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Submission

Select Committee on the *Legislative Assembly*
(Parliamentary Budget Officer) Bill 2016

Stephen Bartos
former Parliamentary Budget Officer, NSW

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Introduction

This brief submission is provided to assist the Committee in its consideration of the *Legislative Assembly (Parliamentary Budget Officer) Bill 2016*.

The submission is provided in a private capacity; it is however informed by my work on governance, budgeting and fiscal management, and in particular my experience serving as NSW Parliamentary Budget Officer in 2014-15.

My understanding is that the committee has been provided with my report to the NSW Parliament at the conclusion of my term as PBO, the response to that report, and an earlier report I prepared for the Business Council of Australia in 2011 on the merits of moving to an independent budget scrutiny body in the Commonwealth. This submission adds some brief comments to those materials.

The value of an independent PBO

My 2011 report outlined some of the reasons why governments at national and sub-national level worldwide were instituting independent bodies to advise legislatures on budgets and estimates and/or provide external assurance on government's fiscal policies and budget numbers. It provided examples of a number of these around the world. Since that time the number of such bodies has grown exponentially. They exist at not only national but at sub-national levels – for example, the California Legislative Analyst's Office, the City of New York's Independent Budget Office, Fiscal Accountability Office of Ontario.

This trend is based on the international experience that having an independent budget office leads to significant improvements in the performance of legislatures in their law making and scrutiny functions and of political actors in developing well costed and realistic policies. There is no reason to suppose the ACT would not also experience similar benefits were it to introduce a PBO.

Although outside government control, such bodies frequently have direct benefits for government itself. Anecdotally it would appear that having an independent, outside body, capable of providing an alternative to the traditional central budget agency, can be an incentive for that central agency to develop better and more implementable policies, improving governments' capacity to govern.

Although the ACT is a small jurisdiction, the benefits of an independent budget officer would still flow through, in terms of better priority setting and a more sustainable fiscal position.

Lessons from the NSW and Commonwealth experience

Confidentiality

One of the most important aspects of the NSW Act was the capacity of the major parties to submit policies for costing in the knowledge that the results would be confidential unless and until the parties released the policy. This contrasts with the Commonwealth arrangement. For the 2016 election, the Commonwealth PBO provided policy costings only for the Greens and one costing for one independent. No costings were done for the opposition or for any other independents.

The reasons for this are not difficult to discern. The Greens had previously had their policies costed, so had nothing to lose by having them published. For any other party, the risk of submitting a policy would be far too great because under the Commonwealth legislation both the costing request and the costing have to be published. If a policy is stupidly unaffordable, that is simply bad luck for the party concerned, it is published anyway and the party is subject to ridicule. That is a powerful disincentive for parties to submit policies for costing.

By contrast the NSW legislation provides that a policy costing is released only if the policy to which it relates is released. In practice, this allows parties to test policies, see if they are affordable, and then release only those that are compatible with good fiscal management. This was a major strength of the NSW PBO in assisting both major parties prior to the 2015 NSW election. More policies were costed, provided to the parties, and then not pursued, than were actually released. This is a boon for democracy – realistic, viable policies are put to the electors.

One weakness of the ACT PBO Bill as currently drafted is that it appears based more on the Commonwealth than the NSW model. This will potentially limit the usefulness of a PBO should it be introduced in the ACT. My understanding of the Bill currently before the Victorian Parliament is that it has incorporated the best of both the Commonwealth and NSW approaches, and it may be the preferable model to pursue were the ACT to go down this path.

Transparency

As noted above, the NSW arrangements were highly confidential prior to the release of a policy. When a policy is released, however, the costings should also be released in full. This applied in NSW. This provision for full disclosure means the PBO is less liable to be misrepresented; that is, political parties cannot make claims that the PBO has assured it a policy is fully costed and reliable if in fact this is not the case. I note that in the most recent Commonwealth election the Commonwealth PBO has been cited as a source of costing authority without the actual costing being released – this puts the PBO in a difficult position.

I suggest that any ACT legislation should include a provision similar to that in NSW: if a policy is costed by the PBO and then released, the costing itself ought also be made public.

Reliability

There is a difference in practice between the Commonwealth and NSW PBOs. The Commonwealth PBO assigns reliability ratings to costings. I took the view in NSW that all costings would be reliable and a fair representation of the impact on the forward estimates if the policy concerned were implemented. In other words, if the party concerned were to be elected and the policy introduced forthwith, the forward estimates update would be identical to the PBO costing (noting that the longer the time delay, the more likely the costing would be updated for other parameter movements).

In cases where reliable costings were not possible – for example in relation to the impact on the NSW economy of proposed changes to electricity providers and markets in the State – instead I provided the parties (and subsequently released publicly) discussion papers outlining the different policy issues and the potential implications for the NSW Budget. In my view this is preferable to issuing a costing rated as having low reliability.

Should the ACT “piggyback” on the Commonwealth PBO?

It was suggested to me by a consultant, outside government, that rather than a dedicated State resource, NSW should ask the Commonwealth to undertake the PBO role. Based on my experience, that would have been impossible. State and Territory budgeting and financial management are fundamentally different; the major issues affecting the Commonwealth budget are income taxes (revenue) and social security payments (expenses), both of which are less relevant in a State context. Management of the balance sheet and the capital side of the budget are far more important for a State or Territory – the Commonwealth has relatively little own purpose capital expenditure.

While there is some overlap in terms of generic budgeting skills, there is a depth of subject matter expertise that the Commonwealth PBO simply would not possess in relation to a State or Territory if it were asked to undertake that role – they would have to second in to their office people with this experience, and the net cost would be higher.

Although the ACT has some arrangements for sharing resources with the Commonwealth (eg the Ombudsman) it would not be workable for a PBO.

Options

There are options other than having a large PBO fully resourced for all the proposed functions. Other options that the committee could consider might include:

- Employment of an independent budget adviser with a small staff to provide advice on budget matters, and give the Assembly external assurance of costings, with the majority of work on costings continuing to be done by the ACT Treasury. Such an adviser should have the ability to second staff from relevant ACT Directorates for specific budget related tasks (for example, advising an Assembly committee on budget implications arising from an inquiry).
- An even smaller office to perform the function of acting as a conduit between Assembly members and the resources of the ACT CMTD and other directorates to obtain budget information on a confidential basis – that is, a mechanism for Assembly members to obtain information with an assurance that it has not been passed on to a government Minister at the same time

Access to information from other agencies

This was a crucial success factor in NSW, and the ACT PBO Bill rightly makes provision for a proposed ACT PBO to have such access. If a more low key option of a budget adviser of some sort were to be pursued, that person and their office would be far more effective with a legislated regime for access to information.