

## ANALYZE THIS

### *Prospects for independent policy review in Massachusetts*

PHIL PRIMACK

In 1991, Boston Mayor Raymond Flynn proposed a 5 percent cut in the budget of the Boston Finance Commission, which was established by the Legislature in 1907 to monitor Boston city government and even given subpoena power to compel testimony or documents. City Councilor Thomas M. Menino harshly criticized the move. “How low can you go?” he said. “The city needs an independent watchdog agency.”

More than a decade later as mayor, Menino has apparently changed his thinking about the importance of the oversight entity. Menino’s proposed fiscal year 2003 city budget would cut FinCom funding in half to \$92,500, only slightly above the state’s minimum funding requirement for the agency. Critics charged that the move, which will reduce the agency to a single-person operation, was prompted by Menino’s anger at a FinCom report that criticized a city contract decision favored by the mayor. Menino denied such a motive, saying that tough fiscal times force tough fiscal decisions. In any case, he said, FinCom is not as necessary as it was 11 years ago. “It was a different era then,” he told the *Boston Herald*. “This is 11 years difference and we’ve put a lot of safeguards in city government.”

With government programs and operations increasingly complex, careful and independent analysis would seem to be an essential component of effective policymaking and program implementation. But in a state that prides itself on its intellectual prowess and innovative government, Boston’s FinCom is not the only publicly funded analyst of government action that facing outside pressure.

The Massachusetts Legislature is one of only six in the nation without any study unit, according to a nationwide survey of legislative program evaluation offices conducted two years ago by the National Conference of State Legislatures.

Until the late 1980s, the Legislature funded a Legislative Research Bureau (LRB) to analyze policy.

“When I started as a legislator, [the LRB] did very good work,” recalled former Governor Michael S. Dukakis. “We took their work seriously because they had a reputation for doing solid, objective research.”

In the late 1980s, the LRB absorbed the Legislative Service Bureau, which focused more on meeting individual members’ needs than on in-depth analyses. The reconstituted Legislative Research Bureau was eliminated as a cost-saving measure in 1991 amidst complaints from conservatives that the 13-member, \$66,000 bureau was a haven for Beacon Hill patronage rather than a rigorous engine of policy assessment. So while individual members and committees employ staff to research policies and develop legislation, as a body, the Massachusetts Legislature now has no dedicated research arm.

On the administration side of the State House, the Executive Office of Administration and Finance’s two-year-old research unit is now seeing its six-person research unit sharply reduced. Because of budget pressures, one person has been laid off and the position of another analyst who is leaving to attend graduate school will be left unfilled.

“People may disagree with our studies and conclusions, but I’m proud that no one has found analytical flaws with what we’ve done,” said Robert Costrell, director of A&F’s Research and Development Unit, which was established by former A&F Secretary Andrew Natsios. Costrell’s staff, which includes Ph.D.

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economists, has analyzed a range of issues, including housing, school funding formulas and the impact of reducing lottery payouts.

"We've won over some skeptics, including people in the Legislature who wanted to cut our funds in the beginning but who now ask us for material," Costrell said. For example, when Governor Jane M. Swift initially proposed a delay in retiring the state's unfunded pension liability, Treasurer Shannon O'Brien and other critics said the move would eventually add \$8 billion in deferred costs; an analysis by Costrell's unit that showed the additional cost to be well under \$2 billion gave policy makers a study against which to weigh their decision.

Longtime observers and policymakers in Massachusetts applaud the idea of an independent, third-

party entity to analyze and assess these different fiscal conclusions.

"If the policy-making entity is doing its job well, it should welcome an independent policy-evaluating entity to validate its work," said Costrell. "It would also help protect the policy makers' research unit against any possible pressures to do work that would not pass muster. We have not had a problem with such pressures, but it's certainly possible that future units might."

Budget cuts are not the only cloud on the A&F unit's future, said Costrell, who is on leave from the economics department at the University of Massachusetts at Amherst until January 2003 to head the unit. "It will be interesting to see what, if anything, happens to this unit in the next administration."

