FISCAL IMPACT STATEMENTS FOR LEGISLATION

OFFICE OF LEGISLATIVE OVERSIGHT
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Fiscal Impact Statements For Legislation

Office of Legislative Oversight Report 2010-10
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Fiscal impact statements refer to the Executive Branch's estimates of the fiscal consequences to County Government of implementing pending legislation and Executive Regulations. This Office of Legislative Oversight report responds to the County Council's request to examine the information presented in fiscal impact statements and offer recommendations on how to make future statements more relevant for Council decision-making.

Origin/Requirements

The current requirement to prepare fiscal impact statements for legislation resides in a little-known document called the "Montgomery County Plain Language Drafting Manual," adopted by the Council in 1985 "to help employees and officials draft bills, ordinances, regulations, resolutions, and forms that laypersons can understand." The Council's Rules of Procedure require that legislation comply with the drafting guidelines and formatting requirements of the Drafting Manual.

The Drafting Manual requires that a sponsor requesting introduction of a bill must submit a "legislative request report" that includes a fiscal impact statement. The Drafting Manual defines fiscal impact as "a detailed estimate of fiscal impact on capital the [sic] program and operating budget in the first and succeeding years." The Drafting Manual contains no additional guidance on the purpose, scope, or content of fiscal impact statements.

The current requirement to prepare fiscal impact statements for Executive Regulations is contained in Administrative Procedure (AP) 1-12. AP 1-12 defines the fiscal summary as the "presentation of the incremental increase or decrease in expenditures and revenues for the current and next fiscal years."

The Preparation Process

When the Council introduces a bill, the Office of the Chief Administrative Officer requests that the Office of Management and Budget (OMB) prepare a fiscal impact statement. OMB then asks staff in the department(s) that would be responsible for implementing the legislation (if it is enacted) to estimate its fiscal impact. OMB reviews the assumptions and calculations used to determine the fiscal impact and, in some cases, revises the fiscal impact estimates prepared by a department. The Executive Branch has no formal standards governing the format or content of fiscal impact statements prepared for legislation.

According to OMB staff, the Executive Branch aims to send the fiscal impact statement to the Council before the public hearing on the legislation, although this is more challenging for expedited bills. Of the 78 fiscal impact statements written by the Executive Branch in 2008 and 2009, 71% were transmitted to the Council by the time of the public hearing for the legislation.

Once the fiscal impact statement is transmitted to the Council, the Legislative Attorneys attach it to all subsequent packets (for a public hearing, worksession, or action) for the bill. OLO found that 78% of packet memos for legislation included (at minimum) a brief discussion of the fiscal impact of the legislation.

Executive Branch departments also prepare fiscal impact statements for Executive Regulations. These fiscal impact statements are reviewed by OMB and transmitted to the Council as a memo from an OMB staff member to the OMB Director.

STATEMENT CONTENT

OLO reviewed more than 200 fiscal impact statements prepared for bills considered by the Council between January 2005 and May 2010. A great degree of variability existed in the amount, type, and presentation of information included in the fiscal impact statements reviewed. Some contained only a single sentence estimating revenues or costs, while others were lengthy and included extensive explanations and supporting tables. The variability in content is likely a product of two factors:

1. Complexity of Bill: The level of complexity and the fiscal consequences differ significantly from bill to bill. Some legislation clearly does not impact County revenues or costs, and so requires only a simple statement to present this conclusion. Other bills change tax structures, implement new programs, modify employee benefits, or produce other outcomes with significant fiscal consequences.
2. Lack of Standard: No document exists that defines the required content, format, or presentation of fiscal impact statements. Without this standard, it is difficult for decision-makers to measure the adequacy or thoroughness of the information included in a fiscal impact statement.

OLO observed the following variations in fiscal impact statements that result from the lack of standard for the content of these documents.

- Presentation of Methodology and Assumptions: Some fiscal impact statements include detailed explanations of data sources, formulas, and calculations. Others include little or no explanation of the methodology or formulas used.

- Time Period: Fiscal impact statements address a wide range of time periods for revenue and cost estimates. In some instances, the Executive Branch estimates the effect of the proposed legislation for several years into the future; in many other cases, fiscal impact statements estimate costs and/or revenues for only a single year.

- Staff Cost and Increased Workload: Fiscal impact statements do not consistently provide a measure of the staff effort that will be required for implementation. Often fiscal impact statements do not quantify the amount of additional staff time needed to implement new programs nor do they describe how added workload would affect the performance of other staff responsibilities.

- Fiscal Impact and Budget Assumptions: Some fiscal impact statements measure the fiscal impact of a bill against revenue and costs projections assumed in the operating budget. If the fiscal consequences of a bill had been assumed in an approved or recommended budget, then the Executive Branch asserts that the bill would have no fiscal impact. Embedding Executive budget assumptions into fiscal impact statements distorts the full anticipated cost of pending bills and regulations.

- Authorization to Expend: Some legislation does not directly result in the expenditure of public funds but rather authorizes a County agency to spend money through subsequent action. For authorization bills of this sort, some fiscal impact statements have acknowledged that the fiscal impact would be determined later. In other cases, however, the statement asserted that the bill had no fiscal impact.

- Accounting for Uncertainties and Unknowns: In estimating the fiscal impact of legislation or regulation, uncertainty may exist about contributing factors such as the level of program participation or future economic conditions. In some instances, the fiscal impact statement did not attempt to quantify future revenues or costs because of uncertainty in program implementation. In other fiscal impact statements, the Executive Branch cites the unavailability of data as the reason for not quantifying the cost of legislation. In a few cases, fiscal impact statements have presented estimated costs within a range.

OFFICE OF LEGISLATIVE OVERSIGHT'S RECOMMENDATIONS

Fiscal impact statements that include a thorough assessment of future revenues and costs provide the Council with the information necessary to weigh the policy goals against the budgetary effects of proposed legislative and regulatory action. OLO presents the following recommendations to make fiscal impact statements more informative and relevant for Council decision-making.

1. **Amend the County Code to require that the Executive Branch prepare a fiscal impact statement for all legislation and Executive Regulations.** To increase attention given to the fiscal consequences of Council decision-making, OLO recommends that the Council amend local law to require that the Executive Branch prepare a fiscal impact statement for all pending legislation and Executive Regulations.

2. **Specify the required content of fiscal impact statements.** OLO recommends that the Council specify the types of information that must be included in a fiscal impact statement. The reason for this is to ensure that these documents provide sufficient information to weigh revenue and cost considerations during legislative and regulatory decision-making. At a minimum, fiscal impact statement should:

   - Specify the sources of information, assumptions, and methodologies used;
   - Estimate revenues and costs for the next six fiscal years;
   - Include an actuarial analysis for legislation that affects retiree benefits;
   - Present fiscal estimates for a single bill or regulation;
   - Identify subsequent actions that will determine future revenues and costs;
   - Estimate the staff time needed to implement the legislation or regulation;
   - Indicate how the addition of new staff responsibilities will affect other duties;
   - Estimate costs regardless of whether an additional appropriation is needed;
   - Describe variables that could affect revenue and cost estimates;
   - Use ranges to estimate revenues or costs that are uncertain or difficult to project; and
   - Explain why a bill or regulation has no or indeterminate fiscal impact.

3. **Establish target dates for receipt of fiscal impact statement.** To allow timely review by Councilmembers, Council staff, and the public, the Council should set target dates for receipt of fiscal impact statements. OLO's recommended time frames are summarized in the table below.

For this Type of Action:	***The Executive Branch Should Transmit the Fiscal Impact Statement:***
Legislation introduced at the request of the Executive	No later than one week before the date of the public hearing.
Legislation sponsored by Councilmember(s)	Within three weeks of introduction or one week before the date of the public hearing, whichever is later.
Executive Regulations	Attached to the proposed regulation.

4. **Direct Council staff to identify the fiscal impact as a discussion item in packets for pending bills and regulations.** Council Staff routinely append the Executive Branch's fiscal impact statements to their Committee and Council packets for pending bills and regulations. As an attachment, fiscal impact information can be lost among the collection of other documents relevant to the legislation or regulation. To increase the prominence of fiscal information, the Council should direct staff to include a summary (and when warranted, an analysis) of the Executive Branch's fiscal impact statement as a worksession discussion item.

FISCAL IMPACT STATEMENTS FOR LEGISLATION

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CHAPTER I: AUTHORITY, SCOPE, AND ORGANIZATION OF REPORT

A. Authority

Council Resolution 16-1047, *Fiscal Year 2010 Work Program of the Office of Legislative Oversight*, adopted July 21, 2009.

B. Purpose and Scope of Report

When the Council introduces a bill, the Executive Branch prepares a "fiscal impact statement" on the subject legislation. Fiscal impact statements estimate the changes in revenues and/or costs of proposed legislation. The information provided in these statements helps Councilmembers understand the fiscal consequences of their legislative decision-making.

The Council requested that OLO review past fiscal impact statements to summarize the characteristics of fiscal impact statements. OLO examined fiscal impact statements prepared by the Executive Branch during the past five years. In this report, OLO describes the content and presentation of information included in these fiscal impact statements. This report also summarizes the origins of fiscal impact statements for legislation, outlines the process for developing the statements, and summarizes the requirements for similar documents in other jurisdictions. As directed by the Council, OLO offers recommendations on how to make fiscal impact statements more informative and relevant to Council decision-making.

C. Organization of Report

Chapter II, Origin of Fiscal Impact Statements, describes the origin of the current fiscal impact statement practice used in Montgomery County.

Chapter III, Fiscal Impact Statement Process, describes how the Executive Branch prepares fiscal impact statements and how the Legislative Branch uses them when analyzing and making decisions about legislation and regulations.

Chapter IV, Content of Fiscal Impact Statements – OLO Observations, summarizes OLO's observations from review of all legislative fiscal impact statements transmitted to the Council from January 2005 through May 2010.

Chapter V, Fiscal Impact Statements in Other Jurisdictions, describes the use and requirements of fiscal impact statements prepared for legislatures in other jurisdictions.

Chapter VI presents the Office of Legislative Oversight's **Recommendations** on how to make fiscal impact statements more informative and relevant for Council decision-making.

Chapter VII, Agency Comments, contains the Chief Administrative Officer's comments on the final draft of this report.

D. Methodology

Office of Legislative Oversight (OLO) staff members Aron Trombka and Sarah Downie conducted this study. OLO gathered information through document reviews, Internet research of practices in other jurisdictions, and interviews with Council Legislative Attorneys, and managers and staff in the Montgomery County Office of Management and Budget and other County Government departments.

E. Acknowledgements

OLO appreciates the significant contributions of time, information, and insights from all who participated in this project. In particular, OLO thanks the following individuals who provided invaluable input and information:

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CHAPTER II: ORIGIN OF FISCAL IMPACT STATEMENTS

This chapter describes the origin of the current fiscal impact statement practice used in Montgomery County. It explains that the current requirement to prepare a fiscal impact statement for pending legislation is contained in a document called the "Montgomery County Plain Language Drafting Manual."

A. County Charter

The County Charter does not mention fiscal impact statements. However, the Charter requires that the Executive provide information requested by the Council. Section 209 of the Charter reads:

> *The County Executive shall provide the Council with any information concerning the Executive Branch that the Council may require for the exercise of its powers.*

This section of the Charter authorizes the Council to request, among other things, a description of the fiscal impact of pending legislation. In addition, Section 116 of the Charter requires that the Council establish rules of procedure to govern the work and decision-making of the legislative body.

