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MICHIGAN

# Privatization

A Publication on Privatization Initiatives Throughout the State • Mackinac Island Public Utilities • No. 102 / Winter 2002

REPORT

Two wrapped gifts are the central focus. The top gift is wrapped in red paper with a white star pattern and a gold ribbon. The bottom gift is wrapped in white paper with a gold star pattern and a gold ribbon. The background is a warm, golden-brown color with some blurred gift-wrapping materials at the bottom.

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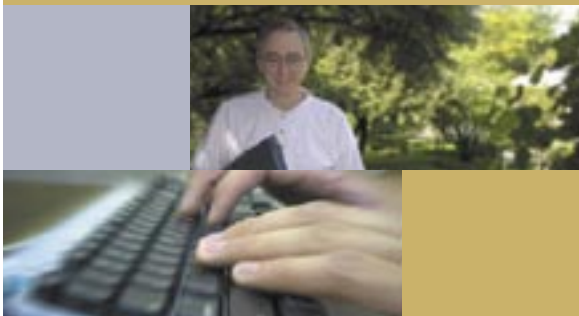
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## Privatization REPORT

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# Privatization

A Publication on Privatization Initiatives Throughout the State • Mackinac Center for Public Policy • No. 2004-02 / Winter 2005

**MICHIGAN**  
**REPORT**

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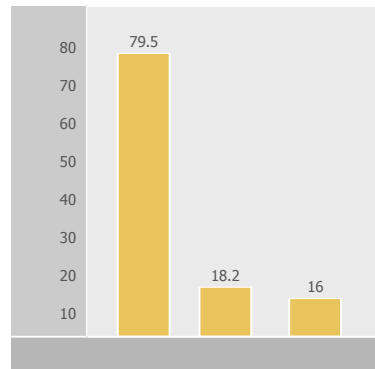
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# Feature

## Privatization for the Health of It

by Michael D. LaFaive

The state of Michigan has substantial prison-related privatization experience. It has privatized operation of the Lake County-based juvenile correction facility in a contract with the GEO Group. Since 1997, it has also competitively contracted for medical services in the remainder of Michigan's correctional system. Indeed, the state's spring extension of that contract through 2007 suggests that competitive contracting has proved to be a valuable management tool — one that could be employed in all aspects of the prison system.

The state of Michigan's contract for prison medical services is with St. Louis-based Correctional Medical Services Inc. CMS provides medical services to 225,000 local jail inmates and state and federal prisoners in 27 states. The Michigan Department of Corrections estimates the contract's projected cost over its first six (of 10) years at \$347 million.

The state originally hired another vendor in 1997 to provide many of the services now provided by CMS. Early in this contract, however, the state became concerned about the vendor's ability to provide the performance quality it had promised. After some negotiation, the contract was reassigned to CMS in March 1998. In April 2004 the state extended the CMS contract three years, through April 2007.

According to Rich Russell, administrator of the Bureau of Health Care Services for the Michigan Department of Corrections, the state of Michigan has enjoyed both qualitative successes and financial savings as a result of its relationship with CMS and the firm's elaborate system for demonstrating accountability. "We have had a good, cooperative relationship with CMS, and together we look for ways to save

money without lowering the quality of care," said Russell.

For instance, CMS has worked with the state to implement an electronic medical record-keeping system, which will be operational statewide by the end of 2004. Both parties hope that the system will improve efficiency and the flow of information about inmates' medical histories. CMS has also increased staffing levels by adding more physicians and physicians' assistants, and it has helped the state maintain its accreditation with the Joint Commission on Accreditation of Healthcare Organizations, a private, nonprofit outfit that ensures that health facilities maintain acceptable standards of care.

While CMS provides the prison system's medical services, a state chief medical officer and four regional medical officers are the system's gatekeepers, and they determine the level of treatment CMS and its subcontractors should provide to prison patients. If CMS does not think a certain treatment is necessary for an inmate, but the state's regional medical officer does, the dispute is resolved by submitting it to a committee that includes representatives from both the state and CMS.

A summer 2004 telephone survey of state corrections departments by the Mackinac Center for Public Policy found that 32 states contract with private firms for some degree of health services for their prisoners, and that another state, South Carolina, is in the process of doing so. Some states have contracted for health services across their entire prison system, while others target a single prison. Still other states split health delivery contracts by service: One vendor provides physical health services, for instance, while another provides mental health services. The state of Texas has contracts with University of Texas Medi-

cal Branch and Texas Tech Health Science Center, both public entities. Contracting solutions are as diverse as the states themselves.

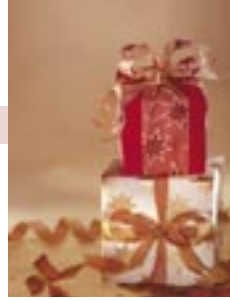
One company, America Service Group Inc. of Tennessee, estimates that the national health market for prison and jail inmates is \$7 billion annually. With health care costs and the number of prisoners expected to increase, the country may see more inmate health care privatization by states and counties.

State governments nationwide are trusting some of their most important and expensive prison spending to private firms, and the state of Michigan should consider bolder steps. The Mackinac Center for Public Policy has recommended that the state examine the privatization of its entire system — that is, outsourcing management of its corrections department to a for-profit firm. In 1998, the state of Tennessee almost did so, and savings were then estimated at 22 percent. Similar reductions in Michigan would shave nearly \$350 million from the state's general fund appropriation for state prisons.

The result would be important for the state's budget, which has been suffering from chronic, structural deficits, and for the state's citizens, who already shoulder tax burdens that are above the national norm. Prisoners are likely to benefit, too. The success of the state's current prison health services contract and its careful oversight of this contract are evidence that privatization can indeed be implemented properly, saving money and achieving high levels of service. ■■

*Michael D. LaFaive is director of fiscal policy for the Mackinac Center for Public Policy.*

**A summer 2004 telephone survey of state corrections departments by the Mackinac Center for Public Policy found that 32 states contract with private firms for some degree of health services for their prisoners.**



## The Environment Is Right for Lab Privatization

by Russ Harding

There is a credible public policy argument that certain functions of environmental protection should be performed by the government. These functions, however, do not include laboratory analysis. It would probably be a surprise to most taxpayers to learn that the state of Michigan operates an environmental laboratory at their expense, when the same lab services are readily available in private laboratories.

