Fiscal Highlights

Performance Note Improvements in Six Easy Steps - Steven M. Allred

Most of us have become familiar with performance notes since a rule change in the 2011 General Session (SJR 5) began requiring them on bills that create a "new program" or "new agency" as defined in rule. The Legislative Fiscal Analyst (LFA) reviews all bills to determine if they require a performance note. During the 2015 General Session, LFA decided that 39 bills required a performance note. Previous years were lower, most likely because revenue estimates were higher in 2015 and more bills created new or expanded programs.

After reviewing performance notes over the past four years, the LFA and Legislative Auditor General (LAG) recommended the following process improvements to the Executive Appropriations Committee on November 17 in order to raise the visibility and quality of performance notes. The Executive Appropriations Committee approved the recommendations.

1. Make the process more visible by attaching a performance note to every piece of legislation, on a separate page, similar to a fiscal note. For bills that don't require a performance note, the note would state something like, "No Performance Impact."
2. Create a data feed from the agencies so they can submit performance note input directly to LFA similar to the way they submit fiscal note input.
3. Improve internal reviews of performance notes. Currently, rules don't ask LFA to review performance notes. However, LFA and LAG could do so in tandem with LFA's fiscal note process.
4. Consider using a different color on floor calendars for bills that have a performance impact.
5. Remove the notice currently placed on the bottom of fiscal notes stating whether a performance note is required or not, as this will be covered by recommendation #1.
6. Consider heightened consequences to legislation if the performance note is not supplied or is not adequate. The rule could require a bill that does not have a performance note to be held until a performance note is posted.

We are working to implement as many of these recommendations as we can in time for the 2016 General Session.