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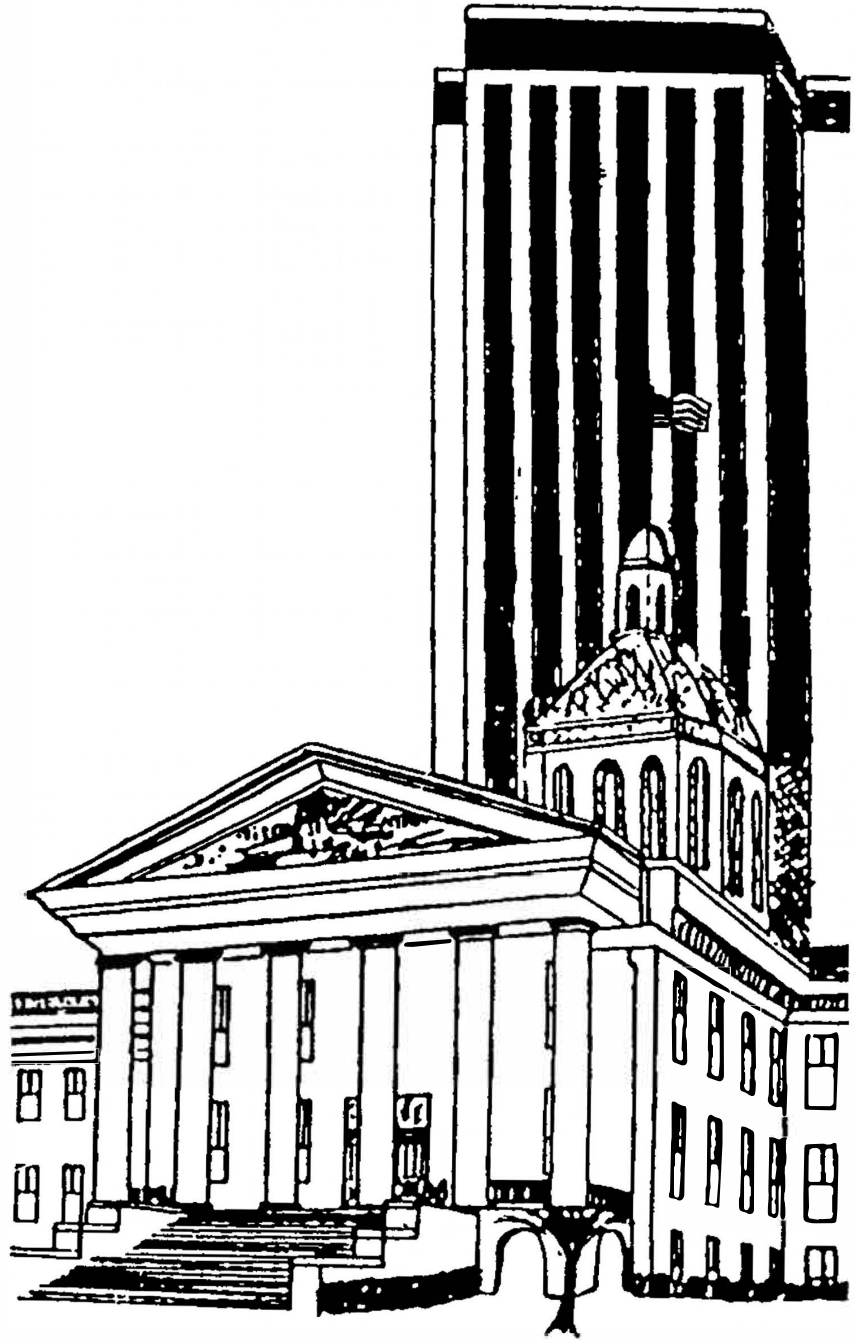
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# **FLORIDA LEGISLATURE**

## **FINAL LEGISLATIVE BILL INFORMATION “CITATOR”**

*1998 Regular Session  
1997 Special Session A*



prepared by:

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## HISTORY OF SENATE BILLS

## S 1440 (CONTINUED)

- 04/24/98 SENATE Read third time -SJ 00883, CS passed, YEAS 37 NAYS 0 -SJ 00883, Immediately certified -SJ 00883
- 04/24/98 HOUSE In Messages
- 04/28/98 HOUSE Received -HJ 01550, In Governmental Responsibility Council, pending ranking -HJ 01550
- 04/29/98 HOUSE Substituted for HB 4791 -HJ 01591, Read second time -HJ 01591, Amendment(s) adopted -HJ 01591, Read third time -HJ 01617, CS passed as amended, YEAS 115 NAYS 0 -HJ 01617
- 04/29/98 SENATE In returning messages
- 05/01/98 SENATE Was taken up -SJ 01583, Amendment(s) to House amendment(s) adopted -SJ 01608, Concurred in House amendment(s) as amended -SJ 01608; Requested House to concur -SJ 01608, CS passed as amended, YEAS 39 NAYS 0 -SJ 01608
- 05/01/98 HOUSE In returning messages, Concurred -HJ 02202, CS passed as amended, YEAS 118 NAYS 0 -HJ 02203
- 05/01/98 SENATE Ordered engrossed, then enrolled -SJ 01818
- 05/08/98 Signed by Officers and presented to Governor
- 05/24/98 Became Law without Governor's Signature, Chapter No 98-200, See also CS/SB 846 (Ch 98-105)

## S 1442 GENERAL BILL/CS by Natural Resources; Latvala (Similar CS/1ST ENG/H 4027, H 4687, Compare S 1622)

- Regional Water Supply Authorities, provides that member government is not considered party in administrative proceedings under certain conditions, revises criteria for governance of West Coast Regional Water Supply Authority & its member governments under interlocal agreements, repeals certain provision re process for review of consumptive use permit; provides for arbitration of certain controversies concerning water use, etc Amends FS Effective Date Upon becoming law
- 02/23/98 SENATE Prefiled
- 02/26/98 SENATE Referred to Natural Resources, Community Affairs
- 03/03/98 SENATE Introduced, referred to Natural Resources, Community Affairs -SJ 00089
- 04/09/98 SENATE On Committee agenda—Natural Resources, 04/14/98, 3 00 pm, Room-A(LL-37)
- 04/14/98 SENATE Comm Action. CS by Natural Resources -SJ 00498, CS read first time on 04/16/98 -SJ 00501
- 04/16/98 SENATE Now in Community Affairs -SJ 00498, On Committee agenda—Community Affairs, 04/20/98, 9 00 am, Room-309C—Not considered
- 04/23/98 SENATE Withdrawn from Community Affairs -SJ 00828, Placed on Calendar
- 04/27/98 SENATE Placed on Special Order Calendar -SJ 00982
- 04/28/98 SENATE Placed on Special Order Calendar -SJ 00982, -SJ 01092, House Bill substituted -SJ 01086, Laid on Table, Iden./Sim./Compare Bill(s) passed, refer to CS/HB 4027 (Ch. 98-402)

## S 1444 GENERAL BILL by Ostalkiewicz; (CO-SPONSORS) Harris (Similar CS/1ST ENG/H 1796, Compare 1ST ENG/H 2109)

- Sales Tax Exempt/Advertising Agency, defines term "advertising agency", exempts from tax certain purchases by advertising agencies, provides for retroactive applicability in certain circumstances Amends 212 08 Effective Date 07/01/1998
- 02/23/98 SENATE Prefiled
- 02/26/98 SENATE Referred to Ways and Means Subcommittee E (Finance and Tax), Ways and Means, Commerce and Economic Opportunities
- 03/03/98 SENATE Introduced, referred to Ways and Means Subcommittee E (Finance and Tax), Ways and Means, Commerce and Economic Opportunities -SJ 00089
- 03/06/98 SENATE On Committee agenda—Ways and Means Subcommittee E (Finance and Tax), 03/11/98, 9 00 am & 3 30 pm, Room-B(LL-42)
- 03/11/98 SENATE Subcommittee Recommendation Favorable by Ways and Means Subcommittee E (Finance and Tax) -SJ 00148, Now in Ways and Means -SJ 00148
- 05/01/98 SENATE Died in Committee on Ways and Means

## S 1446 GENERAL BILL by Ostalkiewicz; (CO-SPONSORS) Grant; Williams; Myers

- Health Insurance/Small Businesses, provides limitations on coverage that must be included under health benefit plans issued by small business carriers under "Employee Health Care Access Act" Amends 627 6699 Effective Date 07/01/1998
- 02/23/98 SENATE Prefiled
- 02/26/98 SENATE Referred to Banking and Insurance, Commerce and Economic Opportunities
- 03/03/98 SENATE Introduced, referred to Banking and Insurance, Commerce and Economic Opportunities -SJ 00089

## S 1448 (CONTINUED)

- 04/09/98 SENATE On Committee agenda—Banking and Insurance, 04/14/98, 9 00 am, Room-EL—Temporarily postponed
- 05/01/98 SENATE Died in Committee on Banking and Insurance

## S 1448 RESOLUTION by Cowin (Similar H 9531)

- Retirees of Florida, expresses Senate appreciation & gratitude to state's retired citizens for all of their contributions & declares these retirees one of Florida's most valued resources
- 02/23/98 SENATE Prefiled
- 04/15/98 SENATE Introduced -SJ 00460, Adopted, See also HR 9531 (Adopted) -SJ 00460

## S 1450 GENERAL BILL/CS/1ST ENG by Ways and Means; Bankhead; (CO-SPONSORS) Lee; Clary; Hargrett; Sullivan; McKay; Crist; Cowin (Similar CS/CS/H 3899, Compare 1ST ENG/H 0063, S 1666)

