



Bulletin

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MTF

State Fiscal Crisis: Golden Opportunity for Reform

The need for extraordinary solutions to the fiscal crisis provides the best opportunity in over a decade to undertake important reforms of state government. At a time of significant cutbacks in programs and services, state leaders have a responsibility to curb spending abuses and inequities, improve management and establish stronger incentives for cost containment. Allowing injustices and inefficiencies that were tolerated in more prosperous times to continue under the state's dire circumstances would necessitate even deeper cuts, as well as foster the widespread public perception that state government wastes taxpayer dollars.

Policy makers are faced with a long list of candidates for reform. This bulletin highlights a number of issues that should be at the top of the agenda: revamping the education local aid formula, redesigning the system for purchasing human services, restructuring the management of the courts, revising sentencing guidelines, ending pension abuses, encouraging competition to provide state services, and eliminating unnecessary mandates and restrictions that add to state costs. Although not nearly enough to solve a shortfall between annual revenues and expenditures that may exceed \$2 billion in fiscal 2004, the opportunities for savings in the long term are significant. More importantly, such reforms would improve the quality and equity of services, make better use of taxpayers' dollars, and help restore public confidence in state government.

The administration has taken a positive first step toward reform by introducing legislation that would lift a variety of mandates and restrictions on cities and towns. Moving to streamline local

government functions such as public construction and procurement should pave the way for even more significant reforms at the state level.

Education Local Aid

Reforming the Chapter 70 education aid formula to eliminate the inequitable distribution of school aid, while ensuring that the neediest districts have the resources to maintain school spending at adequate levels, is absolutely crucial at a time when the total amount of state support may need to be scaled back.

While the school aid formula has worked well in targeting dollars to needy districts, state assistance to better-off districts is inequitably distributed and discourages local spending on schools. Not only has this approach preserved disparities that predate the 1993 reform law, it has actually made those disparities worse. The state has disproportionately subsidized communities whose support for schools falls short of the law's standard of local effort and has largely failed to adjust aid levels to reflect enrollment changes.

Both the Swift administration and the Taxpayers Foundation recommended needs-based reforms to the distribution formula that would tie the annual aid allocation -- and the required local contribution to schools -- to current measures of community wealth and income. Implementing such reforms could save the state \$100-200 million in 2004, with a significant portion of those costs shifted to communities that would be required to contribute more to their schools under the reform's standard for local tax effort.

Human Services

The Commonwealth's vast system for purchasing human services is desperately in need of an overhaul. State agencies and providers are trapped in a web of redundant and outdated organizational structures, bureaucratic paralysis, micromanagement, and misplaced priorities that make it nearly impossible for service providers to deliver quality services while remaining financially sound. Clients, who are the Commonwealth's most disadvantaged residents, face waiting lists, duplicative and uncoordinated care management, and services ill-matched to their needs as they attempt to navigate a byzantine system.

Former Secretary of Administration and Finance Charles Baker, Jr., recently authored an insightful examination of the system's structural and organizational problems. While making the case that there are many ways to approach restructuring, Mr. Baker offered one proposal to reorganize the human services bureaucracy along functional lines. The current arrangement of organizing departments around populations of clients like the mentally retarded and mentally ill would be replaced by divisions focused on information technology, licensing, investigations, purchased services, administrative and financial operations, case management, and transitional assistance. Duplicative and overlapping regional and area offices would be consolidated, and disparate client databases would be integrated into a cohesive management tool.¹

Organizational restructuring of state agencies needs to be complemented by fundamental reforms of the business relationship between the Commonwealth and the private providers that deliver the bulk of human services in Massachusetts. The goals of such reforms would be a new emphasis on performance -- in terms of quality of services and outcomes for clients -- over bureaucratic requirements, and a payment system that reflects the cost of achieving the performance standards for service providers.

