

# GOVERNING

THE STATES AND LOCALITIES

June 2019

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*“People try to talk about the city culture, but they may leave crucial things out. There is such a big difference between Detroit and everywhere else.”*

—Detroit’s Aaron Foley, the first chief storyteller for the city, as reported in a recent story on [Governing.com](#). The position was created in 2017 by Mayor Mike Duggan in an effort to help shift the narrative of Detroit beyond bankruptcy, crime and sports. Last month, Foley announced he would be leaving for a yearlong journalism fellowship at Stanford University. The city, he said on Twitter, was already “on the hunt” for someone to continue his role.

DAVID KIDD

## ZONE DEFENSE

Back in February, J. Brian Charles’ feature “In the Zone” looked at how the new federal opportunity zone program could help bring development to struggling communities. The zones were created in the 2017 federal tax overhaul as a way to entice private companies to invest in underdeveloped areas.

Since then, Charles has continued to follow the story online. In particular, he’s looked at certain “sweeteners” that states and cities have been adding to make themselves more attractive to investors. With 8,700 opportunity zones across the country, Charles recently wrote, many of them in big cities that already draw in considerable development dollars, some places are worried about distinguishing themselves.

West Virginia lawmakers considered an income tax exemption for new opportunity zone investment. Florida has looked at aligning its opportunity zones with preexisting enterprise zones, to give investors the benefits of both programs. In Connecticut, some legislators want to exempt historic preservation requirements in opportunity zones if the building has been vacant for five years. Maryland lawmakers have considered two bills—one to offer tax credits to opportunity zone businesses that hire former inmates and another to offer historic preservation tax credits to businesses that locate in opportunity zones.

At the local level, five mayors—of Erie, Pa.; Louisville, Ky.; Oklahoma City; South Bend, Ind.; and Stockton, Calif.—have released investment plans specifically aimed at attracting opportunity zone dollars. Oklahoma City’s downtown opportunity zone also covers its tax increment financing district, allowing investors to benefit from both programs.



Rural communities in particular are worried about being able to attract opportunity zone dollars, Charles’ colleague Liz Farmer wrote on [Governing.com](#). Rural areas, Farmer wrote, account for 40 percent of the designated opportunity zones, which offer private companies and investors tax breaks in exchange for investing in certain low-income communities. But some warn that even with the tax incentives, many rural areas still likely won’t benefit unless state and local governments intervene to make investments less risky.

“A lot of investors are hesitant to work with rural communities,” says Grey Dodge, who implemented Florida’s Opportunity Zone program as the state’s economic development policy director, and who now supports the program through Madison Street Strategies, a consulting firm. “In contrast to six or seven opportunity zone counties in Florida that don’t have to do much—the investment is already flowing there—these other areas haven’t seen investment in decades.”





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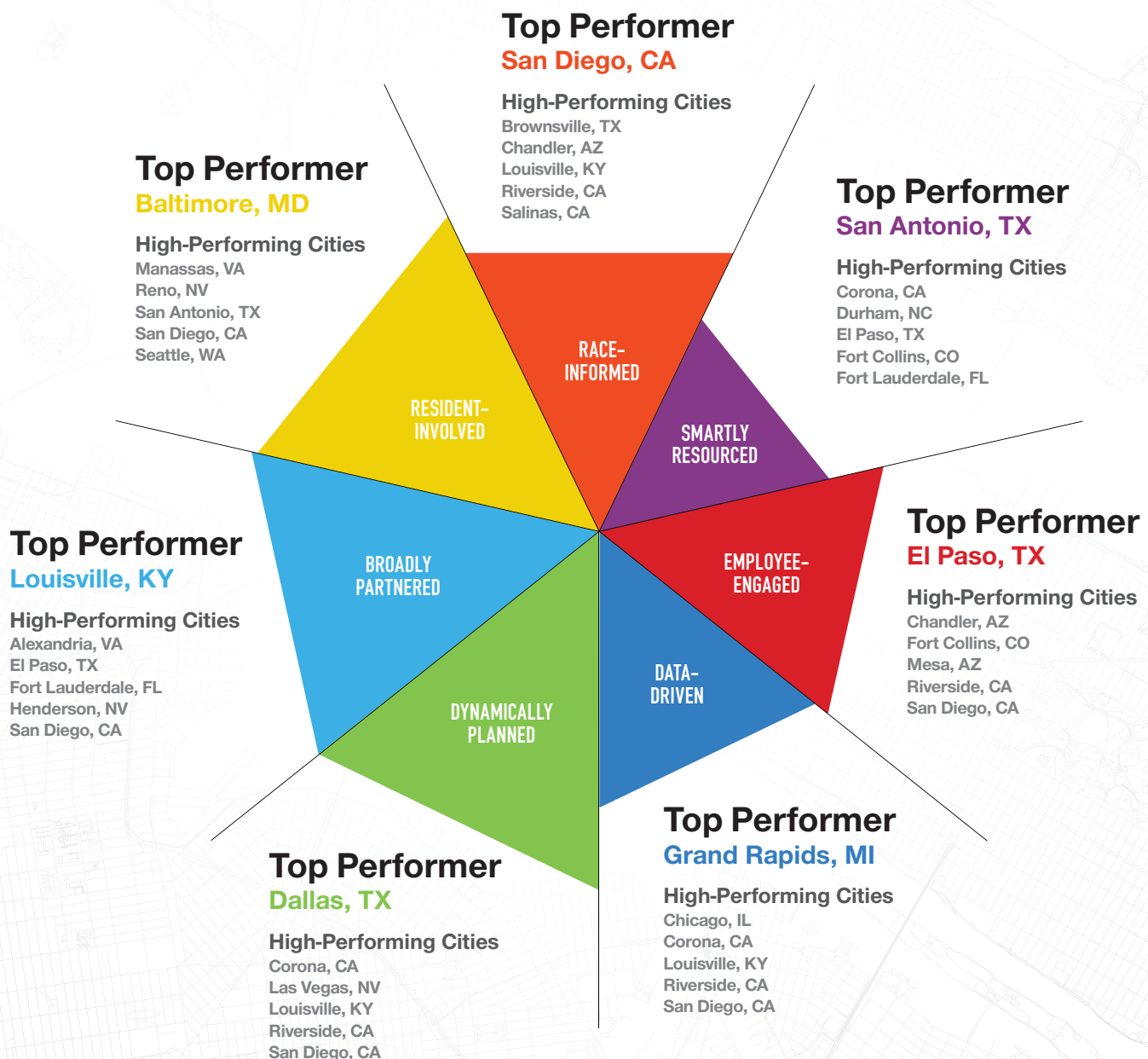
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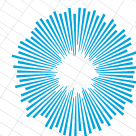
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# Observer

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A growing number of states want to prohibit products such as the Impossible Burger, which is made mostly from soy proteins, from being called "meat."



## THE BREAKDOWN

> **700**

*The number of unique sales tax combinations that Colorado businesses would have to navigate under proposed legislation taxing retail sales made over the internet.*

< **10**

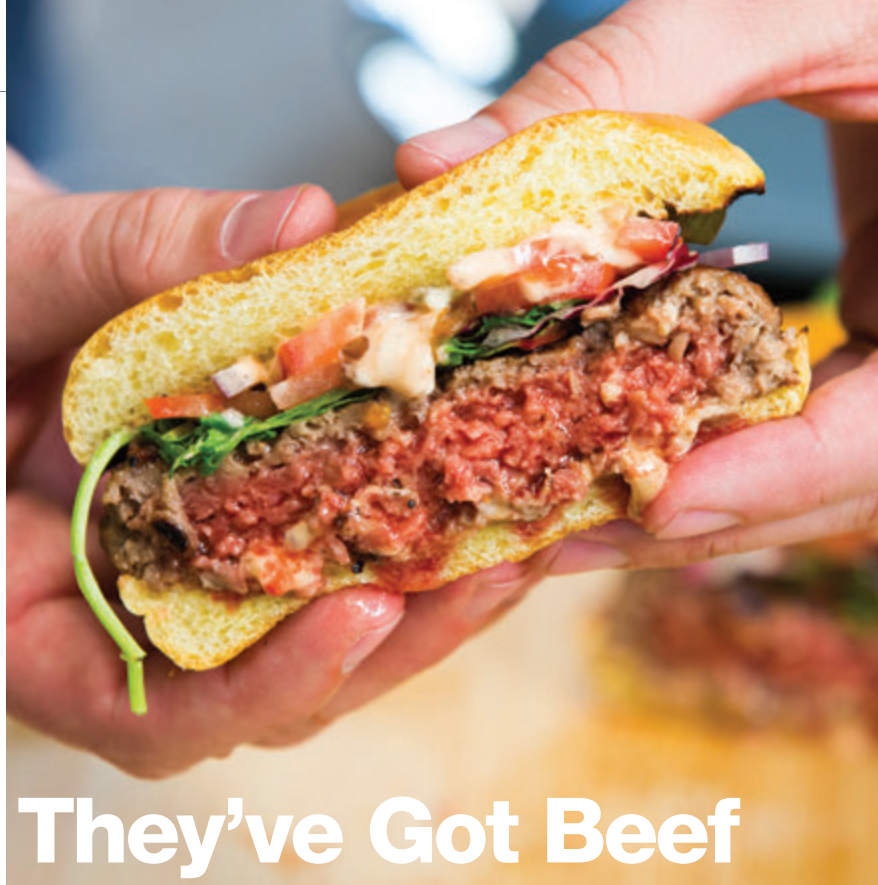
*The number of companies that made use of a Bitcoin tax payment option in the first four years after its initiation in Ohio in 2014.*

\$ **787**<sub>m</sub>

*The amount of overtime pay claimed by state employees in New York in 2018, the highest in the past decade, a period of substantial reductions in the state workforce.*

**93.7**%

*The increase in voter registrations in Georgia following implementation of an automatic voter registration system.*



## They've Got Beef

IMPOSSIBLE FOODS

**W**hat is meat? Can it be defined simply as part of an animal that once walked around on four legs, or a bird that walked on two? That's a political and legal argument that's playing out now in several states.

Last year, Missouri was the first state to enact a "real meat" law, stating that only animal products could be called meat. Products made from soy would have to be described as "protein textured," not labeled as "meat" or "meaty." The makers of vegetarian meat products and animal rights groups sued, on First Amendment and due process grounds. Missouri's law has been put on hold, pending settlement negotiations.

But farmers and ranchers have been promoting "real meat" laws in several other states this year. Sales of familiar plant-based products, such as tofu dogs, and newer cell-based products that involve more complicated chemistry, including the so-called Impossible Burger, made largely from soy protein, have been growing rapidly. Burger King and other chains are experimenting with Impossible Burgers, while Del Taco now serves a meatless "meat" taco.

Oren Lesmeister, who sponsored a meat labeling bill in the South Dakota

Senate, says such products are unfairly trading on the images and marketing of meat made from animals. "Our point is, if they label it meat, they get to piggyback on and take it for a ride," Lesmeister says. "If people want to eat it, great. Just don't call it traditional meat."

Promoters of vegetarian products say that farmers and ranchers are concerned with trying to protect their brands and sales, not clearing up any consumer confusion. "No one's confused when they buy veggie sausage," says Amanda Howell, a staff attorney for the Animal Legal Defense Fund. "Forcing them to call it a 'veggie tube' is more confusing."

In all kinds of products, name brands sometimes end up becoming generic and universally familiar. The same might happen with meat products, no matter the legal and political outcomes. Anything shaped like a burger or hot dog could still get called that, both in common parlance and in sales.

After all, the Food and Drug Administration decided this year to crack down on non-dairy products labeled as "milk," but the stores are still full of cartons of almond, soy and oat "milk." "They are deemed to be illegal," Lesmeister notes, "just no one has prosecuted them."

—Alan Greenblatt



# TAKING THE HEAT

**P**eople who work at top levels in state government change jobs about as often as anyone else, but they usually do it within the same state. Donna Arduin is an exception: a public executive itinerant. That has been both a help and hindrance in her current role as director of Alaska's Office of Management and Budget.

Arduin came to the job after having worked as a top budget or finance official in Michigan, New York, Florida and California. She's also served as a consultant to Republican governors, most recently in Gov. Bruce Rauner's unsuccessful crusade to drastically cut spending in Illinois. She's a name partner in a consulting firm with supply-side economics guru Arthur Laffer and Stephen Moore, President Trump's withdrawn pick to sit on the Federal Reserve Board.

Arduin has earned a reputation as a slash-and-burn artist, seeking serious cuts to state budgets everywhere she has been. She believes her migrations have made her work easier, not harder, because being a permanent part of a state's institutional culture renders it even more difficult to administer tough medicine. "If you plan to spend your career in one state government system," she says, "it makes it hard to do things that are unpopular, especially within the walls of the capitol."

But Arduin's status as an outsider is helping to make her a particular target in Alaska. "She seems to have virtually no understanding of the state," says Tom Begich, the Democratic leader in the state Senate. "She never once addressed the impact the cuts would have at the local level."

Alaska is not the first place where Arduin has been accused of having a political tin ear when it comes to the ramifications of her proposed cuts. At one point, her recommendations

to Michigan Gov. John Engler helped drive his approval rating down to 13 percent. Her \$30,000-per-month consulting fee in Illinois drew negative attention and was sliced in half. Her current salary of \$195,000 puts her at the top of the Alaska government pay scale.

There's no doubt that Alaska's fiscal house is in bad shape. Due to the decline in oil prices, the state is currently enduring its longest-ever recession. Last year, the legislature plugged holes by allowing part of the state's permanent fund—the proceeds from its oil reserves—to be used to shore up the budget, while cutting the dividend payments statutorily owed to Alaska residents. Over the past six years, Arduin says, the state has spent \$16 billion from its budget reserves. It faces a deficit in the coming fiscal year of \$1.3 billion. Alaska is the only state that doesn't impose sales taxes or individual income taxes. "When there was a lot of money, it was spent," Arduin says. "In my opinion, they never had to review the benefits they're getting for what they're spending."

Arduin has helped craft a budget for Gov. Mike Dunleavy that includes deep cuts to schools and universities. Two-thirds of the budget for the state ferry system would be cut, which would bring operations to a halt in October. During last year's campaign, Dunleavy promised to keep all those programs intact. "You have bicameral, bipartisan disagreement with the governor's budget," Begich says. "He proposed a budget that has no support in a legislative body controlled by his own party."

**Donna Arduin isn't afraid to slash a state's budget—or several states' budgets.**



No matter how unpopular his budget cuts, the Republican governor may still get much of what he wants. It takes a three-quarters vote in the legislature to override an Alaska governor on line-item vetoes. Dunleavy could pick up the votes he needs by restoring some money to the ferry system. And he's talked about giving ground on budget questions if legislators will approve a trio of constitutional amendments he's proposed to impose fiscal discipline in the future—for instance, by requiring voter approval of any tax increases.

In terms of imposing austerity, Alaska may yet end up being Arduin's biggest success story. "I have been willing to go from state to state, not concerned about getting my next job in the state capitol," she says. "I have much more willingness to do those things a governor knows he has to do, and take the heat for it." —Alan Greenblatt

MICHAEL PENN/JUNEAU EMPIRE

Do cities respond to 311 complaints in poor neighborhoods the same as in rich neighborhoods?

# Is 311 Fair?

**Three little numbers** have made up one of the most important innovations in municipal service delivery in recent years—311. Citizens who in the past wouldn't have known which department or agency to call when there's a dead animal in their yard or a broken streetlight on their block now can punch in three numbers and easily lodge their complaint.

How effective are cities at responding? Pretty good. Or at least they're pretty fair about how and where they respond. A series of recent academic studies have found that response times are roughly the same to 311 calls regardless of whether they originate in rich neighborhoods or poor ones.

Brian Hamel and Derek Holliday, a pair of graduate students at UCLA, examined more than 6 million 311 calls from seven major cities around the country, including Chicago, Houston and Los Angeles. They found that a 1 percent

increase in neighborhood income led to an average decrease of just 0.16 days in the length of time before a problem was resolved. When they compared how fast cities responded to the same complaints coming from different neighborhoods, there tended to be a faster response in poor neighborhoods for many types of calls. L.A., for instance, is faster to remove graffiti or address homeless encampments in wealthy neighborhoods, but swifter to deal with dead animals and streetlight complaints in less affluent ones. "Overall, we think cities are generally equally responsive to the rich and poor," Hamel wrote on Twitter.

Their findings jibe with an older Georgetown University study that looked at all the 311 calls made over a decade in Washington, D.C. Over time, as the service became entrenched, an early variation in response times between neighborhoods dwindled down almost to nothing. Calls from predominantly

white neighborhoods had actually experienced the slowest response times at first.

There is one catch: A New York University study from 2017 found big differences in who uses 311. Neighborhoods with higher proportions of unmarried, minority and unemployed residents tend to underreport problems. Neighborhoods with higher rents and incomes and residents who are white or Asian call 311 more often, so they end up with more responses, through no intent of the agencies.

Academics who study cities have generally looked at differences between them. It's encouraging that the type of data tools exemplified by analyzing 311 calls is leading a younger generation of scholars to quantify differences within cities as well. That kind of information can help individual cities learn what they're doing right and where they fall short. —Alan Greenblatt

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# PILOTs Under Pressure

**Just because you're a nonprofit** doesn't mean you're cash poor. In fact, some of the richest entities in the country are organizations with nonprofit status. Now some government officials in Boston want nonprofits in the city to contribute more to city coffers.

As tax-exempt institutions, nonprofits don't pay property taxes. That's a big deal in Boston, where half the city's relatively modest land mass is not subject to taxation, thanks to the big footprints of universities, medical centers and other nonprofits. Those enterprises make significant use of roads, transit, utilities and other city services, even though they don't contribute much to their upkeep.

Back in 2012, the city reached an agreement with four dozen of its largest nonprofits, asking them to contribute 25 percent of what they would otherwise owe in property taxes. Lots of cities and counties depend on such arrangements, known as payments in lieu of taxes, or PILOTs.

By some measures, the program has worked well. Last year, the city collected \$33.6 million in PILOTs, according to the Boston Municipal Research Bureau, an independent think tank. That's more than double what it got in 2011, before the current arrangement started.

But the nonprofits aren't kicking in like they used to. They only paid 56.4 percent of what the city requested last year—down from 90.7 percent in 2012. And only half of the PILOT payments are made in cash. The other half of the contribution is based on benefits the nonprofits say they provide to the community. "People in our city see a direct connection between PILOTs and the lack of funding for education and housing," says Annissa Essaibi George, a city councilor.

Last year, Harvard gave itself a 20 percent discount, paying 79 percent of its anticipated PILOT, with less than half

Some Boston politicians want colleges like Northeastern University and other nonprofit institutions to contribute more under the city's payment-in-lieu-of-taxes program.



coming in cash. (Harvard's main campus is across the Charles River in Cambridge, but the university owns more than \$1 billion worth of property in Boston proper.) Harvard has never paid its expected share in the seven years of the program. Northeastern University and Boston College have paid even smaller percentages of their expected payments.

Essaibi George and other critics note that Harvard has an endowment approaching \$40 billion, and pays its investment managers alone several times the amount requested by the city in PILOTs. "Harvard has a long tradition of paying taxes and making voluntary PILOT payments to its host communities," replies university spokeswoman Brigid O'Rourke. "Community benefits are a meaningful extension of Harvard's education and research mission."

