

STANDING COMMITTEE ON ADMINISTRATION AND
PROCEDURE

**The Merit of Appointing a Parliamentary Budget
Officer**

AUGUST 2009

Report 1

Committee Membership

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Resolution of Appointment

In 1995 the Legislative Assembly for the Australian Capital Territory (“the Assembly”) adopted Standing Order 16, which established the Standing Committee on Administration and Procedure (“the Committee”).

Standing Order 16 authorises the Committee to inquire into, and report on, among other things, the practices and procedure of the Assembly.

Terms of Reference

At its meeting on Thursday, 12 February 2009, the Assembly resolved:

“That the Standing Committee on Administration and Procedure:

- (1) inquire into and report on the merit of appointing a Parliamentary Budget Officer to strengthen the capacity of the Assembly to better hold government to account by increasing transparency in its fiscal planning framework and improve scrutiny of the estimates process; and
- (2) report by the last sitting day in August 2009.”.

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RECOMMENDATIONS

RECOMMENDATION 1

The Committee recommends that each financial year the Speaker make available an expert consultant to assist the Select Committee on Estimates to scrutinise the ACT Budget Papers.

RECOMMENDATION 2

The Committee recommends that the expert consultant's role be to provide independent economic and financial analysis of the ACT Budget and to assist with providing advice on the technical aspects of the Budget Papers. The role could be fulfilled by provision of Budget Paper analysis, analysis of the evidence taken during public hearings and additional advice as requested by the Select Committee on Estimates.

RECOMMENDATION 3

The Committee recommends that the role of the expert consultant could be extended at the request of a committee. Upon request by a relevant committee and following a decision by the Speaker that the workload requires it, the consultant may be asked to provide independent economic and financial analysis to the relevant committee. In such circumstances, additional staff could be temporarily engaged to assist the Assembly with financial scrutiny of Government action. These additional staff may be seconded from the ACT Public Service, or hired from the private sector.

1 INTRODUCTION

Conduct of the inquiry

- 1.1 The Committee wrote to approximately 40 stakeholders, inviting submissions to the inquiry. The following seven submissions were received and are available on the Committee's website:¹
- Norfolk Island Legislative Assembly
 - United Kingdom House of Commons Scrutiny Unit
 - Chartered Professional Accountants (CPA) Australia
 - President of the Australian Senate
 - ACT Auditor-General
 - ACT Government
 - ACT Greens
- 1.2 The Committee wishes to thank all of the organisations who provided submissions to the inquiry.
- 1.3 Given the breadth, clarity and substance of the submissions received, the Committee decided it would be unnecessary to hold a public hearing to take further evidence. The submissions, along with additional research undertaken by the Secretariat, formed the basis of the Committee's deliberations in the inquiry.

Background to the inquiry

- 1.4 A number of countries have a budget research organisation attached to their legislature to conduct independent analysis of national budgets. The functions of such organisations may extend to providing independent analysis of a government's fiscal plan, review of government estimates and preparation of cost estimates for legislative proposals. Examples include the

¹ The submissions are available at:

<http://www.parliament.act.gov.au/committees/index1.asp?committee=118&inquiry=809&category=14>

Canadian Parliamentary Budget Officer, the United States Congressional Budget Office and the Scrutiny Unit within the Committee Office of the United Kingdom's House of Commons.

- 1.5 A Parliamentary Agreement between the ACT Labor Party and the ACT Greens for the Seventh Legislative Assembly proposed that the Standing Committee on Administration and Procedure establish an inquiry into the merit of appointing a Parliamentary Budget Officer, to strengthen the capacity of the Assembly to better hold government to account by increasing transparency in its fiscal planning framework and improving scrutiny of the Estimates process.²
- 1.6 On 12 February 2009 the Assembly referred the current inquiry to the Standing Committee on Administration and Procedure (the Committee), for report by the last sitting day in August 2009.

