Proposed legislation: Three ways to evaluate the cost

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PROPOSED LEGISLATION

Three ways to evaluate the cost

by A. ALAN POST

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What will it cost private business to implement state requirements for separate eating and working facilities for smokers and non-smokers?

What are the costs to industry and citizens of installing government required smog control devices on cars?

What will it cost the state to expand state-supported medical care programs for the indigent?

Questions such as these arise over and over when legislation is discussed on any government level. Opponents offer widely differing projections of costs and benefits to bolster their positions. Which side is the voter or legislator to believe?

Unfortunately, recent history is full of examples of programs whose actual costs far exceeded original estimates. This is especially true for health, welfare, and social services programs. Similarly, costs of governmental regulations imposed on other levels of government or on the private sector are staggering. Yet attention is seldom paid to such costs, because they are passed on to someone else.

Recent developments are further compounding the problem:

☐ Because government services are highly labor intensive, costs for these services are among the fastest growing in our inflationary economy and, therefore, more difficult to predict.

☐ Growing taxpayer revolt is limiting the money available to state and local governments to comply with requirements mandated, but not paid for, by other levels of government.

☐ The soaring costs of regulating the private sector may be counterproductive to national programs designed to spur the economy and constrain inflation.

Clearly, accurate cost estimates of new laws and regulations are essential if officials are to make sound decisions on what programs should be passed and how they will be paid for. And since the cost estimates must be accurate, those doing the estimating should be not only qualified but also independent.

A growing number of state and local governments are responding to this challenge by creating an independent office within the government to analyze costs of new or expanded legislation or regulations. California was the first state to do so. The Office of Legislative Analyst for the state was set up in 1941. Since then, most states have established a similar function, and a number of local governments and special districts are exploring similar possibilities.

What exactly is the role of the analyst? Basically he analyzes three types of legislative costs:

—Those incurred by the sponsoring governmental unit.

—Those passed on to some other level of government.

—Those passed on to private industry and consumers.

Cost to Sponsor

Analyzing the cost to the sponsoring level of government is the most common function of these offices, and the one for which most were originally created. This level of analysis is generally the easiest to conduct, because the language of proposed legislation or regulations generally spells out the role of the sponsoring unit. However, there are still numerous problems in developing data bases and arriving at cost estimates.

☐ The impact of inflation in future years on government services is difficult to predict, as noted earlier. A major problem in estimating costs of Medicare and Medicaid, for example, was the unforeseen explosion of health care costs.

☐ The number of persons to be served by a new program may be difficult to determine in advance. Thus, accurate data may not be available on the number of people who meet the eligibility criteria for a new human services program.

☐ Some proposals may involve new actions or initiatives, for which there is not prior experience or comparable data to draw on.

☐ Required data may be available, but difficult or costly to collect.

However, even with these problems, independent financial analysis can achieve a positive impact. For example, the Analyst's Office in California challenged as unworkable state proposals to cut its health and welfare expenditures in 1971 to balance the budget. The office pointed out that qualification for such services had been established by the U.S. Congress, and that the state had no authority to change matching and funding requirements. Similarly, a 1973 referendum to limit state expenditures—a precursor of Proposition 13—was also reviewed by the Analyst's Office. Proponents claimed the reduced revenues caused by the measure would not necessitate program cuts. The office found to the contrary, and spelled out how the combined revenue of the proposed legislation could not support even the current level of services. The measure was defeated at the polls.

There are two keys to successfully developing cost estimates: first, the reasonableness of the assumptions on which the estimates are based; and second, the care and skill with which the data is assembled and analyzed. No one expects pinpoint accuracy in forecasting. However, people do expect that the assumptions will not be biased toward one position or viewpoint, and that the estimates be developed according to sound statistical and analytical standards. The experience in California has shown that estimates and conclusions based on fair assumptions and high quality analysis provide the focal point for intelligent discussion by all interested parties. This is admittedly difficult to achieve. But anything less would destroy the credibility of the analytical function, and clearly would not contribute to informed debate on the issues.

Cost to Other Government Levels

The second type of analysis—estimating the costs that will be passed on to another level of government through legislative or regulatory mandate—has become the subject of increasing attention. Federal aid to states and municipalities is leveling off. Growing taxpayer revolt is limiting the ability of some states and localities to further tap local resources. Yet inflation is pushing up the cost of maintaining even current programs at current levels.

