

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Kevin Yoder at 9:05 a.m. on January 29, 2010, in Room 346-S of the Capitol.

All members were present except:

- Representative Donohoe - excused
- Representative Carlin - excused
- Representative Crum - excused
- Representative Kelley - excused

Committee staff present:

- Jim Wilson, Office of the Revisor of Statutes
- Nobuko Folmsbee, Office of the Revisor of Statutes
- J.G. Scott, Kansas Legislative Research Department
- Heather O'Hara, Kansas Legislative Research Department
- Jonathan Tang, Kansas Legislative Research Department
- Stephen Huggins, Chief of Staff, Appropriations Committee
- Kathy Holscher, Committee Assistant, Appropriations Committee

Conferees appearing before the Committee:

See attached list.

Others attending:

See attached list.

- Attachment 1 **HB 2403 & HB 2442** Council on Efficient Government
- Attachment 2 Performance Audit Report
- Attachment 3 American Institute of Architects Testimony
- Attachment 4 Associated General Contractors of Kansas Testimony
- Attachment 5 Kansas Department of Administration Testimony
- Attachment 6 American Council of Engineering Companies of Kansas Testimony

HB 2403 -Sub.For H 2403: by Committee on Appropriations - Creating the council on efficient government.

Representative Kleeb presented follow-up information on **HB 2403 & HB 2442**, as requested by committee members, (Attachment 1). He discussed the goal of the bill and reviewed the role of the Council on Efficient Government. He noted that if the language is not amended in this bill, to remove the Kansas Board of Regents, the realized success of this agency would be complicated.

Representative Kleeb responded to questions from committee members. He stated that in order to avoid replication or duplication of services, the council would evaluate and review business cases prior to making recommendations. If the lowest cost bid or a Kansas business is not selected, a written explanation would be required.

Barb Hinton, Legislative Post Audit, reviewed the Performance Audit Report, (Attachment 2). Ms. Hinton presented an overview of the Kansas Performance Review Board. She stated that at the time this board was active a number of approaches had been taken in regards to privatization efforts. Legislative Research is the only staff agency in this substitute bill, she noted. The Legislative Post Audit work could be passed on to any group created by the Legislature, Ms. Hinton stated.

Trudy Aron, Executive Director, A Chapter of the American Institute of Architects, provided testimony in support of **HB 2403**, (Attachment 3). She expressed appreciation of this amendment that differentiates between a procurement process in hiring technical professional services, commodities or other services.

Eric Stafford, Associated General Contractors of Kansas, Inc., provided testimony as an opponent of **HB 2403**, (Attachment 4). The association's recommendation would be to strike number 3 in the bill, or clarify that this would not apply to the construction industry.

CONTINUATION SHEET

Minutes of the House Appropriations Committee at 9:05 a.m. on January 29, 2010, in Room 346-S of the Capitol.

Chris Howe, Director of Purchases, Kansas Department of Administration, presented neutral testimony on **HB 2403**, (Attachment 5). He highlighted cost savings over the past ten years in regards to inmate medications and healthcare, office supplies and auto parts. Engaging stakeholders in contract discussions, conducting a review of expenditures and negotiating contracts has resulted in a significant savings in the department's strategic sourcing effort, Mr. Howe stated.

Mr. Howe responded to questions from committee members. He referred to outsourcing Social Rehabilitation Services call center, which is located in rural areas and provides child support services. Mr. Howe stated that the Purchasing Department is available to other agencies that may need assistance with preparing a request for proposal for privatized services.

Chairman Yoder referred to written testimony that was distributed to committee members from the Kansas Chamber of Commerce, (Attachment 6).

The next meeting is scheduled for Tuesday, February 2, 2010

The meeting was adjourned at 9:53 a.m.



Kevin Yoder, Chairman

APPROPRIATIONS COMMITTEE GUEST LIST

DATE: January 29, 2010

NAME	REPRESENTING
Jackson Lindsey	Hein Law
Robby Dyer	Kansas Tax
Mark Boranyak	Capitol Strategies
Diane Dufan	KS Board of Regents
Rob Meyer	KENNEDY + ASSOC
Judy Aron	Am Inst of Architects
Matt Cox	GSA
Ethan Erickson	KDOT
Eric Siffel	ABC of KS
Katy Belot	ORS
Bill Brady	CS.

HB 2403& HB 2442
COUNCIL ON EFFICIENT GOVERNMENT

HB 2403 and HB 2442: SAME GOAL BUT DIFFERENT STRATEGIES:

The goals of the HB 2403 and 2442 are the same:

1. To ensure that the taxpayers' hard-earned money is utilized in the most cost-effective and productive manner possible.
2. To ensure that state governmental services are efficiently provided so the limited resources can serve the greatest number of constituents needing those services.

WHAT THE COUNCIL ON EFFICIENT GOVERNMENT DOES NOT DO:

The intent of HB 2403 through the establishment of the Council on Efficient Government is not to review or recommend divisional or departmental:

1. Restructuring
2. Consolidation
3. Elimination
4. Mergers

WHAT THE COUNCIL IS INTENDED TO DO:

The intent of HB 2403 is to establish a Council on Efficient Government to:

1. Develop and execute a rigorous systematic process to initiate and review business cases for opportunities to privatize and outsource activities and/or functions that may produce or enhance efficiencies, cost savings and quality outcomes
2. Encourage and enable the private sector to provide "outside" expertise, experience and a fresh consultative approach to the evaluation of opportunities to privatize or outsource
3. Review opportunities for state government to create or enhance further partnerships with non-profit organizations and local governments in the delivery of services.
4. Provide a transparent and easy process for the Executive and Legislative branches of government to review, but not require, the use of Kansas based and most cost effective providers in the vendor selection process

Appropriations Committee
Date 1-29-10
Attachment 1-1

HB 2403 ENACTS PRIOR RECOMMENDATIONS

It is well recognized that these are not necessarily new concepts for Kansas state government. In fact, a previous Legislative Post Audit and a Council on Privatization have researched and documented opportunities, challenges and successes surrounding outsourcing and privatization.

HB 2403 addresses the key recommendations that have been made by these two groups to create a focused special committee to:

1. Establish a systematic process for evaluating privatization opportunities
2. Enable and encourage private-sector involvement, input and expertise in the process



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March 23, 2001

To: Members, Legislative Post Audit Committee

Representative Lisa Benlon, Chair
Representative Richard Alldritt
Representative John Ballou
Representative Dean Newton
Representative Dan Thimesch

Senator Lynn Jenkins, Vice-Chair
Senator Anthony Hensley
Senator Dave Kerr
Senator Derek Schmidt
Senator Chris Steineger

This report contains the findings and conclusions from our completed performance audit, *Private-Sector Input: Ways To Foster Such Input if the Kansas Performance Review Board Is Abolished*.

