

**Report of the
Task Force for
Local Fiscal Impact Statement Process Review**



**Commission on Local Government
Commonwealth of Virginia**

December 1, 2013

***Members of the
Commission on Local Government (CLG)***

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Executive Summary

The Commission on Local Government (CLG), a five-member body appointed by the Governor, promotes and preserves the viability of Virginia's local governments by fostering positive intergovernmental relations. The Commission assists counties, cities, and towns in the Commonwealth by conducting reviews on boundary change and governmental transition issues for the courts and localities; publishing an annual catalog of state and Federal mandates on local governments; and developing an annual report analyzing the comparative revenue capacity, revenue effort, and fiscal stress of Virginia's cities and counties.

Section 30-19.03 of the Code of Virginia states that CLG shall prepare and publish a statement of fiscal impact for "any bill requiring a net additional expenditure by any county, city, or town, or...any bill requiring a net reduction of revenues by any county, city, or town," and also states that the Division of Legislative Services shall forward bills to the CLG that qualify for this process.

Item #113 of the 2013 Appropriations Act included language requiring CLG to convene a task force to investigate the local fiscal impact statement process for bills as well as budget items. The budget language stated that the identification and referral of bills and budget items to CLG should be studied, along with the feasibility of using consultants. It also outlined the composition of the task force, and required CLG to issue a report to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2013.

The task force's goal is to create a process that allows legislators to have the best information available in order to make policy decisions. The task force concluded that the two largest challenges to this goal as it relates to the local fiscal review process are time and resources. As the task force spent considerable time studying the issues presented by the budget language, each recommendation of the task force seeks to alleviate the difficulties that come from those two challenges.

Of primary concern to the task force is the impact of budget items, as the biennial budget and amendments to it can have a significant fiscal impact on local governments. However, CLG does not currently have the resources necessary to determine these impacts. Accordingly, the task force recommends that a larger effort be undertaken to enhance the budget process in order to provide sufficient time to determine the fiscal impact of budget proposals on local governments.

With the key challenges of time and resources in mind, the task force also recommends the following actions:

- Section 30-19.03 should be amended to authorize the Department of Planning and Budget and the Department of Taxation to forward legislation to CLG for local analysis;

- CLG should solicit impact analysis from professional organizations within Virginia in addition to the counties, cities, and towns of the Commonwealth, from which assistance is already requested;
- CLG, with the assistance of the Department of Housing and Community Development, should develop a web-based application to gather and manage information provided by professional organizations and localities for the development of fiscal impact statements;
- CLG should be permitted to contract for personnel assistance while the General Assembly is in session, and;
- Bills with a local fiscal impact should be introduced no later than the first day of the General Assembly session.

Background

Many local governing bodies in Virginia have an ever-growing concern about the impact on localities of state mandates and cost shifting. For many years, local governments within the Commonwealth of Virginia have been concerned about the fiscal impacts to their budgets from legislative and budgetary actions during General Assembly. The primary vehicle for the analysis of legislation with a local fiscal impact is a process managed by the Commission on Local Government (CLG) that is authorized by Section 30-19.03 of the Code of Virginia; however, this process has been underutilized in the past. Since 2010, only 55 bills have been analyzed by CLG through the local fiscal impact review process.¹ Additionally, a formal review process for the impact of proposed budget amendments on local governments does not exist at the present time.

Amendments to the Appropriation Act that were adopted during the 2013 General Assembly session required CLG to form a task force to study the process for reviewing legislation with a local fiscal impact.² It is believed that there are some opportunities to improve the process to enable better and timelier information to be before lawmakers when they consider bills and budget items that have cost impacts on local communities. It is also recognized that a need exists for additional resources to provide such information during the tight procedural confines of the current legislative process. This task force is an important first step to develop options for moving forward and can be a driver for securing resources in the future.

¹ For more information related to bills subjected to local review, please see Appendix D.

² Budget Item #113 is attached as Appendix A.

