caseloads may be a result as well as an increased demand for emergency assistance from people facing supply cutoff because they could not pay their bills. Both the Department of Health, Education and Welfare and the Department of Energy are aware of these potential problems and are studying whether existing social service delivery systems can handle these energy-related emergencies.

The effects of the compromise, however, will not be felt immediately since the legislation does not allow for the phase-in of the increased prices during the next seven years and further provides for the continuation of controls for an additional period at the end of the seven years, if Congress determines it is in the national interest to do so.

Coal Conversion

This section contains regulations designed to switch power plants and industrial plants from oil and natural gas to coal and other fuel. Although commonly known as the coal conversion section, it does not actually direct the use of coal as a fuel. What the regulations do is to prohibit the use of oil and gas in almost all new power plants and many large industrial plants. The assumption is that the fuel the industry will turn to will be coal.

The prohibitions affect power plants constructed after April 20, 1977 and which exced 10 megawatts in capacity. Since 10 megawatts is very small for a power plant, virtually all new plants will be affected. Exemption from these requirements will be granted under certain circumstances where coal or other fuels are not available or where a conflict may exist with state or local siting laws. New industrial plants with a capacity of 100 million BTUs or greater would face essentially the same prohibitions and be eligible for the same exemptions.

Existing power plants rated at over 100 million BTUs must convert to coal by 1990. However, there are some exceptions for smaller power plants which could demonstrate that they could not economically convert. Existing industrial plants are under no specific direction to convert. The final version of the bill places the burden of proof on the federal government to show why an existing facility should convert.

Among the other provisions are:

- **Small gas boilers:** the Secretary may prohibit the use of natural gas by any new boiler for space heating which uses 300 thousand cubic feet of gas a day. This would apply mainly to large buildings such as apartment complexes.
- **Decorative outdoor lighting:** would be prohibited in residences, i.e., gas lamps, after Jan. 1, 1982.
- **Emergencies:** President was granted the authority to allocate coal in the event of an emergency.

Of concern to counties is Section 601 of the act which provides for assistance to those areas affected by skyrocketing coal and uranium production. The program is to be administered by the Farmers Home Administration and run primarily through the states.

In order for a state to be eligible for a grant under the program, it must designate an "impact area" within the state which has experienced an 8 percent increase in employment within the preceding year or increases projected to exceed 8 percent during each of the succeeding three years. The employment spurt must be tied to increased coal and uranium production. States are the only governemnt units eligible for planning grants. However, assistance may be provided directly to local government with the concurrence of the governor. The Farmers Home Administration has not yet begun to work on the regulations. NACo hopes it will be able to improve the role of local governments as the regulations are drafted.

Continued on next page

NEA: What It Means

Conservation

The conservation section is essentially a package of nontax incentives designed to encourage the installation of energy conserving measures and devices. The legislation has designated a large role for public utilities which requires that they inform consumers on methods of saving energy and provide them with lists of businesses in their areas that are capable of performing the recommended services. While utilities are allowed to make small loans for the purchase and installation of specific measures, with the exception of three devices they are prohibited from installing any of the measures themselves. The costs of the public information aspects of the bill would become an allowable part of a utilities rate base while installation of the three specific devices would be billed directly to the homeowners.

While the bulk of the provisions of this section are directed toward energy conservation in the residential market, there are a number of programs which are of specific interest to local governments. These are the energy conservation in schools and hospitals program and the energy conservation in local government buildings program, the so-called Mikulski amendment (see accompanying article on the regulations).

The local government buildings program had been authorized for $32.5 million for each of fiscal years '78 and '79; however, appropriations were set at $32.5 million for both years. Of this amount $7.5 million is earmarked for preliminary energy audits of buildings and $25 million for technical assistance. The Department of Energy will make grants for up to 50 percent of the costs of these programs. Local grant applications must be submitted through the states and be consistent with the state plan. The schools and hospitals program parallels the program for local government buildings to a degree. An added feature of the schools and hospitals program is that it adds money for the purchase and installation of equipment.

Implementation money was originally authorized for $300 million a year for fiscal '78 through fiscal '80. However, the amount appropriated for fiscal '78 and '79 together was only $300.5 million.

In addition to the above, the conservation section extends the life of two ongoing programs. State conservation programs authorized under the Energy Policy and Conservation Act and the Energy Conservation and Production Act will be extended. Also, the current weatherization program has been amended and extended. The amount available for a single dwelling was doubled to $800 and the definition of allowable materials was raised. Money was also made available for rural housing, through the Farmers Home Administration, and for multi-family and public housing, through the Department of Housing and Urban Development.

Other programs established by the section include:

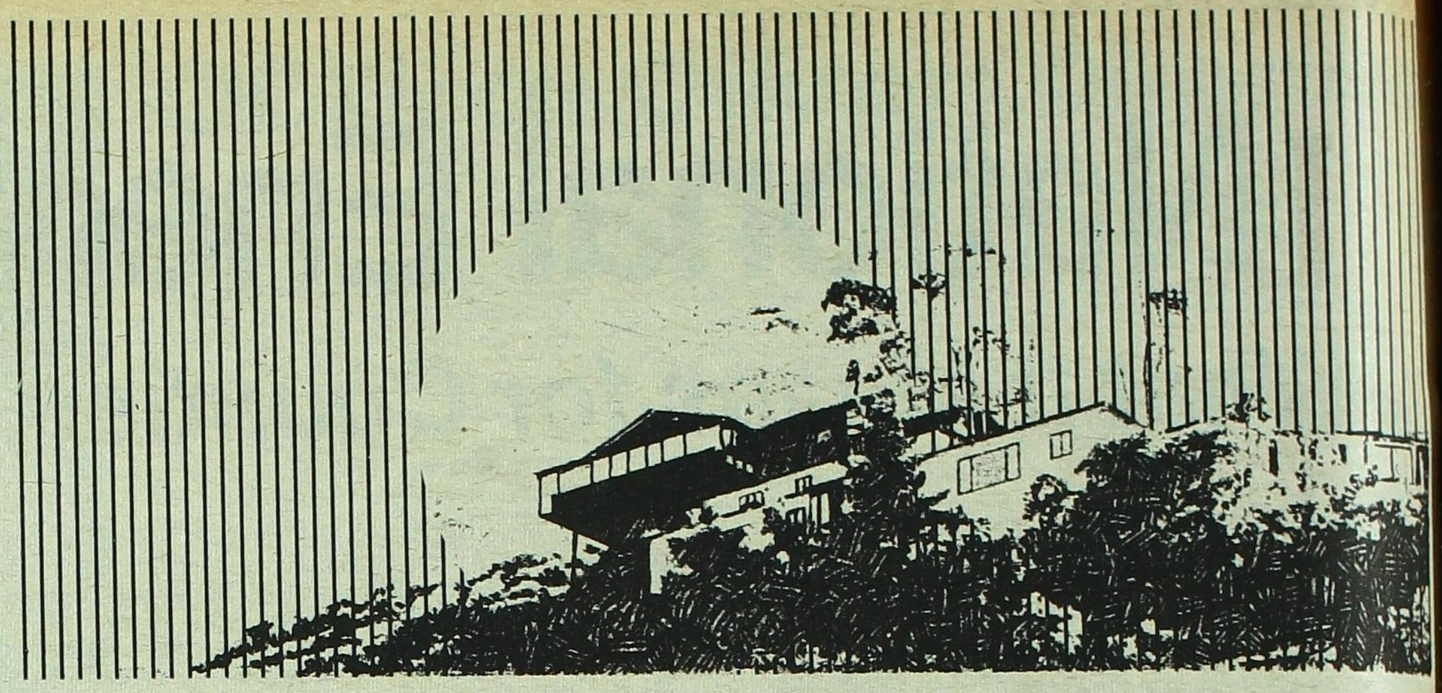
- **Appliance Efficiency Standards:** mandatory standards applying to 13 types of home appliances will be set within 30 months of enactment.

- **Recycling:** DOE must set voluntary targets for the recycling of energy-saving materials in four energy intensive industries: metals, paper, textiles and rubber.

- **Residential Solar Loans:** loans will be guaranteed by the Government National Mortgage Association. Loans will be limited to $8,000 and may be provided at either low or market interest rates.

- **New Buildings Efficiency Standards:** provides funds to the Secretary of HUD to develop energy conservation standards in new commercial and residential structures.

—Mark I. Croke



"MIKULSKI AMENDMENT"

Regs Are Being Drafted

Even as the debate raged over passage of the National Energy Act, the Department of Energy (DOE) began drafting the regulations for implementing the "Mikulski Amendment," named after Rep. Barbara Mikulski (D-Md.). The regulation would govern the conservation grant programs for schools, hospitals, local government and public health care buildings.

DOE is drafting the regulations in two parts. The first set of regulations will deal with the energy audits while the second will concern the technical assistance and energy conservation projects.

Preliminary Energy Audits

The audits are intended to identify the changes in operating procedures which could lead to significant energy savings without requiring large capital outlays. In addition to establishing a building profile which would include such factors as building size, hours of operation, and previous energy use, the audit will also identify possible retrofit measures. The Department of Energy estimates that if only the changes recommended in operating procedure are adopted, energy consumption in most buildings could be reduced by 10 percent to 15 percent.

Technical Assistance Programs

The intent of the technical assistance program is to develop the most energy efficient design for a building. This is accomplished through the use of a specialized engineering analyses. The result will be plans for the installation of energy conserving measures, including renovation, repair, replacement and insulation. In addition, the program may include studies of renewable resource measures and innovative technologies.

In order to be eligible for the technical assistance program a facility must: have an acceptable preliminary energy audit, the operating procedures recommended by the audit must have been implemented, and the audit must have indicated that further retrofit measures would pay for themselves within 10 years or less.

Energy Conservation Projects

Only schools and hospitals are eligible for energy conservation project grants. The grants will be given for those projects which pay for themselves in energy saving in 10 years or less.

State Plans

Both sets of regulations require states to develop plans for managing the programs and disbursing the two separate funds. In its application, the state must assure DOE that the views of affected institutions (i.e., local governments) have been solicited and considered in the development of the plans.

Each state must also assure DOE that all eligible institutions will be treated equitably. The state plans must specify the criteria for deciding among substate applicants and for setting priorities.

The state must also assure DOE that any local government that wishes and is able to conduct preliminary energy audits will be allowed to do so.

If the state chooses not to apply, or if its application is found unacceptable by DOE, the funds that would have gone to the state will be reallocated among participating states in the subsequent year. In that event, DOE may establish an audit program for schools and hospitals within the nonparticipating state after two years and nine months, but local governments and public care buildings cannot be audited by DOE.

After the state plan has been approved by DOE, eligible institutions may submit applications for preliminary energy audits to the state energy office. Applications from schools and hospitals must also be approved by the respective state school and hospital agencies.

Grant applications will be submitted annually to DOE through the state energy office, which will approve funding, establish priorities, and forward the applications to DOE for final approval and grant award.

In the event that a state is unable, because of "legal barriers," to pass grant funds through to local governments, DOE will provide the funds directly, upon state approval of the application.

It should be noted that these regulations are highly tentative. Up until the end of the legislative session the final outlines of the conservation section were not known for sure. The NACo staff has been working with DOE in the drafting of the regulations and we will continue to try and ensure a significant role for counties in implementing these programs. When the regulations are finalized, we will provide a detailed analysis for your use. However, we would recommend that you not wait for the final regulations before contacting your state energy offices. Make certain they make themselves familiar with the program and are prepared to move when the time comes. The programs will be highly competitive and early preparation will improve your chances of participating.

Counties Can Inform Consumers

One of the major purposes of the National Energy Act is to promote the increased use of solar energy and other alternate energy sources. Hand in hand with this go incentives for homeowners to insulate their homes and adopt other, sometimes exotic, energy-saving measures. Considering the proportions of the energy crisis, this purpose is above reproach. However, if the incentives are as successful as anticipated, there are certain results which have received little publicity and which could have a significant impact on counties, particularly those counties currently providing consumer protection services.

