

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
COMMUNICATIONS, ENERGY, AND PUBLIC UTILITIES
Senator Flores, Chair
Senator Garcia, Vice Chair

MEETING DATE: Tuesday, March 4, 2014
TIME: 8:30 —9:30 a.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Flores, Chair; Senator Garcia, Vice Chair; Senators Abruzzo, Bean, Evers, Gibson, Hukill, Simpson, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 712 Galvano (Identical H 847)	Taxes on Prepaid Calling Arrangements; Revising the definition of "prepaid calling arrangement" to clarify and update which services are included under that definition and subject to a sales tax, etc. CU 03/04/2014 Favorable AFT AP	Favorable Yeas 8 Nays 0
2	SB 898 Abruzzo (Similar H 803)	Communications Services Tax; Revising the definition of the term "sales price" to exclude charges for the use of communications services to furnish specified goods and services, etc. CU 03/04/2014 Fav/CS CM AFT AP	Fav/CS Yeas 8 Nays 0
3	SJR 916 Brandes (Identical HJR 825, Compare H 827, Link S 922)	Ad Valorem Assessments/Renewable Energy Source Devices; Proposing an amendment to the State Constitution to revise the Legislature's authority to exempt the value of renewable energy source devices from consideration in determining the assessed value of real property by removing a restriction that limits such exemptions to property used for residential purposes and restricting such exemptions to installation by an end-use customer of a renewable energy source device that is primarily intended to offset part or all of that customer's electricity demands, etc. CU 03/04/2014 Favorable CA JU RC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Communications, Energy, and Public Utilities
Tuesday, March 4, 2014, 8:30 —9:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 922 Brandes (Identical H 827, Compare HJR 825, Link SJR 916)	Renewable Energy Source Devices; Prohibiting consideration by a property appraiser of the increased value of real property due to the installation of a renewable energy source device by an end-use customer; revising the definition of the term "renewable energy source device", etc. CU 03/04/2014 Favorable CA RC	Favorable Yeas 8 Nays 0

Other related meeting documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: SJR 916

INTRODUCER: Senator Brandes

SUBJECT: Ad Valorem Taxes/Renewable Energy Source Devices

DATE: February 11, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.			CA	
3.			JU	
4.			RU	

I. Summary:

SJR 916 proposes a constitutional amendment to existing provisions that authorize the Legislature to prohibit property appraisers, in appraising real property for ad valorem tax purposes, from considering the value of improvements to residential real property that constitute either enhancements to the property's wind resistance or the installation of a renewable energy device. The bill preserves the application of the wind-resistance provisions solely to residential real property. It expands the application of the renewable-energy provisions to all real property, but limits application to instances when the device is installed by an end-use customer primarily to offset part or all of that end-use customer's electricity demands.

II. Present Situation:

Property Tax Assessments

Article VII, s. 4, Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.¹ Both the constitution and the statutes require that a property appraiser consider changes, additions, or improvements to residential property in determining the property's just valuation.²

¹ See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

² FLA. CONST. art. VII, s. 4. and ss. 193.011, 193.155(4), and 193.1554(6), F.S.

Initial Constitutional Ad Valorem Renewable Energy Source Incentive

Property tax incentives to promote renewable energy in Florida date back over 30 years. In 1980, Florida voters added the following ad valorem tax exemption authorization to the Florida Constitution:

By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, for the period of time fixed by general law not to exceed ten years.³

During that same year, the Legislature enacted s. 196.175, F.S., to implement the constitutional amendment.⁴ The legislation limited the ad valorem exemption to the lesser of:

- The assessed value of the property less any other exemptions applicable under the chapter;
- The original cost of the device, including the installation costs, but excluding the cost of replacing previously existing property removed or improved in the course of the installation; or
- Eight percent of the assessed value of the property immediately following the installation.

The statute limited the exemption to a 10-year period, and the statute itself expired after 10 years. Specifically, the statute was in effect from January 1, 1980, through December 31, 1990. Therefore, no exemptions were granted after December 31, 1990, and exemptions granted in December 1990 expired 10 years later in December 2000. At this point, the statute was rendered inoperative and art. VII, s. 3(d), Florida Constitution, was no longer implemented by general law.

2008: Legislative Action and Constitutional Amendment 3

On April 30, 2008, the Legislature removed the expiration date of the property tax exemption for renewable energy source devices.⁵ This allowed property owners to apply again for the exemption effective January 1, 2009, again with a 10-year life span.

In November 2008, Florida voters approved the following constitutional amendment placed on the ballot by the Florida Tax and Budget Reform Commission (TBRC):

- (i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:
- (1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.
 - (2) The installation of a renewable energy source device.⁶

³ FLA. CONST. art. VII, s. 3(d).

⁴ Section 196.175, F.S.

⁵ House Bill 7135, Ch. 2008-227, Laws of Florida.

⁶ FLA. CONST. art. VII, s. 4.

The amendment was permissive; unless the Legislature enacted implementing legislation, it had no effect. The 2008 amendment also repealed the previous constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on which such a device is installed and operated. Thus, the first constitutional provisions granting the ad valorem tax exemptions were repealed in 2008, with the related implementing language in s. 196.175, F.S., still part of the Florida Statutes, and a new set of ad valorem tax exemptions in the constitution, but with no implementing statute.

2009 Senate Interim Report

In 2009, the Senate Committee on Finance and Tax issued an interim report evaluating the 2008 Constitutional Amendment.⁷ The report reviewed proposed legislation filed during the 2009 legislative session to implement the constitutional amendment. It also discussed property tax incentives that are provided in other states for installing renewable energy equipment or improving disaster resistance.⁸

At the time of the interim report, 17 states had enacted property tax incentives for renewable energy equipment including devices related to solar, wind, and geothermal energy. Although the report noted that tax incentives for improvements related to disaster preparedness are less common, three states had enacted such laws.

2013 Legislation

After several attempts to implement the 2008 constitutional amendment, implementing legislation was enacted in the 2013 Regular Session.⁹ That statute provides that in determining the assessed value of real property used for residential purposes, a property appraiser cannot consider an increase in the just value of the property attributable to the installation of a renewable energy source device.¹⁰ The statute defines the term “renewable energy source device” to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- Solar energy collectors, photovoltaic modules, and inverters.
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks.
- Rockbeds.
- Thermostats and other control devices.
- Heat exchange devices.
- Pumps and fans.
- Roof ponds.
- Freestanding thermal containers.
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type.

⁷ Comm. on Finance and Tax, The Florida Senate, *Assessment of Renewable Energy Devices and Improvements That Increase Resistance to Wind Damage – Implementation of Constitutional Amendment Approved in November 2008*, (Interim Report 2010-116) (Oct. 2009).

⁸ *Id.* citing *State Tax Guide Volume 2*, Commerce Clearing House (Chicago, IL).

⁹ HB 277, Ch. 2013-77, Laws of Florida.

¹⁰ Section 193.624, F.S.

- Windmills and wind turbines.
- Wind-driven generators.
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy.
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

The statute applied to the installation of a renewable energy source device installed on or after January 1, 2013, to new and existing residential real property, and to assessments beginning January 1, 2014.

The statutes that provide for homestead¹¹ and non-homestead residential¹² property assessment were amended by cross reference to include this new prohibition.

Non-utility Production of Electricity

Non-Utility Sales to the Public

The Florida Supreme Court has held that the Florida Statutes mandate that any person who sells electricity to even a single person is a public utility subject to regulation by the Florida Public Service Commission (PSC).¹³ The facts of that case were as follows. PW Ventures signed a letter of intent with Pratt and Whitney to provide electric and thermal power at Pratt's industrial complex in Palm Beach County. PW Ventures proposed to construct, own, and operate a cogeneration electric power plant on land leased from Pratt and to sell its output to Pratt under a long-term contract. Before proceeding with construction of the plant, PW Ventures sought a declaratory statement from the PSC that it would not be a public utility subject to PSC regulation. After a hearing, the PSC ruled that PW Ventures proposed transaction with Pratt fell within its regulatory jurisdiction.

The Court reviewed similar Florida regulatory statutes where the Legislature had expressly provided for exclusions from regulation based on a stated limited number of customers and found that the failure of the Legislature to create such an exclusion for electric services indicated its intent that the term “to the public” include a sale to even one person.

The Court also reviewed the statutory system of electric utility regulation¹⁴ and found that the regulation of the production and sale of electricity necessarily contemplates the granting of monopolies in the public interest. The Court noted that if the proposed sale of electricity by PW Ventures was outside of PSC jurisdiction, duplication of facilities could occur in contradiction to the statutory direction to the PSC to exercise its powers to avoid uneconomic duplication of generation, transmission, and distribution facilities.¹⁵ The Court stated that what PW Ventures proposed was to go into an area served by a utility and take one of its major customers, an interpretation which could allow other ventures to enter into similar contracts with other high use industrial complexes on a one-to-one basis and drastically change the regulatory scheme in this

¹¹ Section 193.155(4), F.S.

¹² Section 193.1554(6), F.S.

¹³ *PW Ventures, Inc. v. Nichols*, 533 So.2d 281 (1988).

¹⁴ Chapter 366, F.S.

¹⁵ Section 366.04(3), Florida Statutes (1985).

state. “The effect of this practice would be that revenue that otherwise would have gone to the regulated utilities which serve the affected areas would be diverted to unregulated producers. This revenue would have to be made up by the remaining customers of the regulated utilities since the fixed costs of the regulated systems would not have been reduced.”¹⁶ Finally the Court found that the Legislature had determined that the protection of the public interest required limiting competition in the sale of electric service.

Based upon these findings, the Court upheld the PSC’s order that under the proposed arrangement PW Ventures would be a public utility subject to PSC regulation.

Self-Generation

PW Ventures

The prohibition on non-utility sales of electricity does not prohibit a person or business from producing electricity solely to furnish its own power. In its finding that the Legislature determined that the protection of the public interest required limiting competition in the sale of electric service, the Florida Supreme Court expressly noted that this determination of public interest did not require a prohibition against self-generation.¹⁷

Cogeneration and Small Power Producers

The statutes expressly provide for self-generation, and for the sale of any excess electricity to a public utility. A public utility is required to purchase electricity from a cogenerator¹⁸ or small power producer¹⁹ located in that public utility’s service territory.²⁰ The PSC is required to establish guidelines relating to the purchase of power or energy and may set rates at which a public utility must purchase the power or energy.²¹ In fixing rates, the PSC must authorize a rate equal to the purchasing utility’s full avoided costs, defined as the incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase from cogenerators or small power producers, such utility would generate itself or purchase from another source.²²

Standard Purchase Contract

Each public utility and each municipal electric utility or rural electric cooperative that meets specified criteria²³ must continuously offer a purchase contract to producers of renewable

¹⁶ *PW Ventures*, page 283.

¹⁷ *Id.*, page 284.

¹⁸ Cogeneration is the sequential production of thermal energy and electrical or mechanical energy from the same fuel source. *Florida’s Electric Utilities: A Reference Guide*, Revised 1994 Edition, Florida Electric Power Coordinating Group, Inc., Tampa, Florida, page 30.

¹⁹ A small-power producer generates electricity from facilities using biomass, solid waste, geothermal energy or renewable resources (including wind, solar, and small hydroelectric) as their primary energy sources. *Florida’s Electric Utilities: A Reference Guide*, Revised 1994 Edition, Florida Electric Power Coordinating Group, Inc., Tampa, Florida, page 188.

