

FINAL REPORT

PRIVATIZATION INTERIM STUDY COMMITTEE

January 1994

APPOINTMENT

The Legislative Council established the Privatization Interim Study Committee in the 1993 Legislative Interim and directed it to review recent privatization efforts. Members of the Study Committee were:

Senator Tom Vilsack, Co-chairperson
Representative Clifford Branstad, Co-chairperson
Senator Randal Giannetto
Senator John Jensen
Representative Gordon Burke
Representative Chuck Larson
Mr. Paul Carlson, Department of Management
Ms. Jeanne Foster, Economy Forms Corporation
Mr. Don McKee, American Federation of State, County, and Municipal Employees
(AFSCME)

COMMITTEE CHARGE

The Legislative Council made the following charge to the Privatization Interim Study Committee:

The Committee shall review the state's privatization efforts to date and make recommendations concerning implementation of a strategic plan for future state privatization efforts and the contracting of state services. The Committee shall consider recommendations of the Fisher Committee and the Senate Appropriations Subcommittee on Privatization, receive information and testimony from other sources, and make recommendations by November 15, 1993.

COMMITTEE PROCEEDINGS

The Legislative Council authorized three meeting days for the Study Committee and meetings were held on October 21, October 22, and November 8, 1993. In addition to meetings, the Study Committee also considered written materials and a partial listing of the materials is attached to this Report.

October 21 Meeting

The following testimony was received by the Study Committee during its first meeting.

Ms. Janet Huston, legal advisor for the Alcoholic Beverages Division of the Department of Commerce, testified concerning the process employed in determining whether the state will enter into a public/private partnership. She discussed the recent contract with a private company to provide certain liquor warehouse services to the Alcoholic Beverages Division. She also commented on her involvement in evaluating various proposals for possible privatization by other state agencies.

Mr. David Fisher, President, Onthank Company and Chairperson of the Governor's Committee on Government Spending Reform (sometimes referred to as the "Fisher Committee"), discussed the benefits of privatization and the work of the Governor's Committee, specifically the Privatization Task Force, in the area of privatization. Mr. Fisher expressed his belief that recent privatization efforts have been successful, resulting in savings to taxpayers, and that these efforts should proceed.

Mr. Paul Carlson, Department of Management, testified concerning recent contracting efforts by the state, the process employed in determining whether to contract for services, and the Department of Management's role in pursuing possible contracting with the private sector to perform certain state services.

Mr. Jim Hancock, Director of the Fifth Judicial District Department of Correctional Services, addressed the Committee concerning the Department's recent contracting effort in establishing a women's correctional facility at Broadlawns Hospital in Des Moines. Ms. Beth Lenstra, fiscal officer for the Fifth District, and Ms. Peggy Blazek, a Fifth District employee and contract manager at the women's facility, also answered questions from the Committee concerning the women's correctional facility.

Ms. Barbara Adams, Mr. Tom Sawyer, and Mr. Steve Diaz, all Department of Human Services employees and members of the United Electrical Workers - Iowa United Professionals Union, testified about their concerns over contracting public services to the private sector. The speakers questioned the cost savings from privatization, especially in the human services area, and the methods employed in deciding to contract a particular service.

October 22 Meeting

Ms. Myrt Levin, Iowa Business Council and Co-chairperson, Privatization Task Force, Governor's Committee on Government Spending Reform, provided a brief overview of the work of the Privatization Task Force and discussed several of the Task Force recommendations.

Mr. Jack Soener, Association of Business and Industry, testified in support of efforts for contracting state services to the private sector. Mr. Soener provided some suggestions on improving the contracting process, such as a mechanism to help identify contracting opportunities, some protections for displaced state workers, and a mediation process to resolve disputes.

Mr. Richard Johnson, Auditor of State, addressed the Committee about the activities of the Auditor's Office in monitoring contracted services and his concerns about contracting efforts in general.

Mr. William Angrick II and Ms. Connie Bencke, both from the Office of Citizens' Aide/Ombudsman, addressed the Committee. Ms. Bencke talked about her recent visit to and report on the Iowa Veterans Home. Mr. Angrick emphasized the importance of considering the needs of the consumer of any privatized service and the need for effective oversight of privatized services.

Mr. Tom Cackler, Administrator, Highway Division of the Iowa Department of Transportation, testified about the recent decision to contract rest area maintenance to a private company.