Not everyone at city hall thinks nonprofits should be squeezed harder. Mayor Marty Walsh hasn't joined the chorus of critics, asking whether at some point city demands become unlawful taxation. The entire PILOT program, after all, is voluntary. "It's a challenge for sure to get any organization that's not required to pay taxes to pay something equivalent," says Boston Municipal Research Bureau President Pamela Kocher, "but we do like this standardized approach. Everybody has a better sense of the ground rules."

Those rules may be shifting. Pressure from Essaibi George and other councilors has led to discussion about putting the city in charge of defining community benefits. As it stands, the nonprofits themselves determine what constitutes a benefit, although the city does perform an audit. "A private high school says because the city isn't doing a good job educating, that's their benefit for us," complains Councilor Lydia Edwards.

It's also possible, but less likely, that the city will reassess the value of properties held by nonprofits, which hasn't been done since 2012. Boston has boomed in this decade but not everyone has shared in the wealth. There's a general push among progressives on the city council to find more money to help address equity issues. "Everything in Boston has grown tremendously in value over the last 10 years," Essaibi George says. "We're very interested in what the new values are and what the new PILOT payments would be even without changing the formula."

The same boom has put a squeeze on some smaller Boston nonprofits. Several have had to move, including a few that have left the city altogether. It is likely that Big Brothers Big Sisters of Massachusetts Bay, facing a 45 percent rent increase, will leave its location in downtown Boston by the end of the year.

—Alan Greenblatt

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# Transit (Dis)connections

Public transportation is faltering right now, but there are some surprises.

**W**riting in this space last June, I made a confident prediction about the trajectory of urbanism in two Southern cities. Nashville had just decisively rejected a \$5 billion plan aimed at remaking its entire transportation system, one that would have added enough new light rail lines and bus routes to change metro Nashville from a car-dependent mishmash of sprawl into a 21st-century metropolis where many people would find cars unnecessary.

Meanwhile, metro Atlanta was making plans to try something similar, with its big suburban counties preparing to vote to extend rail service to those hugely populous but transit-deprived population centers. The implication was obvious. Atlanta's suburbs, after casting decades of anti-transit votes, were ready for change. Nashville was lagging years, if not decades, behind.

I got it wrong. This spring, voters in Gwinnett County, the nearly 1-million-resident behemoth thought to be central to the entire Atlanta project, turned down transit expansion and the extra sales tax it would have required. So much for the region's 21st-century turn toward urbanism. It wasn't that different from Nashville after all.

It's still possible that Gwinnett will reverse itself, or that the other metro counties will tilt the other way and keep the transit vision intact. But at this point, I doubt it.

This spring was a really bad time for transit activists and advocates almost everywhere. In April, the Las Vegas City Council rejected a light rail project that appeared to have public support. That was a few weeks after the city council in Phoenix, a beacon of transit success in the past few years, voted against a major expansion out into the western desert suburbs. In August, a popular referendum will decide whether

the system needs to have any real expansion at all. At this point, it's looking like the anti-transit side could prevail.

In what may be the most discouraging decision of all, transit promoters in Durham and Raleigh, N.C., had to pull the plug, after nearly a decade of planning, on a transit project that would have run through those cities and adjoining Orange County. Duke University, a major funder, abruptly pulled its money out, invoking safety concerns.

But it's not just this bad project news that's turned 2019 into a season of national transit anxiety. It's the overall ridership numbers coming in from practically every part of the country. Data for the first three quarters of 2018 shows that total U.S. transit ridership was down 2.36 percent over those nine months. Heavy rail was down 2.86 percent; light rail, 3.97 percent. Bus trips were down 2.32 percent. The only category that came in higher was commuter rail.

The numbers from Los Angeles are perhaps the most alarming. Through the first three quarters of 2018, L.A.'s heavy rail subway lost 4.45 percent of its riders; the light rail system lost an even worse 5.21 percent—in a region that has perhaps staked more of its future on transit than any growing metro in the United States.

There are some intriguing anomalies in this largely bleak picture. The places in the South and the West that had seemed to be most bullish about transit expansion over the past decade—L.A., Phoenix, the North Carolina Research Triangle, and even Dallas and Las Vegas—have seen their prospects decline. But at the same time, and without much national attention, older cities with legacy transit systems long plagued by physical decay and poor maintenance have begun sprucing them up in hopes of generating a revival.

In the current decade, for example, Chicago has rebuilt more than a third of its subway and elevated tracks and redone

40 aging stations, at a cost of \$7.2 billion. Boston, after a decade of haggling over the future of its Green Line, is hard at work spending more than \$2 billion on a 4.7-mile extension and the rebuilding of 67 stations. Philadelphia's SEPTA has been spending \$750 million a year since 2011 on a comprehensive modernization process. These cities know how bad the national ridership numbers look. They are gambling that all this expense and effort will make a difference. And Philadelphia's heavy rail system did post a gain in the second half of 2018.

Then, of course, there is New York. In March, the state legislature agreed to let the city begin imposing a congestion tax that could reach \$15 on private vehicles that enter Manhattan below 60th Street during peak travel hours. Part of the rationale, obviously, is to reduce automobile congestion. But an equally crucial component is the money that congestion pricing will deliver to the debt-ridden



**Los Angeles is one city that has staked its future on building more transit. But ridership on both its subway and light rail systems fell significantly last year.**



Metropolitan Transit Authority—as much as a billion dollars a year, in addition to \$15 billion in revenue projected to come in through new bonding authority.

So just as the Phoenixes of America are losing interest in building their modern lives on the pedestal of transit, the cities with creaky trains and rusty platforms are chasing the state of the art as a way to keep themselves healthy. There is a disconnect here, though. When it comes to transit, renewal and ridership are two very different things. The money that allows older cities to rebuild tracks and debut shiny new trains doesn't guarantee that people are going to come back and ride them. To complete that difficult transformation, cities will need to do a better job of figuring out just what has driven the riders away in the first place.

There isn't one answer. Transit's troubles stem from a whole complex of factors. But it's worth looking at them one by one.

**T**he explanation behind falling transit numbers that gets tossed out most frequently is the rise of ride-hailing. People who used to commute to work by train or bus are taking Uber or Lyft instead. Obviously, that's

a contributing factor to ridership declines. But it's happening mostly in a few big cities, and the ones with the biggest Uber and Lyft penetration are not necessarily the ones with the biggest transit declines. Besides, the cost of an Uber ride from a suburb into the city—\$25 or more at peak hours in a crowded metropolis—suggests a ceiling on just how ubiquitous ride-sharing is actually going to be.

Telecommuting is another commonly suggested culprit, and there may be more to this one. The number of pure telecommuters is still relatively small—the latest data show that only about 3 percent of employees work from home most of the time. But the number of one-day-a-week telecommuters is huge and growing very fast. Taking transit to work four days a week instead of five represents a 20 percent fall-off in ridership. So this obviously matters.

What may matter more, however, is the price of gas and the rising level of car ownership. In the summer of 2008, a gallon of gas sold in much of the United States for more than \$4; in the summer of 2018, the price was down below \$2.75. A decade ago, I thought the effect of declining gas prices wouldn't be that elastic: Once people started driving less to save money, they'd keep

doing that. But they haven't. A spike in gas prices still cuts our driving significantly; a plunge in those prices puts millions of people back on the road quickly.

Just as important, there's evidence that once the 2008 recession ended, Americans started buying more cars. A study last year by researchers at the University of California, Los Angeles, found that in the years from 2000 to 2015, but especially from 2010 to 2015, the number of household vehicles in metropolitan L.A. grew by 2.1 million—a higher rate than in previous decades. Most interesting of all: The growth was greatest among immigrant families.

When you think about it, you can see the reason for that. Immigrants, and poorer families in general, have been settling in less expensive inner suburbs rather than in the central cities where they used to cluster. As they do that, they move farther from the transit lines—especially bus lines—that carried them to work. They buy cars, and their bus-riding numbers go down. As the transportation scholar Yonah Freemark told me recently, “Poorer people are living in increasingly transit-hostile environments.”

One might expect this trend to be counteracted by the number of single millennials who have chosen to live near city centers and aren't buying cars at all. That may be happening to an extent. But many of those millennials are settling so close to their jobs that they don't need transportation of any sort—except for their feet and maybe a scooter or bicycle. As Freemark puts it, “They are not a natural transit constituency.”

None of this is to suggest that big-city transit systems are on the brink of imminent collapse. They remain indispensable civic institutions, and the older ones are doing exactly the right thing by restoring their capital investment, their level of service, their reliability and their reputations. In the long run, though, they need to worry about one other important thing: finding ways to get their service out to where their riders have gone. **G**

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# Disasters and Distrust

**W**hen Houston's Deer Park petrochemical facility exploded in a fireball in March, thick black smoke billowed thousands of feet into the air. Residents were terrified. But local officials assured them that there was no health threat because the plume lofted the toxic chemicals far above the danger zone.

Then, four days later, after fire crews finally were able to put out the blaze, the same city officials issued an emergency order telling the residents to shelter in place. Now everyone was confused. Why would they need to take shelter after the fire had been extinguished?

The explanation was that a cloud of benzene, a dangerous carcinogen, had escaped. The risks were so grave, in fact, that an agency of the federal government—the U.S. Army Corps of Engineers—closed the Houston ship channel, one of the nation's biggest waterways, disrupting shipments of gas and grain.

Such disasters make tough calls for all levels of government. Those in charge often have just moments—or at most, hours—to make decisions that affect thousands of lives. Too often, they don't have the technical information they need, and those on the front lines sometimes have the least of all. At Deer Park, the local fire department didn't know for more than an hour after the initial explosion just which chemicals were burning.

That kind of uncertainty makes it hard for citizens to know whom to trust—and they often have very long memories, especially if they think local leaders under- or over-reacted in the past. Building trust begins with the very first message from the authorities. In an emergency, there's no do-over. They have to get it right, right away. In the Deer Park emergency, they did get it right, but it was hard to convince residents that was the case.

**In an emergency, government must convince people it knows what's best for them. That's easier said than done.**

Every emergency sets the stage for the next, and the next is sometimes right around the corner. Just weeks after Deer Park, another tank farm exploded, this time in nearby Crosby, killing one worker, letting loose toxic chemicals and leading to another shelter-in-place order. The issue of whom to trust came up all over again.

No one wants to put citizens at risk, so the authorities often reach for an extra cushion of safety by recommending an “abundance of caution.” But that too can be dangerous. No note of caution is ever free, whether it's keeping kids inside school following an explosion or ordering an evacuation from a brush fire. When Hurricane Rita threatened Houston in 2005, the evacuation created a massive gridlock and ended up killing almost as many people as

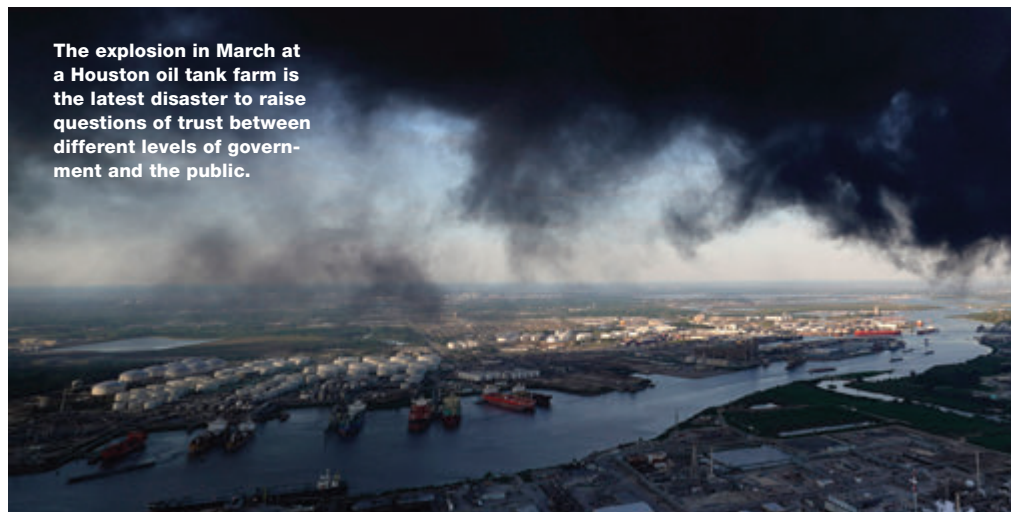
the storm itself. The public saw a serious overreaction. And when citizens conclude that the government overreacted, they're likely to disbelieve what they're told the next time around.

That cascades into a bigger puzzle. In disasters churning with technical complexity, are locals up to the job? Following the Deer Park explosion, a Dallas-area state representative, Tony Tinderholt, argued for legislation at the state level “to set certain standards for those emergency operations and decision points.” Relying on the locals, he feared, wouldn't be enough.

Deer Park Mayor Jerry Mouton countered by saying his team had responded well to the tank farm emergency. “I don't think legislation's going to solve this,” he said, “whether it be here on the state level or in Washington.” Disasters, he insists, always begin as local events, and local officials have to respond first.

But the tank farm was an international operation, owned by a Japanese company, and it had been cited for multiple safety and environmental violations by both federal and state officials. It's hard for the locals to own the solution when there are so many other players involved.

**The explosion in March at a Houston oil tank farm is the latest disaster to raise questions of trust between different levels of government and the public.**



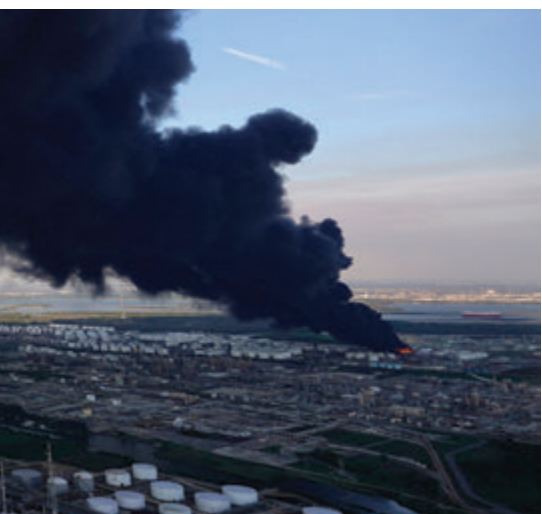


The messy boundaries of responsibility apply to many different emergency situations. Last year, a single click by a lone state government worker in Hawaii mistakenly sent out a mass alert that warned the island was under a missile attack. The warning seemed plausible enough—it came at a time when tensions between the U.S. and North Korea were high, and the North Koreans had just test-fired a rocket with the range to hit Honolulu. Tourists and residents scrambled to find shelter, and a Catholic bishop solemnly gave his parishioners absolution of their sins. It took 38 minutes for state officials to figure out how to correct the false alarm. Gov. David Ige had forgotten his Twitter password.

In this area, the federal government makes policy. But local and state governments are on the front lines of implementing it and, more important, explaining it. The willingness of citizens to follow instructions—for a live disaster and for the next one as well—depends on how skillful the explanations are.

Going forward, three things are certain. The locals will have more such jurisdictional problems to deal with. It will be difficult for them to hit the right notes. And it's getting easier for those at other levels to second-guess them, given the complexity of the problems and the huge cost of making a mistake. All of this vastly complicates the core problem of trust. **G**

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## A Little Bit of Opioid Help

Federal funding to combat the opioid crisis more than doubled last year, marking an important commitment to prevention, treatment and recovery. But a recent report from the Bipartisan Policy Center warns that while the extra \$4 billion is being directed to the communities with the highest overdose death rates, the funding approach lacks long-term vision.

The mounting number of opioid-related deaths in the United States—a record 70,237 in 2018—seems likely to continue because relapses are so common. It typically takes eight years before someone who is struggling with addiction is able to go an entire 12 months sober. “Providing one-time funding is treating addiction as if it’s an acute condition instead of a chronic one,” says the Policy Center’s chief medical adviser, Anand Parekh.

Still, the influx of funds is having an impact. It has reached 57 state-level programs that reflect a multifaceted response to the epidemic, funding not just addiction care but also research, criminal justice reforms, public health surveillance and supply reduction efforts. In Ohio, one of the states with the highest overdose death rates, fatal overdoses appeared to drop slightly last year. —Liz Farmer

## What Makes a Fine Excessive?

A ruling by the U.S. Supreme Court that the Eighth Amendment’s prohibition on excessive fines applies to state and local governments may soon carry ramifications for law enforcement agencies. The decision in February stemmed from the case of an Indiana man who challenged the seizure of his \$40,000 vehicle after he was arrested for selling a small amount of heroin.

Initial reaction from most states suggested that they didn’t anticipate any immediate legislative consequences. Some states, including Arizona and California, had already enacted laws aimed at curbing civil asset forfeiture. The practice remains widespread, however, and some smaller

jurisdictions rely significantly on fines and fees to fund the operations of local government.

The Supreme Court didn’t attempt to define when a fine is “excessive” or mandate when states can seize property. But by clarifying that the Eighth Amendment applies to states, the ruling will lead to more legal challenges and encourage greater judicial scrutiny of such practices. Advocates expect heightened legal challenges to especially punitive fines and forfeitures. One bill introduced in Missouri would ban law enforcement from seizing property and transferring it to federal agencies in an attempt to receive proceeds. —Mike Maciag

## Sanctuary Strife

After President Trump threatened in April to send detained immigrants to “sanctuary cities” across America, many mayors issued the same response: We’ll take them. “What President Trump fails to understand is that America is a sanctuary country,” Chicago Mayor Rahm Emanuel said in a statement. “Small, medium and large cities across the nation are suddenly and rapidly identifying as sanctuary cities because of the abandonment of Americans’ values, ideals and cultural destiny under President Trump’s watch.” At least a dozen other mayors issued similar statements, including those in Philadelphia, Seattle and Oakland, Calif.

But a number of states have pushed back. Last month Florida became the latest state to pass legislation banning sanctuary cities. At least 11 other mostly Southern states, including Georgia and Texas, have enacted similar laws in recent years prohibiting local governments from adopting policies that would limit cooperation with federal immigration authorities. Meanwhile, at least eight states, including California and New York, have passed laws expressly supporting sanctuary policies. More than 30 bills on sanctuary policies—both for them and against them—have been considered by state legislatures this year. —Graham Vyse



# The Life Cycle of a City

**T**he life cycle of humans, and indeed of most living creatures on Earth, is easy to understand.

We're born. We go through tremendous growth spurts in which our bodies command lots of resources until we reach maturity. Our need for resources peaks and then falls somewhat as we approach and pass middle age. As we grow even older, we need to make more tweaks to remain as fit as we can be.

Everyone comprehends this. Why don't we understand—and employ—a similar mindset for cities and metro areas?

I was thinking about the life cycle of cities as I read the latest Census updates on metro area growth, released in April. The new 2018 data showed that the metro area population for New York, Los Angeles and Chicago each declined from 2017. New York and L.A.'s population numbers shrank by 0.1 percent; Chicago's fell by 0.2 percent. The nation's three largest metros were the only ones in the top 10 to show a year-over-year population decline.