In fact, the Michigan Department of Environmental Quality laboratory operates at a considerable cost to taxpayers. For fiscal 2001, the MDEQ laboratory had a budget of more than \$6 million, involving 69 authorized employees. Approximately \$3.1 million of this budget comes from general taxes; \$500,000, from federal funds (most of which could be used for other environmental protection purposes); and \$2.5 million from fees paid by local governments and from settlement funds (which could likewise be used for other purposes).

No one disputes that the MDEQ laboratory does high quality work. Independent tests give the state environmental lab quality ratings of between 95 percent and 100 percent.

Nevertheless, this work should not be performed by state employees. Private companies are willing and able to provide the same services, and rather than simply consuming taxpayers' dollars, they will actually pay taxes to state government on the income they earn.

Ironically, Michigan claims to be encouraging private-sector growth in high-technology areas like environmental laboratories. Sadly, the MDEQ lab is inhibiting this growth by commandeering work that private labs could perform. True, the MDEQ does contract some work to private laboratories, but only to four or five.

In contrast, the Michigan Environmental Laboratory Association is comprised of approximately 30 large environmental laboratories. Each is qualified to do environmental laboratory analysis. Matt Frisch, president of Fibertec Environmental Services and a member of the association, said: "I would very much like to have an opportunity to continue to compete for work on cleanup projects. However, the MDEQ has directed the work to its own lab, or one of its contract labs. I believe, as do most laboratory owners, a regulatory agency should not be competing with the regulated community."

The MDEQ maintains that accurate results of environmental testing are so critical that only the state can be trusted to do the work. The state points to investigations conducted 10 years ago that indicated problems with the quality of work done by some environmental laboratories. To draw broad conclusions, however, from such a small sample ignores the quality of many private laboratories.

The Michigan Legislature has proposed a complex and costly accreditation program to certify additional private labs for MDEQ contract work, yet accreditation programs seldom deliver what they promise, since they are expensive to administer and inevitably lead to more government bureaucracy. There is little indication that an environmental laboratory accreditation program would result in any appreciable improvement in the quality of laboratory analysis from private laboratories.


To their credit, many state legislators have recognized this, and over the objection of the MDEQ, have backed away from that approach. The Legislature is now considering a less onerous proposal that provides the MDEQ an assurance of quality data from private laboratories without a costly accreditation apparatus. After all, new laws are

not needed to ensure quality; criminal sanctions already exist for intentionally falsifying laboratory data. And any negligence in the operation of environmental laboratories can be easily handled by enforcing contracts and by carefully awarding work to firms with good track records.



An employee at the privately-owned Fibertec Environmental Services prepares materials in the company's wet chemistry lab, which is used in the analysis of industrial discharge. Equipment can cost a lab hundreds of thousands of dollars.

It is time for the state of Michigan to get out of the environmental laboratory business. Government agencies should not be using taxpayer dollars to compete with Michigan businesses when these businesses can provide the same services reliably and efficiently. As long as the state operates an environmental laboratory, state employees will be threatened by work that is contracted to Michigan businesses.

It is ironic that the state is willing to spend large sums of money — grants for "Cool Cities" and targeted subsidies — to spur private-sector job creation, but is unwilling to stop spending tax dollars for an unnecessary state-owned lab that is thwarting growth in private-sector jobs. Many private laboratories would stand in line to bid on auctioned state laboratory equipment. The money generated from the sale could be used to help reduce the state budget deficit without raising taxes. 

*Russ Harding is senior environmental policy analyst with the Mackinac Center for Public Policy.*



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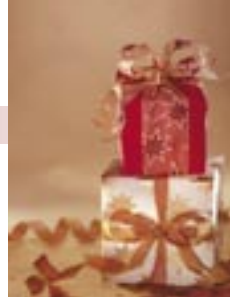


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## East Lansing's Contract With the "King of Clean"

by Jon B. Perdue  
and Bryan M. Dahl

In a move to close a potential \$4.2 million budget deficit in 2005, East Lansing Public Schools this year endorsed the continued privatization of the district's custodial operations. Administration officials had built a trial year into the school system's contract with Jani-King International Inc., so they could assess the company's first-year performance before deciding whether to complete the remainder of the five-year contract they signed with the firm. Having decided this year that the company had provided good service, the district has now entered into the second year of its contract with the commercial cleaning organization, which bills itself as the "King of Clean."

Initially, the proposed contract was met with strong opposition from a coalition of district employees and unions, including the Michigan Education Association. But the school board voted in June 2003 to approve the contract, anticipating that privatization would help to address the budget crisis then facing the school district.

The decision paid off.

After the private custodial company's first year of work for the district, the district's finance department reported savings of roughly \$800,000. The savings were a result of the lower cost of services provided under the contract.

Maria Bolen, director of finance for East Lansing Public Schools, is pleased with the decision and its effects in the previous year. "There is a lot more administrative control," Bolen said. "We have much more control over the custodial staff, and we are able to put in people of our choosing." Bolen also noted positive changes after the newly contracted company replaced the former public employees, such as more appropriate use of employee vacation time.

In contrast to some school districts, which have only outsourced parts of their janitorial services, East Lansing Public Schools decided to privatize all aspects of its custodial operation. Bolen believes that the decision will have some influence on other schools' consideration of similar outsourcing, particularly the many school districts in surrounding areas that are facing budget crises. "We're getting all kinds of calls from districts around the state to see how it has worked out," she said. "I feel like we're the wave of the future, on the cutting edge."

The decision by the school board to privatize came roughly a decade after a recommendation published by the Mackinac Center for Public Policy suggested that East Lansing Public Schools begin outsourcing its custodial services, since the district was paying four to five times more for janitorial services than local businesses were.