- Intangible Personal Property Taxes, defines terms "ministerial function" & "processing activity" for purposes of Intangible Personal Property Taxes provisions, increases minimum amount of annual intangible personal property tax which person may be required to pay, exempts stock options granted to employees by employer & stock purchased by employees under certain conditions, revises penalty for late filing of annual intangible tax return, etc Amends Chs 199, 220, 624 509 Effective Date 07/01/1998 except as otherwise provided
- 02/23/98 SENATE Prefiled
- 02/26/98 SENATE Referred to Ways and Means
- 03/03/98 SENATE Introduced, referred to Ways and Means -SJ 00089
- 03/23/98 SENATE On Committee agenda—Ways and Means, 03/26/98, 2 30 pm, Room-EL
- 03/26/98 SENATE Comm Action -CS by Ways and Means -SJ 00344, CS read first time on 04/01/98 -SJ 00348
- 03/30/98 SENATE Placed on Calendar -SJ 00344
- 04/28/98 SENATE Placed on Special Order Calendar -SJ 01092
- 04/29/98 SENATE Placed on Special Order Calendar -SJ 01092, Read second time -SJ 01104, Amendment(s) failed -SJ 01104, Amendment(s) adopted -SJ 01107, Read third time -SJ 01107, CS passed as amended, YEAS 37 NAYS 0 -SJ 01107
- 04/29/98 HOUSE In Messages
- 04/30/98 HOUSE Received -HJ 01961, Read second and third times -HJ 01962, CS passed, YEAS 117 NAYS 0 -HJ 01962
- 04/30/98 SENATE Ordered enrolled -SJ 01526
- 05/06/98 Signed by Officers and presented to Governor
- 05/22/98 Became Law without Governor's Signature, Chapter No 98-132

## S 1452 GENERAL BILL/CS by Regulated Industries; Dudley (Compare CS/CS/1ST ENG/H 3321, CS/S 1624)

- Condominiums/Cooperative Property, defines term "buyer", conforms cross-reference Amends 718 103, 719 103, 721 05 Effective Date Upon becoming law
- 02/23/98 SENATE Prefiled
- 02/26/98 SENATE Referred to Regulated Industries
- 03/03/98 SENATE Introduced, referred to Regulated Industries -SJ 00089, On Committee agenda—Regulated Industries, 03/05/98, 9 00 am, Room-EL
- 03/05/98 SENATE Comm Action -CS by Regulated Industries -SJ 00136, CS read first time on 03/09/98 -SJ 00142
- 03/09/98 SENATE Placed on Calendar -SJ 00136
- 04/22/98 SENATE Placed on Special Order Calendar -SJ 00813
- 04/23/98 SENATE Placed on Special Order Calendar -SJ 00813
- 04/24/98 SENATE Placed on Special Order Calendar -SJ 00868, Read second time -SJ 00910
- 04/27/98 SENATE Read third time -SJ 00973, CS passed, YEAS 38 NAYS 0 -SJ 00973
- 04/27/98 HOUSE In Messages
- 05/01/98 HOUSE Died in Messages, Iden./Sim./Compare Bill(s) passed, refer to CS/CS/HB 3321 (Ch. 98-322)

## S 1454 RESOLUTION by Cowin; (CO-SPONSORS) Kirkpatrick (Similar H 9559)

- Munroe Regional Medical Center, commends Munroe Regional Medical Center & its staff for providing outstanding medical care to people of Ocala, Marion Co., & surrounding region for last 100 years
- 02/23/98 SENATE Prefiled
- 04/15/98 SENATE Introduced -SJ 00460, Adopted, See also HR 9559 (Adopted) -SJ 00460

## S 1456 GENERAL BILL/CS/CS by Community Affairs; Transportation; Transportation; (CO-SPONSORS) Hargrett (Similar H 4751)

- Economic Development/Transportation, requires certain ports to identify certain spoil disposal sites, provides that certain ports & inland navigation districts are not required to pay fees for activities involving use of sovereign lands, provides that plans & programs developed by metropolitan planning
- (CONTINUED ON NEXT PAGE)

HISTORY OF HOUSE BILLS

**H 3887 GENERAL BILL/1ST ENG** by Lynn (Compare 3RD ENG/H 1019, CS/2ND ENG/H 3883, CS/S 2170)

Public Records/Child Abuse/Neglect, revises provisions re confidentiality of CFS Dept reports & records of cases of child abuse & neglect, provides exemption from public records requirements for department reports & records of cases of child abandonment, requires certain recordkeeping & preservation by department, takes effect on same date as HB 3883 or similar legislation takes effect, if such legislation is adopted in same legislative session or extension thereof, etc Amends FS Effective Date Contingent

- 03/03/98 HOUSE Filed, Introduced -HJ 00064
- 03/16/98 HOUSE Referred to Family Law & Children (JC), Governmental Operations (GRC), Health & Human Services Appropriations -HJ 00238, On Committee agenda—Family Law & Children (JC), 03/19/98, 8 00 am, 16—HOB
- 03/19/98 HOUSE Comm Action Unanimously Favorable with 1 amendment(s) by Family Law & Children (JC) -HJ 00307
- 03/20/98 HOUSE Now in Governmental Operations (GRC) -HJ 00307
- 03/25/98 HOUSE Withdrawn from Governmental Operations (GRC) -HJ 00340, Now in Health & Human Services Appropriations
- 03/30/98 HOUSE On Committee agenda—Health & Human Services Appropriations, 04/02/98, 9 00 am, 317C
- 04/02/98 HOUSE Comm Action -Unanimously Favorable by Health & Human Services Appropriations -HJ 00451
- 04/03/98 HOUSE Pending Consent Calendar -HJ 00451
- 04/08/98 HOUSE Available for Consent Calendar
- 04/16/98 HOUSE Placed on Consent Calendar, Read second time -HJ 00662, Amendment(s) adopted -HJ 00662, Read third time -HJ 00662, Passed as amended, YEAS 116 NAYS 0 -HJ 00662, Immediately certified -HJ 00677
- 04/16/98 SENATE In Messages
- 04/21/98 SENATE Received, referred to Children, Families and Seniors, Governmental Reform and Oversight -SJ 00754
- 05/01/98 SENATE Died in Committee on Children, Families and Seniors, Iden/Sim/Compare Bill(s) passed, refer to HB 1019 (Ch 98-403)

**H 3889 GENERAL BILL/2ND ENG** by Financial Services (EIC); Safley; (CO-SPONSORS) Bainter; Flanagan; Tamargo; Lawson; Dennis; Cosgrove; Lippman (Similar CS/S 2052)

Motor Vehicle Insurance, authorizes certain fees to be collected by general lines agents, prohibits provider's statement of charges from including certain charges for services covered by personal injury protection benefits, specifies which party is prevailing party in arbitration of disputes re personal injury protection claims, specifies where independent medical examination of claimant may be conducted, specifies applicability of amendments, etc Amends 627 7295, 736 Effective Date 10/01/1998

- 03/03/98 HOUSE Filed, Introduced -HJ 00064
- 03/13/98 HOUSE In Economic Impact Council, pending ranking -HJ 00238
- 03/24/98 HOUSE Placed on Economic Impact Council Calendar -HJ 00337
- 03/31/98 HOUSE Read second time -HJ 00366, Amendment(s) adopted -HJ 00366
- 04/01/98 HOUSE Read third time -HJ 00393, Passed as amended, YEAS 112 NAYS 1 -HJ 00393
- 04/07/98 SENATE In Messages
- 04/09/98 SENATE Received, referred to Banking and Insurance -SJ 00432
- 04/17/98 SENATE Withdrawn from Banking and Insurance -SJ 00523, Substituted for CS/SB 2052 -SJ 00523, Read second time -SJ 00523, Amendment(s) adopted -SJ 00523
- 04/22/98 SENATE Read third time -SJ 00765, Passed as amended, YEAS 30 NAYS 1 -SJ 00765, Immediately certified -SJ 00765
- 04/22/98 HOUSE In returning messages
- 04/29/98 HOUSE Concurred -HJ 01681, Passed as amended, YEAS 116 NAYS 0 -HJ 01682, Ordered engrossed, then enrolled -HJ 01683
- 05/12/98 Signed by Officers and presented to Governor
- 05/28/98 Became Law without Governor's Signature, Chapter No 98-270

**H 3891 GENERAL BILL** by Lawson (Similar S 1818)

Industrial Life Insurance Policies, prohibits delivery or issuance of industrial life insurance policies after certain date, provides application, requires disclosure of certain information to policyholders or premium payors Creates 627 5015 Effective Date Contingent

- 03/03/98 HOUSE Filed, Introduced -HJ 00064
- 03/13/98 HOUSE Referred to Financial Services (EIC) -HJ 00238
- 03/24/98 HOUSE On Committee agenda—Financial Services (EIC), 03/30/98, 1 30 pm, Reed Hall
- 03/30/98 HOUSE Comm Action -Unanimously Favorable by Financial Services (EIC) -HJ 00435
- 04/01/98 HOUSE Pending Consent Calendar -HJ 00435
- 04/06/98 HOUSE Available for Consent Calendar
- 04/16/98 HOUSE Placed on Consent Calendar, Read second and third times -HJ 00651, Passed, YEAS 115 NAYS 1 -HJ 00651, Immediately certified -HJ 00677

**H 3891 (CONTINUED)**

- 04/16/98 SENATE In Messages
- 04/21/98 SENATE Received, referred to Banking and Insurance -SJ 00750
- 05/01/98 SENATE Died in Committee on Banking and Insurance

**H 3893 GENERAL BILL** by Lawson

Postsecondary Education, directs Board of Regents to conduct study re establishment of college of medicine at Florida Agricultural & Mechanical University, provides components of study Effective Date Upon becoming law

- 03/03/98 HOUSE Filed, Introduced -HJ 00064
- 03/13/98 HOUSE Referred to Colleges & Universities (AEC), Education Appropriations -HJ 00238
- 05/01/98 HOUSE Died in Committee on Colleges & Universities (AEC)

**H 3895 GENERAL BILL/CS/1ST ENG** by Health Care Services (GSC); Saunders; (CO-SPONSORS) Crist (Similar CS/CS/CS/S 1432, Compare 1ST ENG/H 4535, CS/CS/2ND ENG/S 0464)

Delivery of Health Care Services, provides exemption from Insurance Code for certain health care services, creates "Provider Sponsored Organization Act", provides legislative findings & purposes, prohibits provider sponsored organizations from transacting insurance business other than offering of Medicare Choice plans, directs AHCA to establish outpatient specialty services pilot project; provides criteria for participation, etc Amends Chs 624, 641, 409 912 Effective Date Contingent

