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Privatization & Government Reform Newsletter

Issue No. 25 — June 2016

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PENSIONS: Arizona Voters Approve Public Safety Pension Reform

Last month, Arizona voters overwhelmingly approved Proposition 124, a constitutional amendment that fully implements the Arizona public safety retirement system reform package signed into law in February. The constitutional amendment modifies the state's pension protection clause to allow for an exchange of the current, flawed permanent benefit increase (PBI) structure for current workers and retirees for a traditional cost of living adjustment (COLA), based on inflation and capped at 2%. The new COLA design will provide greater certainty to retirees, will be more stable compared to the PBI system, and will help put the beleaguered pension system on the path to solvency.

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TRANSPORTATION: The Evolution of Managed Lanes

In a recent *Public Works Financing* article, Reason's Robert Poole writes that a growing number of transportation policymakers are coming to see priced managed lanes as a key factor in addressing urban freeway congestion—and understanding that we can't achieve that goal by giving away a significant share

of the capacity in such lanes. Nor can we hope to finance a large fraction of the construction cost of new lanes unless some form of revenue maximization is part of the equation.

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CRIMINAL JUSTICE: Reforming Illinois' Nonviolent Class 4 Felony Statutes

The rapid increase in Illinois' prison population over the past several decades has come with numerous costs for the state: increased prison budgets, growth in the number of people cycling in and out of prison, wasted human capital and overall strain on a system that has become too big to manage. A new policy brief by Reason's Lauren Krisai finds that reforming the state's lowest-level nonviolent drug and property felonies would be a modest, yet necessary, first step in making broader reform—and in meeting Gov. Bruce Rauner's 25% prison population reduction goal—an eventual reality.

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ENVIRONMENT: The Ecologically Destructive Estate Tax

Private lands, especially large, intact pieces of land, are critically important to ecological conservation, while land broken into smaller pieces is generally of less ecological value. According to a recent Reason report by Brian Seasholes, the federal estate tax results in private land being broken up, subdivided and sold. Thus, the longer the federal estate tax is in existence, the higher the tax's negative ecological impact, according to the report.

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NEWS & NOTES

New Cato Report on Federal Privatization Opportunities: The Cato Institute released a new report this week by Chris Edwards recommending that federal policymakers privatize the U.S. Postal Service, Amtrak, the Tennessee Valley Authority, the air traffic control system, federal lands, real property assets, and other federal enterprises. The report finds that such reforms would increase efficiency, drive innovation, enhance transparency, and improve environmental quality. The full report is [available here](#).

LaGuardia Airport PPP Reaches Financial Close: Earlier this month, the Port Authority of New York and New Jersey reached financial close on a \$4 billion PPP to rebuild LaGuardia Airport's Terminal B, which will involve a 34-year concession with LaGuardia Gateway Partners, a consortium of Vantage Airport Group of Canada (a subsidiary of the Vancouver Airport Authority), Swedish construction

company Skanska, and Paris-based asset manager Meridiam. The project will include a new 35-gate Terminal B, Central Hall, West Garage, related roadways and supporting infrastructure, according to a [press release](#). The airport will remain fully operational while the terminal is completely rebuilt, which is expected by 2022. After completion, the consortium will continue to handle operations and management of the terminal until 2050. The project will be financed two-thirds by private funds. "[The] contractual closing of the public-private partnership and the imminent commencement of construction represent a huge step forward in Governor Cuomo and the Port Authority's vision to modernize LaGuardia Airport," said Port Authority Executive Director Pat Foye in a press release. "The new Terminal B will be a 21st Century facility offering a high level of customer service and amenities." More information is [available here](#).

UC-Merced Announces Preferred Bidder for Campus PPP : The University of California-Merced selected a consortium backed by the Plenary Group as its preferred bidder for a PPP that includes a near-doubling of the size of the UC system's youngest campus, founded in 2005. The Plenary-led consortium will be responsible for raising all private financing, designing and building all of the new facilities as a single project, and for ensuring the operations of major building systems over the 39-year contract term. The new buildings will also be in compliance with the university's environmental sustainability objectives, which include goals of zero net energy usage and carbon emissions, as well as zero landfill waste by 2020, the University noted in a [press release](#).

