

Testimony of the Boston Municipal Research Bureau

Submitted to the

Boston City Council Committee on Government Operations

Regarding: Docket #0145, petition for a Special Law re: An Act Amending the Operations of the City of Boston Finance Commission to Establish the Boston Inspector General Oversight Commission

The Boston Municipal Research Bureau has monitored the fiscal policies and government activities of Boston since 1932. We keep a close eye on the management and financial operations of the city, regularly issuing reports with our recommendations on how to reduce waste, save funds, and improve operations. While the Research Bureau applauds the commitment to prevent, detect, and correct fraud, waste, and abuse in city government that motivates this proposed home rule petition, we want to highlight our concerns with the proposal and share recommendations for how to improve it. Without changes or clarifications to the items identified below, the Research Bureau believes the current draft of the home rule petition ought not to pass.

The draft legislation would eliminate the Finance Commission and replace it with an Office of the Inspector General and accompanying commission. If the City Council decides to abolish the Finance Commission, which has existed as a watchdog agency for the City of Boston and Suffolk County since 1909, the City Council must ensure that none of the Finance Commission's powers are lost in the reorganization. While this legislation appears to maintain most of the current powers of the Finance Commission, abolition of the Finance Commission risks weakening the current law.

Budgetary Authority: Section 2 of the draft home rule legislation provides that the proposed Boston Inspector General Oversight Commission review and approve the annual budget proposed by the Inspector General. The current phrasing is ambiguous about the Commission's budgetary power. Would the Inspector General's budget require the Commission's approval prior to advancing to the City Council? Or would the Commission take over the appropriating authority from the City Council, a change from the current Finance Commission process? If the former, this could strengthen the budgetary process by providing an additional layer of oversight to the Inspector General's proposed budget. However, if the Commission would take

over full budgetary authority from the City Council for the Inspector General, careful thought must be given to how this would be implemented and what the implications would be. The Research Bureau recommends that the language be revised to state clearly that the Commission's authority is to review and approve the proposed budget before the Inspector General submits it to the City Council.

Independence of Personnel Hiring: The Research Bureau is pleased that the language from the prior draft allowing for some mayoral control over the pay and staffing of the Inspector General's office was removed. Maintaining the independence of the Inspector General from the mayor's administration is critical to maintaining the trust and independence of the office.

However, the current draft in Section 3 states that "the Inspector General shall have the authority of a City of Boston department director with respect to matters of personnel decisions..." The Research Bureau is concerned that this language weakens the independence of the Inspector General to hire the necessary staff needed to perform the work. Department heads are under mayoral control, and by specifying that the Inspector General would have the powers of a department director, it leaves open the possibility that the Mayor has authority over the Inspector General's hiring decisions.

The Research Bureau recommends that this language be removed. The City Council should consider restoring the original language (Section 20) from the enabling legislation of the Finance Commission, Ch. 486 of the Acts of 1909: "The said commission is authorized to employ such experts, counsel, and other assistants, and to incur such other expenses as it may deem necessary, and the same shall be paid by said city upon requisition by the commission...The commission shall have the same right to incur expenses in anticipation of its appropriation as if it were a regular department of said city."

Certification Process: We are concerned by the language in Section 2 of the draft legislation that requires the proposed Inspector General to "...obtain a nationally recognized certification as a Certified Inspector General" within 6 months of the Inspector General's hiring. The City Council should consider how many organizations offer this certification and its potential costs. Will including this language result in a single-source contract for a vendor to provide this service? Additionally, the City Council should consider whether 6 months is a feasible timeframe to receive a certification. The Research Bureau recommends increasing the timeframe for certification to 12 months, and that the home rule petition describe more generally the type of certification needed.

Similarly, Section 2 requires the Commission to initiate a "nationally recognized Quality Assurance Review ("peer review") every 3 years". The Council should consider who provides such certifications and provide more general language for the type of review that would be required. The legislation should also remove any references to any specific organization or certification, such as the Association of Inspectors General or Certified Inspector General. By

doing so, the law will remain relevant even if the Association of Inspectors General no longer exists or if the specific Quality Assurance Review is re-named.

