



LEGISLATIVE BUDGET BOARD

Fiscal Note and Government Efficiency Report Processes Committee Charge #2

**PRESENTED TO SENATE ADMINISTRATION COMMITTEE
LEGISLATIVE BUDGET BOARD STAFF**

AUGUST 2018

Statement of Interim Charge

Senate Administration Committee Charge #2: Review and evaluate the fiscal note and government efficiency report process and make recommendations on potential improvements in timeliness and accuracy.

Current Legislative Budget Board Members

Lt. Governor Dan Patrick

Speaker Joe Straus

Sen. Jane Nelson
(Chair, Senate Finance)

Rep. John Zerwas
(Chair, House Appropriations)

Sen. Kelly Hancock

Rep. Dennis Bonnen
(Chair, Ways and Means)

Sen. Joan Huffman

Rep. Drew Darby

Sen. Larry Taylor

Rep. Oscar Longoria

Performance Review Program History

1973: The LBB was directed by the Legislature to conduct performance audits and evaluations of every agency each biennium. The goal of this performance evaluation was to provide a comprehensive review of state agency programs and publish the results of these reviews in a performance report to each regular session of the Legislature. The Legislature removed the requirement that the LBB evaluate every agency each biennium in 1993, but the LBB continues to evaluate specific programs and agencies.

January 31, 1991: General review of the effectiveness and efficiency of public school districts, junior colleges and universities, and state agencies established by emergency legislation of the Texas Legislature.

1991 – 2003: Administration of performance review programs is conducted by the Office of the Comptroller of Public Accounts.

January 2004: Administration of the Comptroller's performance reviews is transferred to the Legislative Budget Board, expanding pre-existing program evaluation activities at the LBB and strengthening the relationship of program evaluation and performance review to the budget development process.

Statutory Requirements

General statutory requirement:

Government Code Sec. 322.011. PERFORMANCE AUDITS AND REPORTS. (a) The board shall establish a system of performance audits and evaluations designed to provide a comprehensive and continuing review of the programs and operations of each state institution, department, agency, or commission.

(b) The board may evaluate the programs and operations of any institution, department, agency, or commission that received an appropriation in the most recent General Appropriations Act or is a state agency. An institution, department, agency, or commission may not be evaluated until after the end of the first full fiscal year of its operation.

(c) As soon as practicable after completion of the audit or evaluation under Subsection (a), the board shall make a performance report to the governor and the legislature.

(d) The report shall analyze the operational efficiency and program performance of each institution, department, agency, and commission evaluated. The report shall explicitly state the statutory function each entity is to perform and how, in terms of unit-cost measurement, work load efficiency data, and program output standards established by the board, these statutory functions are being accomplished.

(e) The performance report shall be published in the form prescribed by the board.

(f) The director, with the approval of the board, shall appoint an assistant director for program evaluation. The assistant director shall report to and be responsible to the director.

(g) The director shall employ sufficient personnel to carry out the provisions of this section.

Statutory Requirements

continued

Government Code Sec. 322.017. EFFICIENCY REVIEW OF STATE AGENCIES. (a) In this section, "state agency" has the meaning assigned by Section 2056.001.

(b) The board periodically may review and analyze the effectiveness and efficiency of the policies, management, fiscal affairs, and operations of state agencies.

(c) The board shall report the findings of the review and analysis to the governor and the legislature.

(d) The legislature may consider the board's reports in connection with the legislative appropriations process.

(e) Until the board has completed a review and analysis under this section, all information, documentary or otherwise, prepared or maintained in conducting the review and analysis or preparing the review report, including intra-agency and interagency communications and drafts of the review report or portions of those drafts, is excepted from required public disclosure as audit working papers under Section 552.116. This subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure under a law other than Section 552.116.

