COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1180-02
Bill No.: SB 370 with HCA 1
Subject: Estates, Wills, & Trusts; Evidence; Civil Procedure; Banks & Financial Institutions; Insurance–Life; Property–Real & Personal
Type: Original
Date: May 3, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	$0	$0	$0
Total Estimated Net Effect on All State Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials with the **Office of the Attorney General**, the **Office of State Courts Administrator**, the **Department of Insurance**, and the **Department of Economic Development–Divisions of Finance and Credit Unions**, assume the proposal would have no fiscal impact on their agencies.

The **Department of Revenue** assumes that the proposal will have no fiscal impact on their agency's administration, and that the Office of Administration–Division of Budget and Planning will calculate any impact to state revenues.

Officials with the **Office of Administration–Division of Budget and Planning** indicated that they cannot determine any possible impact on state revenues due to the proposal's revision of income recognition by trusts.

Oversight notes that the purpose of the bill is to update the manner in which fiduciaries report income for trust and estates to be uniform with federal standards. As such, Oversight assumes that there will be minimal or no impact on state revenues.

FISCAL IMPACT - State Government	FY 2002 (10 Mo.)	FY 2003	FY 2004
	$0	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2002 (10 Mo.)	FY 2003	FY 2004
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This act revises the Principal and Income Act enacted in 1983 and the rule against perpetuities. The act makes current market investment principles, including diversification, applicable to trust estates, unless the trust document provides otherwise. Current accounting principles, such as adjustment to shares of beneficiaries, will apply to trusts, and the act defines many terms, consistent with changes to the Internal Revenue Code as well as the Prudent Investor Act enacted in 1996.

The act contains standards and procedure to determine which parts of a trust constitute principal and which constitute income derived from that principal. A trustee may select investments using the standards of a prudent investor, without having to realize a particular portion of the portfolio's total return in the form of traditional trust accounting income such as interest, dividend and rents. A trustee may make adjustments between principal and income under certain conditions and after consideration of specified factors.

A trust that provides for a single income beneficiary and outright distribution of the remainder ends when the income interest ends; the trustee's powers continue to complete the administration of the trust's termination. Whenever there are two or more beneficiaries, a trustee has a duty of impartiality.

The act applies the same rules regarding apportionment of trust property to inter vivos and testamentary trusts, and to assets that become subject to an inter vivos trust by a testamentary bequest. The act also reduces the statute of limitations, from two to five years, for claims of breach of trust resulting from a trustee's allocation of income and principal.

The act provides that the rule against perpetuities and the rule against accumulations shall not apply to a trust, if the trust agreement grants the trustee the power to sell the trust property or accumulate income during the time the trust continues that would otherwise violate the rule.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration
    Division of Budget & Planning
Department of Revenue
Department of Economic Development
    Division of Finance
    Division of Credit Unions
Department of Insurance
Office of State Courts Administrator
Office of the Attorney General

Jeanne Jarrett, CPA
Director

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