B. Council Rules of Procedure

In 1979, the Council adopted Rules of Procedure that required that pending legislation include a statement of fiscal impact. In 1985, the Council approved amendments to the Rules of Procedure that removed direct reference to fiscal impact statements. That same year, the Council approved the Montgomery County Plain Language Drafting Manual which required fiscal impact statements for pending legislation (see the next page).

As just explained, the County Council's current adopted Rules of Procedure do not mention fiscal impact statements.[1] Rule 6 of the Rules of Procedure establishes the procedures for the Council to consider and to act on legislation. Section (a) of that rule addresses the introduction of legislation and includes the following:

> *…All legislation must be in writing and must substantially comply with the drafting guidelines and format requirements of the Montgomery County Plain Language Drafting Manual.*

As detailed in the next section, the Drafting Manual requires fiscal impact statements for pending legislation.

[1] The Council's Rules of Procedure were most recently amended in February 2007 (Council Resolution 16-59).

C. Plain Language Drafting Manual

In 1985, the Council adopted the Montgomery County Plain Language Drafting Manual (hereafter, the "Drafting Manual"). The Council resolution adopting the Drafting Manual indicated that the purpose of the document is (in part):

- *… to help employees and officials draft bills, ordinances, regulations, resolutions, and forms that laypersons can understand; and*
- *… [to] assure consistent drafting style during the Council's code revision process.*[2]

Section 212 of the Drafting Manual requires that a sponsor requesting introduction of a bill or ordinance must submit a "legislative request report" to accompany the draft bill or ordinance. The Drafting Manual lists the requisite elements of the legislative request report, including:

> *<u>Fiscal Impact</u>. A detailed estimate of fiscal impact on capital the* [sic] *program and operating budget in the first and succeeding years.*

The Drafting Manual contains no additional guidance on the purpose, scope, or content of fiscal impact statements. However, the resolution approving the Drafting Manual describes the legal effect of the document:

> *Failure to follow manual guidelines does not legally invalidate a document, but it is grounds for the Council not to consider a document.*[3]

Today, 25 years after adoption of the Drafting Manual, the legislative request report remains a part of the Council's legislative process. Legislative Attorneys prepare a legislative request report for every bill considered by the Council containing all elements listed in the Drafting Manual, including "fiscal impact."

An example of a legislative request report appears on the following page.

[2] Council Resolution 10-1182 (February 26, 1985).
[3] Ibid.

Exhibit 1
Sample Legislative Request Report: Bill 20-09

LEGISLATIVE REQUEST REPORT

Bill 20-09, Boards, Committees, and Commissions –
Committee Evaluation Review Board (CERB) Recommendations

DESCRIPTION:	Bill 20-09 would codify the Agricultural Advisory Committee; establish the Agricultural Preservation Advisory Board and the Rustic Roads Advisory Committee as subcommittees of the Agricultural Advisory Committee; terminate the recreation advisory boards and the Committee on Hate/Violence; rename and amend the duties of the Committee on Ethnic Affairs; and generally amend the County law regarding the membership, structure, and functions of boards, committees, and commissions.
PROBLEM:	The Committee Evaluation and Review Board (CERB), in their report on the County's system of boards, committees and commissions, recommended many changes to specific boards, committees and commissions.
GOALS AND OBJECTIVES:	To help the County's boards, committees and commissions run more efficiently and productively. To make it easier for boards, committees and commission to find applicants willing to serve.
COORDINATION:	Council and Executive staff; Chief Administrative Officer.
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Amanda Mihill, Legislative Analyst (240) 777-7815
APPLICATION WITHIN MUNICIPALITIES:	Applies only to County boards, committees, and commissions.
PENALTIES:	N/A

CHAPTER III: FISCAL IMPACT STATEMENT PROCESS

This chapter describes how the Executive Branch prepares fiscal impact statements and how the Legislative Branch uses them when analyzing and making decisions about legislation and regulations. The information in this chapter is based on interviews with Executive and Legislative Branch staff and a review of recent fiscal impact statements.

A. Executive Branch Process for Preparing Fiscal Impact Statements

When the County Council introduces a piece of legislation, the Office of the Chief Administrative Officer (CAO) requests that the Office of Management and Budget (OMB) prepare a fiscal impact statement. OMB then contacts the department(s) that would be responsible for implementing the legislation (if it is enacted) and asks them to calculate its fiscal impact. For example, the Department of Finance writes the fiscal impact statements for legislation that impacts revenue collection, such as tax credits.

After a department completes its estimate, OMB checks the calculations and reviews the assumptions used to determine the fiscal impact. When deemed necessary, OMB will revise the fiscal impact estimates prepared by a department. The Executive Branch has not developed any formal standards or guidelines governing the format or content of fiscal impact statements prepared for legislation.

In May 2009, the Executive began including an "economic impact" analysis as part of most fiscal impact statements. The economic impact statement describes the expected effect of legislation on the private sector. In most cases, the Department of Finance and/or the Department of Economic Development prepare the economic impact analysis.

Since the beginning of the Leggett Administration, the Council has received fiscal impact statements as a memo from the OMB Director. In some cases, the Executive included a brief fiscal impact statement in the Legislative Request Report[4] attached to the bill rather than as a separate document. Also, in a few cases, OMB transmitted a combined fiscal impact statement for multiple pieces of legislation.[5]

According to OMB staff, the Executive Branch's goal is to send the fiscal impact statement to the Council before the public hearing on the legislation, although this is more challenging for expedited bills. OLO reviewed 78 fiscal impact statements written by the Executive Branch in 2008 and 2009. Of these fiscal impact statements, 71% were transmitted to the Council by the time of the public hearing for the legislation. In rare instances, the Council did not receive a fiscal impact statement before voting on a piece of legislation.

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[4] See Chapter II for a description of the Legislative Request Report.

[5] One example was a combined fiscal impact statement for Bills 6-08, 7-08, 8-08, 9-08, 10-08, 11-08 and 12-08, dated April 17, 2010.

No formal process exists to update a fiscal impact statement when the Council considers an amendment to a bill. The Executive Branch does not provide updated fiscal impact statements for proposed amendments to legislation unless requested by Council staff. On the few occasions when Council staff requested an update, OMB prepared a revised statement.

Executive Branch departments also prepare fiscal impact statements for Executive Regulations. These fiscal impact statements are reviewed by OMB and presented in the form of a memo from an OMB staff member to the OMB Director. The requirement for fiscal impact statements for Executive Regulations is contained in Administrative Procedure (AP) 1-12. AP 1-12 includes a template for fiscal impact statements that defines the fiscal summary as the "presentation of the incremental increase or decrease in expenditures and revenues for the current and next fiscal years." As indicated in AP 1-12, a fiscal impact statement for a regulation should include information on revenues, personnel costs, operating expenses, the number of positions affected, assumptions, and the economic effect on the private sector.

Fiscal impact statements are nearly always attached to regulations when the Executive transmits them to the Council. Council staff routinely includes the fiscal impact statement in the packet for the regulation.

B. Legislative Branch Review of Fiscal Impact Statements

When legislation is introduced by the Council, one of the Council's Legislative Attorneys (sometimes in conjunction with a Legislative Analyst) provides the staff analysis of the legislation. The Council's Legislative Attorneys report that when they receive a fiscal impact statement, they attach it to all subsequent packets (for a public hearing, worksession, or action) for the bill. When Legislative Attorneys have questions about a fiscal impact statement, they contact OMB or raise their questions in the packet or during the worksession.

OLO's review confirms that in 91% of the cases, legislative attorneys attached the fiscal impact statement to all packets following its receipt. Further, OLO's review of Council action packets for legislation proposed in 2009 and 2010 found that memos written by Council staff mentioned the fiscal impact of the legislation beyond simply stating that the fiscal impact statement was attached. In particular, OLO found that 78% of memos for legislation with a fiscal impact identified by the Executive included at minimum a brief discussion of the fiscal impact of the legislation.

CHAPTER IV: CONTENT OF FISCAL IMPACT STATEMENTS – OLO OBSERVATIONS

OLO reviewed more than 200 fiscal impact statements prepared by the Executive for bills considered by the Council between January 2005 and May 2010. This chapter summarizes OLO's observations regarding the content of these documents.

In general, OLO noted a great degree of variability in the amount, type, and presentation of information included in the fiscal impact statements reviewed. Some contained only a single sentence addressing estimated revenues or costs, while others were several pages with extensive explanations and supporting tables. The variability in content is likely a product of two factors:

1. Complexity of Bill: The level of complexity and the fiscal consequences differ significantly from bill to bill. Some legislation clearly does not impact County revenues or costs, and so requires only a simple statement to present this conclusion. Other bills change tax structures, implement new programs, alter contracting rules, modify employee benefits or produce other outcomes that will result in significant fiscal consequences.

2. Lack of Standard: No document exists that defines the required content, format, or presentation of fiscal impact statements. Without this standard, it is difficult for decision-makers to measure the adequacy or thoroughness of the information included in a fiscal impact statement.

The remainder of this chapter identifies six characteristics of fiscal impact statements that demonstrate the variability in the amount and type of information presented.

A. Presentation of Methodology and Assumptions

B. Time Period

C. Staff Cost and Increased Workload

D. Fiscal Impact and Budget Assumptions

E. Authorization to Expend

F. Accounting for Uncertainties and Unknowns

A. Presentation of Methodology and Assumptions

As noted above, no document specifies what information the Executive Branch must provide to support the estimates included in a fiscal impact statement. There is no standard establishing whether a fiscal impact statement must present the methodology and assumptions used to project the revenues and expenditures that would result from enactment of legislation.

In reviewing fiscal impact statements prepared by the Executive Branch over the past five years, OLO found a wide range of methodology and assumption presentations. Some fiscal impact statements included detailed explanations of data sources, formulas, and calculations. When a fiscal impact statement includes these details, then Councilmembers, Council staff, and the public can evaluate the thoroughness and reasonability of the estimates and can calculate alternative cost or revenue scenarios.

Expedited Bill 30-08 provides a good example of a fiscal impact statement that includes detailed information explaining the basis for cost and revenue estimates. This bill granted authority to the Director of Transportation to waive taxicab license transfer restrictions under certain circumstances.

Exhibit 1: Presentation of Supporting Information

Excerpts from Fiscal Impact Statement for Expedited Bill 30-08: Taxicabs – Licenses [6]
Grade 21 Program Specialist II (Licensing Specialist): $59,740 + $19,700 fringe = $79,400. Lifting the limitation of the 20% restriction on individuals holding Passenger Vehicle Licenses could result in individual holders increasing to 35% of the licenses in the County. This will significantly increase the regulatory burden and the tasks for this position, so that one more staff person is essential to meet the demand. … *Revenue: $105,000 a year for three years [total $315,000]* *Revenue will be generated by a $2,500 transfer fee per taxicab. The number of transfers depends on the waiver granted by the Director and the number of licenses the fleet actually transfers. The annual revenue depends on the number of licenses transferred in each year. If Barwood, for example, transfers 126 licenses over a three year period, a one time transfer fee of $2,500 each would be paid for each of the 126 licenses (126 x $2,500 = $315,000).*

The above fiscal impact statement: showed both salary and benefit estimates for a proposed new position; provided a workload justification for the new position; offered an example of projected future year revenues; and explained possible variability in future year revenue generation. These details offered the reader an understanding of how the Executive Branch developed the fiscal estimates and what variables could affect future revenues and costs.