Not that policy makers lack for opinions on issues.

## The Golden state standard

In California, legislators facing a fiscal crisis that dwarfs that of Massachusetts can click on their Legislative Analyst's Office (LAO) web page and find more than 100 spending cut or revenue raising options that they can search by dollar amount, program area or other criteria.

"That part of our analysis has generated a lot of interest," said Mark Ibele, a principal fiscal and policy analyst at LAO. "It's served as a good way to get discussion going."

Established nearly 60 years ago, the LAO currently has a budget of about \$4 million and an analytic staff of 40 people, headed by a top official known as the Legislative Analyst (LA). Though a creature of the Legislature, the office has been around long enough and its research has been credible enough to give it a reputation for independence. "When we do something, whether it's energy or tax policy or one of our frequent tax expenditure reports, our approach is different than what a particular legislative committee might do," Ibele said. "If legislators like our response, fine. But if they disagree with us, they don't get upset—they just don't use our information."

The agency responds to legislative requests for studies, but it also initiates its own. A long list of recent studies listed on the agency's web site ([www.lao.ca.gov](http://www.lao.ca.gov)) includes: a study of whether California's energy-related activities can be better coordinated; a report warning that the state's Motor Vehicle Account was on the verge of falling into deficit; "Water Special Districts: A Look at Governance and Public Participation"; and recommendations to improve the University of California's K-12 outreach programs.

Ibele, who has been with LAO since 1998, noted that LAO served as the original model for the Congressional Budget Office. "Some of the fallibilities and strengths of this office are very similar to those of the CBO," he said. "There is a fair amount of independence in terms of what we do, but to the extent that (the Legislature) can appoint the LA, they can dismiss the LA, who has no guaranteed term. Potentially, that's a weak point in terms of the independence of the office. For example, if the leadership, political agenda, or party changed, there might be a tendency to clean house.

"The independence of the office is maintained largely by the role it has come to define and by the fact that the LA's have had strong personalities."

Still, the agency must live under political and financial clouds. When California voters approved a proposition in 1990 that limited the Legislature's budget, LAO was forced to cut its operations nearly in half.

Were Massachusetts to create such an office, Ibele said it should be more strongly insulated from such political and budgetary vagaries, perhaps by establishing a defined term for top officials. "In Massachusetts, you'd want to insure its independence even more than our office, because as a startup, you don't have the credibility that comes with our longevity. Unless you are able to establish your credibility right away, you will be seen as just another political operation."

It has become routine in today's public opinion wars for advocates on various sides of an issue to commission their own "independent" studies that often produce such dueling data and claims that thoughtful policy makers simply dismiss them as hired-gun studies. Proposals for publicly-financed stadiums or efforts to legalize casino gambling in Massachusetts are classic examples: in both cases, proponents produce studies that use multipliers and other econometric models to claim significant revenue and employment creation; opponents respond with studies using different multipliers and other models to challenge such claims. Whatever valuable and sound information may be contained in such studies is often lost in all the background noise.

Massachusetts is home to a number of high-quality sources of analysis for public policy. These include privately funded, nonprofit organizations such as the Massachusetts Taxpayers Foundation and the Boston Municipal Research Bureau in Boston and the Worcester Regional Research Bureau. The Massachusetts Institute for a New Commonwealth (MassINC) has developed a reputation for solid, non-partisan reports, and other think tanks such as the Pioneer Institute for Public Policy also enrich the public debate. Individual faculty and research centers at the state's public and private colleges and universities produce studies on a wide range of issues of interest to policy makers.

But too often, policy makers are unaware of such studies and expertise. Indeed, even the non-profit and academic think tanks often do not know of each other's work.

"We have this myriad of existing resources that address a whole range of public policy issues, but no one is effectively harnessing the different opinions and facts they produce in a way that can promote more responsible and efficient policy decisions," said Boston Municipal Research Bureau President Sam Tyler.

