

LEGISLATIVE SUPPORT: RESEARCH AND STAFFING

RESEARCH

The clearest message and the strongest area of agreement among all legislators, regardless of disagreements about much else, is their need for more knowledge about the bills before them. Just over 85% of survey respondents indicated they agreed with the statement, “Time to for legislators to do research and work on proposed legislation needs to be increased.” Senators were slightly more likely to express this need than were Representatives.

Respondents asked not only for time, but more objective information on which to base policy decisions. Just under 80% disagreed with the statement that, “Legislators receive all the objective information and analysis they need to make policy decisions.” (The strongly disagree responses here were high at 34.4%.) The interviews confirmed these views and explained the particular needs. The following statement by one with first hand-knowledge of several different Alabama legislatures provides an apt summation of the circumstances all describe:

No committee has professional staff with expertise in the subject matter with which a given committee deals. Not only do committees not have staff, but there is not even a core legislative staff which could deal with major issues as they come up. Most legislation is drafted by interest groups who then find a supportive legislator to introduce and sponsor the bill.

When legislators confirm that lobbyists are their chief sources of information, they often add, “Most are honest,” or note that sometimes they can weigh information from opposing sides. It seems clear, however, that this dependence displeases most of the commentators. They would prefer an objective source accountable to the legislature itself. A senator explained with considerable frustration that he voted against telephone deregulation, not on the merits of the proposal, but because he had no independent means of evaluating the conflicting claims the two sides were making about its impact. A strong argument for increased research support is that legislators who want to make well-informed policy decisions should have the resources to do so.

Existing Resources

Legislators praised highly their two centralized sources of support, the Legislative Fiscal Office (LFO) and the Legislative Reference Service (LRS). (A discussion of the LFO’s major duties may be found in *BP: Budgeting Process*) Between 96% and 98% of respondents indicated that LFO research: “is available to me; provides factual information needed for decision making; and provides information in a timely manner.” A legislator who has worked with the National Conference of State Legislatures, declared Alabama’s LFO to be “the best in the nation.” A crucial quality cited in many interviews was trust.

The Legislative Reference Service also received healthy approval ratings, with over 98% of survey respondents indicating LRS research is available to the them, 89.2%

indicating it provides them factual information needed for decision making, and just over 92% saying information is provided in a timely manner. The LRS's primary duty is the drafting of bills in the proper form and approving bills drafted by others. Early on in the interviews, the unanimous view developed that bill-drafting consumes most LRS resources. Although official descriptions of LRS include research for legislators and some legislators do receive "spot research" or occasional research assistance on summer projects if well defined, none of those interviewed believed LRS can do more.

In some states, Interim Committees, sometimes directed by a Legislative Council, conduct research on public policy issues between legislative sessions. Again, Alabama's official descriptions of Interim Committees include such a mechanism, and the Joint Rules of the Legislature permit any standing committee to form an interim committee. These rules also specify daily expenses. However, those interviewed could cite few achievements for these interim committees; many dismissed their products. One interview subject went so far as to claim they are created to get extra pay for members. It seems logical that interim committees work best for professional legislatures, where committee members have developed expertise. In Alabama they might best be used to resolve stakeholder differences, in such cases as the proposal to study ADEM reform. They did not seem to be regarded as a means of meeting the objective research needs defined in interviews and in the survey.

Asked to list their sources of research information beyond the LFO, LRS and lobbyists, those legislators inclined toward research cited departments and agencies in the Executive branch and such groups as the National Conference of State Legislators and National Council of State Governments. These groups analyze problems in all states and even offer model laws. Funds for research projects are provided on an ad hoc basis by the leadership of each chamber. In recent sessions, such funds have been used for special joint hearings on constitutional reform and trips to state agencies to interview officials and to observe agency operations.

The laptop computer supplied to each legislator is a major support tool. Almost 94% of survey respondents reported using the laptop to research pending legislation. Some part of this number are undoubtedly referring to their use of the Alabama Chamber Automation System (ACAS), the bill history and status system exclusive to legislators (a more sophisticated version of what is available to the public on ALISON) that allows them to review bills, fiscal notes, legal analysis notes (in the House of Representatives), and amendments during the consideration of any bill on the floor. They may also make personal notes on the bills.

Obstacles to increased research support—attitudes and funding

Attitudes

The interviews leave no doubt that the major barrier to any plan for more research capability is lack of funding. First, there is the knee-jerk reaction from the public and from many legislators, "Alabama is too poor to afford anything new." The follow-up is usually, "The public has no appetite for raising revenue." Another line of argument is that the public views any government growth, including growth in legislative staff as "big government" or "waste."

A second attitude that prevents funding support is embodied in the statement, “Alabama has a part-time legislature. That forces legislators to rely on outside resources such as lobbyists for information.” The view that a citizen or part-time legislature does not have staff has some basis in the history of legislative reforms started by the Citizen Conference on State Legislature in the late 1960s and published in 1971. Increased staff for public policy research, usually attached to committees, was one of the first benefits of the reforms in those legislatures that became professional. (See *Background for Legislative Study*, published to Leagues, 2003). Alabama never embraced those reforms, although it did establish annual sessions. In fact, Alabama is no longer classified as citizen or part-time; it is among the states in the hybrid category, a mixture of citizen and professional. (See *BP: Legislative Basics* for definitions of these terms and for NCSL’s classification of Alabama.)