In an appendix, the report also contains the executive summary of the Kansas Council on Privatization's final report, *Privatize, Eliminate, Retain or Modify: A Strategy for Competitiveness in Government*. That report recommended the State create a performance review board.

We would be happy to discuss the findings presented in this report with any legislative committees, individual legislators, or other State officials.

Barbara J. Hinton
Legislative Post Auditor

Appropriations Committee
Date 1-29-10
Attachment 2-1

EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

Background

The Kansas Performance Review Board was created in 1996 to determine whether State functions were being executed in the most efficient and cost-effective manner, and to recommend whether any functions should be privatized, eliminated, retained, or modified. The executive branch has disagreed with Board recommendations, and some legislators have doubted the value of the Board's studies under the current structure. Senate Bill 180, currently being considered by the Legislature, would repeal the Performance Review Act and abolish the Board.

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Question: What Options Exist for Having Private-Sector Input into Government Operations if the Performance Review Board Is Abolished?

Kansas has several options for fostering private-sector input if the Board is abolished. Options we identified from other states, current and former Performance Review Board members, other State agency officials, and our staff include these:

.....page 5

- Have agencies contract directly with private-sector consulting firms.
- Require agency heads to identify activities that the private sector might perform better and at lower cost. Proposed legislation in Texas would require agencies to select some of the identified functions and subject them to competition from the private sector.
- Have each agency use competitive business practices to develop specific goals for improved efficiency and cost-effectiveness. In Kansas City, a private-sector committee determines whether such plans are credible.
- Use cost-accounting methods to identify and study opportunities to inject competition between state agencies and private vendors. Opportunities for competition could be suggested by the private sector, as is done in Texas.
- Encourage agency staff to meet with appropriate people from the private sector and participate in professional associations.
- Formally transfer the Review Board's function to Legislative Post Audit.

We identified several options for change if the Performance Review Board isn't abolished. In order to be successful, an entity providing input from the private sector into government operations must have political backing, independence, and sufficient funding. The current

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Board never had a political champion. The Legislature might want to consider 2 options for providing the Board with political backing:

- modify the current Review Board to report directly to the Governor
- expand membership on the Board to include stakeholders from the legislative and executive branches, as well as private-sector members

Conclusion:page 8

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APPENDIX B: Executive Summary of the Kansas Council on Privatization's 1995 final reportpage 11

APPENDIX C: Agencies' Responsespage 16

This audit was conducted by Laurel Murdie, Jill Shelley, and Kate Watson. Leo Hafner was the audit manager. If you need any additional information about the audit's findings, please contact Ms. Murdie at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.

Private-Sector Input: Ways To Foster Such Input If the Kansas Performance Review Board Is Abolished

The Kansas Performance Review Act was passed in 1996. It established the Kansas Performance Review Board to review governmental functions and recommend whether they should be privatized, eliminated, retained, or modified. The Board consists of 5 members appointed by the Governor and confirmed by the Senate. No more than 3 members can belong to the same political party, and at least 1 member is required to have experience in cost accounting. The members of the Board generally have been from the private sector. In addition to the 5 appointed members, the Secretary of Administration or his or her designee serves as an ex-officio member.

Some legislators have doubted the value of Kansas Performance Review Board studies under the current structure. Senate Bill 180, currently being considered by the Legislature, would repeal the Performance Review Act and abolish the Board. This has raised concerns among other legislators that the State is losing valuable input from the private sector about ways to make government more efficient. Those legislators are looking for ways that private-sector input into government operations could be retained if the Performance Review Board were abolished. This performance audit answers the following question:

What options exist for having private-sector input into government operations if the Performance Review Board is abolished?

To answer this question, we interviewed several current and former members of the Board, officials from Kansas' larger state agencies, and officials from several other states, including Texas, Virginia, Arkansas, Missouri, Oklahoma, Colorado, and Nebraska. We also interviewed several members of the Governor's Vision 21st Century Task Force. In addition, we conducted a limited review of relevant federal regulations and other states' laws and regulations.

A copy of the scope statement for this audit approved by the Legislative Post Audit Committee is included in Appendix A.

In conducting this audit, we followed all applicable government auditing standards. Our findings begin on page 5, following a brief overview.

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Overview of the Kansas Performance Review Board

The Performance Review Board Was Created To Manage the Privatization Process

As a result of recommendations from a 1993 study, *Reinventing Kansas Government: A Public and Private Initiative*, the 1994 Legislature created the Kansas Council on Privatization to do 3 things:

- study the issues surrounding contracting for private performance of governmental services
- identify State services that may be in competition with the private sector
- develop recommendations that would make State government more competitive and improve the delivery of services to Kansas citizens.

In its final report to the Governor and 1995 Legislature, the Council concluded that “Kansas government lacked an overall framework for privatization decisions,” and cited a “compelling need for a rigorous methodology and process for determining whether privatization options are appropriate, efficient, and effective.” We’ve included the executive summary of the Council’s report in Appendix B.

To create a framework for determining the appropriateness of privatization in Kansas government, the Council recommended that the Kansas Performance Review Board (KPRB) be created. It also recommended that Board be responsible for managing and overseeing the formal decision-making process surrounding the privatization, elimination, retention, or modification of State government services and functions.

The Review Board was created in 1996 and began operations July 1, 1997. Its charge was to provide a continuing process to determine whether State functions were being executed in the most efficient and cost-effective manner, and to recommend whether the function should be privatized, eliminated, retained, or modified. The enabling legislation empowered the Board to initiate such an analysis of any governmental function after it received any of the following:

- a written suggestion or complaint from a Kansas citizen, including legislators and public employees
- a petition from a private firm wanting to provide a service
- a complaint from the private sector that the State is in competition with that firm

- a suggestion from a State employee about a function that has been delegated to the private sector.

The Board considered whether a formal analysis of the topic would be needed and, if so, could conduct its own analysis using its staff and consultants. Through fiscal year 2000, about 19% of the Board's budget had been paid to outside consultants. Since its creation, the Board has conducted reviews of 8 topics.

- Fiscal year 1998: State Central Motor Pool
- Fiscal year 1999: Division of Information Systems and Communications, Long Distance Services
- Fiscal year 2000: State Printing Operations
Department of Health & Environment Laboratories
Department of Agriculture Laboratories
Consolidated Laboratories
Division of Purchases, Enterprise Resource Planning
- Fiscal year 2001: Department of Transportation Inspection Program

SB 180 Would Repeal the Performance Review Act and Abolish the Board

The executive branch has had considerable disagreement with some of the Board's recommendations and has raised questions about whether the Board has been effective. Board staff point out that the Board managed to conduct the listed reviews of different agency programs despite not having a quorum for more than 15 of its 42 months of existence. They also have indicated their reviews provided common-sense recommendations that led to an estimated annual savings of \$1 million at the Central Motor Pool and \$500,000 in long distance telephone rate savings at the Department of Administration's Division of Information Systems and Communications (DISC).