To the majority of American consumers solar energy and other alternate energy sources remain exotic technologies, seldom applied and little understood. As a result, consumers are at the mercy of irresponsible salesman and inflated claims. This problem is compounded by the fact that the solar industry is an infant industry, highly decentralized and diverse, with few recognized and well established companies. As consumers move to take advantage of the incentives offered under the National Energy Act, we can predict with certainty that hucksters and conmen will move to take advantage of the situation. We can also predict that as consumers become aware of their plight they will turn to county governments for help.

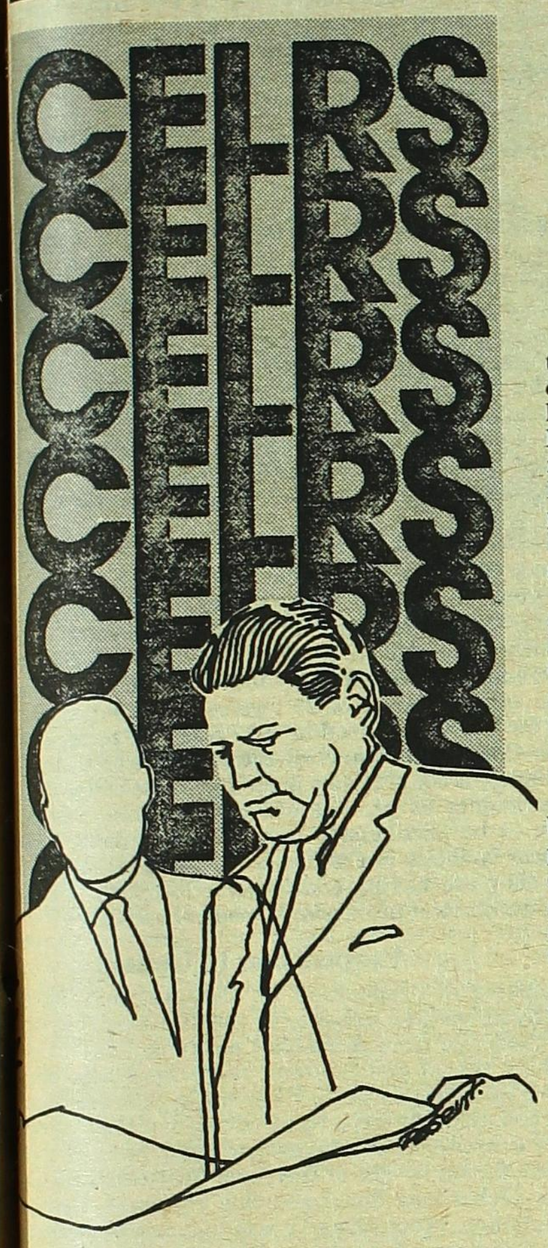
Even the more familiar areas of energy conservation, i.e., insulation, are subject to abuse. People have been known to put up to 28 inches of insulation in their attics in the mistaken belief that they were saving money. The costs of that amount of insulation, even if energy prices doubled or tripled, could not be recovered with years of energy savings. People have also used cellulose insulation, made of ground-up newspapers, which is highly flammable unless properly treated. Many people have found that their walls are full of untreated cellulose insulation, a fire hazard of incredible proportions.

What can counties do to protect their citizens from the above hazards, particularly considering the absence of any standards? The Department of Energy is aware of the problem and is particularly concerned with the development of standards. There is, however, an understandable reluctance to impose a high degree of regulation on a just emerging industry, in fear of stifling innovation. The consensus of opinion of business and government leaders appears to be that the best form of consumer protection is an informed consumer.

Perhaps the greatest role for counties is as information disseminators. While some protections may be available by a strict enforcement of fire and building codes, this will not assist consumers in making wise energy-efficient decisions. Effective information dissemination will require working closely with state energy offices and keeping informed of federal activities. The National Solar Heating and Cooling Information Center in Rockville, Md. will be glad to put you on their mailing list and provide updated information. In addition, the NACoR Energy Project publishes a newsletter which can help keep you up-to-date on developments in the field. Another source of information is the Solar Energy Industries Association located in Washington, D.C. For details on any of the above, call Mark I. Croke at the NACo offices.

New County Times
On County Modernization

Labor Management Special



New Service Launched

A new service program designed to enhance the labor relations and personnel management capabilities of county officials has been launched by NACo. The program, the County Employee/Labor Relations Service (CELRS), is part of NACo's Decision-Makers Resource Exchange, a general management assistance program funded in part by a grant from the Bureau of Intergovernmental Personnel Programs, U.S. Civil Service Commission.

Announcement of the new program will be made this week by NACo's Executive Director Bernard F. Hillenbrand. He explained that CELRS was established in response to numerous requests from county officials throughout the nation for information and assistance on labor relations and personnel-oriented problems.

"With the rapid growth of collective bargaining in the public sector and the proliferation of court and arbitration decisions, legislation and agency regulations affecting every aspect of a county's personnel system, county officials need our help to effectively cope," he notes.

Hillenbrand said that CELRS will provide a comprehensive program of support services and education to help meet the labor relations and personnel management needs of county officials.

In addition to organizing NACo's Annual Labor Relations Conference, which serves as a national forum for the presentation and discussion of modern management strategies and policies in public sector labor relations and collective bargaining, other CELRS services will include:

- An information clearinghouse to provide up-to-date information on significant legislative and agency actions, court and arbitration decisions and other labor relations and personnel developments;
- An expanded technical assistance service to answer questions on labor and personnel-related topics on an individual request basis;
- A new publication reporting regularly on current developments in employee and labor relations with special emphasis on how these developments affect county governments;
- A series of workshops and training seminars to be held throughout the nation on topics of current interest in labor relations and personnel management.

Last week, in conjunction with the NACo/CIC Federal Aid Conference in Washington, D.C., CELRS sponsored a general introductory workshop on the newly issued Uniform Guidelines on Employee Selection Procedures with Kenneth A. Millard, chief of the State and Local Section of the Personnel Research and Development Center, U.S. Civil Service Commission, as the principal speaker. The session was designed to provide county officials with a general overview of the new regulations.

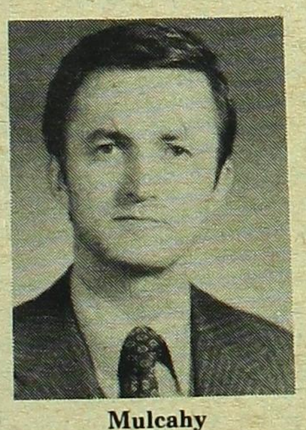
Heading the new program is Elizabeth Rott, director of the exchange, and Charles Loveless, NACo's labor-management relations specialist. Loveless was formerly associated with the Office of Labor Law, U.S. Postal Service and has experience as a management negotiator and as a management representative in arbitration hearings. As a result of Civil Service Commission funding, Hillenbrand indicated that CELRS' services will be provided at no cost to all NACo member counties.

John Franke, chairman of NACo's Labor-Management Relations Steering Committee, and chairman, Johnson County (Kan.) board, reviews the CELRS program.

Some Insights Into Compulsory Arbitration

by Charles C. Mulcahy
Mulcahy and Wherry, S.C.

Editor's Note: This article will be the first in a regular series by Charles Mulcahy, NACo labor counsel, focusing on various labor relations topics of special interest to county governments.



Mulcahy

More and more states are enacting compulsory binding arbitration laws. NACo feels that additional background is important for county officials to determine whether legislation of this type should be enacted and, if enacted, how to cope with it. This article is intended to provide some insights into several areas which concern county employers. First, county officials should be aware of the types of issues that are being included in compulsory binding arbitration proceedings. These issues are both economic and noneconomic. Second, the use of criteria by arbitrators in rendering their decisions should be better understood. Third, the arbitration process is a natural result of the political process. Whether arbitration in the long term will prevent county employee strikes has not been determined. Compulsory arbitration is something which will affect all county officials either directly or indirectly.

ARBITRATION ISSUES

Compulsory binding arbitration normally deals with issues in two ways: economic and noneconomic.

In viewing economic issues, it is not sufficient to include only wages; fringe benefits must also be taken into account. Several arbitrators have noted that fringe benefits represent a "cost" to the employer and they indirectly or directly place money into the pockets of the employee. What, then, are the economic issues that are being processed through to arbitration? Without a doubt, the greatest number occur in the area of wages. Included within this broad topic are cost-of-living provisions and longevity. Impasse often develops over insurance benefits as well; included here are health, dental and life insurance.

Unions have been attempting to win fully paid insurance benefits, while the employers have been trying to maintain strict dollar limitations or lower percentages. Unions have also been advocating that if any changes in coverage occur, they be superior to current coverage. Of lesser frequency, the issues of leave, clothing allowance, professional improvement and overtime are also being included in binding arbitration.

A number of noneconomic issues are also being carried into arbitration proceedings, such as management rights and union security provisions. Unions have attempted to erode management's position by advocating the removal of key prerogatives such as the right to subcontract. Additionally, there have been frequent attempts to win, through arbitration, agency shop or fair share provisions. Frequently, also, issues involving the grievance procedure and the duration of the contract are included in the proceeding. Noneconomic issues are frequently neglected in the bargaining and/or arbitration process because no money is directly involved. Later, when counties are unable to manage their affairs efficiently, the cost implication is dramatic and extensive.

BASIS FOR ARBITRATORS' DECISIONS

Various factors are considered by arbitrators in rendering their decisions. Public sector bargaining and arbitration laws frequently establish criteria for the arbitrators. The Wisconsin law, for example, provides specific criteria: the lawful authority of the employer, the stipulations of the parties, the interest and welfare of the public, the financial ability of the unit of government to pay, the comparison of wages, hours and conditions of employment with similar employees and other public sector employees, both within and without the community, the consumer prices, overall compensation, etc. Frequently, both the union and the county use criteria involving comparison of wages, hours, conditions of employment and overall compensation and consumer prices. The county, in certain instances, will argue the interest and welfare of the public or inability to pay, but these arguments are infinitely more complex and subject to varying interpretation.

Arbitrators generally weigh wages, hours and conditions of employment and overall compensation heavily in rendering their decisions. The weight given these three factors is not evenly distributed, however. Generally, overall compensation is given the most weight unless there appear to be severe inequities in wages between the comparable groupings. Arbitrators have been reluctant to award benefits or wages to employees in cases where the employees would be placed in a superior comparative position. By the same token, they are extremely reluctant to take benefits away from employee units. Arbitrators also tend to weight the cost of consumer prices heavily when offers of both parties are relatively competitive, but one or both are below the cost of living as indicated in annual increases of the consumer price index.

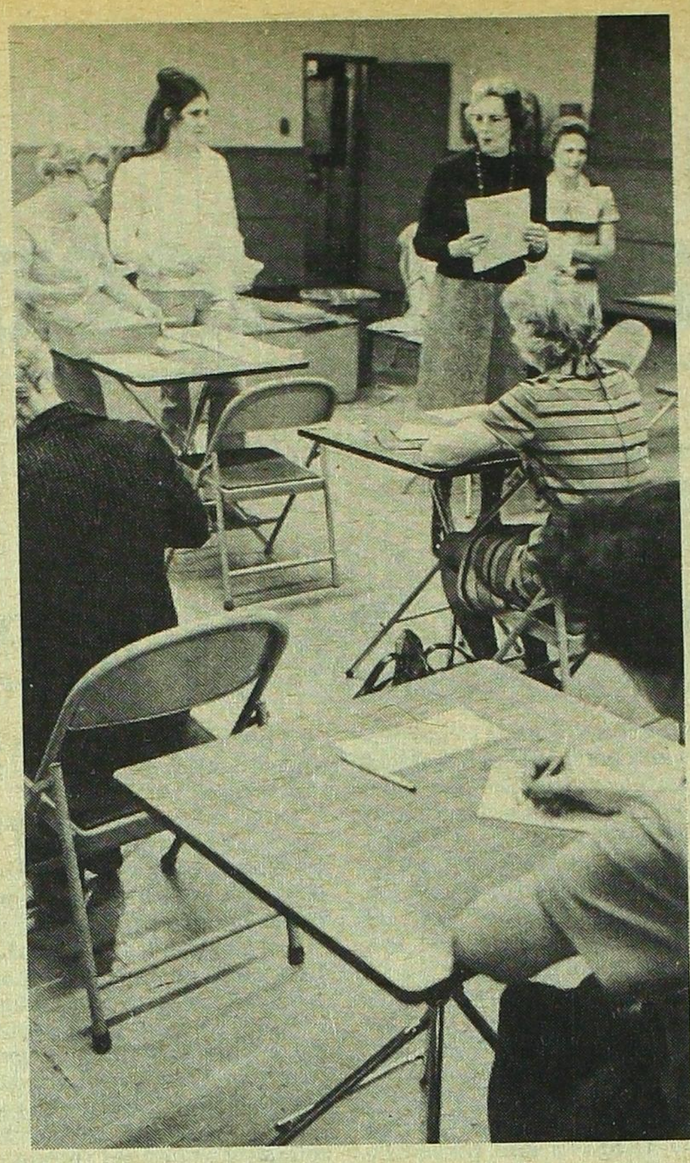
ARBITRATION AS A POLITICAL ANSWER

The collective bargaining process, arbitration and strikes in the public sector operate within a political, power-oriented environment. There are three major factors within this environment: the county, the county employee and the public. The county is most frequently a county board (or a single elected official) who is accountable to the electorate. The county employee is frequently represented by a strong labor organization which is able to articulate its interests either through a lobby effort at the legislative level or through the potential to withhold an essential commodity—labor. The labor organization is only accountable to its membership, and not the public at large.