Parliamentary Budget Officers in other parliaments

Canada

- 1.7 A key concern of Canadian Parliamentarians over many years has been the divergence between the fiscal forecasts of the Canadian Department of Finance contained in the annual budgets and the actual outcome when the public accounts were finalised several months after the fiscal year ended.³
- 1.8 In response to these concerns, and in the context of public demand for enhanced accountability of government, the Canadian Parliamentary Budget Officer (PBO) was established in March 2008. The *Federal Accountability Act* mandated the PBO to provide independent analysis to parliamentarians regarding the state of the nation's finances, the government estimates and trends in the national economy.
- 1.9 The staffing arrangements for the Office of the PBO consists of the PBO, two Assistant PBOs and approximately thirteen additional staff and interns. The PBO is an officer of the Parliamentary Library, and reports to the Parliamentary Librarian. Since his appointment in March 2008, the PBO has prepared a number of reports and briefing notes for parliamentarians, including:

² Parliamentary Agreement for the Seventh Legislative Assembly for the ACT, Appendix 1, Clause 2.12.

³ Darling, Allan, *Role of the Parliamentary Budget Officer – Notes for the Financial Management Institute*, 2006.

- a biannual fiscal and economic assessment;
- fiscal impact of the costs incurred by the Government of Canada in support of the Mission in Afghanistan; and
- a series of documents to assist parliamentarians in their analysis of the 2009 Budget.⁴

United Kingdom

- 1.10 In 1999, the UK Parliament Procedure Committee identified a need for a specialist unit for financial scrutiny in its report on *‘Procedure for Debate on the Government’s Expenditure Plans’*. The Scrutiny Unit was established in 2002 to provide specialist assistance to select committees in the scrutiny of the government’s financial and performance reporting and of draft bills.
- 1.11 The Scrutiny Unit is led by a House of Commons Clerk. The multi-disciplined staff are recruited via secondments from the National Audit Office, government departments and the House of Commons Library, and through external advertisement. Staffing currently consists of approximately eleven professional staff, with backgrounds in auditing, accounting, economics, law and public policy.
- 1.12 The Scrutiny Unit provides a wide range of financial expertise to departmental select committees. It undertakes systematic reviews of:
- departmental estimates;
 - departmental reports;
 - departmental resource accounts; and
 - government spending review settlements.⁵

United States

- 1.13 The Congressional Budget Office's (CBO) mandate is to provide the Congress with objective, nonpartisan, and timely analyses to aid in economic and budgetary decisions on the wide array of programs covered by the federal budget. The mandate extends to providing Congress with the information and estimates required for the Congressional budget process.

⁴ For further details of the work undertaken by the Parliamentary Budget Office, refer to the website: <http://www2.parl.gc.ca/Sites/PBO-DPB/index.aspx?Language=E>

⁵ For further details of the work undertaken by the Scrutiny Unit, refer to the House of Commons Scrutiny Unit, Submission No. 2.

- 1.14 The CBO Director is jointly appointed by the Speaker of the House of Representatives and the President of the Senate, after considering recommendations from the two budget committees. CBO currently employs more than 230 employees, mostly economists and public policy analysts. The CBO's publications include:
- cost estimates and mandate statements for all bills;
 - reports needed for the budget process and other regular economic reporting.⁶

Engagement of a consultant to the Select Committee on Estimates 2009-2010

- 1.15 On 2 April 2009, the Shadow Treasurer moved a motion to establish the Select Committee on Estimates 2009-2010. In its original form, the motion called for the Government to second two ACT public servants to the Committee Office to assist in analysing the 2009-10 ACT Budget and in preparing the report of the committee.⁷ In response to concerns expressed by other Members about how the secondment arrangements would work, the Shadow Treasurer moved an amendment to the motion, replacing the proposal to second public servants with a proposal that funds be provided by the Assembly to permit the employment of additional staff for the engagement of external expertise to work with the committee to facilitate the analysis of the Budget and the preparation of the report.⁸
- 1.16 Pursuant to the amended motion, in accordance with standing order 238 the Speaker temporarily engaged a consultant to provide independent economic and financial analysis of the ACT Budget and to assist with providing advice on the technical aspects of the Budget Papers. The consultant, Mr Tony Harris, former Auditor-General of New South Wales, provided the committee with a review of the Budget and commentary on stakeholder evidence at public hearings. The committee authorised the reports for publication.⁹

⁶ For further details of the work undertaken by the CBO, refer to their website: www.cbo.gov

⁷ *Hansard*, 2 April 2009, p 1747.