As schools statewide face budget shortfalls, privatization is gaining popularity. According to Chris West, vice president of the custodial company Advanced Facility Solutions, this trend will be of enormous benefit to all involved. When interviewed by Michigan Privatization Report, he said, "A lot of what we come across in schools is a real grandfathered tradition of getting away with not having to work all that hard," West said. "There are those who take it seriously, but the vast majority do not."

Jani King is careful to monitor the quality of its staff. It does extensive background checks on employees, and school administrators get the last say on who works on school property.

West added that the focus of his organization is the quality of individual workers. "Maintenance is a big thing, and you have to keep up on it or the quality will go down," he said. "It helps the schools in the long term."

The East Lansing district also considered outsourcing its food and transportation services this year. The decision would have saved the district significant sums, in part through the removal of such budget items as new school buses.



Chris West of Advanced Facility Solutions, the firm that provides custodial services to East Lansing Schools, foresees schools' demand for private services, like East Lansing's, swelling because of companies like his: "We are stretching the schools' dollar further. The priorities are very clear cut; it's preserving the institution of education and keeping it moving forward."

But Bolen stated: "It doesn't look like it will be a go for other privatization right now. The board wanted to maintain some stability." The board unanimously approved keeping its food services staff after the staff submitted a proposal to retain their jobs that nearly matched outside bids. Bolen predicts, however, that the suggestion of further outsourcing will become routine in the next few years, as enrollment drops and the district continues to see its budget problems grow.

Privatizing schools' noninstructional services, such as custodial operations, allows school districts not only to save money, but in many cases to improve the quality of service. After little more than a year, East Lansing Public Schools is already reaping the rewards. ☐

Jon B. Perdue is education policy research associate with the Mackinac Center for Public Policy. Bryan M. Dahl served as an education policy intern at the Center last summer.



# Feature

## Privatization Survey Shows Outsourcing is a Popular Management Tool

by *Laura J. Davis*

In early 2004, Southfield's school system was desperately combatting declining tax revenue. When a March millage renewal failed to obtain the 20.6 mill, 10-year millage for which Southfield Public Schools had asked, some observers predicted complete dissolution of the school district, and public school officials calculated an insurmountable budget deficit of \$68 million. After spending the next three months waging a grass-roots campaign, however, the school district finally received voter approval for a 19.6 mill, five-year millage renewal in a June election.

Nor are Southfield's public schools out of the woods. Even with the millage renewal, the school system will confront an \$8 million budget deficit.

In order to best utilize its newly approved funds, Southfield Public Schools should consider the management tool that public schools across Michigan — large and small, urban, suburban and rural — already use: contracting with for-profit, private-sector companies to provide more efficient noninstructional services than a school district can provide itself.

Currently, Southfield outsources only minor services, such as tree removal, to the private sector. The noninstructional services outsourced in many school districts are still provided by district employees in Southfield.

In 2003, the Mackinac Center for Public Policy conducted a survey of Michigan's 555 school districts in order to assess the extent and effectiveness of contracting with private-sector firms. Of the 517 districts that responded, 176 districts — 34 percent — said they outsource at least one noninstructional service. Of the duties these public school districts outsource (some schools outsource more than one service), the most popular by far is food services with nearly 80 percent employing a private company to manage district cafeteria employees or programs. Another 18 percent contract for custodial duties, and nearly 16 percent do so for their transportation needs.

When asked why they had privatized these services, school districts gave any one of eight general reasons (respondents were allowed to select any number of categories that applied to them). Forty-five percent of school officials listed financial savings as one of their first reasons; 14 percent cited personnel reasons;

10 percent said efficiency of service; 6 percent, contractor expertise; 3 percent, equipment; 1 percent, being forced into outsourcing. In addition, 15 percent said they did not know the reason for outsourcing at their schools; some districts had been outsourcing for so long that current staff were not present when the original decision to privatize was made. Survey respondents frequently listed more than one reason.

The survey results also show that a majority — over 63 percent — of districts that privatize calculated that they did experience cost reductions in at least one of the services for which they contracted. Almost 34 percent were unsure whether they saved money. In some cases, this may stem from a lack of desire or time to track the costs and benefits of competitive bids. One superintendent we spoke to said he didn't care if his busing contract saved his district money, so long as he didn't have the headache of managing busing personnel. It is nevertheless better to keep accurate records involving contracts. If you can't measure, something you can't improve it.

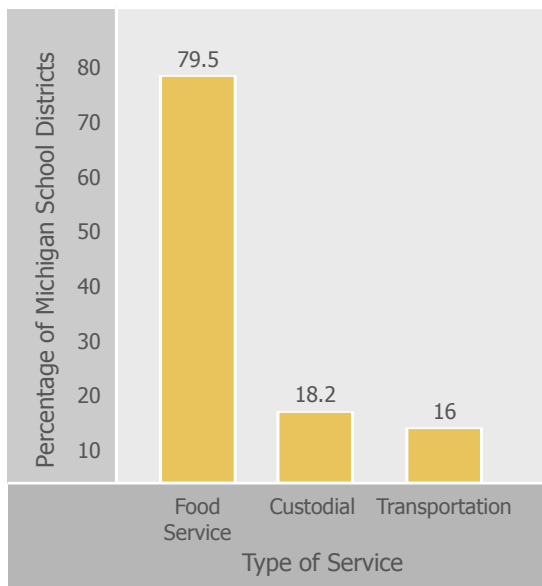
Only four districts reported achieving no savings thanks to their privatization efforts.

This evidence suggests that by contracting with private firms for noninstructional services, Southfield schools (among others) can reduce their costs and the burden they place on taxpayers for millage requests.

There is no reason to believe that these savings would come at the expense of service quality. The survey also showed that most schools are satisfied with the quality of service the private companies provide them.

Of the 176 school districts that see "Popular Tool" on page 10

### Outsourced Services in Education



Of the 176 school districts that reported contracting services, 140, or almost 80 percent, stated that part or all of their cafeteria services were outsourced.

Though the millage rate approved in June is a bit lower than the amount sought in March, it does not do much to alleviate taxpayers' burden. The 19.6 mill tax rate encumbers the owner of a \$200,000 home with over \$1,900 per year in taxes. Southfield homeowners may even find it difficult to sell their houses because of the extensive property taxes.