Counties are strongly influenced by the voting public in this process. Even the most conscientious of elected officials demonstrates a concern for reelection, and their actions are affected accordingly. During this post-Proposition 13 era, there is reluctance to make an unpopular decision affecting the electorate. The elected official does not wish to alienate the public by granting wage and benefit offers that are so high as to affect the tax rate or so low as to create a work stoppage, thereby withholding what the public considers essential services. Arbitration, compulsory or

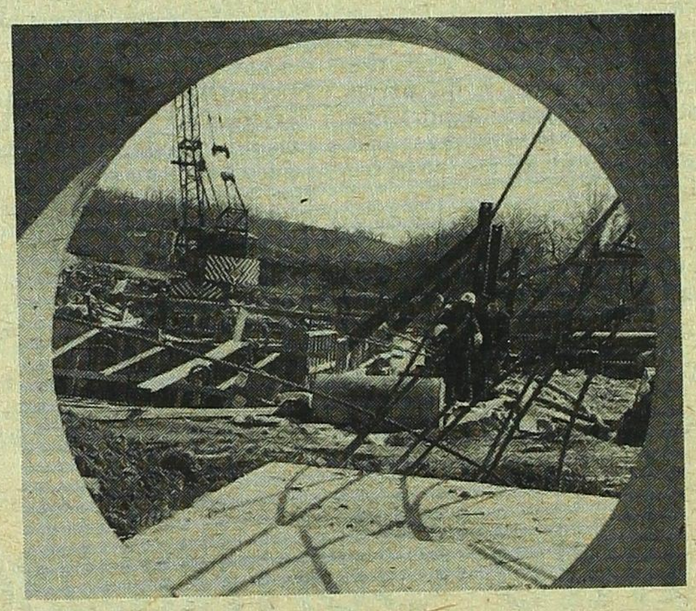
See MULCAHY, page 5

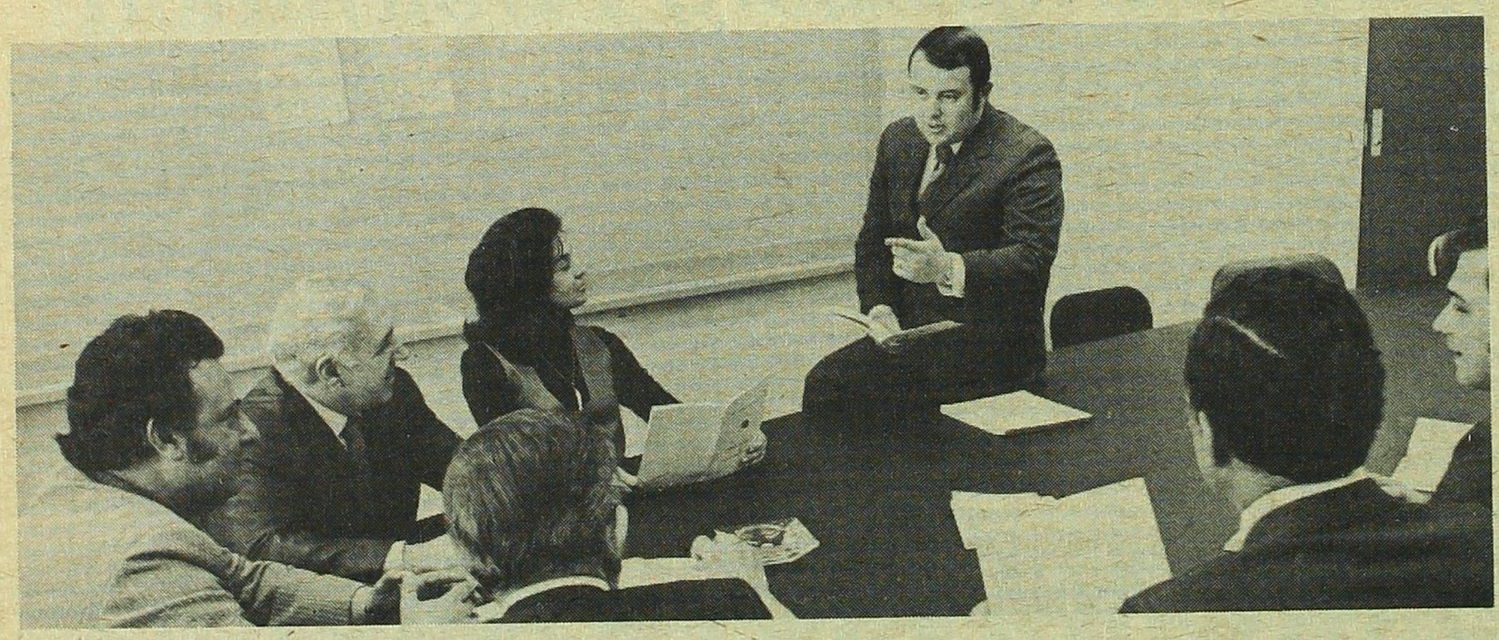
This special supplement was prepared by Chuck Loveless under the supervision of Bruce Talley, associate director, and Elizabeth Rott, project manager. It was funded, in part, by the Bureau of Intergovernmental Personnel Programs, U.S. Civil Service Commission. Opinions do not necessarily reflect those of the commission. A special thanks to Violet Ollis for her assistance in preparing the manuscripts.

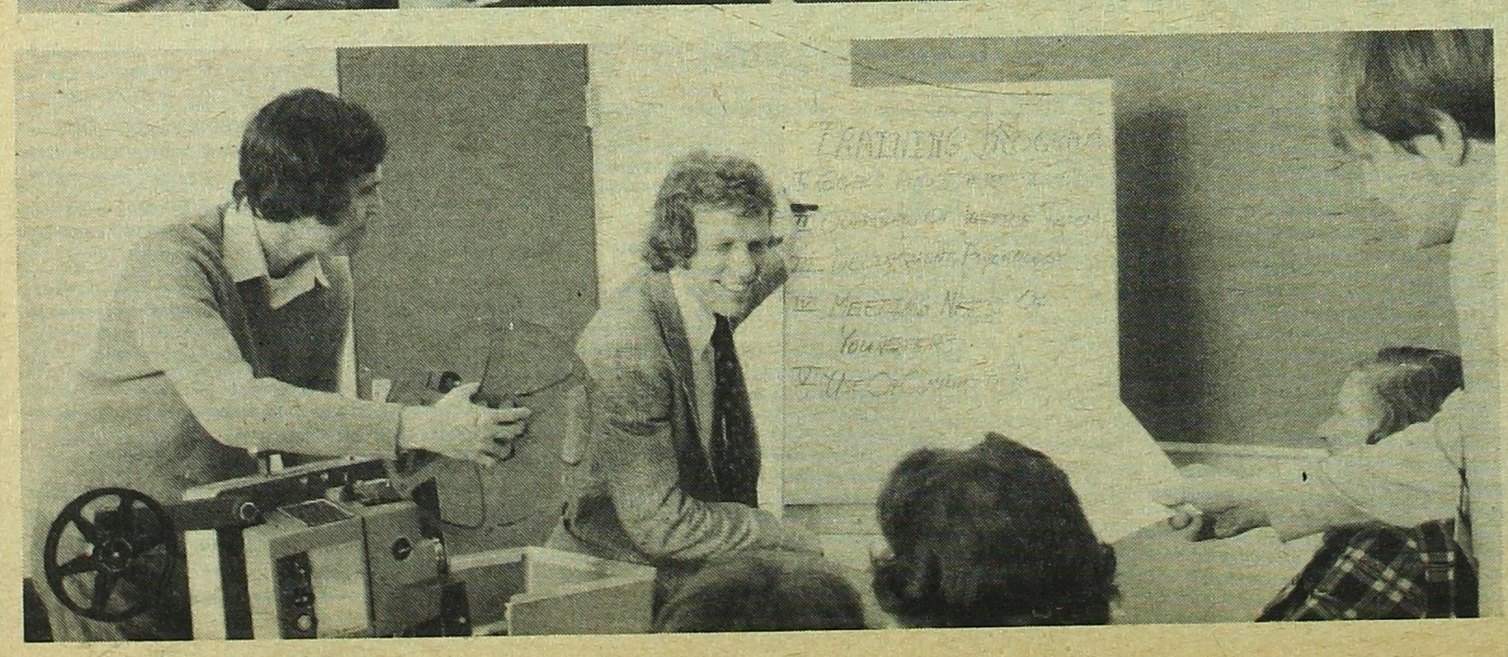


Need Help with a Labor or Employee Relations Problem?

CELRS, **the County Employee/Labor Relations Service, sponsored by the National Association of Counties, is here to help county employers. An information clearinghouse, a technical assistance program, a workshop and seminar program on topics of current interest in labor relations and personnel management, and a new publication placing special emphasis on how current developments in the field affect you—all these are part of the new CELRS program. If you need our assistance, simply call the CELRS office at NACo—202/785-9577—and we will either help you directly or put you in touch with someone who can.**







NEWS A

Editor's Note: This column will be the first in a regul reporting on significant news developments in labor ployee relations of special interest to counties. Reade vited to submit items to the editor which they believe general interest to our readers. Please address all co dence to Editor, New County Times-Labor/Employee Supplement, National Association of Counties.

Massachusetts Vet Preference Law Under A

The U.S. Supreme Court recently agreed to decide w **preference accorded veterans** in hiring and promotion civil service employment violates the Constitution. Th important because, in addition to Massachusetts, 46 st **the federal government** have veterans preferences in t service systems. A key issue is whether the ackno discriminatory impact of the state's veterans prefer (only 2 percent of the state's veterans are women) has tended by the state legislature in an impermissible w thus, operates to deny women **equal protection**.

Impact of Proposition 13 on Job Turnov

Since the passage of Proposition 13 in California, cou city governments are experiencing **inordinately high** among their personnel **not related to layoffs**. Napa recently evaluated its staff turnover from June to Se 1978, and, excepting layoffs, found the turnover rate c on an annual basis to be 25.1 percent. In contrast, the rate for the same period in 1977 was 16.7 percent. Bill Napa County personnel director, indicates that if th continues, it could have a profound effect on the ability governments to provide efficient services. The pro pears to be **particularly pronounced in public hospi** medical facilities in California with several counties r that they are having considerable difficulty in keepi cient numbers of professional medical personnel.