Department of Administration staff, on the other hand, have said that although the Board was a well-intended initiative, it simply hasn't worked and isn't responsible for the savings it claims. For example, the Secretary of Administration said the Board's estimated cost savings at the Central Motor Pool were overstated by \$248,000. In addition, the Secretary said the State would have saved the money on telephone rates without the Board because of the Department's long-standing business practice of renegotiating contract terms with AT&T.

For fiscal year 2002, the Governor recommended no funding for the Board. The Governor's Budget for fiscal year 2002 also included the following recommendation:

...The Board was created during the 1996 Legislative Session. Its role in State government in the four years of its existence has not been well defined. Some of its functions appear to overlap those of Legislative Post Audit. And the Board's organizational location in the Department of Administration has been a poor fit. For these reasons, the Governor proposes abolishing the Board in its current form.

To determine options for fostering private sector input if SB 180 passes and the Review Board is abolished, we contacted current and former members of the Review Board, members of the Governor's Vision 21st Century Task Force, agency officials from Kansas' larger State agencies, and officials from neighboring states and states with similar review boards in place.

**The Kansas Performance Review Board
AT A GLANCE**

Authority: Created in 1996 by K.S.A. 75-7101 et seq., the Kansas Performance Review Act, to review governmental functions and recommend whether they should be privatized, eliminated, retained, or modified.

Staffing: The Governor is to appoint a 5-member board, subject to Senate confirmation. Board members receive per diem, mileage, and expenses. The Board hired an executive director plus 2 other full-time employees. Consultants were hired to perform several studies.

Budget: Most of the Board's funding has come from the State General Fund; no other funds have been used since fiscal year 1998.

Expenditures of the Kansas Performance Review Board

Fiscal Year	Other State Funds	State General Fund	Total Expenditure
FY97	\$46,869	\$0	\$46,869
FY98	\$208,477	\$0	\$208,477
FY99	\$0	\$300,036	\$300,036
FY00	\$0	\$297,084	\$297,084
FY01 (est.)	\$0	\$279,900	\$279,900

Sources: Budget Analysis reports prepared by the Kansas Legislative Research Department; The Governor's Budget Reports prepared by the Division of the Budget, Department of Administration

Question: What Options Exist for Having Private-Sector Input into Government Operations if the Performance Review Board Is Abolished?

Kansas has several options for fostering private-sector input if the Kansas Performance Review Board is abolished. State agencies could contract directly with private-sector consulting firms to identify ways to make their operations more cost-effective. The State could require agency heads to determine activities the private sector might be able to perform at less cost, or it could encourage agency officials to pick up good ideas from their private-sector counterparts. The State could review operations and adopt “competitive business plans” for its agencies. If the State decides to keep the Performance Review Board but modify it, the Board could report directly to the Governor. Another option is expanding membership on the Board to include legislative and executive branch members, as well as private-sector members. Political backing, independence, and sufficient funding all would be needed to make such an entity successful.

Kansas Has Several Options for Fostering Private-Sector Input if the Kansas Performance Review Board Is Abolished

The options we identified from other states, Review Board members and staff, other State agency officials, and our own staff are summarized below.

- **Have State agencies contract directly with private-sector consulting firms to identify ways to make their operations more efficient or cost-effective, or to identify areas that are “ripe” for privatization.** Private-sector consulting firms could be hired to evaluate agency operations on either a routine or an ad hoc basis. For example, the Department of Revenue hired an outside consultant to help it “reinvent” and streamline its operations and implement new tax-processing systems.

- **Adopt a program similar to the Federal Activities Inventory Reform (FAIR) Act, which requires federal agency heads to annually identify activities that might have a private-sector competitor who could perform the activity better and at lower cost.** Currently, Texas has similar proposed legislation. The legislation requires all state agencies to identify competitive opportunities and to respond to suggestions for competition from private vendors. Agencies are to identify each function that it performs that is also commercially available in the private sector. Once identified, agencies are to select a reasonable percent of the functions and subject them to competition with the private sector. Agencies are required to make annual reports summarizing the results of the competition.

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- **Adopt a program similar to the Kansas City, Missouri, new Government Optimization (KC-GO) Program, which focuses on adopting competitive business practices to deliver government services at increasing levels of performance and quality.** The program's long-term goal is to review all city departments; 6 reviews currently are under way. The end-product of each review will be a "Competitive Business Plan" which clearly lays out where each department is now and where it should be in 5 years—with specific milestones for each year—including cost efficiencies and effectiveness in delivering services. To gain input from the private sector, the Mayor has appointed a 16-member Competitive Review Committee. This Committee reviews summaries of the "Competitive Business Plans" to determine whether each plan is credible. If it is, the Committee will recommend that the City Council adopt the plan. This plan reportedly has strong support from the City Council.
- **Adopt a program similar to Texas' Council on Competitive Government, which identifies and studies opportunities to inject competition between state agencies and private vendors.** This Council, which has representatives from the legislative and executive branches, uses cost-accounting methods to analyze agency services and programs. Based on these analyses, the Council may recommend replacing current state agency service providers with private-sector ones; it actually has statutory authority to require state agencies to implement its recommendations. The Texas Council doesn't include private-sector members, but the government services it reviews often are suggested by private-sector vendors. In addition, the Council is authorized to identify competitive opportunities throughout state agencies.
- **Encourage agency staff to meet with the appropriate people from the private sector and participate in professional associations.** By participating in professional associations or other activities, staff become aware of best practices in their specific areas of responsibility. This would provide staff with a method for obtaining ideas about more efficient and cost-effective ways to operate government programs and functions.
- **Formally transfer the Review Board's function to Legislative Post Audit.** This option would require significant modification of the private-sector Board's role. Such a transfer may have some potential drawbacks. For example, without additional resources, the transfer may take away from Legislative Post Audit's ability to do regular performance audits for the Legislature. Even if the Board's function isn't transferred, Legislative Post Audit could be directed to conduct more audits looking into issues affecting the efficiency or cost-effectiveness of government agencies or programs. Legislative Post Audit has done some audits looking into efficiency issues in the past, including a review of the Department of Corrections' food service operations, the State's central motor pool, and the Wichita school district's service center.

Several State agency officials also pointed out that Kansas already has many boards, commissions, committees, advisory councils,

task forces, and workgroups that often include individuals from the private sector. Examples include the State Board of Accountancy, the State Library Advisory Commission, and the Kansas Rural Development Council. About 170 such entities exist. However, most of these entities were created to provide public input on policy issues, and their members don't get involved in the efficiency of agency operations.

