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:

Revenues:	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:

Revenues:	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:

Revenues:	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:	Interim Legislative Research Director:
Jenny Underwood Dietzel	Jenny Underwood Dietzel