²⁰ Section 366.051, F.S. This was mandated by the federal Public Utility Regulatory Policies Act of 1978, which required that electric utilities purchase the energy produced from qualifying facilities (cogenerators and small power producers) at the utility’s avoided cost of generation.

²¹ *Id.*

²² *Id.*

²³ This includes the Orlando Utilities Commission and JEA (formerly Jacksonville Electric Authority).

energy^{24, 25} The contracts must contain payment provisions for energy and capacity (if appropriate) which are based upon the utility's full avoided costs. Each contract must be for a term of at least 10 years.

Net Metering

Each public utility must develop a standardized interconnection agreement and net metering²⁶ program for customer-owned renewable generation^{27, 28}. The PSC must establish requirements relating to the expedited interconnection and net metering of customer-owned renewable generation by public utilities and was authorized to adopt rules for this purpose. Additionally, each municipal electric utility and rural electric cooperative that sells electricity at retail is encouraged to develop a standardized interconnection agreement and net metering program for customer-owned renewable generation.²⁹ In any purchase contract, the contracting producer of renewable energy must pay the actual costs of its interconnection with the transmission grid or distribution system.

PSC Net Metering Rule

Pursuant to the requirements of the net metering statute, the PSC adopted a rule requiring each investor-owned utility³⁰ to develop a Standard Interconnection Agreement for expedited interconnection of customer-owned renewable generation³¹ up to 2 MW and file for Commission approval of that agreement.³² A utility must enable net metering³³ for each customer-owned renewable generation facility interconnected to the utility's electrical grid by installing, at no additional cost to the customer, metering equipment capable of measuring the difference between the electricity supplied to the customer from the utility and the electricity generated by the customer and delivered to the utility's electric grid. During any billing cycle, excess customer-owned renewable generation delivered to the utility's electric grid must be credited to the customer's energy consumption for the next month's billing cycle. These energy credits must

²⁴ Section 366.91(2)(d), F.S., defines the term "renewable energy" means electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.

²⁵ Section 366.91(3) and (4), F.S.

²⁶ The term "net metering" is defined to mean a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on site. Section 366.91(2)(c), F.S.

²⁷ The term "customer-owned renewable generation" is defined to mean an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy. Section 366.91(2)(b), F.S.

²⁸ Section 366.91(5), F.S.

²⁹ Section 366.91(6), F.S.

³⁰ This is Florida Power and Light, Duke Energy Florida, Tampa Electric Company, Gulf Power, and Florida Public Utilities Company.

³¹ The rule defines the term "customer-owned renewable generation" to mean an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy. The term "customer-owned renewable generation" does not preclude the customer of record from contracting for the purchase, lease, operation, or maintenance of an on-site renewable generation system with a third-party under terms and conditions that do not include the retail purchase of electricity from the third party.

³² Rule 25-6.065 Interconnection and Net Metering of Customer-Owned Renewable Generation, Florida Administrative Code.

³³ The rule defines the term "net metering" to mean a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on-site.

accumulate and be used to offset the customer's energy usage in subsequent months for a period of not more than twelve months. At the end of each calendar year, the utility must pay the customer for any unused energy credits at an average annual rate based on the investor-owned utility's COG-1, as-available energy tariff.^{34, 35} The customer must continue to pay the applicable customer charge and applicable demand charge for the maximum measured demand during the billing period.³⁶

III. Effect of Proposed Changes:

The bill proposes a constitutional amendment to the provisions that authorize the Legislature to prohibit property appraisers, in appraising real property for ad valorem tax purposes, from considering the value of improvements to residential real property that constitute either enhancements to the property's wind resistance or the installation of a renewable energy device. Under the bill, the provisions on improving the property's resistance to wind damage would remain limited to real property used for residential purposes. The provisions on installation of a renewable energy source device would be expanded to all real property, but only when the installation is by an "end-use customer" of a device "that is primarily intended to offset part or all of that end-use customer's electricity demands." The quoted language precludes any person or entity from getting an exclusion from ad valorem taxes for the value of a renewable energy source device that was installed primarily for the purpose of producing electricity for sale, whether installed by a non-utility or a utility.

The amendment is permissive; the Legislature is not required to implement it and it has no effect unless implemented.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The fiscal impact of this bill on local government's ad valorem tax revenues is uncertain. If it passes both the Legislature and the electorate, and if SB 922 or other implementing legislation is passed and becomes law, and if renewable energy source devices are installed on nonresidential real property, then some local governments may lose an opportunity for an unknown amount of an increase in ad valorem tax revenues that they would have had in absence of this bill and implementing legislation.

B. Public Records/Open Meetings Issues:

None.

³⁴ The investor-owned utility's COG-1, as-available energy tariff price is the price a utility would receive if it sold excess electricity on the wholesale market with no contract. This omits any capacity payment and is basically fuel cost. It is basically the equivalent of the utility's as-available, full avoided cost price, which means it is basically the cost of fuel for that utility to produce that amount of electricity at that time.

³⁵ Essentially this means that the primary benefit to the customer is in producing electricity and avoiding that amount of purchases from the utility. An additional benefit is that excess-generation credits are carried over and when used also offset purchases at the retail price. If these carried-over credits are not used before the end of a calendar year (or before leaving the utility) they are purchased at the utility's cost of producing energy, which is basically its fuel cost.

³⁶ This ensures that the customer continues to pay its share of cost recovery for generation and transmission facilities.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

A proposed constitutional amendment such as this one must be passed by three-fifths of the membership of each house of the Legislature.³⁷ A proposed constitutional amendment must be submitted to the electors at the next general election held more than 90 days after the joint resolution proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than 90 days after such filing.³⁸ To pass, a proposed constitutional amendment must be approved by vote of at least 60 percent of the electors voting on the measure, and if passed, unless otherwise specifically provided for elsewhere in this constitution, it becomes effective as an amendment on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.³⁹

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The fiscal impact of this bill on local government's ad valorem tax revenues is uncertain. If it passes both the Legislature and the electorate, and if SB 922 or other implementing legislation is passed and becomes law, and if renewable energy source devices are installed on nonresidential real property, then some local governments may lose an opportunity for an unknown amount of an increase in ad valorem tax revenues that would have resulted from including the value of the renewable energy source device in the ad valorem tax appraised value in absence of this bill and implementing legislation.

B. Private Sector Impact:

The bill may provide an incentive for owners of nonresidential property to install renewable energy source devices as this will no longer result in increased ad valorem taxes.

The Solar Foundation recently released its *National Solar Jobs Census 2012: A Review of the U.S. Solar Workforce*. The report notes a 77 percent compound annual growth rate in photovoltaic installed capacity between 2006 and 2011⁴⁰ and a total of 119,016 solar industry jobs in 2012, an increase of 13.2 percent over 2011.⁴¹ The report also notes:

The results of this year's Census confirm that one of the major factors contributing to this growth is the continued decline in the price of solar products.

³⁷ FLA. CONST. art. XI, s. 1.

³⁸ FLA. CONST. art. XI, s. 5.

³⁹ *Id.*

⁴⁰ Page 9.

⁴¹ Page 17.

Over the last three years, component prices have dropped dramatically, with a 44% decline in 2011 alone.... This decline in PV module prices is mirrored by a similar decrease in total average installed system costs, estimated to have declined by one-third over the same period.⁴²

This report indicates that one of the major drivers in increasing photovoltaic installed capacity and solar jobs is the decreasing overall cost of this capacity, which may include the avoidance of an increase in ad valorem tax that this bill allows.

As long as any excess electricity produced by any new renewable energy source device is sold to utilities under current law (at the purchasing utility's full avoided cost⁴³ and with no third party sales), there will be no near-term fiscal impact on utilities' ratepayers. There may be some customer fiscal impacts in the longer term. Some potential impacts could be positive; for example, the avoidance of the costs of construction of a new power plant. Some potential impacts could be negative. The Florida Supreme Court noted in *PW Ventures* that when a regulated utility loses sales revenue, this revenue must be made up by the remaining customers since the fixed costs of the regulated systems would not have been reduced. Loss of one large customer is not the only event that will produce this result; it will happen any time a utility loses enough sales revenue that it can no longer recover all of its costs, including a loss of revenue due to customers' energy production or, for that matter, customers' conservation and efficiency efforts.

C. Government Sector Impact:

The bill may have some impact on the workload of property appraisers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 922 is the implementing bill for this proposed constitutional amendment.

SJR 916 provides:

(i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property:

(2) The installation *by an end-use customer* of a renewable energy source device *that is primarily intended to offset part or all of that end-use customer's electricity demands.*

The Department of Revenue's Legislative Bill Analysis states that this language makes it "unclear whether the property appraiser must consider the value of the renewable energy source device should that end-use customer no longer hold title to the real property." However:

⁴² Page 10.

⁴³ See discussion above under *Self-Generation*.

- The italicized language is little different in effect from the existing constitutional provision that authorizes the Legislature to prohibit a property appraiser from considering the value of a change or improvement that is “for the purpose of improving the property’s resistance to wind damage.” Although this constitutional provision has not yet been implemented, it is doubtful that it would be implemented in such a way as to require a property appraiser to take a property owner’s word that any improvement qualifies for the exclusion from consideration. Instead, an implementing statute very likely would require evidence that the subject improvement qualifies not only as one done for the purpose of improving wind resistance but also as one that is within accepted industry standards as having the effect of improving wind resistance. And under such a statute, once this qualification was established, the benefit of exclusion would attach to the property and transfer with the property upon any conveyance.
- The italicized language creates a similar qualification or pre-condition. It conditions application of the exclusion on the installation of a renewable energy source device being done by a property owner/customer primarily to offset that customer’s purchases of electricity from a utility. The installation **does not qualify** for the benefit of exclusion from ad valorem tax if done primarily for the purpose of producing electricity for sale, either by a utility or a non-utility. Again, a property appraiser will have to determine that the qualification is met in order to apply the exclusion, but once the improvement is determined to qualify, the benefit attaches to the property and is transferable with the property.

VIII. Statutes Affected:

This bill proposes substantially amending Article VII, section 4 of the Florida Constitution.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Brandes

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Senate Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution to revise the Legislature's authority to exempt the value of renewable energy source devices from consideration in determining the assessed value of real property by removing a restriction that limits such exemptions to property used for residential purposes and restricting such exemptions to installation by an end-use customer of a renewable energy source device that is primarily intended to offset part or all of that customer's electricity demands.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 4 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

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30 (b) As provided by general law and subject to conditions,
31 limitations, and reasonable definitions specified therein, land
32 used for conservation purposes shall be classified by general
33 law and assessed solely on the basis of character or use.

34 (c) Pursuant to general law tangible personal property held
35 for sale as stock in trade and livestock may be valued for
36 taxation at a specified percentage of its value, may be
37 classified for tax purposes, or may be exempted from taxation.

38 (d) All persons entitled to a homestead exemption under
39 Section 6 of this Article shall have their homestead assessed at
40 just value as of January 1 of the year following the effective
41 date of this amendment. This assessment shall change only as
42 provided in this subsection.

43 (1) Assessments subject to this subsection shall be changed
44 annually on January 1st of each year; but those changes in
45 assessments shall not exceed the lower of the following:

46 a. Three percent (3%) of the assessment for the prior year.