Task Force

In addition to defining the scope of the task force, Budget Item # 113 also identified the construction of its membership. In accordance with the budget language, CLG formed the task force thusly:

- Virginia Association of Counties: Mr. Thomas Foley, Albemarle County
- Virginia Municipal League: Mr. David Blount, Thomas Jefferson Planning District Commission
- Virginia Association of School Business Officials: Ms. Penny Hodge, Roanoke County Schools
- Virginia Local Government Management Assoc: Mr. Beverly Cameron, City of Fredericksburg
- Virginia Local Government Management Assoc: Mr. Christopher Morrill, City of Roanoke
- Virginia Local Government Management Assoc: Mr. James McReynolds, York County
- Virginia Local Government Management Assoc: Ms. Kathleen Guzi, Botetourt County
- Virginia Government Finance Officers' Assoc: Ms. Vivian Calkins-McGettigan, York County
- Commissioners of the Revenue Assoc of Virginia: Hon. Ross Mugler, City of Hampton
- Treasurers' Association of Virginia: Mr. Alan Albert, Treasurers' Assoc. of Virginia

Budget and Amendments

The task force was charged with identifying a process for analyzing budget items with a local fiscal impact. Under the current statute, CLG does not provide local fiscal analysis of proposed budget items, as it is only tasked with reviewing legislative bills.

To study the matter, the task force solicited the assistance of staff members of the Department of Planning and Budget and the Department of Taxation at its meeting on June 24, 2013, as well as staff members of the House Appropriations Committee and the Senate Finance Committee at its meeting on July 26, 2013.

Upon hearing testimony related to the budget process at these two meetings, the task force determined that the schedule for adoption of the Appropriation Act does not currently provide sufficient time for local governments to respond with fiscal impact information that can be used to help legislators make more informed decisions. In addition, the group determined that additional stakeholders in the budget process needed to be a part of that discussion. As such, the recommendation of the task force is for further study of ways to incorporate local fiscal impact into Virginia's budget development process. Such study should include representation from not only local governments, but also legislators, the Department of Planning and Budget, and the staffs of the General Assembly's budget writing committees.

The task force recognizes the sometimes significant fiscal impact of state budget provisions on the localities of the Commonwealth. While the task force has not recommended a process for review of

the budget and amendment items at this time, it believes that this issue should be addressed through a larger discussion and review by all interested parties.

Legislative Review Process Recommendations

As the task force reviewed the current process for review of bills with a local fiscal impact, the following concerns were raised:

- 1) Many bills with a local fiscal impact are not flagged for fiscal impact review;
- 2) The time required for CLG to complete a FIS is too long; and
- 3) Local input on fiscal impact is sometimes provided by staff with only a general knowledge of a subject, therefore the subject area expertise is sometimes insufficient.

To address these challenges, the task force has sought solutions that would minimize the impact to the legislative process as well as the costs to the state.

Current Process

The authority for CLG to produce a FIS on a bill with a local fiscal impact is given under Sec. 30-19.03 of the Code of Virginia. Local fiscal impact is defined by that statute as a requirement of any county, city, or town that will result in a net reduction of revenues or a net increase of expenditures. Legislation that grants authority rather than requires a locality to take an action is not subjected to this review.

The statute further provides that this fiscal impact review is initiated solely by the Division of Legislative Services (DLS), when that unit identifies bills with a potential fiscal impact, and formally requests a review by CLG. Upon receiving the request, CLG will communicate with local government volunteers (who have been solicited in the December before General Assembly session) and ask for local fiscal analysis.

With the assistance of the Virginia Association of Counties (VACo) and the Virginia Municipal League (VML), CLG will assign one of three priorities to a bill that requires local analysis. A bill that is categorized as a "Priority A" must be returned by a locality to CLG with a local fiscal estimate and analysis within three business days. Local analysis of "Priority B" bills must be completed and submitted to CLG within five business days. A bill that is labeled as a "Priority C" is typically analyzed exclusively by CLG and local input is optional.

Upon receipt of local analysis, CLG will typically complete the FIS within one business day. The consolidation of responses of 15 to 20 localities is a time-consuming process. Additionally, CLG must often reach out to localities to receive clarification of fiscal estimates and narrative responses. When

the FIS is completed, a copy is forwarded to the Clerk of the House of Delegates and posted to the Legislative Information Services website.³

Issues Related to the Current Process

After completing a thorough review of the current process for reviewing legislation with a local fiscal impact, the task force has noted some areas of concern. First, the task force believes that a larger number of bills need to be analyzed through the "local lens." Secondly, the task force felt that CLG will need additional resources in order to efficiently manage a larger volume of legislation. Lastly, the task force believes that CLG needs access to specialists in specific subject areas in order to provide a complete local analysis that ultimately is beneficial to legislators as they make policy decisions.