Proposition 13 Upheld

Speaking of Proposition 13, the California Supre recently upheld the measure as constitutional. The cou ed a challenge from **Alameda County** and more than counties, school districts and educational associatio argued that Proposition 13 was not a mere amendme state constitution but a basic revision of the constitu only a constitutional convention could enact. In the opinion signed by six of the seven justices, Associate Frank Richardson dismissed this argument, stating the contrary, Proposition 13 was "**modest both in co effect** and does not change our basic governmental pl justices also rejected as "premature" the argument measure impairs collective bargaining contracts and o tractual obligations which were incurred by local gove prior to enactment of the tax-cutting initiative, noting case has yet been brought before the court demonstra a preexisting contract has been impaired.

Post-Proposition 13 Law Banning Pay Raises

Also of Proposition 13, California Superior Cou Louis Burke recently ruled that a **California law ban raises** for most local government employees wa stitutional. The law, which was enacted to im Proposition 13, requires local governments to cance creases for their employees if they want to receive funds from the state surplus. The case was bro representatives of 900 **Solano County** workers who we a 7.3 percent cost-of-living increase due last summe two year contract with the county. Donald Benedett County personnel director, indicated that the county intend to appeal the decision but is awaiting the Supreme Court's resolution of several similar cases w filed by various employee organizations contesting Proposition 13 law.

Innovative Position Classification and Salary Study Launched

The **Maricopa County** (Ariz.) Board of Supervisors **contracted with Touche Ross and Company** to cond depth review of **650 position classifications** and sala for its 6,564 county employees. To accomplish this review committees were formed composed of 50 co ployees. The committees were divided into five specific administration, technical/professional, management and medical. The evaluations consisted of a comple **system** covering responsibility, supervision, ed availability, special certification and other pertine Further information on the innovative study may be by writing William J. Feldmeier, Budget Director, County, Ariz.

Minnesota's Public Employee Bargaining Law Under Scrutiny

After six years of collective bargaining experie Minnesota's comprehensive public employee barga **Rolland C. Toenges, Hennepin County's labor relati tor,** reports that Minnesota public employers appear **creasingly concerned** over those provisions of the require **compulsory binding arbitration** of impas "essential" employees and collective bargaining

ROSS THE NATION

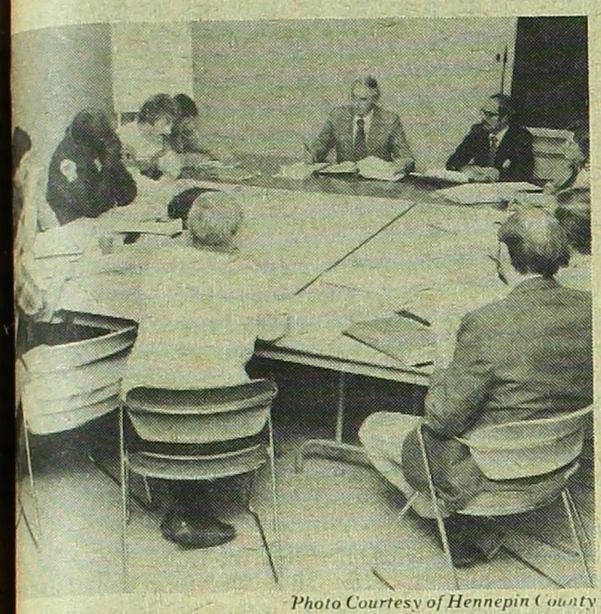


Photo Courtesy of Hennepin County

n County (Minn.) management negotiating team led nd C. Toenges, Director of Labor Relations, negotiates Hennepin County Ambulance Drivers Association r the terms of a new collective bargaining agreement.

anagerial **employees.** Toenges indicates that the ublic employers are **declining to submit** issues to bind- tration and are accepting strikes with increasing y when they have a choice. If the employees involved rgaining impasse have been determined to be "essen- he safety and health of the public, however, the public does not have a choice and must submit the matter to ory binding arbitration. Hennepin County's director of ations notes that there appears to be a growing at- Minnesota that the numbers and categories of em- defined as "essential" should be more limited or that ermination should be left to the public employer's n at the time of impasse. Toenges indicates that the about collective bargaining rights for supervisory- ial employees appears to be increasing due to a awareness of the conflict of interest this situation or supervisors and the **adverse effect** this has had on tiveness and efficiency of government operations.

ng Grievance Arbitration May Be Adopted by County School Boards in Virginia

a's Attorney General Marshall Coleman recently opinion letter expressing the view that county school Virginia, subject to State Board of Education ap- ay adopt a **grievance procedure** for their employees ncludes **binding arbitration.** While the Virginia Court's decision in *Parham vs. School Board of the chmond* held that the state constitution prevents the rd from requiring binding grievance arbitration of ool districts, Coleman believes that the *Parham* does not prevent a county school board from volun- pting such a procedure. However, Ed Oliver, director oyee relations for the **Arlington County schools,** hat "a fair reading of *Parham* could lead one to con- ferently."

rants Used For Labor-Employee Relations

Maslar, executive director of the **County Com- rs' Association of Ohio** reports that the association ve an Intergovernmental Personnel Act (IPA) grant U.S. Civil Service Commission to set up **training** on personnel administration, labor relations and other anagement topics for Ohio county officials. Maslar that these sessions will be held next year and that ill be reported later in *County News.* Mike Morell of **Association of County Commissioners of Florida** hat his association also recently received an IPA provide personnel management and labor relations assistance to Florida counties. Carol Wikoff, for- h the International City Management Association, hired to serve as the association's personnel/labor administrator.

sure on November Ballot Would Prohibit Sector Compulsory Arbitration in Florida

age of proposed revisions to the Florida State Con- will be submitted to the voters in November which in- measure **prohibiting** compulsory arbitration in the local governments. The **State Association of County sioners of Florida** played a key role in ensuring that sure would be included in the constitutional revision The Florida Public Employer Labor Relations on which represents 91 county and city governments out strongly in support of the measure.

ville County Launches New Merit System

es, director of administrative and human services of County, S.C., reports that his county recently adopt- **merit system** for county employees. County em- ployees are now eligible for merit pay increases on their employment anniversary dates of up to 7.5 percent depending upon the results of an annual performance appraisal. He states that the new system **should recognize performance differences** among employees and provide **fair rewards** based upon ability and performance. Further information on the new merit system can be obtained by contacting Hayes.

Countywide Bargaining Units Upheld for Nebraska Welfare Employees

The Nebraska Supreme Court recently upheld a decision of the state's Court of Industrial Relations which found that the appropriate bargaining units for welfare department employees was **countywide.** Rejecting a challenge by the state that the correct unit was statewide, the state's highest court said there was **not a sufficient community of interest** among welfare employees beyond the county level to justify the creation of a single state bargaining unit. "Prior bargaining history has been established only at the county unit level, and whether successful or not, in only a very few counties. There is **no prior statewide bargaining history** for county-level welfare employees. There is little or no interchange of employees between counties or between the state and a county. Each county operates its welfare program independently of the program of any other county... ," the decision notes. The issue arose because an American Federation of State, County and Municipal Employees local petitioned to be declared the exclusive bargaining representative for Douglas County and Lancaster County welfare employees.

New York County Sessions Focus on Collective Bargaining

"Stretching county tax dollars is the name of the game and strengthening professional personnel and collective bargaining practices is a critical part of any winning strategy." This was the advice given by Louis Mills, executive director of the Hudson Valley Regional Council and former Orange County (N.Y.) executive, to more than 60 elected and appointed county officials at two recent workshops on labor relations and personnel practices sponsored by the **New York State Association of Counties.** Funded in part by an IPA grant, the sessions are the first in a series **highlighting collective bargaining strategies,** the role of the public employee relations board and the administration of collective bargaining contracts. According to Pat Walsh of the state association, officials from **eight New York counties** have been participating in these sessions.

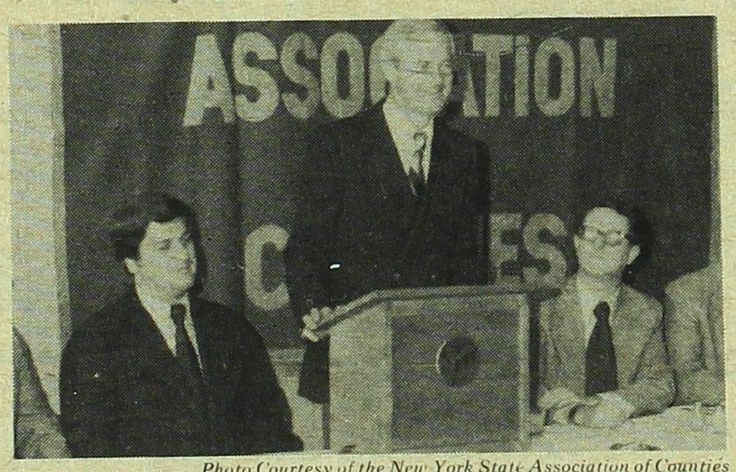


Photo Courtesy of the New York State Association of Counties

Louis Mills, Executive Director of the Hudson Valley (N.Y.) Regional Council addresses county officials at a labor relations training workshop sponsored by the New York State Association of Counties.

Wayne County Ordered to Reinstate Hospital Firefighters for Life of Contract

The Michigan Employment Relations Commission recently ruled that the Wayne County (Mich.) Board of Commissioners engaged in an **unfair labor practice** by not bargaining in good faith when hospital firefighters were unilaterally laid off before the expiration of their collective bargaining contract. The board, which adopted a budget calling for the layoffs, was ordered to reinstate the firefighters for the duration of their contract. "**However meritorious the elimination of possible duplication of fire fighting forces** might be, it does not justify the renunciation of the agreement or fulfill the county's bargaining obligation. The county, after entering into a collective bargaining agreement whereby it agrees to pay certain employees certain wages for a certain term of time cannot renounce the agreement merely because it could have obtained a better deal elsewhere." the opinion states.

Workshop Scheduled

Oregon's **Local Government Personnel Institute** (LGPI) which includes 21 Oregon counties as members recently announced a preliminary agenda for its third annual employee relations workshop to be held in Eugene, from Nov. 30 to Dec. 1. This year's workshop will focus on "**Coping With the Taxpayer Revolt:** The Personnel and Labor Relations Response to Limited Budgets and Increased Efficiency Demand." Further information on the conference may be obtained by contacting LGPI, 1201 Court Street, N.E., Salem, Ore. 97308.

Consequences of Proposition 13

by Edward J. Gusty
Commissioner of Personnel
Onondaga County, N.Y.

Gusty

Proposition 13, the California property tax reduction initiative which passed by an overwhelming margin this past June, has sent shock waves across the country that more than likely will affect the delivery of services at all levels of government for years to come. As double digit inflation continues to run unchecked, public employers and the organizations which represent public employees will be scrambling for the reduced revenues available for running state and local government operations.

Limits on state and local government spending are under way across the nation. Spending limitations have already been enacted in Colorado, New Jersey and Tennessee. In New York, shortly after passage of Proposition 13, the state's commerce commissioner called for the enactment of a constitutional amendment to limit the total number of public employees to 3 percent of the population. This has been estimated to mean a dismissal of as many as 50,000 state workers and as many as 70,000 local government workers.

The reaction to all this has been swift, and the signals are loud and clear. Local governments in state after state are beginning to feel the pinch of the various calls for reduced revenue and are having to move toward restructuring expenditures and programs. Many local governments are considering the merger of services, including city-county consolidations and the granting of more authority to regional governmental structures as a means of improving government efficiency. The demand will be to develop more innovative and efficient government operations at less cost than ever before.

What does this all mean for the future of public sector labor relations?

Perhaps there was a time when public service was considered a laudable occupation, although it now has become apparent that the voter does not think highly of either those who set government policy and do the taxing or those who are actually performing public services. It is my belief that this growing lack of confidence in government itself will translate into a complete review and possible cutback of public service, including layoffs of public employees, more restrictive hiring practices and certainly tougher public sector collective bargaining than ever before.

SHIFT OF FINANCIAL POWER

This tidal wave of tax revolt at the local government level suggests great potential for a shift of government power and perhaps a weakening of the strong home rule concepts of local government. With strict taxing limitations being clamped on local governments, counties, cities and school districts may find themselves in the uncomfortable position of having to go, with hat in hand, to the state capitol or to Washington to obtain new sources of revenue. Of course, it goes without saying that new sources of funding which are uncovered at the state of federal level will come with many strings attached.