- 03/03/98 HOUSE Filed, Introduced -HJ 00064
- 03/13/98 HOUSE Referred to Health Care Services (GSC), Health & Human Services Appropriations -HJ 00238
- 03/18/98 HOUSE On Committee agenda—Health Care Services (GSC), 03/24/98, 1 30 pm, Morris Hall
- 03/24/98 HOUSE Comm Action CS by Health Care Services (GSC) -HJ 00388
- 03/31/98 HOUSE CS read first time on 03/31/98 -HJ 00385
- 03/27/98 HOUSE Now in Health & Human Services Appropriations -HJ 00388
- 04/02/98 HOUSE On Committee agenda—Health & Human Services Appropriations, 04/08/98, 1 00 pm, 317C—Meeting cancelled
- 04/08/98 HOUSE On Committee agenda—Health & Human Services Appropriations, 04/14/98, 3 45 pm, 317C
- 04/14/98 HOUSE Comm Action -Unanimously Favorable with 3 amendment(s) by Health & Human Services Appropriations -HJ 00689
- 04/16/98 HOUSE In Government Services Council, pending ranking -HJ 00689
- 04/20/98 HOUSE Placed on Government Services Council Calendar -HJ 00741
- 04/24/98 HOUSE Placed on General Calendar, Read second time -HJ 01150, Amendment(s) adopted -HJ 01151; Amendment pending -HJ 01151, Pending amendment adopted -HJ 01194
- 04/24/98 HOUSE Senate Bill substituted; Laid on Table, Refer to 1998 CS/CS/SB 1432 (Died in Senate Returning Messages), Refer to CS/CS/SB 484 (Ch 98-191) -HJ 01524

**H 3897 GENERAL BILL/1ST ENG** by Mackenzie; (CO-SPONSORS) King; Jones; Culp (Similar CS/CS/S 1366)

Motor Vehicle Lease/Sales Warranties, modifies disclosure form for motor vehicle lease, modifies definitions applicable to motor vehicle sales warranties Amends 521 004, 681 102. Effective Date Contingent

- 03/03/98 HOUSE Filed, Introduced -HJ 00064
- 03/13/98 HOUSE Referred to Business Regulation & Consumer Affairs (EIC) -HJ 00238
- 03/19/98 HOUSE On Committee agenda—Business Regulation & Consumer Affairs (EIC), 03/25/98, 8 00 am, Reed Hall
- 03/25/98 HOUSE Comm Action -Unanimously Favorable with 1 amendment(s) by Business Regulation & Consumer Affairs (EIC) -HJ 00386
- 03/26/98 HOUSE Pending Consent Calendar -HJ 00386
- 03/31/98 HOUSE Available for Consent Calendar
- 04/16/98 HOUSE Placed on Consent Calendar, Read second time -HJ 00643, Amendment(s) adopted -HJ 00643, Read third time -HJ 00643, Passed as amended, YEAS 117 NAYS 0 -HJ 00643, Immediately certified -HJ 00677
- 04/16/98 SENATE In Messages
- 04/21/98 SENATE Received, referred to Commerce and Economic Opportunities, Transportation -SJ 00754
- 05/01/98 SENATE Died in Committee on Commerce and Economic Opportunities, Iden /Sim /Compare Bill(s) passed, refer to CS/CS/SB 1366 (Ch 98-128)

**H 3899 GENERAL BILL/CS/CS** by Finance & Taxation (FRC); Financial Services (EIC); Finance & Taxation (FRC); Starks; (CO-SPONSORS) Melvin; Brooks; Kosmas; Fasano; Maygarden; Trovillion; Kelly; Alexander; Feeney; Byrd; Argenziano; Livingston; Murman; Posey; Culp; Sindler; Flanagan; Valdes; Wallace; Ball; Harrington; Putnam;

(CONTINUED ON NEXT PAGE)

## HISTORY OF HOUSE BILLS

## H 3699 (CONTINUED)

**Edwards (Similar CS/1ST ENG/S 1450, Compare 1ST ENG/H 0063, S 1568)**

**Intangible Personal Property Taxes**, increases minimum amount of annual intangible personal property tax which person may be required to pay, provides responsibilities of Florida residents with beneficial interest in trust for which bank or savings association acts as trustee, exempts accounts receivable arising out of trade or business from said taxes & provides schedule for implementing exemption, exempts insurers from annual tax, etc Amends FS Effective Date Contingent

03/03/98 HOUSE Filed, Introduced -HJ 00064  
 03/13/98 HOUSE Referred to Financial Services (EIC), Finance & Taxation (FRC), General Government Appropriations -HJ 00238  
 03/17/98 HOUSE On Committee agenda—Financial Services (EIC), 03/23/98, 1 30 pm, Morris Hall  
 03/23/98 HOUSE Comm Action CS by Financial Services (EIC) -HJ 00436  
 04/01/98 HOUSE CS read first time on 04/01/98 -HJ 00434, Now in Finance & Taxation (FRC) -HJ 00436, On Committee agenda—Finance & Taxation (FRC), 04/02/98, 8 00 am, Morris Hall  
 04/02/98 HOUSE Comm Action Unanimously CS/CS by Finance & Taxation (FRC) -HJ 00596  
 04/14/98 HOUSE CS read first time on 04/14/98 -HJ 00594, Now in General Government Appropriations -HJ 00596  
 04/20/98 HOUSE On Committee agenda—General Government Appropriations, 04/21/98, 10 15 am, 214C  
 04/21/98 HOUSE Comm Action -Unanimously Favorable with 1 amendment(s) by General Government Appropriations -HJ 00999  
 04/22/98 HOUSE In Fiscal Responsibility Council, pending ranking -HJ 00999  
 04/24/98 HOUSE Placed on General Calendar, Read second time -HJ 01116, Amendment(s) adopted -HJ 01116, Temporarily postponed -HJ 01116, -HJ 01117  
 05/01/98 HOUSE Died on Calendar, Iden /Sim /Compare Bill(s) passed, refer to CS/SB 1450 (Ch 98-132)

## H 3901 GENERAL BILL/1ST ENG by Wasserman Schultz (Similar CS/S 1158)

**Education**, provides additional requirement for school district receipt of lottery funds, provides name requirement for school advisory councils & provides council responsibilities & duties, provides for certain council review, provides for use of funds, amends provision re school improvement & education accountability, requires notice of certain deficiency, provides requirements for school improvement plans, etc Amends 24 121, 229 58, 592, 230 23 Effective Date: 07/01/1998

03/03/98 HOUSE Filed, Introduced -HJ 00065  
 03/13/98 HOUSE Referred to Education/K-12 (AEC) -HJ 00239  
 03/31/98 HOUSE On Committee agenda—Education/K-12 (AEC), 04/06/98, 10 15 am, 413C  
 04/06/98 HOUSE Comm Action -Unanimously Favorable with 3 amendment(s) by Education/K-12 (AEC) -HJ 00500  
 04/08/98 HOUSE Pending Consent Calendar -HJ 00501  
 04/13/98 HOUSE Available for Consent Calendar  
 04/16/98 HOUSE Placed on Consent Calendar, Read second time -HJ 00668, Amendment(s) failed -HJ 00668, Amendment(s) adopted -HJ 00668, Read third time -HJ 00668, Passed as amended, YEAS 116 NAYS 0 -HJ 00668, Immediately certified -HJ 00677  
 04/16/98 SENATE In Messages  
 04/21/98 SENATE Received, referred to Education, Ways and Means -SJ 00754  
 04/24/98 SENATE Withdrawn from Education, Ways and Means -SJ 00904, Substituted for CS/SB 1158 -SJ 00904, Read second and third times -SJ 00904, Passed, YEAS 38 NAYS 0 -SJ 00904, Immediately certified -SJ 00904  
 04/24/98 HOUSE Ordered enrolled -HJ 01366  
 05/12/98 Signed by Officers and presented to Governor  
 05/28/98 Became Law without Governor's Signature, Chapter No 98-271

## H 3903 GENERAL BILL by Horan (Identical 1ST ENG/S 1750)

**Old Keys Bridges/Monroe County**, provides legislative intent, provides that title to bridges shall be held by Board of Trustees of Internal Improvement Trust Fund, provides exception, authorizes rather than requires board to offer certain leases re bridges, revises language re such leases, limits commercial use of bridges, eliminates obsolete language re appropriations Effective Date Contingent

03/03/98 HOUSE Filed, Introduced -HJ 00065  
 03/13/98 HOUSE Referred to Transportation (EIC), Water & Resource Management (GRC) -HJ 00239  
 05/01/98 HOUSE Died in Committee on Transportation (EIC), Iden /Sim / Compare Bill(s) passed, refer to SB 1750 (Ch 98-155)

## H 3905 GENERAL BILL/CS by Governmental Operations (GRC); Fasano; (CO-SPONSORS) Feeney; Tobin; Bitner; Dawson-White,

(PAGE NUMBERS REFLECT DAILY SENATE AND HOUSE JOURNALS - PLACEMENT IN FINAL BOUND JOURNALS MAY VARY)

## H 3905 (CONTINUED)

**Jacobs; Culp; Byrd; Lynn (Similar S 1418)**

**State Lotteries**, authorizes assignment of certain prizes pursuant to court order & provides requirements therefor, provides for securing of funds offset for child support payments or debts owed to state agency, exempts Lottery Dept from liability upon payment of assigned prize, provides circumstances under which such court orders may no longer be issued, etc Creates 24 1153, amends 24 115, 118 Effective Date Contingent