Proposed Process and Recommendations

The task force believes that the general flow of information in the current review process is satisfactory. The recommendations of the task force are intended to allow for the analysis of more legislation, for CLG to be able to effectively manage the process with a larger volume of bills, and to allow for CLG to access more specialized experience for the analysis of legislation.⁴

The first recommendation of the task force is the only one that requires a statutory change. The task force believes that legislation that should be subject to the local review process frequently does not get assigned to CLG for analysis. Since 2010, CLG has reviewed just 55 bills for local fiscal analysis.⁵ While DLS is responsible for drafting the legislation that is introduced at the General Assembly, the task force does not believe it is consistently reviewed for local impact. Meanwhile, the Department of Taxation (TAX) and the Department of Planning and Budget (DPB) are also reviewing legislation with a fiscal impact, albeit from a state perspective. These agencies routinely see legislation with a local fiscal impact; however, they lack the authority to refer them to CLG for review. The task force recommends that Sec. 30-19.03 of the Code of Virginia be amended to grant TAX and DPB the authority to refer bills to CLG for local fiscal impact. The task force believes that this statutory change will allow more legislation to be analyzed through the local fiscal impact process. Proposed changes to the Code are attached to this report as Appendix B.

With an increase to its FIS workload, the task force believes that CLG will struggle to effectively manage the review process as it is currently constructed. In addition to its statutory obligations to generate fiscal impact statements, CLG is also responsible for drafting legislative action summaries (LAS) during General Assembly. Since 2010, CLG has generated 230 LAS reviews. CLG has a maximum of three full-time employees that it can dedicate to these activities: a local government policy manager, a senior policy analyst, and a senior public finance analyst.

The time required by CLG to generate a single FIS is unnecessarily long, primarily due to some duplication of effort. Local fiscal estimates and reviews are submitted to CLG by localities in a Microsoft

³ For more information related to the local fiscal review process, please see Appendix C.

⁴ For more information related to the proposed changes, please refer to Appendix C.

⁵ For more information related to FIS volume, please refer to Appendix D.

Word document. These files are consolidated in order to complete the FIS. This information often requires clarification, editing, and further explanation from the localities submitting the information. The measures required to consolidate data can result in a single FIS requiring hours for completion rather than minutes.

The task force believes that additional resources will be required by CLG in order to efficiently manage its FIS process with higher volume. The first resource recommendation of the task force is for the development of a web-based application to allow CLG to manage the flow of information more efficiently. The purpose of this technological solution is to allow end-users to submit local analysis to CLG electronically and eliminate the duplication of effort. Additionally, CLG will use the application to edit the locality's entry, generate the FIS automatically, and distribute the completed product to the Clerk of the House of Delegates and post to the Legislative Information Services website instantly. The application would be developed by the Department of Housing and Community Development (DHCD). It is estimated that the development of this application would require a one-time appropriation of \$35,000 to DHCD's budget.

The task force also recommends that additional assistance be provided to CLG for this process. Rather than hire additional full-time staff that will require a salary and benefits package, the task force suggests that CLG request contract assistance. This contractor would need to aid the full-time CLG staff with the management of the information that is collected through the web application and also provide policy analysis on legislation. The task force recommends that the General Assembly appropriate an additional \$30,000 to DHCD on an annual basis to allow for CLG to receive this assistance.

The task force recognizes the significant contributions made by local government employees who volunteer to assist CLG with local fiscal analysis. With those contributions in mind, the task force believes that the quality of the analysis could be improved. Some localities may not have the appropriate staff expertise to properly analyze specific legislation. Given that General Assembly sessions coincide with local budget development, local governments may not be able to spare the resources to provide local fiscal analysis. These situations often lead to an incomplete fiscal analysis, which does not allow CLG to provide the best information to legislators.