⁸ *Ibid.*

⁹ Mr Harris' reports are available from:

<http://www.parliament.act.gov.au/committees/index1.asp?committee=122&inquiry=774&category=19>

2 MERITS OF A PARLIAMENTARY BUDGET OFFICER

Arguments for a PBO

- 2.1 Some submissions were supportive of appointing a Parliamentary Budget Officer to advise Members during the Estimates process. These submissions proposed that a PBO has the potential to enhance the Assembly's ability to effectively scrutinise Budget Papers. By providing expert advice and analysis on the Budget Papers and evidence given to the Estimates Committee, a PBO has the potential to greatly assist Members' understanding of technical matters raised in the Budget. Some submissions pointed to the complexity of fiscal policy and the demands placed on Members' resources. Without access to specialist knowledge or resources, Members' capacity for robust scrutiny of the Budget Papers can be curtailed.

Arguments against a PBO

- 2.2 Some submissions considered that a PBO was not necessary for the ACT. CPA Australia submitted that:

We note in this regard that it is generally more common for foreign jurisdictions with a congressional system of government to establish budget research organisations attached to their legislatures to conduct analysis of national budgets... A characteristic of these countries is their congressional system of government which separates the executive and legislative branches, and where the legislative branch is able to propose its own expenditures or taxes... Against this background, we do not see a strong case at this stage for the appointment of a parliamentary budget officer for the ACT Legislative Assembly.¹⁰

- 2.3 In his recent analysis of the Federal Opposition Leader's proposal of a PBO for the Federal Parliament, Professor Richard Mulgan has emphasised that economic forecasting is a very inexact science:

¹⁰ CPA Australia, Submission No. 3, pp 1-2.

Such estimates can certainly provide broad parameters for current decision-making. But they are always subject to revision and are typically never reached exactly as estimated.¹¹

- 2.4 Professor Mulgan also pointed to research in the US suggesting that ‘fiscal forecasting actually became less reliable after the Office of Management and Budget and the Congressional Budget Office began to compete. The two agencies have tended to track each other’s forecasts closely, each fearing the adverse consequences of being proved markedly less accurate than the other.’¹²

Costs

- 2.5 Some submissions have acknowledged that a fully-resourced, independent Parliamentary Budget Office may be beyond the financial reach of a small jurisdiction such as the ACT. As observed by the Auditor-General:

Information available from overseas parliamentary Offices indicates that these Offices require significant resources, and this reflects the sizes of the parliaments they serve.

Notwithstanding the potential benefits, it would not be financially feasible to resource such an office in a small Legislative Assembly. It would be also difficult for one Parliamentary Budget Officer to possess all the relevant expertise to effectively conduct the complex and technical tasks envisaged for this position, without supplementary support from external sources.¹³

- 2.6 The ACT Government submission focussed on the need to undertake a thorough cost-benefit analysis before establishing a parliamentary budget office or officer:

The Government also recognises that any proposal to allocate additional resources or add additional processes, should be done so with a clear understanding of the costs and benefits of doing so. In this context I

¹¹ Mulgan, R, ‘Treasury plays it straight in Parliament’s numbers games’, *The Public Sector Informant*, June 2009, pp 4 – 5.

¹² Krause, G and Douglas, J, ‘Does Agency Competition Improve the Quality of Policy Analysis? Evidence from OMB and CBO Fiscal Projections’, *Journal of Policy Analysis and Management*, Vol 25, No 1, 53 – 74 (2006).

¹³ ACT Auditor-General, Submission No. 5, p 4.

would urge the Committee to very clearly articulate these benefits and rigorously assess alternatives.¹⁴

¹⁴ ACT Government, Submission No. 6, p 1.

3 POSSIBLE FUNCTIONS OF A PARLIAMENTARY BUDGET OFFICER

- 3.1 There are a range of possible functions which could be undertaken by a parliamentary budget officer. Some of the functions undertaken by PBOs in other parliaments are canvassed in chapter one of this report. Submissions varied as to the intended role and functions of the PBO. Most submissions which addressed the issue envisioned a role limited to advising the Estimates Committee, similar to the role undertaken by the consultant to the Select Committee on Estimates 2009-2010. The ACT Greens suggested the possibility of considering a much broader role, potentially extending to:
- advising the Standing Committee on Public Accounts (PAC) in the committee's review of Auditor-General reports;
 - advising other committees in reviewing government department annual reports;
 - estimates of costs for major proposals developed by parties arising from recommendations from Committee deliberations or by Legislative Assembly direction;
 - Triple Bottom Line (sustainability) analysis for major proposals to the Legislative Assembly developed by parties;
 - election campaign commitment costings;
 - sustainability and cost implications of community group budget proposals prior to the budget processes;
 - expenditure estimates of any government department or agency, upon request of a Parliamentary Committee;
 - strengthening the role of the PAC by preparing an annual report on implementation of PAC recommendations, as well as those of the Select Committee on Estimates;
 - Triple Bottom Line (or sustainability) reporting analysis of outcomes of major Government expenditure items as requested from time to time by the Legislative Assembly, the PAC and other Committees; and