03/03/98 HOUSE Filed, Introduced -HJ 00065  
 03/13/98 HOUSE Referred to Regulated Services (EIC), Governmental Operations (GRC) -HJ 00239  
 03/17/98 HOUSE On Committee agenda—Regulated Services (EIC), 03/23/98, 1 30 pm, 16-HOB  
 03/23/98 HOUSE Comm Action Favorable with 1 amendment(s) by Regulated Services (EIC) -HJ 00361  
 03/25/98 HOUSE Now in Governmental Operations (GRC) -HJ 00361, On Committee agenda—Governmental Operations (GRC), 03/30/98, 3 45 pm, 413C  
 03/30/98 HOUSE Comm Action -Unanimously CS by Governmental Operations (GRC) -HJ 00501  
 04/08/98 HOUSE CS read first time on 04/08/98 -HJ 00499, In Economic Impact Council, pending ranking -HJ 00501  
 04/15/98 HOUSE Placed on Economic Impact Council Calendar -HJ 00617  
 04/20/98 HOUSE Read second time -HJ 00702  
 04/22/98 HOUSE Read third time -HJ 00981, CS passed, YEAS 113 NAYS 1 -HJ 00981  
 04/22/98 SENATE In Messages  
 04/23/98 SENATE Received, referred to Regulated Industries, Judiciary, Ways and Means -SJ 00871  
 05/01/98 SENATE Died in Committee on Regulated Industries

## H 3907 GENERAL BILL/1ST ENG by Arnall; (CO-SPONSORS) Livingston; Putnam (Similar CS/1ST ENG/S 1626, Compare S 1956)

**Workplace Safety Programs & Practice**, amends certain provisions re investigations of Safety Div of LES Dept, authority of Safety Div, employer penalties, compliance, repeals certain provisions re legislative intent, compliance, enforcement, & penalties for workplace safety programs & practices. Amends 442 006, 008, 013, 019, repeals 442 003, 009, 0105, 015, 017 Effective Date Upon becoming law

03/03/98 HOUSE Filed, Introduced -HJ 00065  
 03/13/98 HOUSE Referred to Financial Services (EIC) -HJ 00239  
 04/09/98 HOUSE On Committee agenda—Financial Services (EIC), 04/16/98, 1 30 pm, Morris Hall  
 04/16/98 HOUSE Comm Action -Favorable with 1 amendment(s) by Financial Services (EIC) -HJ 00741  
 04/17/98 HOUSE In Economic Impact Council, pending ranking -HJ 00741  
 04/20/98 HOUSE Placed on Economic Impact Council Calendar -HJ 00741  
 04/23/98 HOUSE Read second time -HJ 01004, Amendment(s) adopted -HJ 01004  
 04/27/98 HOUSE Senate Bill substituted, Laid on Table, refer to 1998 CS/SB 1626 (Vetoed by Governor) -HJ 01405

## H 3909 GENERAL BILL/1ST ENG by Miller; (CO-SPONSORS) Gottlieb; Bloom (Similar 1ST ENG/S 0660)

**State-funded Educ/Infant & Toddler**, provides that state-funded education & care programs for infants & toddlers must foster brain development, requires evaluation & report Appropriation \$50,000 Effective Date 07/01/1998

03/03/98 HOUSE Filed, Introduced -HJ 00065  
 03/24/98 HOUSE Referred to Children & Family Empowerment (GSC), Health & Human Services Appropriations -HJ 00335  
 04/02/98 HOUSE On Committee agenda—Children & Family Empowerment (GSC), 04/08/98, 10 00 am, 317C—Meeting cancelled  
 04/09/98 HOUSE On Committee agenda—Children & Family Empowerment (GSC), 04/15/98, 1 30 pm, 317C  
 04/15/98 HOUSE Comm Action Favorable by Children & Family Empowerment (GSC) -HJ 00690  
 04/16/98 HOUSE Now in Health & Human Services Appropriations -HJ 00690  
 04/22/98 HOUSE On Committee agenda—Health & Human Services Appropriations, 04/23/98, 4 30 pm, 317C  
 04/23/98 HOUSE Comm Action -Unanimously Favorable with 1 amendment(s) by Health & Human Services Appropriations -HJ 01091, In Government Services Council, pending ranking -HJ 01091  
 04/24/98 HOUSE Placed on General Calendar, Read second time -HJ 01119, Amendment(s) adopted -HJ 01120  
 04/28/98 HOUSE Senate Bill substituted, Laid on Table, Iden /Sim / Compare Bill(s) passed, refer to SB 660 (Ch 98-70) -HJ 01491

## H 3911 GENERAL BILL by Crady; Fasano; (CO-SPONSORS) Kelly; Miller; Mackey (Compare CS/S 1146)

**Keith Ward Act**, creates said act, includes certain correctional probation officers within Special Risk Class of that system, specifies criteria for inclusion of correctional probation officers in that class, provides for inclusion of probation (CONTINUED ON NEXT PAGE)

## CITATOR—BILLS INTRODUCED AND PASSED

(Citator reflects Florida Statute numbers listed in final passed bill—not necessarily final statutory placement. Verify with F.S. tracing tables.)

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196 012 S 716, S 890,  
H 1723, H 1735  
196 031 H 3097  
196 091 S 2256  
196 111 S 1402, H 3743  
196 115 S 1402, H 3743  
196 121 S 1402, H 3743  
196 141 S 1402(98-129), H 3683,  
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196 161 H 3219  
196 195 H 29(98-289), H 1723,  
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196 196 H 29(98-289), H 1723,  
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196 197 S 636, H 1093(98-177)  
196 197 S 636, H 1093(98-177)  
196 198 S 970, H 1735,  
H 2109  
196 199 S 2114  
196 1997 H 477, H 2109

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197 102 S 740, H 4425  
197 122 S 740, S 2222(98-167),  
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197 162 S 1686(98-139), S 1998,  
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197 172 S 558, S 1388,  
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197 182 S 1686(98-139), S 1998,  
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197 243 S 1686(98-139), H 4779  
197 252 S 1686(98-139), H 2035,  
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197 253 S 1686(98-139), H 2035,  
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197 332 S 1686(98-139), H 4779  
197 344 S 1686(98-139), S 1998,  
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197 402 S 1000, S 1686,  
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197 403 S 1000, H 3347  
197 413 S 1686(98-139), H 4779  
197 4155 S 558, S 2222(98-167),  
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197 432 S 558, S 1686(98-139),  
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197 4325 S 1686(98-139), H 4779  
197 443 S 1686(98-139), H 4779  
197 472 S 558, H 1373  
197 542 S 1686(98-139), H 4779

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198 08 S 1440(98-200), S 2240,  
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198 18 H 477, H 2109  
198 30 S 484(98-191), H 4535

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199 012 S 320, H 3169  
199 023 S 320, S 634,  
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199 032 S 320, H 3169  
199 042 S 320, H 3169  
199 052 S 320, S 1388,  
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199 057 S 320, S 1388,  
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199 062 S 320, S 1388,  
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199 103 S 320, S 634,  
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199 105 S 1654, H 1511,  
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199 1055 S 244(98-189), S 1114,  
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199 106 S 320, H 3169  
199 133 S 320, S 1388,  
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199 135 S 320, H 3169  
199 143 S 320, H 3169  
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199 155 S 320, H 3169  
199 175 S 320, S 1450(98-132),  
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199 183 S 320, S 1654,  
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199 185 S 278, S 320,  
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199 212 S 320, H 3169  
199 218 S 320, H 3169  
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199 272 S 320, S 1388,  
199 282 S 1450(98-132), S 1568,  
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199 292 S 320, S 1450(98-132),  
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201 032 H 237  
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201 15 S 856, S 882,  
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201 155 S 2648, H 4551  
201 16 S 1388  
201 17 S 1388, H 477,  
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201 24 S 1664, H 3593(98-264)

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203 06 H 477, H 2109  
203 62 H 477, H 2109  
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205 053 S 1388

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205 0535 H 4439(98-419)  
205 1945 H 4439  
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205 1951 S 1944, H 4079,  
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206 44 H 477, H 2109  
206 46 H 4199  
206 605 S 1088, H 3479  
206 606 S 1088(98-114), H 3145(98-307),  
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206 608 S 1088(98-114), H 3479  
206 609 S 1088(98-114), H 3479  
206 8745 S 1758, H 4011  
206 94 H 477, H 2109  
206 97 H 477, H 2109  
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207 007 H 477, H 2109  
207 011 S 1440(98-200), S 2240,  
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210 10 S 1440(98-200), S 2240,  
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210 15 H 3803  
210 151 H 3803  
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210 16 H 3803  
210 20 S 1636, H 3783(98-286)  
210 75 S 1440(98-200), S 2240,  
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211 33 H 477, H 2109

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212 031 S 274, S 1590,  
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212.04 S 612, S 1688(98-140),  
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212 05 S 1688(98-140), S 1998,  
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212 0506 S 1690(98-141), H 4779  
212 051 S 434, H 3229(98-317)  
212 0515 S 1680(98-141), S 1952,  
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212 054 S 1690(98-141), S 1952,  
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H 613, H 1589,  
H 2109, H 4413(98-342),  
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212 0596 H 613  
212 0598 S 1690(98-141), H 4779  
212 0599 H 1867

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 26, 1998 Revised: \_\_\_\_\_

Subject: Intangible Personal Property Taxes

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Fournier</u>	<u>Smith</u>	<u>WM</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The committee substitute makes numerous changes to the intangible tax:

- It raises the minimum amount of tax due before a return and payment are required from \$5 to \$60 dollars.
- It provides a definition for "accounts receivable" and, beginning January 1, 1999, one-third of accounts receivable are exempted from the intangible tax. The bill expresses the intent of the Legislature to increase the exempt amount to two-thirds on January 1, 2000, and to completely exempt accounts receivable on January 1, 2001, pursuant to future legislative action.
- Banks, savings associations and insurance companies would be exempted from intangible tax for taxes due on or after July 1, 1999. Additionally, the credits for intangible tax paid which are given to banks, savings associations, and insurers are repealed for tax years beginning on or after December 31, 1999.
- Penalties for late filing, and late payment are capped at a combined total of no more than 10 percent per month and no more than 50 percent of the total tax due. The penalty for under reporting and undervaluation is reduced from 30 percent to 10 percent.
- The revenue sharing of funds between the counties and the state is modified.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 199.023, 199.052, 199.175, 199.185, 199.104, 199.282, 199.292, 220.02, 220.68, and 624.509.