After considerable study, the task force recommends that CLG solicit input from sources in addition to local governments, specifically professional organizations dedicated to public service. Furthermore, the task force suggests that the pool of professional organizations and local volunteers be divided into four subject areas: Finance, Education and Human Services, Local Government, and General Laws. It is the view of the task force that this will enable CLG to utilize subject area specialists in a manner similar to the fiscal analysis performed by TAX and DPB without hiring additional staff.

In the task force's recommended process, requests for analysis will be routed by CLG to the most relevant subject area volunteers.⁶ The task force believes that this will keep the analysis focused and precise. It is also the view of the task force that requests for local analysis sent to a smaller subset of volunteers will result in a quicker response time and allow CLG to produce a completed FIS faster.

⁶ Any local government will be allowed to provide analysis on a bill.

The task force also believes that local government fiscal estimates are critical to the analysis and that they should represent no less than 50% of each subject area group.

The role of the local government volunteer will not change much under the new process. Local employees will still be asked to provide narrative and a local fiscal estimate for a bill as it pertains to their specific jurisdictions. The biggest change will be how local employees volunteer their services. Instead of requesting assistance for all legislation, CLG will ask localities to volunteer for a specific subject area.

The role of the volunteers from professional organizations will be different from the local government volunteers. Professional organization volunteers will not necessarily be employed by a locality and therefore cannot provide specific local fiscal impact estimates. These volunteers will be asked to provide a broader general policy analysis as it pertains to local governments. This analysis can include a summary of potential fiscal impact. The task force believes that professional organizations can provide the subject matter expertise that is sometimes lacking from analysis under the current process.

The task force also believes that it could be a benefit to CLG's fiscal review process if it were to be notified of legislation with a local impact as soon as possible. Every year, VACo and VML hold a training session for local legislative liaisons to discuss pre-filed bills for the upcoming General Assembly session. In the past, this has been a forum for the discussion of legislation that may have a negative fiscal impact on localities. The task force recommends that VACo and VML invite CLG staff to this session to identify pre-filed legislation needing analysis before the General Assembly convenes. The task force feels that this relationship will afford CLG and its volunteers more time to complete a thorough local analysis of legislation.

First Day Introduction of Legislation with a Local Fiscal Impact

The primary goal of the local fiscal review process is to ensure that legislators have the best information available to make policy decisions. With a full-time staff of three employees, CLG needs as many resources as possible in order to ensure that the data it provides to legislators fulfills this goal.

The task force has made several recommendations to allow CLG to manage the local fiscal review process while minimizing its requests for additional funding. Each of the task force's recommendations is an effort to provide additional resources to CLG (whether financial, technological, or intellectual) or to allow more time to conduct a thorough analysis.

While not directly tied to the local fiscal review process itself, the task force strongly believes that it should be a requirement for legislation with a local fiscal impact to be introduced no later than the first day of the General Assembly session. Currently, this requirement is only applicable to bills involving the Virginia Retirement System; however, this deadline applied to local fiscal impact bills

beginning with the 1996 session, until it was repealed in 2010.⁷ This action would allow CLG to maximize the time available to complete local fiscal analysis before legislation is discussed during committee. The additional time would also be helpful for local government employees who are also preparing their local budgets while responding to requests for local fiscal impact analysis during the General Assembly session.

Acknowledgements

In order to complete a thorough review of the fiscal impact process, the task force requested the assistance of several organizations. The task force formally recognizes the contributions of the following people: Ms. Kimberly Via and Ms. Lori Hicks of the Auditor of Public Accounts; Mr. Jeff Sharp of the Division of Legislative Services; Mr. John Ringer of the Department of Planning and Budget; Mr. Mark Haskins of the Department of Taxation; Mr. Robert Vaughn of the House Appropriations Committee staff; Mr. Clyde Cristman of the Senate Finance Committee staff; and Mr. Kent Dickey of the Department of Education.

Additionally, the task force would like to thank other key contributors to its meetings: Ms. Susan Williams of the Department of Education; Mr. Neal Menkes and Ms. Mary Jo Fields of the Virginia Municipal League; Mr. Dean Lynch and Mr. Erik Johnston of the Virginia Association of Counties; Ms. Mary Ann Curtin of Chesterfield County; Mr. Jim Regimbal of Fiscal Analytics, Ltd.; and Mr. Charles Crowson of the Virginia Association of Assessing Officials.