As with so many things, this news requires context. I looked at the population counts for the nation's 53 largest metros, all of the ones with a population greater than 1 million. From 2017 to 2018, 12 metro areas did indeed lose population, including the big three. The places that saw the biggest drops were Rochester and Buffalo in New York; New Orleans; Pittsburgh; and Hartford, Conn.

But many other places—mostly in the West and the Sun Belt—added people over

the same period. Phoenix; Orlando, Fla.; Austin; Raleigh, N.C.; and Jacksonville, Fla., led the way, with year-over-year gains of 2 percent or more. On the whole, the 53 largest metros increased their population by 0.7 percent. So the population drop of the three largest metros may be more anomaly than trend.

Further context, found by looking at population changes since 2010, gives us a better sense of trends. Between 2010 and 2018, 49 of the largest 53 metro areas—including New York, Los Angeles and Chicago—actually showed population increases. Over those eight years, it was Austin, Orlando, Raleigh, Houston and Dallas that led in population gains. Meanwhile the only decliners were Buffalo, Hartford, Rochester, Cleveland and Pittsburgh, each of which lost about 0.01 to 0.02 percent of their population every year.

All of which brings us back to my life cycle analogy. A case can be made that “younger” metros, or those that have experienced their greatest growth periods since, say, 1970, are similar to teens or

young adults. They are still quite dependent on outside resources to facilitate continued growth. These younger cities still rely heavily on domestic in-migration to grow their regional economies.

“Older” cities, on the other hand—those whose growth spurts came before 1970—are less reliant on domestic net-migration to fuel growth. Young people may cycle in to go to college or start their careers, but that influx is often offset by middle-aged residents who cycle out in search of more affordable housing, better schools and more abundant mid-career job opportunities.

Comparing the growth profile of large, older metro areas with younger and smaller cities makes as much sense as comparing the growth of a 54-year-old adult with that of a 13-year-old teenager. Chicago is not the same as Orlando. Younger metros are still dependent on outside resources for growth; older ones must focus on making good, strategic choices to improve overall efficiency for the years to come. **G**

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**Older metros don't grow the same way younger ones do. Why don't we acknowledge that?**



**Orlando and other younger cities are like teenagers: They demand lots of outside resources to feed a growth spurt.**

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# Where the Govern

Some states have a lot more local jurisdictions than others.

**T**here are a lot of local jurisdictions in America. In fact, a total of 38,779 cities, counties, towns and other general-purpose local governments span the United States.

How they're spread out across different parts of the country, though, varies considerably. Some metropolitan areas are served by several hundred different governments, while others comprise fewer than a dozen.

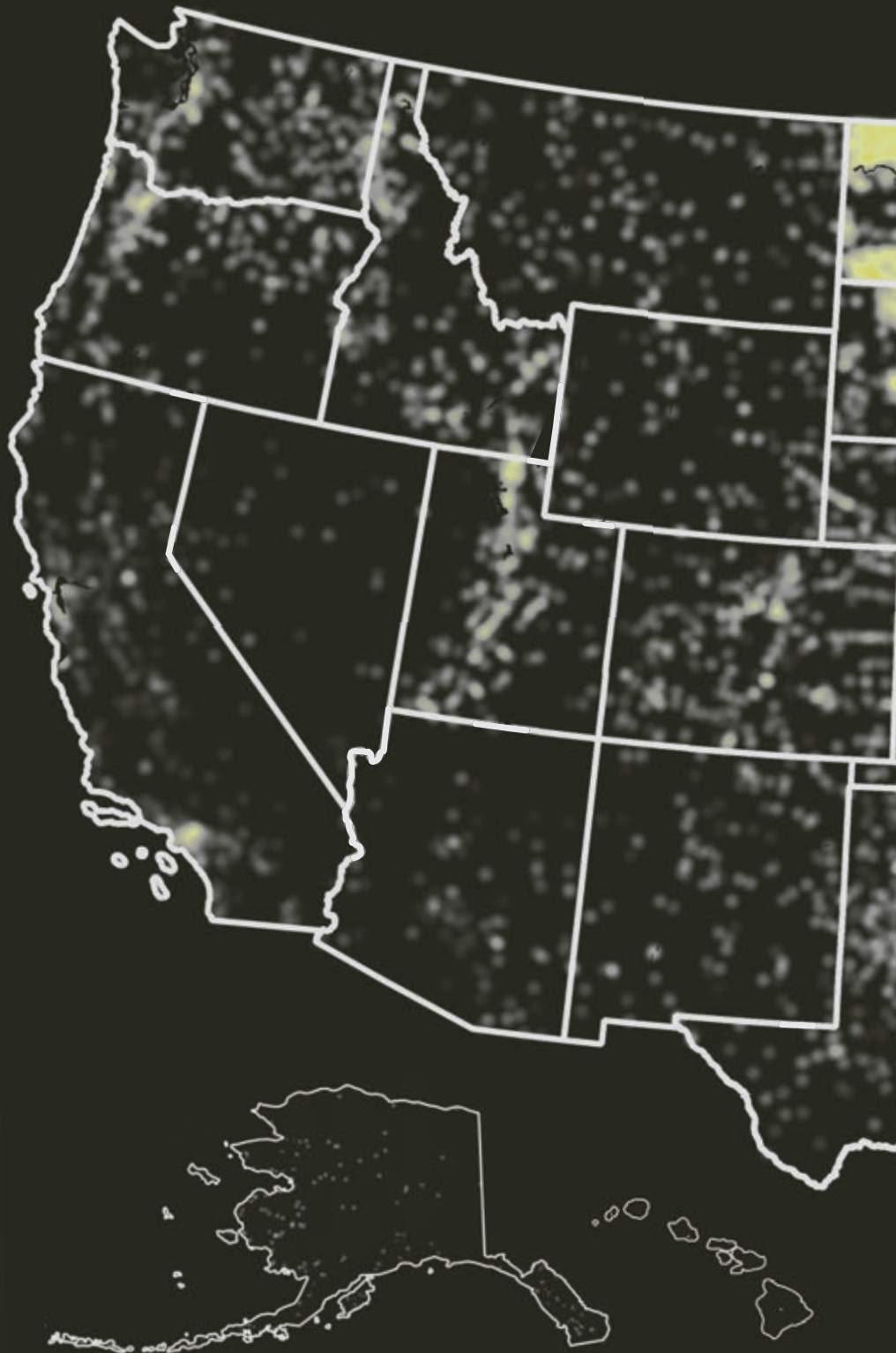
To assess where they're most prevalent, *Governing* compiled new data from the Census Bureau's Census of Governments, a national survey conducted every five years.

Local governments are most concentrated in the Midwest. The Pittsburgh metro area is home to the most general-purpose governments per capita of any area with a population of at least a million, followed by Louisville and St. Louis.

Major discrepancies exist across states as well. The Census Bureau counted 2,828 local governments in Illinois, the most of any state, followed by 2,720 in Minnesota. On the low end, Hawaii has only four local governments, while Nevada has just 35.

These numbers don't include the many special districts and independent school districts scattered across the U.S. When they're considered, the national tally of all units of government rises to 90,126. **G**

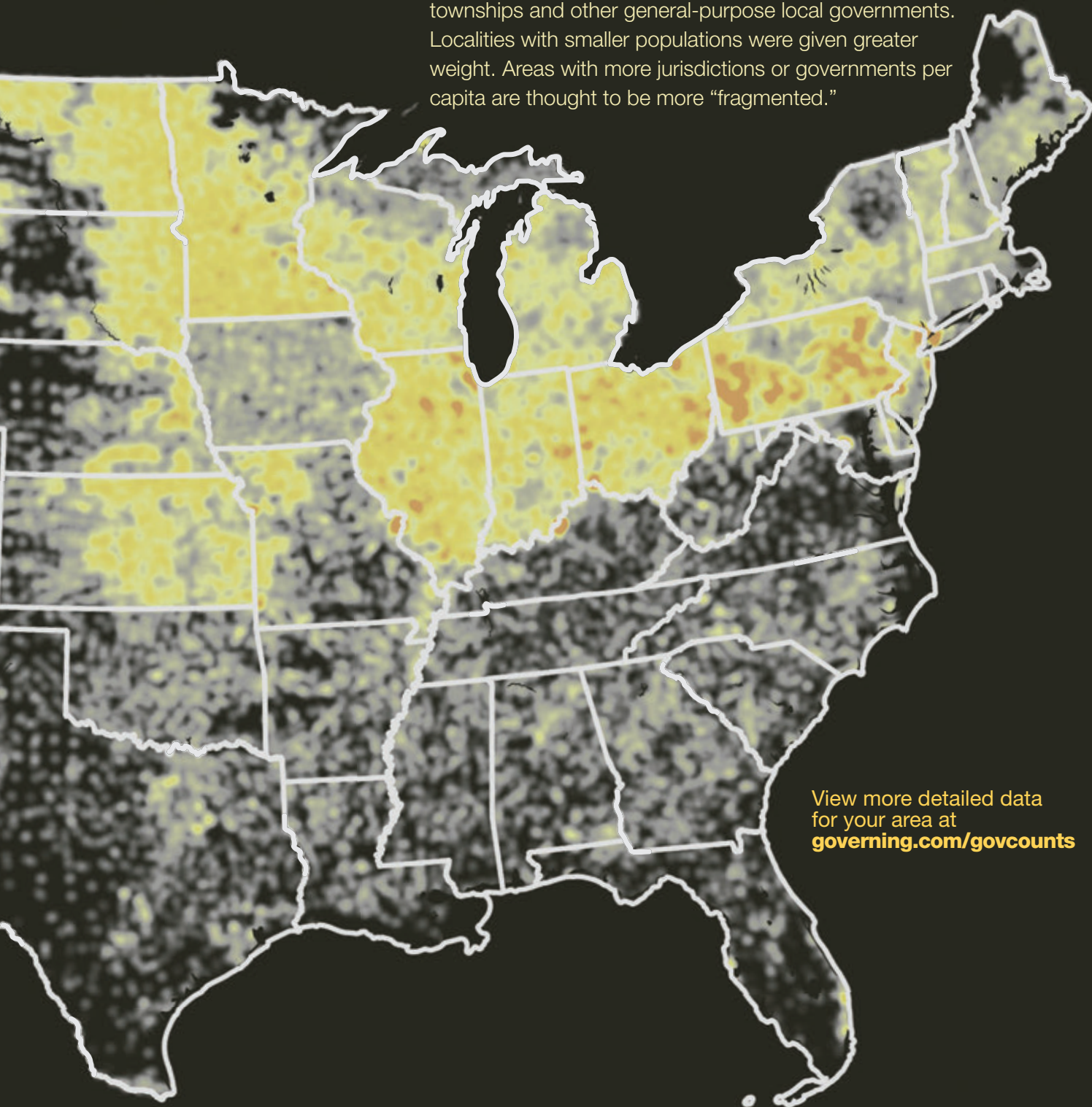
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# ments Are

This heat map shows locations of all cities, counties, townships and other general-purpose local governments. Localities with smaller populations were given greater weight. Areas with more jurisdictions or governments per capita are thought to be more “fragmented.”



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SOURCE: GOVERNING ANALYSIS OF 2017 CENSUS OF GOVERNMENTS DATA







# CLEARING THE AIR

*California's two biggest ports have set an audacious goal: reducing their greenhouse gas emissions to zero.*

BY DANIEL C. VOCK  
PHOTOGRAPHS BY DAVID KIDD

**O**n a sun-splashed stretch of asphalt along the Los Angeles waterfront, officials from the busiest port complex in the United States recently offered a glimpse of their hopes for the future: a new generation of 18-wheel trucks that can carry cargo from ports to warehouses throughout Southern California while emitting nothing but water.

The experimental vehicles use hydrogen fuel cells developed by Toyota to power heavy-duty trucks built by Kenworth. Their manufacturers say the new trucks, which have a range of 300 miles, can perform as well as their traditional diesel counterparts. Eventually, four companies, including Toyota and UPS, will use 10 of the prototypes to haul cargo from the ports. The oil company Shell will build hydrogen fueling stations for the trucks to use.

The trucks are being introduced in California because the state, along with the port authorities in Los Angeles and neighboring Long Beach, has made zero-emission operations a top priority. To support the new fleet of hydrogen fuel-cell trucks, the state agency that sets air pollution regulations is spending \$41 million in matching grants that are funded by cap-and-trade fees the state imposes on carbon dioxide pollution.

The ports have promised to move completely away from trucks that produce greenhouse gas pollution, such as carbon dioxide, by 2035. That's especially ambitious considering that the technology that the ports will need—like the Toyota trucks on display in April on Earth Day at the Los Angeles port—is still being developed. It's not clear yet when heavy-duty, zero-emissions vehicles will be commercially available, much less affordable enough for cargo-hauling companies to buy or dependable enough to use in the country's busiest ports. If the ports' plan backfires, cargo ships could take their business to competing ports around the country and one of Southern California's most important economic activities could dwindle.

California officials offer a more optimistic vision: If the ports of Long Beach and Los Angeles can operate with zero-emissions vehicles, they could show the way for other ports around the world to do the same.

"The ports of L.A. and Long Beach are probably the toughest testing venues there are for new technology," says Chris Cannon, the director of environmental management for the Port of Los Angeles. Because of the volume of traffic in the Southern California ports, equipment there is expected to run more frequently and for longer hours than at many other U.S. ports, he says. "If the equipment can work here, it can work anywhere."

The ports of Los Angeles and Long Beach sit alongside each other on San Pedro Bay, some 20 miles south of downtown Los Angeles. They are separate entities and often compete fiercely. Still, the two ports share much in common. Both have deep shipping channels that allow them to handle the increasingly large ships that cross the Pacific Ocean. Both have some of the most extensive dockside rail operations in the country, which helps them quickly transfer goods from ships to trains and vice versa. They split a manmade island full of cargo terminals, share a dedicated railroad corridor and sit behind the same 9-mile breakwater across the southern edge of the bay.

There are two openings in the breakwater. On the west is "Angels Gate," which leads to the Port of Los Angeles. To the east is "Queen's Gate," named for the Queen Mary, the 1930s luxury ship that is permanently docked at the Port of Long Beach. A third of all cargo packed in containers that is imported into the United States

passes through those gates. Los Angeles is the busiest port in the United States for container traffic; Long Beach is No. 2.

Both ports handle many kinds of cargo that is not shipped in containers, as well—oil, new cars, coal, concrete. Cargo that isn't destined for West Coast markets is put on freight trains that haul it across the country, giving the Southern California ports an outsized role in the nation's economy, especially for trade with China, Japan and other Asian markets.

The ports say that they are

responsible for some 190,000 jobs just within their own cities, and as many as 3 million jobs nationwide are tied to the goods flowing to and from San Pedro Bay.

While the ports are a major source of economic activity for the greater Los Angeles area, they are also the region's biggest source of air pollution. The twin ports, after all, are massive logistical operations serviced by a huge assortment of vehicles: cargo-laden container ships, oil tankers, tugboats, massive ship-to-shore cranes, rolling stacking cranes, container-lifting top-loaders, forklifts, yard tractors, freight trains and roughly 16,000 trucks. Almost all are, or until recently had been, run on diesel or other petroleum-based fuels.

The ports have worked together over the past decade to phase out the oldest and dirtiest of those vehicles, which has led to major reductions in some of the most dangerous pollutants. The ports track the emissions of basically anything that moves through them, because local air monitoring stations don't necessarily pick up pollution that blows inland. Since the ports first rolled out their Clean Air Action Plan in 2006, the amount of diesel particulate matter—soot and other tiny solid particles that can cause cancer and other

*California has pushed aggressive policies to address climate change. But it's hard to imagine a green future for the state without addressing pollution at two of its biggest industrial sites: the ports of L.A. and Long Beach.*





**“The ports of L.A. and Long Beach are probably the toughest testing venues there are for new technology,” says Chris Cannon, the director of environmental management for the Port of Los Angeles. “If the equipment can work here, it can work anywhere.”**

respiratory problems—produced by the ports dropped by 87 percent. The ports’ production of nitrogen oxides and sulfur oxides, which can both produce smog and cause health problems for humans, dropped 58 percent and 97 percent, respectively. Air quality is still a major problem in the region, because of increased traffic at the ports and because of nearby polluters, including oil refineries and other major industrial sites. But the reductions are significant.

The previous efforts, however, did not address greenhouse gas emissions, such as carbon dioxide, which have a global, rather than a local, effect. The state of California and many of its municipalities, including Los Angeles, have pushed aggressive policies with the goal of addressing climate change by reducing the state’s carbon dioxide emissions. Those include a statewide cap-and-trade system, which took effect in 2013, to make polluters who produce carbon dioxide buy credits at auction from the state. California also leads a dozen states that set their own vehicle emissions rules. Last year, lawmakers voted to require 100 percent of the state’s electricity to be generated from renewable sources by 2045.

It’s hard to imagine a green future for California without addressing pollution from two of the state’s biggest industrial sites. So two years ago, the mayors of Los Angeles and Long Beach agreed to their most ambitious goals yet: to become zero-emissions ports. They agreed to transition all of the cargo-handling equipment on the docks to zero-emission vehicles by 2030, and do the same for trucks servicing the terminals five years after that. Their agreement calls for the ports to reduce greenhouse gas emissions to

40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050.

In many ways, the ports’ new mission to tackle greenhouse gas emissions is in line with their previous efforts to reduce other kinds of air pollution. Some previous initiatives, in fact, are being expanded to account for carbon dioxide. But make no mistake, this shift is much more ambitious. Fighting smog and soot largely required operators to upgrade their machinery to more modern, cleaner versions of the same equipment. Eliminating carbon dioxide emissions could mean changing the way cargo haulers that use the ports do business.

**T**he biggest result of the ports’ decade-old Clean Air Action Plan was a requirement that all of the diesel trucks that used the ports had to use modern engines. After several updates, the requirement today is that new trucks registered with the port have to have been produced since 2014.

The so-called Clean Trucks Program upended the business model for drayage trucking services. Prior to the modern-trucks requirement, drayage companies that service the ports often bought used trucks from long-haul companies with hundreds of thousands of miles on their odometers. The trucks were cheap. They might have been less reliable than brand-new rigs, but that wasn’t a major concern because they were deployed on short-haul

routes. Of course, because they were older and didn't use the latest pollution-controlling technology, the trucks that serviced the ports were also among the dirtiest on the road for air pollution.

To get trucking companies to switch to newer vehicles, the ports relied on both sweeteners and tighter regulations. They offered grants to truck owners to offset some of the costs of the new vehicles, but they also required that trucks had to register with the ports to haul cargo there, and only newer vehicles were allowed to register. The combination worked, and the fleet of trucks servicing the port turned over in just a few years. Of course, that means that truckers who paid \$140,000 or more for their new vehicles are in many cases still paying off those trucks today. Worse yet, thousands of truckers bought vehicles that ran on liquid natural gas (LNG). These vehicles broke down frequently and often could not handle the loads of up to 80,000 pounds that drayage trucks routinely move.

The new truck requirements resulted in big gains for air quality, but they left much of the trucking industry wary of the ports' environmental initiatives.

The earlier clean air efforts targeted more than just trucks. The biggest sources of pollution at the ports, after all, are the nearly 4,000 ships that call at the two ports every year.