No one interviewed suggested Alabama should become a professional legislature. Legislators did not favor longer session. Legislators’ responses to the Survey, viewed in combination, do make clear their need for better information to do their jobs properly. Asked to list changes needed in the Legislature, they said, “Hire more research assistants.” “Need staff for reading and mark-up of bills and resolutions.” And finally, “A qualified staff is more important than a full-time legislature.”

Funding

Until public attitudes change to favor additional revenues for the legislature, one option is a re-examination of expenditures from current appropriations for the Legislature from the General Fund. One immediate funding source was suggested by a Senate committee chair who favors legal analysts for all committees; he proposed to return his committee’s unneeded funds to fund support for other committees. Most funds for research and legislative support are now provided on an ad hoc basis by the leadership in each chamber. The details of legislative budgets are not published for the public. Committee funds and other lump sums distributions without established criteria for their use could be candidates for re-examination. After an assessment of research needs and a decision by the two bodies, an appropriation in the legislative budget might be arranged to support a modest Nonpartisan Research Organization for the legislature.

The current arrangement has the merit of allowing committee chairs and others flexibility to use available funds according to their best judgments. Our interviews suggest that research is increasingly being funded from these lump sums, but without established criteria. Arguments in favor of diverting some current funds to provide a centralized and professional research agency or division might include increased accountability. With a professional agency, the research purchased might be more reliable than through individual contracts. The change, if properly presented to the public, might promote trust in and respect for legislative decision making. Such a rearrangement would require the acquiescence of leadership. It should be noted, however, that all but a few leaders of both houses acknowledged the need for better objective information for public policy. One leader suggested a research agency as “a pilot project.”

Although the demand for increased objective support is very strong, the information collected by the study committee does not address every issue raised. One legislator described the practical problem of anticipating what bills might arise in time to do adequate research. Bell South’s strategy with the telephone deregulation bill was to

introduce it with virtually no warning. Such events may explain one legislator's comment that no bill should pass before it had been in the legislature a year. A further concern for some legislators is the fear that policy research might intrude into the policy decisions that are the prerogatives of legislators. Others, however, expressly stated their need for help in analyzing the pros and cons of a bill. Studies of agencies for policy analysis in other states (e.g., Hird, 2005) offer a sound set of accepted best practices to use in establishing guidelines.

Kinds of support needed

Two types of support not supplied by the LFO or the LRS are needed by the Legislature: legal analysis and policy analysis. Some legal analysis is provided, but policy analysis is rarely available.

Legal Analysis

Legal support started some 25 years ago when the Alabama Law Institute (ALI) began providing lawyers to assist the Senate Judiciary Committee. Now each House Committee has the services of a lawyer appointed through the Alabama Law Institute, as do the House Majority and Minority Leaders. Except for Judiciary, no Senate committees have lawyers assigned. Assistance is said to be available as needed and as schedules permit for Senate committees, party caucuses and black caucus.

Reports on the adequacy of legal help vary in Senate interviews. No appreciable gap between the two houses appears in survey responses, except that the timeliness of help received stronger affirmation from House members. Several senators believe they should move toward the House system. The imbalance in Senate committee workloads described in *BP: The Committee System* was said to need correction before such a move. The three committees said to handle 75% of all bills have a lawyer, in the case of Judiciary, and support from the LFO, in the case of the two budget committees.

In the ALI arrangement, the experts are highly qualified. ALI's web site (<http://ali.state.al.us>) states: "The purpose of the Institute is to clarify and simplify the laws of Alabama, to revise laws that are out-of-date and to fill in gaps in the law where there exists legal confusion." Their expertise provides some guarantee of objectivity. Furthermore, the service is centralized in the sense that it is funded by an appropriation from the legislative budget specified for that purpose, at a set rate of roughly \$2,500 per lawyer. In the Senate at present, a committee chair may use committee funds to hire one or more lawyers outside of the ALI system.

The ALI attorney assigned to a committee prepares summaries of the bills assigned to that committee in the form of a short summary of the whole and a brief account of the provisions of each section. Without the formulaic language and length of the full bills, these analyses can promote clarity and efficient study. In addition to the summaries, the attorney answers questions about the relation of a proposed bill to current Code and also how the proposed bill would affect case law. The attorney answers other questions that arise at committee meetings and might be asked to correct language or write amendments. No opinions are given and no questions are answered that would put

the attorney in the position of making policy decisions. Given the decline in the number of attorneys in the Legislature beginning in the 1970s (from interview), legal assistance is more needed now than before.