⁷ The requirement was created by Chapter 743 of the Acts of Assembly in 1995 and repealed in Chapter 410 of the Acts of Assembly in 2010.

Appendix A

Budget Item #113 of the 2013 Appropriations Act

ITEM 113.	Item Details(\$)		Appropriations(\$)	
	First Year FY2013	Second Year FY2014	First Year FY2013	Second Year FY2014
Department of Housing and Community Development (165)				
113.	Administrative and Support Services (59900).....		\$2,542,737	\$2,548,385 \$2,515,522
	General Management and Direction (59901).....	\$2,542,737		
	Fund Sources: General.....	\$1,999,280	\$2,004,928	
	Special.....	\$543,457	\$1,972,065	
			\$543,457	

Authority: Title 36, Chapter 8, Code of Virginia.

The Commission on Local Government shall convene a task force to determine a process for the preparation of fiscal impact estimates for bills and budget items anticipated to require a net additional expenditure, or a net reduction of revenue, by a county, city, or town as a result of implementation of such bill or budget item. As part of this effort, the task force shall examine how bills and budget items will be identified and referred for analysis, and determine the feasibility of using outside consultant or policy analysis experts to prepare the fiscal impact estimates. The task force shall include representatives from the Virginia Association of Counties, the Virginia Municipal League, the Virginia Association of School Business Officials, city managers and county administrators, local government and school finance directors, and local commissioners of revenue and treasurers. The Commission shall provide a report on the task force's work to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2013.

Appendix B

Proposed Changes to Sec 30-19.03 of the Code of Virginia

§ 30-19.03. Estimates to be prepared for legislation affecting local government expenditures and revenues.

Whenever any *legislative* bill requiring a net additional expenditure by any county, city, or town, or whenever any *legislative* bill requiring a net reduction of revenues by any county, city, or town, is filed during any session of the General Assembly, the Commission on Local Government shall investigate and prepare an estimate setting forth, to the extent practicable, the additional expenditures or reduction of revenues, if any, to be required of the affected localities in event of enactment of such legislation.

A bill shall be deemed to require an expenditure if it has the effect of requiring any county, city, or town to (i) perform or administer a new or expanded program or service, (ii) maintain an existing program or service at a specified level of spending or delivery, (iii) assume or incur administrative costs in support of a state or state-related program, or (iv) furnish capital facilities for state or state-related activities.

For purposes of this section, "net additional expenditure" means the cost anticipated to be incurred annually, less any revenues receivable on account of the program or service from fees charged recipients of the program or service, state or federal aid paid specifically and categorically in connection with the program or service, new or increased local sources of revenue authorized and designated specifically to offset the cost of the program or service, and any offsetting savings resulting from the reduction or elimination of any program or service directly attributable to the performance of the required program or service.

A bill shall be deemed to require a net reduction of revenues if it has the effect of requiring any county, city, or town to (i) relinquish an existing or potential source of local revenue by classification or exclusion or (ii) diminish an existing or potential source of revenue by classification or exclusion.

For the purposes of this section, "net reduction of revenues" means the reduction anticipated in local revenues, including, but not limited to, general levies, special levies, revenues received pursuant to §§ [58.1-605](#) and [58.1-606](#) and administrative and user fees, to be incurred annually, less any new local revenues receivable and any offsetting savings resulting from the reduction of local revenues, caused by the classification or exclusion being proposed.

The provisions of this section shall not apply to a reduction in local revenues that is required or arises from a court order or judgment, nor to a revenue reduction that is adopted at the option of any county, city, or town under a law that is permissive rather than mandatory, nor to a revenue reduction that is the result of a measure providing tax relief on a statewide basis.

The Division of Legislative Services shall examine all bills, *and also any joint resolutions calling for a study of revenues and/or expenditures, which are* filed during any legislative session for the purpose of identifying and forwarding to the Commission on Local Government those bills requiring the preparation of fiscal estimates pursuant to this section.

The Department of Planning and Budget and the Department of Taxation are also authorized to refer legislative bills to the Commission on Local Government for the purpose of preparing local fiscal estimates.

