

# COUNTIES & THE LAW

This edition of *Counties & the Law* includes decisions of interest to county attorneys published in the Daily Report Opinions Weekly between August 13, 2016, and August 19, 2016.

We welcome your suggestions and opinions regarding Counties & the Law. Please contact Kelly Pridgen at [kpridgen@accg.org](mailto:kpridgen@accg.org) or Joe Scheuer at [jscheuer@accg.org](mailto:jscheuer@accg.org) with your comments.

## ***IMMUNITY***

### ***Georgia Department of Labor v. RTT Associates, Inc.***

Georgia Court of Appeals  
August 16, 2016; A15A0792

A contract between a state agency and a vendor was terminated for noncompliance. Following expiration of that contract, the parties continued doing some work, however, neither their conduct nor any internal documents could have established a written contract. The Supreme Court held in the absence of a written contract, sovereign immunity was not waived by the state agency. *{See Counties & the Law 17}*. Here, the Court of Appeals vacates its prior judgement and adopts the Supreme Court's ruling as its own.

## ***TAXATION***

### ***Montgomery County v. Hamilton***

Georgia Court of Appeals  
August 15, 2016; A16A0541

Proceeds of the county insurance premium tax under O.C.G.A. 33-8.8.3 were expended to pay the cost of operating solid waste convenience centers. A class action was filed challenging the expenditure and seeking a refund. The trial court granted summary judgement to the plaintiffs. The Court of Appeals reversed. The catch-all provision of the statute authorizes the use of the proceeds to fund services that are 'similar' or 'like' the other enumerated services as long as for the primary benefit of the unincorporated area of the county. The trial court erroneously concluded that the catch all provision did not authorize the convenience centers so it never reached a determination on whether the use benefited primarily the unincorporated area. The case was remanded to consider that issue.

## **WEAPONS**

### ***Evans v. Gwinnett County Public Schools***

Georgia Court of Appeals  
August 18, 2016; A16A0245

A gun toter sought permission carry a gun into a school safety zone which was denied. The school system informed the individual that if he carried the gun into the zone he would be prosecuted. The individual sued alleging violations of O.C.G.A. 16-11-127.1 and 16-11-173 and a 42 USC 1983 claim that his right against unlawful search and seizure had been violated. The trial court granted the school system's motion to dismiss. The Court of Appeals affirmed. The school system's sovereign immunity was not waived by O.C.G.A. 16-11-173. The version in effect at that time contained no waiver. Even if immunity had been waived, the school system did not violate that Code section. It was not regulating firearms. It merely informed the individual of the law enacted by the General Assembly. The individual relied upon his own version of O.C.G.A. 16-11-127.1 and not upon the actual version. Any conflict between HB 60 and HB 826 was resolved by HB 90 which reenacted the entire O.C.G.A. No seizure occurred here. The individual was never threatened by police with arrest and prosecution. The mere opinion and statement of intent of a school official is not a seizure.