One official we spoke with emphasized the importance of pulling expertise from the right level of private organizations. For example, if what's needed is expertise in the technical aspects of telecommuting, the expertise may come from mid-level technical specialists, not from the CEOs.

*We Identified Several
Options for Change if the
Performance Review Board
Isn't Abolished*

Many of the people we talked with about fostering private-sector input into governmental operations told us that, in order to be successful, an entity providing such input must have the following characteristics:

- **Political backing.** Political backing ensures that government agencies or functions will implement or at least consider the entity's recommendations. Political backing could take the form of strong support from a political champion, or laws that specify who hears the recommendations and how agencies must deal with them.
- **Independence.** Wherever the entity is housed, it must be able to work without undue pressure from agencies, and it must be able to consider ideas that come from members of the public and private sectors.
- **Sufficient funding.** Funding must be sufficient and dependable, so that reviews of governmental operations can be scheduled, planned, and completed.

During our audit work, we found numerous examples where governments have formed committees to review current government practices. Each of these entities had the same general mission: to foster public-private competition to ensure that government operations are efficient and cost-effective. Some committees included only leaders from the private sector; others were more inclusive, with members from the private sector, government staff, and members of the executive and legislative branches. In each case, the success of introducing and sustaining these review entities was directly related to support from a political leader.

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The Performance Review Board was set up as an independent entity but received funding for only a limited number of reviews. From its inception, the Board never had political backing from the executive branch. For example, recommendations coming from Board reports weren't actively supported by the Department of Administration or the Governor's Office.

If the Legislature does not abolish the Performance Review Board, it might want to consider the following options for providing the Board with political backing.

- **Modify the current Review Board to report directly to the Governor.** Under this option, the Board could continue to operate pretty much like it has in the past, but it would report to the Governor, who ultimately could approve the programs reviewed and the final recommendations from those reviews. The Board's staff could be retained, or the evaluations could be contracted out.
- **Expand membership on the Board to include stakeholders from the legislative and executive branch, as well as private-sector members.** This make-up is more similar to Virginia's Commonwealth Competition Council, a Performance Review Board-type entity that performs analyses to identify state services that can be shifted to the private sector through a competitive process. The Virginia Council includes 4 legislative members, 4 executive branch members, and 7 private-sector members. The Council has developed a cost comparison program that can be used for improving internal business processes, as well as for determining whether the public or private sector can perform the function more efficiently. The Council doesn't have statutory authority to ensure its recommendations are implemented, but those recommendations usually are supported by the governor, legislators, or both.

CONCLUSION

Without the Kansas Performance Review Board, Kansas will have no systematic process for evaluating privatization options or for getting private-sector input into the efficiency of government operations. This report identifies models that some other states are using to get this input, any number of which could be adapted for Kansas. For any approach to work, however, it must have strong support from all the entities involved, with the primary goal of improving the efficiency of government services.

APPENDIX A

Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on February 28, 2001. The audit was requested by Senators Jenkins and Barone.

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SCOPE STATEMENT

Examining Ways to Get Private-Sector Involvement in Looking at the Efficiency of State Operations

The Kansas Performance Review Act was passed in 1996. It established the Kansas Performance Review Board to review governmental functions and recommend if they should be privatized, eliminated, retained, or modified. The Board consists of 5 members appointed by the Governor and confirmed by the Senate. No more than three members could belong to the same political party, and at least one member was required to have experience in cost accounting. The members of the board generally have been from the private sector. In addition to the five appointed members, the Secretary of Administration or his or her designee serves as an ex officio member.

Some legislators have doubted the useful value of Kansas Performance Review Board studies under the current structure. Senate Bill 180, currently being considered by the Legislature would repeal the Performance Review Act and abolish the Board. This has raised concerns among some Legislators that the State is losing valuable input from the private sector about ways to make government more efficient. Those legislators are looking for ways that private sector input into government operations could be retained if the Performance Review Board is abolished.

A performance audit in this area would address the following questions:

1. **What options exist for having private-sector input into government operations if the Performance Review Board is done away with?** We'd survey some of the larger State agencies such as SRS or the Department of Health and Environment to find out ways that they may have tried to solicit private sector input in the past, and ways that they think it could be encouraged in the future. We'd also contact various groups such as the National Conference of State Legislatures, the Council of State Governments, and other states to determine what other states are doing to foster private-sector input. As needed we'd contact some other states to find out what they are doing in this area. We'd talk with current and past members of the performance review board and other private-sector groups such as the Vision 21st Century Task Force that have been appointed to study and make recommendations on various aspects of State government operations. We'd find out from these people what aspects of their service they've found to be more rewarding and discouraging and what may need to change to encourage others from the private sector to share their input with government officials. We'd make other contacts and conduct additional work as needed.

Estimated completion time: 3-4 weeks

Appendix B

The Kansas Council on Privatization, in its final report *Privatize, Eliminate, Retain or Modify: A Strategy for Competitiveness in Government* dated January 20, 1995, recommended the State take several actions. Those actions included creating a “Kansas Performance Review Board.”

This appendix includes the report’s executive summary, which summarizes the Council’s findings and recommendations.

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EXECUTIVE SUMMARY

The Kansas Council on Privatization was created by the 1994 Kansas Legislature (S.C.R. 1626). The 15-member Council, chaired by Jeffrey A. Chanay, was asked to study the issues surrounding contracting for private performance of governmental services, identify state services that may be in competition with the private sector, and develop recommendations that will make state government more competitive and improve the delivery of services to Kansas citizens. This report provides a detailed analysis of the issues surrounding this topic, with special emphasis on cost accounting, procurement, and the role of public employees. It contains over 30 recommendations to improve state government that are made to the Governor and Legislature of Kansas.

Need For A Privatization Framework

The Council has concluded that despite the extensive use and long experience with various forms of privatization, Kansas state government lacks an overall framework for privatization decisions. There is a compelling need for a rigorous methodology and process for determining whether privatization options are appropriate, efficient, and effective.

Kansas Experience With Contracting Out

Many agencies of Kansas state government have contracted with the private sector extensively to provide services in accordance with their respective goals and missions. As is discussed in Chapter Two, the Division of Purchases within the Kansas Department of Administration administers over 1,757 contracts for agencies throughout the state. The Council surveyed state agencies to gain information on their experiences with privatization and to obtain suggestions for improving the contractual process. Responses from 74 agencies demonstrate that they have a

sophisticated understanding of contracting out, and overall, have had a positive experience with contractual arrangements. The experience in Kansas, as well as that of other states, has shown that privatization alternatives must be considered carefully and the advantages and disadvantages of this approach should be made explicit. A privatization checklist, or set of criteria, can be developed to identify the significant issues that must be considered prior to making a determination as to the appropriateness of contracting out for a given service or services.