One effort that was already in the works, but has since been greatly expanded, was to add infrastructure that allows ships at berth to "plug in" to shore power provided by the ports, rather than running diesel-powered generators on board to keep on the power while the ships are being loaded and unloaded. Plugging in one container ship for a day has the same pollution-reduction effect of taking 33,000 cars off the road for that day. Back in 2004, the Port of Los Angeles was the first port in the world to offer the service, but now state air regulators require ports to use the technology. Moreover, the state will soon raise the percentage of container ships, refrigerated vessels and cruise ships required to be plugged in to land-based power from 70 to 80. Vessels that don't plug in to the shore power can be fined by the state.

Ships that are not equipped for shore power can also use a barge-based system that places a cap over the ship's exhaust port and pipes the fumes into machines on the barge that clean the air. Currently, the machines only take out diesel particulate matter and smog-causing chemicals, but there are hopes that the technology could eventually be used to remove carbon dioxide as well. Private companies are also working on a mobile land-based system.

Another way Los Angeles-area ports cut back on ship-generated pollution was by getting them to slow down as they approach the harbor. Since 2001, the ports have offered financial incentives for vessels to slow to less than 12 knots within 20 nautical miles of the port entrance; the ports extended the slow-zone to 40 miles in 2008. The incentives seem to be working. In 2017, 97 percent

of vessels that called at the Port of Long Beach slowed down for the 20-mile zone, and 91 percent traveled at lower speeds for the entire 40-mile zone.

For the most part, the policies in the earlier pollution-reduction efforts relied on technology that was already on the market. Meeting the ports' carbon-reduction goals, though, could require the deployment of technologies that are still in development today.

The regulations don't specify, for example, whether trucks and harbor equipment will have to run on electric batteries, hydrogen cells or even natural gas. At this early stage in their development, there are drawbacks to each. Batteries are heavy, which decreases the amount of freight trucks can carry while complying with weight limits of 80,000 pounds. The form of hydrogen needed for hydrogen fuel cells is difficult to obtain and often requires the release of greenhouse gases to isolate it. Natural gas is largely seen as a "bridge" to get the ports and carriers closer to their zero-emission goals while developing non-fossil fuels, but many trucking companies soured on the fuel when natural-gas-powered vehicles fared so poorly during the Clean Trucks Program.

Port officials are trying to avoid what they see as the mistakes of their previous pollution-reducing push by placing a greater





emphasis on demonstration projects. Such projects can determine whether the different types of technology can withstand the rigorous workload on working docks.

State and federal agencies have spent more than \$117 million on trials of 229 vehicles at California ports, much of it over the last two years. They include vehicles run on battery power, natural gas, hydrogen fuel cells and even diesel-electric hybrids. The manufacturers involved include well-known brands like Volvo, Daimler and Peterbilt, as well as the fast-growing Chinese electric vehicle company BYD and many small startups. (One company that's been noticeably absent has been Tesla, which unveiled an electric Semi model to much fanfare in 2017 but has been relatively silent about the project since.)

Most of the trucks and cargo-handling equipment still have significant issues to address. Many fall short of the goal of being able to work two full shifts without refueling, as diesel vehicles typically do. There are other headaches as well. Startup companies, for example, may focus so much on the alternative energy source powering a truck that they overlook flaws in key parts of the vehicle.

To keep tabs on the progress vehicle builders are making, the ports are also publishing viability studies every three years to assess whether their stated goals are actually achievable. The updates are designed to prevent another situation where authorities

rush cargo-moving companies to buy technology that proves unworkable.

The different approach by the ports this time is easing some minds, says Tracy Egoscue, the president of the harbor commission for the Port of Long Beach. "I'm not hearing the same angst" as in the previous rollout, she says. Instead, the cargo companies are telling her "they are excited about these trucks; they've seen them work and they think that they can handle the charging time [for battery-powered vehicles]."

The collaboration allowing businesses to have a say in how cleaner vehicles are introduced in the ports is exciting, says Egoscue. "If we can't figure this out, if we can't keep moving cargo and make sure that we can also meet our air quality goals, at some point the health implications and the law are going to start to infringe on the business," she says. "So it really is good for the business long term to figure out and adapt in a way that facilitates their continuation."

Although the ports are at the forefront of the zero-emission goals, they actually have limited powers to enforce them. The port authorities are branches of their city governments, but they act like developers and landlords rather than regulatory bodies. They lease out the terminals to cargo companies, which are then in charge of loading and unloading ships, along with managing day-to-day business operations at their terminals. Even when the ports

launched the Clean Trucks Program, they were essentially piggybacking on state and federal regulations that required newer vehicles to produce less pollution. The ports' move to zero-emission and near-zero-emission vehicles will depend on regulations that haven't been written yet.

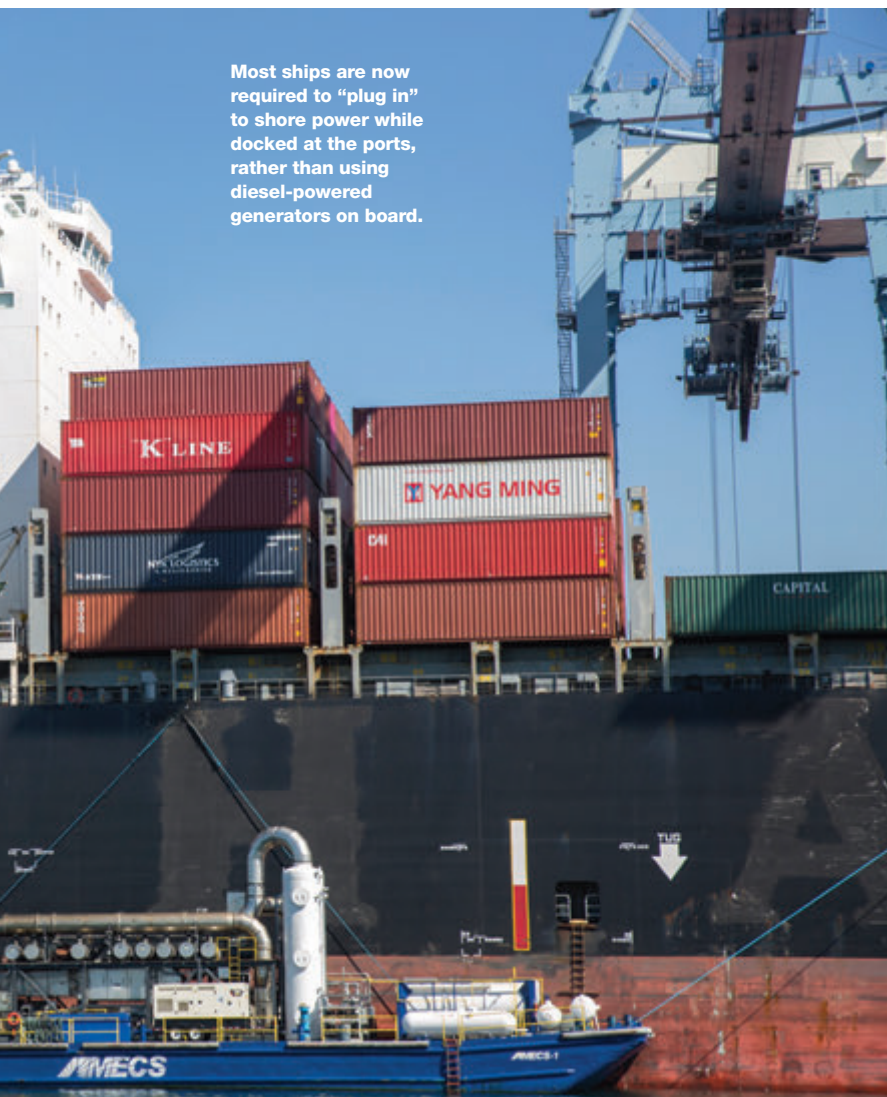
That's troubling for Thomas Jelenić, vice president of the Pacific Merchant Shipping Association (PMSA), an industry group that represents ocean carriers and terminal operators. Previously, Jelenić worked for the Port of Long Beach and was one of the architects of the Clean Truck program.

With the earlier mandates, "everyone knew what was going on, how much it would cost, and what the cost going forward would be," he says. "The latest version doesn't take that approach. It's an aspirational approach by a date certain. We don't know the path forward, but, in order to meet those standards, we need to invest now."

Another major concern that Jelenić and trucking advocates raise is whether the ports will have the necessary electric infrastructure installed to support a major shift from diesel-powered vehicles to battery-powered vehicles.

Some of the worries are simply about capacity: Will there be enough power generated and a robust enough grid developed near the ports to handle the demand? But there are other concerns as well, says Weston LaBar, CEO of the Harbor Trucking Association. Off-peak electrical use is supposed to be cheaper than using electricity

Most ships are now required to "plug in" to shore power while docked at the ports, rather than using diesel-powered generators on board.



during the day, but what happens when some 16,000 trucks—not to mention thousands of other pieces of harbor equipment—plug in to recharge overnight? Will that become a new window for “peak” rates, and, if so, will that make battery-powered vehicles unaffordable?

“A lot of folks in the industry believe that the vehicles aren’t quite ready yet, but the vehicles will be ready well before the infrastructure to support them is,” LaBar says.

The electric utilities insist that they are well prepared for increased demands at the ports and they, like other companies doing business at the port, have been testing out new technologies to get ready. For example, Southern California Edison (SCE), which services the Port of Long Beach, is in the middle of a \$356 million program to install charging facilities throughout its region for 8,500 medium- and heavy-duty vehicles through 2024. At least a quarter of that money is earmarked toward ports and warehouses. At the same time, the company also plans to shift toward more environmentally friendly power sources, with the goal of reducing greenhouse gas emissions by 40 percent from 1990 levels by 2030 and by 80 percent by 2050.

“The main thing for us is that there is a window of time to plan, study and prepare for the zero-emission vehicles that are coming. We are working on a blueprint to electrify the port,” says Katie Sloan, SCE’s director of eMobility. “With the timeframe we have, we will have the infrastructure prepared.”

Meanwhile, there are several other efforts underway at the ports to build more robust electric infrastructure. Several terminals and trucking companies now have stations where electric vehicles can plug in to recharge. Both ports have installed major solar panel arrays on building rooftops and are developing microgrids that could keep power flowing locally, even in the event of an earthquake or other major disaster. (Keeping the ports operating after a disaster could also help the region recover by making it easier for food, medicine and relief supplies to get to disaster victims.)

One significant example of how the ports are preparing for a future without fossil fuels is the Middle Harbor Project at the Port of Long Beach. The first portion of the facility opened in 2016. Nearly all of it is run on electric equipment, and it is largely automated. Human operators, for example, sit in cranes to control the fine movements as the cranes load and unload containers from their ships or onto rail cars, but almost all of the rest of the port’s activities are controlled by computer. The diesel yard trucks that carry containers from the ship side to nearby stacks at most other terminals are gone. In their place are electric carts that are sophisticated enough to detect when their batteries are running low, so they can automatically go to a warehouse to have the battery swapped out. It is the most efficient terminal at the Port of Long Beach, in terms of time trucks have to wait to get in and out with a trailer.

## *Eliminating carbon dioxide emissions could mean changing the way cargo haulers that use the ports do business.*

But for now, several factors prevent the ports from using more facilities like the Middle Harbor Project. The cost of building the modern terminal is expected to be \$1.5 billion; construction began in 2011 and is expected to be completed sometime next year. The operator of the facility, a subsidiary of the Hong Kong-based Orient Overseas Container Line, agreed to lease it for 40 years. But most leases at the San Pedro ports are for much shorter time

frames, usually around 20 years. That gives the operators less time to recoup costs for major investments. Meanwhile, labor unions are wary of the move to automation. The Port of Los Angeles has an automated terminal like Long Beach, but a plan by Denmark’s Moller-Maersk, a major shipping company, to introduce automated features at another of L.A.’s terminals sparked labor protests earlier this year. Longshoremen claimed

the company’s goal was to save money on labor costs, not reduce air pollution. Things got so heated that Los Angeles Mayor Eric Garcetti volunteered to mediate the dispute.

**M**any factors beyond the control of local officials could determine whether the San Pedro ports are viewed as leaders or outliers on environmental initiatives.

The ports are under immense outside pressure. There’s increased competition from ports in the eastern United States since the Panama Canal expanded in 2016 to allow larger vessels through. Threats of a trade war with China have wreaked havoc with operations at the San Pedro ports, as importers try to anticipate what tariffs, if any, may soon fall on imported goods. Meanwhile, cargo companies are not just moving to bigger and bigger ships, they’re becoming bigger and bigger themselves through mergers and consolidations. The upheaval has been felt by local truckers, who must contend with new procedures and increased bureaucracy as they haul containers around the Los Angeles Basin.

This larger context is important to the success or failure of the ports’ greenhouse gas goals. After all, the only way trucking companies or terminal operators can afford to buy vehicles with cutting-edge technology is if they’re making enough money to pay for them.

Jelenić from the Pacific Merchant Shipping Association worries that the new environmental requirements will drive business away from the Los Angeles region. “It makes Los Angeles and Long Beach less competitive, because it increases costs,” he says.

But Cannon, the environmental manager from the Port of Los Angeles, says the ports are well aware of the competing pressures. “We have to design our programs in a way that meets the needs of the environment,” he says, “without sacrificing the needs of our port as a competitive business.” **G**

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# Just Do It

*Running a small city doesn't often get you much attention in the big leagues. One unconventional California mayor is beating the system.* **By Liz Farmer**

West Sacramento, Calif.,  
Mayor Christopher Cabaldon





When you're a small-city mayor, getting larger jurisdictions to stop and listen to you can be a trying experience. But it's something that Christopher Cabaldon, the mayor of West Sacramento, Calif., has turned into a specialty.

He's willing to try almost anything to get results. And he gets them.

For years, his city of 54,000 people had been working with its more commanding regional partners, Davis and Sacramento, to create a bikeshare network that spanned the 16 miles separating the three cities. But the larger two were dragging their feet. There was always, it seemed, one more study to be done. "Like a lot of government projects, we knew everything we didn't want to happen," says Cabaldon. "We had all these social objectives—but we didn't have a project."

By 2017, the regional bikeshare plan was almost complete, but the cities still hadn't found a sponsor or a way to subsidize it. Then Cabaldon participated in the mayors' track at South by Southwest, the popular innovation festival held annually in Austin. He found himself at a panel on mobility where a representative from a new electric bikeshare company was speaking. He told Cabaldon the city wouldn't need a sponsor or a subsidy. It wouldn't even have to build docking stations—the bikes would be dockless. If it didn't work out, they could just end the program without losing anything. Cabaldon didn't wait to talk to Sacramento or Davis. He called city hall from Austin and put the electric bikeshare program on the council agenda for the following week when he was back. He'd figure out how to break the news to Davis and Sacramento after it passed, he thought.

The mayor took the same let's-just-get-it-done approach to launching an urban farm program. While Sacramento struggled with zoning regulations across the river, Cabaldon and his city council simply told a group that wanted to start a farm on a vacant lot that the city wouldn't enforce zoning laws while they tried it out. After concerns about traffic and an influx of vagrants proved groundless, the city marked the experiment a success and used the template to change its code. There are now five urban farms in West Sacramento, forming one of the most robust operations of its kind in the country, and they serve as a jobs and economic development magnet for agriculture industry workers and for those who want to buy their own farms.

All of this is classic Cabaldon: Why deal with lengthy task forces, endless public meetings and struggles for consensus when you can just write the rules as you go along? It's a brash approach that's not for everyone—to be sure, some people in Davis and Sacramento were none too pleased Cabaldon had acted without them on the bikeshare initiative. But just as many were relieved he'd found something that wouldn't require a \$2 million investment in a system that could be obsolete in a few years. With the launch of Jump Bike in 2018, the region went from being embarrassingly behind on the bikeshare trend to hosting the largest electric bikeshare network in the country. "His moving faster was what pulled that program together," says Chris Hoene, executive director of the California Budget and Policy Center. That's what Cabaldon does. "He pushes the envelope for his community and in doing so, also pulls the region in that direction."



As mayor since 1998, Cabaldon is currently one of the longest-tenured city leaders

West Sacramento was incorporated as a city just 32 years ago. It was still a mostly blank canvas when Cabaldon entered politics in the late 1990s. Over the past 20 years, his brashness and occasional arrogance have not only transformed his city from an industrial dumping ground to a regional phenomenon, they have helped West Sacramento gain national and even global attention. On Cabaldon's watch, the blue-collar port town has embraced riverfront residences and communal spaces, lured a Triple-A minor league baseball franchise, and developed a whole new approach to urban agriculture. In many ways, Cabaldon has set the stage for younger small-city mayors around the country—among them presidential candidate Pete Buttigieg, of South Bend, Ind., who frequently seeks out Cabaldon for advice—to unapologetically punch above their weight class.

Certainly, West Sac has its problems. Empty lots and battered single-family homes are scattered around the city. There is a visible homeless population and a tent city along the North Levee riverbank that has been cleared several times by police. There is the difficult balancing act of attracting a new and younger tax base while not neglecting and pricing out the one that's already there.

Still, over the past two decades, Cabaldon's approach to leadership has meant that West Sacramento is often at the surprising forefront of municipal policy and experimentation. When he





in the country. In 2008, he announced plans to tear down a notorious adult motel as part of the city's effort to transform itself into a more livable community.

speaks, his big-city peers usually do pay attention. “When you see his hand go up,” says Tom Cochran, executive director of the U.S. Conference of Mayors, “you get off your device, you quit your Googling and you listen.”

**A**lmost everything about the 53-year-old mayor is a little bit distinctive. When he speaks, he doesn’t waste time worrying about how something will sound. He just says what comes to mind and moves on. He can sometimes make five points in the time it takes most people to make one. He rarely writes out a speech ahead of time—he’d just end up going off-script anyway.

When Cabaldon was first elected to the city council in 1996, West Sacramento was just beginning to shake off its past as a former industrial backwater with no real unifying identity. After the port opened in the early 1900s, linking West Sac by water to the San Francisco Bay, rice mills and fish canneries flourished. Later, rows of motels popped up along the area’s main drag, catering to Sacramento visitors. The post-World War II boom brought more development and urbanization, but the area never coalesced into anything like a real city. After the fishing and rice milling facilities shuttered, West Sacramento grew seedier and seedier. It was, as Cabaldon described it to a newspaper a couple


years ago, “the other side of the tracks, the place your mom said don’t go after dark.”

It lacked a political identity, too. The first measure proposing incorporation appeared on the ballot in 1968, but the idea didn’t win voters over until 1986. West Sacramento was finally officially born on Jan. 1, 1987.

The area was still largely ignored by others in the region until the late 1990s, when it was selected as the home for a new minor league ballpark for the Sacramento River Cats, the Triple-A affiliate of the San Francisco Giants major league baseball team. Cabaldon, who was first selected by his fellow city council members as mayor in 1998, helped create the financing plan for what became Raley Field. The stadium opened in 2000 and began attracting more affluent residents from across the Sacramento River. In 2004, the city began electing its mayor directly, and Cabaldon easily kept his seat amid a development and population boom he had helped start. By the end of the decade, West Sac had hundreds of new housing units opened or in the works. “Someone could have looked at West Sacramento 20 years ago, seen what was there and just said it’s just going to be a warehousing district and nothing more,” says Hoene. “Instead, I think he looked at it as a blank landscape where they could try a lot of things.”