Examples of other related statutory authorizations in the Government Code:

Sec. 322.014. REPORT ON MAJOR INVESTMENT FUNDS

Sec. 322.016. PERFORMANCE REVIEW OF SCHOOL DISTRICTS

Sec. 322.0165. PERFORMANCE REVIEW OF INSTITUTIONS OF HIGHER EDUCATION

Sec. 322.0171. EFFICIENCY REVIEW OF RIVER AUTHORITIES

Sec. 322.019. CRIMINAL JUSTICE POLICY ANALYSIS

Sec. 322.020. MAJOR CONTRACTS DATABASE

Research and Development

LBB staff work is highly integrated and budget-centric:

- Identify and conduct research on topics of interest to the legislature
- Review topics are based on legislative member and staff queries, LBB analysts' research, agency management and state employee issues, and input from members of the public (<http://www.lbb.state.tx.us/SubmitAnIdea.aspx>)
- Review is focused on potential options to positively affect the budget, improve services, or apply innovative practices to state government programs.
- Since 2011, LBB staff have produced 235 discrete topic reports. Of the 175 reports with recommendations or options since that time, 111 have been acted upon by the Legislature (63 percent). Of the 111 reports acted upon by the Legislature, approximately 60 percent have been implemented via the GAA.

Resulting products are released on direction from our Board and consistent with statutes.

Depending on outcome of research, the product may be a budget recommendation in the General Appropriations Bill, a report on the findings, or a release of data or other information.

All work by LBB staff is subject to rigorous internal review, including quality control review of all evaluation work, research, data analysis, methodology, and draft documents for accuracy and quality.

Products

Examples of the types of LBB staff produced documents include:

For legislative sessions

LBB Staff Reports
Government Effectiveness & Efficiency Reports
Options to Reduce Reliance on GR-D
Strategic Fiscal Review analysis

Year-Round or Annual

Primers
Interactive Graphics
Issue Briefs
School Performance Reviews
InfoGraphics
Ad hoc documents for Legislative committees
Criminal Justice Population Reports
Quality Assurance Team Annual Report
Major State Investment Funds

Fiscal Note Process

The LBB is required by statute to establish a system of fiscal notes and to provide such analysis for a five-year period.

The specifics of timeframes and required submissions are governed by Senate and House rules, which are similar but not identical.

LBB staff produced over 8,000 fiscal notes and impact statements for the 85th Legislature, and the significant majority of LBB staff are involved in the fiscal note process.

What is a Fiscal Note?

A fiscal note is a written estimate of the fiscal implications that may result from the implementation of a bill or joint resolution.

It is a tool to help legislators better understand how a bill might impact the state budget as a whole, individual state agencies, and, in some instances, local governments.

Types of Fiscal Implications:

- Costs, savings, revenue gains, or revenue losses (can be a combination)

Types of Fiscal Notes:

- Fiscal Implication (Costs/Savings/Gains/Losses)
- No Significant Fiscal Implication (NSFI)
- No Fiscal Implication (NFI)
- Cannot be Determined (CBD)

A fiscal note estimate is generated for a five year period but may be extended depending on the terms of the legislation.

Types of Fiscal Notes

No Fiscal Implication (NFI)

Implementing the provisions of the bill would not require any additional resources from the state, nor would there be any state revenue impact.

No Significant Fiscal Implication (NSFI)

The change in resources necessary to implement a program is insignificant relative to the budget of an affected agency and could be reasonably absorbed within an agency's current appropriation level.

Fiscal Implication (Cost/Savings/Gains/Losses)

Implementing the provisions of the bill would save state resources, require additional resources (or a combination), and/or there would be state revenue impact.

Cannot be Determined (CBD)

The implication of the bill cannot be determined at the current time due either to lack of relevant data or due to the significantly speculative nature of the legislation. CBD fiscal notes may include a range of potential implication and always include the reason for the indeterminate nature of the estimate.

Fiscal Notes: Requirements

Government Code, Chapter 314: Fiscal Notes and Cost Projections

System of Fiscal Notes. The Legislative Budget Board shall establish a system of fiscal notes identifying the probable costs of each bill or resolution that authorizes or requires expenditures or diversion of state funds for a purpose other than one provided for in the general appropriations bill.

Rules

Under House rules, a fiscal note must be distributed before the bill or joint resolution can be laid out before a committee.

Under Senate rules, a fiscal note is required for all bills and joint resolutions, and must be distributed before a final vote on the measure can be taken.