Other States' Experience

State governments have had extensive experience with contracting out to the private sector. Chapter Three of the report examines the approaches used in Texas, Michigan, Illinois, Massachusetts, and Colorado. The Council has relied heavily on the approaches and methods adopted in Michigan, particularly the analytical method which has been applied successfully, called the PERM (Privatize, Retain, Eliminate or Modify) analysis. Based on the review of other states, privatization efforts should: 1) define the problem; 2) emphasize competition; 3) identify goals and measurable results of services; 4) integrate privatization review procedures with the budget process; 5) ensure the accuracy of methodologies for comparing costs of public and private services; 6) ensure that contracting governments have sufficient capacity and adequate resources to monitor projects; and 7) recognize the importance of educating the public.

Cost Accounting

Cost Accounting is the subject matter of Chapter Four. The decision to contract out or seek some other alternative to government

delivery of public services has to be made with full and accurate understanding of cost accounting. How much does it really cost for state government to perform a given function? How much would it cost the state to have one of its functions performed instead by a private sector business? Cost accounting systems are developed for the public sector, but have not been used to fully and accurately account for all indirect costs. Kansas state agencies perform that degree of cost accounting which is sophisticated enough to prepare the annual state budget. Kansas uses a computerized accounting system referred to as STARS (Statewide Accounting and Reporting System). State agencies were required by the federal government to adopt standardized principles for cost accounting. Office of Management and Budget Circular 87 requires state agencies to develop cost allocation plans.

Accurate comparisons of the delivery of services between the public and private sector depend on identifying fully allocated cost, which is the sum of direct costs, plus overhead or indirect costs. Estimating savings from contracting out also requires the estimation of avoidable costs--those that will not be incurred--and unavoidable costs--those that cannot be eliminated. It is also important to understand the costs of contracting out, including contract administration costs, one time conversion costs, and potential reconversion costs.

Kansas state government now has adequate capability to perform the cost accounting necessary for fair and reliable analyses. The current system is sufficient to undertake a case-by-case investigation of selected services to determine if privatization or other efficiency-enhancing ideas should be adopted.

Procurement

Procurement policies and practices are outlined in Chapter Five. Currently, state procurement is

based on a competitive process, with few exceptions. While the state relies on the concept of "lowest responsible bidder," it has considerable latitude to ensure that issues of quality, fitness, capacity, and responsiveness are met. The state has also adopted an effective process of relying on "procurement negotiating committees" (PNC) of state officials to contract for certain services (K.S.A. 75-37,102). The Council recommends more extensive use of the PNC approach. The Council finds a need to place greater emphasis on qualitative or value-based decisions in the contractual process.

The Council has articulated the following principles to guide future procurement: 1) long-term savings and system improvements should be favored over short-term savings; 2) private-sector supply of goods and services should be preferred when there is no significant savings from public sector supply; 3) changes to the procurement system should encourage competition for state contracts; 4) the procurement system should be designed to provide accountability for procurement decisions; and 5) proper safeguards should be placed within the system to ensure vendor accountability. The Council has recommended statutory changes to strengthen the state's ability to debar vendors.

The Council takes the position that the procurement system should remain as flexible as possible. However, the system should be designed to fully account for the cost of public provision of goods and services and the long-term value of goods and services provided by the private sector. At all times the goal of the procurement system should be to obtain the highest quality product at the lowest cost with a fully accountable decision.

Public Employees

The question arises in Chapter Six as to how to address the needs of public employees who are affected by privatization decisions. The Council

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acknowledges that decisions resulting from an analysis that leads to contracting out or privatization of a state service can affect state employees. It also recognizes the important contribution that state employees make to ensure the effective delivery of public services, as well as the personal commitment they have to their careers and to serving the public.

Chapter Six outlines the operating assumptions of the Council, summarizes the existing rules and regulations governing layoff procedures, identifies the strengths and weaknesses of the existing layoff procedures, and outlines a series of proposals for legislative and gubernatorial consideration. These proposals include: 1) avoiding employee displacements by first relying on attrition and retirements; 2) making creative use of reassignments and transfers; 3) modifying the existing bumping procedures; and 4) adopting job sharing or reorganization alternatives that borrow from private sector experience.

The Council has recommended a series of proposals to provide assistance to state agency employees facing termination as result of privatization or other changes. These include:

- 1) providing skill-based training to enable a displaced employee to enter a vacant position;
- 2) allowing re-employment if a contract is terminated;
- 3) examining the treatment of benefits provided terminated employees; and
- 4) providing out-placement assistance, retraining, counseling, and assistance for entrepreneurial activity. The Council also suggests that the existing employee award program be modified to provide state employees greater incentive to suggest program improvements. A substantial percentage of the cost savings achieved from private-sector service delivery resulting from a PERM analysis should be awarded to the state employee who directly suggested the adopted alternative.

Candidates for PERM Analysis

The Council has identified in Chapter Seven ten specific services provided by state government that might provide an initial agenda for the analysis of privatization and contracting out. Some of those services are already delivered on a contractual basis, but should be examined to determine if the current arrangements are effective and efficient, and if an acceptable quality of services is being provided. The ten suggested services for PERM analysis are: 1) grain inspection, 2) state printing services, 3) travel information centers, 4) tourism marketing and development, 5) maintenance of highway rest areas, 6) state travel arrangements, 7) state motor vehicle ownership, 8) child support debt collection, 9) motor vehicle maintenance, and 10) security services.

A System For Ongoing Analysis

A method for ensuring an ongoing procedure for analyzing privatization and other alternatives is described in Chapter Eight. The primary recommendation of the Council is legislative creation of the "Kansas Performance Review Board" (KPRB) to be responsible for managing and overseeing the formal decision-making process surrounding the privatization, elimination, retention, or modification of state government services and functions.

The KPRB would consist of five members appointed by the Governor and confirmed by the Kansas Senate. The Secretary of Administration would serve as an ex-officio, non-voting member of the Board. No more than three members of the Board would be from the same political party. Board members would be appointed to serve four-year staggered terms with at least two members selected to serve initial terms of two years. The members of the Board would receive compensation and reimbursement for travel and per diem.

The Board would receive an annual appropriation to fund the salaries and wages of a small staff and the operating expenses and other expenditures of the agency, as determined by the Legislature. The annual appropriation would also include funds to support the conduct of PERM analyses. The amount of state investment which the Council recommends for PERM-related activities is \$500,000 annually. This amount would be appropriated to KPRB alone, with KPRB being responsible for its disbursement for the KPRB staff, reimbursement to state agencies assisting or complying with PERM projects, and the payment of any private sector contractors that KPRB deems appropriate in given situations. Funding of \$500,000 would represent the actual total cost of the PERM program each year. However, depending upon KPRB's degree of success in achieving government cost savings and efficiency gains, a higher level of funding may be warranted in outlying years in order to pursue additional PERM projects or projects of a larger scope.