In other cases, fiscal impact statements transmitted to the Council included little or no explanation of the methodology or formulas used to estimate future costs and revenues. The fiscal impact statement for Bill 25-09 is an example of a statement that provides no supporting information about a cost estimate.

[6] A copy of the complete fiscal impact statement for Expedited Bill 30-08 appears in the Appendix on © 1.

Exhibit 2: No Presentation of Supporting Information

Excerpt from Fiscal Impact Statement for Bill 25-09: Minority-Owned Business Purchasing Program [7]
The proposed legislation continues the current level of administrative effort that the Department of General Services provides within existing resources to administer this program. The proposed legislation also extends the date for the completion of the Disparity Study from FY10 to FY12. The Disparity Study could cost in excess of $500,000 to prepare.

The above fiscal impact statement included a qualified cost estimate ("could cost in excess of…") and provided no additional information about the assumptions (for example, the cost of a past study) used to determine the cost of the study.

B. Time Period

No standard exists specifying the number of fiscal years over which revenue and cost estimates should be projected in a fiscal impact statement. OLO's review of past fiscal impact statements found no consistency regarding the time period for revenue and cost estimates. In some instances, the Executive estimated the effect of the proposed legislation for several years into the future. On the next page is an excerpt from a fiscal impact statement for Expedited Bill 17-09, legislation that expanded the use of Parking Lot District (PLD) revenues for transit service.

[7] A copy of the complete fiscal impact statement for Bill 25-09 appears in the Appendix on © 3.

Exhibit 3: Multi-Year Fiscal Estimates

Excerpt from Fiscal Impact Statement for Expedited Bill 17-09: Parking Lot Districts – Use of Revenues [8]

The table below lists the projected ending unrestricted fund balance for each PLD and the coverage percentage for the next year's operating expenses, assuming existing transfers.

End of Year Unrestricted Fund Balance and Coverage of Operating Expenses for Following Fiscal Year

	FY10	FY11	FY12	FY13	FY14	FY15
Bethesda	$12,720,760	$18,009,180	$10,053,500	$7,430,680	$4,973,560	$3,108,480
	153%	211%	105%	75%	49%	31%
Silver Spring	$4,541,580	$3,067,370	$1,809,320	$2,155,340	$2,830,460	$6,531,850
	41%	27%	16%	18%	23%	54%
Wheaton	$57,950	$83,160	$83,300	$82,500	$85,650	$81,750
	4%	6%	6%	6%	6%	5%
Montgomery Hills	$261,180	$303,910	$350,910	$401,200	$452,880	$506,910
	217%	244%	274%	303%	332%	371%

For FY10, Bethesda and Montgomery Hills achieve the 50 percent target. However, Bethesda's balance is projected to decline starting in FY12 due to the major obligations from the Garage 31 project….

The above fiscal impact statement showed PLD fund balances over a six-year period. In addition, the statement explained the reason for out-year reductions in the Bethesda PLD fund balance. This multi-year analysis presented information necessary for the Council to understand the fiscal implications of Expedited Bill 17-09 beyond the first year after enactment.

In many cases, fiscal impact statements estimated costs and/or revenues for only a single year. However, the costs or revenues associated with new legislation often do not take full effect immediately after approval of a bill. Frequently, the fiscal consequences of legislation are first realized many months or years after Council action. As an example, for a bill that extended eligibility to the Guaranteed Retirement Income Plan (GRIP) to unrepresented public safety employees, the fiscal impact statement submitted by the Executive Branch indicated that the legislation would have no fiscal impact for the remainder of the fiscal year.

Exhibit 4: One Year Cost Estimate

Excerpt from Fiscal Impact Statement for Expedited Bill 30-09: Personnel – Guaranteed Retirement Income Plan Amendments [9]

This legislation is not expected to have a fiscal or economic impact on the approved FY10 budget.

[8] A copy of the complete fiscal impact statement for Expedited Bill 17-09 appears in the Appendix on © 4.
[9] A copy of the complete fiscal impact statement for Expedited Bill 30-09 appears in the Appendix on © 6.

The cost of the GRIP is realized in the County's annual contribution to the defined benefit pension plan. The County annually recalculates its required pension fund contribution early in each fiscal year. Therefore, the effect of a change in GRIP participation approved in mid-FY10 would first affect the County's contribution to the pension fund in FY11. The fiscal impact statement for Expedited Bill 30-09 which focused solely on FY10 costs ignored the potential cost that would result in subsequent years.

C. Staff Cost and Increased Workload

The cost of a program is not measured in dollars expended alone. Sometimes, implementation of a new program requires existing staff to perform additional work. If the newly imposed work effort is significant, then implementation of the new program could divert staff from their previously assigned duties.

Several fiscal impact statements indicated that existing staff would implement the new legislation. As an example, Bill 7-07 amended the County Code regarding the County's first right of refusal to purchase rental housing. The fiscal impact statement for this bill made a general statement that implementation of the legislation would consume some staff time.

Exhibit 5: Non-Quantified Statement of Workload Impact

Excerpt from Fiscal Impact Statement for Bill 7-07: Sale of Rental Housing – Right of First Refusal [10]
By subjecting certain rental housing to the first right of refusal, more properties will be offered, resulting in additional staff time to review offers.

However, the fiscal impact statement for Bill 7-07 did not attempt to quantify the amount of additional staff time needed to review new offers nor did it include any mention of how this added workload would affect the performance of other staff responsibilities.

A few fiscal impact statements have estimated the amount of staff time needed to implement new legislation. In the case of Bill 28-10, the Executive Branch's fiscal impact statement assumed that existing staff in the Department of Economic Development would absorb the 0.5 workyear of effort needed to support the Business Development Corporation.

Exhibit 6: Quantified Statement of Workload Impact

Excerpt from Fiscal Impact Statement for Bill 28-10: Economic Development – Business Development Corporation – Establishment [11]
DED anticipates that at least .5 work year will be needed. … DED assumes they are to absorb these costs.

[10] A copy of the complete fiscal impact statement for Bill 7-07 appears in the Appendix on © 7.
[11] A copy of the complete fiscal impact statement for Bill 28-10 appears in the Appendix on © 8.

The above fiscal impact statement did not indicate what effect the staffing requirement would have on DED staff that will absorb the new responsibilities. Adding new responsibilities to existing staff may have an opportunity cost. In other words, staff time spent on a new initiative may come at the cost of another staff responsibility. The following excerpt from a fiscal impact statement highlights how implementation of new legislation may impinge on an agency's (or department's) ability to perform other duties.

Exhibit 7: Impact on Other Staff Responsibilities

Excerpt from Fiscal Impact Statement for Bill 36-07: Development Districts – Amendments [12]
The Office of Consumer Protection reported that the proposed law will not have a fiscal impact on the office; except to the extent that section 14-7(i) provides that the office must enforce this Section as if it were part of County Code Chapter 11. While this bill does not have a fiscal impact, Council recently drafted two other pieces of legislation … that require oversight by the Office of Consumer Protection and may in total have a cumulative fiscal impact on the office.

This fiscal impact statement warns of the cumulative effect of multiple legislative mandates and hints that these new responsibilities might impact the fulfillment of other duties of the Office of Consumer Protection.

D. Fiscal Impact and Budget Assumptions

Some fiscal impact statements produced by the Executive Branch measure the fiscal impact of a bill against revenue and costs projections assumed in the operating budget. In other words, if the fiscal consequences of a bill had been assumed in an approved or recommended budget, then the Executive Branch asserted that the bill would have no fiscal impact. By this definition, no fiscal effect exists when enactment of a bill would not necessitate a change in assumed revenue levels or recommeded appropriation amounts.

This definition of fiscal impact blurs the consequence of the individual Council decisions involved in the budget process. For example, the purpose of Expedited Bill 18-10 was to amend the formula for calculating employee retirement benefits in the event of a County Government furlough. As the Executive's recommended budget had assumed approval of the bill, the fiscal impact statement concluded that enactment of the law would have no fiscal impact.

Exhibit 8: Fiscal Impact Assumed in the Budget

Excerpt from Fiscal Impact Statement for Expedited Bill 18-10: Personnel – Retirement – Furlough – Imputed Compensation [13]
This Bill does not have a fiscal impact on the County because the County Executive assumed its effect in his March 15 recommended budget.

[12] A copy of the complete fiscal impact statement for Bill 36-07 appears in the Appendix on © 10.
[13] A copy of the complete fiscal impact statement for Expedited Bill 18-10 appears in the Appendix on © 11.

Indeed, approval of Expedited Bill 18-10 would not have resulted in a change to the Executive's recommended budget. Nonetheless, at a worksession on the bill, OMB informed the Council that disapproval of the bill would increase the savings produced by the Executive's proposed furlough plan by approximately $2.2 million.

E. Authorization to Expend

Some legislation does not directly result in the expenditure of public funds but rather authorizes a County agency to spend money through subsequent action. For authorization bills of this sort, past fiscal impact statements have either: (a) acknowledged the fiscal impact would be determined later; or (b) asserted that the bill had no fiscal impact.

Every year, the Executive sends the Council a bill that sets the maximum amount for general obligation bond issuances needed to implement the capital improvement programs. While these bills include specific maximum dollar amounts, the Executive determines the actual size of the bond issuance through separate action. The fiscal impact statements for bond authorization legislation have acknowledged that the cost of debt service resulting from the bond issuance will be known at a later date.

Exhibit 9: Fiscal Impact Determined Through Subsequent Action

Excerpt from Fiscal Impact Statement for Bills 20-07, 32-08, and 29-09: County Bond Authorization [14]
Future annual debt service costs are incurred at the time the bonds are actually sold, and are included in the Approved Operating Budget and Annual Appropriations for Debt Service.

In contrast, some fiscal impact statements for bills that authorize future expenditures made no mention of the forthcoming fiscal impact. For example, Bill 39-07 authorized the County to purchase agricultural land preservation easements. While the legislation itself did not directly result in expenditure of public funds, the new law authorized future expenditures for easements. Nonetheless, the fiscal impact statement prepared by the Executive Branch indicated no fiscal impact.

Exhibit 10: No Fiscal Impact Assumed from Spending Authorization

Excerpt from Fiscal Impact Statement for Bill 39-07: Agricultural Land Preservation – Agreements [15]
There is no anticipated fiscal impact to the County.

[14] A copy of the complete fiscal impact statement for Bill 29-09 appears in the Appendix on © 12.
[15] A copy of the complete fiscal impact statement for Bill 39-07 appears in the Appendix on © 13.

As subsequent action would commit the County to the cost of future agricultural land preservation easements, the Executive Branch's fiscal impact statement assigned no cost to the authorizing legislation itself.

F. Accounting for Uncertainties and Unknowns

To prepare fiscal impact estimates, the Executive Branch must project revenues and costs that would result from implementing legislation. In many cases, factors that ultimately will affect the revenues and costs associated with a bill are not fully known before enactment of the legislation. At the time the Executive Branch drafts a fiscal impact statement, uncertainty may exist about factors such as the level of program participation or future economic conditions. Past fiscal impact statements have used different approaches to address uncertainties or unknowns.