Cooling-Off Period: The Research Bureau is concerned by the language in Section 4 of the draft home rule petition that would eliminate the requirement that the Inspector General “may not have worked for the City as an employee” within 2 years of the person’s appointment. While the intent of this change is to allow the current Executive Director of the Finance Commission to potentially assume the role of Inspector General in the future, removing this requirement weakens the legislation. A two-year “cooling off” period allows for separation between an Inspector General and city government and can help ensure that the Inspector General is acting in an independent manner rather than driven by political or other concerns. This is similar to the cooling off period for state and municipal employees in Section 5 of M.G.L. Ch. 268A, the Massachusetts Conflict of Interest Law. Eliminating this provision would potentially compromise the Inspector General’s independence from Boston politics and make the Inspector General less prone to patronage or other loyalties. The language should be restored with an exception made for the current Executive Director of the Finance Commission.

Minimum Funding Level: In the Finance Commission’s enabling legislation, there is a minimum required level of funding (\$25,000) for the Finance Commission to perform its work, which the City can exceed through the budgetary process. This proposal would eliminate this minimum level of spending. How would this proposed home rule petition ensure that the Mayor and City Council do not starve the Inspector General of resources if the Inspector General issues unfavorable or unflattering reports? A minimum level of funding should be restored to ensure protection from political interference. The City Council should consider increasing the minimum to be near the FY26 Finance Commission budget of \$636K. The City Council should further consider increasing the budget so, adjusted for inflation, it provides the resources the Finance Commission had in years past when it had a larger staff.

Loss of Suffolk County Oversight: The proposal for a Boston Inspector Oversight Commission eliminates the Finance Commission’s oversight of Suffolk County, which includes Boston, Revere, Winthrop and Chelsea. What would be the impact to these other communities if they no longer had an independent fiscal watchdog? This proposal should either ensure that the Inspector General maintains oversight of all of Suffolk County or remedy this removal of independent oversight in some other way to ensure that the power of the office is not weaker than current law.

Annual Reporting: Section 3 requires that the Inspector General prepare and publish an annual report of the Commission and file it with the City Clerk. In the interest of transparency, the annual report should also be required to be transmitted to the Governor (the Commission’s appointing authority), the Mayor, City Council, and the state legislature (the General Court).

Mayoral Referrals and the Withholding of Funds: The proposed home rule petition cuts language in the Finance Commission’s enabling legislation that allows it to investigate referrals

from the Mayor, City Auditor, or City Treasurer of bills or claims that may be potentially dubious or fraudulent. Crucially, the payment of these funds can be withheld pending the completion of a Finance Commission investigation. The City Council should not eliminate this power of the Finance Commission.

Subpoena Power: The home rule petition should reference that the Inspector General would have the power to issue subpoenas, a power that the Finance Commission currently has.

Investigatory Scope: In Section 3, when establishing the duties of a new Inspector General, the legislation should maintain the Finance Commission's current charge to investigate "any and all business of the City of Boston". The proposed home rule petition should include this language and maintain the Inspector General's broad mission. Additionally, the listed investigatory powers of the proposed Inspector General in Section 3 should expressly include "revenues" "grants" "contracts" and "all funds and trusts administered by the City".

Additionally, in section 3, the legislation states that the Inspector General can "...initiate investigations based on complaints from employees of the City or agencies thereof, all contracted personnel, residents, and business owners". To ensure that the scope of the office is not limited, the legislation should be revised to state that the Inspector General can initiate investigations based on complaints from the Mayor, City Council, as well as City vendors or grant recipients.

Conclusion: Eliminating the Finance Commission, an independent fiscal watchdog for the City that has existed for over 100 years, carries significant risk, and it is not evident how eliminating the existing body and creating a new office and commission will improve government transparency or help more effectively combat waste, fraud and abuse. As the City Council considers eliminating the Finance Commission, it should ensure that the Finance Commission's statutory powers that have allowed it to be an effective financial oversight body are not weakened or lost. Some of the changes in the proposed legislation could better define the Finance Commission's powers and scope and could augment rather than replace the Finance Commission (for example, the whistleblower provisions in Section 4).

The changes proposed above would strengthen the legislation and help ensure that the proposed Inspector General would be a truly independent watchdog. The Research Bureau asks, however, what problem the proposed legislation is trying to solve. We continue to wonder how the replacement of the Finance Commission with an Inspector General will improve what the Finance Commission already does.

We look forward to working with the City Council to improve this legislation and ensure that Boston has an effective independent financial watchdog agency that protects the best interests of the City and those who live and do business here.