## The state role

State government could serve as the central clearing-house for all this ongoing research and analysis, said Tyler, who suggested the mass.gov web site as a possible vehicle. "I still think it would be valuable to have an independent policy analysis arm of government, but if nothing else, it would be a real positive to have easy access to what all these public policy research organi-

zations are doing and what reports they are producing," he said. "It would help not only in the analysis of issues, but in preventing duplicative work by organizations that have very limited resources to begin with."

But even if such coordination of existing research could be accomplished, would it be sufficient to provide independent analysis that also understands the larger context of policy? The scope of groups such as MTF and BMRB is limited by both mandate and budget. Further, the fact that non-profit research groups such as MTF are backed largely by business interests causes some to question their agenda, just as union backing of groups such as the Tax Equity Alliance of Massachusetts causes some to challenge that group's studies, no matter how methodologically sound. Academic research often takes so long to conduct and release that policy makers often have to act long before the research results come out. Nor is academic research itself always immune to ideological or funding interests. Furthermore, many policy topics of importance to the public may not be of interest to private or academic researchers.

Should, then, the Commonwealth create or strengthen its own, independent analytic capacities? And if so, how can such an effort be sufficiently insulated from politics and have enough budget protections to allow it to build and sustain the level of credibility that is essential to success?

"I don't know why it should be such a heavy lift to do this, but then again, look at how few of us there actually are," said Ronnie Lowenstein, director of the New York City Independent Budget Office (IBO), which is generally regarded as one of the most effective publicly-funded policy analysis operations in the nation.

## Keys to success

Costrell said the first issue to be addressed is the scope of any such entity, which he said faces two separate, though overlapping, functions. The first role is to actually develop and research policies; the other is to independently evaluate programs and policies suggested or implemented by others.

"My shop has to do both," said Costrell. "We come up with ideas the governor would like, such as how best to do a family leave program, but in the process we have to evaluate whether such a program makes sense and compare it to other proposals that might be out there."

That is the nub of the problem: Because A&F is a creature of the governor's office, its work is sometimes seen criticized through that prism.

Costrell says that political suspicions have actually worked to improve the caliber of his unit's research. "Coming from academia, I expected to receive a lot of questions about how you keep your honor within

a political environment," he said. "My view is that in many ways, we have a higher level of accountability: If we were to throw out bad statistics, we would get hammered. If you're a Republican in this state within a beleaguered administration, you don't have much of a margin for error."

Federal Reserve Bank of Boston Assistant Vice

## A New York state of mind

It took protracted political and legal battles, but New York City now has an analytic arm that is independent of both the Legislature and City Hall.

Authorized in 1990 as part of the city's overall reform of its charter, Independent Budget Office (IBO) was put in place "to provide non-partisan budgetary, economic and policy analysis and to increase New Yorkers' understanding of and participation in the budget process," according to IBO's description of itself.

But it was not until 1996 that the operation was fully up and running. Both the mayor and city council opposed its creation and sought to block its funding. The mayor contended the city already had a comptroller. The city also had two other state-appointed but city-funded fiscal monitors in place as a result of New York City's near bankruptcy in the mid-1970s, causing many observers to question the need for yet another one. It ended up taking three separate lawsuits, but the agency is now funded and operating.

What distinguishes IBO from California's Legislative Analyst's Office (LAO) is its guaranteed independence. Its budget is guaranteed under the City Charter. The IBO director is chosen as the result of a search by an advisory committee made up of ten budget and public policy experts, which recommends candidates to a committee made up of key political powers in the city: the comptroller, the public advocate, a representative of all five borough presidents and the city council speaker.

Once selected, the director has a guaranteed four-year term.

Ronnie Lowenstein, who now holds that post, went to work when the IBO began in 1996, serving as its chief economist and deputy director before assuming the top job two years ago. "I had been working at the Federal Reserve [in New York] in 1996 and was struck by how the office was set up to be so independent," she said. "It was clear we could do more than just being a fiscal monitor. It seemed there was a real hunger for more knowledge to inform public policy."

Indeed, because of the criticism that the city already had sufficient fiscal monitoring in place, IBO has tried hard to adopt a much broader role, Lowenstein said.