47 b. The percent change in the Consumer Price Index for all
48 urban consumers, U.S. City Average, all items 1967=100, or
49 successor reports for the preceding calendar year as initially
50 reported by the United States Department of Labor, Bureau of
51 Labor Statistics.

52 (2) No assessment shall exceed just value.

53 (3) After any change of ownership, as provided by general
54 law, homestead property shall be assessed at just value as of
55 January 1 of the following year, unless the provisions of
56 paragraph (8) apply. Thereafter, the homestead shall be assessed
57 as provided in this subsection.

58 (4) New homestead property shall be assessed at just value

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59 as of January 1st of the year following the establishment of the
60 homestead, unless the provisions of paragraph (8) apply. That
61 assessment shall only change as provided in this subsection.

62 (5) Changes, additions, reductions, or improvements to
63 homestead property shall be assessed as provided for by general
64 law; provided, however, after the adjustment for any change,
65 addition, reduction, or improvement, the property shall be
66 assessed as provided in this subsection.

67 (6) In the event of a termination of homestead status, the
68 property shall be assessed as provided by general law.

69 (7) The provisions of this amendment are severable. If any
70 of the provisions of this amendment shall be held
71 unconstitutional by any court of competent jurisdiction, the
72 decision of such court shall not affect or impair any remaining
73 provisions of this amendment.

74 (8)a. A person who establishes a new homestead as of
75 January 1, 2009, or January 1 of any subsequent year and who has
76 received a homestead exemption pursuant to Section 6 of this
77 Article as of January 1 of either of the two years immediately
78 preceding the establishment of the new homestead is entitled to
79 have the new homestead assessed at less than just value. If this
80 revision is approved in January of 2008, a person who
81 establishes a new homestead as of January 1, 2008, is entitled
82 to have the new homestead assessed at less than just value only
83 if that person received a homestead exemption on January 1,
84 2007. The assessed value of the newly established homestead
85 shall be determined as follows:

86 1. If the just value of the new homestead is greater than
87 or equal to the just value of the prior homestead as of January

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88 1 of the year in which the prior homestead was abandoned, the
89 assessed value of the new homestead shall be the just value of
90 the new homestead minus an amount equal to the lesser of
91 \$500,000 or the difference between the just value and the
92 assessed value of the prior homestead as of January 1 of the
93 year in which the prior homestead was abandoned. Thereafter, the
94 homestead shall be assessed as provided in this subsection.

95 2. If the just value of the new homestead is less than the
96 just value of the prior homestead as of January 1 of the year in
97 which the prior homestead was abandoned, the assessed value of
98 the new homestead shall be equal to the just value of the new
99 homestead divided by the just value of the prior homestead and
100 multiplied by the assessed value of the prior homestead.
101 However, if the difference between the just value of the new
102 homestead and the assessed value of the new homestead calculated
103 pursuant to this sub-subparagraph is greater than \$500,000, the
104 assessed value of the new homestead shall be increased so that
105 the difference between the just value and the assessed value
106 equals \$500,000. Thereafter, the homestead shall be assessed as
107 provided in this subsection.

108 b. By general law and subject to conditions specified
109 therein, the Legislature shall provide for application of this
110 paragraph to property owned by more than one person.

111 (e) The legislature may, by general law, for assessment
112 purposes and subject to the provisions of this subsection, allow
113 counties and municipalities to authorize by ordinance that
114 historic property may be assessed solely on the basis of
115 character or use. Such character or use assessment shall apply
116 only to the jurisdiction adopting the ordinance. The

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117 requirements for eligible properties must be specified by
118 general law.

119 (f) A county may, in the manner prescribed by general law,
120 provide for a reduction in the assessed value of homestead
121 property to the extent of any increase in the assessed value of
122 that property which results from the construction or
123 reconstruction of the property for the purpose of providing
124 living quarters for one or more natural or adoptive grandparents
125 or parents of the owner of the property or of the owner's spouse
126 if at least one of the grandparents or parents for whom the
127 living quarters are provided is 62 years of age or older. Such a
128 reduction may not exceed the lesser of the following:

129 (1) The increase in assessed value resulting from
130 construction or reconstruction of the property.

131 (2) Twenty percent of the total assessed value of the
132 property as improved.

133 (g) For all levies other than school district levies,
134 assessments of residential real property, as defined by general
135 law, which contains nine units or fewer and which is not subject
136 to the assessment limitations set forth in subsections (a)
137 through (d) shall change only as provided in this subsection.

138 (1) Assessments subject to this subsection shall be changed
139 annually on the date of assessment provided by law; but those
140 changes in assessments shall not exceed ten percent (10%) of the
141 assessment for the prior year.

142 (2) No assessment shall exceed just value.

143 (3) After a change of ownership or control, as defined by
144 general law, including any change of ownership of a legal entity
145 that owns the property, such property shall be assessed at just

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146 value as of the next assessment date. Thereafter, such property
147 shall be assessed as provided in this subsection.

148 (4) Changes, additions, reductions, or improvements to such
149 property shall be assessed as provided for by general law;
150 however, after the adjustment for any change, addition,
151 reduction, or improvement, the property shall be assessed as
152 provided in this subsection.

153 (h) For all levies other than school district levies,
154 assessments of real property that is not subject to the
155 assessment limitations set forth in subsections (a) through (d)
156 and (g) shall change only as provided in this subsection.

157 (1) Assessments subject to this subsection shall be changed
158 annually on the date of assessment provided by law; but those
159 changes in assessments shall not exceed ten percent (10%) of the
160 assessment for the prior year.

161 (2) No assessment shall exceed just value.

162 (3) The legislature must provide that such property shall
163 be assessed at just value as of the next assessment date after a
164 qualifying improvement, as defined by general law, is made to
165 such property. Thereafter, such property shall be assessed as
166 provided in this subsection.

167 (4) The legislature may provide that such property shall be
168 assessed at just value as of the next assessment date after a
169 change of ownership or control, as defined by general law,
170 including any change of ownership of the legal entity that owns
171 the property. Thereafter, such property shall be assessed as
172 provided in this subsection.

173 (5) Changes, additions, reductions, or improvements to such
174 property shall be assessed as provided for by general law;

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175 however, after the adjustment for any change, addition,
176 reduction, or improvement, the property shall be assessed as
177 provided in this subsection.

178 (i) The legislature, by general law and subject to
179 conditions specified therein, may prohibit the consideration of
180 the following in the determination of the assessed value of real
181 property ~~used for residential purposes~~:

182 (1) Any change or improvement made to property used for
183 residential purposes for the purpose of improving the property's
184 resistance to wind damage.

185 (2) The installation by an end-use customer of a renewable
186 energy source device that is primarily intended to offset part
187 or all of that end-use customer's electricity demands.

188 (j) (1) The assessment of the following working waterfront
189 properties shall be based upon the current use of the property:
190 a. Land used predominantly for commercial fishing purposes.
191 b. Land that is accessible to the public and used for
192 vessel launches into waters that are navigable.
193 c. Marinas and drystacks that are open to the public.
194 d. Water-dependent marine manufacturing facilities,
195 commercial fishing facilities, and marine vessel construction
196 and repair facilities and their support activities.

197 (2) The assessment benefit provided by this subsection is
198 subject to conditions and limitations and reasonable definitions
199 as specified by the legislature by general law.

200 BE IT FURTHER RESOLVED that the following statement be
201 placed on the ballot:

202 CONSTITUTIONAL AMENDMENT

203 ARTICLE VII, SECTION 4

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204 AD VALOREM ASSESSMENTS; INSTALLATION OF RENEWABLE ENERGY
205 SOURCE DEVICES.—Proposing an amendment to the State Constitution
206 to revise the Legislature's authority to exempt the value of
207 renewable energy source devices from consideration in
208 determining the assessed value of real property by removing a
209 restriction limiting such exemptions to property used for
210 residential purposes and restricting such exemptions to
211 installation by an end-use customer of a renewable energy source
212 device that is primarily intended to offset part or all of that
213 customer's electricity demands.

SUMMARY OF AMENDMENTS
TO
SB 898

<p>Amendment # 1 By Senator Abruzzo Barcode 722712 delete lines 60-71 and insert:</p>	<p>Clarifies that the sale of communications services between any franchisor and its franchisee are exempt from communications services tax. Provides for conditions and defines the term “franchisee.” The amendment also adds a new section of the bill to provide for the application of the new provision.</p>
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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: CS/SB 898

INTRODUCER: Communications, Energy, and Public Utilities Committee and Senator Abruzzo

SUBJECT: Communications Services Tax

DATE: March 4, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Fav/CS
2.			CM	
3.			AFT	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 898 exempts from the term “sales price” for Communications Services Tax purposes the sale of communications services between a franchisor and its franchisee. The bill defines the term “franchisee” to mean any entity, including a related company, using the franchisor’s service mark, whether by license, management agreement, or by a subsidiary or affiliate of the franchisor. The term “service mark” means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the services of such person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that the person or the programs may advertise the goods of the sponsor.

The bill states that it is a clarification of existing law, and a tax may not be assessed or collected with respect to any charge or portion thereof described in s. 202.11(13)(b), F.S., as amended by this act, for periods before or after the effective date of this act.

II. Present Situation:

Chapter 202, F.S., is the Communications Services Tax Simplification Law, which combined and restructured numerous state and local taxes and fees imposed on communications services into a single tax centrally administered by the Department of Revenue (DOR). The

Communications Services Tax (CST) is applied to the retail sales price of each taxable communications service for the purpose of remitting the tax due.¹ The term “sales price” is defined to mean the total amount charged in money or other consideration by a dealer for the sale of the right or privilege of using communications services in this state, including any property or other service which is part of the sale and for which the charge is not separately itemized on a customer’s bill.² There are express exemptions from the sales price, including:

- an excise tax, sales tax, or similar tax levied by the United States or any state or local government on the purchase, sale, use, or consumption of any communications service, including, but not limited to, a tax imposed under chapter 202 or chapter 203 (gross receipts tax) which is permitted or required to be added to the sales price of such service, if the tax is stated separately;
- a fee or assessment levied by the United States or any state or local government, including, but not limited to, regulatory fees and emergency telephone surcharges, which must be added to the price of the service if the fee or assessment is separately stated;
- communications services paid for by inserting coins into coin-operated communications devices available to the public;
- the sale or recharge of a prepaid calling arrangement;
- the provision of air-to-ground communications services, defined as a radio service provided to a purchaser while on board an aircraft;
- a dealer’s internal use of communications services in connection with its business of providing communications services;
- charges for property or other services that are not part of the sale of communications services, if such charges are stated separately from the charges for communications services; and
- charges for goods or services that are not subject to tax under this chapter, including Internet access services, that are not separately itemized on a customer’s bill, but that can be reasonably identified from the selling dealer’s books and records kept in the regular course of business.

III. Effect of Proposed Changes:

The bill amends paragraph 202.11(13)(b), F.S., to add to the list of exclusions from the definition of “sales price” the sale of communications services between a franchisor and its franchisee.