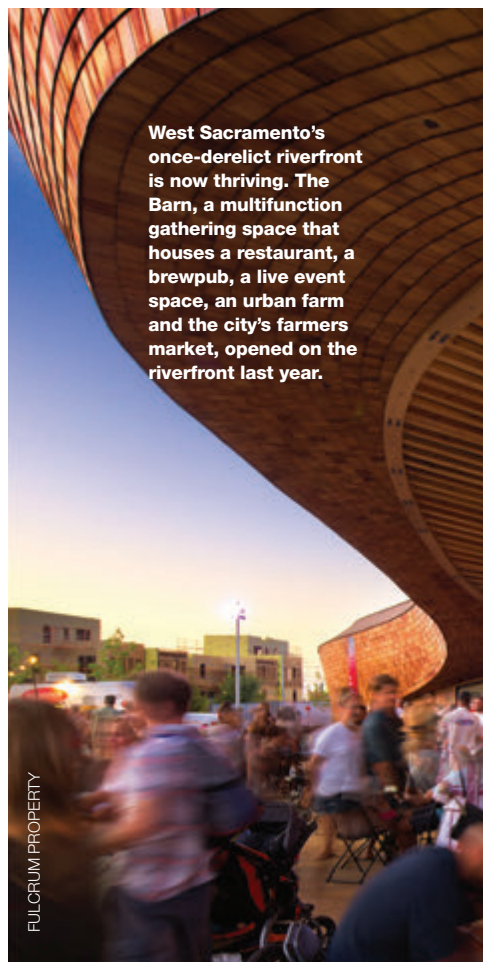
In 2006, in his State of the City speech, Cabaldon told his constituents he was gay. It was one of the few times he’s ever prepared

ALAMY



Cabaldon frequently collaborates with other mayors, including at South by Southwest in 2017. “When you see his hand go up,” says Tom Cochran of the U.S. Conference of Mayors, “you get off your device, you quit your Googling and you listen.”

DAVID KIDD



West Sacramento's once-derelict riverfront is now thriving. The Barn, a multifunction gathering space that houses a restaurant, a brewpub, a live event space, an urban farm and the city's farmers market, opened on the riverfront last year.

FULCRUM PROPERTY

a speech. “That changed me,” he says. “After that, there was no pressure of trying to convince people, ‘Hey I’m just like you.’ Because—clearly—I’m not. All that angst of fitting a very particular role—that was not only not needed but it diminished the quality of my relationships.” Another turning point: Cabaldon twice ran for the state assembly and lost both times in the primaries. After his second loss in 2008, he decided that what he really enjoyed was focusing on his city. And that’s when his role as West Sacramento’s ambassador to the outside world really took shape.

He started making connections and more aggressively pursuing longshot experiments. “My own region had not been the hotbed for any kind of civic innovation,” he says. Turning it into one was not an easy task. A bigger city can just launch an office of innovation. That wasn’t really an option for a town the size of Cabaldon’s. So he had to get creative: In 2014, he got the Sacramento Area Council of Governments to partner with him to join Code for America, a fellowship that unleashes computer programmers into a city to solve some of its biggest technical issues. It worked—in 2015, West Sacramento became one of the smallest CfA cities, and coders were tasked with developing programs to address food and health concerns. Cabaldon joined the innovation task force at the U.S.

Conference of Mayors and became the chair of its Jobs, Education and Workforce Committee.

“He’s one of those mayors who’s willing to try anything,” says Sly Majid, who helps produce the mayor’s track at South by Southwest. “In a community where every mayor is trying to figure out every possible approach, they look to those early adopters to make them feel comfortable and say, ‘Here’s what we learned.’” West Sacramento was the first city in its region to launch an app that maps homeless encampments. The idea is to locate homeless individuals so that social workers can find out their needs and bring them the right resources, rather than unrealistically expecting individuals to show up at the correct government building. In 2017, the city launched its Kids’ Home Run initiative in partnership with local schools, colleges and foundations to better align the local education system with workforce needs. Funded by a voter-approved sales tax increase, it includes universal preschool for every 4-year-old, a college savings account for kindergartners, guaranteed internships for high school students and a program for one year of free community college. West Sac now has its own on-demand rideshare service run by a private company that allows residents to get anywhere in the city for \$3.50.





EYRAGON EIDAM

In 2015, Cabaldon gave a presentation on West Sac's urban farm program for the U.S. Conference of Mayors Food Policy Committee. That resulted in an invitation to be one of five mayors from the United States to speak at the Milan Food Expo at the 2015 World's Fair. Cabaldon then joined the Milan Urban Food Policy Pact, a coalition of mayors working on food policy, and more global invitations to share West Sacramento's story poured in from places as different as London and Kuala Lumpur.

**F**or all the recognition West Sacramento has received, including an award as America's Most Livable City from the U.S. Conference of Mayors, Cabaldon knows that small cities will probably always be ignored on the national stage. But he insists—and his career seems to demonstrate—that small size can give cities like his the nimbleness to get results faster.

He also points out one other advantage small-city mayors have over their larger counterparts when it comes to being heard. Smaller-city politicians traditionally just aren't seen as politically threatening. "Nobody thinks that when I engage on trade, that

I'm getting ready to announce for the U.S. Senate," Cabaldon says.

When South Bend's Buttigieg announced his campaign for president in April, it was Cabaldon who introduced him to the stage. He mixed humor, self-deprecation and emotion. Noting that West Sacramento is half the size of South Bend, he said, "I'm here to tell you that the towns and the small cities of America, where the majority of Americans actually live ... we are here for a big-city mayor like Buttigieg." Then he turned to an experience he and Buttigieg share—coming out as gay while in office and then being embraced and resoundingly reelected. "That Pete could do that in the Midwest, right here in South Bend," he said, "is why being a mayor in today's America is the key to a presidency that can heal and mend an embattled nation."

Despite all the attention and all the praise, Cabaldon says he still suffers from impostor syndrome—the idea that suddenly, the people he's speaking to will realize he's not from Sacramento, but from some small town across the river. "You have to be able to laugh," he adds, "at the hubris of it all." He laughs, but he keeps on pushing. **G**

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# DYI IN A





# NG MERICA

*Funerals and burial practices are going through a time of great transition, forcing governments to adapt.*





BY LIZ FARMER AND MATTIE QUINN

# What It Costs to Die

*Funerals have become a luxury that many Americans can't afford. Local governments are paying the price.*

**J**immy Pollard knew his state had a serious problem surrounding death. As the coroner for Henry County and a consultant for the Kentucky Coroners Association, Pollard had seen lots of instances in which family members couldn't afford to bury or cremate a loved one. But the problem of "funeral poverty" was getting worse.

Pollard realized just how bad things had gotten when, a few years ago, the county judge approached him and said, "I'm out of money for indigent burials this year, and I've got six months left to go."

Despite pleas from the judge and from Pollard, neither the state nor the county has invested more money for burials. "I tried to talk to the state judges' association," says Pollard, "but I could tell it didn't really soak in. More money would help, but right now is a bad time to ask for more money in Kentucky for anything, because it's just not there."

What's happening in Henry County is playing out in places across the country. Rising funeral costs and a lagging economy have made it increasingly hard for many low-income Americans to pay the necessary expenses to dispose of a body. The average cost of a funeral today is \$7,400, a price tag that's risen nearly twice as fast as inflation since the 1980s. (That cost doesn't include flowers, obituaries and gravesite fees that can tack on another couple thousand dollars.) At a time when 40 percent of Americans can't even afford an unexpected expense of just \$400, according to the Federal Reserve, the notion of a proper funeral and burial has become, for many people, an unattainable luxury.

When family members can't afford to claim a body, the burden falls on local governments to handle the remains. There's no comprehensive data on the number of unclaimed bodies in morgues across the country, but everyone agrees it's a problem that's getting worse. The St. Louis Medical Examiner's Office had to add mobile refrigerated trailers in 2017 to hold all its bodies. The Connecticut Office of the Chief Medical Examiner briefly lost accreditation in 2017 because it ran out of storage space. In Mobile County, Ala., annual spending on indigent burials has increased 300 percent over the last decade. In Kentucky, Pollard estimates that indigent burials have jumped 50 percent in just the past 18 months.

Funeral poverty puts medical examiners and coroners in an awkward gray area. "The coroner or medical examiner is somewhat stuck," says Jonathan Arden, president of the National Association of Medical Examiners, who spent the bulk of his career dealing with the dead in New York City and Washington, D.C. "You have no authority to make [the family] pay for it, but you also don't want the taxpayers to bear the brunt of public burials either."

In addition to rising funeral costs, the skyrocketing number of opioid overdoses may be contributing to the number of bodies going unclaimed. In West Virginia, one of the states hit hardest by overdoses, *The Washington Post* reported that state funeral assistance funds ran out in March 2015 and again in 2017. In 2018, the state reduced reimbursements for funeral homes and tightened the rules for families requesting aid. It still ran out of money by the end of the year.





Gun deaths may also be a factor. The number of firearm-inflicted homicides and suicides hit a 50-year high in 2017. Victims of drugs and guns are often young. Young people typically lack life insurance, which can pay for funerals.

**M**any local and state governments provide financial assistance to help defray funeral costs. But the subsidies often cover just a sliver of the expenses, and they may come with difficult restrictions. New York City, for example, requires that any family receiving funeral assistance must cremate the deceased. (Cremations typically cost \$1,000 less than casket burial.) But cremation is prohibited by some religious faiths, including Islam and many traditional Jewish sects. The city offers up to \$900 in funeral assistance—as long as the funeral doesn't cost more than \$1,700. “Most [applicants] wind up being denied because of documentation—families or friends tend to have trouble getting the right level of documentation together,” says Chief Program Officer Lisa Fitzpatrick. “And the second-highest reason is that funerals usually exceed the \$1,700 cap.” Even if funeral costs are kept below that cap, total expenses can rise much higher. The mere cost of a cemetery niche to store an urn ranges from \$1,900 to \$6,500 in the city, according to a recent *New York Times* report. A \$900 check from the city won't go very far toward covering that.

In terms of funding assistance, New York's program is fairly average. Some places, like Connecticut and Wisconsin, offer up

to \$1,500 and don't require cremation. Some counties in Arizona limit subsidies to \$485 and require families of the deceased to prove they're financially in need. Washington, D.C.'s funeral aid maxes out at \$800 for a burial and caps the family's total expenses at \$2,000.

The federal government doesn't provide much additional help. If the deceased was on Social Security, surviving spouses or children receive a one-time \$255 “death benefit.” More substantial state and federal assistance is available for veterans and for victims of crimes.

Generally speaking, none of these assistance programs has kept pace with the rise in funeral costs over the past few decades. New York City's burial reimbursement, for instance, has been the same amount since 1987. As the gap between costs and subsidies has grown wider, some places have responded by scaling back the assistance they offer. In Sullivan County, Tenn., officials cut their indigent funeral budget by one third and declared they would either donate bodies to science or offer only cremation.

In Kentucky, Pollard says some counties have started limiting burial assistance and indigent burials to people who were documented residents at the time of their death. Other counties have contracted directly with funeral homes to keep costs low—usually through cremation. But the problem of funeral poverty, he says, “is going to get worse before it gets better.” **G**

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A background photograph of a cemetery with various tombstones and trees. In the foreground on the right, a person's hand is visible, holding a small amount of dark soil. The overall tone is somber and contemplative.

# Dust to Dust

*Burials and cremation can be environmentally toxic. States are weighing another option: allowing bodies to decompose naturally.*

BY J. BRIAN CHARLES

**K**atrina Spade grew up on a dead-end dirt road in New Hampshire. Her family raised cows, and they ate what they raised. She watched the animals die—sometimes naturally, sometimes slaughtered for food. Spade's parents worked in the health-care industry and often spoke about their patients' end-of-life struggles and their deaths. None of it was morbid to Spade. "From an early age," she says, "I always had a good idea of the cycle of life."

Later on, while she was pursuing a degree in architecture, Spade began thinking about Western death rituals. Dying is an inherent, natural part of life. Why, she wondered, did humans insist on being cremated or else embalmed with formaldehyde, sealed inside a lacquered casket and entombed in the ground? Both practices are harmful to the environment.





Katrina Spade has led the push to make Washington the first state to allow human composting. Here, she holds some compost material left from the decomposition of a cow.

“They didn’t feel meaningful to me,” she says. “Back when I was thinking about cremation and burial, I didn’t want the very last thing I did on this earth to be toxic.”

In 2014, Spade launched the Urban Death Project, a nonprofit that later morphed into Recompose, a Seattle company that studies and advocates for the legalization of “natural organic reduction,” otherwise known as human composting. The process involves human remains being mixed with natural compounds in a vessel. After a month, the composted remains become soil that can be returned to the ground to help flowers and trees grow.

Now Washington is poised to become the first state to sanction and regulate that process, under a measure lawmakers passed in April and sent to Gov. Jay Inslee, who is expected to sign it.

The new law comes amid a broader shift in attitudes about burial practices, particularly around their impact on the environment. Conventional burials introduce toxic chemicals into the ground and use up land and other valuable resources—including some 30 million board feet of casket wood, 90,000 tons of steel, 1.6 million tons of concrete and 800,000 gallons of embalming fluid each year in America alone.

That’s one reason why cremation has been growing in popularity, from being used for 28 percent of American deaths in 2002 to more than half by 2016. (By 2035, an estimated 80 percent of deaths will result in cremation, according to the National Funeral Directors Association.) The process is less resource-intensive than burials, but it still has an environmental impact. A single cremation requires 28 gallons of fuel and releases 540 pounds of carbon dioxide into the air, along with trace amounts of other harmful chemicals such as carbon monoxide and mercury. On the whole, cremations in America release some 270,000 tons of carbon dioxide into the atmosphere every year—equivalent to the CO<sub>2</sub> from 22,000 homes.

In short, “there are significant environmental problems” with both burial and cremation, Washington state Sen. Jamie Pedersen told *The Washington Post*. Pedersen introduced the human composting legislation after Spade, of Recompose, pitched the idea to him last year. The bill would also legalize alkaline hydrolysis, which turns bodies into liquid using a base such as lye. In the past 10 years, the *Post* reported, at least a dozen states have legalized that process.

At the Glendale Memorial Nature Preserve, located in the Florida Panhandle, the motto is “From Eden we come ... To Eden we shall return.” The preserve is one of about 160 “natural burial sites” that have sprung up across the country since the first was established in South Carolina in 1998. At these natural decomposition sites, caskets must be made of biodegradable materials, and bodies aren’t allowed to be embalmed.

Glendale’s motto underscores both the ecological and the religious undercurrents that are influencing the natural burial movement. “The option of recomposition, to me, is natural. It is

a tangible opportunity for people, in a way, to live on after their physical life is over,” Chaplain John Waltner told *The Spokesman-Review*. “In the recomposition process, you can literally speak to that traditional Christian burial formula: earth to earth, ashes to ashes, dust to dust—confident of the resurrection to eternal life.”

Natural burials are part of several religious traditions. Muslim communities bury without embalming. In Tibet, Buddhists place corpses on mountains to decompose.

Until the mid-1800s, American burials were mostly a family affair. After a person died, the family would wash and dress the body. It was laid in a simple wood casket that was then placed directly into the ground at the family plot. The Civil War changed that. Union soldiers killed on the battlefield were initially left to decompose in

place, but that gruesome reality soon led to the practice of “field embalming,” in which corpses were preserved for the train ride home and a proper funeral. A tipping point came with the funeral for Abraham Lincoln, whose body was embalmed so that Americans around the country could view the slain president. People marveled at his lifelike appearance, and the demand for embalming quickly began to rise.

Over the next century, burial practices became more elaborate, and more environmentally harmful. Dead bodies were drained of blood and injected with formaldehyde, methanol and other solvents that slow decomposition. They were placed in ornate caskets made of polished wood and metal and lined with silk. At the cemetery, the casket was lowered into a concrete

receptacle lined with plastic.

Many of those changes were pushed by the funeral industry itself. “Funeral directors had a significant impact on funeral and burial practices for a really long time,” says David Sloane, a University of Southern California professor and the author of *Is the Cemetery Dead?* In 1963, Jessica Mitford published *The American Way of Death*, an exposé of abuses by funeral directors, who Mitford portrayed as taking advantage of grieving families and steering them toward ever-more expensive options and add-ons. The power of the industry—and the image of the unscrupulous funeral director—waned in recent decades as alternative methods, including cremation, rose in popularity.

Under Washington’s human composting law, bodies would be broken down naturally. Recompose’s process involves placing a dead body in an eight-foot-by-four-foot vessel, along with straw and wood chips. As the heat in the vessel rises, microbes decompose the body over the course of 30 days, ultimately resulting in about one cubic foot of compost soil. Families would be allowed to take the soil home or donate it to conservation groups in the area.

“There is a great comfort in the idea,” says Spade, “that when I die, my physical body will undergo a transformation and I will no longer be human. I will be a part of nature.” **G**

*“There are significant environmental problems” with conventional burial and cremation, Washington state Sen. Jamie Pedersen told The Washington Post.*

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Additional reporting by Graham Vjse



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# NEITHER

*A growing number of states and cities are letting residents identify not as male or female, but as gender nonbinary.* **BY CANDICE NORWOOD**

**S**hige Sakurai notices the stares. On a recent warm morning, the Washington, D.C., resident walked through the city's sunlit Newseum wearing a white patterned shirt, long blue skirt and brown leather loafers. A red necklace and bracelet fashioned by a Japanese artist complemented Sakurai's short haircut and neatly trimmed goatee. As a nonbinary person who doesn't identify as strictly male or female and who uses the pronouns "they" and "them," Sakurai's appearance can attract curious glances. Sometimes it's a concentrated, wide-eyed gape. More often, though, it's a repeated, furtive shift of the eyes over and away and back again.

Sakurai has publicly identified as nonbinary since the early 2000s, but they know most Americans are just beginning to learn about transgender and nonbinary communities. "I think a lot of people treat it as though nonbinary identities just emerged in the last 10 years or 50 years. Like, 'Oh you just invented this,'" Sakurai says. In reality, certain societies throughout the world recognize third-gender, intersex or non-gender individuals. In 2007, a Supreme Court of Nepal ruling created a legal category for gender non-conforming people, allowing new options for official government documents. India followed in 2014. Once regarded as divine beings in a number of ancient societies, many gender non-conforming people now face stigma. The Bugis people, for example, are a centuries-old group in Indonesia who recognize five genders; today their numbers dwindle as a result of persecution.

While skimming the Newseum's new exhibit on LGBTQ civil rights, Sakurai rattled off bits of transgender history and policy. The pastel-colored display featured prominent figures in the movement, including San Francisco Supervisor Harvey Milk and astronomer Frank Kameny. Sakurai, who is 38, also has an important place in history. Two years ago, they became the first person in the United States

DAVID KIDD





# NOR

Shige Sakurai of Washington, D.C., in 2017 became the first person in the country to receive a driver's license with the gender marked as "X."

to officially receive a gender-neutral driver's license. Instead of an "M" or an "F," Sakurai's gender is designated with an "X." Since Washington, D.C., became the first jurisdiction in the country to offer those licenses in June 2017, other states and cities have followed. Currently, at least 13 states and two cities offer nonbinary gender options on either driver's licenses or birth certificates. More states are expected to join them this year. Nearly 100 million people, about a third of the country, now live in a place that allows identification that's neither male nor female.