**II. Present Situation:**

Florida's intangible tax was enacted in 1931 and is a tax on "all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents."

s. 199.023, F S. Taxable intangible personal property includes, among other things, stocks, bonds,

notes, other obligations to pay money, and accounts receivable. s. 199.023, F.S. The term "accounts receivable" is not defined by statute. Florida Administrative Code Rule 12C-2 002(1)(a) defines accounts receivable as "a debt which is owed by another which is not supported by a negotiable paper." Certain intangible personal property is exempt from the tax. Examples of exempt property include money, franchises, general partnership interests and retirement accounts. Real estate mortgage investment conduits are exempt if held by banks or savings associations in compliance with regulatory agency guidelines. s. 199.185, F.S. The intangible tax has two parts: the annual and the nonrecurring. Only the annual tax, which is the subject of this bill, will be discussed.

The tax is paid annually and is based on the value of assets as of January 1. s. 199.103, F.S. The return is due by June 30th with discounts for early payment. s. 199.042, F.S. The tax is paid by all "persons" which includes any individual, firm, partnership, joint adventure, syndicate, or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, personal representative, receiver, or other fiduciary unless such persons are exempted from the tax. s. 199.03(3), F.S. The tax must be paid by all corporations who own, control, or manage intangible personal property which has a taxable situs within the state. s. 199.052(1), F.S. The terms "control" or "manage" do not include any ministerial function or any processing activity s. 199.052(1), F.S. The terms "ministerial function" and "processing activity" are not defined by statute.

A Florida domiciled trustee is required to pay intangible tax on the assets held in trust since the trustee has management and control of the assets. Florida domiciled beneficiaries also must pay the intangible tax if they own a taxable beneficial interest in a trust. If the trustee has filed a return and paid the tax, the beneficiary is not required to file a return. s. 199.052(5), F.S. If an investment advisor has management or control over assets the advisor does not own, the assets held in Florida are subject to intangible tax.

The tax rate is capped at 2 mills by the Florida Constitution, s. 2, Art. VII. The current tax rate is 2 mills (\$2 per \$1,000 of value). s. 199.032, F.S. Banks and savings associations are exempt from .5 mill; therefore, having a tax rate of 1.5 mills. s. 199.185(5), F.S. With respect to the first mill of the annual tax, every natural person is entitled each year to an exemption of the first \$20,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly shall have an exemption of \$40,000. With respect to the last mill of the annual tax, every natural person is entitled each year to an exemption of the first \$100,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly shall have an exemption of \$200,000. s. 199.185(2), F.S. "Non-natural" persons, such as corporations, do not receive these exemptions.

Banks, savings associations, and insurance companies receive credits for the intangible tax they pay. Any bank or savings association, as defined in s. 220.62, F.S., is entitled to a credit against the intangible tax in an amount equal to 33 percent of the tax paid in the immediately preceding taxable year less the credit allowed by s. 220.68, F.S., (corporate income tax) for such bank or savings association for such year. s. 199.104, F.S. Banks and savings associations are also given a credit against their corporate income tax equal to the lesser of 100 percent of intangibles tax paid



or 65 percent of corporate tax liability. s. 220.68, F.S. Insurance companies are given a credit against their insurance premium tax for intangible tax paid. s. 624.509(4), F.S.

If any individual or entity owes less than \$5 in tax, no tax and no return are due. s. 199.052(4), F.S. Corporations must file annual informational returns even if they have no intangible tax liability. s. 199.062, F.S.

If the intangible tax is not paid by the due date, the delinquency penalty is 10 percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of 50 percent of the total tax not timely paid. If the tax return required is not filed by the due date, a penalty of 30 percent of the tax due with the return is charged for each year or portion of the year during which the return remains unfiled. s. 199.282, F.S. These penalties are additive. If a tax return is filed and property is either omitted or undervalued, then a specific penalty shall be charged of 30 percent of the tax attributable to each omitted item or to each undervaluation. No delinquency or late filing penalty shall be charged with respect to any undervaluation. s. 199.282, F.S.

Revenues from the intangible tax are shared between the state and the counties. After administrative expenses, the counties receive 33.5 percent and the state receives 66.5 percent of the revenues. s. 199.292(3), F.S.

### **III. Effect of Proposed Changes:**

The tax must be paid by all corporations who own, control, or manage intangible personal property which has a taxable situs within the state. s. 199.052(1), F.S. The terms "control" or "manage" do not include any ministerial function or any processing activity. s. 199.052(1), F.S. The bill amends s. 199.023, F.S., by adding definitions for "ministerial function" and "processing activity."

"Ministerial function" is defined to mean "an act the performance of which does not involve the use of discretion or judgment."

"Processing activity" is defined to mean "an activity undertaken to administer or service intangible personal property in accordance with such terms, guidelines, criteria, or directions as are provided solely by the owner of the property. Methods, systems, or techniques chosen by the processor to implement such terms, guidelines, criteria, or directions are not considered the exercise of management or control."

The bill amends s. 199.052, F.S., by raising the minimum amount of tax due before a return and payment are required from \$5 to \$60 dollars. The Department of Revenue estimates that over 250,000 fewer taxpayers, both businesses and individuals, would have to pay intangible tax as a result of this change. An individual who owned on January 1 less than \$80,000 in taxable assets would not have to pay intangible tax or file a return. For a couple filing jointly, they would not have to pay intangible tax or file a return if they owned less than \$100,000 in taxable assets. A

business or other "non-natural person" would not have to pay the tax, and in certain cases file a return, if it owned, manage, or controlled less than \$30,000 in taxable assets.

Section 199.185, F.S., contains a listing of property exempted from intangible tax. Section 199.185 (l), F.S., is added to exempt one-third of accounts receivable from the intangible tax beginning January 1, 1999. The bill expresses the intent of the Legislature to increase the exempt amount to two-thirds on January 1, 2000, and to completely exempt accounts receivable on January 1, 2001, pursuant to future legislative action. "Accounts receivable" are defined as "a business debt which is owed by another in the taxpayer's ordinary course of trade or business and is not supported by negotiable instruments." Accounts receivable include, but are not limited to, credit card receivables, charge card receivables, credit receivables, margin receivables, inventory or other floor plan financing, lease payments past due, conditional sales contract, and financing lease contracts, and a claim against a debtor usually arising from sales or services rendered and which is not necessarily due or past due. These examples are deemed not to be supported by negotiable instruments, which means written documents legally capable of being transferred by indorsement or delivery. The exemption does not apply to accounts receivable which arise outside the taxpayer's ordinary course of trade or business.

Paragraph (k) of subsection (1) of s. 199.185, F.S., is amended to make interests in real estate securitizations exempt from intangibles tax. These include, but are not limited to, real estate mortgage investment conduits (REMICs) and financial asset securitization trusts (FASITs). Such instruments must be secured solely by mortgages, deeds of trust, or other liens upon real property.

Section 199.185(5), F.S., is amended to make banks and savings associations, as defined in s. 624.03, F.S., exempt from intangible tax for taxes due on or after July 1, 1999. Sections 199.104 and 220.68, F.S., which provided credits described in section II. A. are repealed for tax years beginning after December 31, 1999.

Section 199.185(8), F.S., makes insurers, as defined in s. 624.03, F.S., exempt from the intangible tax for taxes due on or after July 1, 1999. The credit an insurer received for intangible tax against its insurance premium tax is repealed for tax years beginning after December 31, 1999.

Section 199.282, F.S., is amended to reduce the penalty for late payment, late filing, and under reporting and undervaluation. The penalties for late payment and late filing will be limited to a total of 10 percent per month and 50 percent of the total tax due. The penalty for under reporting and undervaluation will be reduced from 30 percent to 10 percent. Presently the penalties could be up to 110 percent of the tax due.

Revenues from the intangible tax are shared between the state and the counties. After administrative expenses, the counties will receive 35.3 percent in 1998-99 and 37.7 percent each year thereafter. These percentages are intended to fully hold counties harmless from the revenue consequences of this bill.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

This bill is exempt from the provisions under subsection (b) of s. 18, Art. VII, State Constitution, which require a two-thirds vote of the membership of each house in order to enact a general law if the anticipated effect of doing so would be to reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

This bill will have the following revenue impact:

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
Raise Minimum Tax	(\$9.5)	(\$9.5)	\$0	\$0	\$0	\$0	(\$9.5)	(\$9.5)
Acc'ts Rec. Exempt.	(\$40.1)	(\$40.1)	\$0	\$0	\$0	\$0	(\$40.1)	(\$40.1)
Banks' Exemption	\$0	(\$49.1)	\$0	\$0	\$0	\$0	\$0	(\$49.1)
Insurance Cos' Exemption	\$0	(\$13.2)	\$0	\$0	\$0	\$0	\$0	(\$13.2)
Reduction in Penalties	(\$2.1)	(\$2.1)	\$0	\$0	\$0	\$0	(\$2.1)	(\$2.1)
CIT Credit Repeal	\$0	\$46.2	\$0	\$0	\$0	\$0	\$57.8	\$46.2
Premium Tax Credit Repeal	\$0	\$8.6	\$0	\$0	\$0	\$0	\$0	\$8.6
REMICs and FASITs	see (1)							0
<b>Total Impact</b>	<b>(\$51.7)</b>	<b>(\$59.2)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$51.7)</b>	<b>(\$59.2)</b>

(1) Revenue estimate not available.

In addition, due to the 1-year lag in the claiming of intangibles tax credits, the repeal of the tax on banks and insurance companies will result in a one-time reduction in General Revenue of \$61.9 million in fiscal year 1999-2000.

**B. Private Sector Impact:**

The bill raises the minimum amount of tax due before a return and payment are required from \$5 to \$60 dollars. The Department of Revenue estimates that over 250,000 fewer taxpayers, both businesses and individuals, would have to pay intangible tax as a result of this change.

Banks, savings associations, and insurers would no longer have to pay intangible tax for taxes due on or after July 1, 1999. Even though these entities received an offsetting tax credit against corporate income tax or insurance premium tax for most of these taxes, these taxpayers will be saved accounting and other related costs by no longer having to pay the intangible tax.

Both businesses and individuals will have lower taxes due to the exemption of accounts receivable from intangible tax.