In some fiscal impact statements, the Executive Branch did not attempt to quantify future revenues or costs because of uncertainty in program implementation. In the case of Bill 46-09, the fiscal impact statement asserted that the absence of standards for implementing a hiring preference for persons with disabilities would result in "indeterminate" fiscal impact.

Exhibit 11: Indeterminate Fiscal Impact

Excerpt from Fiscal Impact Statement for Bill 46-09: Personnel – Regulations – Persons with Disabilities – Hiring Preference [16]
The fiscal impact is indeterminate until the County Executive drafts the regulations establishing the hiring preference and its parameters. Depending on the standards developed, the County could incur programming costs for the online application recruitment system.

The fiscal impact statement for Bill 46-09 estimated neither personnel costs that would result from developing and implementing the hiring preference nor operating costs needed to re-program the online application system. These impacts were deemed too uncertain to warrant a cost estimate.

In other fiscal impact statements, the Executive Branch cites the unavailability of data as the reason for not quantifying the cost of legislation. The following is an excerpt from Bill 37-09 that extended domestic partner benefits to employees of County contractors.

[16] A copy of the complete fiscal impact statement for Bill 46-09 appears in the Appendix on © 14.

Exhibit 12: Indeterminate Fiscal Impact – Insufficient Data

Excerpt from Fiscal Impact Statement for Bill 37-09: Contracts and Procurement – Equal [17]
The fiscal impact is indeterminate. Data is not available on contractor benefit policies or on the personal status of contractor employees. To the extent that this would require contractors to increase compensation to their employees, it is expected that those costs would be passed on to the County. Further, if, because of this bill, some companies chose not to bid on County contracts, the restricted competition could cause higher costs for the County.

The above fiscal impact statement did not indicate how or when data will become available to assess the cost of Bill 37-09.

In a few cases, fiscal impact statements prepared by the Executive Branch have presented estimated costs within a range. A fiscal impact range, while less precise than an exact number, acknowledges that uncertainty exists regarding the future revenues or costs resulting from legislation. In the fiscal impact statement for Bill 33-07, the Executive Branch presented a cost estimate in a range.

Exhibit 13: Use of Range in Fiscal Impact Estimates

Excerpt from Fiscal Impact Statement for Bill 33-07: Renewable Energy [18]
The estimated cost of the contract ranges from $50,000 to $100,000, depending on the contract scope (500 to 1,000 hours @ $100 per hour).

The above fiscal impact statement notes the uncertainty of contract scope and informs the Council about the potential variability in contract costs.

[17] A copy of the complete fiscal impact statement for Bill 37-09 appears in the Appendix on © 15.
[18] A copy of the complete fiscal impact statement for Bill 33-07 appears in the Appendix on © 17.

The fiscal impact statement for Expedited Bill 5-10 presented another approach to estimating costs in light of fiscal uncertainty. This legislation committed the County to supplement the State's biotechnology investment incentive tax credit. In the fiscal impact statement, the Executive Branch noted that the bill as introduced would offer the County "no control over the cost of the tax credit." The fiscal impact statement suggested adding language to the bill to help mitigate the cost risk of the legislation.

Exhibit 14: Mitigation of Risk

Excerpt from Fiscal Impact Statement for Expedited Bill 5-10: Biotechnology Credit Supplement [19]
As an entitlement, the cost of the credit is determined solely by State action…. The County has no control over the cost of the tax credit under the legislation as it is currently constructed. ... All of the risk associated with having no control over the cost of the credit could be mitigated merely by requiring that the County Council approve an amount for the credit prior to the State's certification of the State tax credits in a given year, and limiting the County's exposure to whatever that amount may be.

The Council favorably accepted the Executive Branch's proposal to establish controls on the cost of the tax credit. The Council approved Expedited Bill 5-10 only after amending its language to subject the tax credit to appropriation based on a calculation approved by the Council as part of the annual operating budget resolution. In this case, the information in the fiscal impact statement served to mitigate a fiscal uncertainty.

[19] A copy of the complete fiscal impact statement for Expedited Bill 5-10 appears in the Appendix on © 19.

CHAPTER V: FISCAL IMPACT STATEMENTS IN OTHER JURISDICTIONS

This chapter describes the use and requirements of fiscal impact statements in other jurisdictions. After researching the fiscal impact statements prepared for legislatures in several dozen jurisdictions, OLO selected the following five examples that illustrate fiscal analysis processes or requirements that differ from those in Montgomery County.

A. State of Maryland

The Maryland Code mandates that a committee of the General Assembly may not vote on a bill unless a fiscal note accompanies the bill.[20] Moreover, if a bill affects funding of the State pension system, the State Code requires that an actuarial analysis accompany the bill.[21] Nonetheless, the Code stipulates that "the validity of an enactment is not affected by the presence, absence, or content of the fiscal note."[22]

The Maryland Code charges the Department of Legislative Services with responsibility for preparing fiscal notes for each bill. The Department of Legislative Services provides legal, fiscal, research, reference, auditing, administrative, and technological support to the members of the General Assembly. As specified in the Code, a fiscal note must contain:

- *An estimate of the fiscal impact of the bill on the revenues and expenditures of the State government and of local governments during the year in which the bill is to become effective and the next 4 years after that year;* or
- *If the full fiscal impact of a bill is not expected to occur during those years, during each year until and the first year during which that impact is expected to occur.*[23]

The State Code further requires that the Department of Legislative Services identify the sources of the information used in preparing the estimates of fiscal impact.[24]

B. State of Minnesota

Minnesota law mandates that departments and agencies of the state government prepare a fiscal note for pending State legislation. The State law specifies that the fiscal note, in part, should:

- estimate the increase or decrease in revenues or expenditures;
- include the costs which may be absorbed without additional funds;
- include the assumptions used in determining the cost estimates; and
- specify any long-range fiscal implication of the proposed legislation.[25]

[20] Maryland Code, State Government Article, Title 2, Subtitle 15, Section 2-1505 (a) (1).
[21] Maryland Code, State Government Article, Title 2, Subtitle 15, Section 2-1505 (a) (2).
[22] Maryland Code, State Government Article, Title 2, Subtitle 15, Section 2-1505 (i) (2).
[23] Maryland Code, State Government Article, Title 2, Subtitle 15, Section 2-1505 (d) (1 and 2).
[24] Maryland Code, State Government Article, Title 2, Subtitle 15, Section 2-1505 (e) (4).
[25] Minnesota Statutes 3.98, Subdivision 2(a).

In addition, the State law specifies that the fiscal note "shall express no opinions concerning the merits of the proposal."[26]

A reference document prepared by the Minnesota House of Representatives provides additional guidelines for fiscal notes. The document clarifies that the term "long-range fiscal implication" mentioned in the State law is interpreted as meaning five years from the first year of a legislative session or four years from the second year of a legislative session. The document further instructs departments to cite the assumptions, formulas, studies, and references used to determine the fiscal impact of a bill.

The Department of Finance manages the fiscal note process for the Executive Branch of the Minnesota State Government. Once the State Legislature receives a fiscal note, the Legislative Branch Fiscal Analysis Department reviews the revenue and expenditure estimates for the House Committee on Ways and Means. A rule of the Minnesota House of Representatives requires the House Committee on Ways and Means to publish a cumulative summary of the estimated fiscal effect on the general fund of all bills that have been referred to the Committee.[27]

C. King County, Washington

The King County (Washington) Code assigns the County's Office of Management and Budget the responsibility of preparing fiscal notes for pending legislation. Fiscal notes must document the impact of proposed legislation for the current fiscal year and for each of the next three fiscal years. Alternatively, if the proposed legislation authorizes the execution of a contract or agreement that extends beyond three years, the fiscal note must document the impact through the end of the term of the proposed contract or agreement.[28]

The King County Code specifies the required elements of a fiscal note, including:

- An estimate of revenue impact of the proposed legislation;
- Year by year estimates of the expenditure impact of the proposed legislation on the operating and capital budgets;
- An explanation of how the revenue or expenditure impacts were developed (including major assumptions);
- Data showing the effect of the proposed legislation on workload; and,
- An indication of whether passage of the proposed legislation was anticipated in the current fiscal year's budget.[29]

[26] Minnesota Statutes 3.98, Subdivision 2(b).
[27] Permanent Rules of the Minnesota House of Representatives, 4.03(i).
[28] King County Code, Title 4, Chapter 4.04, Section 4.04.075.A.
[29] King County Code, Title 4, Chapter 4.04, Section 4.04.075.B.

In addition, the King County Code mandates that "if the recommended course of action represents a change in policy, the fiscal note shall compare the cost and benefits of the recommended course of action to the cost and benefits of continuing with the current policy direction." [30]

D. New York City

A requirement for fiscal impact statements appears both in the New York City Charter and in the adopted Rules of the New York City Council. The City Charter states that "no proposed local law or budget modification shall be voted on by a council committee or the council unless it is accompanied by a fiscal impact statement."[31]

The Charter specifies that a fiscal impact statement must contain an estimate of the fiscal impact of a law on revenues and expenditures during the fiscal year in which the law becomes effective, during the next fiscal year, and during the first fiscal year in which the full fiscal impact of the law is expected to occur. [32] In addition, the Charter requires that fiscal impact statements identify the sources of information used in its preparation.[33]

The Rules of the Council charge the Finance Division of the Council (a legislative branch agency) with responsibility for preparing fiscal impact statements.[34]

E. Takoma Park

The Takoma Park Municipal Code assigns the City Manager with responsibility for preparing a fiscal note for each ordinance considered by the City Council.[35] The Code stipulates the required contents of a fiscal note, including:

- An estimate of the fiscal impact of the ordinance on the revenues and expenditures of the City government; and
- The sources of information used in preparing the estimate of fiscal impact. [36]

The fiscal note must estimate revenues and expenditures during the year in which the ordinance becomes effective and the next year. Alternatively, if the full fiscal impact is not expected to occur during the year an ordinance becomes effective, then the fiscal note must estimate the revenues and expenditure for the first year during which that impact is expected to occur. [37]

The Takoma Park Code does not require the City Manager to prepare a fiscal note for an ordinance that allows for expenditures specifically authorized in the current fiscal year budget. [38]

[30] King County Code, Title 4, Chapter 4.04, Section 4.04.075.C.
[31] New York City Charter, Section 33, Paragraph a.
[32] New York City Charter, Section 33, Paragraph b.
[33] New York City Charter, Section 33, Paragraph d.
[34] Rules of the New York City Council, Chapter 6, Paragraph 6.50.
[35] Takoma Park Code, Title 2, Chapter 2.04, Section 2.04.060.A.1.
[36] Takoma Park Code, Title 2, Chapter 2.04, Section 2.04.060.B.
[37] Ibid.
[38] Takoma Park Code, Title 2, Chapter 2.04, Section 2.04.060.C.

CHAPTER VI: OLO RECOMMENDATIONS

Fiscal impact statements that include a thorough assessment of future revenues and costs provide the Council with the information necessary to weigh the policy goals against the budgetary effects of proposed legislative action. This chapter presents OLO's recommendations on how to make fiscal impact statements more informative and relevant for Council decision-making.