The term “franchisor” is not defined. The term “franchisee” is defined to mean any entity, including a related company as defined in s. 495.011, F.S., using the franchisor’s service mark as defined in s. 495.011, F.S., whether by license, management agreement, or by a subsidiary or affiliate of the franchisor. The term “related company” means any person whose use of a mark is controlled by the owner of the mark with respect to the nature and quality of the goods or services on or in connection with which the mark is used. The term “service mark” means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the services of such person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names,

¹ Section 202.12, F.S.

² Section 202.11(13), F.S.

and other distinctive features of radio or television programs may be registered as service marks notwithstanding that the person or the programs may advertise the goods of the sponsor.

The exclusion does not apply to the sale of communications services to a franchisor for its own use.

The bill states that it is a clarification of existing law, and a tax may not be assessed or collected with respect to any charge or portion thereof described in s. 202.11(13)(b), F.S., as amended by this act, for periods before or after the effective date of this act.

The bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/SB 898 is narrower in its effect than the original bill, but is still very broad, being applicable to the sale of any communications services between any franchisor and its franchisee. As such, it is uncertain how the bill will affect CST revenues as it is uncertain what goods or services will be exempt from CST under the bill.

B. Private Sector Impact:

CS/SB 898 is narrower in its effect than the original bill, but is still very broad, being applicable to the sale of any communications services between any franchisor and its franchisee. As such, the fiscal impact of the bill is uncertain as it is uncertain what goods or services will be exempt from CST under the bill.

C. Government Sector Impact:

CS/SB 898 is narrower in its effect than the original bill, but is still very broad, being applicable to the sale of any communications services between any franchisor and its franchisee. As such, the fiscal impact of the bill is uncertain as it is uncertain what goods or services will be exempt from CST under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 202.11 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Communications, Energy, and Public Utilities on March 4, 2014:

The committee substitute completely rewrites the proposed exemption from the term “sales tax” for purposes of the Communications Services Tax. It exempts the sale of communications services between a franchisor and its franchisee, defining the term “franchisee” to mean any entity, including a related company, using the franchisor’s service mark, whether by license, management agreement, or by a subsidiary or affiliate of the franchisor.

The bill also states that it is a clarification of existing law, and a tax may not be assessed or collected with respect to any charge or portion thereof described in s. 202.11(13)(b), F.S., as amended by this act, for periods before or after the effective date of this act.

B. Amendments:

None.



722712

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/04/2014	.	
	.	
	.	
	.	

The Committee on Communications, Energy, and Public Utilities (Abruzzo) recommended the following:

Senate Amendment (with title amendment)

Delete lines 60 - 71

and insert:

9. The sale of communications services between a franchisor and its franchisee. This exclusion does not apply to the sale of communications services to a franchisor for its own use. As used in this subparagraph, the term "franchisee" means any entity, including a related company as defined in s. 495.011, using the franchisor's service mark as defined in s. 495.011, whether by



722712

11 license, management agreement, or by a subsidiary or affiliate
12 of the franchisor.

13 Section 2. This act is a clarification of existing law, and
14 no tax may be assessed or collected with respect to any charge
15 or portion thereof described in s. 202.11(13)(b), Florida
16 Statutes, as amended by this act, for periods before or after
17 the effective date of this act.

18 Section 3. This act shall take effect upon becoming a law.

19

20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 Delete lines 4 - 6

23 and insert:

24 the term "sales price" to exclude charges for the sale
25 of communications services between a franchisor and
26 its franchisee; defining the term "franchisee";
27 providing applicability; providing an

By Senator Abruzzo

25-01245-14

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1 A bill to be entitled
2 An act relating to the communications services tax;
3 amending s. 202.11, F.S.; revising the definition of
4 the term "sales price" to exclude charges for the use
5 of communications services to furnish specified goods
6 and services; providing applicability; providing an
7 effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Paragraph (b) of subsection (13) of section
12 202.11, Florida Statutes, is amended to read:

13 202.11 Definitions.—As used in this chapter, the term:

14 (13) "Sales price" means the total amount charged in money
15 or other consideration by a dealer for the sale of the right or
16 privilege of using communications services in this state,
17 including any property or other service, not described in
18 paragraph (a), which is part of the sale and for which the
19 charge is not separately itemized on a customer's bill or
20 separately allocated under subparagraph (b)8. The sales price of
21 communications services may not be reduced by any separately
22 identified components of the charge which constitute expenses of
23 the dealer, including, but not limited to, sales taxes on goods
24 or services purchased by the dealer, property taxes, taxes
25 measured by net income, and universal-service fund fees.

26 (b) The sales price of communications services does not
27 include charges for any of the following:

28 1. An excise tax, sales tax, or similar tax levied by the
29 United States or any state or local government on the purchase,

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30 sale, use, or consumption of any communications service,
31 including, but not limited to, a tax imposed under this chapter
32 or chapter 203 which is permitted or required to be added to the
33 sales price of such service, if the tax is stated separately.

34 2. A fee or assessment levied by the United States or any
35 state or local government, including, but not limited to,
36 regulatory fees and emergency telephone surcharges, which must
37 be added to the price of the service if the fee or assessment is
38 separately stated.

39 3. Communications services paid for by inserting coins into
40 coin-operated communications devices available to the public.

41 4. The sale or recharge of a prepaid calling arrangement.

42 5. The provision of air-to-ground communications services,
43 defined as a radio service provided to a purchaser while on
44 board an aircraft.

45 6. A dealer's internal use of communications services in
46 connection with its business of providing communications
47 services.

48 7. Charges for property or other services that are not part
49 of the sale of communications services, if such charges are
50 stated separately from the charges for communications services.

51 8. Charges for goods or services that are not subject to
52 tax under this chapter, including Internet access services but
53 excluding any item described in paragraph (a), which ~~that~~ are
54 not separately itemized on a customer's bill, but which ~~that~~ can
55 be reasonably identified from the selling dealer's books and
56 records kept in the regular course of business. The dealer may
57 support the allocation of charges with books and records kept in
58 the regular course of business covering the dealer's entire

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59 service area, including territories outside this state.

60 9. The use of communications services to furnish a good or
61 service that is not subject to tax under this chapter. Such use
62 does not subject any charge for a good or service that is not
63 subject to the tax under this chapter, any portion of such
64 charge, or any separate charge for the delivery of or access to
65 such a good or service, to the tax imposed by this chapter
66 regardless of the nomenclature employed to describe the charge
67 or portion thereof. This subparagraph does not exempt from the
68 tax imposed by this chapter the sale of communications services
69 to a provider of a good or service that is not subject to tax
70 under this chapter.

71 Section 2. This act shall take effect July 1, 2014.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: SB 922

INTRODUCER: Senator Brandes

SUBJECT: Renewable Energy Source Devices

DATE: February 11, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.			CA	
3.			RU	

I. Summary:

SB 922 is implementing legislation for SJR 916 or a similar joint resolution having substantially the same specific intent and purpose. SB 922 amends s. 193.624, F.S., on assessment of residential property for ad valorem tax purposes. The bill changes the definition of the term “renewable energy source device” to require that such a device be installed by an end-use customer and be primarily intended to offset part or all of the end-use customer’s electricity demands. The bill deletes existing language that limits application of the statute to real property used for residential purposes, thereby expanding application of the statute to all real property. These changes would apply to nonresidential real property upon which a renewable energy source device is installed on or after January 1, 2015, and to all assessments beginning on that date.

The bill takes effect January 1, 2015, if SJR 916 or a similar joint resolution having substantially the same specific intent and purpose is approved by the electors at the general election to be held in November 2014 or at an earlier special election specifically authorized by law for that purpose.

II. Present Situation:

Property Tax Assessments

Article VII, s. 4, Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm’s length transaction.¹

¹ See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

Both the constitution and the statutes require that a property appraiser consider changes, additions, or improvements to residential property in determining the property's just valuation.²

Initial Constitutional Ad Valorem Renewable Energy Source Incentive

Property tax incentives to promote renewable energy in Florida date back over 30 years. In 1980, Florida voters added the following ad valorem tax exemption authorization to the Florida Constitution:

By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, for the period of time fixed by general law not to exceed ten years.³

During that same year, the Legislature enacted s. 196.175, F.S., to implement the constitutional amendment.⁴ The legislation limited the ad valorem exemption to the lesser of:

- The assessed value of the property less any other exemptions applicable under the chapter;
- The original cost of the device, including the installation costs, but excluding the cost of replacing previously existing property removed or improved in the course of the installation; or
- Eight percent of the assessed value of the property immediately following the installation.

The statute limited the exemption to a 10-year period, and the statute itself expired after 10 years. Specifically, the statute was in effect from January 1, 1980, through December 31, 1990. Therefore, no exemptions were granted after December 31, 1990, and exemptions granted in December 1990 expired 10 years later in December 2000. At this point, the statute was rendered inoperative and art. VII, s. 3(d), Florida Constitution, was no longer implemented by general law.

2008: Legislative Action and Constitutional Amendment 3

On April 30, 2008, the Legislature removed the expiration date of the property tax exemption for renewable energy source devices.⁵ This allowed property owners to apply again for the exemption effective January 1, 2009, again with a 10-year life span.

In November 2008, Florida voters approved the following constitutional amendment placed on the ballot by the Florida Tax and Budget Reform Commission (TBRC):

(i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:

² FLA. CONST. art. VII, s. 4. and ss. 193.011, 193.155(4), and 193.1554(6), F.S.

³ FLA. CONST. art. VII, s. 3(d).

⁴ Section 196.175, F.S.

⁵ House Bill 7135, Ch. 2008-227, Laws of Florida.

- (1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.
- (2) The installation of a renewable energy source device.⁶

The amendment was permissive; unless the Legislature enacted implementing legislation, it had no effect. The 2008 amendment also repealed the previous constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on which such a device is installed and operated. Thus, the first constitutional provisions granting the ad valorem tax exemptions were repealed in 2008, with the related implementing language in s. 196.175, F.S., still part of the Florida Statutes, and a new set of ad valorem tax exemptions in the constitution, but with no implementing statute.

2009 Senate Interim Report

In 2009, the Senate Committee on Finance and Tax issued an interim report evaluating the 2008 Constitutional Amendment.⁷ The report reviewed proposed legislation filed during the 2009 legislative session to implement the constitutional amendment. It also discussed property tax incentives that are provided in other states for installing renewable energy equipment or improving disaster resistance.⁸

At the time of the interim report, 17 states had enacted property tax incentives for renewable energy equipment including devices related to solar, wind, and geothermal energy. Although the report noted that tax incentives for improvements related to disaster preparedness are less common, three states had enacted such laws.

2013 Legislation

After several attempts to implement the 2008 constitutional amendment, implementing legislation was enacted in the 2013 Regular Session.⁹ That statute provides that in determining the assessed value of real property used for residential purposes, a property appraiser cannot consider an increase in the just value of the property attributable to the installation of a renewable energy source device.¹⁰ The statute defines the term "renewable energy source device" to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- Solar energy collectors, photovoltaic modules, and inverters.
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks.
- Rockbeds.
- Thermostats and other control devices.
- Heat exchange devices.
- Pumps and fans.

⁶ FLA. CONST. art. VII, s. 4.

⁷ Comm. on Finance and Tax, The Florida Senate, *Assessment of Renewable Energy Devices and Improvements That Increase Resistance to Wind Damage – Implementation of Constitutional Amendment Approved in November 2008*, (Interim Report 2010-116) (Oct. 2009).

