

## **SURVEYING STATE LAWS ADDRESSING PRIVATIZATION: EXECUTIVE SUMMARY**

Over the past few decades, state legislatures throughout the country have enacted state laws addressing privatization activities. By the early 1990s, several state legislatures, seeking to realize the promised benefits of cost savings and efficiency gains, had designed and enacted comprehensive, systematic privatization programs for their states. A decade later, however, no consensus had developed as to the effectiveness of privatization (outsourcing or contracting out), due, in part, to the lack of empirical data as well as the complexity of the issue. Consequently, the topic of privatization re-emerged as a controversial management issue for state policymakers. In fact, based upon its national survey, the Council of State Governments concluded in a 2003 report that many state agency directors had no clear idea of how much money privatization had actually saved.

Across the 50 states, legislative approaches to privatization differ widely, and while some states have enacted laws that promote and facilitate privatization, others have enacted laws seeking to regulate and curtail such activity. Moreover, such legislative approaches differ in scope. Some states have enacted broad-based privatization laws that apply to all such activity within the state (*general privatization laws*), such as the Massachusetts Pacheco law that tends to restrict and regulate such activities. Other states have passed laws that relate only to one or more sectors (*sector-specific privatization laws*), such as the Tennessee private prison contracting act, which, according to some commentators, has led to the rise of the national private prison industry. *Issue-specific privatization laws* also have been enacted and typically reflect policy concerns regarding such matters as nondiscrimination or public employee job security with respect to the outsourcing of services by public agencies.

The paper concludes with a few suggestions as to how to research the reader's own state's privatization laws. Included is an Appendix, providing a direct website link to the online general laws of the 50 states.

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