As soon thereafter as may be practicable, the Commission on Local Government shall forward copies of such estimates to the Clerk of the House of Delegates for transmittal to each patron of the legislation and to the chairman of each committee of the General Assembly to consider the same.

All departments, agencies of government, the Division of Legislative Services, and all local governmental units of the Commonwealth are directed to make available such information and assistance as the Commission on Local Government may request in preparing the estimates required by this section.

(1979, c. 257; 1980, cc. 747, 749; 1995, c. [743](#); 1999, c. [1016](#); 2010, c. [410](#).)

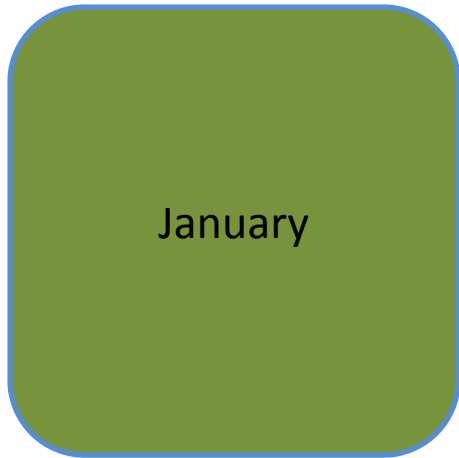
Appendix C

Current and Proposed Flowcharts and Timeframes

Timeline - Current



December



January



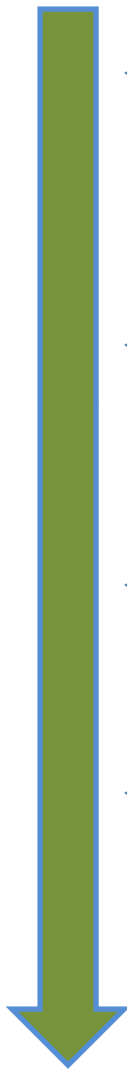
← CLG solicits local volunteers for the FIS process

← General Assembly session begins

Timeline - Proposed

December

January



CLG confirms subject matter experts among associations and local governments for the FIS process