Recommendation #1: Amend the County Code to require that the Executive Branch prepare a fiscal impact statement for all legislation and regulations.

As detailed in Chapter II, the current requirement to prepare fiscal impact statements for legislation resides in the "Montgomery County Plain Language Drafting Manual," a little-known, 25-year-old document with limited legal authority. To increase attention given to the fiscal consequences of Council decision-making, OLO recommends that the Council amend the County Code to include a requirement that the Executive Branch prepare a fiscal impact statement for all pending legislation.[39] The Code governs the activities of both the Executive and the Council, and so is the most appropriate location for this requirement.

In addition, OLO suggests that the Council also amend the Code to require that the Executive Branch prepare fiscal impact statements for regulations.[40] In some cases, approval of regulations may result in changes to agency revenues or costs. Council decision-making would benefit from information on the fiscal effects of regulatory actions.

The amended Code should provide a definition of the term, "fiscal impact statement." OLO suggests the following definition: "an estimation of future County agency revenues and costs that will result from enactment of legislation or approval of a regulation." The next recommendation addresses the content of fiscal impact statements.

Recommendation #2: Specify the required content of a fiscal impact statement.

As discussed in Chapter IV, no document exists that defines the required content, format, or presentation of fiscal impact statements. As a result, past fiscal impact statements have come in a variety of forms with differing levels of detail. OLO recommends that the Council specify (in the County Code) the types of information that must be included in a fiscal impact statement.

OLO suggests that the Council adopt a set of requirements for future fiscal impact statements as appears on the next page. The intent of these requirements is to ensure that fiscal impact statements consistently provide the Council with sufficient information to weigh revenue and cost considerations during legislative and regulatory decision-making.

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[39] Legislation includes bills enacted under the County's home rule legislative authority, zoning text amendments, subdivision regulation amendments, and Board of Health regulations.

[40] Regulations include any action that is subject to regulatory authority under 2A-15 (Administrative Procedures Act) of the County Code.

Summary of OLO Recommendation on the Content of Fiscal Impact Statements

A fiscal impact statement must:

- **Specify sources of information, assumptions, and methodologies used (see Recommendation 2.1);**
- **Estimate revenues and costs for the next six fiscal years (2.2);**
- **Include an actuarial analysis for legislation that affects retiree benefits (2.2);**
- **Present fiscal estimates for a single bill or regulation (2.3);**
- **Identify subsequent actions that will determine future revenues and costs (2.4);**
- **Estimate the staff time needed to implement the legislation or regulation (2.5);**
- **Indicate how the addition of new staff responsibilities will affect other duties (2.5);**
- **Estimate costs regardless of whether an additional appropriation is needed (2.6);**
- **Describe variables that could affect revenue and cost estimates (2.7);**
- **Use ranges to estimate revenues or costs that are uncertain or difficult to project (2.7);**
- **Explain why a bill or regulation has no or indeterminate fiscal impact (2.8).**

Further detail and justification for these recommendations follows.

Recommendation 2.1: A fiscal impact statement must specify the sources of information, assumptions, and methodologies used to estimate future revenues and costs.

<u>Justification</u>**:** In reviewing fiscal impact statements prepared by the Executive Branch over the past five years, OLO found a great variety in the amount of information provided to support revenue and cost estimates. Some fiscal impact statements included detailed explanations of data sources, formulas, and calculations. In other cases, the fiscal impact statement provides little or no supporting information. Inclusion of these details would allow Councilmembers, Council staff, and the public to evaluate the thoroughness and reasonability of fiscal estimates and would provide the basis for calculating alternative revenue or cost scenarios.

Recommendation 2.2: A fiscal impact statement must estimate revenues and costs for the next six fiscal years. The fiscal impact statement for legislation that affects future pension or retiree group insurance costs must include an actuarial analysis of costs through the entire amortization period.

<u>Justification</u>**:** No standard exists regarding the time period for revenue and cost estimates. Some statements estimated fiscal impact for several years into the future; others estimated revenues and/or costs for only a single year. Often, the full fiscal impact of legislation or regulation is realized many months or years after Council action. To align with the County's six-year fiscal plan, future fiscal impact statements should consistently cover a six-year time frame. Fiscal impact statements should take into account that adjustments to retiree benefits may have fiscal consequences that extend for up to 40 years.

Recommendation 2.3: The Executive Branch must prepare a separate fiscal impact statement for each bill or regulation.

Justification**:** In some instances, the Executive Branch has prepared a single fiscal impact statement for multiple bills. Combining bills into a single statement obscures the fiscal impact of individual actions. OLO recommends separate statements for each bill or regulation.

Recommendation 2.4: Fiscal impact statements must identify subsequent governmental actions that will ultimately determine future revenues and costs.

Justification**:** Some legislation does not directly result in the expenditure of public funds but rather authorizes a County agency to spend money or expands the authorized uses of certain types of revenue. The Council should require that fiscal impact statements estimate the fiscal consequences for legislation or regulation that authorize future spending. In addition, a fiscal impact statement should indicate whether projected costs are subject to future appropriation.

Recommendation 2.5: A fiscal impact statement must estimate the staff time needed to implement the legislation or regulation and must indicate how the addition of new staff responsibilities will affect other agency/department duties.

Justification**:** The cost of legislation or a regulation is not measured in dollars expended alone. Sometimes, implementation of a new program requires existing staff to perform additional work. If the effort required to perform a new program is significant, then implementation of that program could divert staff from their previously assigned duties. Fiscal impact statements should account for the opportunity cost of adding new responsibilities to existing staff.

Recommendation 2.6: A fiscal impact statement must include an estimate of projected costs of the proposed legislation or regulation, regardless of whether it requires an additional appropriation or can be absorbed within the existing budget.

Justification**:** For some fiscal impact statements, if the fiscal consequences of a bill had been assumed in an approved or recommended budget, then the Executive Branch asserted that the bill would have no fiscal impact. OLO prefers that fiscal impact statements assess projected fiscal conditions resulting from implementation of a bill or regulation independent of assumptions used in the budgeting process.

Recommendation 2.7: A fiscal impact statement must describe variables that could affect revenue and cost estimates. When factors that affect future revenues or costs are uncertain or difficult to project, a fiscal impact statement should estimate revenues or costs in ranges.

Justification**:** In many cases, factors that ultimately will affect the revenues and costs associated with a bill are not fully known before enactment of the legislation. When the Executive Branch drafts a fiscal impact statement, uncertainty may exist about factors such as the level of program participation or future economic conditions. Fiscal impact statements should describe the variables that could affect revenue and cost projections. Presentation of estimated revenues or costs in a range would appropriately inform the Council about the fiscal uncertainty that exists prior to implementation of a program.

Recommendation 2.8: If the Executive Branch estimates that a bill or regulation will have no fiscal impact or if the fiscal impact cannot reasonably be estimated, then the fiscal impact statement must explain why this is the case.

Justification**:** OLO acknowledges that, in some cases, the level of uncertainty may be sufficiently great that reasonable projection of future revenues and costs may not be possible. In such cases, OLO recommends that the fiscal impact statement explain why a revenue or cost estimate cannot be made.

Recommendation #3: Establish target dates for receipt of fiscal impact statement.

To allow timely review by Councilmembers, Council staff, and the public, the Council should set target dates for the Executive Branch to transmit fiscal impact statements. OLO recommends that the Council adopt the following standards for transmittal of fiscal impact statements.

For this Type of Action:	***The Executive Branch Should Transmit the Fiscal Impact Statement:***
Legislation introduced at the request of the Executive	No later than one week before the date of the public hearing.
Legislation sponsored by Councilmember(s)	Within three weeks of introduction or one week before the date of the public hearing, whichever is later.
Regulations	Attached to the regulation.

Legislation introduced at the request of the Executive: The Executive Branch should submit a fiscal impact statement no later than one week before the date of the public hearing. It is a reasonable expectation that the Executive Branch evaluate the fiscal consequence of legislation before recommending it to Council. Therefore, OLO suggests that the Council request receipt of a fiscal impact statement soon after the Executive transmits a request for legislation. A deadline of one week before the public hearing will allow revenue and cost projections to be part of the public dialogue on the bill.

Legislation sponsored by Councilmembers: The Executive Branch should submit a fiscal impact statement within three weeks of introduction or one week before the date of the public hearing, whichever is later. Because the Executive Branch cannot always anticipate legislation proposed by Councilmembers, OLO recommends setting a different target submission date for Councilmember-sponsored bills. In these cases, OLO proposes allowing the Executive Branch a minimum of three weeks to prepare a fiscal impact statement. In extraordinary circumstances when the Council holds a public hearing fewer than three weeks after introduction, the Executive Branch should make an effort to submit the fiscal impact statement before the public hearing.

Amendments to Legislation: After receiving public comment and staff analysis, Councilmembers often propose amendments to pending legislation. When requested by the Council, the Executive Branch should calculate the fiscal impact of proposed amendments to a bill so that the Council could consider this information before voting on the legislation.

Regulations: The Executive should append the fiscal impact statement to the regulation when it is transmitted to the Council. The Executive publishes proposed regulations in the Montgomery County Register at least one month before transmitting the regulation to the Council. This schedule provides sufficient time for the Executive Branch to prepare a fiscal impact statement before Council receipt of the regulation. Therefore, OLO suggests that the Executive Branch transmit the fiscal impact statement attached to each proposed regulation.

Recommendation #4: Direct Council staff to identify the fiscal impact as a discussion item in packets for pending bills and regulations.

At present, Council Staff routinely append the Executive Branch's fiscal impact statements to their Committee and Council packets for pending bills and regulations. As an attachment, fiscal impact information can be lost among the collection of other documents relevant to the legislation or regulation. To increase the prominence of fiscal information, the Council should direct staff to include a summary (and when warranted, an analysis) of the Executive Branch's fiscal impact statement as a worksession discussion item.

Furthermore, when Councilmembers propose amendments to legislation that could affect estimated revenues and costs, Council staff should ask OMB to update its fiscal analysis.

CHAPTER VII: AGENCY COMMENTS

The Office of Legislative Oversight circulated a final draft of this report to the Chief Administrative Officer for Montgomery County. OLO appreciates the time taken by Executive Branch staff to review the draft report and provide feedback. OLO's final report incorporates technical comments and corrections provided by the Executive Branch.

Written comments from the Chief Administrative Officer on the final draft report begin on the next page.

OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

July 2, 2010

TO: Karen Orlansky, Director, Office of Legislative Oversight

FROM: Joseph F. Beach, Director

SUBJECT: OLO Report 2010-10, Fiscal Impact Statements for Legislation

This memorandum is to provide comments to the subject report. I want to thank the Office of Legislative Oversight (OLO) for another excellent report and, in particular, recognize the thorough and collaborative work done by OLO Staff Aron Trombka and Sarah Downie. Generally, I concur with the recommendations of the report. However, I offer the following comments for certain recommendations noted below.

Recommendation 1: Amend the County Code to require that the Executive prepare a fiscal impact statement for all legislation and regulations.

I agree with this recommendation, but recommend that the definition remain consistent with the description in Administrative Procedure 1-12 noted in the report "…incremental increase or decrease in expenditures and revenues for the current and next fiscal years." The incremental increase should be measured in relation to the current approved budget.