- ongoing advice to the Assembly on best practice in accountability and performance measures within the ACT Budget and annual reporting arrangements.¹⁵

3.2 For the purposes of this inquiry, it is important to clearly define what functions the PBO might undertake. The potential functions of the PBO need to be considered in the context of the resources available to the Assembly to fund such activities, against the potential benefits of such advice. If the PBO were to undertake all of the aforementioned functions, there would be a need for a significant number of staff, not just a single officer.

3.3 Further, it is essential that a PBO is adequately resourced, so as to not compromise the quality of the services the office is expected to deliver. As pointed out in the Auditor-General's submission:

The effectiveness of a PBO is dependent on whether the PBO is provided adequate resources to perform the expected functions.¹⁶

3.4 Another issue to consider is the potential for duplication of information and advice. For example, the ACT Public Service undertakes a cost analysis of all major proposals by all parties during the election campaign.

¹⁵ ACT Greens, Submission No. 7, p 5-6.

¹⁶ ACT Auditor-General's Office, Submission No. 5, p 4.

4 POTENTIAL MODELS FOR THE ACT

- 4.1 Given the need to define the role of the PBO, and the limitations on this role due to available resources, the Committee considers two models are feasible – expert advisors within the Committee Office or an independent, permanent parliamentary budget office.

Expert advisers within the Committee Office

- 4.2 In November 2002 the House of Commons established a Scrutiny Unit, based within the Committee Office, to provide advice on expenditures and draft bills. Suitably qualified staff are engaged from the private sector or seconded temporarily from the UK Civil Service.¹⁷ This approach is similar to current arrangements for the Scrutiny of Bills and Subordinate Legislation Committee, which engages two part-time legal advisors to assist the committee to scrutinise legislation.
- 4.3 A similar model has been adopted in Canada, albeit on a larger scale. The Canadian Parliamentary Budget Officer sits within the Library of Parliament, reporting to the Parliamentary Librarian, providing advice to Members on request.¹⁸
- 4.4 The advantage of this model is that it suits the size and budgetary constraints of the jurisdiction. There is flexibility to engage additional expert advisors if required, or to engage advisors for additional projects, such as the Standing Committee on Public Account's inquiries into Auditor-General reports, and the scrutiny of departmental annual reports by other committees.

Independent, permanent Parliamentary Budget Office

- 4.5 Another option would be to establish an independent Parliamentary Budget Office, possibly in the form of a statutory office holder with permanent full-time staff. This model has been adopted in the United States (Congressional

¹⁷ Refer to Submission No. 2 from the House of Commons Scrutiny Unit for further information.

¹⁸ The Standing Joint Committee on the Library of Parliament, *Report on the Operations of the Parliamentary Budget Officer within the Parliamentary Library*, June 2009, pp 7 - 9.

Budget Office) and South Korea (National Assembly Budget Office).

- 4.6 Most large, independent PBOs exist in jurisdictions with a congressional system of government (i.e. full separation of the Executive and Legislature branches where the Legislature is able to propose its own expenditures and taxes). These offices often provide independent budget and economic projections and modelling.
- 4.7 Submissions noted the large financial commitment which such an office requires to operate effectively, and that such offices tend to exist at the national level of government where the requisite financial resources are available.
- 4.8 Given the size of the ACT, adequately resourcing an independent statutory office for these purposes may not be feasible, especially given that the Assembly cannot propose its own expenditures and taxes, and does not currently require the preparation of a separate budget or detailed economic forecasting.

Issues raised in submissions

- 4.9 Submissions which were supportive of appointing a Parliamentary Budget Officer agreed that the model adopted should be appropriate to the size and needs of the jurisdiction.
- 4.10 The ACT Auditor-General recommended that the Committee consider options other than an independent, permanent PBO, for example establishing a small independent budget unit in the Committee Office of the Legislative Assembly Secretariat with seconded officers from departments and agencies, and access to external specialists in undertaking independent budget analysis and economic forecast, as required.¹⁹
- 4.11 The ACT Government submission raises concerns with respect to the possibility of seconding public servants to assist the Estimates committee. The Government has been advised by the Commissioner for Public Administration that such a secondment would, in her view, be inappropriate, on the basis that 'active participation in the development of a report commenting on, and possibly criticising, the Government's chief financial planning document, undermines the effectiveness and impartiality of the ACT Public Service.'²⁰ However, even if the Government refused to allow

¹⁹ ACT Auditor-General, Submission No. 5, p 4.