Policy Analysis

As information developed about the need for objective information to aid consideration of bills, interview questions began to explore more specifically the best means for securing information. Sometimes we asked about the possibility of a centralized agency for general research on the model of the Legislative Fiscal Office. Sometimes the idea of an agency was volunteered in open-ended questions to the survey. One example is: “The Legislature should have a Research Division comprised of professional civil servants (non-partisan) and available only to legislators.”

Questions to be considered in defining such an agency include:

- Should it serve both the House and Senate?
Several leaders in both houses agreed it should be centralized in that way.
- Who should select the director?
For the LFO the Speaker and Lieutenant Governor as President of the Senate appointed current LFO director.
- Who should hire staff?
At LFO the director does. That puts it at one remove from legislative influence.
- What criteria for jobs?
Both LFO and LRS staff have gained expertise in one or more areas/fields. At first new researchers might need to be generalists. The salary and job description should ensure a certain level of competence.
- Should jobs be civil service positions?
The only objections to this idea came from the Senate. Merit selection provides some protection against partisan demands. It is also said to complicate the process of removing people who prove incompetent or whose conduct might be inappropriate to the legislative setting.
- How should the research services be apportioned among these three groups: the leadership, the committees or individual legislators?
Now the leadership receives most help and the individuals least. The decision on this issue must take into account the number of bills introduced and the number that need to be weeded out from serious consideration.
- What other guidelines might be needed to ensure that the service builds a positive, trust relationship with legislators similar to that in place with the LFO, LRS, and ALI?

Nonpartisanship, a central issue

A surprising number of those interviewed from both parties said they preferred a non-partisan agency. For example, one legislator said, “I can get all the information I need from my party.” Survey respondents also indicated a high degree of support for nonpartisan staff assistance. Asked to agree or disagree with the statement, “Nonpartisan

staff are more valuable to me than partisan staff,” 33% strongly agreed, 49.1% agreed, 15.8% disagreed, and only 1.8 percent strongly disagreed.

A recent study of Non-Partisan Research Organizations (NPROs) in state legislatures nationwide had similar results. (Unless otherwise noted, the information in this section is from Hird. See *Selected References*). When this same survey asked legislators to indicate the importance of various information sources in helping them understand and reach policy decisions, constituents came in first followed by nonpartisan legislative staff or research organizations. The author of the study summarized much of the findings in this way:

Some had questioned whether and how NPROs could survive, much less prosper, in the highly politicized environments where legislatures thrive...As is now apparent, the wide proliferation of NPROs in states—and the perception by their clients that they are truly nonpartisan—suggests that neutral policy analysis is thriving in the states ...at least to some extent... it does suggest that non-partisan information and analysis are valued in small states and large, in professional and citizen legislatures, and in states wealthy and poor. (Hird, 2005, pp. 205-206)

In highly politicized legislative environments, these NPROs tended to focus on producing descriptive pro and con information and doing it quickly, rather than producing in-depth long-term focused research. LWVAL interviews suggest that Alabama legislators would like both types of research support, but tend to place emphasis on the former more than the later.

The attitudes described in Hird’s nationwide study and our Alabama study run counter to the situation described by Alan Rosenthal in *The Decline of Representative Democracy* (1992). He laments that in large party states like Illinois, Pennsylvania, Michigan and New Jersey, the legislatures have hired research staff to support their partisan cause, taking resources and influence away from committee research. In California, the standing committees with expertise had become so politicized that policy experts have been replaced by “political hired guns whose only job is to get their bosses elected.” (Rosenthal, 1995, p.123)

A few legislators and informed observers interviewed believe that it is impossible now to build a nonpartisan research agency in Alabama because of two-party competition. They point out that the Legislative Fiscal Office was established in 1975 and built its high level of trust and reputation for nonpartisan support while Alabama was a one-party state.

STAFFING

The high regard for the legislative agencies, the LFO and LRS, seems to extend to House and Senate administrative staff. The Secretary of the Senate and the Clerk of the House hire the Reading Clerks, Enrolling and Engrossing Clerk, and others who work behind the scenes. They also administer members’ secretaries, in consultation with the legislators. Although no direct question was asked, more than one legislator volunteered that a stable staff is one of the strengths of the Alabama Legislature. No one wanted to

see a change of majority party lead to a new staff, as happens in some states. As with the LFO and LRS, member trust in the staff builds with the length of staff service, and the institutional memories held by the staff are valued highly.

Each committee has a clerk or secretary for committee business. Each Senator has a secretary in his/her suite of offices. In practice two Senators sometimes share one secretary. Representatives draw from a secretarial pool; six is the number who are said to share one. Almost 88% of the House members responding to the survey expressed dissatisfaction with their secretarial support, and this topic was often raised in response to the open ended questions asking for changes needed in the legislature. The need for more help with constituents was specifically mentioned.

In addition to increased legislative secretarial staff, a district staff was desired by some legislators interviewed chiefly those in urban areas. The need for better communications with and more services for constituents was the chief need cited. Senators, with larger districts, most often made this case. In weighing budget decisions, the desire for better constituent relations is worthy of respect. A concern about district staff was raised by one observer's question: How can accountability for state money could be achieved for workers outside of Montgomery?