



## Pacheco judgments hurt the taxpayers

By Charles D. Chieppo

November 4, 2002

The challenges facing the winner of tomorrow's gubernatorial election make you wonder why anyone would want the job. A budget deficit of almost \$2 billion looms and the rainy day fund is nearly tapped. More tax increases won't be an easy sell, since taxpayers have recently endured the largest tax increase in state history. One source of some relief would be to do something about what Massachusetts Taxpayers Foundation President Michael Widmer called "probably the single most significant fiscal setback of the last decade," the commonwealth's anti-privatization law.

When talking about state government, I find myself starting a disturbing number of sentences with the words, "Massachusetts is the only state..." In this case, we are the only state misguided enough to have a law making it virtually impossible to open the delivery of any service currently provided by state employees to competition from the private sector. Facing a massive budget crisis, Massachusetts taxpayers continue to pay monopoly prices for every state service.

The law's supporters will dispute that, as they did at a recent forum to mark Pioneer Institute's publication of "Competition and Government Services: Can Massachusetts Still Afford the Pacheco Law?" The legislation is named for its primary sponsor, State Sen. Marc Pacheco (D-Taunton).

The law is a classic wolf in sheep's clothing. On the surface its language calls for common-sense cost comparisons. Look a little deeper and the reality is quite different.

Instead of a fair comparison between public and private costs, a private bid is compared to what public costs would be were state employees to work "in the most cost-efficient manner." Senator Pacheco says it's about "best practices." Funny how those best practices don't get implemented until there's a little outside competition. The law goes on to mandate the percentage of health care costs paid by private contractors and regulate the wage rates of both front-line workers and company officers and managers.

If it scales these hurdles, the privatization proposal is shipped to the State Auditor, who can reject it for reasons as vague as his determination that it is not "in the public interest." The Auditor's review is yet another thumb on the scale.

When the T attempted to contract out the operation of some of its bus routes, the Auditor struck it down, claiming it wouldn't save money. Among the assertions that led to his conclusion was that age-related repairs to an MBTA maintenance facility should be added to the cost of privatization. I guess maintenance facilities only suffer wear and tear when they service privately operated buses.

The T doesn't pay state taxes on gasoline. But the Auditor ruled that gas taxes should be added to the cost of the private bid, even though the fuel would still be used for the same public purpose.

The result of such an onerous process is predictable: Neither state managers nor private contractors attempt to privatize anything, exactly as the law's framers intended. Between 1991 and 1993, privatization of 36 state services saved an estimated \$273 million. Since the Pacheco law was enacted in December 1993, only eight privatizations were proposed and six approved. Almost all were on a very small scale.

The Government Contracting Institute notes that the value of local, state, and federal contracts with private firms is up 65 percent since 1996, to \$400 billion. There's good reason for the increase — a national survey of privatization of 10 common state functions found that savings ranged from 5-to-60 percent. Meanwhile, the Pacheco law has cost "tens if not hundreds of millions of dollars" according to Widmer.

Senator Pacheco has always claimed the law was designed to make sure those savings don't come on the backs of employees. But as privatizations have become more sophisticated, layoffs rarely result. Most employees shift to union jobs with the contractor, while others take comparable jobs in other areas of government. One major difference is that workers report enhanced opportunities for advancement in the private sector.

The sad reality of our current fiscal straits is that hundreds — if not thousands — of state employees will face layoffs during the next year. By opening the delivery of state services to competition, shrinking state revenues would go further and some of those endangered state workers would be looking at increased opportunity and security as private sector employees.

*Charles D. Chieppo directs the Shamie Center for Restructuring Government at Pioneer Institute, a Massachusetts public policy think tank.*