⁸ *Id.* citing *State Tax Guide Volume 2*, Commerce Clearing House (Chicago, IL).

⁹ HB 277, Ch. 2013-77, Laws of Florida.

¹⁰ Section 193.624, F.S.

- Roof ponds.
- Freestanding thermal containers.
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type.
- Windmills and wind turbines.
- Wind-driven generators.
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy.
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

The statute applied to the installation of a renewable energy source device installed on or after January 1, 2013, to new and existing residential real property, and to assessments beginning January 1, 2014.

The statutes that provide for homestead¹¹ and non-homestead residential¹² property assessment were amended by cross reference to include this new prohibition.

Non-utility Production of Electricity

Non-Utility Sales to the Public

The Florida Supreme Court has held that the Florida Statutes mandate that any person who sells electricity to even a single person is a public utility subject to regulation by the Florida Public Service Commission (PSC).¹³ The facts of that case were as follows. PW Ventures signed a letter of intent with Pratt and Whitney to provide electric and thermal power at Pratt's industrial complex in Palm Beach County. PW Ventures proposed to construct, own, and operate a cogeneration electric power plant on land leased from Pratt and to sell its output to Pratt under a long-term contract. Before proceeding with construction of the plant, PW Ventures sought a declaratory statement from the PSC that it would not be a public utility subject to PSC regulation. After a hearing, the PSC ruled that PW Ventures proposed transaction with Pratt fell within its regulatory jurisdiction.

The Court reviewed similar Florida regulatory statutes where the Legislature had expressly provided for exclusions from regulation based on a stated limited number of customers and found that the failure of the Legislature to create such an exclusion for electric services indicated its intent that the term "to the public" include a sale to even one person.

The Court also reviewed the statutory system of electric utility regulation¹⁴ and found that the regulation of the production and sale of electricity necessarily contemplates the granting of monopolies in the public interest. The Court noted that if the proposed sale of electricity by PW Ventures was outside of PSC jurisdiction, duplication of facilities could occur in contradiction to

¹¹ Section 193.155(4), F.S.

¹² Section 193.1554(6), F.S.

¹³ *PW Ventures, Inc. v. Nichols*, 533 So.2d 281 (1988).

¹⁴ Chapter 366, F.S.

the statutory direction to the PSC to exercise its powers to avoid uneconomic duplication of generation, transmission, and distribution facilities.¹⁵ The Court stated that what PW Ventures proposed was to go into an area served by a utility and take one of its major customers, an interpretation which could allow other ventures to enter into similar contracts with other high use industrial complexes on a one-to-one basis and drastically change the regulatory scheme in this state. “The effect of this practice would be that revenue that otherwise would have gone to the regulated utilities which serve the affected areas would be diverted to unregulated producers. This revenue would have to be made up by the remaining customers of the regulated utilities since the fixed costs of the regulated systems would not have been reduced.”¹⁶ Finally the Court found that the Legislature had determined that the protection of the public interest required limiting competition in the sale of electric service.

Based upon these findings, the Court upheld the PSC’s order that under the proposed arrangement PW Ventures would be a public utility subject to PSC regulation.

Self-Generation

PW Ventures

The prohibition on non-utility sales of electricity does not prohibit a person or business from producing electricity solely to furnish its own power. In its finding that the Legislature determined that the protection of the public interest required limiting competition in the sale of electric service, the Florida Supreme Court expressly noted that this determination of public interest did not require a prohibition against self-generation.¹⁷

Cogeneration and Small Power Producers

The statutes expressly provide for self-generation, and for the sale of any excess electricity to a public utility. A public utility is required to purchase electricity from a cogenerator¹⁸ or small power producer¹⁹ located in that public utility’s service territory.²⁰ The PSC is required to establish guidelines relating to the purchase of power or energy and may set rates at which a public utility must purchase the power or energy.²¹ In fixing rates, the PSC must authorize a rate equal to the purchasing utility’s full avoided costs, defined as the incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase from cogenerators or small power producers, such utility would generate itself or purchase from another source.²²

¹⁵ Section 366.04(3), Florida Statutes (1985).

¹⁶ *PW Ventures*, page 283.

¹⁷ *Id.*, page 284.

¹⁸ Cogeneration is the sequential production of thermal energy and electrical or mechanical energy from the same fuel source. *Florida’s Electric Utilities: A Reference Guide*, Revised 1994 Edition, Florida Electric Power Coordinating Group, Inc., Tampa, Florida, page 30.

¹⁹ A small-power producer generates electricity from facilities using biomass, solid waste, geothermal energy or renewable resources (including wind, solar, and small hydroelectric) as their primary energy sources. *Florida’s Electric Utilities: A Reference Guide*, Revised 1994 Edition, Florida Electric Power Coordinating Group, Inc., Tampa, Florida, page 188.

²⁰ Section 366.051, F.S. This was mandated by the federal Public Utility Regulatory Policies Act of 1978, which required that electric utilities purchase the energy produced from qualifying facilities (cogenerators and small power producers) at the utility’s avoided cost of generation.

²¹ *Id.*

²² *Id.*

Standard Purchase Contract

Each public utility and each municipal electric utility or rural electric cooperative that meets specified criteria²³ must continuously offer a purchase contract to producers of renewable energy^{24, 25}. The contracts must contain payment provisions for energy and capacity (if appropriate) which are based upon the utility's full avoided costs. Each contract must be for a term of at least 10 years.

Net Metering

Each public utility must develop a standardized interconnection agreement and net metering²⁶ program for customer-owned renewable generation^{27, 28}. The PSC must establish requirements relating to the expedited interconnection and net metering of customer-owned renewable generation by public utilities and was authorized to adopt rules for this purpose. Additionally, each municipal electric utility and rural electric cooperative that sells electricity at retail is encouraged to develop a standardized interconnection agreement and net metering program for customer-owned renewable generation.²⁹ In any purchase contract, the contracting producer of renewable energy must pay the actual costs of its interconnection with the transmission grid or distribution system.

PSC Net Metering Rule

Pursuant to the requirements of the net metering statute, the PSC adopted a rule requiring each investor-owned utility³⁰ to develop a Standard Interconnection Agreement for expedited interconnection of customer-owned renewable generation³¹ up to 2 MW and file for Commission approval of that agreement.³² A utility must enable net metering³³ for each customer-owned renewable generation facility interconnected to the utility's electrical grid by installing, at no additional cost to the customer, metering equipment capable of measuring the difference between

²³ This includes the Orlando Utilities Commission and JEA (formerly Jacksonville Electric Authority).

²⁴ Section 366.91(2)(d), F.S., defines the term "renewable energy" means electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.

²⁵ Section 366.91(3) and (4), F.S.

²⁶ The term "net metering" is defined to mean a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on site. Section 366.91(2)(c), F.S.

²⁷ The term "customer-owned renewable generation" is defined to mean an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy. Section 366.91(2)(b), F.S.

²⁸ Section 366.91(5), F.S.

²⁹ Section 366.91(6), F.S.

³⁰ This is Florida Power and Light, Duke Energy Florida, Tampa Electric Company, Gulf Power, and Florida Public Utilities Company.

³¹ The rule defines the term "customer-owned renewable generation" to mean an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy. The term "customer-owned renewable generation" does not preclude the customer of record from contracting for the purchase, lease, operation, or maintenance of an on-site renewable generation system with a third-party under terms and conditions that do not include the retail purchase of electricity from the third party.

³² Rule 25-6.065 Interconnection and Net Metering of Customer-Owned Renewable Generation, Florida Administrative Code.

³³ The rule defines the term "net metering" to mean a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on-site.

the electricity supplied to the customer from the utility and the electricity generated by the customer and delivered to the utility's electric grid. During any billing cycle, excess customer-owned renewable generation delivered to the utility's electric grid must be credited to the customer's energy consumption for the next month's billing cycle. These energy credits must accumulate and be used to offset the customer's energy usage in subsequent months for a period of not more than twelve months. At the end of each calendar year, the utility must pay the customer for any unused energy credits at an average annual rate based on the investor-owned utility's COG-1, as-available energy tariff.^{34, 35} The customer must continue to pay the applicable customer charge and applicable demand charge for the maximum measured demand during the billing period.³⁶

III. Effect of Proposed Changes:

SB 922 is implementing legislation for SJR 916, should the constitutional amendments proposed in that joint resolution or a similar joint resolution having substantially the same specific intent and purpose be passed by three-fifths of the membership of each house of the Legislature³⁷ and be approved by vote of at least 60 percent of the electors voting on the measure at the next general election,³⁸ in which case the constitutional amendments proposed by SJR 916 will become effective as amendments on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.³⁹

SB 922 amends s. 193.624, F.S., on assessment of residential property for ad valorem tax purposes. The bill deletes existing language that limits application of the statute to real property used for residential purposes, thereby expanding application of the statute to all real property. The bill changes the definition of the term "renewable energy source device" to require that such a device be installed by an end-use customer and be primarily intended to offset part or all of the end-use customer's electricity demands. This requirement precludes any person or entity from getting an exclusion from ad valorem taxes for the value of a renewable energy source device that was installed primarily for the purpose of producing electricity for sale, whether installed by a non-utility or a utility. These changes would apply to nonresidential real property upon which a renewable energy source device is installed on or after January 1, 2015, and to all assessments beginning on that date.

The bill takes effect January 1, 2015, if SJR 916 or a similar joint resolution having substantially the same specific intent and purpose is approved by the electors at the general election to be held

³⁴ The investor-owned utility's COG-1, as-available energy tariff price is the price a utility would receive if it sold excess electricity on the wholesale market with no contract. This omits any capacity payment and is basically fuel cost. It is basically the equivalent of the utility's as-available, full avoided cost price, which means it is basically the cost of fuel for that utility to produce that amount of electricity at that time.

³⁵ Essentially this means that the primary benefit to the customer is in producing electricity and avoiding that amount of purchases from the utility. An additional benefit is that excess-generation credits are carried over and when used also offset purchases at the retail price. If these carried-over credits are not used before the end of a calendar year (or before leaving the utility) they are purchased at the utility's cost of producing energy, which is basically its fuel cost.

³⁶ This ensures that the customer continues to pay its share of cost recovery for generation and transmission facilities.

³⁷ FLA. CONST. art. XI, s. 1.

³⁸ FLA. CONST. art. XI, s. 2.

³⁹ *Id.*

in November 2014 or at an earlier special election specifically authorized by law for that purpose.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The fiscal impact of this bill on local government's ad valorem tax revenues is uncertain. If SJR 916 (discussed below in Related Issues) passes both the Legislature and the electorate, and if SB 922 or other implementing legislation is passed and becomes law, and if renewable energy source devices are installed on nonresidential real property, then some local governments may lose an opportunity for an unknown amount of an increase in ad valorem tax revenues that they would have had in absence of SJR 916 and this implementing legislation.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The fiscal impact of this bill on local government's ad valorem tax revenues is uncertain. If SJR 916 (discussed below in Related Issues) passes both the Legislature and the electorate, and if SB 922 or other implementing legislation is passed and becomes law, and if renewable energy source devices are installed on nonresidential real property, then some local governments may lose an opportunity for an unknown amount of an increase in ad valorem tax revenues that they would have had in absence of SJR 916 and this implementing legislation.

B. Private Sector Impact:

The bill may provide an incentive for owners of nonresidential property to install renewable energy source devices as this will no longer result in increased ad valorem taxes.