This shift of financial power could ultimately affect the scope and form of collective bargaining in the public sector. If state aid formulas are affected or changed as the result of a joint lobbying effort by both public employer representatives and the public employee organizations, the structuring of local government services may be profoundly affected. This type of fiscal shift could accelerate the movement toward more metropolitan concepts of local government by combining services for local delivery in such broad areas as highway maintenance, health services, zoos, libraries, etc. Indeed, within the last few years, the city of Syracuse and the county of Onondaga have moved cooperatively toward merger of such services, including a countywide takeover of the public zoo and library system, and, as far back as 10 years ago, had organized a countywide health service.

COALITION BARGAINING

Although not a discernible trend until very recently, it is conceivable that the movement toward a more regionalized approach to the delivery of local government services could bring us to a coalition concept of collective bargaining in the public sector. Coalition bargaining is analogous to the concept of multi-employer bargaining in the private sector. Increasing use of this mechanism may well fuel intergovernmental cooperation and be seen in the future as an important tool in the success of joint ventures.

Some public sector labor relations practitioners have long perceived that coalition bargaining could conserve scarce administrative resources and time. For example, it could help avoid the so-called "whipsaw effect" on the collective bargaining process which occurs in public jurisdictions of relatively close or contiguous geographical areas. Coalition bargaining, it is felt, however, will fundamentally change the nature of bargaining in given situations and would only be op-

See GUSTY, page 8

Counties and the Equal Pay Act

by Chuck Loveless
NACoR Research Associate

Editor's Note: This article will be the first in a regular series examining significant federal and state court decisions and their potential impact on county personnel and labor relations management.

We all probably have been "Bakked" to death during the past several months with the countless number of newspaper, magazine and journal articles speculating on what the Supreme Court's decision in *Bakke vs. Regents of the University of California* really means for employers. However, two recent U.S. Court of Appeals decisions with potentially far-reaching implications for state and local government employers have not elicited much comment.

Following the lead of two other federal judicial circuits, the Sixth and Seventh Circuits which encompass most of the midwestern states have recently issued decisions upholding the applicability of the Equal Pay Act provisions of the Fair Labor Standards Act to state and local governments. While the issue has not been definitively resolved by the Supreme Court, these rulings, when combined with earlier decisions in the Third and Fourth Circuits, leave little doubt that the Equal Pay Act as applied to all public employers will be upheld.

The Equal Pay Act prohibits wage discrimination based on sex. It was adopted by Congress in 1963 in the form of an amendment to the Fair Labor Standards Act of 1938 (FLSA). At that time, FLSA and, thus, the Equal Pay Act did not apply to state and local governments. However, in a series of amendments beginning in 1966 and culminating in 1974, Congress voted to substantially eliminate the FLSA exemption for state and local government employment.

In 1976, in the now famous National League of Cities case, the Supreme Court struck down the application of FLSA's minimum wage and overtime provisions to state and local governments as an impermissible exercise of congressional power under the Commerce Clause of the Constitution. In the majority opinion written by Justice William Rehnquist, the court reasoned that the 10th Amendment and principles of federalism inherent in the Constitution serve to limit the scope of Congress' constitutional powers to regulate commerce. In the court's view, the extension of the minimum wage and overtime provisions of FLSA to state and local governments "transgressed that limitation because it operated to directly displace the states' freedom to structure integral operations in areas of traditional government function." The power to determine the wages which shall be paid to employees who perform "traditional government functions," what hours they will work and what compensation they will be provided when they are called upon to work overtime was reserved for state and local government employers.

Attempting to use the National League of Cities decision as a shield, several county and city governments have argued that they also are exempted from the Equal Pay Act provisions of FLSA. They maintain that this decision strikes down for all purposes Congress' inclusion of state and local governments and their employees as "employers" and "employees" within the meaning of the fair labor standards law. According to this view, the equal pay provisions are not severable from the miminum wage and overtime provisions of FLSA and, hence, must also be held to exceed the scope of Congress' commerce powers.

Rejecting this position, the U.S. Department of Labor's Wage-Hour Division which is charged with enforcing the Equal Pay Act has taken the view that the Supreme Court's decision in *National League of Cities* is limited solely to the minimum wage and overtime provisions of FLSA. It, therefore, maintains that the equal pay provisions cover state and local government employees.

The four federal appellate courts which have addressed this issue, most recently the Sixth Circuit in *Marshall vs. Owensboro-Daviess County Hospital* (Aug. 9, 1978) and the Seventh in *Marshall vs. City of Sheboygan* (May 24, 1978), have come down squarely on the side of the Wage-Hour Division. These decisions adopt the view that the Equal Pay Act is an antidiscrimination measure and as such constitutes a valid exercise of Congress' power to adopt legislation enforcing the equal protection guarantees of the 14th Amendment. The equal pay provisions of FLSA are consequently not dependent on the Commerce Clause. They are "separate legislation, aimed at a different evil" and while they are "housed in the same law", they stand separately from the minimum wage and overtime provisions of FLSA.

The Equal Pay Act at a Glance

- **As an employer, you cannot discriminate by paying wages to employees of one sex at a lower rate than you pay wages to the employees of the opposite sex for jobs requiring equal efforts.**
- **As an employer, you can pay different wages if your wage differential is based on a bona fide seniority system, merit or "any factor other than sex."**
- **As an employer, you are required to keep wage and time records for all of your employees which must be readily available for inspection by representatives of the U.S. Department of Labor's Wage-Hour Division.**

GUSTY

continued from page 7

portune if the parties were able to agree voluntarily to such a concept.

A possible additional effect of Proposition 13 fever is increased utilization of the judicial system to resolve outstanding issues between public employers and employee organizations. We have already seen labor organizations filing suits challenging the constitutionality of Proposition 13 in California, and it is quite likely, as the scramble continues for matching budgets and revenue with public demands for government services, more labor-oriented issues will be ultimately settled in the courts. Public unions have already filed suit in many states to enforce existing contract provisions such as those calling for cost-of-living wage increases when employers have indicated a reluctance to honor such contractual commitments.

The current situation will also undoubtedly add a new dimension to the "lack of ability to pay" argument which certain public employers have been using with increasing frequency during the past several years to rebut the bargaining demands of public employee organizations. Conceivably, this type of argument will gain wider currency in public sector labor relations. Nevertheless, we must also look forward to representatives of employee organizations, armed with accounting balance sheets and financial analyses, being prepared to rebut such arguments with increasingly sophisticated responses.

EMERGING PUBLIC EMPLOYEE UNIONS

It is possible that public employee unions, faced with potential job layoffs and with contracts containing little or no pay raises, will become more aggressive in their bargaining demands. The growing union movement in the public sector, already in sharp contrast to its private sector counterpart, could emerge as a stronger and more viable force at both the national and local level.

At a recent annual convention of the American Federation of State, County and Municipal Employees, national President Jerry Wurf, although arguing for tax reform to ease the burden on the homeowner, warned: "In the face of an 8 to 10 percent inflation rise, wage increases for public employees have fallen below the inflation rate. We must insist on an automatic cost-of-living increase."

This statement suggests a period of stormy and difficult labor relations ahead, potentially lengthy strikes in some sections of the country and certainly numerous rejections of recommended agreements by the rank and file. Already we are experiencing a higher rate of contract rejections in the public sector.

As the collective bargaining process becomes tighter and more difficult in local government, and while job security will continue to be a primary issue, I believe that wage freezes will cause the most friction between the parties as public employee wages begin to fall below prevailing wage rates in the private sector. Employee organizations could become a target of the public which has been ignited by Proposition 13 fever. Indeed, public employers may find themselves in the curious position of defending the employees who sit at the other end of the bargaining table and may have to speak out in defense of the quality of the services which are provided by these employees.

INCREASED PRODUCTIVITY

Programs to increase the level of productivity and efficiency of public services will no doubt be expanded. Productivity bargaining will continue to grab the headlines in many areas, and public managers, as part of the overall effort to maintain and increase governmental efficiency, will push for the right to determine the standards of services to be offered by the government and to determine the methods, means and personnel by which such services are to be provided. For example, if a local policy-making body finds a less costly and more efficient way to provide security services to public institutions such as a hospital, a decision may have to be made to subcontract such services rather than continue to employ security personnel on the public payroll. A recent court decision in Westchester County, N.Y. indicates judicial support for this kind of managerial decision.

Many additional efforts can and will be made by local government officials to increase efficiency, ranging from better policing of public employee probationary periods to comprehensive revamping of a civil service statute to provide public employers with the flexibility necessary and desirable to better manage public personnel systems.

***ABOUT THE AUTHOR*—Since 1974, *Edward (Ned) J. Gusty* has served as commissioner of personnel of Onondaga County, N.Y. From 1969 to 1974, he served as the county's director of labor relations. He is past president of the National Public Employer Labor Relations Association (NPELRA), past president of the New York State County Employee Relations Officers and is a member of NACo's Labor-Management Relations Steering Committee. Gusty has lectured and written extensively on labor and employee relations topics and has served as an instructor in the public personnel administration program of Syracuse University's Maxwell School of Public Administration.**

Look Us Over!

This is NACo/CELRS' first labor/employee relations supplement for *County News*. Within the next several months we will be starting our own newsletter which focuses exclusively on labor relations and personnel-related developments as they affect you. If you are interested in receiving such a publication, please fill out the coupon below and return it to NACo.

Name _____

County _____

Position _____

Office Address _____

_____

Phone _____

Please return to: Editor, NACo/CELRS
Labor Relations Supplement
National Association of Counties
1735 New York Avenue, N.W.
Washington, D.C. 20006

MULCAHY

continued from page 3

voluntary, therefore, is seen as a convenient method by which public accountability can be held at bay.

It is unfortunate that so many officials actively use the arbitration process in this way. More and more, elected officials indicate they do not wish to make a particular labor decision. The third party neutral is called in to rule on an issue which should be handled within the bargaining process.

It has also been suggested that arbitration retards the collective bargaining process by discouraging the parties from making a true attempt to negotiate. Neither party wishes to offer too much, just in case they are forced into the process of arbitration. The attitude has been that more concessions will have to be made during the course of the arbitration procedure. The inverse is also true. Many issues peripheral to true union or management priorities are carried into arbitration with the attitude that there may not be a great deal to lose, but there will be much to gain. Such an attitude, when displayed by management and unions, impedes good faith bargaining.

Whether compulsory arbitration provides a sound vehicle to resolve county labor problems in the future remains to be seen. Most county

Whether compulsory arbitration provides a sound vehicle to resolve county labor problems in the future remains to be seen. Most county

officials don't relish giving outsiders authority to award contracts and set tax rates.

ARBITRATION AND STRIKES

Compulsory binding arbitration legislation aims at eliminating county employee strikes by giving county employee unions an absolute vehicle to resolve their labor problems within the law. Whether compulsory binding arbitration will prevent strikes from a practical standpoint is under review. Some experts are convinced that compulsory binding arbitration is a viable alternative to the strike while others point to Australia and Pennsylvania to support the position that compulsory arbitration has not prevented strikes. Some have even suggested that in areas where there has been previous strike activity, such activity is likely to continue even with the institution of compulsory arbitration. Statistical evidence supporting either position, however, has been sparse. It can be noted, however, that without the power to enforce either the prohibition of strikes or an arbitrator's decision, strikes will continue.

PROBLEM RESOLUTION IN THE FUTURE

The process of collective bargaining and arbitration in the public sector continues to evolve. Skilled county representatives and union officials recognize that there is no satisfactory substitute for the parties meeting and hammering out their differences. Agreements reached through this process, while agonizing and difficult, are far better than using an arbitrator to take the problem and impose an answer on both parties. Whether arbitration laws are in effect or not, county officials should make a continued effort to bargain new contracts and not use arbitration except where absolutely necessary. Representative government will only continue where county officials (not arbitrators) make the decisions necessary to r agreement in this area.