To achieve these purposes, the Commonwealth should define standards for human services that

measure the quality of care and outcomes for clients, and then establish reasonable and adequate rates for services based on those standards. The Executive Office of Health and Human Services should develop and enforce consistent policies, contracting and oversight procedures, and reporting requirements for each purchasing agency. Coordination of care should be strengthened by employing lead agencies and a single case manager for each client whenever feasible. The system should be held accountable by evaluating providers and state agencies based on agreed-upon performance standards. Accountability data should be used for licensing, contracting, financial incentives, budgeting and evaluation of the system as a whole.

As Mr. Baker suggests, designing and implementing major reforms of human services would require an open, inclusive process that will take time. EOHHS should continue its efforts to improve data management and utilization as an interim step. Pilot programs should test more fundamental reforms such as standardized procedures across agencies and new organizational arrangements. Regardless of the chosen route, restructuring can succeed only if its purpose is to improve the quality of services and strengthen the Commonwealth's safety net rather than merely a means of reducing the budget for human services.

Courts

The Legislature plays a stronger role in the management of the courts in Massachusetts than in any other state in the union. In 2001, for example, lawmakers stripped judges of the power to hire probation officers and assistant clerks in their own courts. At the same time, resources are inequitably divided among courts with insufficient regard to workloads, and the courts are struggling to absorb \$22 million in spending reductions over the last two years.

Greater centralization of court administration would enable the judiciary to reallocate personnel and resources to the courts with the heaviest caseloads and reduce unnecessary staffing in less busy courts. Yet the courts have not fully utilized the management powers they do have and efforts to rationalize budgeting have been paralyzed by turf battles.

¹ *Rationalizing Health & Human Services*, Pioneer Institute for Public Policy Research, December 2002.

A commission created by the Chief Justice of the Supreme Judicial Court represents the best opportunity to bring about important management reforms, but for restructuring to succeed it needs to be designed in partnership with the Legislature. While adequate funding for the courts is clearly required, the judiciary needs to embrace a more disciplined approach to budgeting as part of any plan to give it greater flexibility.

Sentencing Guidelines

With over \$1.5 billion devoted to the criminal justice system and the state's prisons filled beyond capacity, the Legislature should seize the opportunity to adopt the sentencing guidelines established by the Massachusetts Sentencing Commission. The guidelines represent a major effort to rationalize the Commonwealth's arcane, and costly, sentencing system. A hodgepodge of statutes give judges discretion to impose wildly disparate sentences for similar crimes. Prisons are crowded with non-violent offenders while more serious crimes may result in little time served.

The Commission, chaired by Superior Court Chief Justice Robert Mulligan, worked for over two years to develop uniform sentencing policies and the integration of intermediate sanctions into judges' rulings. The recommendations proposed in 1996 set priorities for the type of crimes that warrant imprisonment and provide less-costly alternatives to incarceration for first time and non-violent offenders. The guidelines for minimum and maximum sentences for 1,800 crimes are based on the severity of the crime and the history of the convicted criminal. Judges who deviate from the guidelines would have to explain their reasons in writing.

Unfortunately, the sentencing guidelines approved by the House last year would be a step in the opposite direction, actually causing a significant increase in corrections spending by requiring longer prison sentences and limiting the use of alternatives to incarceration. The Sentencing Commission's guidelines would enable the Commonwealth to restrain the growth in corrections spending and gain greater control over the allocation of resources.

Pensions

The Commonwealth should form a commission to evaluate the state's pension laws and recommend reforms to curb the abuses that have led to a string of recent scandals. While the cost of these abuses is small relative to total pension obligations, the cost in terms of public ill will is substantial.

As one example, there is no justification for the statute that provides a generous early "pension" to state employees, regardless of age, who "involuntarily" leave their jobs after 20 years. These employees would otherwise be eligible for regular retirement benefits when they reach age 55. This provision has been widely abused, resulting in the award of sizeable pensions to employees younger than 55 who in fact voluntarily left their position, often for a lucrative job in the private sector.