**C. Government Sector Impact:**

The provisions of this act should cause no administrative difficulties for state or local governments.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

**STORAGE NAME:** h3899.fs  
**DATE:** March 15, 1998

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
FINANCIAL SERVICES  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 3899

**RELATING TO:** Intangible Personal Property Taxes

**SPONSOR(S):** Committee on Finance and Taxation, Representative Starks and others

**COMPANION BILL(S):** Similar SB 1450; Compare HB 63, HB 1151, HB 2035, HB 2109, HB 3091, HB 3169, HB 3417, HB 3425, SB 320, SB 520, SB 634, SB 906

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) FINANCE AND TAXATION YEAS 12 NAYS 2
  - (2) FINANCIAL SERVICES
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

HB 3899 makes numerous changes to the intangible tax. The bill would raise the minimum amount of tax due before a return and payment are required from \$5 to \$60 dollars, in effect exempting the first \$80,000 of taxable intangible personal property for an individual and the first \$100,000 of taxable intangible personal property for a couple filing jointly. Accounts receivable would be exempted from the intangible tax. The exemption would be phased in over a three year period beginning January 1, 1999. The bill provides a definition for "accounts receivable." A bank or savings association that acts as a trustee, would not be required to file a return or pay intangible tax on assets held by the trust. Additionally, if the bank or savings association acts as a fiduciary or agent of a trust other than as a trustee, then the taxable intangible personal property in the trust would not have a taxable situs in the state solely by virtue of the management or control of the bank or savings association. If an investment adviser does not own, but has discretionary authority to invest moneys on behalf of a principal, then the investment adviser would not be required to file a return and pay tax on the intangible personal property with respect to the assets the adviser purchases with the principal's funds. If an investment adviser acts as a fiduciary or an agent of a principal, then the intangible personal property of the principal would not have a taxable situs in Florida solely by virtue of the management or control of that property by the investment adviser.

Banks, savings associations and insurers would be exempted from intangible tax. Additionally, the credits for intangible tax paid which are given to banks, savings associations, and insurers would be repealed. The bill adds definitions for "ministerial function" and "processing activity." Penalties for late filing, and late payment would be capped at a combined total of no more than 10 percent per month and no more than 50 percent of the total tax due. The penalty for under reporting and undervaluation would be reduced from 30 percent to 10 percent.

Counties would be held harmless from changes in the amount of revenues collected from the intangible personal property tax. Except as otherwise stated, the provisions of HB 3899 would take effect on July 1 of the year in which enacted.

**STORAGE NAME:** h3899.fs

**DATE:** March 15, 1998

**PAGE 2**

The bill is projected to reduce General Revenue receipts by (\$87.8) million in FY 1998-99 and (\$222.1) million in FY 1999-00.

**II. SUBSTANTIVE RESEARCH:**

**A. PRESENT SITUATION:**

Florida's intangible tax was enacted in 1931 and is a tax on "all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents." §199.023, F.S. Taxable intangible personal property includes, among other things, stocks, bonds, notes, other obligations to pay money, and accounts receivable. §199.023, F.S. The term "accounts receivable" is not defined by statute. Florida Administrative Code Rule 12C-2.002(1)(a) defines accounts receivable as "a debt which is owed by another which is not supported by a negotiable paper." Certain intangible personal property is exempt from the tax. Examples of exempt property include money, franchises, general partnership interests and retirement accounts. §199.185, F.S. The intangible tax has two parts: the annual and the nonrecurring. Only the annual tax, which is the subject of this bill, will be discussed.

The intangible tax is paid annually and is based on the value of assets as of January 1. §199.103, F.S. The return is due by June 30 with discounts for early payment §199.042, F.S. The tax is paid by all "persons" (natural and non-natural), which include any individual, firm, partnership, joint adventure, syndicate, or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, personal representative, receiver, or other fiduciary, unless such persons are exempted from the tax. §199.03(3), F.S. The tax must be paid by all corporations that own, control, or manage intangible personal property which has a taxable situs within the state. §199.052(1), F.S. The terms "control" or "manage" do not include any ministerial function or any processing activity. §199.052(1), F.S. The terms "ministerial function" and "processing activity" are not defined by statute.

A Florida domiciled trustee is required to pay intangible tax on the assets held in trust since the trustee has management and control of the assets. Florida domiciled beneficiaries also must pay the intangible tax if they own a taxable beneficial interest in a trust. If the trustee has filed a return and paid the tax, the beneficiary is not required to file a return. §199.052(5), F.S. If an investment adviser has management or control over assets the adviser does not own, the assets held in Florida are subject to intangible tax.

The tax rate is capped at 2 mills by Article VII, section 2 of the Florida Constitution. The current tax rate is 2 mills (\$2 per \$1,000 of value). §199.032, F.S. Banks and savings associations are exempt from .5 mill; therefore, they are taxed at a rate of 1.5 mills. §199.185(5), F.S. With respect to the first mill of the annual tax, every natural person is entitled each year to an exemption of the first \$20,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly enjoy an exemption of \$40,000. With respect to the second mill of the annual tax, every natural person is entitled each year to an exemption of the first \$100,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly will have an exemption of \$200,000. §199.185(2), F.S. For example, an individual who owns \$50,000 of intangible personal property would enjoy an exemption of \$20,000. An individual who owns over \$100,000, would enjoy an exemption of \$100,000. If a husband and wife own \$100,000 worth of stock in a company, they would have an exemption of \$40,000. A husband and wife who own \$300,000 worth of stock would be exempt from taxation on the first \$200,000. "Non-natural" persons, such as corporations, do not receive these exemptions.

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**DATE.** March 15, 1998

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Banks, savings associations, and insurance companies receive credits for the intangible taxes they pay. Any bank or savings association, as defined in s. 220.62, F.S., is entitled to a credit against the intangible tax in an amount equal to 33 percent of the tax paid in the immediately preceding taxable year less the credit allowed by s. 220.68, F.S., (corporate income tax) for such bank or savings association for such year. §199.104, F.S. Banks and savings associations are also given a credit against their corporate income tax equal to the lesser of 100% of intangibles tax paid or 65% of corporate tax liability. §220.68, F.S. For example, if company A owes \$100 in corporate income tax and has paid \$65 in intangible tax, company A will only owe \$35 in corporate income tax.

Insurance companies are given a credit against their insurance premium tax for intangible tax paid. §624.509(4), F.S.

If any individual or entity owes less than \$5 in tax, no tax and no return are due. §199.052(4), F.S. An individual will owe taxes if he owns more than \$25,000 in intangible personal property. A married couple filing jointly will owe taxes if they own more than \$45,000 of intangible personal property. Corporations must file an annual informational return if they have no intangible tax liability. §199.062, F.S.

If the intangible tax is not paid by the due date, the delinquency penalty is 10 percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of 50 percent of the total tax not timely paid. If the tax return required is not filed by the due date, a penalty of 30 percent of the tax due with the return is charged for each year or portion of the year during which the return remains unfiled. §199.282, F.S. These penalties are additive. If a tax return is filed and property is either omitted or undervalued, then a specific penalty shall be charged of 30 percent of the tax attributable to each omitted item or to each undervaluation. No delinquency or late filing penalty shall be charged with respect to any undervaluation. §199.282, F.S.

Revenues from the intangible tax are shared between the state and the counties. After administrative expenses, the counties receive 33.5 percent and the state receives 66.5 percent of the revenues. §199.292(3), F.S.

According to the Department of Revenue for 1995-1996, there were 288,648 individual filers representing \$159.9 million in taxes due and 299,711 joint filers representing \$245.1 million in taxes due, for a total of \$405 million. This represents 45 percent of total collections for 1995-1996. Total collections for fiscal year 1995-1996, were \$895.9 million.

According to Florida TaxWatch, only four other states impose a tax on intangible personal property. These include Kentucky, Michigan, Pennsylvania, and West Virginia. The Supreme Court of Kentucky recently found parts of that state's intangibles tax unconstitutional. The state of West Virginia has begun a five year phase out of the individual intangible tax by decreasing the taxable value.



**B. EFFECT OF PROPOSED CHANGES:**

HB 3899 makes numerous changes to the intangible personal property tax.

- The minimum amount of tax due from a taxpayer would rise from \$5 to \$60. The Department of Revenue estimates that over 250,000 fewer taxpayers, both businesses and individuals, would have to pay intangible tax as a result of this change. In effect, an individual who on January 1 owned less than \$80,000 in taxable assets would not have to pay intangible tax or file a return, up from \$25,000. A couple filing jointly would not have to pay intangible tax or file a return if they owned less than \$100,000 in taxable assets, up from \$45,000. A business or other "non-natural person" would not have to pay the tax, and in certain cases file a return, if it owned, managed, or controlled less than \$30,000 in taxable assets.
- A bank or savings association, as defined in §220.62, that acts as a trustee to file a return or pay intangible tax on assets held by the trust. Additionally, if such a bank or savings association, acts as a fiduciary or agent of a trust other than as a trustee, the taxable intangible personal property in the trust would be deemed not to have a taxable situs in the state solely by virtue of the management or control of the bank or savings association. Where a bank or savings association acts as a trustee, the trust would not be considered a Florida-situs trust. Each Florida resident with a beneficial interest in the trust would be responsible for returning the resident's equitable share of the trust's intangible personal property and paying the annual tax on it. Such trust would no longer have to pay intangible tax on behalf of a non-resident beneficiary.
- An investment adviser, as defined in §517.021, who does not own, but has discretionary authority to invest moneys on behalf of a principal, would not be required to file a return and pay tax on the intangible personal property with respect to the assets the adviser purchases with such funds of the principal. If an investment adviser acts as a fiduciary or an agent of a principal, intangible personal property of the principal would not have a taxable situs in Florida solely by virtue of the management or control of that property by the investment adviser.
- Accounts receivable would be exempt from the intangible tax. The exemption would be phased in over a three year period beginning January 1, 1999. "Accounts receivable" would be defined as "a business debt which is owed by another in the taxpayer's ordinary course of trade or business and is not supported by negotiable instruments." Accounts receivable include, but are not limited to, credit card receivables, charge card receivables, credit receivables, margin receivables, inventory or other floor plan financing, lease payments past due, conditional sales contract, and financing lease contracts. The exemption would not apply to accounts receivable which arise outside the taxpayer's ordinary course of trade or business. This exclusion would not apply to a person who was in the business of buying and selling intangible assets where the receivable arose in the ordinary course of business.