## Bringing the Market to the Ivory Tower

by Laura J. Davis

Universities take pride in being on the cutting edge of research, technology and culture. In recent years, however, Michigan universities have found themselves on the cutting-room floor of the governor's office. Even in fiscal 2005, for which the state approved an effective "no change" in state funding to Michigan's 15 public universities, the appropriation is a long way from the gravy days and has had universities working overtime to balance their budgets.

Fortunately, both recent events and a recent survey by the Mackinac Center for Public Policy suggest that this budget pressure has forced the state's institutions of higher education toward the cutting-edge of something new: cost-savings.

For example, in May 2004, Western Michigan University signed a contract with Commercial Sanitation Management Services Inc. to handle custodial needs in its 22 residence halls. The contract is projected to save the university \$1.5 million annually.

Before choosing Commercial Sanitation, WMU received bids from five private firms and from the union that represented the 60 custodial workers whom WMU had employed prior to its decision to privatize. Commercial Sanitation submitted the lowest bid — approximately \$1.1 million less than the union's.

Similar indications of cost savings and institutional efficiency are suggested by a survey of the state universities conducted by the Mackinac Center for Public Policy last summer. Of the 15 schools, 10 took part in the survey (four universities — Central Michigan University, Grand Valley State University, Saginaw Valley State University and Wayne State University — did not return Mackinac Center phone calls,

while Western Michigan University declined to participate due to ongoing contract talks).

According to the survey results, the most commonly outsourced services among the responding universities were garbage and sanitation services (90 percent), bookstore operations (80 percent), vending operations (70 percent) and legal services (70 percent). Other outsourced services included maintenance (50 percent), utilities (50 percent), food services (40 percent), busing (30 percent), laundry (30 percent) and custodial services (30 percent).

Almost all of the university officials interviewed told the Mackinac Center that expertise was their main reason for outsourcing. "What we are is an educational institution; that's where we have our expertise," said David W. Barthelme, vice chancellor for administration at the University of Michigan-Flint. Gary Reffitt, director of purchasing and communications at Eastern Michigan University, echoed Barthelme, telling the Center, "Universities are starting to realize they're in the education business, not the bookselling or food or laundry business."

Cost savings and efficiency also rated high among universities' reasons for privatizing. Ferris State University's vice president for administration and finance, Dr. Richard P. Duffett, reported going from losses of \$85,000 per year to profits of \$85,000 per year on the school's vending services when the university partnered with Consolidated Vendors Corporation of Norton Shores, Mich.

Some school administrators also cited equipment needs and capabilities as driving their schools to outsource. FSU contracted with Automated Apartment Laundries to purchase and replace the school's old laundry equipment when it hired the company to

provide laundry services. Duffett said of outsourcing, "I think we [universities] have taken advantage wherever we can ... to serve both students, faculty and staff. [There's] been a lot of good, hard work done."



Like many of Michigan's public universities, the University of Michigan leases space to private bookstores and receives a percentage of gross sales in return.

To the universities' great credit, their officials have adopted a creative solution to their budget problems through the "Higher Education Purchasing Consortium," which the schools formed with the state of Michigan in order to gain leverage when negotiating contracts with private firms. Michael Boulus, executive director of the Presidents' Council, State Universities of Michigan, said of the Consortium, "[The] overarching goal is for universities to work creatively to keep costs down." All 15 public universities are part of the Consortium, although each university participates only in the contracts it chooses.

One example of the Consortium's work was a recent contract for electrical power. In February 2004, the State Department of Management and Budget, Michigan State University, Western Michigan University and the University of Michigan-Flint signed a contract with Consumers

*continued on next page*



# Feature

## “Ivory Tower” continued from page 9

Energy through the Consortium. The agreement is expected to save each signer 7 percent on electricity, or approximately \$730,000 for the three universities combined.


Commendably, the universities have also applied the strength-in-numbers approach to manage the rising costs of health care and insurance, forming the Michigan Universities Coalition on Health (MUCH) and Michigan Universities Self-Insurance Corporation (MUSIC). Given rapidly rising health care costs in the state, these organizations could provide significant cost advantages in purchasing health services.

Clearly, the state’s current budget strains have spurred state universities

to provide new solutions to perennial problems. But there is room for improvement. The consortium could work to collectively outsource more noninstructional services, such as janitorial work. When it does, it would do well to remember that to produce optimal results, it should conduct an open bidding process; include multiple vendors; give appropriately detailed specifications for the desired service; and engage in periodic, competitive rebidding.

Individual universities could do more, as well. Many schools responded that they did not outsource noninstructional services because they did not want to relinquish control of certain areas of business; because of union objections and contract clauses that prohibit out-

sourcing; and because they received satisfactory services in-house.

If education is the main “business” of Michigan’s public universities, however, there is no reason for them to continue running cafeterias, lawn care crews, or custodial departments. These are not the purposes for which Michigan’s taxpayers support them, and contracting that saves money and focuses the schools on education will not only do right by Michigan citizens, but do well by university budgets. 

*Laura J. Davis is a University of Michigan student who served as a fiscal policy intern for the Mackinac Center for Public Policy in 2004.*

## “Popular Tool” continued from page 8


indicated that they outsource, more than 88 percent of them are satisfied with the quality of service they receive from their contractors. Less than 3 percent of outsourcing school districts said they were “not satis-

fied” with their contractor’s service, while another 16 percent either didn’t answer the question or said it was too early for them to comment on the quality of their outsourced services.

In light of these findings, privatization would seem an easy decision for Southfield or any other school district. Still, contracting can pose political challenges. When questioned about obstacles to privatization, 315 out of the 517 school districts said they did experience some difficulty, with nearly half — 49 percent — responding that unions or current school employees play a major role in obstructing outsourcing. Likewise, another 24 percent listed the community or the school board itself as a significant barrier to privatization.