Local legislative liaisons scan pre-filed bills

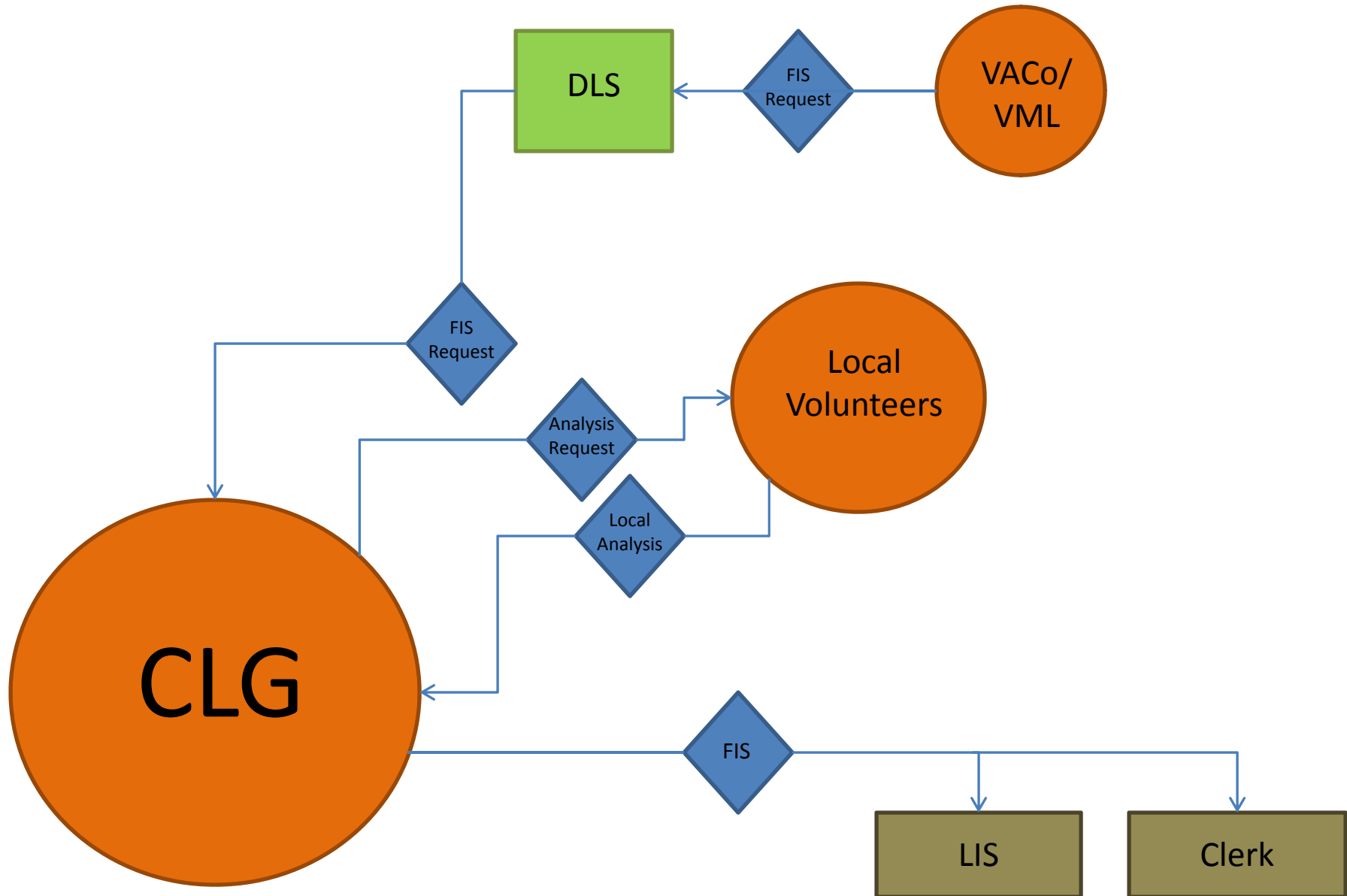


Local legislative liaisons present high-priority bills at VACo/VML pre-session meeting

