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:	SB 1682				
SPONSOR:	Senator Klein				
SUBJECT: Limited Liability Co		ompanies			
DATE:	March 15, 1999	REVISED: <u>03/18/99</u>			
1. <u>Fourr</u> 2 3 4 5	ANALYST nier	STAFF DIRECTOR Wood	REFERENCE FR CM	ACTION Favorable	

I. Summary:

SB 1682 provides a Florida corporate income tax exemption for single-member limited liability companies that are disregarded as entities separate from their owners for federal income tax purposes. It also provides that ownership interests in these entities are not subject to intangible personal property tax.

This bill substantially amends the following sections of the Florida Statutes: ss. 220.02, 220.03, 220.13, 608.441, 199.023, 199.185.

II. Present Situation:

The Florida Limited Liability Company Act of 1982 created the limited liability company (LLC) in Florida. A limited liability company is an entity with characteristics of both a corporation and a partnership. For legal purposes, an LLC is treated like a corporation and therefore affords its members certain protections from liability. For federal income tax purposes, however, an LLC may be classified as a partnership, in which case the earnings or losses of the LLC are passed through to the members, rather than treating the LLC as a separate taxable entity. The Florida Limited Liability Company Act was enacted, in part, to attract capital to Florida by offering limited liability in conjunction with federal tax advantages.

Section 220.02, F.S. (1998 Supp.) states that a limited liability company classified as a partnership for federal income tax purposes and formed under ch. 608, F.S., or qualified to do business in this state as a foreign LLC is not subject to Florida's corporate income tax. Chapter 98-101, s. 7, Laws of Florida, became law on May 21, 1998, and is effective for tax years beginning on or after January 1, 1997.

Paragraph (e) of subsection (1) of Section 220.03, F.S. (1998 Supp.) defines "corporation" and provides specifically that the term does not include limited liability companies that are taxable as partnerships for federal income tax purposes.

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Subsection (2) of Section 220.3, F.S. (1998. Supp.) defines "taxable income" for limited liability companies except for limited liability companies classified as partnerships for federal income tax purposes.

Section 608.471, F.S. (1998 Supp.) provides that a limited liability company classified as a partnership for federal income tax purposes is not subject to the tax imposed under chapter 220.

Paragraph (d) of subsection (1) of section 608.441, F.S., provides that a limited liability company shall be dissolved if it has fewer than two members.

Paragraph (a) of subsection (1) of section 199.023, F.S. (1998 Supp.) provides that intangible personal property includes all stocks, or shares of incorporated or unincorporated companies, business trusts, and mutual funds.

Paragraph (c) of subsection (1) of section 199.185, F.S. (1998, Supp.) provides an exemption from intangibles tax for any interest as a partner in a partnership unless the limited partnership is registered with the Securities and Exchange Commission pursuant to the Securities Act of 1993, as amended.

III. Effect of Proposed Changes:

This bill extends the current exemption from corporate income tax and intangibles tax enjoyed by a limited liability company classified as a partnership for federal income tax purposes to a single-member limited liability company that is disregarded as an entity separate from its owner for federal income tax purposes.

The act will take effect on July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

While the bill will reduce the amount shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The fiscal impact of this bill has not been determined

B. Private Sector Impact:

Taxes will be reduced for certain limited liability companies.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.