Definition

A fiscal note is a written estimate of the costs, savings, revenue gain, or revenue loss that may result from implementation of a bill or joint resolution. It serves as a tool to help legislators better understand how a bill might impact the state budget as a whole, individual agencies, and in some instances, local governments. Under the rules, The Legislative Budget Board (LBB) does not prepare fiscal notes for simple or concurrent resolutions, only for bills, joint resolutions, and certain House resolutions.

Example: Fiscal Notes

Fiscal Implication

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 24, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB10** by Thompson, Senfronia (Relating to certain criminal and civil consequences of trafficking of persons, compelling prostitution, and certain other related criminal offenses; to the prevention, prosecution, and punishment of those offenses, and to compensation paid to victims of those offenses.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB10, As Passed 2nd House: a negative impact of (\$1,478,576) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive(Negative) Impact to General Revenue Related Funds
2016	(\$742,788)
2017	(\$735,788)
2018	(\$735,788)
2019	(\$735,788)
2020	(\$735,788)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund	Change in Number of State Employees from FY 2015
2016	(\$742,788)	11.0
2017	(\$735,788)	11.0
2018	(\$735,788)	11.0
2019	(\$735,788)	11.0
2020	(\$735,788)	11.0

Fiscal Analysis

The bill would revise multiple codes relating to certain criminal and civil consequences of

No Significant Fiscal Implication

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 24, 2015

TO: Honorable René Oliveira, Chair, House Committee on Business & Industry

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB859** by Eltife (Relating to partnerships and limited liability companies.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Business Organizations Code to require the Secretary of State to clarify certain provisions relating to company or partnership agreements. Additionally, the bill would change the domestic Limited Liability Partnership registration process.

The Secretary of State indicates the provisions of the bill could be implemented within existing resources.

The provision that would change the registration requirements for domestic limited liability partnerships would take effect January 1, 2016. Otherwise, the bill would take effect September 1, 2015

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 307 Secretary of State
LBB Staff: UP, CL, EP, CM

What is an Impact Statement?

An impact statement provides specific analysis relevant to a particular subject area; the statement's content addresses factors other than what would be contained in a fiscal note.

Types of Impact Statements:

- Actuarial
- Criminal Justice Policy
- Equalized Education Funding
- Higher Education
- Open Government
- Tax/Fee Equity Notes
- Water Development Policy

Rules: Under Senate rules, the director of the LBB determines whether an impact statement is required (fiscal note coordinators make the requests on behalf of the director); tax equity notes may be requested by a committee chair. Under House rules, the committee chair makes the determination.

Who is involved in the fiscal note process?

Individual	Responsibilities
Fiscal Note Coordinator	<ul style="list-style-type: none"> • Makes fiscal note assignments to LBB staff and to state agencies • Notifies analysts when bills are set for hearing • Serves as liaison to legislative committees • Reviews and edits fiscal notes • Obtains approvals as necessary • Submits completed fiscal notes to committees
Primary Analyst	<ul style="list-style-type: none"> • Generates the content of the fiscal note, responsible for the analysis and methodology • Initiates coordination with secondary analysts
Secondary Analyst(s)	<ul style="list-style-type: none"> • Follows-up with and provides input to the primary analyst
Manager	<ul style="list-style-type: none"> • Reviews and approves content
Director	<ul style="list-style-type: none"> • Approves final product

Who is involved in the fiscal note process?

continued

All LBB analysts across functions and regardless of other assignments are involved in the fiscal note process, along with a number of support function staff.

During session, LBB have ~10 fiscal note coordinators who work as the liaisons to and among legislative committees, agencies, and LBB staff on fiscal note production. Coordinators also draft certain fiscal notes, and have other responsibilities beyond coordination.

There are 38 House standing committees and 14 Senate standing committees; so each coordinator works with multiple committees.

Fiscal notes are drafted by LBB analysts (all analytical teams), and are assigned on the basis of subject-matter expertise.

Basic Fiscal Note Process Steps

1. Bill is filed
2. Fiscal note coordinator reviews and assigns the bill to appropriate analysts and agencies
3. Bill referred to committee by House Speaker or Lieutenant Governor
4. Committee clerk requests a fiscal note
5. Bill is set for hearing
6. Agencies respond to the bill
7. Worksheet is completed in the Fiscal Note System
8. Draft fiscal note reviewed by the primary analyst's manager for approval; manager may send the note back to analyst with edits
9. Coordinator makes a final check of the fiscal note
10. If necessary, the fiscal note is sent to the LBB director for approval; director may edit the note and/or send the note back to analyst with edits or questions

Once all necessary approvals are received the coordinator sends the fiscal note electronically to the committee, the author/sponsor of the bill, and source agencies.

