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.)

BILL: CS/SB 60

SPONSOR: Fiscal Resource Committee and Senator Lee

SUBJECT: Intangible Personal Property

DATE: March 3, 2000 REVISED: ________ ________ ________ ________

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Wood	FR	Favorable/CS
2.	Schmeling	Maclure	CM	Favorable
3.				
4.				
5.				

I. Summary:

This committee substitute provides that, effective January 1, 2001, the annual tax rate for intangible personal property is reduced from 1.5 mills to 1.0 mill. It also provides that accounts receivable shall be exempt from intangibles tax.

This committee substitute also revises the treatment of Florida trusts for intangibles tax purposes. It relieves Florida trustees of paying intangibles tax on trust assets, and it provides that a Florida resident with a beneficial interest in a trust is responsible for reporting his or her share of the trusts assets and paying intangibles tax on it. This change is intended to provide a level playing field for Florida banks and other institutions which serve as trustees.

This bill amends the following sections of the Florida Statutes: 199.023, 199.032, 199.033, 199.052, 199.175, 199.183, and 199.185.

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(1), 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.)

Subsection (7) of s. 199.023, F.S., defines a "beneficial interest" in a foreign trust as a vested interest which includes at least a current right to income and either a power to revoke the trust or a general power of appointment.

Section 199.032, F.S., provides that intangible personal property with a taxable situs in this state is taxed at 1.5 mills on each dollar of just valuation.

Section 199.033, F.S., provides that securities in a Florida's Future Investment Fund are taxed at a rate of 1.35 mills when the average daily balance in such funds exceeds $2 billion and at the rate of 1.20 mills when the average daily balance in such funds exceeds $5 billion.

Section 199.052, F.S., provides for payment of annual tax. Subsection (5) requires the trustee of a Florida trust to return and pay the annual tax on it, and describes the conditions under which a trust has Florida situs. Subsection (6) requires a Florida resident with beneficial interest in a foreign-situs trust to return and pay tax on the resident's equitable share of the trust's intangible property. Subsection (9) requires an agent with control or management of intangible personal property to return and pay annual tax on it if the principal fails to do so. Subsection (15) provides that if a bank or savings association acts as a fiduciary or agent of a trust other than as a trustee, intangible personal property of the trust shall not have taxable situs solely because of the management or control of the bank or savings association.

Paragraph (a) of subsection (1) of s. 199.175, F.S., provides that taxable situs is created when intangible personal property is owned, managed, or controlled by any person domiciled in this state on January 1 of the tax year. This includes any person, including a trust, who has established a commercial domicile in this state.

Section 199.183, F.S., provides exemptions for certain taxpayers to Florida's intangible personal property taxes. Exemptions include, but are not limited to, intangible personal property owned by nonprofit religious, nonprofit educational, and nonprofit charitable institutions.

Paragraph (l) of subsection (1) of s. 199.185, F.S., exempts two-thirds of accounts receivable from intangibles tax and expresses the intention to phase out the tax on accounts receivable as of January 1, 2001, pursuant to future legislative action.

Paragraphs (a) and (b) of subsection (2) of s. 199.185, F.S., provide that with respect to the first mill of the annual intangible personal property tax, every natural person is entitled each year to an exemption of the first $20,000 of the value of property, while a husband and wife filing jointly have an exemption of $40,000. With respect to the last 0.5 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 the tax, while a husband and wife filing jointly have an exemption of $200,000.

III. Effect of Proposed Changes:

The committee substitute for SB 60 reduces the annual tax rate on intangible personal property to 1 mill, and provides an exemption against the tax of $20,000 for every natural person and $40,000 for every married couple filing jointly. The tax rate for securities in a Florida's Future Investment Fund is reduced to .85 mill (from 1.35 mills) when the average balance in such funds exceeds $2 billion, and is reduced to .70 mill (from 1.20 mills) when the average daily balance in such funds exceeds $5 billion.

The committee substitute exempts accounts receivable arising or acquired in the ordinary course of a trade or business from the tax on intangible personal property.

The committee substitute amends various sections of chapter 199 to provide that intangible personal property tax will not be imposed upon intangible personal property owned by a non-resident simply because the property is managed or controlled by a person domiciled in Florida. The following changes are made to accomplish this:

- Amends s. 199.023, F.S., to redefine "beneficial interest" so that the definition would apply to a resident with a vested interest in any trust rather than just in a foreign (out-of-state) trust;

- Amends s. 199.052, F.S., to exempt a trustee from paying annual tax on trust property, and to provide that if a bank or savings association acts as a fiduciary or agent of a trust other than as a trustee, the bank or savings association is not responsible for paying any annual tax on the trust's intangible personal property. It also exempts Florida investment advisors from paying the annual tax on accounts owned by non-residents of the state. This section of the committee substitute further provides that management or control of the bank or savings association may not be used as the basis for imposing any annual tax on any person or any assets of the trust, and it removes language that requires a Florida resident with a beneficial interest in a trust to pay the annual tax on the trust only if it is a "foreign-situs" trust, thus making the beneficiary responsible for payment of the intangible personal property tax irrespective of whether the trust is a "foreign-situs" trust or a "Florida-situs" trust;

- Amends s. 199.175, F.S., to require payment of annual intangible personal property tax by a business trust commercially domiciled in the state; and

- Amends s. 199.183, F.S., to provide that intangible personal property owned, managed, or controlled by a trustee of a trust is exempt from the annual tax, except that a Florida resident with a taxable beneficial interest in a trust is not exempt from payment of the tax.

This bill takes effect July 1, 2000, and is effective for tax years beginning after December 31, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill is exempt from the provisions under subsection (b) of section 18 of Article VII, Florida 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. Although the expanded exemption from the state intangibles taxes provided by this bill reduces the base of state revenues shared with local government, the bill does not reduce the percentage of the revenues 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:

	General Revenue		Trust		Local		Total	
Issue/Fund	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
Reduce Millage for Annual Tax	($136.6)	($136.6)	$0	$0	($82.6)	($82.6)	($219.2)	($219.2)
Acct's Rec. Exempt.	($13.1)	($13.1)	$0	$0	($8.0)	($8.0)	($21.1)	($21.1)
Exemption for Trustees of Trusts and Nonbank Fiduciaries @ 1 mill	($9.8)	($9.8)	$0	$0	($5.9)	($5.9)	($15.7)	($15.7)
Total Impact	($159.5)	($159.5)	$0	$0	($96.5)	($96.5)	($256.0)	($256.0)

* Insignificant
** Indeterminate

B. Private Sector Impact:

Both businesses and individuals will have lower taxes due to the reduction in tax rate and exemption of accounts receivable from intangible tax. Florida banks and other institutions and businesses will be able to compete more successfully with out-of-state entities as trustees and investment advisors since they will no longer be required to pay intangibles tax on assets they control but do not own.

C. Government Sector Impact:

Even though this bill does not qualify as a mandate under subsection (b) of section 18 of Article VII, Florida Constitution, it has a significant negative impact on county revenue. The Revenue Sharing Trust Fund for Counties will receive roughly $96.5 million less each year on a recurring basis as a result of this bill.

The recurring loss to General Revenue is estimated to be $159.5 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.