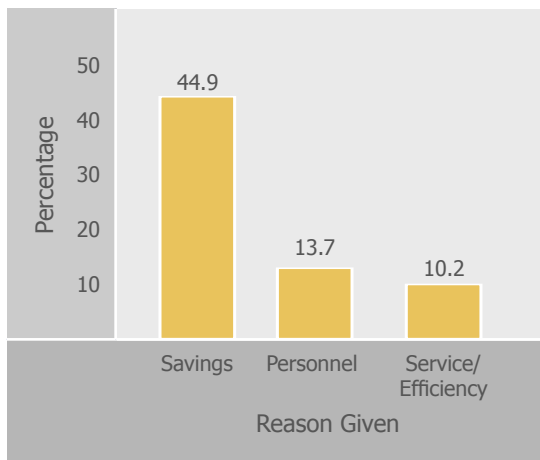
Southfield fell into this latter camp, listing the “community” as its most significant outsourcing obstacle. But a school district purportedly committed to success should be ready

to examine all options for making schooling affordable. The fact that Southfield voters rejected the March millage and passed only the second, smaller one demonstrates that the community expects the district to make the most of every dollar.

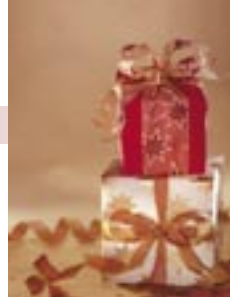
After Metro Detroiters passed the Southfield millage and millage requests in other districts, a Detroit News editorial commented, “[Now] that the school districts have received the support of their communities, they owe it to their residents to be both careful and innovative with their funds.” Privatization of noninstructional services would fit the bill nicely. 

*Laura J. Davis is a University of Michigan student and served as a fiscal policy intern for the Mackinac Center for Public Policy in 2004.*

### Top Reasons for Outsourcing



Over 63 percent of survey respondents stated that their district saved money by outsourcing. Thirty-three percent of the respondents were unable to determine if their outsourcing actually saved money or not — a valuable area for these districts to research.



## Cobo Hall: It's Time To Sell

by Michael D. LaFaive

Motown officials love big, high-profile projects and the potential for good public relations that often comes with them. New buildings suggest “comeback” and “renaissance.”

They can also become “expensive” and “controversial.” Such is the case with Mayor Kwame Kilpatrick’s original desire to build a new Detroit convention center. Mayor Kilpatrick and his allies decided in June that the proposed \$1.3 billion project would be too expensive, even if they charged a percentage of the costs to county and suburban governments under the rubric of “regionalization.”

Now they are focusing on expanding the existing Cobo Conference/Exhibition Center at a cost of between \$650 million and \$665 million. This project would most likely require an additional sales tax on food and beverages or some other tax in addition to the one already imposed on hotels in Wayne, Macomb and Oakland counties to finance the debt on Cobo. The tax might also include a broader base of counties, such as Livingston, St. Clair, Washtenaw and Macomb. Reports indicate, however, that Oakland County Executive L. Brooks Patterson won’t sign on to any deal that involves increasing sales or property taxes.

But neither Detroit nor the region needs new taxes, especially when most of the people being taxed would pay for a center that they would not directly benefit from. The city would be better off scrapping plans for an expanded government-owned facility and selling the Cobo Conference/Exhibition Center to the highest bidder.

Cobo was built in 1960 and expanded to 700,000 square feet in 1989. It hosts scores of events each year, including the North American Auto Show. The current proposal to expand the facility to 1 million square

feet of contiguous exhibition space is an attempt to entice up to five additional groups to schedule events at Cobo each year.

There are several problems with this approach. To begin with, the city’s treasury is already straining to meet its commitments, and convention centers are not known for producing profits. Even among money-losing facilities, Cobo stands out for its large annual losses. According to C.H. Johnson Consulting Inc, a professional convention consulting company, Cobo’s scheduled fiscal 2004 deficit was \$19.7 million, and this figure is likely underestimated because the report does not account for administrative costs. Expanding the center to attract new business is to gamble in a very risky game after a run of losses.

Nothing says a convention center must be government-owned. In contrast to Cobo stands the Novi Expo Center, a privately built and operated convention center in metro Detroit.

The Novi Center has been in the news this year, because it has announced that it will build a new \$18 million, 320,000 square-foot expo center with 2,500 parking spaces. In a June 29 Detroit News article, Blair Bowman, executive director of the Expo, said that one of the biggest challenges in preparing for the new Expo was fighting off rumors that it would be government-funded. “We’re doing it privately,” she insisted. “What we’re doing is something that would normally have to be subsidized by the taxpayers.”

Mayor Kilpatrick should take note. There may be private-sector entrepreneurs willing to build a Detroit convention center at no cost to citizens.

Robert Daddow, Oakland County assistant deputy county executive and an adjunct scholar with the Mackinac Center for Public Policy, has studied

Cobo and the mayor’s original proposal to build a new convention center. He reports, “(the) preferred solution is to secure a facility owned and operated by the private sector.” Indeed, Daddow asserts that 39 percent of convention centers nationwide are privately owned. The private facilities exist across the country, from the 1 million square-foot International Exposition Center in Cleveland, Ohio, to the 1.2 million square-foot Sands Expo and Convention Center in Las Vegas, Nev.

During his research, Daddow also encountered entrepreneurs interested in building and operating a new convention center in Detroit. Daddow’s study recommended that by coupling a private-sector convention center with hotel and casino facilities, the city might not only entice private investors to purchase Cobo, but also allow for the development of the additional hotel space.

The city of Detroit has numerous fiscal troubles already and should not add another high-profile, high-cost project. Selling Cobo will allow Motown’s leadership to focus on the proper knitting of government: safe streets, good schools and an efficient use of scarce resources. Involving the city in a proven money loser is no way to improve Detroit’s bottom line, especially at a time when the city needs private investment and owns a convention center in which entrepreneurs already may be interested. ■

*Michael D. LaFaive is director of fiscal policy for the Mackinac Center for Public Policy.*



*Cobo’s loss in revenue comes despite the high prices it charges convention groups. Indeed, Cobo loses many potential customers, including one division of the AFL-CIO, due to the high labor costs and elaborate rules imposed by its unions. (Source: Detroit News, “Interim leader blames high cost of labor for lost business,” May 7, 2004)*



# Feature

## The Verdict Is In: Private Juries Hold Promise

by John R. LaPlante

Trial by jury is a valued tradition within the American legal system, and it is enshrined in federal and state constitutions. But does private enterprise have a role to play? For more and more people, the verdict is in: Private juries deserve a seat in the courtroom.