- Banks and savings associations, as defined in §624.03, F.S., would be exempt from the intangible tax. Sections 199.104 and 220.68, F.S., which provided credits against the corporate income tax would be repealed. Banks and savings associations would not pay intangible tax for taxes due on or after July 1, 1999. Effective July 1, 2000, the credits under §199.104, F.S., or §220.68, F.S., would be repealed.
- Insurers, as defined in §624.03, F.S., would be exempt from the intangible tax. The credit an insurer received for intangible tax against its insurance premium tax would be repealed. Insurers would not pay intangible tax after the effective date of the bill (July 1, 1998). For tax years beginning on or after January 1, 1999, no credit for intangible tax paid would be available to an insurer.
- The penalty for late payment, late filing, and under reporting and undervaluation would be reduced. The penalties for late payment and late filing would be limited to a total of 10% per month and 50% of the total tax due. The penalty for under reporting and undervaluation would be reduced from 30% to 10%.
- "Ministerial function" and "processing activity" would be defined in s. 199.023, F.S.
- Counties would be held harmless from changes in revenues due to the changes in the intangible tax. The counties' percentage share of revenues from the intangible tax would rise over the years from their current 33.5% share to the following: FY 98-99 – 38.6%; FY 99-2000 – 40.2%; and for years after FY 2000-2001 – 42.4%.

**C. APPLICATION OF PRINCIPLES:**

**1. Less Government:**

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

- (3) any entitlement to a government service or benefit?

N/A

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

Yes. Natural persons would not have to file a tax return or pay tax if they owe less than \$60. Banks, savings associations, and insurers would be exempt from paying the tax.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

**D. STATUTE(S) AFFECTED:**

§§199.023; 199.052; 199.104; 199.175; 199.185; 199.282; 213.053; 213.054; 220.02; 220.68; 624.509, F.S.

**E. SECTION-BY-SECTION RESEARCH:**

Section 1 creates subsections (13) and (14) of §199.023, F.S., which define "ministerial function" and "processing activity."

Section 2 amends §199.052, F.S. Subsection 2 is amended to increase the amount of tax owed before payment and a return are due to \$60. A new subsection (15) is created to exempt a bank or savings association that acts as a trustee of a trust from paying intangible tax on property held by that trust. A beneficiary of a trust who lives in Florida would be responsible for taxes on the intangible personal property held in the trust. Additionally, if a bank or savings association that acts as a fiduciary or agent of a trust other than the trustee, the personal property of the trust would not be considered to have a taxable situs in the state simply because the managing bank or savings association may be located in Florida.

An investment adviser, as defined in §517.021, who does not own but has authority to invest moneys on behalf of a principal, would not be required to return and pay tax on the intangible personal property with respect to the assets the adviser purchases with the principal's funds. If an investment adviser acts as a fiduciary or an agent of a principal, intangible personal property of the principal shall not have a taxable situs in this state simply because the investment adviser who manages the funds is located in the state.

Section 3 deletes language in §199.052(2) which is no longer needed due to the repeal of §199.185(1)(l), F.S. Subsection (11) of §199.052, F.S., is deleted to remove language no longer needed due to the repeal of the intangible tax on banks and savings associations. This section is effective July 1, 2000.

Section 4 amends §199.175(a)(1), F.S., to remove language no longer needed due to the repeal of the intangible tax on insurers. Section 199.175(2)(b), F.S., is amended to remove language no longer needed due to the repeal of the intangible tax on insurers.

Section 5 amends §199.175(1)(a), F.S., to remove language no longer needed due to the repeal of the intangible tax on banks and saving associations. This section is effective July 1, 2000.

Section 6, Subsection (1) creates paragraph (l) of subsection (1) of §199.185, F.S., which would exempt accounts receivable from the intangible tax. One-third of the accounts receivable would be exempt on January 1, 1999; two-thirds would be exempt on January 1, 2000; and all would be exempt on January 1, 2001. "Accounts receivable" would be defined as "a business debt which is owed by another in the taxpayer's ordinary course of trade or business and is not supported by negotiable instruments." Accounts receivable include, but are not limited to, credit card receivables, credit receivables, margin receivables, inventory or other floor plan financing, lease payments past due, conditional sales contract, and financing lease contracts. The exemption does not apply to accounts receivable which arise outside the taxpayer's ordinary course of trade or business. Section (5) is amended to exempt banks and savings associations from intangible tax. Subsection (8) is created to exempt insurers from intangible tax. Subsection (2) states that the amendment to §199.185(5), F.S., exempting banks and savings associations from the intangible tax, would apply to taxes due on or after July 1, 1999.

Section 7 repeals paragraphs (l) and (k) of s. 199.185 (1), F.S., on July 1, 2000. This language is no longer necessary as it deals with international banking transactions and investments held by banks and savings associations.

Section 8 repeals on December 31, 1999, s.199.104, F.S., which addresses the credits that banks and savings associations receive against the intangible tax. Section 220.68, F.S., which deals with credits against corporate income tax would also be repealed on December 31, 1999.

Section 9 amends §199.282(3), FS., to limit the combined total of the penalties under paragraphs (a) and (b) to 10 percent per month and 50 percent of the total tax due. Subsection (4) is amended to reduce the penalty for omitted or undervalued property from 30 percent to 10 percent of the tax due to the omitted or undervalued property.

Section 10 amends §199.292(3), F.S., is amended to change the percentage of intangible tax revenue that is distributed into the Revenue Sharing Trust Fund for Counties from 33.5 percent to 42.4 percent.

Section 11 states that notwithstanding the provisions of s. 199.292(3), Florida Statutes, the Intangible Tax Trust Fund shall be disbursed as follows:

(1) For the period July 1, 1998, through June 30, 1999, an amount equal to 38.6 percent of the remaining intangible personal property taxes collected shall be transferred to the revenue Sharing Trust Fund for Counties, and an amount equal to 61.4 percent of the remaining taxes collected shall be transferred to the General Revenue Fund of the state.

(2) For the period July 1, 1999, through June 30, 2000, an amount equal to 40.2 percent of the remaining intangible personal property taxes collected shall be transferred to the revenue Sharing Trust Fund for Counties, and an amount equal to 59.8 percent of the remaining taxes collected shall be transferred to the General Revenue Fund of the state.

Section 12 amends §220.02, F.S., to remove language no longer needed due to the repeal of the intangible tax on banks and savings associations. This section is effective July 1, 2000.

Section 13 amends §213.053(4), F.S., to remove language no longer needed due to the repeal of the intangible tax on banks and savings associations. This section is effective July 1, 2000.

Section 14 amends §213.054, F.S., to remove language no longer needed due to the repeal of the intangible tax on banks and savings associations. This section is effective July 1, 2000.

Section 15 amends §624.509, F.S., to repeal the credit for intangibles tax against an insurers' insurance premium tax.

Section 16 states: For tax years beginning on or after January 1, 1999, no credit under s. 624.509(4), Florida Statutes, for intangible tax imposed under chapter 199, Florida Statutes, shall be available.

Section 17 states: Except as other provided herein, this act shall take effect on July 1 of the year in which enacted.

### III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

#### A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

	<u>FY 98-99</u>	<u>FY 99-00</u>
General Revenue	0	(\$58.6M)

2. Recurring Effects:

	<u>FY 98-99</u>	<u>FY 99-00</u>
General Revenue	(\$87.8M)	(\$163.5M)
Trust Fund	0	0
Local Government	0	0

The fiscal data is for the entire bill and for all taxes. The following data is for provisions that can be impacted separately, but are included in the total above.

<u>Increase Minimum Payment to \$60</u>	<u>FY 98-99</u>	<u>FY 99-00</u>
General Revenue	(\$9.5M)	(\$9.5M)
Trust Fund	0	0
Local Government	0	0

<u>Reduce Penalties</u>	<u>FY 98-99</u>	<u>FY 99-00</u>
General Revenue	(\$0.8M)	(\$0.8M)
Trust Fund	0	0
Local Government	0	0

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

Total for FY 98-99 is (\$87.8M). The total for FY 99-00 is (\$222.1M).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A



2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

The bill raises the minimum amount of tax due before a return and payment are required from \$5 to \$60 dollars. The Department of Revenue estimates that over 250,000 fewer taxpayers, both businesses and individuals, would have to pay intangible tax as a result of this change. An individual who owned on January 1 less than \$80,000 in taxable assets would not have to pay intangible tax or file a return. For a couple filing jointly, they would not have to pay intangible tax or file a return if they owned less than \$100,000 in taxable assets. A business or other "non-natural person" would not have to pay the tax, and in certain cases file a return, if it owned, manage, or controlled less than \$30,000 in taxable assets.

Banks, savings associations, and insurers would no longer have to pay intangible tax. Even though these entities received an offsetting tax credit against corporate income tax or insurance premium tax, these taxpayers will be saved accounting and other related costs by no longer having to pay the intangible tax.

Both businesses and individuals will have lower taxes due to the exemption of accounts receivable from intangible tax.

A bank or savings association that acts as a trustee, shall not be required to file a return or pay intangible tax on assets held by the trust. Additionally, if such a bank or savings association, acts as a fiduciary or agent of a trust other than as a trustee, the taxable intangible personal property in the trust shall not have a taxable situs in the state solely by virtue of the management or control of the bank or savings association. Trust departments of banks and savings associations will be more likely to attract out of state customers who would place their money in Florida based trusts, since the trust assets will no longer be subject to Florida's intangible tax

3. Effects on Competition, Private Enterprise and Employment Markets:

The Florida TaxWatch established a Florida Intangible Tax Task Force to examine the impact Florida's intangible tax has on the economic development and competitive position of Florida. The task force met during the winter of 1997-98 and

concluded that certain aspects of the intangible personal property tax deterred economic growth in Florida.