Local officials looking for ways to contain or cut costs are increasingly demanding that the level of government that mandates the expenditure should pay for it. In some states, this is beginning to happen. Again, California was the first state to require, with some limitations, that the state pay for programs and regulations imposed on municipal government. Other states are beginning to do likewise. Similarly, pressure is mounting from local and state officials for the federal government to assume the same responsibility.

Once again, accurate cost estimates are increasingly vital. Those governments that continue to mandate programs without paying for them must know the extent of the costs being passed on to other levels of government. Only in this way can there be a full and intelligent debate on the relative merits of the costs versus the expected benefits of the mandated measures. On the other hand, if the states or the federal government are to pay for such programs, they must know the impact of such expenditures on their own budgets.

A recent proposal would have required all cities in California to produce formal budget documents, to have public hearings on the budget before adoption, and to adopt uniform accounting systems. Sponsors of the bill assumed the measure would entail no cost to the cities involved. The Analyst's Office showed, to the contrary, that costs would be incurred and that under California law the state would have had to pay those costs. The bill was withdrawn.

On the other side of the coin, measures to reimburse localities can raise questions of definition. For example, "What constitutes a local government?" Privately-owned utility companies in California attempted to use the state reimbursement provision to collect costs incurred when the state required them to collect data on non-residential utility users. The Analyst's Office challenged the position that privately-owned utilities should be reimbursed, since they didn't depend on locally generated tax revenues for their operations and, therefore, couldn't be considered a local unit of government. The legislature upheld the analyst's position and denied reimbursement to the utilities.

As might be expected, data collection for mandated costs is often difficult. In California, the Office of Legislative Analyst is meeting the problem by establishing ties with a variety of additional information sources to complement its own research staff. These additional sources include numerous municipal officials, government associations, research organizations, and scholars. Here, as before, the quality of the research and analysis, along with the reasonableness of the bases used for cost estimates, sets the performance standards.

Cost to Business or Consumers

The third type of analysis involves estimating the costs that are passed on to business and private citizens. These estimates are both the most difficult and increasingly more important. Governments at all levels have instituted a broad range of regulatory requirements, many of which involve substantial costs to the private sector. This is especially true for environmental and safety issues. Results of such regulation not only involve costs, but may also affect employment, inflation, and the competitiveness of U.S. goods in the world market.

In California, the Office of Legislative Analyst will, on a request by the appropriate state legislative committee, analyze the costs to the private sector of state-imposed laws or regulations. Once again, the office has expanded its ties with potential data sources, this time to include citizens groups, industry trade associations, Chambers of Commerce, and others. Nonetheless, this type of analysis is by far the most difficult.

> "Sooner or later the momentum will change. People want services and when they begin to notice that teachers aren't paying attention to their kids or when they run over one too many potholes, the momentum will change. There aren't any easy solutions. There never will be."
>
> Mario Cuomo
> New York Lieutenant Governor

For example, the office analyzed the impact of state regulations requiring the shutdown of any nuclear energy facility which was unable to solve its nuclear waste disposal problem. What would be the economic impact on the local area of such a shutdown, it was asked, versus the risk of leaving the waste problem unsolved? The competing claims by opponents and proponents of nuclear facilities were based on widely varying assumptions, all of which were hypothetical. Estimating the probabilities and costs of a nuclear accident near an urban area, for example, is extremely difficult. When the Analyst's Office reached a conclusion between the two positions, its findings were challenged in court by both sides (only to be upheld by the State Supreme Court as reasonable).

The Final Analysis

Despite these difficulties, however, the impact of government is so pervasive that estimates of the effects of government action cannot be left to guesswork without risking serious consequences. Also, many issues are so complex that they are easily oversimplified, to the point of distortion, in political rhetoric.

For these reasons, the value of an independent analysis of the financial impact of proposed government actions is increasingly essential to sound direction of government. The usefulness of these analyses will be determined by their fairness and accuracy. Of course, such studies need not be performed only by a governmental unit, such as in California. Independent research organizations could also be used. However, a limited number of such organizations should be employed, in order to allow each one to build a track record of proven performance that will enhance the usefulness of its findings. In the long run, such analyses will become a fundamental tool for informed debate on the complex issues confronting state and local governments and their constituents. △

A. Alan Post directed the Office of Legislative Analyst for the State of California from 1949 to 1977. Now retired, he has recently been asked to be chairman of California's Commission on Government Reform, created in response to the passage of Proposition 13.