The Solar Foundation recently released its *National Solar Jobs Census 2012: A Review of the U.S. Solar Workforce*. The report notes a 77 percent compound annual growth rate in photovoltaic installed capacity between 2006 and 2011⁴⁰ and a total of 119,016 solar industry jobs in 2012, an increase of 13.2 percent over 2011.⁴¹ The report also notes:

⁴⁰ Page 9.

⁴¹ Page 17.

The results of this year's Census confirm that one of the major factors contributing to this growth is the continued decline in the price of solar products. Over the last three years, component prices have dropped dramatically, with a 44% decline in 2011 alone.... This decline in PV module prices is mirrored by a similar decrease in total average installed system costs, estimated to have declined by one-third over the same period.⁴²

This report indicates that one of the major drivers in increasing photovoltaic installed capacity and solar jobs is the decreasing overall cost of this capacity, which may include the avoidance of an increase in ad valorem tax that this bill allows.

As long as any excess electricity produced by any new renewable energy source device is sold to utilities under current law (at the purchasing utility's full avoided cost⁴³ and with no third party sales), there will be no near-term fiscal impact on utilities' ratepayers. There may be some customer fiscal impacts in the longer term. Some potential impacts could be positive; for example, the avoidance of the costs of construction of a new power plant. Some potential impacts could be negative. The Florida Supreme Court noted in *PW Ventures* that when a regulated utility loses sales revenue, this revenue must be made up by the remaining customers since the fixed costs of the regulated systems would not have been reduced. Loss of one large customer is not the only event that will produce this result; it will happen any time a utility loses enough sales revenue that it can no longer recover all of its costs, including a loss of revenue due to customers' energy production or, for that matter, customers' conservation and efficiency efforts.

C. Government Sector Impact:

The bill may have some impact on the workload of property appraisers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SJR 916 proposes a constitutional amendment to existing provisions that authorize the Legislature to prohibit property appraisers, in appraising real property for ad valorem tax purposes, from considering the value of improvements to residential real property that constitute either enhancements to the property's wind resistance or the installation of a renewable energy device. The bill preserves the application of the provisions relating to wind resistance to residential real property only. It expands the provisions on installation of a renewable energy source device to apply to all real property, but limits these provisions to apply only when the installation is by an "end-use customer" of a device "that is primarily intended to offset part or all of that end-use customer's electricity demands."

SB 922 provides the term "renewable energy source device" means any of the following equipment *installed by an end-use customer* that collects, transmits, stores, or uses solar energy,

⁴² Page 10.

⁴³ See discussion above under *Self-Generation*.

wind energy, or energy derived from geothermal deposits *and that is primarily intended to offset part or all of that end-use customer's electricity demands.*

The Department of Revenue's Legislative Bill Analysis states that this language makes it "unclear whether the property appraiser must consider the value of the renewable energy source device should that end-use customer no longer hold title to the real property." However:

- The italicized language is little different in effect from the existing constitutional provision that authorizes the Legislature to prohibit a property appraiser from considering the value of a change or improvement that is "for the purpose of improving the property's resistance to wind damage." Although this constitutional provision has not yet been implemented, it is doubtful that it would be implemented in such a way as to require a property appraiser to take a property owner's word that any improvement qualifies for the exclusion from consideration. Instead, an implementing statute very likely would require evidence that the subject improvement qualifies not only as one done for the purpose of improving wind resistance but also as one that is within accepted industry standards as having the effect of improving wind resistance. And under such a statute, once this qualification was established, the benefit of exclusion would attach to the property and transfer with the property upon any conveyance.
- The italicized language creates a similar qualification or pre-condition. It conditions application of the exclusion on the installation of a renewable energy source device being done by a property owner/customer primarily to offset that customer's purchases of electricity from a utility. The installation **does not qualify** for the benefit of exclusion from ad valorem tax if done primarily for the purpose of producing electricity for sale, either by a utility or a non-utility. Again, a property appraiser will have to determine that the qualification is met in order to apply the exclusion, but once the improvement is determined to qualify, the benefit attaches to the property and is transferable with the property.

VIII. Statutes Affected:

This bill substantially amends section 193.624 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

By Senator Brandes

22-00982B-14

2014922__

1 A bill to be entitled
2 An act relating to renewable energy source devices;
3 amending s. 193.624, F.S.; prohibiting consideration
4 by a property appraiser of the increased value of real
5 property due to the installation of a renewable energy
6 source device by an end-use customer; revising the
7 definition of the term "renewable energy source
8 device"; providing for applicability; providing a
9 contingent effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Section 193.624, Florida Statutes, is amended to
14 read:

15 193.624 Assessment of real ~~residential~~ property.-

16 (1) As used in this section, the term "renewable energy
17 source device" means any of the following equipment installed by
18 an end-use customer that collects, transmits, stores, or uses
19 solar energy, wind energy, or energy derived from geothermal
20 deposits and that is primarily intended to offset part or all of
21 that end-use customer's electricity demands:

22 (a) Solar energy collectors, photovoltaic modules, and
23 inverters.

24 (b) Storage tanks and other storage systems, excluding
25 swimming pools used as storage tanks.

26 (c) Rockbeds.

27 (d) Thermostats and other control devices.

28 (e) Heat exchange devices.

29 (f) Pumps and fans.

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30 (g) Roof ponds.

31 (h) Freestanding thermal containers.

32 (i) Pipes, ducts, refrigerant handling systems, and other
33 equipment used to interconnect such systems; however, such
34 equipment does not include conventional backup systems of any
35 type.

36 (j) Windmills and wind turbines.

37 (k) Wind-driven generators.

38 (l) Power conditioning and storage devices that use wind
39 energy to generate electricity or mechanical forms of energy.

40 (m) Pipes and other equipment used to transmit hot
41 geothermal water to a dwelling or structure from a geothermal
42 deposit.

43 (2) In determining the assessed value of real property ~~used~~
44 ~~for residential purposes~~, an increase in the just value of the
45 property attributable to the installation of a renewable energy
46 source device may not be considered.

47 (3) This section applies to new and existing residential
48 real property upon which ~~the installation of~~ a renewable energy
49 source device was installed on or after January 1, 2013, and to
50 all other real property as set forth in this section upon which
51 such a device is installed on or after January 1, 2015 ~~to new~~
52 ~~and existing residential real property~~.

53 Section 2. The amendments made by this act to s. 193.624,
54 Florida Statutes, apply to assessments beginning January 1,
55 2015.

56 Section 3. This act shall take effect January 1, 2015, if
57 SJR ____, or a similar joint resolution having substantially the
58 same specific intent and purpose, is approved by the electors at

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59 the general election to be held in November 2014 or at an
60 earlier special election specifically authorized by law for that
61 purpose.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: SB 712

INTRODUCER: Senator Galvano

SUBJECT: Taxes on Prepaid Calling Arrangements

DATE: February 17, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.			AFT	
3.			AP	

I. Summary:

SB 712 revises the definition of the term “prepaid calling card” for purposes of the Communications Services Tax (CST) and the sales tax. The primary effect is to include mobile communications services that meet specified conditions. The bill also provides that if a purchaser of a prepaid calling arrangement has paid sales tax on the sale or recharge of such arrangement, no additional sales tax or CST tax is due or payable if the purchaser applies one or more units of the prepaid calling arrangement to obtain communications services that are provided to or through the same handset or other electronic device that is used by the purchaser to access mobile communications services, other services that are not communications services, or products.

These changes are intended to be remedial in nature and apply retroactively, but do not provide a basis for an assessment of any tax not paid or create a right to a refund or credit of any tax paid before the effective date, July 1, 2014.

II. Present Situation:

Communications Services Tax Simplification Law

Overview and History

Chapter 202, F.S., is the Communications Services Tax Simplification Law. Effective October 1, 2001, the law simplified and restructured numerous state and local taxes and fees imposed on communications services into a single tax centrally administered by the Department of Revenue (DOR). The revenue collected under the CST is distributed three ways: a portion goes to the General Revenue Fund; a portion goes to the Public Education Capital Outlay (PECO) fund used for improvements for public education; and a portion goes to local governments based upon statutory distributions and established local rates.

Prepaid Calling Arrangement

The state CST of 6.65 percent is applied to the sales price of each communications service which originates and terminates in this state, or originates or terminates in this state and is charged to a service address in this state.¹ The tax is to be charged when the service is sold at retail, computed on each taxable sale for the purpose of remitting the tax due. However, the definition of the term “sales price” expressly excludes the “sale or recharge of a prepaid calling arrangement,”² so CST is not collected on the sale of a prepaid calling arrangement.

The term “prepaid calling arrangement” is defined to mean “the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars of which the number declines with use in a known amount.”³

The governing authority of each county and municipality may, by ordinance, levy a discretionary communications services tax.⁴ The local tax may be up to 7.12 percent, depending on the location of the customer.

Prepaid Calling Arrangement: Tax on Sales, Use and Other Transactions (SUT)

Chapter 212, F.S., provides for sales tax, including a requirement that a sales tax at the rate of 6 percent on charges for prepaid calling arrangements be collected at the time of sale and remitted by the selling dealer.⁵ The definition of the term “prepaid calling arrangement” is almost identical to the definition in ch. 202, F.S.; it is defined to mean “the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars whose number declines with use in a known amount.”⁶

Gross Receipts Tax on Communications Services

Section 203.01, F.S., provides for a gross receipts tax on communications services delivered to a retail consumer in this state. The tax on communications services is applied to the same services and transactions as are subject to the CST and to communications services sold to residential households. The tax is applied to the sales price of communications services when sold at retail, as the terms are defined in s. 202.11, F.S., and is due and payable at the same time as the CST. The rate applied to communications services is 2.37 percent. An additional rate of 0.15 percent is applied to communications services subject to the CST. With such sales, a communications services dealer may collect a combined rate of 6.8 percent comprised of the 6.65 percent for the CST and the 0.15 percent additional gross receipts tax.⁷

¹ Section 202.12, F.S.

² Section 202.11(13)(b)4., F.S.

³ Section 202.11(9), F.S.

⁴ Section 202.19, F.S.

⁵ Section 212.05(1)(e)1., F.S.

⁶ *Id.*

⁷ Section 202.12001, F.S.

DOR Tax Information Publication on Prepaid Communications Services

In March of 2012, DOR issued Tax Information Publication (TIP) No. 12ADM-02 to provide department clarification regarding the application of Florida taxes to sales of certain prepaid communications plans and services.⁸ The document stated that certain prepaid communications plans or services are not "prepaid calling arrangements."

Examples of such plans that do not fall under this definition include, but are not limited to:

- service that includes text messaging, multimedia messaging, web, e-mail, etc.;
- unlimited calling plans that do *not* decline with usage;
- services or plans that are *not* sold in predetermined units or dollars; or
- services or plans that are *not* originated using an access number or authorization code.⁹

The TIP went on to affirm that a "sale of a prepaid card or prepaid arrangement that does not fall under the definition of a "prepaid calling arrangement" is not subject to SUT. Instead, sales of such plans are subject to CST, because Florida's CST law generally applies to services that allow the transmission, conveyance, or routing of voice, data, audio, or video."¹⁰

III. Effect of Proposed Changes:

Section 1 amends subsection 202.11(9), F.S., to revise the definition of the term "prepaid calling card." For other than mobile communications services, the term includes a right to use communications services for which a separately stated price must be paid in advance, which is sold at retail in predetermined units that decline in number with use on a predetermined basis, and which consists exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered.