FN Versions and Timeframes

Timely submissions of fiscal notes are the priority for LBB staff at each stage of the process.

New estimates based on amendments are solicited from affected agencies and in order to ensure timeliness of submission and consistent treatment, LBB staff generally complete FNs on committee substitutes, second house floor amendments, and conference committee reports within 24 hours.

Introduced/Filed: First version of the bill to receive a fiscal note. FN prepared before bill is heard.

As Amended/Committee Substitute: Amendments are attached on a separate sheet, and when incorporated into the bill text, bill is designated as a committee substitute. FN turnaround is 24 hours in order to ensure Senate rules for Committee Reports are met.

Engrossed: Bill as passed by originating chamber. FN prepared before the hearing in the 2nd house.

As Amended/Committee Substitute, 2nd House: Second house's amendments to engrossed version. Amendments are attached separately; when incorporated into the bill text, it is the committee substitute. FN turnaround is 24 hours in order to ensure Senate rules for Committee Reports are met.

As Passed 2nd House: bill as amended in the second chamber. FN turnaround is 24 hours or less.

Conference Committee Report: Resolved bill. FN turnaround is 24 hours or less.

Fiscal Notes, Impact Statements

General Steps for Generating Fiscal Notes and Impact Statements; some policy areas may require additional steps or analysis:

1. Read the bill.
2. Identify the provisions associated with fiscal issues.
3. Read the associated sections of statute the bill is proposing be modified.
4. Read all other sections of statute referenced.
5. Identify those individuals, communities, agencies, programs or other entities which may be affected by bill's provisions.
6. Review all state agency responses, as well as responses from other affected entities.
7. Examine similar or identical bills in order to ensure consistency
8. Establish methodology, and generate cost implication estimates.

These steps are repeated each time a request for a fiscal note is received.

Identifying Fiscal Issues

Examples of examined issues include:

- Fiscal Issues: Costs, Savings, Revenue Gains, Revenue Losses
- Full-time Equivalent (FTE) positions: Number and types
- Costs/revenue change over time: Factors in the legislation or assumptions about program growth
- One-time start-up costs
- People/entities subject to the program
- Time lag before full effects
- More/fewer agencies working on the program: Effects of consolidation

Key Features of Fiscal Note Analysis

- All analysis is relative to current law.
 - How would the bill change current law?
 - What is the agency being asked to do?
 - How would revenue change compared to current law?
- The fiscal note does not address year-to-year changes that would happen irrespective of the legislation.
- Analysis is generally limited to only those parts of the bill that would create a fiscal impact. For example, estimates do not include costs due to inflation.
- Estimates should only include direct impacts; secondary impacts are excluded from fiscal note estimates but in some cases may be referenced in the text.
- Legislation that is permissive is treated as directive; e.g., “may” is treated as “shall.” LBB staff consider “may” to be an authorization to expend funds, and our approach is reasonable to ensure the fiscal note provides a full examination of probable cost.

Key Features of Fiscal Note Analysis

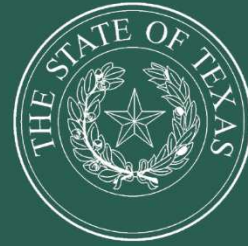
Senate and House rules provide that “...the director of the LBB may use information or data supplied by any person, agency, organization, or governmental unit that the director deems reliable.”

Fiscal notes are the product of the LBB. They may agree with or differ from information provided by state agencies

If an agency resubmits information that differs substantially from its original submission, the LBB will evaluate that information and use whichever submission is determined to be most accurate and reliable.

The LBB is not required to use agency estimates of costs, impacts, caseloads, etc. LBB staff are informed by the agency responses, but not obligated to them.

Assumptions, agency sources, and other sources are noted in the methodology section.



LEGISLATIVE BUDGET BOARD

Contact the LBB

Legislative Budget Board

www.lbb.state.tx.us

512.463.1200