The growing national conversation on gender identity is a divisive and controversial policy issue. Much of the debate up to this point, including over proposed "bathroom bills" in North Carolina, Tennessee, Texas and elsewhere, has centered on individuals who fall within society's existing gender structure—transgender men and transgender women. Redefining that structure altogether to include nonbinary identities may be a more ambitious battle.

When it comes to issuing IDs, states should prioritize biological accuracy over personal gender preference, say opponents of the efforts to expand gender definition. "Eye color, hair color, height, weight and sex: These are all listed on a driver's license because these physical characteristics can be independently verified by physical evidence, even if a person is unconscious," Greg Burt testified to the California Senate in 2017. Burt, who works for the California Family Council, was arguing against a proposed bill to allow for nonbinary government identification. The bill, he said, "advances a falsehood; that being male or female, or no gender at all, is a choice each person must make, not a fact to celebrate and accept." That bill went on to become the Gender Recognition Act, which was passed and signed into law later that year, making California one of the easiest states in which to change gender on a birth certificate or a driver's license.

For California and the other states and cities that have opted to allow nonbinary designations, adding an "X" to these documents is only the beginning. Legally recognizing gender as a spectrum sets

up a cascade of tough policy questions. Schools, sports, prisons, courts, health care and human services benefits are all gendered systems. Some states, including California and Oregon, are beginning to address those needs; however, they still face challenges.

"Folks are going to start to see people with these IDs, whether it's someone traveling through [a jurisdiction] or someone who has moved there from another state," says Shawn Meerkamper, staff attorney with the Transgender Law Center. "There are just so many systems that are currently designed to only have two options for gender markers. More data systems need to catch up."

**F**inley Norris first heard about the concept of nonbinary gender as a junior at Ball State University in Indiana. The term fit, Norris says. "It felt good." After college, they decided to pursue a legal name and gender designation change.

Step one was getting a court order. Norris presented a judge with supportive letters from a therapist and two medical doctors, and the judge ruled in their favor. Norris then applied for a gender-neutral birth certificate. With the new certificate in hand, Norris could then apply for a new driver's license. The Indiana Bureau of Motor Vehicles initially denied Norris' request due to the computer system's inability to physically make the change. Norris kept pushing with the assistance of a local law firm, and the BMV ultimately updated its computer software.

This March, after a year of effort, Norris became the first person in Indiana to receive a nonbinary license. "It was kind of instant validation," Norris says. "I was so excited to have that 'X,' because I wanted to just show everyone: 'Look, I am real. See, this is proof right here.'"

Only about half a million Americans right now identify as nonbinary. But that number may rise as attitudes about gender change. In California, just over 1,000 people have been issued nonbinary

**Some states have begun to consider how allowing nonbinary IDs will affect other parts of government, like prisons, that are traditionally split into male and female facilities.**





licenses since the state began offering them this January, and more than 80 have altered birth certificates.

From an administrative standpoint, it's relatively easy for a state to add an "X" option for government documents. It mostly entails software updates, as in Indiana, and retraining staff. The California Department of Motor Vehicles estimates one-time costs of \$880,000 and ongoing costs of \$45,000 a year to offer nonbinary licenses. Oregon DMV spokesman David House says that cost estimates in his state were low enough to absorb into a larger update project. "We are constantly working on all kinds of changes," House says. "[Gender markers] join a pipeline of many ongoing upgrades, new laws and administrative changes. When you put it all in that perspective, this was a pretty light load."

But the requirements to obtain these IDs vary from state to state. Indiana, for example, requires an amended birth certificate or certification from a physician. Oregon and California, however, each permit new gender designations based on self-attestation. At the other end of the spectrum, some states allow only male or female markers on IDs, and they may require proof of hormone therapy or sex-reassignment surgery, which can cost more than \$100,000.

This range in regulations can overlap in confusing ways. Just ask Charlie Arrowood, who lives in New York and works as a lawyer with Transcend Legal, a nonprofit advocacy group. Last fall, New York City began issuing gender-neutral birth certificates, and Arrowood obtained one. New York state, meanwhile, only offers "male" and "female" options for identification, as does the federal government. Arrowood has been able to change state documentation but not federal IDs. As a result, Arrowood is now listed as "female" on their passport and Social Security records, "male" on their driver's license, and neither gender on their birth certificate.

"As far as the 'X,' nobody knows what's going to happen," Arrowood says. In New York City and beyond, LGBTQ advocates worry that mismatched documents could pose problems for things like applying for loans, opening bank accounts, job hunting, voting—even receiving benefits such as Medicaid coverage. The New York state Department of Health says it is working with New York City to accommodate the gender designation law and ensure Medicaid coverage will not be interrupted for nonbinary recipients.

These complications extend to other states. Arkansas, Colorado, Indiana, Maine, Minnesota and Utah all offer nonbinary IDs, but as of April their marriage forms still required applicants to select their gender as either male or female. In California, San Diego resident Van Levy says they continue to face difficulties obtaining services even after receiving a nonbinary license and birth certificate. Levy recalls arguing with hospital staff in the emergency room over using a neutral gender marker for their records. In February, the San Diego Blood Bank said Levy would not be able to donate blood without completing a form with two gender-specific questions. An official from the blood bank told local reporters "these questions pertain to the safety of the donor as well as the safety of the blood products."

For Levy, it highlights potential challenges with implementing gender-change policies. "Even though legally things are changing, where is the training on how it's being implemented? There's no accountability," Levy says. "The state has to cultivate awareness

***"FOLKS ARE GOING TO START TO SEE PEOPLE WITH THESE IDS. SO MANY SYSTEMS ONLY HAVE TWO OPTIONS FOR GENDER MARKERS. MORE DATA SYSTEMS NEED TO CATCH UP."***

— SHAWN MEERKAMPER, STAFF ATTORNEY  
WITH THE TRANSGENDER LAW CENTER

about how much gendered language is used. It's a matter of educating people."

Some states, though, are starting to consider the long-term implications of recognizing nonbinary residents. Oregon, California and the District of Columbia have begun updating other government documents such as marriage forms. When it comes to criminal justice, the Oregon Department of Corrections accommodates transgender, nonbinary and intersex inmates on a case-by-case basis, officials say. The agency created a Transgender and Intersex Committee specifically to make housing determinations. Transgender, nonbinary, and intersex inmates are initially placed in the infirmary at the state's intake center. The committee then evaluates medical and mental health history, as well as personal preference and safety to make housing placements. Transgender and intersex people typically stay with the general population in either a male or female facility to avoid isolation, officials say.

In addition to jails and prisons, schools have become a hot spot for gender identity debates. In Minnesota, a state that offers gender-neutral licenses, the Minneapolis public school district is making a concerted effort to provide support for LGBTQ students. The district's Out4Good team works with teachers and administrators across the area to accommodate students with gender non-conforming identities. Some adjustments have no cost, says Out4Good coordinator Jason Bucklin. This includes shifting how teachers use gendered terms when conducting class lessons or assigning work. Other changes are more structural. The school district recently completed an 18-month update of its student database to allow a student's identity records to carry over in cases of school transfers. It also allows for more privacy, Bucklin says, by only sharing identity information on a need-to-know basis. Out4Good also works with other parts of government, including the parks and recreation department, to help provide some uniformity for students throughout the school day and afterschool activities.

Gender policy is in a time of transition as well as uncertainty. Over the past two years, as some jurisdictions have moved to expand their gender designations, others have sought to reaffirm gender as only male or female. Just a week after the Indiana Bureau of Motor Vehicles began issuing nonbinary licenses in March, the state House transportation committee voted 10-3 in favor of an amendment to restrict gender changes for IDs by increasing the amount of required documentation. A separate amendment was floated that would define gender as only male or female, effectively undoing the BMV's new nonbinary licenses. Allowing people to mark "X"

is impractical, said Rep. Matt Hostettler, who authored the gender-definition amendment. “‘X’ is no type of identification, so they’re effectively leaving that portion unanswered,” Hostettler told a local reporter. “Indiana code asks for those things to be answered. [The amendment] would make it so there is an answer one way or another.” Nonbinary licenses, he said, undercut the entire purpose of state-issued identification. “I’m just trying to find a way that this can be clarified,” Hostettler said. “I believe I understand why people might do that, but how does someone who’s looking at an ID card use that to help identify you?”

Both amendments have been shelved for now. Similar legislation introduced in Utah was also pulled by the sponsoring lawmaker.

In February, Shige Sakurai testified before the Maryland House in support of a bill to allow gender-neutral driver’s licenses. They spoke about life as a nonbinary individual and discussed how others are considering leaving the state for Washington, D.C., where they can obtain their desired ID. The legislation faced pushback

from some lawmakers. (The House minority leader joked, “Are we going to call them X men?”) But the measure passed by veto-proof majorities, and is expected to become law.

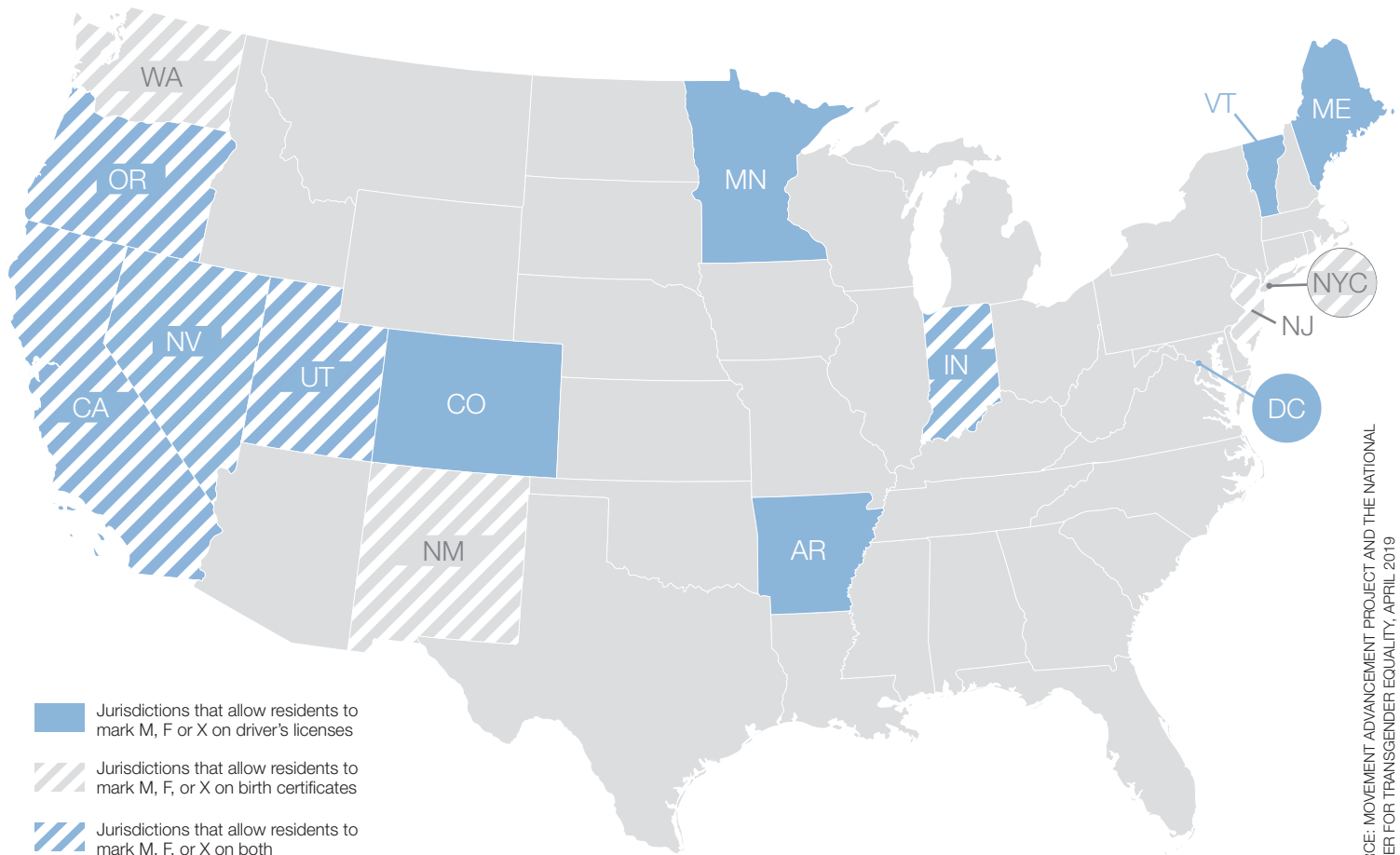
The subject of gender neutrality is controversial and complicated. Making the decision to allow “X” markers requires more than just a singular law or administrative shift; it necessitates a series of systemic changes in agencies at all levels of government.

Sakurai knows that changing ID laws is only a first step. Right now, there’s a series of bureaucratic gaps within and among states, and jurisdictions will need to determine how to process the growing number of nonbinary documents. “I think there’s much more work to be done. There’s a question of, Why do you even need to ask someone their sex?” Sakurai says. “For years, transgender people have changed different markers, so all of those could be your legal sex. If these gender markers are not consistent, then what are they being used for?” **G**

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## CHOOSING AN ‘X’

In the past two years, several jurisdictions have begun allowing residents to identify as gender nonbinary on state documents. But inconsistent and overlapping regulations can be confusing.



Maryland is expected to begin offering nonbinary IDs later this year.

SOURCE: MOVEMENT ADVANCEMENT PROJECT AND THE NATIONAL CENTER FOR TRANSGENDER EQUALITY, APRIL 2019





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Terri Smith had the right to go to trial in her recent eviction hearing, but she never asked for one.

# THE RIGHT TO AN ATTORNEY

*Governments still don't provide lawyers for many poor people who are lost without them.*

**T**erri Smith lost her home in three minutes. Standing before a judge in a Richmond, Va., courtroom one morning this spring, she admitted that although she had paid her April rent on schedule, she had missed the deadline a handful of times over the past year. It was usually just by a day or two: The rent is due on the third of each month, and Smith often doesn't get her paycheck until the fourth or fifth. The judge ruled for the landlord and evicted her.

Smith could have demanded a trial—and in doing so would not have had to admit that she hadn't paid her rent on time. That would have given her a chance to collect evidence for her case. It would have allowed her to discuss the mold in her apartment, the leaky ceiling and the fact that her landlord had failed to keep up on repairs. All of those are legal reasons that could have exempted her from paying rent on time and kept her in her home. She also might have presented the eviction letter her landlord had sent, which listed a domestic violence incident as one of the reasons for eviction, even though Smith was the victim in the incident.

But she'd already had to wait for hours in Room 222 of the John Marshall Courts Building, watching dozens of other renters get evicted, and it was well past 11 a.m. by the time she was called in front of the judge. She was pressed for time. Smith needed to catch a bus back across town to her apartment, change for work, and get another bus to her job working with dementia patients. She couldn't be late for her job, Smith says. And she got nervous.

So she didn't fight back. She never presented the landlord's letter. She never asked for a trial. When the judge ruled in favor of the landlord and gave Smith two weeks to get out of the apartment, she left the court saying, "I just want my deposit back and move on."

In those three minutes in front of the judge, Smith's reluctance to push back against her eviction cost her a great deal. It will be

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BY J. BRIAN CHARLES  
PHOTOGRAPHS BY DAVID KIDD

harder for her to move to a new home. The judgment rendered in the brief court appearance will show up on her credit report. Landlords are reluctant to rent to people with evictions on their records.

The odds in the John Marshall Courts Building, as in most courthouses across the country, remain stacked against the renter. In the dozens of evictions that moved through the Richmond courthouse on April 11, none of the tenants who appeared had an attorney. That is indicative of the eviction process across the nation, says David Stern, executive director of Equal Justice Works. Only one in 10 tenants comes to court with an attorney. Landlords, meanwhile, almost always have legal representation. And while the lawyers can jockey for the best interests of their clients, and all of them understand court procedures, renters in eviction courts seldom understand the rules. According to the National Center for State Courts, plaintiffs in a wide variety of civil cases are twice as likely to win when only their side is represented by an attorney as they are when there is counsel on both sides. “The plaintiff’s lawyer, when unopposed, will introduce hearsay and do other objectionable things in court the defendant doesn’t know to object to,” says John Pollock, coordinator for the National Coalition for a Civil Right to Counsel.

Since 2016, when Matthew Desmond brought national attention to evictions with his Pulitzer Prize-winning book *Evicted: Poverty and Profit in the American City*, local governments across

the country have started using their resources to provide legal representation for tenants. After three years of pilot programs, New York City passed a “right to counsel” law in late 2017. The city spends \$155 million each year to help low-income renters (for example, a family of four making less than \$49,000 a year qualifies). The program assists tenants in 15 ZIP codes hard hit by evictions. In its first year, the percentage of tenants represented by a lawyer in eviction court rose from 1 percent to 56 percent, according to city data. Evictions dropped by 27 percent in the same time period. In the next three years, the program is expected to cover the entire city.

Other cities have rolled out their own versions of the program, albeit on a much less ambitious scale. Washington, D.C., spent \$4.5 million last year to provide lawyers for low-income tenants facing evictions. Philadelphia spent \$800,000. A recent study by the Philadelphia Bar Association estimated the city would save \$45.2 million each year if it invested \$3.2 million in legal services in eviction cases. This takes into account the strain that evicted residents place on shelters and other social services, the burden placed on the courts and the stress the children of the evicted put on public schools.

But those tenants-rights programs are the exceptions. Richmond is more typical. According to research conducted by Princeton University’s Eviction Lab, Richmond has the second-highest eviction rate in the country. During a one-month span in 2018, judges in the John Marshall Courts Building handed down more than 1,300 evictions, more than five dozen a day, according to Martin Wegbreit, director of litigation with the Central Virginia Legal Aid Society. The court normally handles its daily load of eviction cases in the morning. The cases fly through in less than two hours. The process is hastened by a sea of attorneys representing landlords. They bark out the names of tenants and follow up with “please speak with me in the hallway.”

Renters, mostly women, many of them poor or close to it, enter the hallway to strike a deal. Sometimes it’s a straight monetary agreement. Pay the past-due rent and pay the late fees, which in Virginia can exceed the industry norm of 10 percent of the unpaid total, and the lawyer will stop the eviction process. But often the tenant must allow the landlord to ask for a writ of possession from the court clerk, and at any time within a year, the landlord can hand that writ to the sheriff, who will evict the tenant within three days of receiving the court order. Although Virginia will soon shorten the time landlords can hold a writ from one year to six months, the court papers are a powerful weapon in the hands of a landlord. “It’s not about money,” Wegbreit says. “It’s about power and control.”