Recommendation 2.1: A fiscal impact statement must specify the sources of information, assumptions, and methodologies used to estimate future revenues and costs.

I generally agree with this recommendation, but some legislative or regulatory changes are purely technical and do not have a fiscal impact. In such cases, the Office of Management and Budget (OMB) will note the basis for this conclusion. For example, Expedited Bill 38-10, Buildings-Adequate Public Facilities – Definitions merely changed the definition of "existing buildings" and did not require additional County resources or processes.

Recommendation 2.3: The Executive must prepare a separate fiscal impact statement for each bill or regulation.

Generally, I agree with this recommendation and believe that OMB complies with this recommendation in almost all fiscal impact statements provided to the Council. The one example provided as the basis for this recommendation related to changes brought about by a collective bargaining agreement. OMB actually complied with the fiscal impact statement requirement early (before introduction of the legislation) by including the estimates in the recommended budget. I do not believe that the fiscal impact in this instance was "obscured." In that fiscal impact statement, the cost of each change was identified and explained. No additional information would have been conveyed or was necessary if it had been provided in separate memos; OMB would have simply prepared more memos in a less efficient manner. It was administratively more efficient with no loss of substantive information to combine the estimates into one memo.

Recommendation 2.4: Fiscal impact statements must identify subsequent governmental actions that will ultimately determine future revenues and costs.

I agree that the fiscal impact statement should identify the subsequent government action that will determine the future revenues and expenditures, but do not concur that a specific dollar value should be provided because it would be purely speculative and not of much value to the legislative decision. For example, Expedited Bill 8-10, Finance-Public Facilities Agricultural Easements amended the definition of public facilities in Section 201-14 of the County Code and thereby authorized the use of a different type of funding (General Obligation Bonds) for the purchase of agricultural easements. However, this legislation did not require any minimum or maximum limit on the use of these funds. Given the Council's unrestricted discretion in this matter, it would have been purely speculative and not of any analytical value to assign a specific dollar value to approval of this legislation. However, if essential information on potential impacts exists that would be relevant to the legislation that information will be provided in the fiscal impact statement.

Recommendation 2.5: A fiscal impact statement must estimate the staff time needed to implement the legislation or regulation and must indicate how the addition of new staff responsibilities will affect other agency/department duties.

I generally concur with the recommendation; however, I suggest some parameters, such as disclosing and estimating only if it would result in a cost greater than one (1) workyear.

Recommendation 2.7: A fiscal impact statement must describe variables that could affect revenue and cost estimates. When factors that affect future revenues or costs are uncertain or difficult to project, a fiscal impact statement should estimate revenues or costs in ranges.

OMB usually does not know enough about risk and uncertainty to place error ranges in our estimates. There are variables present in almost every legislative and regulatory change. I believe that specifying our assumptions and identifying variables should normally suffice to indicate the variability of the estimates provided. However, when sufficient information is available and it would be relevant to the decision, OMB can provide estimates of revenues or costs in ranges.

Recommendation 3: Establish target dates for receipt of fiscal impact statement.

OMB will make our best efforts to comply with these target dates, but note that given the reductions in staff across all departments, including OMB and the existing hiring freeze, it will be a challenge to both make the recommended changes in the format and content of the fiscal impact statements and comply with more aggressive submission deadlines.

JFB:df

c: Kathleen Boucher, Assistant Chief Administrative Officer
OMB Staff

APPENDIX – FISCAL IMPACT STATEMENTS

LEGISLATIVE REQUEST REPORT

Expedited Bill 30-08
Taxicabs - Licenses

DESCRIPTION:

Gives the Director of Transportation discretion to waive the license transfer restrictions in §53-204(d) for good cause and allow a fleet to transfer more than two taxicab Passenger Vehicle Licenses (PVLs) per year to individuals. Subjects the creation of a security interest to the requirements of the Maryland Uniform Commercial Code (UCC).

PROBLEMS:

Barwood Taxi filed for Bankruptcy relief in January 2007. It may be in the County's interest to provide relief to Barwood or any other fleet that finds itself in a similar situation in the future.

The County estimates that Barwood must pay about $4,606,600 as part of its reorganization. Barwood argues that to emerge from bankruptcy they need to make many revisions to Chapter 53, including the complete elimination of any PVL transfer restrictions. They claim they need to be able to transfer all 360 of their licenses at a price they estimate from $50,000 to $60,000 each. Under their plan they would realize from $18,000,000 to $21,600,000 and arguably achieve a significant financial windfall at the expense of taxicab customer service.

Barwood's proposed plan reduces its incentive to take responsibility for service performance of the individual drivers/license holders who drive under the Barwood name. Their plan reverses policy from a fleet based system to an individual system, thereby risking taxicab customer service by creating an individual driver/license holder taxicab structure. Montgomery County is a community of 500 square miles with a taxicab system that relies very heavily on dispatch service. Most jurisdictions that have individual driver/license holders are not suburban jurisdictions, use a preponderance of hail service, have an airport, a major center city, and use the police department to enforce the rules.

Since the new County taxi law took effect in 2005, customer service, as measured by feed back the Department has received, has greatly improved due to increased competition, the placement of additional licenses in service, and the further requirements placed on the fleets to take responsibility for the drivers or risk losing their PVLs. The Department awarded 70 additional PVLs in 2006 (14 to individuals, 56 to fleets, including one entirely new fleet) and is in the process of issuing 65 more (13 to individuals and 52 to fleets) in 2008. The additional licenses and new fleet are helping to minimize the domination of Barwood. Therefore, moving from a fleet PVL held system to an individual PVL held system to accommodate Barwood's liquidation plan, which is likely to further Barwood's monopolistic control, is not a policy that promotes sound customer service.

GOALS AND OBJECTIVES:

Provide relief to Barwood or any other fleet that might find itself in a similar financial situation in the future, as long as the revisions preserve competition, maintain an effective regulatory environment, and protect customer service. The changes should provide fleets some relief, yet protect the public interest and welfare without disrupting service or interfering with regulatory enforcement.

COORDINATION:

Department of Transportation; Office of the County Attorney.

FISCAL IMPACT:
Expenditures: Two Staff $158,590[1]

Priority I: Grade 21 Program Specialist II (Licensing Specialist) - $59,700 + $19,700 fringe = $79,400.
Lifting the limitation of the 20% restriction on individuals holding Passenger Vehicle Licenses could result in individual holders increasing to 35% of the licenses in the County. This will significantly increase the regulatory burden and the tasks for this position, so that one more staff person is essential in order to meet the demand. Most regulation of licensees takes place in the office where tasks are performed, information is tracked on the database, and individual counseling of licensees takes place.

The demands on this position will exponentially increase as the number of individual PVL license holders/small business owners increase. Duties include managing the issuance of Taxicab Driver Identification Cards (IDs) and taxicab Passenger Vehicle Licenses, assessing the qualifications of applicants, reviewing and recommending the approval or denial of PVL transfers, recommending the approval or denial of ID renewals or issuance, and responding to license inquiries. This position is also responsible for the research to insure the applicant is a qualified licensee, monitoring the vehicles, licenses, and licensees for regulatory compliance to insure the public health, welfare, and safety, maintenance of the license database, and recommending denial, suspension, or revocation of licenses, responding to license inquiries, processing renewals, issuance, and other licensing related matters, drafting denial and revocation documents, and testifying at hearings.

Priority II: Grade 20 Code Enforcement Inspector III (Taxicab Inspector) – $59,541+$19,649 = $79,190
One additional inspector is needed for extra enforcement as more drivers become licensees. Although the number of drivers compared to the number of investors who will hold licenses is an unknown, the potential increase in driver/license holders calls for supplemental enforcement. One of the few methods the Department has for enforcing the Code when there are numerous holders is to regulate the licensee as an individual, since there is no method under the Code to regulate an association. Enforcement will become more difficult as the percentage of individual license holders increases from 20% to 35% of the licenses in the County

Revenue: $105,000 a year for three years [total $315,000]
Revenue will be generated by a $2,500 transfer fee per taxicab. The number of transfers depends on the waiver granted by the Director and the number of licenses the fleet actually transfers. The annual revenue depends on the number of licenses transferred in each year. If Barwood, for example, transfers 126 licenses over a three year period, a one time transfer fee of $2,500 each would be paid for each of the 126 licenses (126 X $2,500 = $315,000).

ECONOMIC IMPACT:
The economic impact will affect the drivers who want to hold a PVL and their ability to pay or borrow to pay for the license.

EVALUATION:
Subject to the general oversight of the County Executive and the County Council. The Office of the County Attorney will evaluate for form and legality.

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1 Attached to this Legislative Request Report are two matrix flow charts which describe the current staffing levels in the Medicaid and Taxicab Regulation Unit ("MATR") to regulate the taxi unit and the proposed staffing levels which would be required for DOT to regulate the taxi unit under this amendment.

BILL

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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

Memorandum

041870

April 20, 2009

TO: Phil Andrews, President, County Council

FROM: Joseph F. Beach, Director

SUBJECT: Bill XX - Minority-Owned Business Purchasing Program

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

The proposed legislation extends the sunset date for the Minority-Owned Business Purchasing Program.

FISCAL SUMMARY

The proposed legislation continues the current level of administrative effort that the Department of General Services provides within existing resources to administer this program. The proposed legislation also extends the date for the completion of the Disparity Study from FY10 to FY12. The Disparity Study could cost in excess of $500,000 to prepare.

The following contributed to and concurred with this analysis: Kenneth Taylor with the Department of General Services and Adam Damin of the Office of Management and Budget.

JFB:ad

cc: Kathleen Boucher, Assistant Chief Administrative Officer
David Dise, Director, Department of General Services
Harold Adams, Department of General Services
Pam Jones, Department of General Services
Ed Piesen, Office of Management and Budget
Adam Damin, Office of Management and Budget
Dee Gonzalez, Offices of the County Executive
Marc Hansen, Office of the County Attorney

OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

May 5, 2009

TO: Phil Andrews, President, County Council

FROM: Joseph F. Beach, Director, Office of Management and Budget

SUBJECT: Expedited Bill 17-09, Parking Lot Districts – Use of Revenue

The purpose of this memorandum is to transmit a fiscal and economic impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

The proposed legislation would expand the use of Parking Lot District revenues for transit service serving the Parking Lot District and generally amend the law regarding the use of parking lot district funds.

FISCAL AND ECONOMIC SUMMARY

The policy used within the Executive Branch for several years is that the unrestricted fund balance should be maintained at a level that is at least 50 percent of the projected operating expenses for the subsequent fiscal year. This policy has served the County well in ensuring that parking districts satisfy, and will continue to satisfy, operating and capital obligations and maintains certain levels of transfers to other funds. In addition to meeting the Parking Districts' financial obligations, the Parking Districts have financially supported transportation management programs and urban maintenance activities. The policy also has provided adequate time to identify the need for and to analyze changes in the rate structure for parking fees, fines, and taxes.

To ensure compliance with the foregoing policies, the Department of Transportation and the Office of Management and Budget use a six-year planning horizon to identify emergent issues in the Parking Districts, some of which do not require immediate solutions. These issues can include identifying projected trends in declining fund balances, the potential need for rate adjustments or expenditure reductions to maintain adequate fund balance, and continued future compliance with local law, bond covenants, and internal policies.