***ABOUT THE AUTHOR*—*Charles C. Mulcahy* is president of the law firm of Mulcahy and Wherry, S.C. Since 1976, he has served as NACo's labor counsel. Previously he served as a member of the Milwaukee County (Wis.) Board of Supervisors and as chairman of the NACo Labor-Management Steering Committee. Mulcahy also serves as a faculty member at the Marquette University Law School, teaching a course on public sector labor relations. Mulcahy was assisted in the preparation of this article by Mary K. Masty, research associate.**

RESOURCE RECOVERY

Planning Grants Available

WASHINGTON, D.C.—As part of President Carter's urban policy, planning grants are now available for resource recovery projects.

Counties may apply to the Environmental Protection Agency (EPA) for a grant to begin or continue resource recovery planning. Eligible activities range from surveying the composition of a community's solid waste and possible markets for recovered materials to finalizing contracts for waste supply, markets or technology.

Funding for final engineering design, construction or acquisition of land and equipment is not eligible. Also ineligible are projects directed primarily toward the development of land disposal or hazardous waste management facilities, or a waste collection or transfer operation.

THE CRITERIA for awarding grants are:

- The potential and need for resource recovery;
- Local support;
- Potential for stimulating economic development in distressed urban areas;
- Amount of progress toward resource recovery.

Applicants will have until Dec. 15 to develop and submit proposals. EPA will make its selections roughly 60 days after receipt of the proposals. The chosen applicants will then work with EPA to develop a final application.

The purpose of the grant program is to hasten resource recovery and stimulate economic development. The emphasis on planning is intended to help local government avoid the financial, legal, marketing or organizational pitfalls which can frustrate the most well-intentioned elected officials. The emphasis on economic development is intended to dovetail the grant program with other urban assistance programs. Resource recovery plants are expected to provide jobs for the unemployed and stimulate local economies.

ALL COUNTIES are eligible for the program, even those with a population less than 50,000 persons. However, counties with "distressed urban areas" have a greater chance of receiving a grant. No formula, however, is given by EPA to determine what areas are "distressed." Factors that might be used are the current levels and trends in employment, per capita income, and shifts in population and tax base.

Congress has approved $15 million to fund this program for fiscal '79. The federal share can amount to 75 percent of total project costs. The grants will not be allocated by region or state. A county project must conform to the state solid waste plan and the county must be an "implementing agency." In states where such designations have not occurred or where designations are being contested, it appears that EPA could withhold funding.

Application kits are available by writing or calling: Stephen A. Lingle, Office of Solid Waste, Resource Recovery Division (WH-563), U.S. EPA, Washington, D.C. 20460; 202/755-9140.

New Rules Implementing Food Stamp Program Are Modified

WASHINGTON, D.C.—The implementation schedule for the new food stamp program has been modified to allow agencies more flexibility in preparing to implement the new law.

The new regulations implementing the Food Stamp Act (published in the Oct. 17 *Federal Register*) aim to tighten eligibility criteria, facilitate participation by eligible households, reduce program fraud and abuse, and simplify program administration. These regulations represent the culmination of several years of work by NACo and other public interest and advocacy groups to improve the efficiency and quality of the food stamp program.

The Department of Agriculture (USDA) published the proposed regulations in the May 2 *Federal Register*. The final regulations are substantially the same, with minor changes in the areas of eligibility criteria, and certification and issuance procedures.

The regulations put into effect the provision of the law eliminating the purchase requirement for participants. A family now paying $60 for $100 in food stamps, for a $40 benefit, will now receive the $40 in food stamps.

It is expected that expansion of the program by eliminating the purchase requirement (EPR) will be offset by the reduction in benefits to higher income households, the stricter eligibility standards and more restrictive income calculations.

The implementation schedule is as follows:

- All states must have eliminated the purchase requirement for all households by Jan. 1.
- States must begin implementing the new eligibility and benefit determination rules no later than March 1.
- States may implement EPR earlier than Jan. 1, provided they begin to convert to the new eligibility and benefit determination rules not later than three months from the date they implement EPR.
- State agencies may implement the restoration of lost benefits prior to implementation of the other certification rules. The restoration rules apply to all households, even those households certified under the act of 1964. Households entitled to credits for lost benefits which have not received the benefits because of ineligibility, will be entitled to a restoration of these lost benefits as soon as the new restoration rules are implemented.
- Effective on the first day that the new eligibility and benefit determination rules are applied, those rules must apply to all new applicants and to each household which is recertified. Households certified prior to the first day of the 120-day maximum conversion period, but after the EPR date, shall receive the bonus amount provided under the Food Stamp Act of 1964, instead of the regular allotment, until recertified or until desk-reviewed.
- States have 120 days from the day they begin implementing the new eligibility and benefit rules to complete the conversion of the existing caseload, through recertification or desk reviews, to the new income and benefit determination rules. No extentions of this rule will be granted.

An article explaining the operation of the new program will appear in a future edition of *County News*.

—**Diane Shust**

Job Opportunities

Staff Research position. New Jersey Association of Counties. Salary negotiable. College degree and two years experience necessary. Opportunity to work with all branches of government; emphasis on statistics, writing and legislation. Resume to: New Jersey Association of Counties, 120 Sanhican Drive, Trenton, N.J. 08618, 609/394-3467.

Director of Personnel, Elkhart County, Ind. Salary negotiable. Responsible for wage and salary administration, contract negotiations, EEO, personnel policy development and administration. Requires degree in personnel administration and a minimum of three years of responsible experience. Starting date Jan. 1. Resume and salary requirements to: Elkhart County Personnel Department, 117 North Third Street, Goshen, Ind. 46526. Closing date Nov. 3.

Deputy Commissioner of Planning, Orange County, N.Y. Salary $17,598 to $22,682. Assist in the planning, organizing and directing of the activities of the planning department. Minimum qualifications: college graduate with major work in community or regional planning, landscape architecture, civil engineering, economics or related fields; six years of satisfactory experience in municipal, county or regional planning including transportation; one year in a supervisory capacity; or master's degree in community or regional planning or a planning-related curriculum involving transportation and five years of experience. Resume to: Commissioner of Planning, Orange County, Goshen, N.Y. 10924. Closing date Nov. 1.

Engineer, Environmental Services Administrator, Howard County, Md. Salary $21,925 to $29, 283. Supervise newly created Bureau of Environmental Services within the Department of Public Works. Direct and coordinate major public works operations in existing and newly formed divisions. Requires a bachelor's degree in environmental or sanitary engineering (master's preferred) and six years experience, two supervisory. Must be a registered engineer or desire to complete registration. Resume to: Howard County Personnel, 3430 Courthouse Drive, Ellicott City, Md. 21043, 301/992-2033. Closing date Dec. 1978.

Data Processing Systems Manager, Rock Island County, Ill. To provide technical direction for all county data processing systems. Opportunity to develop new systems with new technology. Experience in systems analysis, programming and supervision required. Resume to: Victor Pearson, Director of Central Service, Rock Island County, 1504 Third Ave., Rock Island, Ill. 61201, 309/786-4451. Closing date Nov. 10.

Executive Director, Richmond Regional Planning District Commission, Va. Experience in "701," transportation, criminal justice, water quality management, rural technical assistance. Bachelor's degree in planning, master's degree in related field or any equivalent combination of education/experience. Resume to: Marilyn Weeks, Acting Executive Director, Richmond Regional Planning District Commission, 6 North Sixth St., Suite 500, Richmond, Va. 23219. Closing date Dec. 15.

HUD Demonstration Project Planner, Neuse River Council of Governments. Salary $14,789 to $16,307. The project will concentrate on four areas: capacity building, cutting red tape, delivery mechanisms, housing. Four target communities have been preselected. Knowledge of zoning, community/economic development, HUD/FmHA housing programs, solid waste management desired. Resume to: Neuse River Council of Governments, P.O. Box 1717, New Bern, N.C. 28560. Closing date Nov. 15.

Rural Development Planner, Neuse River Council of Governments, N.C. Salary $12,771 to $14,082. Ability to develop regional and local plans and programs in rural areas such as land use, zoning, recreation, solid waste, community and economic development. Two to three years responsible work with: FmHA, HUD, EDA and/or related planning or related field required. Resume to: Neuse River Council of Governments, Box 1717, New Bern, N.C. 28560. Closing date Nov. 15.

County Finance Officer, Caldwell County, N.C. Salary: $16,668 to $21,204. Prefer degree in accounting or business administration with minimum three years experience in county or municipal finance and a working knowledge of computer financial operations. Resume to: Norman Shronce, County Manager, P.O. Drawer 1078, Lenoir, N.C. 28645. Closing date Nov. 3.

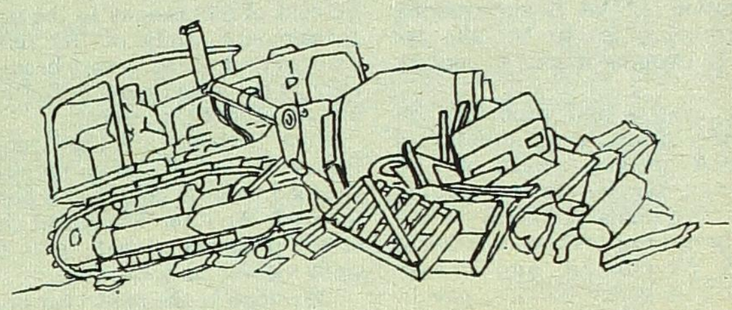
EPA/NACoR
will sponsor a

2 Day Solid Waste Resource Recovery Seminar

December 11-13

Sheraton Post Inn

Routes 70 and 295
Camden, New Jersey 08034



The seminar is designed primarily for municipal and county officials and private and professional individuals who are interested in gaining a better understanding of current municipal solid waste resource recovery and conservation practices.

The seminar will consist of:

- formal presentations,
- case studies,
- audience participation sessions.

The seminar will offer:

- a comprehensive overview of resource recovery,
- anticipated problems,
- various approaches for community implementation.

A $75 registration fee includes:

- all seminar materials,
- coffee during breaks,
- two luncheons.

Make checks payable to EPA Resource Recovery Seminar.

A block of rooms has been reserved at the Sheraton. Singles $30 twin/doubles $36. Reservations must be made by November 20. Please indicate your room requirements on the attached pre-registration form. Your hotel reservations will be processed only after your conference registration fee has been received.

For further information, call (703) 471-6180.
Mail address is EPA Resource Recovery Seminar, P.O. Box 17413, Dulles International Airport, Washington, D.C. 20041.

Enclosed is $_____($75 per person) for the following participants:

(Detach and return coupon below with your registration fee by Nov. 20.)

EPA Seminar, P.O. Box 17413, Dulles Airport, Washington, D.C. 20041

Resource Recovery Technology-An Implementation Seminar

Name_____

Title_____

Organization_____

Address_____

_____
(City)

_____
(State) (Zip)

_____
(Phone)

Please reserve the following for me:

☐ Single $30
☐ Twin-Double $36
(Sharing room with_____)

Date of Arrival_____

Date of Departure_____

RELIEVES POLICE

Pa. County Fills Emergency Needs

WASHINGTON, D.C.—Intoxicated, drugged or mentally disturbed persons arrested by police are often placed in facilities ill-equipped to care for them.

An alternative, which benefits both law enforcement and the community, has been started in Montgomery County, Pa.

The Montgomery County Emergency Service (MCES) provides both treatment and security while freeing police manpower.

THE COUNTY launched the program in 1974 with money from the Department of Health, Education and Welfare and other agencies, and $376,107 from the Law Enforcement Assistance Administration. LEAA is encouraging other communities to try the approach by naming it an "exemplary project."

Police, courts and probation officers refer drunk, drug abuse, and disturbed person cases to an emergency service that operates outside the criminal justice system.

The program provides centralized 24-hour psychiatric and detoxification emergency service, psychiatric evaluation, referral services and emergency transportation. It has a 24-bed unit with eight security rooms.

Chief Edward O. Stauch Jr. of the Upper Moreland Police Department said he first used the service in December 1975. A woman with severe emotional problems became violent, and he tried the new emergency service for two reason: it freed his officers for other duties and it provided the woman transportation with trained attendants.