The Council has proposed a detailed process for the management and conduct of a system of analysis that closely follows the successful PERM analytical model adopted by Michigan. This process identifies the role to be played by the KPRB, the Secretary of Administration, and state agencies. It provides opportunities for public participation through open hearings conducted by the KPRB, and it allows informed decision-making by the Governor and oversight by the Legislature.

The Council intends for the KPRB to represent a compromise of interests between the executive branch, the legislative branch, the judicial branch, and the citizens of Kansas. The KPRB would draw upon a flexible blend of the talents of the Kansas Department of Administration, the Legislative Division of Post Audit, state departments and agencies, and private sector specialists. Most important, KPRB would be a new and impartial entity that would operate from a solid, analytical foundation.

b1-8

Appendix C

Agencies' Responses

On March 20, 2001, we provided a draft copy of the audit report to the Department of Administration and the Kansas Performance Review Board. Their responses are included in this appendix.



LEGISLATIVE POST AUDIT

MAR 22 2001

DEPARTMENT OF ADMINISTRATION

State Capitol

Room 263-E

Topeka, Kansas 66612-1572

(785) 296-3011

FAX (785) 296-2702

IAN STANLEY, Secretary

BILL GRAVES, Governor

March 22, 2001

Barbara J. Hinton
 Legislative Post Audit
 800 SW Jackson St. Suite 1200
 Topeka, KS 66612-2212

Dear Ms. Hinton:

This will acknowledge receipt of the completed performance audit *Private-Sector Input: Ways to Foster Such Input if the Kansas Performance Review Board is Abolished*. I appreciate the opportunity to comment on the audit report.

I would note from the outset that my biggest concern with the Performance Review Board (PRB) has been the *overstatement* of both potential and actual savings due to their recommendations. I would also suggest that while the quality of the board members has been outstanding, neither the staff nor the contracting consultants understand the decision-making process that state government goes through. It is also important to understand that the Governor's Appointments Secretary found it difficult to find people willing to serve on the PRB. The Executive Director comments that the board was unable to meet for more than 15 months because they did not have a quorum. The statute clearly allows members to continue serving until their successor has been named, however, the board choose not to meet even when four members were available.

In the eight reviews conducted by the PRB, not once was a recommendation made to either privatize or eliminate a government function. The recommendations stemming from these eight reviews could have just as easily come from any existing review process such as performance audits conducted by your staff, information gathered from internal agency review processes, or information gathered from participation with both state and national trade organizations.

Your audit suggests several alternatives to the PRB. Each of them has merit, and some of them are current practices. For example, many state agencies currently hire private sector consultants and have in place advisory groups made up of vendors, business people and other stakeholders. Although neither of these approaches is executed on a systematic basis, advisory

groups have been put into place and/or consulting firms have been hired as a direct result of performance audits done by your staff. This approach encourages agencies to “. . . pull expertise from the right level of private organizations.”

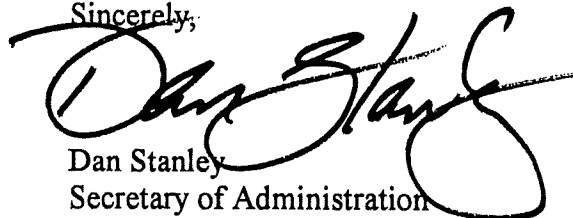
Significant changes are being made everyday by agencies to bring modern business practices into government. For example, Kansas has been a leader in incorporating modern technology into government functions, making it easier for both the agencies to do their jobs and citizens to interact with those agencies. This is true not only of the Department of Administration, but of all state agencies. Through the budget and legislative processes, agency heads have shown their desire to streamline processes and make their operations more cost effective. The PRB is *not* the inherent answer to encouraging and fostering this attitude. Rather, I would suggest that much of this change has been brought about by participation in national organizations and solicitation of input by not only the executive and legislative branches, but by individual citizens.

If such a review function *needs* to exist, I contend that it should rest within the existing post audit function. I believe that the board could be retained to provide input on performance audits much in the fashion that agencies provide input on the audits now. Asking them to look at scope statements prior to approval by the Legislative Post Audit Committee may give insight as to the “right” questions to ask. Asking them to review recommendations and make comments on those items may provide insight as to how citizens and business people perceive government functions. Funding an entirely separate organization with its own offices, an executive director, and staff that simply contracts out for consultants is both unnecessary and wasteful regardless of which branch of government they report to.

Several of the approaches you suggest, encourage or mandate that agencies themselves take on responsibility of systematically reviewing their functions to develop business plans or identify competitive opportunities. Currently, K.S.A. 75-7101 directs state agencies to use the analysis utilized by the PRB when identifying areas for privatization. It would be possible to keep the agency directive to use the analysis defined in current statute and accomplish the goal of reviewing government functions to determine whether they are being executed in the most efficient manner possible, without having a separate organization.

As always, I appreciate the professionalism shown by your staff and thank you for the opportunity to provide these comments.

Sincerely,



Dan Stanley
Secretary of Administration

DS:DN:tb



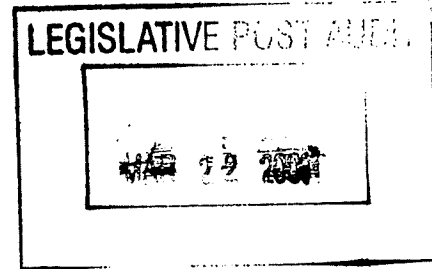
BILL GRAVES
Governor

Robert L. Stockwell
Executive Director
800 SW Jackson, Suite 817
Topeka, KS 66612
Tel (785) 296-4393
Fax (785) 296-4360
E-mail: kprb@parod.com

KANSAS PERFORMANCE REVIEW BOARD

March 22, 2001

Barbara J. Hinton
Legislative Post Auditor
800 SW Jackson, Suite 1200
Topeka, Kansas 66612



Dear Ms Hinton,

I have received the draft copy of your completed performance audit on the Kansas Performance Review Board. I have read it and explained the contents of it to the remaining Board members.

In summary, I found no factual error or any incorrect information in the audit that you and your staff assembled. I appreciate your timeliness and accuracy in this matter and the sensitivity that you and your staff showed during the conduct of the audit.

The Kansas Performance Review Board is, by design, a link to innovation and a conduit to the private sector. KPRB can inspire public confidence in government as taxpayers realize the total value they receive for their tax dollars.

I agree with your conclusion that *"Without the Kansas Performance Review Board, Kansas will have no systematic process for evaluating privatization options or for getting private-sector input into the efficiency of government operations."* Moreover, **with no political champion** in either the Executive branch or the Legislature to encourage agencies to systematically evaluate their programs with a sound methodology and no Board to facilitate reviews externally, agencies and the bureaucracy will have no impetus to do so on their own.