Private jurors — people hired to serve — are the latest development in “alternative dispute resolution.” ADR, a subset of the civil justice system, uses several innovative means to settle legal disagreements. In “mediation,” a neutral arbiter may help the parties discuss their differences without finding fault. Under “binding arbitration,” the neutral arbiter may, with prior agreement from the parties, impose a solution.

Private-jury trials are an extension of ADR. Private judges (usually retired public judges) and jurors are hired by an ADR firm, which is paid by the parties in a civil suit. Private trials resemble public trials, with rules of evidence and a preparatory “voir dire,” during which lawyers can ask that certain jurors be removed from the jury.

Private trials first caught on in California in the 1980s, when a civil suit could languish for five years before it reached court. Private trials typically bring a quicker resolution to civil suits.

They also offer better jurors. In the public system, jurors are often people who feel compelled to serve by law, not by inclination. Even when faced with a summons from the public court system, many people try to work their way out of jury duty. Nonresponse rates in some localities have reached 60 percent.

In contrast, private jurors are generally motivated to serve. Not only

have they taken the job voluntarily, but they are paid to do it well. We use financial incentives to attract lawyers and judges to the justice system. Why not use them to secure jurors, too?



Members of a jury pool await the beginning of a trial. More extensive use of private juries could provide knowledgeable, motivated and less costly juries.

Jurors in private trials are also more knowledgeable. Some ADR firms require jurors to have at least a high school education, while no such requirement exists in the courts. Parties to a private jury trial may find it useful to have jurors who are engineers, accountants or other professionals who know the industry involved in the case. Ironically, such people are often excused or removed from juries in the public court system.

Jury trials can save money. “The private-jury case is quicker and can be cheaper than waiting for a trial to come up in public court,” USA Today has reported. Both sides of a dispute can save thousands of dollars through the flexible use of rules and through more efficient scheduling of costly professional services.


And if “justice delayed is justice denied,” private-jury trials promote justice by bringing quicker resolutions. “A case that takes two weeks to try (in private court) may take five to six weeks in public court,” says the founder of IVAMS Arbitration and Mediation Services, a leader in the industry.

There are spin-off benefits for the public court system. By taking many disputes out of the public courts, private-jury trials can free the public system to resolve criminal cases more quickly.

Some critics fear that private trials are leading to a two-tiered form of justice: a private system for the rich, and a public one for everybody else. Says one attorney, “We are moving away from a truly free public court system that I used to think was a basic part of our constitutional form of government.”

But this objection is largely without merit. The private-jury system is often as accessible as the public court system. In both instances, for example, attorneys for personal-injury plaintiffs usually work on a contingency basis, so there is no up-front cost to the client. Indeed, given the relative speed and efficiency of private trials, private courts may be more affordable than those in the public system.

Some judges in the public courts argue that the increasing use of private judges and jury trials is a way for government to shirk its responsibility to provide adequate funding for the public court system. This is certainly possible.

But the answer to that objection is for government to stop producing nonessential or illegitimate services and use the savings to enhance the public court system. Until then, private-jury trials show promise as an effective supplement. 

*John R. LaPlante is an adjunct scholar with the Mackinac Center for Public Policy. He contributed to the chapter on the Michigan Department of Corrections in the Mackinac Center’s study of Michigan’s state budget, and he has written for FindLaw.com, the leading provider of legal information on the World Wide Web.*

**Private trials first caught on in California in the 1980s, when a civil suit could languish for five years before it reached court.**



## Schools Selling Land to Ease Budget Woes

UTICA — Many school districts in the state are facing budget deficits, and few budget items are escaping school officials' notice. For example, according to a Detroit News editorial, Utica Community Schools found that it had a valuable asset on its books: 65 acres of land. The sale of this parcel is expected to bring the district up to \$11 million in one-time income and potential future revenue growth. The parcel is zoned for residential use, and its development will bring the district not just new property taxes, but new state education funding for the schoolchildren whose families move to the homes to be built in the area.

Utica Board of Education President Carol Klenow said that the choice between selling the land and cutting education programs was an easy one. "During these difficult economic times, we need to remember that we can't turn children away and tell them to come back when times are better," Klenow told the News. "Our children have a right to a rigorous instructional program."

Other state educational institutions are pursuing a similar course. Avondale Schools sold 1.4 acres of its land for division into residential lots which should net the district about \$405,000. It is looking at selling another 6.5 acres. Schoolcraft College is leasing 45 acres of its land for commercial use, an arrangement that is expected to bring the college \$75 million over the next 75 years.

Lesson learned? Sell land before laying off teachers and hurting students. The result can be better budget health and a growing community.

## Finally Seeing the Light

DETROIT — After much debate, the Detroit City Council has agreed to sign a \$1.8 million contract with a private firm to repair between 4,000 and 5,000 of the city's streetlights. City Council members had delayed signing

the contract because of concerns that the contractor, Genesis Energy Solutions, would take jobs away from the city's union employees.

But there are just too many broken lights out for the public lighting workers to handle. An estimated 9,000 streetlights across the city no longer function, and this reportedly has some residents scared to leave their houses at night. "We need to get assistance," Mark Petty, director of Detroit's Public Lighting Department, told the Detroit News. Not only do many bulbs need to be changed, but some streetlights need complete refurbishing.

While Genesis Energy Solutions was not the lowest bidder on the contract — a Kansas City contractor submitted the lowest bid — Victor Mercado, director of the Detroit Water and Sewerage Department, said the Kansas City contractor did not have enough experience for the job.

Mercado may have been correct. Still, the News has since reported that Genesis is a donor to a charity organization established by, and closely connected to, Mayor Kwame Kilpatrick. The charity was described by the News as "shady," because more than half of the organization's money pays salaries to three people close to the mayor: his wife, his sister and the wife of his close friend and aide. The relationship of Genesis to the mayor's charity may be only a coincidence, but all parties would benefit if they took care to avoid the appearance of impropriety.