This type of psychiatric emergency would require the response of almost all on-duty law enforcement personnel in many of the small police departments in the county. Chief Stauch said he has become a firm supporter of the program.

REFERRAL SERVICES at MCES also arrange for longer-term care and intervention with such groups as Alcoholics Anonymous, drug treatment centers or psychiatric hospitals.

Dr. Angelo Zosa, project director, said police referrals account for 41 percent of admissions to the unit. A three-month study of 152 referrals showed that charges were brought in only 34 cases and most of these were issued prior to the referral.

Most patients are thus removed from the criminal justice system and the load on both courts and police is relieved. Another important aspect of the program is that "it is financially viable," said Dr. Zosa.

"We hope in the next year or so to be financially independent. At present we have 93 percent of our billings covered by third-party payers (insurance companies)," he said.

The report on the project, "Montgomery County Emergency Service, Norristown, Pennsylvania," is available from the National Criminal Justice Reference Service, P.O. Box 6000, Rockville, Md. 20850.

BRIDGE MEETING—County officials met at NACo Oct. 12 to discuss implementation of the bridge program authorized in the Surface Transportation Assistance Act of 1978. This program provides funding for the repair and replacement of bridges both on and off the federal-aid highway system at an 80 percent federal match. Participants discussed how the Federal Highway Administration (FHWA) should draft rules and regulations to implement the expanded federal bridge program. Shown from left are: Willis R. Grafe, Linn County (Ore.) engineer; Oliver Domreis, Multnomah County (Ore.) engineer; Raymond J. Franklin, chief, FHWA secondary and local roads branch; Arthur Haddad, Miami County (Ohio) engineer; Ernest Geissler, director, County Road Administration Board, Olympia, Wash.; William Maslin, NACo staff; Ralph Krodinger, associate judge, Jefferson County, Mo.; and Jack Huffington, Cumberland County (Ill.) Superintendent of Highways.

Feds Plan to Share Information Locally

WASHINGTON, D.C.—Efforts of two federal agencies to disseminate information among states and local governments were explained to members of the President's Advisory Panel on Intergovernmental Science, Engineering and Technology (ISETAP).

Representatives from the Departments of Health, Education and Welfare (HEW) and Labor met recently with ISETAP's Human Resources Task Force to explore ways of involving state and local governments more actively in research aspects of federal programs.

In HEW a program called Project Share seeks to disseminate information in such areas as social services, health and labor relations. Jesse McCorry, deputy assistant secretary for planning and evaluation, told the task force that Project Share hopes to take on additional tasks specifically aimed at local governments and is soliciting views from local officials.

Don Nichols, assistant secretary for policy, evaluation, and research in the Department of Labor, said the department "hopes to have a higher profile" as far as local governments are concerned.

He reported that present methods of disseminating research information are being upgraded to better accomodate state and local government. Some areas where research is currently underway include: alternatives to retirement; employment performance evaluation; and the costing of labor unions, state and local pension systems and welfare programs.

"At present, the Labor Department doesn't hear the needs of local governments and states in a way that can be transformed into a research agenda," Nichols noted. However, new initiatives are created every year. It is just a matter of getting together the information—as is done by ISETAP, he said.

Of special interest to the task force was the costing (or pricing) of public sector labor-management agreements. "Public sector labor negotiations is a hot topic," said Victor Sheifer of the Bureau of Labor Statistics. However, in most cases the public sector is lagging behind large corporations where persons sitting at terminals can price out the very last union demand. Consequently, the bureau is eager to collect data from states and localities in order to develop a methodology to help those governments cost out their settlements," he said.

Sheifer noted that he and his staff are available to answer written or telephone inquiries on particular problems local governments may have in this area.

—Sally Rood

Workshops Set

Two seminars of interest to local government officials will take place in November:

- A workshop on the use of minicomputers in local government, Nov. 13-14, in Boston, Mass. For information call the Municipal Finance Officers' Association at 312/977-9700.
- Vehicle Equipment Management Seminar, Nov. 15-16, Midwest City, Okla., conducted by the Center for Local Government Technology, Oklahoma State University. For details call Jim Shamblin at 405/624-6049.

Participants will also have the opportunity to observe an excellent example. Midwest City has invited the seminar to tour their entrie vehicle maintenance facility. "Doc" Perkins, the fleet maintenance superintendent, will demonstrate how it works.

Matter and Measure

ATTENTION LOUISIANA PARISH OFFICIALS

We look forward to seeing you at our workshop, "Federal-Aid Highway Funds: How Parishes Can Get Their Fair Share," during our association meeting at the Ramada Inn in Monroe. This workshop will take place, beginning at 1 p.m., on Nov. 9 and will be sponsored by the National Association of Counties Research, Inc. and the National Association of County Engineers.

During the session, participants will discuss what federal-aid highway funds are available to parishes and what procedures must be followed to obtain and use funds. Emphasis will be placed on use of safer off-system roads, highway safety and bridge funds.

—Marvin Bell, President
Louisiana Parish Engineers and Road Superintendents Association

RRR DEADLINE EXTENDED

The Federal Highway Administration (FHWA), at the request of interested groups including NACo, has extended the deadline for comments on its notice of proposed rulemaking for design standards for resurfacing, restoration, and rehabilitation (RRR) projects. The new deadline is Jan. 4, 1979. If you have not already done so, please send your comments to Marlene Glassman at NACo by Dec. 21 so all responses can be compiled and forwarded to FHWA. If you need a copy of FHWA's proposal, contact Marlene at NACo.

FHWA is considering adoption of the final RRR regulations as standards for bridge rehabilitation projects under the new federal bridge program.

FHWA FINAL RULES

The Federal Highway Administration (FHWA) has issued two final rules important to county highway operations. Final rules on "Traffic Safety in Highway and Street Work Zones" and "Certification Acceptance" were both published in the Oct. 12 *Federal Register*. Contact Marlene Glassman at NACo if you need copies of these notices.

Traffic Safety in Highway and Street Work Zones:

This regulation went into effect on Oct. 13. The purpose is to provide guidance and establish procedures to assure that adequate consideration is given to motorists, pedestrians, and construction workers on federal-aid construction projects.

- Each highway agency must develop and implement procedures that meet requirements of the regulation and that are consistent with provisions of the *Manual on Uniform Traffic Control Devices*. FHWA encourages highway agencies to implement such procedures for non-federal-aid projects and maintenance operations.
- FHWA division administrators have responsibility for review and approval of procedures.
- Each highway agency must develop a traffic control plan (TCP) for all projects and include it in plans, specifications, and estimates (PS&E).
- Contractors may develop their own TCPs.
- The highway agency is to designate a qualified person at the project level to have responsibility and authority for assuring that the TCP is effectively administered.
- The PS&E should include unit pay items for providing, installing, moving, replacing, maintaining and cleaning traffic control devices required by the TCP; suitable force account procedures may be used for traffic control items.
- A review team of appropriate highway agency personnel is to annually review randomly selected projects; results are to be forwarded to the FHWA division administrator for approval.
- Construction zone accidents and data are to be analyzed and used to correct deficiencies.

For additional information on this rule, contact: James Daves, Office of Highway Operations, FHWA, 400 Seventh St., S.W., Washington, D.C. 20590, 202/426-4847.

Certification Acceptance (CA):

FHWA's final rule on certification acceptance became effective Oct. 12. The rule's purpose is to provide instructions for preparation and acceptance of state certification proposals to accomplish the policies and objectives of federal highway law, using state laws, regulations, directives and standards.

- A state may permit performance and project certification by capable local governments.
- The CA may apply to projects on all federal-aid highway systems except the Interstate system; if other FHWA regulations and federal highway law permit, projects not on a federal-aid system may be administered under accepted state certification provisions.
- State certification may provide for either full or partial coverage of eligible systems, programs, phases of work and classes of projects.
- There is a simplified CA procedure if states want to limit coverage to projects which are both (1) determined to be a non-major action and (2) estimated to cost less than $500,000 for physical construction; such limited coverage will apply only to FHWA responsibilities for project plans, specifications, estimates, surveys, contract, award, design, inspection, and/or construction.
- Acceptance of full or partial coverage will be based upon a number of factors outlined in the regulations; the finding that the state has the capability to carry out project responsibilities will be based on FHWA's evaluation of the state's performance and resources; FHWA acceptance of limited coverage will be based on evaluation of the state's performance under an approved secondary road plan.
- One factor to be included in a state's certification is a description of the state's methods for assuring local government knowledge of and compliance with state and federal requirements where they perform services on projects administered under CA.
- Evaluations of a state's operations under CA will be made at least once every four years.

For further information on the CA rule, contact: Joseph W. Burdell Jr., Chief, Federal-Aid Division, FHWA, 400 Seventh St., S.W., Washington, D.C. 20590, 202/426-0442.

ENERGY HEARINGS

This is a correction and addition to the information reported in the Oct. 16 column on Departments of Transportation and Energy hearings on their national energy transportation study.

- The Nov. 6 hearing in Los Angeles will be held at the Bonaventure Hotel, Santa Barbara Room.
- An additional hearing will be held on Nov. 13 in Boston at the State House.

For more information on these hearings, contact Nancy MacRae, National Energy Transportation Study, DOT, 202/426-4203.

NYSAC FALL SEMINAR

Tax Reform Keys Meeting

NEW YORK—The importance of county government and tax reform were issues covered by guest speakers at the 54th Annual Fall Seminar of the New York State Association of Counties (NYSAC).

Rep. Jack Kemp (R-N.Y.) provided a strong start to the session held in Concord. He commented on the importance of county government and stressed the need to get the economy moving through passage of the Kemp-Roth bill.

Frank Jones, general counsel for the Community Services Administration, also offered remarks recognizing the importance of cooperation among counties and community action agencies. This fall seminar marked the second joint conference of county and Community Action Agency officials.

Rep. Bruce Caputo (R-N.Y.) opened the general session on the conference's second day with remarks about Proposition 13. He discussed necessary changes at both the federal and state level to bring about tax relief.

A **PANEL** discussion on Proposition 13 followed. Panel members included Alfred B. Del Bello, executive, Westchester County, N.Y.; Roger Honberger, Washington representative for San Diego County, Calif.; and Patrick Dunn, assistant to the county executive, King County, Wash.

Also featured were special reports by Joseph Gerace, Chautauqua County executive and chairman of the panel on the Future of Local Government in New York State, and George Gerber, town supervisor, Rockland County and chairman, New York State Temporary Commission on Real Property Taxation.

For two afternoons during the workshops, more than 30 NYSAC affiliate organizations conducted workshops and business meetings. Some of the numerous affiliate workshops included discussions of property taxes, CETA, state laws pertaining to counties, personnel practices, labor relations, grants programs and health programs.

Keynote speaker for the last general session was New York Secretary of State Marion Cuomo who discussed efforts of his department to provide technical assistance and support through a variety of mechanisms for local governments.

Also included in programs on the last day were reports from the state legislature by State Sen. Linda Winikow and Assemblyman R. Stephen Hawley.

ASSOCIATION OFFICERS installed during the closing banquet. included: President Lucien A. Morin, Monroe County manager; First Vice President William P. Collins, assistant to the chairman, St. Lawrence County; Second Vice President Peter Q. Eschweiler, planning director, Westchester County; and Third Vice President George Arney, chairman of the board, Wayne County.

NYSAC also welcomed to its board of directors Margaret Weiss, representing the newest member of the association—New York City. Weiss is first legislative assistant to New York City Mayor Edward Koch. Installation of officers and board members was performed by Philip L. Toia, deputy mayor for finance, New York City. Edwin L. Crawford is NYSAC executive director.

—Margaret I. Taylor
State Association Liaison

KEMP ADDRESSES DELEGATES—U.S. Representative Jack Kemp from Erie County provided a strong opening for the 54th Annual Fall Seminar of the New York State Association of Counties (NYSAC). Listening to the address on the Kemp-Roth tax bill are Lucien A. Morin, left, elected Monroe County manager, president of NYSAC for 1978-1979, and Charles R. Clark of Washington County, immediate past president.