²⁰ ACT Government, Submission No. 6, p 2.

secondments from the ACT Public Service to the Committee Office, this would not preclude the appointment of private-sector contractors to assist the Estimates Committee.

- 4.12 The Committee notes that all other Australian parliaments undertake secondments from their respective Executive agencies and these operate very successfully, both from the point of view of the Executive and the Legislature.²¹ Notwithstanding the advice of the Commissioner, the Committee is of the opinion that there is no legitimate impediment to allow ACT public servants to have secondments to the Legislative Assembly Secretariat. It is also noted that the *Public Sector Management Act 1994* requires all ACT public employees to act impartially in performing his or her duties.²²

Mechanism for appointment

- 4.13 Standing order 238 permits the Speaker to appoint persons with specialist knowledge (either to supply information which is not readily available or to explain matters of complexity within the committee's inquiry) upon such terms and conditions as the Speaker may determine. This standing order has been used on several occasions since 1989, and by the Scrutiny of Bills and Subordinate Legislation Committee on a regular basis.

²¹ See, for example, I. C. Harris (ed), *House of Representatives Practice* (5th ed) (2005) p 643.

²² See *Public Sector Management Act 1994*, section 9(b).

5 COMMITTEE CONCLUSIONS AND RECOMMENDATIONS

Committee opinion

- 5.1 The Budget Papers are the key financial planning documents for the ACT. The Budget dictates policy directions and government priorities for the current financial year and beyond. Given the importance of the Budget to the governance of the ACT, it is imperative that the Legislative Assembly is fully equipped to thoroughly scrutinise the Budget Papers.
- 5.2 The Committee considers that the advice of an independent expert has the potential to enhance the Estimates Committee's detailed understanding of the Budget Papers, and hence extend the committee's capacity to scrutinise the Budget. Such advice could also lead to improved transparency, by providing an independent opinion on the ACT Budget.
- 5.3 The Committee accepts that a fully-resourced, independent parliamentary budget office is beyond the financial reach of a small jurisdiction like the ACT. The Committee is of the opinion that the Legislative Assembly does not need an independent office holder, or even a designated officer to provide independent financial analysis on the Budget Papers. Instead, the Committee considers that temporarily appointing an expert consultant for the duration of the Estimates process presents a more flexible approach, and is the most appropriate model for the Legislative Assembly.
- 5.4 In addition to engaging a consultant for the Estimates process, one or more experts could be contracted as required throughout the sitting year to provide expert financial and economic advice and analysis to various committees as required. For example, a contractor could be engaged to assist standing committee inquiries into annual reports, if a committee is of the opinion that independent advice is required.
- 5.5 If required, additional staff could be engaged to assist in the provision of economic and financial analysis. Additional staff could be sourced from either the ACT Public Service or the private sector.
- 5.6 The Committee believes that engaging consultants as and when required, rather than appointing a permanent staff-member or office-holder, presents a cost-effective way of providing additional support to Members in exercising their scrutiny role.

RECOMMENDATION 1

The Committee recommends that each financial year the Speaker make available an expert consultant to assist the Select Committee on Estimates to scrutinise the ACT Budget Papers.

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The Committee recommends that the expert consultant's role be to provide independent economic and financial analysis of the ACT Budget and to assist with providing advice on the technical aspects of the Budget Papers. The role could be fulfilled by provision of Budget Paper analysis, analysis of the evidence taken during public hearings and additional advice as requested by the Select Committee on Estimates.

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The Committee recommends that the role of the expert consultant could be extended at the request of a committee. Upon request by a relevant committee and following a decision by the Speaker that the workload requires it, the consultant may be asked to provide independent economic and financial analysis to the relevant committee. In such circumstances, additional staff could be temporarily engaged to assist the Assembly with financial scrutiny of Government action. These additional staff may be seconded from the ACT Public Service, or hired from the private sector.

Shane Rattenbury MLA

Chair

August 2009