These policies have served the County well and will continue to do so, as evidenced by the financial health of the parking lot districts and maintaining the AA revenue bond rating.

Office of the Director

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The table below lists the projected ending unrestricted fund balance for each PLD and the coverage percentage for the next year's operating expenses, assuming existing transfers.

End of Year Unrestricted Fund Balance and Coverage of Operating Expenses for Following Fiscal Year	FY10	FY11	FY12	FY13	FY14	FY15
Bethesda	$ 12,720,760 153%	$ 18,009,180 211%	$ 10,053,500 105%	$ 7,430,680 75%	$ 4,973,560 49%	$ 3,108,480 31%
Silver Spring	$ 4,541,580 41%	$ 3,067,370 27%	$ 1,809,320 16%	$ 2,155,340 18%	$ 2,830,460 23%	$ 6,531,850 54%
Wheaton	$ 57,950 4%	$ 83,160 6%	$ 83,300 6%	$ 82,500 6%	$ 85,650 6%	$ 81,750 5%
Montgomery Hills	$ 261,180 217%	$ 303,910 244%	$ 350,910 274%	$ 401,200 303%	$ 452,880 332%	$ 506,910 371%

For FY10, Bethesda and Montgomery Hills achieve the 50 percent target. However, Bethesda's balance is projected to decline starting in FY12 due to major obligations from the Garage 31 project. Silver Spring's balance is projected to be below the 50 percent target for five of the next six years. Wheaton is far below the 50 percent target and is unable to fully support its related Urban District (unlike Bethesda and Silver Spring). Additional draws on Wheaton will make it impossible to reach the 50 percent target and could result in a negative fund balance.

There is no economic impact according to the Department of Finance.

The following contributed to and concurred with this analysis: Stephen Nash, Department of Transportation; Mike Coveyou, Department of Finance; Brady Goldsmith, Office of Management and Budget

JFB:bg

c: Kathleen Boucher, Assistant Chief Administrative Officer
Dee Gonzalez, Offices of the County Executive
Art Holmes, Director, Department of Transportation
Stephen Nash, Department of Transportation
Jennifer Barrett, Director, Department of Finance
Mike Coveyou, Department of Finance
Brady Goldsmith, Office of Management and Budget

OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

June 30, 2009

TO: Phil Andrews, President, County Council

FROM: Joseph F. Beach, Director, Office of Management and Budget

SUBJECT: Expedited Bill-09 – Personnel – Guaranteed Retirement Income Plan Amendments

The purpose of this memorandum is to transmit a fiscal and economic impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

Last June, the County Council enacted Expedited Bill 11-08 which implemented the changes in the retirement laws negotiated by the County Executive and MCGEO as part of the second year re-opener provision in the current collective bargaining agreement. As part of the expedited legislation, the Guaranteed Retirement Income Plan (GRIP) was created, an optional cash balance defined benefit plan for non-public safety employees hired after October 1, 1994. As enacted, the legislation does not permit the participation of unrepresented public safety employees who were members of the Retirement Savings Plan (RSP), the defined contribution retirement plan established for certain employees hired after October 1, 1994. There are seven unrepresented public safety employees who are members of the RSP and are currently prohibited from participating in the GRIP. The proposed expedited legislation provides these employees a one-time opportunity to elect the GRIP and also provides future unrepresented public safety employees the option of electing the GRIP. The legislation also clarifies that the interest rate in GRIP is credited at an annual rate of 7.25%.

The legislation also eliminates the difference between disability benefits for highly compensated (currently, those earning more than $110,000) and non-highly compensated employees to comply with changes to the Internal Revenue Code, at the recommendation of the Office of the County Attorney. Currently, there are 203 RSP members who fall into the highly-compensated category. However, no highly-compensated RSP member has yet received disability payments.

In addition, the legislation codifies current practice for default beneficiaries in the RSP; the GRIP legislation already contains these provisions.

FISCAL AND ECONOMIC SUMMARY

This legislation is not expected to have a fiscal or economic impact on the approved FY10 budget.

The following contributed to and concurred with this analysis: Belinda Fulco, Office of Human Resources and Mike Coveyou, Department of Finance.

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OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

MEMORANDUM

TO: Marilyn J. Praisner, Council President

FROM: Timothy L. Firestine, Chief Administrative Officer

SUBJECT: Bill 7-07, Tenant Displacement – Sale of Rental Housing – Right of First Refusal

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

The proposed legislation amends the current law regarding the sale of rental housing and the right of first refusal. The legislation stipulates that certain rental housing, including those having a building permit issued after February 5, 1981, provide a right of first refusal to buy the rental housing to the County, the Housing Opportunities Commission, and any tenant organization, before it is sold to another person.

FISCAL SUMMARY

The current law exempts approximately 40% of rental housing. By subjecting certain rental housing to the right of first refusal, more properties will be offered, resulting in additional staff time required to review offers. In addition, there may be opportunities to purchase properties using County funds. Estimating the potential offers and subsequent required staff time as well as the cost of acquiring additional properties is too speculative to quantify at this time.

The following contributed to and concurred with this analysis: Fred Wilcox, Department of Housing and Community Affairs; Joseph Giloley, Department of Housing and Community Affairs; and Rose Glavinic, Office of Management and Budget.

jfb:rmg

cc: Richard Y. Nelson, HCA
Joseph Giloley, HCA
Fred Wilcox, HCA
Beryl Feinberg, OMB
Brady Goldsmith, OMB
Paul Folkers, CEX

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2007 MAY 21 AM 10:13

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BILL 28-10

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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

RECEIVED
MONTGOMERY COUNTY
COUNCIL
2010 MAY 11 AM 9:05

MEMORANDUM

May 10, 2010

TO: Nancy Floreen, President, County Council

FROM: Joseph F. Beach, Director, Office of Management and Budget

SUBJECT: Bill 28-10, Economic Development – Business Development Corporation - Establishment

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

This legislation allows the County to further its economic mission through the formation of a Montgomery Business Development Corporation (MBDC). The legislation authorizes and requires the County government to support a MBDC and specify the members of, and the process to appoint and confirm members of, the Corporation Board of Directors.

FISCAL AND ECONOMIC SUMMARY

This legislation requires the County Government to provide administrative and financial support for the MBDC and the assumption is that the Department of Economic Development (DED) will be the administering agency responsible for recommendations set forth by the County Executive and County Council. The proposed legislation contains specific provisions on reimbursing the costs of travel to the Board Members. Travel expenses to other regions to either study, evaluate, and monitor the economic development strategies and outcomes of other regions is difficult to gauge at this time but DED anticipates it to be minimal.

Based on DED's experience with supporting similarly chartered entities such as the Workforce Investment Board, the Bioscience Task Force, the Green Economy Task Force, DED estimates the staff support requirement to be intensive. DED anticipates that at least a .5 work year will be needed assuming the allocation of an existing mid-level professional staff to support the MBDC.

DED assumes they are to absorb these costs and a breakdown of projected direct and indirect costs is provided.

Projected Direct Costs:

- Non-Local Travel – Members may choose to participate in conferences and trade shows, or to visit other locations in the country. Costs per person range from $1,000-$1,500 depending upon location, number attending, and length of stay. The estimated direct costs related to the travel reimbursement could range from $4,000 to $6,000 per fiscal year.
- Local Travel – Local travel expenses covers the cost of mileage and parking reimbursement requests for participating members. DED estimates that each member will request reimbursement for at least 100 miles of local travel per year at the current mileage rate of $.50/mile. Total projected cost for travel and parking for the fourteen members is approximately $1,000.00.
- Printing costs - The copies and supplies needed for committee meetings as well as potential for copies of a report that may be generated could range from $300 to $1,000.

Projected Indirect Costs:

- The predominant cost associated with the County's participation in the MBDC is the time of the Director of the Department of Economic Development, but also assignment of duties to a DED Business Development Specialist. Based on the relationship between the mission of DED and the MBDC, DED anticipates that at least a .5 work year will be needed at approximately $55,000. Responsibilities will most likely include but not be limited to: necessary research, monitoring of the budget, meeting planner, event organizer, responsible for meeting minutes, distribution of information, point of contact, and the drafting of the by-laws.

Under the broad mission defined within the bill, the County recognizes that the MBDC will need to establish a detailed action plan and sub-committee structure. The scope of the plan and time required to develop the committees will likely result in the County's need to provide direct financial support until the MBDC is able to raise adequate funding to support activities. Furthermore, if and when the County accepts and implements recommendations made by the MBDC, there will be larger financial resource requirements that will need to be considered during the annual budget process.

The following contributed to and concurred with this analysis: Peter Bang, Department of Economic Development, and Alison Dollar, Office of Management and Budget.

jfb:ad

cc: Kathleen Boucher, Assistant Chief Administrative Officer
Dee Gonzalez, Offices of the County Executive
Steve Silverman, Director, Department of Economic Development
Alison Dollar, Office of Management and Budget

OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

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MONTGOMERY COUNTY COUNCIL
2008 JAN 11 PM 3:39

MEMORANDUM

January 15, 2008

TO: Michael J. Knapp, Council President

FROM: Joseph F. Beach, Director, Office of Management and Budget

SUBJECT: Council Bill 36-07, Development Districts – Amendments

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

The proposed legislation addresses ambiguities in the current development district law, including insufficient notice to buyers of property in development districts. Specifically, the legislation strengthens the disclosure required for buyers and potential buyers of property in a development district or potential development district, allows persons who suffer losses because required information was not disclosed to recover damages, and authorizes the Office of Consumer Protection to enforce the disclosure requirements.

FISCAL SUMMARY

The Office of Consumer Protection reported the proposed law will not have a fiscal impact on the office; except to the extent that section 14-7 (i) provides that the office must enforce this Section as if it were part of County Code Chapter 11. While this bill does not have a fiscal impact, Council has recently drafted two other pieces of legislation (Bill 24-07, Real Property–Disclosure and Bill 35-07, Consumer Protection – Energy and Environmental Advocacy) that require oversight by the Office of Consumer Protection and may in total have a cumulative fiscal impact on the office. The office will update OMB and the County Council on how the proposed legislation impacts the office and their cost assessment of that impact, if any.

Eric Friedman of the Office of Consumer Protection and Michael Coveyou of the Department of Finance contributed to and concurred with this analysis.

jfb:bh

cc: Timothy L. Firestine, Chief Administrative Officer
Rebecca Domaruk, Office of the CAO
Eric Friedman, Director, Office of Consumer Protection
Michael Coveyou, Department of Finance
Brady Goldsmith, Bryan Hunt, Phil Weeda, OMB

Office of the Director

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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

RECEIVED
MONTGOMERY COUNTY
COUNCIL
2010 APR 26 AM 8:55

April 23, 2010

TO: Nancy Floreen, President, County Council

FROM: Joseph F. Beach, Director

SUBJECT: Expedited Bill 18 -10, Personnel – Retirement – Furlough – Imputed Compensation

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

Expedited Bill 18 -10 ensures that retirement benefits are not adversely affected when an employee takes a furlough. The County Executive's Recommended FY11 Operating Budget includes a furlough requirement of 10 days (80 hours) for most County employees. It does this by amending the definition of regular earnings under the Employees' Retirement System (ERS) and the Retirement Savings Plan (RSP) to include certain imputed compensation not received during a furlough.