Long Beach Civic Center PPP Reaches Financial Close: This April, a consortium backed by Plenary Properties [closed on a 40-year, \\$520 million deal](#) for the construction, financing, operations and management of a new Civic Center complex, which will also include a new City Hall, a new headquarters for the Port of Long Beach, and a new Main Library. In addition to Plenary, the consortium will include Clark Construction, co-equity partner Edgmoor Infrastructure and Real Estate, Johnson Controls, and architect Skidmore, Owings & Merrill. Construction crews have been demolishing the old courthouse to make way for the project, a process expected to be completed in the summer, the [Long Beach Press Telegram reported](#). The new Civic Center is expected to open in June 2019. More information about the project is [available here](#).

CalPERS Buys Share of Indiana Toll Road: Last month, CalPERS, the retirement system for California's public workers and the largest public pension system in the U.S., purchased a 10% share of the company that operates the 157-mile Indiana Toll Road. The move comes roughly a year after the Australian fund manager IFM Investors bought the bankrupt ITR Concession Company for \$5.725 billion, which was previously managing the road. The bankruptcy was largely attributed to a post-recession lack of traffic, with [Forbes reporting](#) that truck traffic in 2010 was about half of what it needed to be to break even. "This solid, long-term investment represents our first foray into a transportation asset in the United States," said Paul Mouchakka, Managing Investment Director for CalPERS' Real Assets program, in a [press release](#).

Milwaukee Renews Major Wastewater Operations PPP: Earlier this week, the Milwaukee Metropolitan Sewerage District announced that it has extended its current contract with Veolia North America to continue managing and operating its collection and wastewater treatment system. The new 10-year, \$500 million contract is the largest wastewater PPP in the U.S., and the award-winning PPP serves 1.1 million people across 28 communities. "Veolia has continuously exceeded all regulatory and contract standards," said District Executive Director Kevin Shafer in a [press release](#). "MMSD believes extending Veolia's contract is the best approach for our ratepayers and the environment."

Maryland Purple Line Reaches Financial Close: Maryland Transportation Secretary Pete K. Rahn announced on June 17th that the state had [reached financial close](#) on the \$5.6 billion light rail PPP, which will stretch 16 miles through Montgomery and Prince George's counties, while also providing access to existing Amtrak, light rail and commuter lines. The Purple line is the nation's first light rail PPP, led by a consortium of French asset management firm Meridiam, development firm Star America and global construction firm Fluor, collectively called Purple Line Transit Partners, LLC. Securing preferred financing through the U.S. Department of Transportation has reduced the original cost estimate by \$600 million.

PennDOT Approves Fiberoptic Communication PPP: The Commonwealth's PPP board [approved a project](#) to have a company design, build, finance, operate and maintain a 550-mile fiber optic cable that will run alongside the Pennsylvania Turnpike and roads in nearby areas, the state Department of Transportation announced in a press release in early June. The project is estimated to be valued at around \$200M and an RFQ is scheduled for October of this year, according to the website Inspiratia.com. The cable, which is tentatively scheduled to be operational by 2018, will be used to better transfer toll data and communications between agencies, while also looking to facilitate the use of smart cars and other emerging transportation and communications technologies.

Chicago Releases Street Lighting PPP RFQ: The Chicago Infrastructure Trust (CIT) [released an RFQ](#) in April for a PPP that aims to modernize the city's street lighting, by both replacing all high pressure sodium bulbs with LED bulbs, and by improving its control network in way that aims to address outages more promptly. CIT plans to have a shortlist by the end of June, with a bidder being selected by the end of the year.

Virginia JLARC Report Critical of State Procurement: The state's Joint Legislative Audit and Review Commission [released a report](#) in June that found significant problems with the state's contracting practices. The study looked at 117 high-value contracts, through surveys sent to administrators in 23 agencies, and found cost overruns to be the most common problem in meeting performance standards, occurring in close to half of the contracts studied (49%). The agency also identified other issues in the contract negotiations process, finding that administrators often do not seek any counsel from the Attorney General's Office during negotiations, often leading to terms that are very risky for the state. The study was released nearly a year after the state incurred a \$250 million cost

related to a cancelled toll road project, [noted the *Richmond Times-Dispatch*](#).