**E**vicition cases like those in Richmond are just one element of the larger and sometimes hidden problem of representation for defendants in a whole range of civil proceedings. For the past 56 years, legal representation in criminal court has been guaranteed under the Supreme Court decision in *Gideon v. Wainwright*. In that case, the court held that

**Attorney Helen Hardiman wants Virginia to provide counsel in civil court: “The distinction between a criminal case and civil case is really nonexistent.”**







when life and liberty are at stake, defendants should have the right to an attorney, whether or not they can afford one. A growing number of civil attorneys believe the same should be granted to low-income residents in certain civil cases. They argue that civil courts are equally capable of stripping people of fundamental rights.

States have given people the right to an attorney in some matters beyond criminal court, notably in child custody cases. But an eviction can end up costing someone custody because they have failed to provide their child with adequate shelter. An eviction can also lead to criminal charges if the person is arrested for loitering while homeless. “The distinction between a criminal case and civil case is really nonexistent,” says Helen Hardiman, a Richmond-based housing attorney. “It’s where lawmakers have decided to place the case.”

The blurred line between civil and criminal justice was starkly apparent with California’s longtime use of civil gang injunctions. These were common across the state, but Los Angeles used them more often than any other city. Initiated by a lawsuit filed by the city against alleged members of a street gang, the injunctions would make it illegal for those believed to be in the gang to carry cell-phones or travel together in the area covered by the court action. Anyone included in the injunction could be subjected to stop and frisk searches by law enforcement, and violation of the conditions of the injunction could result in incarceration.

Those faced with an injunction in gang cases did not have the right to an attorney during the civil procedure. This was the basis of a successful 2016 class action lawsuit in which a federal court ruled the injunctions unconstitutional, calling them criminal prosecutions in the guise of civil justice. The city was forced to take the names of 9,000 residents off the gang injunction lists it had kept.

The problem comes up in school discipline cases as well. By state statute, Mississippi guarantees its students a right to a quality education. However, the state’s track record of heavy-handed student punishment threatens the ability of many of its students to exercise that right, according to Amelia Huckins, a fellow with Equal Justice Works, which supports public interest lawyers across the country. During the 2014-15 school year, 8 percent of Mississippi public school students received at least one suspension.

In some districts, as many as one in five received a suspension in a single year. In Moss Point, a school district along the Gulf Coast, 42 percent of students received at least one suspension.

Mississippi law does provide a right to legal representation in school discipline hearings. If a student is to be suspended more than 10 days, or expelled, they can be represented by counsel in the hearing. There is one problem—Mississippi won’t pay for the attorney. School disciplinary hearings in Mississippi often start with the school’s own disciplinary review board, but can ultimately land in the state’s chancery court, where the students are rarely provided with legal assistance.

In the chancery court hearings, those families fighting suspension or expulsion, often low-income single mothers, are nearly always up against school district lawyers steeped in education law. It’s unlikely that a parent or guardian would know, for example, to pull the school’s own disciplinary handbook to see if the action threatened against the student is in line with district policy. It’s even less likely that they would know that a child with a disability is protected from disciplinary actions in specific circumstances. “The school has representation in discipline cases who understand the proceeding. The school runs the proceeding,” says Pollock. “There is a significant reason you should have a lawyer. How can you say education is not a fundamental right? It impacts almost every outcome in a person’s life.”

Last fall, a special needs student in Mississippi had a classroom outburst that led the district to attempt to suspend him for more than 10 days. However, the student is autistic and, according to Huckins, had not received federally mandated accommodations to help with his disability. If Huckins can prove the school district did not meet the 8-year-old student’s accommodations, the suspension won’t stand. Without this kind of specialized help, there is almost no chance that the suspension would be overturned.

As the U.S. population continues to age, more families are grappling with the question of adult guardianship. When the elderly are no longer capable of making decisions for themselves, their

**Like most courts, Richmond’s John Marshall Courts Building moves cases quickly—as many as five dozen evictions a day.**



attorneys to those courts, who are assigned to clients by the judge and collect legal fees from the state. The fees are small, so any profit comes from handling a high volume of cases. With Richmond's courthouse flooded with eviction cases, Equal Justice Works plans to send law fellows to the city this summer to assist low-income tenants facing eviction. Meanwhile, two of the fellows sent by Equal Justice Works will work on policy change at the state level.

Virginia has made some changes on this front. In January, Richmond became the first of four Virginia cities to launch an eviction diversion program, which will use taxpayer money to pay for attorneys who will help negotiate rent disputes between landlords and tenants. This is not the same, however, as full legal representation at an eviction trial. Still, as Richmond prepares for a change in the way eviction courts operate, Manoli Loupassi says the courts will be faced with cases that won't be won on facts but

**Manoli Loupassi says providing counsel in civil trials would come with risks. More cases might be won on technicalities instead of facts.**

on technicalities. He's one of dozens of attorneys who come to eviction court in Richmond to represent landlords. The former Virginia state delegate splits his time between representing landlords in civil courts and accused felons in criminal court. Loupassi's opposition to the right to legal counsel in civil cases is nuanced. He sees the need for them in civil asset forfeiture cases, where someone can

lose their property, or when orders of protection expose people to enhanced criminal prosecution for simple violations of the order.

Loupassi warns that extending the guaranteed right to counsel in civil matters would come with risks. When "life and liberty are at stake," people should have a right to counsel, he says. Evictions are a matter of contract law, however. Most of the tenants he seeks evictions against have broken the terms of their lease, which is a contract. "Most people in court are here because they didn't pay their rent," Loupassi says, "which puts them in violation of that contract."

Lawyers, Loupassi contends, won't be able to argue that most of the tenants they represent did indeed pay their rent on time, but will try to win cases on technicalities, throwing cases out because a landlord didn't follow the eviction process to the letter of the law. "There is what is just and what's right. Getting someone out of an eviction on a technicality might make it just, but it doesn't make it the right decision."

While Richmond is changing some of its rules and getting help from public interest attorneys, several states and cities are working on the issue through the legislative process. Lawmakers in Connecticut and Massachusetts are exploring ways to expand legal representation to people facing evictions. Nevada and Colorado lawmakers have expanded legal representation in adult guardianship cases. Similar efforts are underway in Cleveland and Austin.

The growing effort by lawmakers to expand the right to an attorney in civil matters is encouraging to those who have long called for these changes. Civil cases involve important rights, Stern says. "We ought to have a lawyer present when those rights are at risk." **G**

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family members can take control of their finances and determine where they will live. The adults who can end up under guardianship aren't entitled to an attorney, and abuses happen often. "Children convince elderly parents that they can help them with their money," says Sarah Everett, an attorney with Indiana Legal Services. "Guardianship is a vehicle that can be misused."

If an attorney is present, the terms of the guardianship can be negotiated, Everett says, to "ensure the individual knows what the process is about." Clients are better informed about the consequences that can result from being subjected to guardianship. Equally important, an effective counsel can place in the court records more instances of abuse when they occur.

**H**elen Hardiman is one of a handful of attorneys representing tenants faced with eviction in Richmond. Both a lawyer and a trained social worker, she helps eviction clients who make too much money to qualify for a legal aid attorney, but not enough to afford most private counsel. When she takes a case to trial, it usually involves an alleged violation of the Fair Housing Act on the part of the landlord. A Fair Housing Act violation (race, gender or disability discrimination) allows Hardiman's clients to file a lawsuit against the landlord. The act allows Hardiman to be paid on contingency. Still, there are only so many clients she can see. "Over the past year," Hardiman says, "I have learned I can't say yes to too many of the eviction cases." If she did, she could no longer keep her practice afloat.

This leaves a void in representation. Hardiman has suggested Virginia adopt a system for civil court that copies current practice in criminal courts. Many of the state's rural courthouses don't staff dedicated public defenders. Small law firms dispatch private



# THE BUSINESS OF GOVERNMENT

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## *Airport P3s Ready for Takeoff*

Denver is using a public-private partnership to renovate its airport's Great Hall.

**T**he biggest news in the world of public-private partnerships last year had nothing to do with toll roads—the most visible way in which governments team up with companies. Instead, the most expensive infrastructure deals were projects to build a car-rental facility and a small tram at Los Angeles International Airport.

Indeed, airports may represent the most vibrant area for P3s these days. Airports in general are launching major renovations of their terminals and other facilities now that the airline industry is in a position to help finance the upgrades. It's hard for other airports not to notice

the P3 projects at LAX and New York's LaGuardia. They're promising to fix some of the biggest problems at neglected airports in America's two largest cities.

"LaGuardia and LAX were important for the market to show that deals of that size and complexity could get done and actually get moving on construction," says Larry Belinsky, the managing director for Frasca & Associates LLC, a firm that advises cities on infrastructure projects.

Denver is using a P3 to renovate its airport's Great Hall. The new operator will move and modernize the ticketing counters and security checkpoints at the airport as well as manage the concessions

that are offered there. Austin used a P3 to revive the south terminal of its airport.

More recently, airports have been looking at P3s to add hotels. Nashville, Phoenix and Jackson, Miss., are among those exploring the idea, and New York's JFK Airport will soon open a hotel in its iconic former TWA terminal.

Not all airport P3s have gone off without a hitch. Kansas City, Mo., considered using the arrangement to rebuild its terminal but has since scaled back those plans. Advocates in St. Louis hope to turn over day-to-day control of the airport to a private entity, but significant political opposition to the idea remains. —Daniel C. Vock

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# Is Evidence the Answer?

Problems arise when evidence-based policy meets the real world.

**Y**ou can't swing a cat in public administration circles these days without hitting some mention of "evidence-based policymaking." Sara Dube, director of the Pew-MacArthur Results First Initiative, assures us that all 50 states have made at least some effort to gather solid, data-based information that can help executive and legislative leaders make good decisions.

Not every state relies on evidence to the same degree. Some, including Colorado, Minnesota, New Mexico and Washington, have rigorous processes for applying evidence in their budgeting and decision-making. At the other end of the spectrum are West Virginia, New Hampshire and the Dakotas, which don't really incorporate data in any formal or organized way. Most states fall somewhere in between, and many of them lack the funding or staff it would take to apply the approach routinely.

But even with money and staff, evidence-based policymaking can be fraught with peril. For one thing, once evidence seems to indicate that a program is successful, public officials often declare victory and move on. "But there are few easy wins with health care, poverty, education and so on," says Gary VanLandingham, a professor at Florida State University and a national expert on evidence-based policymaking. "No single program or process is a silver bullet that will solve all problems. But everyone loves silver bullets."

As a result, even though a strong body of evidence may point to one approach for solving a problem, that doesn't mean it's the only route to success, and a search for multiple solutions is often worth the time and effort.

Another issue: If evidence shows that something works in, say, Albuquerque, people assume it will be a success in Pittsburgh as well. "You need to implement these programs with fidelity while still adapting them to new contexts," says VanLandingham. "That is very hard to do. When efforts succeed in one jurisdiction, that doesn't mean they will in another."

In other words, one size does not fit all. Sometimes that's because different jurisdictions simply have different needs and different demographics. But often, the problem is that the programs themselves aren't replicated consistently when they're exported from one place to another.

Consider a situation in Colorado, as described in a report published by the IBM Center for the Business of Government. The state had adopted a federally backed home-visiting program for at-risk pregnant women and parents with young children. The model had shown success in other states. Yet when Colorado subsequently evaluated its program to see how well it was working, the state learned that "not all home-visiting providers were performing the same or implementing the model as intended," according to the IBM paper,

and that the "required monthly visits were not always happening."

Even beyond the pitfalls of trying to replicate success, there's the underlying question of what "evidence-based" even means. The gold standard for data, of course, would be randomized control trials. But those kinds of experiments are costly and time-consuming, requiring resources that states don't have to spare. And while randomized trials might technically be the best way to measure a program's impact, politically they're a tough sell. Who wants to be in the group that's not receiving a potentially beneficial new service? Who wants to drive on the control road that doesn't have the new technology aimed at reducing traffic fatalities?

An example comes to mind from Flint, Mich., after its drinking water debacle became a national outrage. The city wanted to develop a plan for alleviating the problem, so water officials ran lead tests on one set of pipes, but not on others. Individual citizens didn't know whether their pipes had been tested or not; everyone knew they'd had a 50-50 chance of being in the control group. No one was happy.

So there's a dilemma even with the gold standard for finding evidence upon which to base policy decisions. Nobody wants to find out they're getting the lead, instead of the gold. **G**

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# Rise of the Nerds

Activist auditors like Atlanta's are making their mark on government.

**B**ack in 1991, a political science professor named Edward M. Wheat published an article that got a lot of people worked into a lather. The article, in *Public Administration Review*, was met with alarm and consternation starting right from its title: "The Activist Auditor: A New Player in State and Local Politics." Government auditors weren't supposed to be "activists" or "players," and they sure weren't supposed to be involved in politics. They were supposed to be passive observers and commenters after the fact. (The well-worn joke was that auditors were the ones who came onto the battlefield after the fight and bayoneted the wounded.)

But Wheat's article was not a prescription. It was a description of something that was already happening, the "dramatic emergence of performance auditing and the activist auditor as central features of American government." Activist auditing was proactive and holistic, identifying social and policy problems and going beyond traditional mandates. It saw as its clients the public and its representatives, rather than the agency or the manager being audited.

While this might sound arcane, it is actually easy to explain to voters, and they tend to like what they hear. Established political leaders are often less welcoming. That's how things played out in Atlanta. In 1996, the city's voters approved the creation of an independent auditor's office, but then-Mayor Bill Campbell kept the post from being filled. It wasn't until Shirley Franklin became mayor in 2001 that Atlanta hired Leslie Ward, and the office has been an exemplar for other cities ever since.

Ward had been my deputy when I was serving as the auditor of Kansas City, Mo. When she was hired away to Atlanta, one of her most important early moves was



AMANDA NOBLE

bringing in Amanda Noble, then an audit manager in Kansas City, as her deputy. Over more than 15 years in the job, Ward issued high-impact performance audits that earned her operation the trust of the city council. Two years ago, Ward retired, and Noble was appointed auditor herself. She has continued Ward's commendable work.

Like many performance auditors, Noble is not an accountant. She has an undergraduate degree in social work and a master's in public administration. She is smart and analytical, with a strong public-service ethic. She's also a little introverted. That's not unusual; performance auditors are generally not showboats. When King County, Wash., Auditor Kymber Waltnunson spoke at an Association of Local Government Auditors conference a couple years back, she looked out at the crowd of 400 and declared it "a critical mass of nerdiness."

The nerds have certainly been busy in Atlanta. Over the past year, Noble's office has issued high-profile audits of airport construction contracts, water quality testing, affordable housing initiatives and the use of police body cameras. The airport is undergoing a \$6 billion expansion, and

Noble's audit found red flags in contracting, leading the city council to give her office more money to conduct procurement reviews. The performance audit of police body cameras found, among other problems, that officers wearing them captured video for only 33 percent of calls.

Those kinds of audits can threaten political agendas, of course. That's why, as Wheat wrote, an auditor's placement in the government structure "will always be problematic." Atlanta affords strong protection. The auditor has a five-year term, is hired by and reports to a five-member independent committee, and can be removed only for cause by a two-thirds vote of the city council.

Wheat wrote that "we should welcome the emergence of new players" who have "a bias toward disclosure." His subversive little article continues to resonate, and public officials who want responsive, evidence-based government should be glad of that. Those who already have an activist performance-audit organization should support it. Those who don't could do worse than to look to Atlanta for a model of how to build one. **G**

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# How Community-Based Partnerships Transform Stormwater Management

A proven model for upgrading stormwater infrastructure and meeting regulatory compliance reduces costs and delivers a range of economic and social benefits.

*Green Infrastructure installation at Francis Scott Key Elementary School, Prince George's County, Md.*

**Until recently**, a community's ability to address resilient infrastructure and regulatory challenges related to water quality and flooding was limited to fragmented and piecemeal solutions that stretched government personnel and fiscal resources. That approach often resulted in delayed projects, increased costs, regulatory compliance liabilities, and deferred infrastructure repairs and maintenance. It also had little impact on the community, especially in low-income areas.

To successfully address these challenges, communities need to adopt different delivery models, access alternative capital sources and receive greater private sector accountability. Adjusting the approach to a performance-based delivery model that incorporates local community goals and benefits is achievable if the procurement framework is changed to "start with the end in mind." That's why governments are increasingly adopting a different design-build-operate-maintain model known as the community-based partnership (CBP).

A CBP delivers sustainable and compliant stormwater and flood management infrastructure at a lower cost than traditional contracts. At the same time, a CBP can also help boost economic and workforce development and help communities invest in green streets and green infrastructure.

This paper explains how CBPs work and describes how any local entity can procure this type of partnership, structuring the agreement to meet its specific goals, with measurable results.

## The Stormwater Challenge

Due to population growth and rapid development, many communities are no longer complying with National Pollutant Discharge Elimination System (NPDES) requirements. Communities that do not comply are subject to large fines.

In some communities, NPDES also has an environmental equity component. Low-income communities often see less development, leaving them with older, less efficient drainage systems and more polluted waterways. When a state sets permitting requirements for a local government through the NPDES program, the mandate may include additional steps to correct this inequity.

Communities often tackle those activities piecemeal, issuing separate design-bid-build procurements for each individual stormwater project. That segmented procurement approach drives up costs and delays completion. Since each segment is independently managed by the government, the government assumes all project schedule and cost risks. It also alleviates

the private sector from any and all accountability or incentive for quality, and the government must make payments for work completed regardless of the performance of the stormwater asset. Additionally, one-off projects don't offer economies of scale or engineering efficiencies. The local government or public utility also misses opportunities to create broader community benefits from their stormwater investment.

## The CBP Alternative

Under the CBP model, a local government or public utility aggregates multiple stormwater improvement projects into a single, integrated procurement, creating one point of private sector accountability. It uses a performance-based contract, linking the partner's payments to specific, measurable goals. The private partner assumes both short- and long-term budget and schedule risks, incentivizing best value and a whole life compliance solution.

The contract also requires the partner to deliver a system that improves environmental sustainability and resiliency. But the community can also require its partner to achieve specific key performance indicators (KPIs) to create jobs, engage with minority- and woman-owned enterprises (MBEs/WBEs), create public green spaces or achieve other goals. Additionally, the

## Best Practices for CBP Procurement

- **Design a performance-based contract** that states the problem, the outcomes you want to achieve and how you will measure success. Along with stormwater and regulatory goals, the contract should specify community, social and/or environmental goals.
- **Don't be afraid to break the mold.** "Governments face a variety of challenges. Bundling different local imperatives can be a way to make gains on a variety of fronts at the same time," says Adam Ortiz, who is considering the CBP model for future projects in his new role as director of the Department of Environmental Protection in Montgomery County, Md.
- **Don't be prescriptive.** Let responders explain how to achieve the goals you lay out and what qualifies them to perform the work.
- **Get buy-in from constituents.** Attend community meetings to explain how neighborhoods will benefit from the project.
- **Choose a partner** with strong experience in community programs and public relations as well as in managing design and construction.



partner can also source alternative best fit capital to invest in the upfront “at risk” portion of the development work, which the government can buy with lower cost capital upon completion and certification of the projects.

By approaching a government’s stormwater management obligations in bigger “bites,” the CBP model drives economies of scale, innovation and long-term maintained compliance. It also makes it easier to educate citizens on how improvements will impact the community, and the value they are receiving for their stormwater utility fees.