The string of spring thunderstorms in May 2004 also revealed massive shortcomings in Detroit's lighting system. Schools were forced to close no fewer than four times due to power outages. The Detroit Public Schools canceled classes so many times this past spring that state Rep. Marsha Cheeks introduced and helped pass an amendment to Senate Bill 1069 to allow schools that are canceled for more than 30 hours due to power, water or sewage problems to be exempt

from the state requirement for a 180-day school year.

The new contract might pave the way for the city to sell its electrical power system. In 2001, the Michigan Privatization Report published an article entitled "The Power to Privatize," detailing the benefits and feasibility of selling Detroit's public lighting department to the private sector.



## School Divests From the Drivers Education Business

MARQUETTE — The Marquette Area Public School system decided this year to end its high school drivers education program and has removed it from the high school curriculum.

The state had previously covered most of the costs of the program, but as the result of state budget cuts, no longer does. Superintendent Pat Smith told the Mining Journal that "the state has taken all the money out of this." "If [drivers education] was central to our theme I'd feel different about it. But it's not."

The district is currently trying to sell its two drivers education vehicles for \$8,000 and \$5,000, respectively.

Privatizing drivers education programs will not just remove a burden from taxpayers. It is also likely to lower the overall costs of drivers education, as private companies compete for student business directly.

## Private Firms to Administer State Forests in Pilot Program

TRAVERSE CITY — In May, state legislators passed a bill that will create four pilot programs in which state forests will be maintained by private contractors. In each of the four pilot areas — two each in the Upper and Lower Peninsulas — a private forestry firm will manage the forests, marking and harvesting the timber, as well as reforesting harvested areas.

The state will retain oversight responsibilities. The bill also requires the state to obtain certification from

# Around the State



an outside party that the state has abided by correct forestry rules and principles. Officials at the state Department of Natural Resources, which is responsible for running the program, need not choose private vendors until December 2006.

## Trash Day in Commerce Township

COMMERCE TOWNSHIP — Trash day just became more high-tech in Commerce Township. The township recently signed an agreement with Republic Waste to pick up residents' trash and recyclables.

The \$1.5 million, five-year contract with Republic Waste includes providing each household with one 96-gallon trash can and one 18-gallon recycling container. Instead of using two-man teams to collect the township's garbage, Republic Waste utilizes one-man trucks with robotic arms to unload curbside garbage into the truck.

Commerce Township Supervisor Thomas Zoner told The Detroit News, "This new contract is definitely a win-win situation for everyone — the township, the residents, the company and ultimately our environment."

## Paying Too Much To Play May Lead to Privatization

ANN ARBOR — It costs a lot of money to keep up the Community Education and Recreation Department in Ann Arbor, a division of Ann Arbor Public Schools. The department collects nearly \$5 million per year from fees and charges.

It is now balking, however, at a maintenance bill for \$217,317 delivered by the Ann Arbor City Council. Education and Recreation Director Sara Aeschbach said she would not pay the bill for fear that the department would have to raise fees too high in order to cover the cost. She cited a former Ann Arbor City Council resolution stating that the city would pay for the maintenance of its own fields,

including the ones used by her department.

Ann Arbor City Administrator Roger Fraser said he delivered the bill at the Ann Arbor Public Schools' request. The bill includes costs for performing maintenance on playing fields utilized by the education and recreation department — mowing, clearing away trash and preparing the fields for games.

If forced to pay the bill, the education and recreation department predicts increased costs of \$14 to \$30 for children and increased costs of \$319 for adults per season. Aeschbach said that she would look into hiring private maintenance firms in the future.

As of November 2004, the parties were still in negotiations over the maintenance bill.

## Saginaw Proceeds With Trash Privatization Despite Controversy

SAGINAW — The Saginaw News reports the city of Saginaw began outsourcing its garbage pickup to a private firm on July 1. The contract was signed in order to reduce a city fund deficit of \$480,000 and to avoid raising fees and further curtailing waste services. The Saginaw City Council ended city pickup of yard waste and recycling in 2003, but is expected to start again in January thanks to the new contract.

The city council voted 5-3 in favor of privatizing the city's trash pickup, awarding the contract to Mid-Michigan Waste Authority. Waste Management Inc., which is employed by the Mid-Michigan Waste Authority, will be responsible for garbage, recycling and limited brush pickup. The company will also buy five of Saginaw's six garbage trucks for a total of \$460,000, eliminating the current fund deficit.

Opponents of the contracting had proposed raising the city's \$50 trash collection fee to \$66 in order to preserve the jobs of 11 city trash employees. City Councilman Andy

Coulouris told the Saginaw News he was concerned about costs to citizens noting, "What do you say to a citizen who asks why they should pay more to keep [trash collection] in-house instead of outsourcing?" Other jobs have already been offered to the city's trash employees.

Union groups announced their intention to take the matter to court. They contend that a letter written in 2001 promised the city's continued use of union labor in exchange for a reduction in labor costs. Others question the letter's validity, arguing that it refers to a contract that expired in 2003.

## Township Returns Responsibility for Recreational Programs to the Community

ALPINE TOWNSHIP — By privatizing its youth soccer leagues in the fall of 2003, Alpine Township has helped retain its patrolling police officer for 2004. The township had faced expenditure increases in a variety of budget areas, including insurance, elections and storm water mandates.

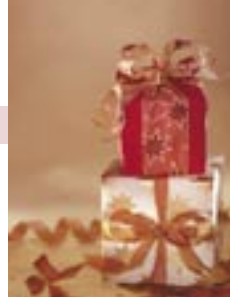
Some in the community were upset when they heard of the move to privatize the soccer leagues, but baseball leagues in the area are already independently managed and run at no cost to the township. Soccer teams will still be permitted to use township fields. The privatization of the soccer program, which last year served 360 children, will save the township an estimated \$20,000.

## New Bay City School Fitness Center Built With Private Donations

AUBURN — Bay City Western High School needed a new place for students to lift weights. But instead of imposing a tax increase to fund the project, James R. Johnson and Tom Christensen went to the Bay City Schools Board with a proposal to ask the community for donations of money, time, labor and materials.