Competition

The so-called "Pacheco law" passed in 1993 has raised almost insurmountable obstacles to competition in providing state services by tilting the rules in favor of public employees. The law should be amended to ensure a level playing field between public and private contractors and potentially save tens of millions of taxpayer dollars.

Under the Pacheco law, the State Auditor is required to review any privatization plan and may halt the initiative if he finds that it fails to meet any of several tests, or if he believes that the contract is "not in the public interest." The tests are all stacked in favor of using public employees to deliver services. For example, a state agency must compare the cost of using a private sector vendor not with actual state costs but with the cost of existing state employees if they were working in a hypothetical "most cost-efficient manner."

Mandates

As the Commonwealth goes through the difficult process of cutting spending, it has both an opportunity and an obligation to lighten the load of burdensome mandates and bureaucratic restrictions the state imposes on its own departments, local governments and independent authorities. Inflicting costly requirements that

serve only marginal public purposes while cutting back on local aid, higher education and other programs is a luxury the state can no longer afford. Reducing spending without taking reasonable steps to help agencies do more with less would be fundamentally unfair. Lifting unnecessary mandates and introducing greater flexibility would not only help program managers cope with budget cuts in the short term, but would improve the performance of state government over the long run. For example:

- The state's archaic public construction laws drive up the already high costs of making capital investments in public infrastructure. Construction reform would reduce cost overruns and overly lengthy construction times, as well as improve project quality. Examples include allowing quality and schedule to be factored into contract procurement, authorizing state agencies and authorities to consider alternatives to the traditional design-bid-build contracting process, and eliminating or increasing the dollar threshold for filed sub-bids. The administration's local government reform proposal would eliminate filed sub-bids for cities and towns and allow municipalities to employ design-build contracting in local construction projects.
- Regulations that treat the University of Massachusetts like other, less autonomous agencies restrict the university's ability to operate in a more business-like and entrepreneurial manner. Procurement reforms that enable university/industry partnerships, allowing the university to account for its own funds with a post-audit system for oversight, and greater control over construction projects would enable the university to reduce administrative costs and take better advantage of opportunities to leverage its resources.
- Eliminating or reforming the salary supplements paid to local police under Massachusetts' unique "Quinn bill" would result in savings for both the state and local governments. Under this statute, the Commonwealth reimburses cities and towns for 50 percent of the cost of pay raises, ranging from 10 to 25 percent, for officers earning college and graduate degrees. Over

the years, numerous media reports have exposed the many abuses under this program, including the wholesale awarding of questionable degrees for the sole purpose of qualifying police for additional pay. In part because of the recent decision of the city of Boston to begin participating in the program, state costs have risen dramatically in the last few years, from just under \$18 million in 1998 to an expected \$41.5 million in 2003, with an equal amount spent by cities and towns. Limited reforms passed as part of the fiscal 2003 budget tightened the educational standards for earning pay raises under the program to eliminate obvious abuses. However, the growing costs of the program still need to be addressed. Converting the benefit to a fixed annual dollar amount -- or reducing the benefit percentage -- would preserve the program's intended incentive effect while constraining the growth in costs for both the state and local governments.

- With local aid reductions a necessary part of resolving the state's structural deficit, cities and towns should be relieved of some mandated costs and given greater flexibility to control their own spending. As with reorganizing and restructuring at the state level, suspending some mandates and restrictions will produce nowhere near enough savings to offset the cuts in local aid, especially in the short term. Nevertheless, state leaders need to make the most of the opportunity presented by the fiscal crisis to achieve long-overdue reforms, streamline local government operations and restore confidence that taxpayers' dollars are well spent. The administration has proposed several positive reforms along these lines, including amendments to public construction and purchasing requirements. In reviewing mandates imposed on cities and towns, policy makers should separate those that serve legitimate and critical public purposes, such as the local share of spending on education, from those that tie the hands of municipal officials with little, if any, public benefit, such as the inability of local governments to adjust employee health plan copayments and deductibles, and costly procedures required for procurement of goods, services and public construction contracts.