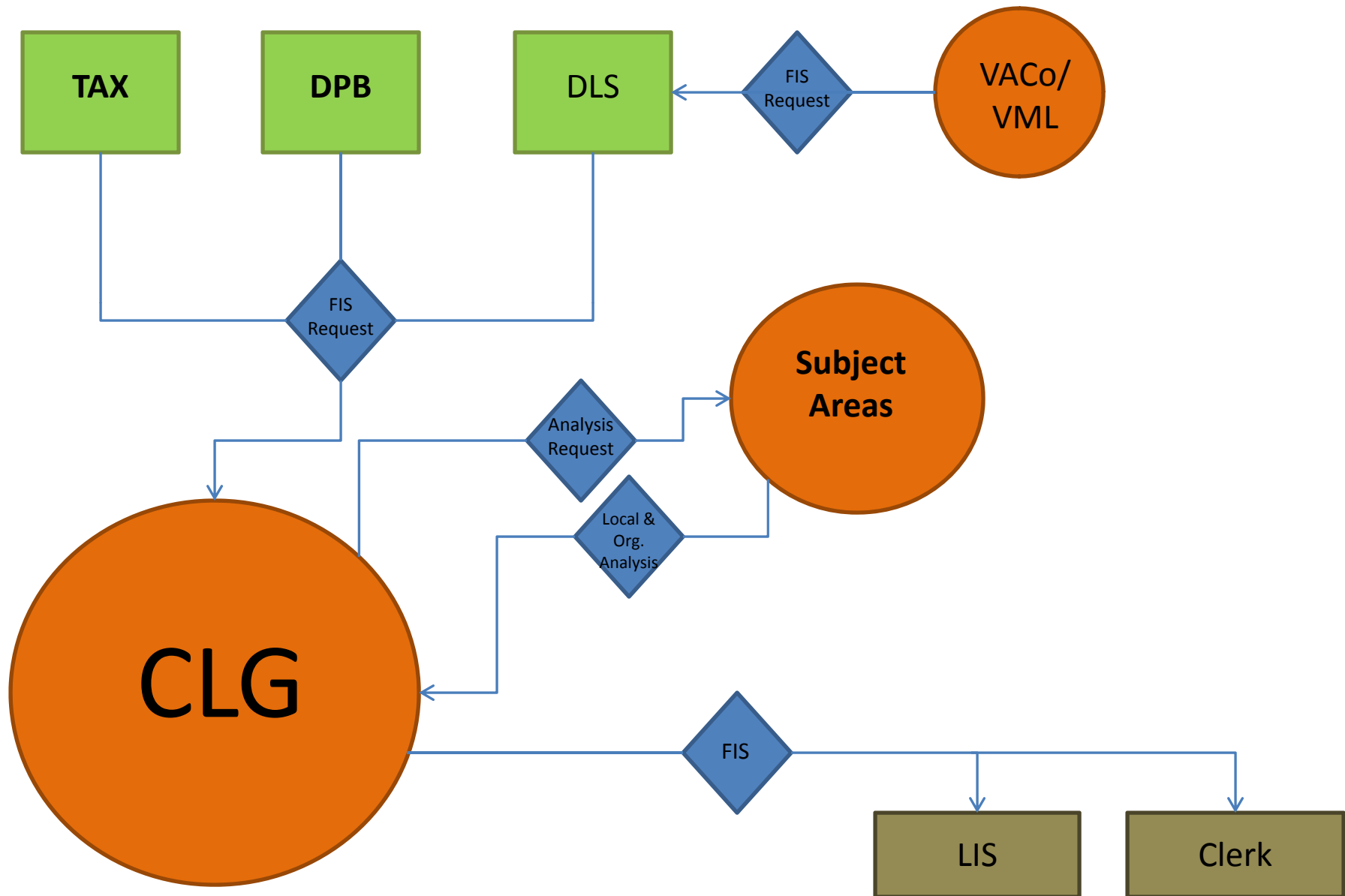


General Assembly session begins

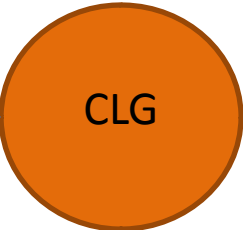
Flowchart - Current



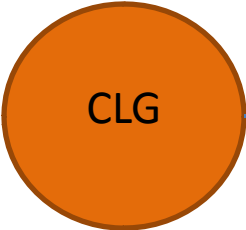
Flowchart - Proposed



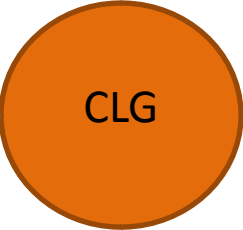
Time Frames - Current



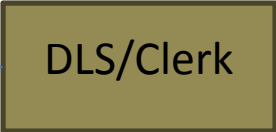
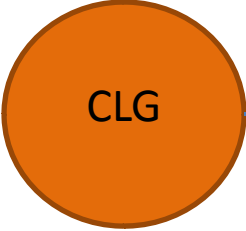
1/2 day



1/2 day



Priority A: 3 days
Priority B: 5 days



1 day

Time Frames - Proposed

DLS
TAX
DPB

FIS
Request

CLG

½ day

CLG

Analysis
Request

Subject
Areas

½ day

Subject
Areas

Local &
Org.
Analysis

CLG

3 days or fewer

CLG

FIS

DLS/Clerk

½ day

Appendix D

Comparison of Fiscal Impact Statements to Additions and Expansions of Local Mandates

The task force believes that the shortages of bills that are subjected to local fiscal review are a problem with the current process. Since 2010, only 55 bills have been analyzed under the lens of local fiscal impact. Of those 55 bills, 30 of them were reviewed in a single year (2012). For the process to be effective, more legislation must be reviewed by CLG.

Every year, CLG publishes the “Catalog of State and Federal Mandates on Local Governments” report, which is a requirement pursuant to Section 15.2-2903 of the Code of Virginia. Appendix C of the report focuses on changes to the report in the last year. Of particular interest to this appendix are new and expanded mandates.

The following graph compares the number of bills that have been analyzed for local impact by CLG since 2010 to the number of new and expanded mandates according to the “Catalog of State and Federal Mandates on Local Governments.” Its purpose is to illustrate the legislation that is being passed through the General Assembly with a local impact that is not being reviewed.

Local Fiscal Impact Statements vs. New or Expanded Mandates

