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FISCAL IMPACT REPORT

SPONSOR Robinson DATE TYPED 3/8/05 HB _____

SHORT TITLE Uniform Principal & Income Act Changes SB 565/aSCORC/aSJC

ANALYST Ford

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates
HB 659

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
Attorney General (AGO)
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment re-writes the Senate Corporations and Transportation Committee amendment to correct a formatting error. NOTE: Senate Judiciary Committee amendment #1 strikes Senate Corporations and Transportation Committee amendments #1 and #2; however, there was only 1 amendment from Senate Corporations and Transportation Committee.

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment deletes the provision restricting the distribution amount for a trust for which an estate tax or a gift tax marital deduction was claimed, or may be claimed.

Synopsis of Original Bill

Senate Bill 565 amends and enacts new sections of the Uniform Principal and Income Act to provide a mechanism for a trustee to convert an income trust to a “total return trust.”

Significant Issues

The AGO provides a helpful explanation of Senate Bill 565:

“Traditionally written trusts generally provide that all of the trust's income goes to a beneficiary and the principal is held for distribution at a later time, often to other people, often the children of the income beneficiary. This can reduce payment to income beneficiaries in times of falling interest rates and dividend yields, especially when rise in equity prices means that the principal has grown while the trust's income was a smaller percentage of the trust's assets. This bill would address the needs of these income beneficiaries by allowing for existing trusts to be converted into ‘Total Return Trusts’.

“When administering a total return trust under this bill, the trustee must invest the trust assets seeking a total return without regard to whether the return is from income or appreciation of principal. The trustee must make income distributions in accordance with the trust instrument. But the bill sets the distribution percentage for any trust converted to a total return trust at four percent, unless otherwise agreed to by the trustee and the beneficiaries or ordered by a court. However, the bill provides that distribution percentages may not be less than 3% or greater than 5%.

“In other words the beneficiary of a \$500,000 total return trust with a 4% payout will receive \$20,000 per year, regardless of what the trust's actual income is. If the income is only \$10,000, the balance of the distribution will come from principal. Conversely, if the income is \$30,000, the excess above \$20,000 will be added to principal. Making an election to convert does not do away with any right the trustee may have had to use principal for special purposes, such as medical care or education of a beneficiary.

“The bill gives the trustee discretion to convert an income trust to a ‘total return trust’ if certain conditions are met. It also allows the trustee to petition a court for conversion if a beneficiary objects to the conversion. The bill also provides a method for beneficiaries to petition a court to require the trustee to convert an income trust to a total return trust.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill duplicates House Bill 659

EF/lg:yr