A CBP also reduces barriers to entry for local subcontractors, since the aggregated projects provide enough work to justify investments in labor and materials, while providing for umbrella bonding and insurances by a larger aggregator. And, a CBP provides flexibility, letting each public entity decide how to invest in its own stormwater projects and tackle its broader community and economic policy goals at the same time. For example, the Milwaukee Metropolitan Sewerage District, which regulates and finances stormwater management projects in 28 municipalities, plans to build a workforce development training component into an upcoming procurement for green infrastructure, according to Executive Director Kevin Shafer.

## Financing the Project

The CBP approach is finance-agnostic: governments and public utilities can choose from a variety of vehicles to fund their projects, including vehicles previously out of their reach. For example, by aggregating many small projects into a larger CBP initiative, a community can achieve the scale needed to secure federal- and state-provided low-interest public loans and grants.

Sites most in need of stormwater improvements often sit within Opportunity Zones — locations within economically distressed communities where the federal government gives preferential tax treatment to private investors. Because this tax cut enhances the return on investment, investors can offer capital to projects in Opportunity Zones at lower rates. This arrangement provides an attractive source of finance for stormwater projects.

Even a community in financial straits can use a CBP to attract financing. For example, the city of Chester, Pa., has operated under bankruptcy protection for more than 20 years. Seeking to correct a backlog of stormwater projects, community leaders in Chester formed a stormwater authority — an independent entity not covered by the city’s bankruptcy provisions. With technical assistance from the federal EPA, the authority conducted a procurement to form a CBP with Corvias as the lead private sector partner. The authority then applied to Pennsylvania’s PENNVEST Clean Water State Revolving Fund for a 1 percent loan to support a series of stormwater improvements.

“PENNVEST officials liked the proposal so much, when they saw that this reputable private entity had the right kind of capital and expertise behind it, they wanted to more actively look at this project as a model,” says Dominique Lueckenhoff, former senior advisor to the regional administrator of EPA Region 3.

PENNVEST awarded the program a \$1 million planning grant, says Lueckenhoff. Ultimately, the fund also provided three low-interest loans to support \$50 million worth of stormwater improvements. Revenues to repay

## Putting a CBP into Action: Prince George’s County

In 2014, Prince George’s County, Md., was faced with an enormous regulatory challenge. Compliance with its current NPDES permit required retrofitting 6,000 impervious acres with green infrastructure — with the future requirement for up to 15,000 acres of untreated impervious area by 2025 — at an estimated cost of \$1.2 billion. The county could have utilized traditional project delivery methodologies and procurement; however, given the magnitude of the challenge, county leaders sought an alternative solution.

Prince George’s County formed a CBP known as the Clean Water Partnership — a 30-year stormwater program partnership between the county and Corvias — to tackle its stormwater compliance projects, starting with a \$100 million pilot. When the project met specific delivery and community performance metrics, that triggered payments to the private sector partner.

“For example, they had to conduct a mentor-protégée coaching program for businesses in the field,” says Adam Ortiz, director of the county’s Department of the Environment. “They had to meet percentage benchmarks for contracts going to local businesses in a variety of categories, such as small, local, minority-owned, woman-owned and veteran-owned.”

The county recently completed the initial pilot, retrofitting 2,000 acres and saving more than 40 percent compared to traditional, non-bundled procurements. The county also achieved regulatory compliance requirements and used greater than 87 percent local, minority-owned businesses.

those loans will come from an \$8-per-month stormwater utility fee the stormwater authority imposed on certain properties.

“These properties are creating the greatest impact, because they have impervious surfaces and pollution is being carried off along with the stormwater,” says Lueckenhoff.

About 70 percent of those properties are owned by individuals or businesses outside of Chester.

The CBP model lets the public sector pay for projects only after they are completed and have achieved target KPIs. A community may also structure the contract to make its payments an operations and maintenance cost rather than a capital cost.

## Conclusion

A CBP is a flexible and highly accessible approach to stormwater management upgrades. It provides benefits far beyond simple compliance and cost savings, creating opportunities to meet local goals for economic development, environmental resiliency and other values. Moreover, the CBP model is feasible for communities in any financial situation.

*This piece was developed and written by the Governing Institute Content Studio, with information and input from InfraManagement Group and Corvias.*

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# Let's Get Together

**G**ov. Jerry Brown recently retired after two stints and 16 years of leading California. When historians evaluate his legacy, they'll surely highlight his efforts on issues like conservation and criminal justice reform. But they'll probably overlook his history with an obscure state agency known as the California Postsecondary Education Commission. They shouldn't. Arcane, bureaucratic coordinating commissions like CPEC could be central players in the future of state budgeting.

Coordinating commissions—also known as authorities, boards and committees—are charged with deciding how to allocate and manage state dollars for services with large, local economic consequences. They're most common in areas like higher education, transportation and economic development. A typical commission has 10 to 20 members appointed by the governor, the state legislature or a mix of both. Roughly two-thirds of the states have some sort of commission; many have several to cover different policy areas.

Unlike a study or an investigative commission, coordinating commissions are based on the premise that a statewide plan is more than the sum of its local parts. Absent coordination, local actors compete for state legislators' affection. That can lead to duplicative, inefficient spending. Commissions can help minimize political shenanigans by engaging all those local actors in a comprehensive planning, budgeting and policymaking process. The result, in concept at least, is a spending plan based on well-defined goals that balance local benefits with statewide priorities.

With that in mind, legislators granted commissions considerable power throughout the 20th and early 21st centuries. Commissions appointed state agency directors and exercised oversight over billions of state dollars. Perhaps most important,



**Coordinating commissions have fallen out of favor, but they could be central players in the future of state budgeting.**

they made controversial decisions about highway tolls, state university tuition rates and other politically unpopular taxes and fees. Not surprisingly, they also clashed with university presidents, regional economic development directors and other local stakeholders who believed they focused too much on the big picture and not enough on needs at the ground level.

But despite these disagreements, the evidence suggests commissions work. Studies have shown that when a transportation commission helped to craft a state's long-range infrastructure plan, that state managed its transportation infrastructure more efficiently and effectively. Moreover, states

with transportation commissions were also more likely to craft transportation budgets around performance targets for highway conditions and safety. There's similar evidence in higher education. For states looking to stretch limited dollars, commissions were a reasonably cheap and effective tool.

I say "were" because all that changed with the Great Recession. As resources became scarcer, shared goals gave way to "fend for yourself" strategies. Universities beefed up their on-campus budgeting and planning staffs. Transportation departments developed new capital improvement plans independent of their coordinating commissions. Regional economic development directors hired lobbyists to take their message straight to state legislators.

Commissions haven't been the same since. Many were relegated to administrative tasks such as compliance with federal reporting rules. Some were absorbed into state agencies. Others were disbanded altogether. Gov. Brown effectively shut down CPEC in 2011.

But the tide might be turning as state leaders looking for fresh solutions are seeking to breathe new life into old commissions. Gov. Gavin Newsom, who succeeded Brown in January, has floated a plan to reconstitute CPEC. Gov. Jared Polis of Colorado has a similar plan for higher education. Governors and state legislators in Delaware, Massachusetts and Minnesota have proposed new funding to beef up staffing, technology and other capacities to rebuild their states' transportation commissions and regional economic development commissions.

As we prepare for the next recession, whenever it may be, coordinating commissions could prove more valuable than ever. A few states seem to have realized that lesson already. Perhaps more will follow. **G**

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# A Remedy for Urban Dullness

How can you build a great place? Expand the number of people who own it.

**F**or some time, those of us who love towns and cities have been worried about the dearth of great new urban places—street-centered, full of surprises, locally flavored, spicy and interesting. As the Danish urbanist Jan Gehl put it in 2016, if we were “making a book about great new towns in the 21st century, it would be the thinnest book you’d ever seen.”

Not that we haven’t seen some visually stunning new places rise up in the past few decades. There are glistening “edge cities” like Tysons Corner outside Washington, D.C.; tidy New Urbanist meccas like Celebration, Fla.; and even the gleaming towers of the new Hudson Yards development in New York City. But none of these has the bustling street life, the sense of possibilities, the sheer randomness that makes a place vibrant and exciting.

In response to this, urbanists have pushed a sort of formula based on street grids, accessible street frontage, units of retail per foot of sidewalk, and other elements of urban design: Set publicly owned streets in a clear grid connected by mass transit, the theory goes, and you’ll get great

urbanism. But that doesn’t always seem to be the case. Look at Battery Park City near the southern tip of Manhattan. Built in the 1970s on new land, including sand dredged from New York Harbor and soil that had been excavated to build the original World Trade Center towers, it has all the right ingredients for a lively urban space. It has multistory buildings with apartments and retail, set properly on a grid of city-owned streets. It has oodles of connections to mass transit. It has shops, restaurants, schools, wonderful parks and cultural attractions. It follows the planning formula to a T. It is also deadlly dull.

So what gives? Well, I have a new theory. To see where I’m going with this, think about a great urban place you know, some place you have lived and loved or like to visit. Now, go to [landgrid.com](http://landgrid.com) or, for New York City, [oasisnyc.net](http://oasisnyc.net) to see the property lines around buildings and land parcels.

I focused on the East Village in Manhattan and, for contrast, the bustling older resort strip in Virginia Beach, Va., where I grew up. When you zoom in on a digital map of either of those places, you see a finely grained pattern of land ownership.

Each block has thin slivers of individually owned buildings. They look like stacks of tiles viewed from the side.

Now look at some dull places like Battery Park City or the new Town Center in Virginia Beach, which was created a decade ago out of some old parking lots and other scraps. Although both have nice street grids, what you see on the maps are large blobs of ownership, with just a few entities—or even just a single one—owning everything.

In the older, more interesting places, each property is its own universe. Sure, they must adhere to city rules of zoning and design. But each owner, whether individual or corporate, manages their property as they see fit, working to find the secret to livability or profitability, or just to attract an interesting tenant. When we delight in these places’ active street life and surprises, what we are really enjoying is a dance of human-scale capitalism. Great urban places have many owners. And I don’t mean this as a metaphor. I mean it literally.

Can government do anything about this? The new places typically are built through some sort of urban renewal process in which a city or development agency teams up with a single corporate entity. What if, instead, a government were to produce a master plan, do a lot of the infrastructure development itself, and then lease the property to hundreds of people or companies, who could then construct buildings and engage in their own dance of capitalism?

Maybe our narrower focus on urban design has been a distraction. Maybe the real issues are the invisible property-ownership lines behind the physical lines of the streets, buildings, sidewalks and parks. Maybe great urbanism is created by many hands stirring the soup, rather than just a few. **G**

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New York's Battery Park City follows all the right rules for urban placemaking. But it's decidedly dull.

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# Aged Out

There are new ways to help young people transition from foster care.

**T**he years between 18 and 21 are a precarious time for anyone. That's particularly true for the more than 23,000 young adults who age out of the foster care system each year. Some 20 percent of them become homeless the moment they're turned out of foster care. The chance that an aged-out foster child will earn a college degree is less than 3 percent. And 70 percent of the young women no longer under foster supervision become pregnant by the time they turn 21.

But although 25 states extend foster care services past the age of 18 and most offer some transitional services after that age, younger children remain the priority. "There are just less funding and fewer resources allocated to older youth, though states wish they could do more," says Jessica Foster, director of strategic partnerships at Youth Villages, a Memphis-based nonprofit that has been

working since 1999 to help that vulnerable age group.

Youth Villages aims to fill in the gaps where even the most stable young adults sometimes stumble: getting and keeping housing and jobs, paying bills, going to school. "When they leave state care, do they have someone to drop them off at a job interview? Who do they go to when they lose their housing?" she asks. "Most state agencies struggle with helping those youth in that area."

Youth Villages has partnered with state and local foster care agencies in recent years, and its approach is widely viewed as a national model. A caseworker is assigned to no more than 10 young adults, helping them with everything from shopping for groceries and filing taxes to making sure they have a ride to a job interview. Caseworkers are required to see each young adult at least once a week and are on call 24 hours a day, seven days a week.

Tennessee's Department of Children's Services has contracted with Youth Villages since 2007; similar models exist in parts of 15 other states, mostly among private or nonprofit providers. It will be rolled out soon to child welfare agencies and providers in Allegheny County, Pa., New York City and Washington, D.C., and at the state level in Louisiana.

Louisiana currently offers only transitional services to aged-out foster youths who are still in high school. State lawmakers are weighing legislation that would extend foster care to the age of 21, an expansion that would work hand in hand with the Youth Villages model. "Extending foster care is a great thing, but we didn't want to do just that," says Christy Tate, who manages child welfare programs for the state's Department of Children and Family Services. "We knew we had to do something more in order to see improved outcomes."

There's evidence of better outcomes in the Youth Villages model. A national study by the social services research organization MDRC found that it improved housing stability and economic well-being for those who had aged out of foster care.

The spread of the model is likely to accelerate, thanks to last year's passage of landmark federal foster care legislation. Connie Mills, a spokesperson for Youth Villages, says some of the services her organization provides will be federally reimbursable under the Family First Prevention Services Act, making the model more fiscally palatable for states and helping to knit together services for former foster youth. "You might have a program that helps with housing, and another that helps with job training," says Mills, "but to do something this comprehensive, it hasn't really been done." **G**

After he left foster care, Stanley became a gang member. Now, at age 19, he's focused on turning his life around, thanks to his participation in the Youth Villages transition program.



YOUTH VILLAGES

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# Peak-Hour Power

Utilities want to curb energy use through surge pricing.

**E**ach day, energy use in California peaks exactly when you'd expect it to—in the late afternoon, when people are coming home from work, cranking up their air conditioning, making dinner, watching TV and doing household chores.

But generating power during those hours is both costly and wasteful. “To meet peak demand, utilities have to turn on more generators, and the generators they turn on last are the least efficient and most polluting,” says Edward Randolph, deputy executive director for energy and climate policy at the California Public Utilities Commission (CPUC).

That's why CPUC is moving to “time-of-use rates”—akin to “surge pricing” on Uber—which charge customers more between 4 p.m. and 9 p.m. on weeknights, with the goal of shifting their use to off-peak periods. The Sacramento Municipal Utility District successfully piloted this approach between 2012 and 2014, and San Diego Gas & Electric began switching customers to the new model in March. Southern California Edison and Pacific Gas & Electric plan to follow their lead by 2020.

Beia Spiller, an economist with the Environmental Defense Fund, says California's plan will “reduce costs and emissions,” noting that recently improved technology like smart meters helps to facilitate the transition. But she stresses that this kind of change requires robust public education if residents are going to understand the new pricing and adjust their behavior.

Critics worry the new system will be confusing and expensive for low-income, elderly and disabled Californians. *Stateline* reported that California utilities have exempted 4 million customers “who are enrolled in programs that provide bill assistance to low-income people and those reliant on medical devices.”

But Randolph says he's confident customers can adapt. “The idea is nothing novel,” he says. “If folks remember back to the early days of cellphone usage and the early days of telephone usage, it was cheaper to make a phone call in the evening than the middle of the day. We understood that, if we could make a call to family in the evening, that was the better time to do it.”

California is the first place to roll out surge pricing statewide. But the small town of Tullahoma, Tenn., began using time-of-use pricing in 2013, after the Tennessee Valley Authority, which sells energy wholesale to several utilities in the region, began charging cities higher rates during peak times of the day. Fort Collins, Colo., switched to the system this past October. An informal survey by the *Coloradoan* newspaper found residents “doing laundry or running the dishwasher

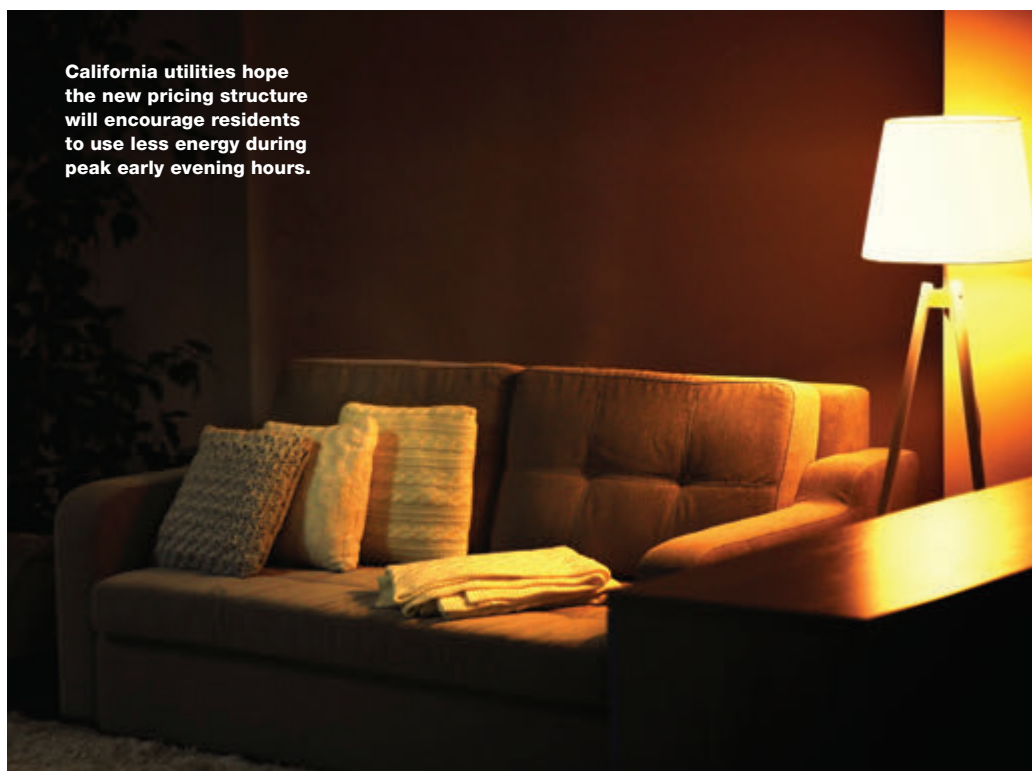
during off-peak times, but dozens of people also said they turned down electric heating, turned off lights and avoided cooking during peak times.”

These transitions haven't been smooth for everyone. Tullahoma customers who didn't change their usage experienced a roughly 10 percent price increase, or about \$10 more each month. Early testing of time-of-use in Fort Collins in 2017 resulted in two-thirds of customers paying \$2 more.

Randolph wants Californians to understand that small lifestyle changes can make a huge difference. In the summer months, for instance, staying cool doesn't have to mean paying more. “Pre-cool the house before peak-rates arrive,” he says, “and then you'll be cool for the evening.” **G**

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**California utilities hope the new pricing structure will encourage residents to use less energy during peak early evening hours.**



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# *Last Look*



Like everyplace else, Nevada has named a number of things as official state symbols. There's Lahontan cutthroat trout, sagebrush and desert tortoise (the state fish, flower and reptile, respectively), along with 19 other official state designees. But while the other 49 states may have official flora and fauna, only Nevada can boast a state element. Thanks to the efforts of a fifth-grade class in Carson City, Gov. Steve Sisolak recently signed a measure naming neon as the official element of the state. The students helped write the language in the bill and lobbied lawmakers, arguing that neon has been no less important to Nevada than trout and tortoises, and deserves to be similarly recognized. —**David Kidd**

DAVID KIDD





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