FISCAL SUMMARY

This Bill does not have a fiscal impact on the County because the County Executive assumed its effect in his March 15 recommended budget. It ensures that the same retirement contributions to the RSP and to all pension plans in the ERS, including the Guaranteed Retirement Income Plan (GRIP), will be made by the County and by affected employees as would have been made absent the furlough requirement. It provides in legislation what is required under §30-2(b)(3) of the Personnel Regulations. The Bill also prevents a reduced disability benefit for members of the RSP and the GRIP due to the furlough requirement.

The following contributed to and concurred with this analysis: G. Wesley Girling, Office of Human Resources, Alex Espinosa and Lori O'Brien, Office of Management and Budget.

JFB:lob

Attachment

c: Joseph Adler, Director, Office of Human Resources
Kathleen Boucher, Assistant Chief Administrative Officer
Dee Gonzalez, Offices of the County Executive
G. Wesley Girling, Office of Human Resources
Alex Espinosa, Office of Management and Budget
Lori O'Brien, Office of Management and Budget

LEGISLATIVE REQUEST REPORT

Expedited Bill 29-09

COUNTY BOND AUTHORIZATION LEGISLATION

REQUIRED TO FINANCE FY 2010 APPROVED CAPITAL APPROPRIATIONS

DESCRIPTION:	Legislation to authorize the issuance of various proposed bonds in an amount not to exceed $453,900,000. These General Obligation Bonds are to be issued upon the full faith and credit of the County.
PROBLEM:	There is insufficient bond authorization in certain categories of CIP expenditures to fully cover the increased appropriation level as approved by the County Council.
GOALS & OBJECTIVES:	The goal is to provide new, additional bond authorization equal to the approved appropriation level which will be financed from future bond issues.
COORDINATION:	This bill does not duplicate or overlap existing law.
FISCAL IMPACT:	Future annual debt service costs are incurred at the time the bonds are actually sold, and are included in the Approved Operating Budget and Annual Appropriations for Debt Service.
EVALUATION:	N/A
EXPERIENCE ELSEWHERE:	N/A
SOURCE OF INFORMATION:	Jennifer E. Barrett, Finance Director, 240-777-8870

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BILL 39-07

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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

January 7, 2008

032490

TO: Michael Knapp, Council President

FROM: Joseph F. Beach, Director, Office of Management and Budget

SUBJECT: Council Bill 39-07, Agricultural Land Preservation – Amendments

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

Bill 39-07 authorizes the County to purchase agricultural land preservation easements at both the State and County level. The purpose of this Bill is to align Montgomery County Code, Chapter 2B-Agricultural Land Preservation, with State laws and to modify the County program so that it complements the State program.

FISCAL SUMMARY

There is no anticipated fiscal impact to the County.

The following contributed to and concurred with this analysis: Jeremy Criss, Department of Economic Development (Agricultural Services).

jfb:ad

cc: Timothy L. Firestine, CAO
Rebecca Domaruk, CEX
Pradeep Ganguly, Director, DED
Jeremy Criss, DED
Brady Goldsmith, OMB

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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

January 6, 2010

2010 JAN 12 AM 10:17

RECEIVED MONTGOMERY COUNTY COUNCIL

TO: Nancy Floreen, President, County Council

FROM: Joseph F. Beach, Director

SUBJECT: Council Bill 46-09, Personnel – Regulations – Persons with Disabilities – Hiring Preference

The purpose of this memorandum is to transmit a fiscal and economic impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

The proposed bill requires that the Executive adopt regulations establishing and maintaining a hiring preference for certain qualified persons with disabilities who apply for an initial appointment to a County merit system position. Under the bill, the preference would only apply to a person who is among those in the highest rating category in a normal competitive process.

FISCAL AND ECONOMIC SUMMARY

The fiscal impact is indeterminate until the County Executive drafts the regulations establishing the hiring preference and its parameters. Depending on the standards developed, the County could incur programming costs for the online application recruitment system.

The bill will not have any material financial or economic impact on the County.

The following contributed to and concurred with this analysis: Lori O'Brien, Office of Management and Budget, Lenny Moore, Department of Finance, and Melissa Voight-Davis, Office of Human Resources.

JFB:lob

c: Kathleen Boucher, Assistant Chief Administrative Officer
Dee Gonzalez, Offices of the County Executive
Lenny Moore, Department of Finance
Joseph Adler, Director, Office of Human Resources
Melissa Voight-Davis, Office of Human Resources
Lori O'Brien, Office of Management and Budget
John Cuff, Office of Management and Budget

OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

January 19, 2010

TO: Nancy Floreen, President, County Council

FROM: Joseph F. Beach, Director

SUBJECT: Council Bill 37-09, Contracts and Procurement - Equal

The purpose of this memorandum is to transmit a fiscal and economic impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

The proposed bill would require County contractors and subcontractors working on certain County contracts to provide for domestic partner benefits equal to those provided to an employee's spouse. Contracts that are subject to the County's Prevailing Wage law or the County's Wage Requirements law would be subject to this new requirement. The Bill would cover benefits such as bereavement leave, family medical leave, sick leave, health benefits, dental benefits, disability insurance, life insurance, and retirement benefits.

FISCAL AND ECONOMIC SUMMARY

The fiscal impact is indeterminate. Data is not available on contractor benefit policies or on the personal status of contractor employees. To the extent that this would require contractors to increase compensation to their employees, it is expected that those costs would be passed on to the County. Further, if, because of this bill, some companies chose not to bid on County contracts, the restricted competition could cause higher costs for the County. In order to enforce this law, the Office of Procurement in the Department of General Services would need to dedicate staff time, and contract for at least one audit, at a cost of $50,000.

This bill could have a negative economic impact on some contractors who either perform or would like to perform work for the County. As mentioned above, the data is not available to calculate the impact of the insurance requirement and the resulting cost impact to the County's contractors. It is possible that this bill could have the further effect of causing some contractors to decide not to bid on County contracts because of the additional regulatory requirement. At a minimum, it may require a company that does not already have an equal benefits policy to devote resources to develop a benefits policy that complies with the bill.

The following contributed to and concurred with this analysis: Bruce Meier, Office of Management and Budget, Michael Coveyou, Department of Finance, and Mary Ellen Davis-Martin, Office of Procurement.

JFB:brm

c: Kathleen Boucher, Assistant Chief Administrative Officer
Dee Gonzalez, Offices of the County Executive
Michael Coveyou, Department of Finance
David Dise, Director, Department of General Services
Mary Ellen Davis-Martin, Department of General Services
John Cuff, Office of Management and Budget

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2008 JAN 10 PM 1:11

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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

032545

January 10, 2008

TO: Michael J. Knapp, Council President

FROM: Joseph F. Beach, Director, Office of Management and Budget

SUBJECT: Council Bill 33-07, Renewable Energy

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

Bill 33-07 has the following components:

- Requires the Director of the Department of Environmental Protection (DEP) to develop a Renewable Energy Action Plan;
- Requires the Director of DEP to study the feasibility of creating a Sustainable Energy Utility;
- Prohibits enforcement of any deed restriction, covenant, rule, or regulation which would prohibit the owner of any building from installing a renewable energy device; and
- Creates a property tax credit for residential property that uses a solar or geothermal energy device.

FISCAL SUMMARY

The Department of Environmental Protection reports the fiscal impact of Bill 33-07 on the department includes the cost for a consultant to assist with the preparation of the Renewable Action Plan. The estimated cost of the contract ranges from $50,000 to $100,000, depending on the contract scope (500 to 1,000 hours @ $100 per hour). Additionally, DEP notes potential cost efficiencies could be achieved by combining the costs associated with the Renewable Energy Action Plan with the Climate Protection Plan proposed under Bill 32-07, Environmental Sustainability – Climate Protection Plan.

The Department of Finance highlights fiscal impacts on the department associated with staff time and the cost of a consultant to conduct, develop, and manage the property tax credit. The department will be able to absorb the costs of setting up and administering the tax credit within existing resources. The department estimates the set-up (one-time) would take about ten hours or less, while ongoing, annual workload would be between two and fifty (2 and 50) hours. The department explains the range (2 and 50) is large due to the likelihood that very few property owners will take the opportunity to request the tax credit, yet if energy prices continue to increase as they have in prior years, more property owners may request the credit. However, since the cost of the credit has a cap of $250,000, it is likely that fewer than one hundred property owners would be able to receive the credit in any given year. If the one hundred property owners were to request the credit, it would cost between $100 and $2,300 per year to administer the tax credit.

Office of the Director

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The Department of Finance notes, while Bill 33-07 requires the department to manage the property tax credit for eligible solar or geothermal energy devices, the department does not possess the necessary expertise to determine if the system qualifies for the tax credit. Therefore, the assessment of whether or not the system qualifies should be made by another source with the appropriate expertise to certify the solar or geothermal device. This source would preferably be another County agency or governing body, which would help ensure there is no conflict of interest in certifying the devices that are to be credited.

Stan Edwards from the Department of Environmental Protection and Michael Coveyou from the Department of Finance contributed to, and concurred with the analysis.

JFB:th

cc: Timothy L. Firestine, Chief Administrative Officer
Rebecca Domaruk, CEX
Jennifer E. Barrett, Director, Department of Finance
Robert G. Hoyt, Director, DEP
Stan Edwards, DEP
Michael Coveyou, Department of Finance
Brady Goldsmith, OMB

BILL 5-10

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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

054514

MEMORANDUM

February 22, 2010

2010 FEB 22 PM 2:38

MONTGOMERY COUNTY COUNCIL

TO: Nancy Floreen, President, County Council

FROM: Joseph F. Beach, Director

SUBJECT: Expedited Council Bill 5-10, Biotech Credit Supplement

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

Expedited Bill 5-10 (EB 5-10) enacts a County tax credit that supplements any State biotech investment tax credits given to those who have invested in Montgomery County based biotech companies. The tax credit would be administered by the Department of Finance or the Maryland Office of the Comptroller, if the Comptroller agrees to administer it on the County's behalf. This tax credit, like the County's other business tax credits, would be an entitlement for those eligible and it would not be subject to County appropriation, as the bill is currently constructed.

FISCAL SUMMARY

The legislation obligates the Department of Finance to either administer the credit, or to come to terms with the Maryland Office of the Comptroller to have the Comptroller administer the tax credit on the County's behalf. The bill does not provide the Department of Finance with the resources required to either administer the credit or to negotiate with the Comptroller to have the Comptroller administer the credit. The Department does not have the resources available to serve either of these functions. The bill requires that all requests for the tax credit be made by way of an application and the Department notes that the number of State tax credit recipients that received credits for investments in Montgomery County businesses in 2008 exceeded the number of recipients given Montgomery County business tax credits that year. The business tax credits already require one workyear and since 2008 the County has enacted additional tax credits, (such as the Renewable Energy Tax Credits) the administration of which had to be absorbed by existing personnel. If this bill is enacted, it would require that Finance be given additional resources to implement and administer it as the Comptroller is unlikely to take on the responsibility in these harsh economic times. Therefore, the Department of Finance would require the creation of a part-time, Grade 23 position to administer this program. The estimated cost for a part-time position with benefits (at mid-point) is $44,545 and a half of a workyear.

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