Scranton Sewer Authority Approves Wastewater System Sale: In late March, the Scranton Sewer Authority approved the sale of its wastewater system to Pennsylvania American Water Company for \$195 million. The mayor is hopeful that the move, which includes a \$95 million infusion of cash for the city, will help the city exit the state's now 24-year designation as being "financially distressed," the [Scranton Times Tribune reported](#). In May, Mayor Courtright penned an op-ed in the *Times-Tribune*, noting that the deal will yield \$350 million in savings for the next 30 years, or approximately \$7,500 per household. The next steps in the process will involve approval from the EPA, DOJ, and the U.S. District Court, all expected to be completed by October of this year.

Scranton Also Negotiating Parking Lease: According to an agreement that became public on June 15, the city will receive a \$28 million upfront payment from leasing its parking garages and meters to the nonprofit National Development Council (NDC) of New York City, the [Scranton Times-Tribune reported](#) in May. In the 45-year agreement, the city will retain ownership of its meters and all but its oldest garage, Electric City, which was sold for \$1 to a developer building a nearby movie theater who will also lease the garage to NDC. The agreement also includes the eventual replacement of all coin-operated meters with smart meters and will immediately include a standardization (and a slight decrease, on average) of monthly rates. During a work session in City Hall on June 21, NDC representatives promised immediate results when the firm takes over operations of the city's parking garages in August (pending final council approval).

Court Puts Hawaii Hospital Privatization on Hold: In May, a court order by the 9th Circuit Court of Appeals will delay plans for Hawaii's privatization of three state-owned Hawaii Health Systems Corporation hospitals on the island of Maui until September, the [Hawaii Civil Beat reported](#). In April, judges had expressed concern over the fate of 500 state-employed United Public Workers (UPW) union members who are expected to lose their jobs. The move reverses a state court decision in February to not allow a challenge to privatization by UPW workers, who say the move would violate the U.S. Constitution's contract clause. The state replied that they will comply and will work more in the coming months to generate ideas to address those concerns. The Maui hospital system is currently losing \$42 million a year, [according to the Courthouse News Service](#).

UNC Bookstore Contracts with Barnes & Noble: In April, the University of North Carolina's flagship Chapel Hill campus selected Barnes & Noble Education Company to operate its student bookstores, the school [announced in a press release](#). All 48 current full-time employees will continue to be employed at the same level of pay or greater, for a minimum of three years. Barnes & Noble expects the deal will generate annual payments to the university of at least \$3 million, which is also guaranteed as a minimum payment by the company for the first two years, and after debt and other school expenses, will generate near \$2 million annually for needs-based scholarships.

Mississippi Closing Private Prison: The *Clarion Ledger* reports that Mississippi corrections officials plan on closing the privately operated Walnut Grove Correctional Facility. The move comes in response to a decline in the state prison population resulting from recent criminal justice reforms. The facility has been subject to federal court oversight under a 2012 consent decree resulting from a lawsuit over unsafe living conditions at the prison. The 900 inmates currently at the facility will be transferred to other state prisons.

Arizona to Purchase Private Prison Early: In June, officials approved an Arizona Department of Corrections (ADOC) plan to refinance and buy a prison currently operated by the GEO Group, the *Arizona Republic* reported. The state expects to realize \$8.7 million in annual savings from the deal, some of which will be used to increase spending on correctional healthcare statewide and to develop a new community corrections facility in Maricopa County, according to *KJZZ*. GEO will receive around \$2 million from the refinancing, which it will be required to use to increase the pay of corrections officers to help combat the high turnover rate for correctional officers at the facility. Arizona private prison contracts typically involve private financing up front, with financing costs built into 20-year contracts; at the end of the contract term, the state has the option to take over full ownership of the facilities.

RFI Released for Arizona State Hospital PPP : In June, the Arizona Department of Health Services issued an RFI for a PPP to better improve behavioral and mental health services at the Arizona State Hospital (ASH) by better utilizing the assets of the 93-acre campus in Phoenix. The move would not privatize state-delivered behavioral health services at ASH that are currently required by statute, but would instead seek private partners to utilize available property and/or buildings located on the hospital campus to enhance and improve the behavioral health services available to the community. The Department is open to a variety of PPP models for the project, for which the RFI deadline is July 29th. The RFI is [available here](#).