Finally, several representatives from the Iowa Veterans Home addressed the Committee concerning the contracting of dietary and housekeeping services at the Home. The individuals who addressed the Committee were: Mr. Jack Dack, Commandant; Mr. Bob Atha, Business Manager; Ms. Martha Correll, Director of Nutritional Services; Ms. Berniece Seiler, Compliance Audit Officer; Ms. Karen Counts, Dietary Supervisor/Project Manager for the contractor; Mr. Jeff Thomas, Project Manager for the contractor; and Ms. Ellen Hutchinson, Food Service Worker employed by the contractor. Six of the seven Iowa Veterans Home representatives appeared pursuant to subpoenas issued by the Committee. Two other interested individuals, including a resident at the Home, addressed the Committee concerning the contracting efforts at the Iowa Veterans Home.

November 8 Meeting

The Study Committee held its third and final meeting on November 8, 1993. The Committee received written comments from Mr. Charles Palmer, Director of the Department of Human Services, concerning privatization efforts by the Department. The Committee received no further testimony during the third meeting but instead discussed the testimony and documents already received by the Committee. The discussion focused on the belief that privatization should be pursued only if it can reduce the cost to taxpayers while maintaining good quality service to Iowans. Several members commented on whether or not this goal has been achieved in regards to recent privatization efforts and whether or not changes in the privatization process, especially in the area of compliance and monitoring, need to be made to meet this goal.

Following discussion, the Committee proceeded to consider possible recommendations to the Legislative Council and the General Assembly. Senator Giannetto moved that the Committee recommend the establishment of a committee consisting of the Department of Management, the Legislative Fiscal Bureau, the Attorney General's Office, the Department of General Services, the Auditor of State, and the Citizens' Aide/Ombudsman, to serve as an independent certifying authority, to receive information concerning contract compliance, to review that information on a quarterly basis, and to report to the General Assembly whether the contractor is in compliance. The motion failed to receive sufficient affirmative votes by the full Committee or by the House members. Co-chairperson Vilsack moved that the Committee recommend that once the cost savings of a specific contract are established, before awarding the contract, the state employees involved should be given an opportunity to demonstrate methods by which they could achieve the same cost savings while still having the service performed by state employees. The Committee did not vote on this motion. The Committee did approve two recommendations that are listed below.

RECOMMENDATIONS

The Privatization Interim Study Committee made the following recommendations for consideration by the Legislative Council and the General Assembly:

1. The Committee recommends to the executive branch that all future privatization contracts, and existing contracts where modification is possible, include a specific incremental liquidated damages clause, to permit an incremental penalty for noncompliance which would not require a finding of default on the entire contract.
2. The Committee recommends that the executive branch establish a system for assessing and determining costs that provides a standardized basis for determining the state's costs to perform a service and the private

contractor's costs, both direct and indirect, to perform a service. The uniform system for assessing costs would be applicable to any privatization effort and would be provided to the General Assembly and any interested individuals.

DOCUMENTS RECEIVED BY THE STUDY COMMITTEE

Several documents were received by the Study Committee concerning privatization in Iowa and in other states. The Study Committee considered several materials concerning recent privatization efforts in Iowa at the Iowa Veterans Home, interstate rest areas, Department of Human Services, and liquor warehouse. The following is a list of some of the other documents considered by the Study Committee:

1. Colorado State Auditor, Privatization in Colorado State Government Performance Audit, March 1989.
2. Wendell Cox and Samuel Brunelli, American Legislative Exchange Council, Assessing the Human Toll of America's Protected Class, August 1993, and America's Protected Class II, January 1993.
3. William Eggers, Reason Foundation, Designing a Comprehensive State-Level Privatization Program, January 1993.
4. Selected excerpts from the Governor's Committee on Government Spending Reform, Final Report, December 1991 and the Privatization Task Force final report to the Governor's Committee on Government Spending Reform, November 18, 1991.
5. A Guide to Privatization in Iowa, Department of Management, December 1992.
6. Lawrence Martin, Reason Foundation, How to Compare Costs Between In-House and Contracted Services, March 1993.
7. John Rehfuss, Reason Foundation, Designing an Effective Bidding and Monitoring System to Minimize Problems in Competitive Contracting, February 1993.