

What's the Point of Restructuring?

Lawmakers say it's about establishing accountability. If so, their bill sure doesn't look like it.

On Thursday, January 10, at a hearing of the Senate Judiciary Subcommittee – the subcommittee dealing with [S.22](#), a bill to create a Department of Administration – SCPC President Ashley Landess testified on what should and shouldn't be in any major restructuring bill. The point of restructuring, she explained, isn't to “save taxpayer dollars” or to make government “more efficient.” Those are the natural outcomes of restructuring, but not its chief purpose. The purpose, rather, is to restore a constitutional separation of powers – which in South Carolina means (a) removing executive authority from the legislature and putting it back in the hands of the executive branch, and (b) making the legislature accountable for the powers it does have.

Subcommittee members seemed open to dialogue about the bill's strengths and weaknesses, and they offered a number of comments on Landess's analysis. “I agree with 95 percent of what you said,” remarked Sen. Shane Massey, although he referenced the political necessity of “getting votes,” too. And Sen. Vincent Sheheen agreed with Landess that restructuring is, more than anything else, about establishing accountability. Too often, he said, state agencies are “directionless” and on “auto-pilot”: they keep doing what they're doing, whether it's good for the state or not, simply because no one is accountable for their actions and empowered to make changes.

We agree.

We also agree with Sen. Massey's suggestion to eliminate a provision in S.22 transferring authority to issue loans to state agencies from one bureaucracy to another (namely from the Budget and Control Board to a new agency called the State Fiscal Accountability Authority). As Sen. Massey pointed out, the Budget and Control Board (BCB) recently [loaned](#) the Department of Revenue \$20 million from the state insurance fund to cover costs associated with the data theft at DOR, and in his view the loan of \$20 million should have been the responsibility of the full legislature, not an unelected Board. “We should have been called back into session on that,” he said.

But listening to the tenor of the senators' responses, one could be forgiven for thinking that S.22 accomplishes the senators' stated goal of establishing clear lines of authority and restoring executive functions to the executive. But it doesn't. Indeed, in several areas it does the opposite.

- (1) Take Senator Massey's excellent point about the responsibility for loans properly resting with the General Assembly. If that's true, it's surely also true that the General Assembly should be accountable for mid-year budget cuts. Yet S.22 simply takes that authority from the BCB and gives it to *one unelected bureaucrat*, the appointed Director of the Executive Budget Office.

- (2) If the General Assembly should be solely accountable for decisions on spending, it should be solely responsible for issuing bond debt. Currently, the BCB shields lawmakers from that responsibility, so that taxpayers have no one to hold responsible for terrible decisions on bonds. But S.22 does nothing to change that. It simply transfers the authority to a new hybrid agency called the State Financial Affairs Authority.
- (3) Something similar is true on procurement. Instead of putting procurement where it belongs – under the executive rather than under the anonymous and unaccountable BCB – S.22 puts only *administrative* procurement authority under the executive branch, while leaving actual procurement decisions to yet another unelected board called the Procurement Oversight Board. So if state officials ever make a disastrous or obviously corrupt decision on the purchase of goods and services – and that *will* happen sooner or later – taxpayers will have only an obscure and practically anonymous board to hold responsible. (Sen. Massey alluded to the possibility of putting procurement entirely under the governor: an encouraging sign from the subcommittee’s chairman.)
- (4) S.22 also enhances the legislature’s power to investigate executive agencies by allowing the subpoena of private citizens. Lawmakers already have power to investigate agencies over alleged abuses or malfeasance. What’s needed isn’t to supplement the General Assembly’s investigative authority but to empower the independent Legislative Audit Council to establish objective, pre-scheduled audits of all state agencies. In any case, it’s hard to imagine the governor being accountable to taxpayers for much of anything, since presently he or she has so little actual authority over state government: the key is to transfer executive functions to the governor and thus make him or her accountable to voters and taxpayers, not to enable more legislative witch-hunting.
- (5) One of the easiest and quickest ways to establish accountability for spending decisions would be for lawmakers to begin following the state’s [open budget law](#). (For background on this, click [here](#).) The law would not only force the legislature to be more accountable to the public on spending issues; it would also force the legislature to pay attention to the governor’s budgetary priorities instead of writing its own pet-project-laden budget with little or no input from the public *or* governor, as is done now. Yet in its present form, S.22 deletes that provision. (Sen. Sheheen mentioned that he was “happy” to leave the provision alone – *i.e.* take out the provision of S.22 repealing it – but did not suggest he or any of his colleagues had any intention to follow it.)

If the debate over restructuring is really about establishing clear lines of accountability, as Sen. Sheheen correctly says it is, then there’s a lot of work to be done on this session’s chief restructuring bill.

(Note: The subcommittee plans to meet again next week to consider amendments to the bill. It will likely also take a vote to pass the bill out of subcommittee and send it to the full Judiciary Committee, chaired by Sen. Larry Martin.)