KPRB has added a new dimension of management expertise to the executive branch. The Board members have volunteered their time and experience as they evaluated state programs for efficiency and cost-effectiveness. Their business judgment combined with

22-6
an effective review methodology geared to Kansas government operations has provided the Governor and the Legislature a mature, independent voice with which to recommend improvements.

The concept of governmental self-evaluation embodied in the Kansas Performance Review Board will only be realized when the elected leaders in government become actively involved in promoting efficient and cost-effective agencies and programs.

Thank you for the opportunity for me to provide information for this audit and to comment on this draft report.

Sincerely,



Robert L. Stockwell
Executive Director



AIA Kansas
A Chapter of the American
Institute of Architects

January 27, 2010

TO: House Appropriations
FROM: Trudy Aron, Executive Director
RE: Support of HB 2403

President
J. Michael Vieux, AIA
Leavenworth
President Elect
Nadia Zhiri, AIA
Lawrence
Secretary
Gary Nevius, AIA
Overland Park
Treasurer
Hans Nettelblad, AIA
Overland Park

Christie Carl, AIA
Abilene
Randle L. Clark, AIA
McPherson
Tim de Noble, AIA
Manhattan
Keith Diaz-Moore, AIA
Lawrence
Dale R. Duncan, AIA
Olathe
Gwenda S. Gigous, AIA
Topeka
David S. Heit, AIA
Topeka
Joshua Herrman, AIA
Wichita
Anthony Jacobs, AIA
Wichita
Alan Johnson, AIA
Overland Park
David Livingood, AIA
Lawrence
Craig Lofton, AIA
Lindsborg
Katherine Nichols, Assoc. AIA
Lawrence
Donald Norton, P.E.
Wichita
Charles Smith, AIA
Topeka
Daniel (Terry) Tevis, AIA
Lenexa
Jason VanHecke, AIA
Wichita

Good Morning, Chair Yoder and Members of the Committee. I am Trudy Aron, Executive Director, of the American Institute of Architects in Kansas.

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 120 private practice architectural firms designing a variety of project types for both public and private clients. Our members are designing tomorrow's buildings today, aiming to meet the "triple bottom line": buildings that are affordable, protect the health of the building occupants, and that respect our environment.

HB 2403 requires a look at services provided by the state to see if those services could be better provided by those in the private sector. We believe that our members in the private sector have a diverse portfolio of services they can offer the State and other public entities. Their experience and expertise give them knowledge that is hard to duplicate. To remain competitive, our firms must have knowledge of the latest materials and design concepts, and how these materials and concepts affect the performance of the buildings they design. Again, it is difficult to get this expertise in any place but the private sector.

I want to point out that there are few buildings in the State that are designed by employees. Our members contract with the State to provide nearly all the design work that is done. We have good relationships with these agencies and believe we are partners in providing the State with the buildings they need.

I also want to add our thanks for the amendment that differentiates between the procurement process in hiring technical professional services and commodities or other services.

Thank you for allowing me to testify in support of HB 2403. If you have questions, I'll be happy to answer them.

Executive Director
Trudy Aron, Hon. AIA, CAE
info@aiaks.org

700 SW Jackson, Suite 209 · Topeka, KS 66603 · 800-444-9853 or 785-357-5308 · www.aiaks.org

Appropriations Committee
Date 1-29-10
Attachment 3



Building a Better Kansas Since 1934
200 SW 33rd St. Topeka, KS 66611 785-266-4015

**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE HOUSE COMMITTEE ON APPROPRIATIONS
HB 2403**

January 27, 2010

By Eric Stafford, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Eric Stafford. I am the Director of Government Affairs for the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

The AGC of Kansas opposes House Bill 2403 as written and asks that you do not recommend it favorably for passage.

Section 3 would require the director of the division of state purchasing to prepare a written statement detailing the reasons why a vendor was not awarded a contract for the purchase of goods or services if such contract is not awarded to a vendor that is 1) domiciled in Kansas; 2) proposing to have the work which is the subject matter of the contract performed by employees subject to Kansas income withholding taxes; and 3) subject to Kansas income taxes. This means a written statement would be required, even if the out of state vendor submits the lowest bid.

AGC of Kansas has had a long-standing position against legislation that would create a preference for in-state contractors simply because other states would reciprocate the same laws. While section 3 in HB 2403 doesn't specifically give preference to in-state companies for contracts, it definitely takes a step in that direction. A vendor could be domiciled in another state, Missouri for example, and the director of purchasing would have to submit a written statement explaining why the Kansas-based vendor's bid could "not be remedied." This could very well lead to in-state preference language which we feel is bad policy for any industry.

Again, the AGC of Kansas opposes HB 2403 as written and asks that you do not recommend it favorably for passage. Thank you for your consideration.

Appropriations Committee
Date 1-29-10
Attachment 4

Testimony on HB 2403

January 29, 2010

Offered by:

Chris Howe, Director of Purchases
Kansas Department of Administration
900 SW Jackson, Room 102N
Topeka KS 66612-1286
Telephone: 785-296-2374
Email: chris.howe@da.ks.gov

Mr. Chairman and Committee Members:

Thank you for this opportunity to speak to you today.

Right off the bat, I'll admit that most purchasing people don't seek the spotlight because typically the spotlight only hits us when things go wrong, but with several bills related to purchasing in the hopper, I thought it this would be an opportunity to share information about some of the great things we (as the Enterprise that is the State of Kansas) have accomplished recently, and as always, with a little help from our friends.

To start with, on December 9, 2009, the State of Iowa issued its "Public Works Efficiency Review Report" which listed over 100 recommendations for cost cutting efficiencies for state government, split between the Executive and Legislative Branches.

As I reviewed the list, I focused on the recommendations for Executive Branch agencies, and was struck that even with my limited exposure to the operations of some agencies, I could see that Kansas agencies have already made significant progress on over half of the items on that Iowa list, including items like Fleet Reduction and Management and the closure of some major warehouse operations at the universities.

Iowa: <http://www.desmoinesregister.com/assets/pdf/D21482661210.PDF>

So what I wanted to do today was talk about some of the successes that I've been a part of over the past 10 years or so, that haven't received the attention that they probably deserve:

Inmate Medications and Healthcare

In the mid 2000's, county correctional officials were faced with the skyrocketing costs of pharmaceuticals, a shortage of qualified on-staff pharmacists and the challenge of managing in-house pharmacies with their extensive and expensive inventory of pharmaceutical products.