Letters to NACo

To Bernard Hillenbrand:

As New York City moves toward completion of its financing package, I want to express my personal appreciation for the substantial contribution you made to the enactment of the New York City Loan Guarantee Act of 1978.

This legislation represents a historic point in New York's path to economic recovery and financing independence. It provides the necessary long-term commitment which will permit a rational resolution of the city's financing and fiscal problems.

Less than a year ago, many people believed that the guarantee legislation proposed by the Administration could not be enacted. Our subsequent success reflected the efforts of many groups and individuals, and your help was instrumental in achieving this critical legislation.

I am grateful for your assistance, and I look forward to continuing to work with you on other important issues before the Congress.

—Jimmy Carter

To the Editor:

Thank you for your communication in support of S. 2570, the bill reauthorizing the Comprehensive Employment and Training Act.

I am happy to inform you that on Sunday, Oct. 15, the House of Representatives gave its final approval to S. 2570 and sent it to the President for his signature.

Your support in our successful efforts to pass this bill is most appreciated.

—Carl D. Perkins
House of Representatives

Dear Mr. Hillenbrand:

I regret that I was unable to attend the White House briefing on the President's hospital cost containment legislation.

NACo, I know, was instrumental in arranging this session as part of the excellent job it does in bringing to the attention of national leaders the importance of county government. ...

—Robert A. Pascal
County Executive
Anne Arundel County, Md.

New Administrator for Escambia

Continued from page 1

tributions "invaluable," enumerating some of them—New County Center director, contributions in making NACo a real full-service association, work with state associations and county administrators and coordination of NACo's many meetings, especially annual conferences.

"Rod will still be a part of our family, and we will call upon him for his advice and counsel," Hillenbrand said.

NACo President Charlotte Williams, commissioner, Genesee County, Mich., praised Kendig's service to NACo and to her. "I appreciate his support during our long years of association. I shall miss him. I wish him well and look forward to working with him in the future."

PROGRAMS REAUTHORIZED FOR 4 YEARS

Summary of New CETA

Title I—Administrative Provisions

This title contains the general provisions and definitions for the entire act. It provides authorization of the programs through fiscal '82, except for Title IV-A (youth employment demonstration programs) and Title VII (private sector initiatives), which are authorized through fiscal '80.

Title I contains time limitations for participation in programs authorized by the act:

- No person can participate in any combination of programs for longer than two and one half years in a five-year period (no service prior to Oct. 1, 1978 will be counted against this limitation);
- No person can participate in public service employment programs for more than 78 weeks in a five-year period, but not more than 26 weeks of enrollment prior to Oct. 1, 1978 would be counted against this limitation;
- No person, except in-school youth, may be in work experience for more than 1,000 hours in any year, nor for more than 2,000 hours in five years;
- No person can receive allowances for classroom or institutional training for more than 104 weeks in five years.

However, the Secretary of Labor may waive these limitations in certain limited circumstances.

Title I also contains specific provisions on **planning councils.** Both state and local councils must meet not less than five times a year. The prime sponsor shall appoint members of the planning council, designate a "public" member (not an elected official) as a chairperson and furnish staff to the council to provide professional, technical and clerical assistance.

Performance standards are established under this title, both at the national and local level. Title I also contains sections describing **limitations on wages and allowances,** some of which will be treated by title in this outline. Each prime sponsor will receive and maintain for both Titles II and VI an annual average federally supported public service employment (PSE) wage, area-indexed above or below $7,200, beginning in fiscal '79.

CETA funds may be used to pay **retirement benefits** for individuals enrolled in PSE before July 1, 1979 for the duration of enrollment. After that date, no funds under this act may be used for contributions to retirement systems unless they bear "a reasonable relationship to the cost of providing benefits to participants." This would allow special actuarial determinations, "buy-backs", and other potential modifications of state and local retirement provisions that would continue the benefit at a cheaper rate. The Secretary of Labor is required to provide technical assistance to prime sponsors to modify state and local provisions.

Prime sponsors are free to make a distinction, within a single job classification, between public service employees and other employees for the purposes of determining eligibility for participation in retirement plans. Nothing in the act shall require a contribution to a retirement system or plan in behalf of a public service employee unless funds under this act are available pursuant to the above.

Title II—Comprehensive Employment and Training Services

This title combines the old Title I and Title II into a single new title targeted (except for Part C) at the economically disadvantaged. Parts A and B of Title II are similar to the old Title I; Part C sets up a new retraining and upgrading effort; and Title II-D is similar to the old Title II.

- **Title II-A and B:** In order to be eligible for participation in these parts, a person must be economically disadvantaged and either unemployed, underemployed, or in school. Economically disadvantaged is generally understood to be 70 percent of the Bureau of Labor Statistics lower living standard budget, while unemployed for Parts A and B is seven days. Detailed definitions are provided in Sections 3 and 123(e).

- **Title II-C:** Up to 6.5 percent of the funds available to a prime sponsor for Parts A, B and C may be spent to upgrade public or private workers who would normally not have advancement opportunities and to retrain public or private workers who have received a layoff notice and who are unlikely to find a similar job in the area.

- **Title II-A, B and C:** The allocation formula for fiscal '78 is the old Title I formula. The Secretary of Labor is supposed to ensure that each prime sponsor gets at least 90 percent of the prior year's allocation. In addition, discretionary funds are to be allocated to the extent that allocations are reduced as a result of changes in how the statistics are gathered, i.e., termination of Current Population Surveys in SMSAs and central cities.

In fiscal '80, '81 and '82, the allocation formula adopted is weighted two-thirds for the old Title I formula and one-third for the old Title II formula. The old Title II formula distributes funds based on the numbers of unemployed in "areas of substantial unemployment (ASUs)." For the three years of this formula, ASUs will be defined based on the highest three consecutive months out of the most recent 12 months of data available. The authorization for A, B and C is $2 billion in fiscal '79. For fiscal '80, '81 and '82, "such sums as necessary" are provided, with the understanding that not less than 40 percent of funds available for all of Title II shall be spent for programs under Parts A, B and C.

- **Title II-D:** A person is eligible for this part who is both unemployed for 15 weeks and economically disadvantaged or who is receiving a federal welfare payment such as AFDC or SSI. Enrollees may participate in public service employment activities in projects or programs authorized in Part B. Wages generally have a ceiling of $10,000, but with area indexing up to $12,000. No supplementation of CETA wages is allowed, except for those on board prior to Sept. 30, 1978. The allocation formula for Title II-D is as follows: 25 percent of the funds allocated based on relative numbers of unemployed; 25 percent based on excess numbers of unemployed over 4.5 percent in the prime sponsor area or, in the case of balance of state, in the prime sponsor area or in ASUs, whichever is higher; 25 percent based on numbers of unemployed in areas with 6½ percent or higher; and 25 percent based on relative numbers of low income adults.

Eighty-five percent of the funds in Title II-D are allocated by formula with 15 percent for the Secretary of Labor's discretion. Before the 85-15 percent split occurs, 2 percent is taken off the top for native Americans and 1 percent for the governor. The prime sponsor must spend his formula share by splitting it up under the conditions in Chart A.

Chart A

Fiscal Year	Administration	Training	Wages/Benefits
1979	not more than 10%	not less than 10%	remainder-(80%)
1980	not more than 10%	not less than 15%	remainder-(75%)
1981	not more than 10%	not less than 20%	remainder-(70%)
1982	not more than 10%	not less than 22%	remainder-(68%)

Chart B

Fiscal Year	Wages/Finance	Training and Counseling	Administration
1979	not less than 80%	not less than 10%	remainder-(10%)
1980	not less than 80%	not less than 5%	remainder-(15%)
1981	not less than 80%	not less than 5%	remainder-(15%)
1982	not less than 80%	not less than 5%	remainder-(15%)

Title III—Special Federal Responsibilities

Title III contains special programs for persons who have a particular disadvantage in the labor market including native Americans, migrants and other seasonal farmworkers, the handicapped, middle-aged and older workers, and displaced homemakers. The title also authorizes the Secretary of Labor to carry out programs of job search and relocation assistance, veterans information and outreach and welfare demonstrations. It requires the Secretary to conduct a voucher demonstration program. The authorization for this title is limited by a ceiling of 20 percent of the total funds appropriated for the act, minus funds appropriated for Titles II-D and Title VI.

Title IV—Youth Programs

This title is divided into three parts. Part A is the Youth Employment and Demonstration Project Act of 1977 (P.L. 95-93), except that the Young Adult Conservation Corps has been designated Title VIII. Part B is the Job Corps and Part C is the Summer Youth Employment Program. The title also contains a new Youth Employment Incentive and Social Bonus Program within subpart 3 of Part A; $2.25 billion is authorized for the title in fiscal '79 and $2.4 billion in fiscal '80. For fiscal '81 and '82 such sums as necessary are provided for Parts B and C; Part A expires at the end of fiscal '80.

Title V—National Commission for Employment Policy

This title renames the National Commission for Manpower Policy, emphasizes the independence of the commission and requires that it report to the President and the Congress. In naming state and local officials to the commission it requires those officials to be currently serving in elected office. Such sums as necessary are authorized for Title V.

Title VI—Countercyclical Public Service Employment Program

In order to be eligible for public service jobs in this title, one has to be unemployed 10 out of 12 weeks and from a family whose income is below 100 percent of the BLS lower living standard budget, or be a recipient of federal welfare payments such as AFDC or SSI. Of the funds coming into this title, 2 percent off the top is taken for native Americans, 85 percent of the remainder is allocated by formula, with 15 percent of the remainder being reserved for the discretion of the Secretary. The allocation formula used is the old Title VI formula, except that areas of substantial unemployment (ASUs) are redefined. For fiscal '79, ASUs are determined, as in the past, by counting the highest three consecutive months in the most recent 12 month data available. For fiscal '80, '81 and '82, ASUs will be defined based on a 12 month annual average unemployment over 6.5 percent.

At least 50 percent of the funds under this title must be used for projects. Projects are limited in duration to 18 months. Participation in a public service job is also limited to 18 months under this title. Wages are limited to $10,000 with area indexing up to $12,000. Supplementation of the CETA wage is limited to an amount equal to 10 percent of the Title VI grant and to 10 percent over the area-indexed maximum wage for any individual. In areas whose average wage is between 125 percent and 150 percent of the national average, however, the wage may be supplemented up to 20 percent of the federal maximum. If an area's average is over 150 percent of the national average, then supplementation is not limited.

Chart B describes the limitation on use of formula funds.

Title VII—Private Sector Opportunities for the Economically Disadvantaged

This title provides a two-year demonstration program to test a variety of approaches to increasing the involvement of the business community in employment and training activities for the economically disadvantaged. This title provides funds to prime sponsors for the establishment of private industry councils, the majority of whose members shall be from the business community.

Community-based organizations and a local education agency shall also serve on the councils. Where possible, at least half of the business community representatives should be from small businesses. Ninety-five percent of the funds under this title should be allocated by formula based on criteria used to allocate funds under Title II-A, B and C. Five percent is reserved for the Secretary for native Americans and bonuses for prime sponsors who set up multiprime sponsor private industry councils. This title authorizes $500 million in fiscal '79 and $525 million in fiscal '80.

Title VIII—Young Adult Conservation Corps

Under this title, $350 million is authorized in fiscal '79, while $400 million is authorized for fiscal '80. Such sums as necessary are provided for fiscal '81 and '82.

Labor Management Committee

The CETA bill provided a vehicle for this completely separate program, with an authorization of $10 million. This part of the act is cited as the Labor Management Cooperation Act of 1978.

Transition Provisions

Starting on the day the bill is signed, any new PSE enrollees in any title must meet the eligibility requirements of Section 608 of the old law (P.L. 94-444), i.e., generally 15 weeks of unemployment and income no higher than 70 percent of the BLS lower living standard budget. The provisions in the new bill regarding supplementation, maximum federal wage rates and eligibility will be implemented 90 days after Oct. 27, the day the President signed the bill. The Secretary is directed to implement provisions relating to fraud and abuse in connection with the administration of the act as soon as possible. Finally, the Secretary is authorized to provide financial assistance through March 31, 1979 under the old CETA law to the extent necessary to provide for an orderly transition.