For mobile communications services, the term would include a right to use mobile communications services that must be paid for in advance and is sold at retail in predetermined units that expire or decline in number on a predetermined basis if:

- the purchaser's right to use mobile communications services terminates upon all purchased units expiring or being exhausted unless the purchaser pays for additional units;
- the purchaser is not required to purchase additional units; and
- any right of the purchaser to use units to obtain communications services other than mobile communications services is limited to services that are provided to or through the same handset or other electronic device that is used by the purchaser to access mobile communications services.

Predetermined units may be quantified as amounts of usage, time, money, or a combination of these or other means of measurement.

⁸ Florida Department of Revenue, *Prepaid Communications Services*, TIP No. 12ADM-02 (March 27,2012) available at <http://dor.myflorida.com/dor/tips/tip12adm-02.html>.

⁹ *Id.* Emphasis in the original.

¹⁰ *Id.*

Section 2 amends paragraph 212.05(1)(e), F.S., on sales tax, to provide that the term “prepaid calling arrangement” has the same meaning as provided in s. 202.11, F.S. The bill also provides that if a purchaser of a prepaid calling arrangement has paid tax sales on the sale or recharge of such arrangement, no additional sales tax or CST tax is due or payable if the purchaser applies one or more units of the prepaid calling arrangement to obtain communications services that are provided to or through the same handset or other electronic device that is used by the purchaser to access mobile communications services, other services that are not communications services, or products.

Section 3 provides that the amendments made by the bill are intended to be remedial in nature and apply retroactively, but do not provide a basis for an assessment of any tax not paid or create a right to a refund or credit of any tax paid before the effective date of this act.

Section 4 provides that, except as otherwise expressly provided in section 3, the bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill’s effect on local government tax revenues is uncertain. Currently there is a disagreement among DOR and communications services providers as to how the law applies to sales of services that do not meet all the statutory requirements, for example, a sale of services that includes text, email, or data services.¹¹ DOR concludes that such a sale does not meet the requirements, with the effect that it is subject to the CST; providers argue that such a sale may not fit within the remainder of the CST statutes and, as such, it is not subject to the CST.

Under the bill, a plan can offer texting and still qualify as a prepaid calling arrangement such that the sales tax would be applicable, not the CST. Sales tax on a prepaid calling arrangement is 6 percent plus any local discretionary sales surtaxes. The total CST can be as much as 16.29 percent, consisting of the state CST of 6.65 percent, state gross receipts tax of 2.52 percent, and a local CST of up to 7.12 percent. In simply comparing the two rates, it appears that the bill will result in a reduction of tax revenues.

However, this assumes that tax payments have been made in the past based on the DOR interpretation. If, in fact, all or most sellers have used the conflicting interpretation and paid sales tax, not the CST, the actual difference in past revenue and projected revenue under the bill will be little to nothing as there would be no change in payments under such circumstances. The fact that at least some sellers have paid sales tax, not CST, is acknowledged in DOR’s TIP No. 12ADM-02, which encourages such sellers to contact DOR.¹²

¹¹ For the Department of Revenue’s discussion of these characteristics, and for a history of the communications services tax and prepaid calling arrangements, see <http://dor.myflorida.com/dor/tips/tip12adm-02.html>.

¹² *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill's effect on tax revenues is uncertain. Currently there is a disagreement among DOR and communications services providers as to how the law applies to sales of services that do not meet all the statutory requirements, for example, a sale of services that includes text, email, or data services.¹³ DOR concludes that such a sale does not meet the requirements, with the effect that it is subject to the CST; providers argue that such a sale may not fit within the remainder of the CST statutes and, as such, it is not subject to the CST.

Under the bill, a plan can offer texting and still qualify as a prepaid calling arrangement such that the sales tax would be applicable, not the CST. Sales tax on a prepaid calling arrangement is 6 percent plus any local discretionary sales surtaxes. The total CST can be as much as 16.29 percent, consisting of the state CST of 6.65 percent, state gross receipts tax of 2.52 percent, and a local CST of up to 7.12 percent. In simply comparing the two rates, it appears that the bill will result in a reduction of tax revenues.

However, this assumes that tax payments have been made in the past based on the DOR interpretation. If, in fact, all or most sellers have used the conflicting interpretation and paid sales tax, not the CST, the actual difference in past revenue and projected revenue under the bill will be little to nothing as there would be no change in payments under such circumstances. The fact that at least some sellers have paid sales tax, not CST, is acknowledged in DOR's TIP No. 12ADM-02, which encourages such sellers to contact DOR.¹⁴

B. Private Sector Impact:

Communications service providers can continue to offer a prepaid plan consisting of a flat-rate charge for a predetermined number of minutes of access to communications services, including services such as texting, without being subject to the increased complexity and slightly higher rate of the CST. Customers will continue to have this choice.

¹³ For the Department of Revenue's discussion of these characteristics, and for a history of the communications services tax and prepaid calling arrangements, see <http://dor.myflorida.com/dor/tips/tip12adm-02.html>.

¹⁴ *Id.*

C. **Government Sector Impact:**

The impact on DOR is uncertain; it may have expenses of notifying sales tax dealers and communications services providers of the provisions of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 202.11 and 212.05.

IX. Additional Information:

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.

By Senator Galvano

26-00835C-14

2014712__

1 A bill to be entitled
2 An act relating to taxes on prepaid calling
3 arrangements; amending ss. 202.11 and 212.05, F.S.;
4 revising the definition of "prepaid calling
5 arrangement" to clarify and update which services are
6 included under that definition and subject to a sales
7 tax; providing for retroactive application; providing
8 an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (9) of section 202.11, Florida
13 Statutes, is amended to read:

14 202.11 Definitions.—As used in this chapter, the term:

15 (9) "Prepaid calling arrangement" means: the separately
16 ~~stated retail sale by advance payment of~~

17 (a) A right to use communications services, other than
18 mobile communications services, for which a separately stated
19 price must be paid in advance, which is sold at retail in
20 predetermined units that decline in number with use on a
21 predetermined basis, and which ~~that~~ consist exclusively of
22 telephone calls originated by using an access number,
23 authorization code, or other means that may be manually,
24 electronically, or otherwise entered; or ~~and that are sold in~~
25 ~~predetermined units or dollars of which the number declines with~~
26 ~~use in a known amount.~~

27 (b) A right to use mobile communications services that must
28 be paid for in advance and is sold at retail in predetermined
29 units that expire or decline in number on a predetermined basis

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2014712__

30 if:

31 1. The purchaser's right to use mobile communications
 32 services terminates upon all purchased units expiring or being
 33 exhausted unless the purchaser pays for additional units;

34 2. The purchaser is not required to purchase additional
 35 units; and

36 3. Any right of the purchaser to use units to obtain
 37 communications services other than mobile communications
 38 services is limited to services that are provided to or through
 39 the same handset or other electronic device that is used by the
 40 purchaser to access mobile communications services.

41
 42 Predetermined units described in this subsection may be
 43 quantified as amounts of usage, time, money, or a combination of
 44 these or other means of measurement.

45 Section 2. Paragraph (e) of subsection (1) of section
 46 212.05, Florida Statutes, is amended to read:

47 212.05 Sales, storage, use tax.—It is hereby declared to be
 48 the legislative intent that every person is exercising a taxable
 49 privilege who engages in the business of selling tangible
 50 personal property at retail in this state, including the
 51 business of making mail order sales, or who rents or furnishes
 52 any of the things or services taxable under this chapter, or who
 53 stores for use or consumption in this state any item or article
 54 of tangible personal property as defined herein and who leases
 55 or rents such property within the state.

56 (1) For the exercise of such privilege, a tax is levied on
 57 each taxable transaction or incident, which tax is due and
 58 payable as follows:

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2014712__

59 (e)1. At the rate of 6 percent on charges for:

60 a. Prepaid calling arrangements. The tax on charges for
61 prepaid calling arrangements shall be collected at the time of
62 sale and remitted by the selling dealer.

63 (I) "Prepaid calling arrangement" has the same meaning as
64 provided in s. 202.11 ~~means the separately stated retail sale by~~
65 ~~advance payment of communications services that consist~~
66 ~~exclusively of telephone calls originated by using an access~~
67 ~~number, authorization code, or other means that may be manually,~~
68 ~~electronically, or otherwise entered and that are sold in~~
69 ~~predetermined units or dollars whose number declines with use in~~
70 ~~a known amount.~~

71 (II) If the sale or recharge of the prepaid calling
72 arrangement does not take place at the dealer's place of
73 business, it shall be deemed to have taken ~~take~~ place at the
74 customer's shipping address or, if no item is shipped, at the
75 customer's address or the location associated with the
76 customer's mobile telephone number.

77 (III) The sale or recharge of a prepaid calling arrangement
78 shall be treated as a sale of tangible personal property for
79 purposes of this chapter, whether or not a tangible item
80 evidencing such arrangement is furnished to the purchaser, and
81 such sale within this state subjects the selling dealer to the
82 jurisdiction of this state for purposes of this subsection.

83 (IV) No additional tax under this chapter or chapter 202 is
84 due or payable if a purchaser of a prepaid calling arrangement,
85 who has paid tax under this chapter on the sale or recharge of
86 such arrangement, applies one or more units of the prepaid
87 calling arrangement to obtain communications services as

26-00835C-14

2014712__

88 described in s. 202.11(9)(b)3., other services that are not
89 communications services, or products.

90 b. The installation of telecommunication and telegraphic
91 equipment.

92 c. Electrical power or energy, except that the tax rate for
93 charges for electrical power or energy is 7 percent.

94 2. The provisions of s. 212.17(3), regarding credit for tax
95 paid on charges subsequently found to be worthless, are ~~shall be~~
96 equally applicable to any tax paid under ~~the provisions of~~ this
97 section on charges for prepaid calling arrangements,
98 telecommunication or telegraph services, or electric power
99 subsequently found to be uncollectible. The term ~~word~~ "charges"
100 under ~~in~~ this paragraph does not include any excise or similar
101 tax levied by the Federal Government, any political subdivision
102 of this ~~the~~ state, or any municipality upon the purchase, sale,
103 or recharge of prepaid calling arrangements or upon the purchase
104 or sale of telecommunication, television system program, or
105 telegraph service or electric power, which tax is collected by
106 the seller from the purchaser.

107 Section 3. The amendments made by this act are intended to
108 be remedial in nature and apply retroactively, but do not
109 provide a basis for an assessment of any tax not paid or create
110 a right to a refund or credit of any tax paid before the
111 effective date of this act.

112 Section 4. Except as otherwise expressly provided in
113 section 3 of this act, this act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Finance and Tax, *Chair*
Appropriations
Appropriations Subcommittee on Education
Commerce and Tourism
Communications, Energy, and Public Utilities
Community Affairs
Governmental Oversight and Accountability

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
8th District

March 4, 2014

The Honorable Anitere Flores
Communications, Energy, and Public Utilities, Chair
413 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Handwritten initials, possibly "AF", in blue ink.