In 2006, a facilitated collaboration between various State of Kansas agencies and county representatives produced over \$7 million in savings per year for county correctional institutions through research of contract pricing alternatives and matching those alternative delivery methods to county needs. Some

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Date 1-29-10
Attachment 5-1

counties opted to use a contract established by the Department of Corrections, while others continued to use their local pharmacy but leveraged contract pricing to their benefit.

This further translated into discussions and actions about how to reduce the cost of inmate healthcare services as well. ^

^ 2006 – "Making Dollars & Sense – The Kansas Collaborative"
<http://www.thekansascollaborative.com/>

Office Supplies

In 1999, the Division of Purchases was approached by the Universities with a request to modernize the State of Kansas office supplies contract. Prior to this time, the contract was awarded by groups of products to various manufacturers. To avoid freight charges, the minimum order requirement was \$100, and the vendors had 30 days to deliver the products. To meet their immediate needs, agencies established warehouse operations that required FTE to operate and tied up thousands of dollars in inventory. This old-school contract was valued at approximately \$600,000 per year.

The new contract, a one-vendor one-stop shop requiring desktop delivery with 24-48 hours, with a low minimum order requirements. This contract has allowed many agencies to eliminate on-site store rooms and the overhead that went with them. Furthermore, our current office supplies contractor stocks many State Use Catalog items, allowing agencies to realize administrative efficiencies by being able to place fewer orders.

Auto Parts

In the late 1990's, the Division of Purchases managed as many as ten contracts for Auto Parts, with each contract being specific to a particular type of part (spark plugs, air filters, etc.) with onerous minimum order requirements. For a vehicle maintenance facility, they'd have to place orders well in advance, maintain an inventory of basic parts and were sometimes left with obsolete inventory when vehicles were taken out of service. Add to that the fact that most of the contractors were located on the west or east coasts.

The new concept contract includes over 300 local retailers throughout the State of Kansas, allowing vehicle shops the ability, while elbow deep in a repair, to drive to the local retailer to pick up the exact part that they need. There is the added benefit that the local retailers are typically employing Kansans and paying property taxes on their retail storefronts.

Strategic Sourcing Efforts

In the mid-2000's the world of procurement was abuzz with the idea of "strategic sourcing", where a consultant would spend weeks examining expenditures then move out into the community, re-negotiating contracts with new and existing vendors and taking a part of the savings for their efforts.

I like to say that the first \$2.5 million dollars that we saved in our Strategic Sourcing effort was to NOT hire a consultant and to engage our stakeholders in a discussion about how contracts should be built and managed for the 21st century, then conducting our own review of expenditures to identify the best opportunities for efficiencies, and then negotiate our own contracts.

We were able to drive costs out of many contracts, reduce the number of contracts through consolidation (which also created work efficiencies with agencies having to place fewer orders). We also engaged schools and local municipalities in our discussions and contract negotiations and are pleased that they continue to see our contracts as a cost-saving resource for their own operations.

Understanding the Bidder

In addition to discussions with state agencies, we're engaged in conversations with the vendor community as well. It's become clear that lengthy bid specifications and onerous contract requirements can actually discourage competition. Even large corporations indicate that if a bid document is too complicated or contains too many "hoops to jump through", that they will spend their time filling out less complicated bids. We've been revising our bid documents accordingly.

Other examples of efforts that benefit the State of Kansas enterprise include:

- Obtaining tax clearances from the Department of Revenue before issuing purchase orders and contracts from the Division of Purchases;
- Advocating the co-location of agencies in cities where efficiencies could be created by combining several agencies under one roof;
- Establishing a contract for wheelchairs and related durable medical equipment that shaved weeks off of the procurement time and helped create relationships between the supplier and client that brings benefits when equipment stops working;

Kansas Contractors

An additional note, we work hard to seek out and bring Kansas vendors to the contract table. A great example of this is the Auto Parts contract.

Transparency and "Sunshine" in our transactions

While we recognize that vendors are notorious for working on bids at the last minute, sometimes having them out on the Internet for a longer period of time (two weeks, typically) allows time for additional vendors to find the opportunity, to ask questions about the bid and the process, and to prepare a complete and exhaustive bid. When the bid process is complete, our bid files are available to the public through the Kansas Open Records Act.

One way that we judge the success of our daily pursuit of the lowest responsible bidder is vendor protests. At the end of the bid process, vendors have the right to challenge the award decision of the agency and the Division of Purchases. Over the past 20 years, the Division receives somewhere between 3 to 5 protests per year, and the majority of them are

In contrast, the Washington State Purchasing Office has one FTE dedicated *full-time* to handling vendor protests. This tells me that we are on the right track.

In closing, any chance to have outside eyes review your operations is going to have benefits. I don't present this information in order to deter you from moving forward with House Bill 2403 or with other legislation, but rather to share the story of the types of things we have done here in Kansas that have been repeated in other states, sometimes under the banner of privatization. This is the type of work we do every day at the Department of Administration, and I'd like to thank you for giving me the opportunity to share just a few of our success stories with you today.



AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Kansas

Affiliate: American Council of Engineering Companies
Kansas Society of Professional Engineers
National Society of Professional Engineers
Professional Engineers in Private Practice

TESTIMONY

**FROM: SCOTT HEIDNER
EXECUTIVE DIRECTOR
AMERICAN COUNCIL OF ENGINEERING COMPANIES OF KANSAS**

TO: HOUSE APPROPRIATIONS COMMITTEE

RE: HB 2403

DATE: JANUARY 27, 2010

Mr. Chairman, members of the committee, thank you for the opportunity to testify today as a proponent of HB 2403. My name is Scott Heidner, and I am the Executive Director for ACEC Kansas. ACEC Kansas is the trade group for private sector consulting engineering firms in Kansas, representing approximately 80 member firms and thousands of Kansas employees.

I am here today in support of HB 2403. HB 2403 would propose a fresh look at what services are best provided by the state and which services are best proposed by the private sector. The current financial setting certainly seems to provide the proper background for a review of the paradigm.

Kansas government agencies and employees work hard and provide many valuable services to the citizens of Kansas. Our members work with and for many of those agencies and hard working public servants. We know better than most that some services are most appropriately and efficiently provided by the public sector. However, the private sector is uniquely situated through both expertise and flexibility to be the best value provider of many services. As an example that is specific to the engineering world, there is a significant ebb and flow of available design and inspection work from units of government. Our member firms have the flexible labor market to adjust staff and provide services at the appropriate level to meet the varying level of these needs in a quality manner, with the most efficient use of labor costs.

We also want to share our appreciation of the recognition shown in this amendment for the difference in procuring commodities and/or non-professional services as opposed to professional services, particularly in the technical field. These are dramatically different scenarios, and the amendment as drafted recognizes this fact.

Thank you again for the opportunity to be here today, and I'd be happy to answer any questions at the appropriate time.

Appropriations Committee
Date 1-29-10
Attachment 6