Take, for example, former Mayor Rudolph Guiliani's proposal for a new stadium for the New York Yankees. "All you had was the mayor saying build it and it will pay for itself, backed up by an economic impact study that was labeled 'draft' and thus not available to the public," said Lowenstein. "No one else was out there looking at this. So we got into it."

IBO found the economic and fiscal benefits of the proposed stadium to be significantly less than those suggested by the mayor and the earlier studies.

Besides its work on the city budget, other IBO projects in just the last couple of months have included analyzing the effect of the federal stimulus act on New York City tax revenues, the city's \$900 million spending on homeless services, and how the city can better track its delivery of services.

"Our power comes from our credibility, and a guaranteed budget line," Lowenstein said. "It puzzles me why that type of expertise and independence is still so threatening to public officials."

She recalled a conversation with the city comptroller, who repeatedly questioned the need for IBO, given his own office's fiscal expertise and reputation.

Lowenstein told him that even if he truly believed in his office's ability to conduct independent, non-partisan research, that hadn't necessarily been the case with his predecessors. Nor, she pointed out, is there any guarantee that future comptrollers would be so independent and non-partisan.

But because of its budgetary and built-up credibility, a publicly funded policy arm such as IBO does not depend upon such uncertainty and is thus able to analyze issues—and inform the public—independent of political influences.

President and Economist Robert Tannenwald said such credibility is key to any public think tank's success and longevity. "The only way you are going to be able to create an entity that is really credible and independent is if the heavy political hitters all come together and agree that in the long run, this will serve the public interest," he said.

Tannenwald said it is not enough even to have all such political stars align: the policy operation must be able to survive long enough to establish independent credibility.

"Because such an organization might otherwise bend to political pressure, you have to build a defensive perimeter around it. It should be explicit at the very beginning to all the political forces that at some point, this entity will produce results that will bolster your views, and at times it will sting you. But they must recognize that overall, everyone and the public will benefit.

"It's a very fragile plant at first, but if the operation is nurtured and protected in its early stages, it becomes much harder to weaken it later. It will have its own credibility and people will incur political losses for jeopardizing it. It will be okay to criticize a particular outcome—but don't try to influence the operation or the model."

As an example, Tannenwald cited the Congressional Research Service, which was established in 1946 as a division of the Library of Congress. When it was first established, CRS faced critics who wanted to scale back its independence and range of studies, said Tannenwald, who once worked for CRS as an analyst on taxation issues. But CRS leaders, who included former members of Congress, managed to protect the agency. Over time, CRS has been occasionally reorganized, but no major attempts have been made to eliminate it or its independence. Members of Congress might harshly criticize a CRS study that disputes their position—but they do not seek to destroy the Service itself.

Massachusetts Convention Center Authority Chair Gloria Larson said it is essential that the work done by the public think tank also establish strong credibility with the private sector, which she said "has

a basic distrust of reports produced by the government. The [new entity] will have to be high quality and truly firewalled off from all branches of government."

Interviews and other research identify two key components that appear to be essential to the long-term success and independence of any publicly funded policy unit:

- *Fiscal security*: The operation must be guaranteed an annual budget that is sufficient to maintain a high level of operation. The budget line must be insulated against interference by either legislative or executive influences. In New York City, for example, the IBO was created as part of the City Charter, which mandates that the IBO receive an annual budget equal to at least 10 percent of that given to the city's own budget office.

- *Credible staff selection process*: Who is named to run the agency—and how that person is chosen—is the foundation upon which subsequent credibility will be built. One model for such senior staff selection is that legislative and executive branch leaders agree on a choice based on a pool of nominees screened by an independent panel of academic and other policy practitioners.

None of which would be easy, even in better fiscal times. "It doesn't have to be pie in the sky, and there's no reason it shouldn't be doable in better economic conditions," said Larson. "But my eyebrows do arch when I think about achieving such a necessary level of independence in a politicized state such as Massachusetts. That said, it would be a wonderful asset to state government." ❖

## ABOUT THE AUTHOR

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