The community responded.

**The city council voted 5-3 in favor of privatizing the city's trash pickup, awarding the contract to Mid-Michigan Waste Authority.**



Fundraising began last fall, and the 3,200 square-foot fitness center officially opened in October. Everyone from boosters and student groups to local cement companies and plumbers unions donated their time, skills and materials to building the \$300,000 facility.

## NASA Contracts With Private, For-Profit Livonia Company

LIVONIA — Last summer, NASA renewed a five-year, \$75 million contract with Acro Service Corp. to supply scientists, engineers and technicians to do everything from designing communications systems to monitoring flight systems. Acro Service Corp. was integral to the recent Mars Exploration Rover project.

Ron Shahani, president and CEO of the company, told The Detroit News: “While the Mars probe is en route to the planet, our people will be able to make adjustments and develop new software routines to ensure the project goes smoothly. [NASA’s Jet Propulsion Laboratory] has many different missions and is

the outsourcing has been successful, quoting Thomas May, manager of NASA’s Jet Propulsion Laboratory, as saying, “[Acro’s] design and information technology skills are instrumental to our success and our goals in the continuing missions we’re exploring.”

Currently, the probes “Spirit” and “Opportunity,” which have been on Mars since January 2004, continue to document the geology, topography and composition of Mars’ surface as part of the Mars Exploration Rover project.

Acro Service Corp. employs 100 people at its headquarters in Livonia and another 800 in various locations around the world. In 2002, the company generated revenues of \$90 million.

## Bay City Product Used in First Private Space Flight

BAY CITY — Michigan can claim its own small part in the first human space flight financed completely by the private sector. SpaceShipOne made history on June 21 with the help of a glue called PRO-SET epoxy, made by

ers President Robert H. Monroe told The Bay City Times, “It’s one of those things that stirs the imagination.”

PRO-SET epoxy was also used on the White Knight, the plane from which SpaceShipOne was launched. The spaceship was competing in a contest called the Ansari X Prize, which promises \$10 million to the first group to launch three people into suborbital space and repeat the feat within 14 days, reusing their equipment. Organizers of the prize hope to initiate an industry in space tourism by showing that space flight can be achieved at a fraction of the cost of government-sponsored programs like NASA.

## Schools Put Students Before Jobs

MUSKEGON HEIGHTS — Last year, Muskegon Heights Public Schools privatized its food services by contracting with the educational dining service Chartwells. This year, the school board has still had to lay off 15 teachers and two administrators in order to balance its budget, but people are already lining up to fight any further privatization.

Opponents of new outsourcing aver that it hurts staff loyalty and student enrollment. In Muskegon Heights, however, former food service employees were hired by Chartwells when the company began operations.

While no decisions have been made, Superintendent Edmond E. Beverly told the Muskegon Chronicle, “We have to look at ways we can save money in a way we are not having an impact on classrooms and instructional programs. Nothing is carved in stone.”

**By privatizing its youth soccer leagues in the fall of 2003, Alpine Township has helped retain its patrolling police officer for 2004.**



The privately funded SpaceShipOne is shown here underneath White Knight, the plane that launches the ship into space. Photo courtesy of Scaled Composites

targeting different planets, and we plan to work on those projects in the future.”

The News also reported that

Gougeon Brothers Inc. of Bay City.

Gougeon Brothers staff celebrated the occasion by watching the flight broadcast together. Gougeon Broth-



# Feature

## Privatize Parking Garages

by James M. Hohman

Parking space in many cities is a scarce commodity. This often tempts cities into the parking garage business,

with city governments using their powers of condemnation, zoning and taxation to acquire land and to build and operate quasi-monopoly parking facilities.

Of Michigan's 20 largest cities, eight own their own parking garages. Three cities — Ann Arbor, Detroit and Pontiac — contract with private vendors

for management of their garages (Ann Arbor's Downtown Development Authority is the legal owner of the city's parking structures). In Flint, the city owns its garage, but contracts with its downtown development authority to manage it. Grand Rapids, Lansing, Dearborn and Saginaw all operate their own garages.

In the name of efficient government, municipalities should sell their garages outright. Municipal leaders may view city-owned parking garages as cash cows — and indeed, many are


— but to point to the garages' income as a reason to own them is a red herring. City governments are supposed to provide public services, not make profits.

There is nothing essential to a parking garage that requires government intervention. Parking is a business that can be run quite effectively by the private sector. And in fact, cities will realize a number of benefits from selling a garage: one-time revenues from the sale, which can be used to pay debt or shore up unfunded liabilities; annual income in the form of property taxes paid by the privately owned garage; and generally improved services to parking consumers, as the private profit motive spurs superior customer service. In cases where city parking garages lose money, selling the garage will also remove a recurring operating liability from the city's books.

It is expensive for municipal government to enter the parking garage business. Building a garage requires construction debt that must be paid down over many years. The government's parking business can also crowd out private investment in parking services or in other, potentially more valuable uses of the land. Such private investment would not just provide additional tax revenue for the city, but produce economic benefits for its citizens.

Short of selling their parking garages, cities should at least outsource their parking management. In 1990, the Mackinac Center for Public Policy recommended garage privatization to the city of Ann Arbor. After study and review, Ann Arbor contracted the management of its three lots and seven garages to National Garages Inc. The contract has since been rebid, and Ann Arbor again opted for private management.

Ann Arbor later became so pleased with the new management that it contracted all of its on-street parking to the company. This privatization has helped the city obtain more revenue. The new company ensures that the city's parking is being patrolled after 6:00 p.m. — a costly evening shift that the city had never been able to pay for, but that had always been a peak parking violation time in Ann Arbor.

Parking space is a necessary component of a modern market economy. It is not, however, a necessary component of government — especially when it is a service that the private sector provides so well. 

*James M. Hohman is a research assistant with the Mackinac Center for Public Policy.*



*The Ann Arbor Downtown Development Authority outsources management of this Ann Arbor parking structure at the corner of 4th and Washington to the private sector.*