Dear Chair Flores:

I was not able to attend today's Communications, Energy and Public Utilities committee meeting at 8:30 am due to presenting my bill in another committee. I request to be excused from today's meeting. Thank you for your consideration.

Sincerely,

Handwritten signature of Dorothy L. Hukill in blue ink.

Dorothy L. Hukill
State Senator, District 8

CC: Diana Caldwell, Staff Director of Committee on Communications, Energy, and Public Utilities

REPLY TO:

- 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
- Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

TMB
9

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/14
Meeting Date

Topic Prepaid Calling Arrangements Bill Number SB 712
Name JC Flores (if applicable)

Job Title Regional Director Amendment Barcode _____ (if applicable)

Address 150 W. Flagler St Phone 305-607-9755
Miami FL 33130
City State Zip

Speaking: For Against Information
Representing AT&T - women support

Appearing at request of Chair: Yes No
Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/2014

Meeting Date

Topic Prepaid Services

Name Woody Simmons

Job Title VP Govt Affairs - Verizon

Address 106 E. College Ave Suite 710

Street

Tallahassee

City

FL

State

32301

Zip

Phone 202-6300

E-mail woody.simmons@verizon.com

Bill Number

712

(if applicable)

Amendment Barcode

(if applicable)

Speaking: For

Against

Information

Representing Verizon Communications

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14
Meeting Date

Topic _____ Bill Number 712 (if applicable)

Name Diana Ferguson Amendment Barcode _____ (if applicable)

Job Title Attorney

Address 119 S Madison St Ste 202 Phone 850-681-6788
Tava FL 32308 E-mail dfergus@republican.com
Street State City Zip

Speaking: For Against Information

Representing T-Mobile

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/15

Meeting Date

Communicative taxes

Bill Number

712

Name Doug Mannheim

Amendment Barcode

Attorney

Address 215 S Monroe St. Suite 400

Phone

850 681 6810

Street

Tallahassee FL 32301

City

State

Zip

E-mail

dmanheimer@

Speaking:

For

Against

Information

Representing

Sprint

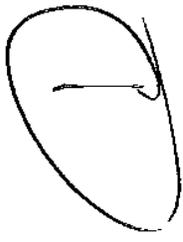
broadandcassel.com

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/14
Meeting Date

Topic CST Bill Number SB 712
(if applicable)

Name RANDY MILLER Amendment Barcode _____
(if applicable)

Job Title EX VICE PRESIDENT

Address 227 S ADAMS ST Phone 222-4082

TAMMANSSE FL 32312
City State Zip

E-mail _____
Speaking: For Against Information
Representing FLORIDA RETAIL FEDERATION

Appearing at request of Chair: Yes No
Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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1

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/14 Meeting Date

Topic Pre-paid calling Bill Number SB 712 (if applicable)
Name Brewster Bevis Amendment Barcode (if applicable)

Job Title Senior Vice President
Address 516 W Adams St Phone 224-7173
Street City State Zip

Tallahassee FL 32301 E-mail bbevis@aif.com

Speaking: [X] For [] Against [] Information

Representing Associated Industries of Florida

Appearing at request of Chair: [] Yes [X] No Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/2014

Meeting Date

1

Topic Prepaid Wireless Bill Number 712 (if applicable)

Name Jorge Chamizo Amendment Barcode _____ (if applicable)

Job Title Attorney

Address 108 South Monroe St. Phone (850) 681-0024

Tallahassee FL 32301 E-mail jorge@flapartner.com

City State Zip

Speaking: For Against Information

Representing TracFone Wireless, Inc.

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-4-14
Meeting Date

Topic Prepaid calling Bill Number 712 (if applicable)
Name Richard Pinsky Amendment Barcode _____ (if applicable)

Job Title _____
Address 106 E. College Ave. suite Phone _____
Tallahassee FL 32301 E-mail _____
City State Zip

Speaking: For Against Information
Representing Florida 911 Dispatchers (APCO)
Appearing at request of Chair: Yes No
Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 4, 2014
Meeting Date

2

Topic Communications Service Tax Bill Number SB 898 (if applicable)

Name Bob Braugher Amendment Barcode 722712 (if applicable)

Job Title OWNER Hotels / Chairman Brand Office Space Cons + Office Towels

Address 2210 S. Atlantic Ave Phone 321-693-0095

Colon Berck FL 32931
City State Zip

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No
 Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2

Meeting Date _____

Topic Communications Service Tax

Bill Number SB 898

Name Tom Williamson

Amendment Barcode 722712
(if applicable)

Job Title President

Address 165 Pine Place

Phone 321-427-1087

Street

Merritt Island

City

32952

State

Zip

E-mail tom@oceanpartnersch.com

Speaking: For Against Information

Representing Cocoa Beach Area Hotel + Lodging Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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2

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date March 4, 2014

Topic Communications Service Tax Bill Number SB 898
Name Carol Dover Amendment Barcode 722712
(if applicable) (if applicable)

Job Title President & CEO
Address 230 S. Adams Phone 850 224-2250
City Tallahassee State FL Zip 32301
E-mail cdover@fsla.org

Speaking: For Against Information
Representing Florida Restaurant & Lodging Association
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.
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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-4-14

Meeting Date

Topic COMMUNICATION SERVICE TAX

898

Bill Number

(if applicable)

Name CAROL DOVER Amendment Barcode 722712

(if applicable)

Job Title PRESIDENT - CEO

Address 230 S. Adams St Phone 850-224-2250

Street

Tallahassee FL 32301 E-mail c.dover@frks.org

City

State

Zip

Speaking: [X] For [] Against [] Information

Representing FLORIDA RESTAURANT & LODGING ASSOC

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

2

2

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/14
Meeting Date

Topic CST Bill Number SB 898 (if applicable)
Name Robert Goldman Amendment Barcode 722712 (if applicable)

Job Title Atty Phone 523 0400
Address 1705 Metropolitan Blvd E-mail rgoldman@mgh-law.com

City _____ State _____ Zip _____

Speaking: For Against Information

Representing Hith

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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2

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/4/14

Topic CST

Bill Number 898 - As Amended

(if applicable)

Name Stephen Shiver

Amendment Barcode

(if applicable)

Job Title _____

Address 215 S Monroe St

Street

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Marnett International

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/14 Meeting Date

2

Topic CST Bill Number SB 898 (if applicable)

Name Brewster Bevis Amendment Barcode (if applicable)

Job Title Senior Vice President

Address 516. N. Adams St Tallahassee FL 32301 Phone 224-7173 E-mail bbevis@adfl.com

Speaking: [X] For [] Against [] Information

Representing Associated Industries of Florida

Appearing at request of Chair: [] Yes [X] No Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/14

Meeting Date

Topic CST Bill Number SB 898 (if applicable)

Name Carolyn Johnson Amendment Barcode (if applicable)

Job Title Director of Business, Economic Development & Innovation

Address 136 S Bronough St Phone 521-1235

Tallahassee FL 32301 E-mail cjohnson@fchamber.com (City, State, Zip)

Speaking: [X] For [] Against [] Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: [] Yes [X] No Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting. S-001 (10/20/11)



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3

Meeting Date

Topic Energy/Solar

Bill Number STR 916
(if applicable)

Name Susan Blackman

Amendment Barcode _____
(if applicable)

Job Title Florida Director

Phone 727-5957314

Address PO Box 310

E-mail Susan@cleanenergy.org

Indian Rocks Beach FL 33785
Street City State Zip

Speaking: For Against Information

Representing Southern Alliance for Clean Energy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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3

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/14 Meeting Date

Topic Ad Valorem Assessments/Renewable Energy Source Devices Bill Number SB 916 (if applicable)
Name Jonathon Rees Amendment Barcode (if applicable)

Job Title Deputy Legislative Affairs Director Phone (850) 617-7700

Address 400 South Monroe St. Tallahassee FL 32399 E-mail Jonathon.Rees@freshfromflorida.com
Street City State Zip

Speaking: [X] For [] Against [] Information Representing Florida Department of Agriculture and Consumer Services

Appearing at request of Chair: [] Yes [X] No Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-14-14
Meeting Date

Topic Solar Ad Valorem Bill Number 916 (if applicable)
Name Richard Pinsky Amendment Barcode _____ (if applicable)

Job Title _____
Address 106 E. College Ave #200 Phone _____

Tallahassee FL 32301 E-mail _____
City State Zip

Speaking: For Against Information
Representing Florida Association of Renewable Energy
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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4

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/14 Meeting Date

Topic Renewable Energy Source Devices Bill Number SB 922 (if applicable)

Name Jonathon Rees Amendment Barcode (if applicable)

Job Title Deputy Legislative Affairs Director

Address 400 South Monroe St. Phone (850) 617-7700

Tallahassee FL 32399 E-mail Jonathon.Rees@freshfromflorida.com

Speaking: For Against Information

Representing Florida Department of Agriculture and Consumer Services

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-17-14
Meeting Date

Topic Solar Ad Valorem Bill Number 922 (if applicable)

Name Richard Pinsky Amendment Barcode (if applicable)

Job Title

Address 106 E. College Ave # 1200 Phone
Tallahassee FL 32301 E-mail
City State Zip

Speaking: For Against Information
Representing Florida Association of Renewable Energy

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: SB 301

Case:

Type:

Caption: Senate Communications, Energy, and Public Utilities Committee

Judge:

Started: 3/4/2014 8:32:31 AM

Ends: 3/4/2014 8:43:51 AM **Length:** 00:11:21

8:33:15 AM Recording Paused
8:33:17 AM Recording Resumed
8:33:25 AM SB 712
8:33:38 AM Explanation of Bill
8:34:18 AM Doug Mannheimer Waives in support
8:34:37 AM Randy Miller Waives in support
Brewster Bevis waives in support
Jorge Chamizo waives in support
Richard Pensky waives in support
8:34:45 AM roll call vote
8:34:58 AM SB 712 reported favorably
8:35:32 AM TAB 2- SB 898
8:35:40 AM Barcode 722712
8:35:50 AM Senator Abruzzo explains amendment
8:36:34 AM Amendment adopted
8:36:41 AM Bob Baugher waives in support
8:37:03 AM Tom Williamson waives
8:37:07 AM Carol Dover waives
8:37:19 AM Robert Goldman waives
8:37:21 AM Steven Shiver waives
8:37:24 AM Brewster Bevis
8:37:31 AM Carolyn Johnson waives
8:37:45 AM Roll call vote
8:37:59 AM SB 898 reported favorably
8:38:20 AM Recording Paused- Short Break
8:38:55 AM Recording Resumed
8:39:01 AM TAB 3- SB 916
8:39:07 AM Senator Brandes explains SB 916
8:39:43 AM Susan Glickman (Southern Alliance for Clean Energy) -speaker expresses concerns
8:41:34 AM Jonathon Rees (FDOA)
8:41:47 AM Richard waives in support
8:42:04 AM Roll call vote
8:42:18 AM SB 916 Reported favorably
8:42:22 AM TAB 4
8:42:25 AM SB 922
8:42:31 AM Senator Brandes Explains Bill
8:42:46 AM Jonathon Rees waives
8:42:49 AM Richard Pinsky waives
8:43:01 AM Roll Call Vote
8:43:13 AM SB 922 reported favorably
8:43:23 AM Senator Smith motion to vote after SB 712/898
8:43:37 AM Senator Evers motion to vote after SB 712/ 898
8:43:46 AM Close