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# **Fiscal Notes – Art, Science, and Politics**

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**Presentation to the  
2013 Fiscal Analysts Seminar Program  
National Conference of State Legislatures**

**Department of Legislative Services  
Office of Policy Analysis  
Annapolis, Maryland**

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# Completion of a Fiscal and Policy Note Is a Statutory Requirement in Maryland

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- The Department of Legislative Services is required to prepare a fiscal and policy note for each bill
  - The note must be provided to the committee of jurisdiction prior to **voting** on a bill (in practice, however, it is submitted to the committee before the bill hearing)
  - A copy must also be submitted to the primary sponsor of the bill

# What a Fiscal and Policy Note Does

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- Provides an unbiased analysis of legislation that is complete, accurate, and timely
- Coordinates information from multiple State agencies, local governments, and other sources
- Provides guidance for committee decisions

# Components of a Fiscal and Policy Note in Maryland

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- Policy Analysis
  - Bill summary
  - Current law
  - Background
  - Legislative history
- Fiscal Analysis – statutory requirement to include estimates of the bill's impact on the State, local governments, and small businesses
  - Provides an unbiased, specific analysis of the bill's fiscal impact (revenues and expenditures) on the State over a five-year period and the general fiscal impact on local governments
  - Identifies local government mandates and State mandated appropriations
  - Provides a qualitative rating (meaningful, minimal, or none) of the economic impact on small businesses (businesses with 50 or fewer full-time employees) and includes discussion of meaningful impacts

# The Process in Maryland

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- Assign bill to analyst based on subject area
- Examine bill drafting file and contact bill drafter, committee staff, and budget analyst (in-house staff) for relevant information
- Contact affected State agencies, local governments, and others that may have relevant information/data
- Conduct our own research (library, reports, Internet, etc.)
- Review information obtained – ask questions
- Develop our own revenue and expenditure projections based on various sources or models
- Review completed by review analyst and/or coordinator
- Print and distribute note to committees, sponsor, and website
- Revise note when bill “crosses over” to opposite chamber with amendments

# Staffing Challenges

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- Managing the intense volume of work while maintaining productivity:
  - On average, the unit writes about 2,250 fiscal and policy notes on bills as introduced (first-reader version)
    - Each analyst generally handles at least 80 bills and as many as 175 bills during the 13-week session (varies by key issues during session, complexity of assignment, and the analyst's other duties)
    - Most of the fiscal and policy notes for these bills are written in the 8-week period preceding crossover
    - Analysts, reviewers, and support staff work very long hours throughout session, but especially during this period
  - Analysts are also responsible for assessing amended bills and updating fiscal and policy notes to reflect the amendments
    - Another 500 to 600 revised notes (third-reader version) – typically in the last 2 to 3 weeks of session
    - Another 150 or so revised notes (enrolled version) to reflect final action after session

# Staffing Challenges (Cont'd)

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- Completing the work within the timeframe allotted:
  - Some work can be done in anticipation of legislation being introduced
    - Advance drafts are available for some bills, but the version introduced may be different from the draft version and drafts are confidential
    - Some legislative proposals are identical to/developed from prior bill introductions
  - Because due dates coincide with the hearing schedule, which can be unpredictable, analysts often have limited notice of which bills they should focus on first
  - Analysts must work ahead whenever possible (but especially early in session) to be able to accommodate last-minute additions to the hearing schedule and deal with late or incomplete information from agencies
  - Time for review is extremely limited
    - Notes are due to review two days before the hearing (which is the same day we attempt to finalize and deliver them)
    - Committee scheduling practices and agency constraints in responding to requests for information make lengthening the review period infeasible

# Staffing Challenges (Cont'd)

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- Working with limited information:
  - Agencies sometimes do not provide timely, accurate, or complete information even though they are required by law to provide information upon request; in practice, they also work to the published hearing schedule
  - Analysts must seek additional sources of information and use their best judgment in developing assumptions
- Acknowledging unintended consequences or problems with the bill:
  - Analysts typically alert the bill drafter and committee staff so that the sponsor can be made aware of the possible need for amendments
  - The fiscal and policy note must address the bill in its current posture, regardless of the sponsor's intent or planned amendments

# Political Considerations

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- Lobbyists, agencies, sponsors, etc. want the fiscal and policy note to help them with their agendas
  - The process must maintain its integrity, avoid politics, and withstand pressure to make changes to please a stakeholder
  - Legislators who do not agree with a note may disparage it publicly during deliberations and/or take out frustrations directly on staff
  - Some legislators want secondary impacts to be shown; our process only allows for primary impacts
  - Legislators often want the fiscal and policy note to reflect amendments that have not been adopted
  - Analysts do assist legislators in other ways, as requested
    - Provide preliminary estimates to sponsors prior to bill introduction
    - Estimate the impact of amendments and/or work with committee staff to amend a bill to achieve the sponsor's (or committee's) objective, given cost constraints
    - Review additional information or research provided (often at the bill hearing after the note has been completed) to determine whether revision is warranted

# Skill Sets, Attributes, and Best Practices of Successful Analysts

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- Organized – must have a process for staying on top of workload
- Creative and resourceful – must be able to find proxy measures
- Analytical and curious – must ask questions and be able to identify inconsistencies and problems
- Collaborative and good communicator – with reviewers, agencies, and other staff
- Multitasker – must be able to manage numerous products in various stages at the same time
- Strong writer – must be able to clearly and quickly convey information
- Stamina – must be able to maintain hectic schedule throughout most of session
- Calm demeanor – particularly in dealing with nonresponsive agencies, legislators (who are our clients), and committee staff

# Successes

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- Fiscal and policy notes are comprehensive
  - Legislators and the public rely heavily on them to understand what the bill does
  - They serve as the basis for other documents the department produces
    - Committee chairs' floor reports when bills are debated on the chamber floor
    - *90 Day Report*, a summary of bills passed (and key legislation that failed) during the legislative session
    - *Fiscal Effects Report*, a statutorily mandated summary of the effect of the “legislative program on the financial condition of the State”
- Fiscal and policy notes are timely – more than 70% are now delivered two days prior to the bill hearing (the same day they are due to review)
- Fiscal and policy notes are accurate and of high quality – when corrections are warranted, they are made

# Areas for Further Improvement

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- Reduce staff hours during session without sacrificing too much on the quality and the timeliness of notes
  - Develop additional shortcuts for analysts, reviewers, and support staff in writing and editing notes (such as using even more links to other documents and preapproved background information)
  - Conduct more research and analysis during the interim that can be used during session
- Shorten the length of fiscal and policy notes
- Continue to work with agencies to improve their responsiveness to our requests for information

# What Lies Ahead?

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- Continue to produce comprehensive, high-quality fiscal and policy notes focused on direct impacts
- Dynamic analysis/analysis of secondary impacts not feasible in Maryland given resource and time constraints