**D. FISCAL COMMENTS:**

N/A

**IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

**A. APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

**B. REDUCTION OF REVENUE RAISING AUTHORITY.**

The bill will not reduce the authority of municipalities and counties to raise revenues.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

The bill will not reduce the amount of the intangible tax shared with municipalities and counties

**V. COMMENTS:**

N/A

**VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

N/A

**VII. SIGNATURES:**

**COMMITTEE ON FINANCE AND TAXATION:**

Prepared by:

Legislative Research Director:

Lynne Overton

Keith G. Baker, Ph.D.

**STORAGE NAME:** h3899.fs  
**DATE:** March 15, 1998  
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**AS REVISED BY THE COMMITTEE ON FINANCIAL SERVICES:**

Prepared by:

Legislative Research Director:

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Meredith Woodrum Snowden

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Stephen Hogge

STORAGE NAME: h0063a.ca  
DATE: January 30, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 63

**RELATING TO:** Tax Administration

**SPONSOR(S):** Representatives Constantine and Feeney

**STATUTE(S) AFFECTED:** Sections 193.063 and 199.282, Florida Statutes

**COMPANION BILL(S):** None

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) COMMUNITY AFFAIRS YEAS 5 NAYS 2
  - (2) FINANCE & TAXATION
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

This bill allows a property appraiser to grant a taxpayer an extension for the filing of a tangible personal property tax return for an amount of time at his or her discretion, instead of the current authorization for only up to 45 days. In addition, it allows a request for extension to be signed by the tax preparer or an individual authorized by the entity being taxed.

The bill also reduces the penalties for failure to timely pay annual or nonrecurring intangible personal property tax and failure to timely file annual tax returns.

This bill was estimated to reduce moneys from intangible personal property penalties deposited into the General Revenue Fund by \$5.3 million and into the Revenue Sharing Trust Fund for Counties by \$2.7 million in FY 1997-98 by the 1996 Revenue Estimating Conference. **This bill is scheduled to be heard at the next meeting of the 1997 Revenue Estimating Conference.**

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Tangible Personal Property Tax Returns

Section 193.062, F.S., requires returns for tangible personal property to be filed by April 1.

"Tangible personal property" is defined by section 192.001, F.S., as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself, except for motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes exempted from ad valorem taxes by Article VII, section 1(b) of the Florida Constitution. Article VII, section 3(b) of the Florida Constitution also exempts household goods and personal effects from taxation.

Section 193.063, F.S., allows an extension of date for filing tangible personal property tax returns by the property appraiser, at her or his discretion, for up to 45 days. A request for extension must be made in time for the property appraiser to consider the request and act on it before the regular due date of the return. A request for extension must include the name of the taxable entity, the tax identification number of the taxable entity, and the reason an extension should be granted.

Intangible Personal Property Tax Returns

Section 199.032, F.S., authorizes the levy of an annual tax of 2 mills on each dollar of the just valuation of all intangible personal property which has a taxable situs in Florida, except for notes and other obligations for the payment of money, other than bonds, which are secured by mortgage, deed of trust, or other lien upon real property situated in the state.

"Intangible personal property" is defined by section 199.023, F.S., as all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents, including, but not limited to, the following:

- (a) All stocks or shares of incorporated or unincorporated companies, business trusts, and mutual funds.
- (b) All notes, bonds, and other obligations for the payment of money.
- (c) All condominium and cooperative apartment leases of recreation facilities, land leases, and leases of other commonly used facilities.
- (d) Except for any leasehold or other possessory interest, all leasehold or other possessory interests in real property owned by the United States, the state, any political subdivision of the state, any municipality of the state, or any agency, authority, and other public body corporate of the state, which are undeveloped or predominantly used for residential or commercial purposes and upon which rental payments are due.

Section 199.042, F.S., provides that the annual tax on intangible personal property is due and payable on June 30 of each year. Payment of the tax is made to the Department of Revenue (DOR) upon filing of a return. The return is due on June 30 of each year.

A return must be filed with the DOR by every corporation authorized to do business in Florida and by every person, regardless of domicile, who on January 1 owns, controls, or manages intangible personal property which has a taxable situs in Florida.

Section 199.282, F.S., provides that if any annual or nonrecurring tax is not paid by the due date, a delinquency penalty shall be charged. The delinquency penalty is 10 percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of 50 percent of the total tax not timely paid.

If any required annual tax return is not filed by the due date, a penalty of 30 percent of the tax due with the return is charged for each year or portion of the year during which the return remains unfiled.

If an annual tax return is filed and property is either omitted from it or undervalued, then a specific penalty is charged. The specific penalty is 30 percent of the tax attributable to each omitted item or to each undervaluation. No delinquency or late filing penalty is charged with respect to any undervaluation.

Section 199.292, F.S., provides that intangible personal property taxes collected shall be placed in a special fund designated as the "Intangible Tax Trust Fund." The fund is disbursed as follows:

- (1) Revenue derived from the annual tax on a leasehold, described in section 199.023(1)(d), F.S., is returned to the local school board for the county in which the property subject to the leasehold is situated.
- (2) An amount necessary for the effective and efficient administration and enforcement by the DOR of the provisions of chapters 192, 193, 194, 195, 196, 197, 198 and 199 and which is annually appropriated from the fund.
- (3) An amount equal to 33.5 percent of the remaining intangible personal property taxes collected is transferred to the Revenue Sharing Trust Fund for Counties. An amount equal to 66.5 percent of the remaining taxes collected is transferred to the General Revenue Fund.

**B. EFFECT OF PROPOSED CHANGES:**

This bill allows a property appraiser to grant a taxpayer an extension for the filing of a tangible personal property tax return for an amount of time at his or her discretion, instead of the current authorization for only up to 45 days. In addition, it allows a request for extension to be signed by the tax preparer or an individual authorized by the entity being taxed.

The bill also reduces the penalties for failure to timely pay annual or nonrecurring intangible personal property tax and failure to timely file annual tax returns. For failure to pay the tax by the due date, the bill changes the penalty from 10 percent of the

delinquent tax for each calendar month up to a limit of 50 percent, to 5 percent for each calendar month up to a limit of 25 percent of the total tax not timely paid. For failure to timely file, the bill changes the penalty from 30 percent of the tax due for each year the day after it is delinquent, to 5 percent of the tax due for the first month late and 5 percent each month up to 25 percent of the total tax due.

Finally, the bill reduces the penalty in cases where an annual tax return is filed and property is either omitted from it or undervalued from 30 percent of the tax attributable to each omitted item or undervaluation to 15 percent.

**C. APPLICATION OF PRINCIPLES:**

**1. Less Government:**

By eliminating the 45 day requirement for filing of an extension, this bill increases the discretion of county property appraisers to make rules and adjudicate disputes over the filing of tangible personal property tax returns.

**2. Lower Taxes:**

This bill decreases the penalties for failure to timely pay intangible personal property taxes. The bill does not reduce the rate of taxation or create an exemption for the tangible personal property tax.

**3. Personal Responsibility**

Decreasing the penalties for failure to timely pay annual or nonrecurring intangible personal property tax or to timely file annual returns for the tax may affect the payment behavior of individuals.

The prime sponsor of the bill believes the penalties for intangible personal property taxes need to be reduced because the current high penalties are a disincentive for persons to file intangible personal property returns and pay the tax if they are inadvertently delinquent. To the extent this is true, this bill would serve as an incentive for persons to be responsible and pay the tax.

Opponents of the bill believe that the high penalties are the incentive for persons to file and pay the tax and that reducing the penalties will make persons less likely to file and pay on time.

These two differing views will be discussed at the next meeting of the 1997 Revenue Estimating Conference in the review of the fiscal impact of this bill. Data are being collected for the new estimate.

**4. Individual Freedom:**

By eliminating the 45 day extension deadline and decreasing penalties, this bill increases the allowable options of individuals and associations to conduct their own affairs.

5. Family Empowerment:

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amends section 193.063, F.S., to allow a property appraiser to grant a taxpayer an extension for the filing of a tangible personal property tax return for an amount of time at his or her discretion, instead of the current authorization for only up to 45 days. Also allows a request for extension to be signed by the tax preparer or an individual authorized by the entity being taxed.

**Section 2:** Subsections (3) and (4) of section 199.282, F.S., are amended to reduce the penalties for failure to timely pay annual or nonrecurring intangible personal property tax and failure to timely file annual tax returns.

For failure to pay the tax by the due date, the bill changes the penalty from 10 percent of the delinquent tax for each calendar month up to a limit of 50 percent, to 5 percent for each calendar month up to a limit of 25 percent of the total tax not timely paid. For failure to timely file, the bill changes the penalty from 30 percent of the tax due for each year the day after it is delinquent, to 5 percent of the tax due for the first month late and 5 percent each month up to 25 percent of the total tax due.

Finally, the bill reduces the penalty in cases where an annual tax return is filed and property is either omitted from it or undervalued from 30 percent of the tax attributable to each omitted item or undervaluation to 15 percent.

States that the section shall take effect on January 1, 1998, and shall apply to taxes due on or after January 1, 1998.

**Section 3:** Provides that the act shall take effect January 1, 1998.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

<u>Revenues:</u>	1996-97	1997-98
General Revenue Fund	\$0	(\$5.3 m)

3. Long Run Effects Other Than Normal Growth:

None.



4. Total Revenues and Expenditures:

<u>Revenues:</u>	1996-97	1997-98
General Revenue Fund	\$0	(\$5.3 m)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

<u>Revenues:</u>	1996-97	1997-98
Revenue Sharing Trust Fund for Counties	\$0	(\$2.7 m)

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Taxpayers will benefit from reduced penalties for late filed intangible personal property taxes.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require expenditures by counties or municipalities.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill is estimated to reduce the funds in the Revenue Sharing Trust Fund for Counties by \$2.7 million in FY 1997-98. The bill does reduce the rate at which a penalty can be assessed by a county property appraiser; however, the bill does not reduce the authority of counties to raise revenues.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill is estimated to reduce the state tax shared with counties from the Revenue Sharing Trust Fund for Counties by \$2.7 million in FY 1997-98. However, the bill does not reduce the percentage of revenues shared with counties and therefore does not meet the Constitutional definition of a mandate.

**V. COMMENTS:**

None.

**VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

None.

**VII. SIGNATURES:**

**COMMITTEE ON COMMUNITY AFFAIRS:**

Prepared by:

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