NY Legislation Would Re-Privatize NY Racing Association: A measure passed this month in both the state's Senate and Assembly to move control of the state's horse racing Association (NYRA) back into private hands, the *Albany Business Review* reported. Its prospects for being signed are uncertain, as New York Gov. Andrew Cuomo has developed a competing plan that retains more public control. "It returns it to private control, and I think the state is not the best at running a business, let alone an industry. That's really the role of the private sector," Assemblywoman Carrie Woerner told the *Business Review*.

Fall River, MA Approves Trash Contract: Earlier this month, first-term mayor Jasiel Correia II signed a ten-year deal to privatize trash pickup to EZ Disposal, which begins on July 1, the *Fall River Herald News* reported. The contract is expected to save close to \$9 million over its life. Yard waste and trash disposal are not affected by the deal.

Gov. Cuomo Appoints NY State Fairgrounds Privatization Task Force: In late May, Governor Cuomo appointed a task force to study privatizing the State

Fairgrounds in Onondaga County as a part of a \$50 million initiative to alter and repurpose the facility, the [Auburn Citizen reported](#) . Improvements are expected to include a new Expo center, Equestrian center, the fair's free concert stage, and an expansion of the RV park, the last of which is expected to be completed by late August. A comprehensive report from the Task Force is expected by the end of the year. A previous attempt to privatize was rejected, but the Cuomo administration believes that the \$50 million initiative to improve the facility may make privatization more attractive to potential private partners.

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QUOTABLE QUOTES

"The Great Recession ended in 2009, folks. If 6-out-of-10 state and local governments can't afford to make their full pension contribution today, even using the loosest pension funding standards in the world, then when will they be able to make them? This is as good as it's likely to get."

—Andrew Biggs, "[Are State and Local Governments Really Underfunding Their Pensions? Yes, Really.](#)," Forbes.com, May 6, 2016.

"[O]perating private prisons is a separate issue of justice from the issues conventionally associated with American incarceration policy. Government definitions of crime, mandatory minimums and guidelines for policing are separate policy challenges from private prisons. [...] Government entities around the country have chosen, for a myriad of reasons, to employ private companies to either run prisons or provide the services necessary to run them. This choice should be viewed separately from the policies determining why people are incarcerated. [...] We acknowledge that there are significant problems with the nation's criminal justice system; however, divestment from private prisons is not the correct response."

—*The Daily Princetonian* editorial board, "[Against Divestment from Private Prisons](#)," April 21, 2016.

"While significant progress has been made in improving federal financial management over the past 20 years, material weaknesses in internal control over financial reporting and other limitations continued to prevent GAO from expressing an opinion on the government's accrual-based financial statements. Three major impediments are: (1) serious financial management problems at DOD, which represented 30 percent and 15 percent of the government's reported total assets and net costs, respectively; (2) the government's inability to adequately account for and reconcile a significant amount of intragovernmental activity and balances between federal entities, which resulted in hundreds of billions of dollars in differences; and (3) the government's ineffective process for

preparing the U.S. government's consolidated financial statements (governmentwide financial statements).

Unless these weaknesses are adequately addressed, they will, among other things, continue to (1) hamper the government's ability to reliably report a significant portion of its assets, liabilities, costs, and other related information; and (2) hinder the government from having reliable financial information to operate in an efficient and effective manner."

—U.S. Comptroller General Gene L. Dodaro, "[Fiscal Year 2015 U.S. Government Financial Statements: Need to Address the Government's Remaining Financial Management Challenges and Long-Term Fiscal Path](#)," Testimony before the U.S. Senate Committee on the Budget, April 6, 2016.

"From 2010 to 2014, [Houston, Texas] added more than 140,000 people, a 6.7% increase and second only to New York in the U.S. But the difference between Houston and other high-growth cities is that it has expanded its housing stock to accommodate its new residents. In roughly the same period, the Houston metro area issued construction permits for 189,634 new units, the most in the nation. It is not surprising, then, that more than 60% of homes in the larger Houston metro area are considered affordable for median-income families, according to the National Home Builders Association, compared with about 15% in the Los Angeles area."

—Michael Totty, "[Five Cities That Are Leading the Way in Urban Innovation](#)," *The Wall Street Journal*, April 21, 2016.

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Additional Resources:

- [Reason Foundation privatization research archive](#)
- [Annual Privatization Report 2015 homepage](#)
- [Innovators in Action homepage](#)
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