

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7005 PCB EUP 10-02 Renewable Energy Property Tax Exemption

SPONSOR(S): Energy & Utilities Policy Committee and Precourt

TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Orig. Comm.: Energy & Utilities Policy Committee, 13 Y, 0 N, Whittier, Collins. Row 2: 1) Finance & Tax Council, 14 Y, 0 N, Diez-Arguelles, Langston. Rows 3-5 are empty.

SUMMARY ANALYSIS

In the November 2008 General Election, Florida voters approved a constitutional amendment placed on the ballot by the Taxation and Budget Reform Commission.

The amendment added the following language to Article VII, Section 4, of the Florida Constitution:

- (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.

The amendment also repealed then-existing constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on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 device is installed and operated, rendering the provision in statutes obsolete.

The bill repeals the obsolete provision and deletes the corresponding definitions.

The bill has no fiscal impact on state or local governments.

The effective date of the bill is upon becoming a law.

1 Effective January 1, 2009.

2 Effective upon approval by the voters, Art. VII, sec. 3(d), Florida Constitution, was repealed.

3 Section 196.175, F.S.

4 Section 196.012(14), F.S.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 2/18/2010

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

In 1980, the following language became Section 3(d), Article VII, of the Florida Constitution:<sup>5</sup>

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, and for the period of time fixed by general law not to exceed ten years.

During the same year, the Legislature authorized a property tax exemption for real property on which a renewable energy source device<sup>6</sup> is installed and is being operated. However, the exemption expired after 10 years. Specifically, the exemption period authorized in statute was from January 1, 1980, through December 31, 1990. Therefore, if an exemption was granted in December 1990, the exemption terminated in December 2000. The law required that the exemption could be no more than the lesser of the following:

- 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.

In December 2000, the last of the exemptions expired.

During the 2008 Legislative Session, HB 7135 was enacted, removing the expiration date of the property tax exemption, thereby allowing property owners to once again apply for the exemption, effective January 1, 2009. The period of each exemption, however, remained at 10 years. The bill also revised the amount of the exemption to be the original cost of the device, including the installation cost, but not including the cost of replacing previously existing property.

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<sup>5</sup> Through SJR 15-E.

<sup>6</sup> Section 196.012(14), F.S., currently specifies equipment which, when installed in connection with a dwelling unit or other structure, collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits.

In the November, 2008 general election the voters approved a constitutional amendment placed on the ballot by the Taxation and Budget Reform Commission. The amendment added the following language to Article VII, Section 4, of the Florida Constitution:

- (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.

**The constitutional amendment also repealed then-existing constitutional authority<sup>7</sup> for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, effective upon approval of the voters.<sup>8</sup>** This repealed language had provided the constitutional basis for the legislation passed in 1980.

During the 2009 Legislative Session, the House passed CS/HB 7113, a committee bill, which implemented the constitutional provision regarding the assessed value of real property and removed the provisions regarding the obsolete tax exemption. The bill died in Senate Messages, which resulted in the obsolete language regarding the tax exemption remaining in Chapter 196, F.S.

### **Effect of Proposed Changes**

The bill repeals the ad valorem tax exemption in s. 196.175, F.S., which was nullified by passage of the constitutional amendment, and removes the corresponding definition of "renewable energy source device" in s. 196.012(14), F.S. Several cross-references are amended.

#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 196.012, F.S., deleting the definition of "renewable energy source device."

**Section 2.** Amends s. 196.121, F.S., amending a cross-reference.

**Section 3.** Amends s. 196.1995, F.S., amending cross-references.

**Section 4.** Repeals s. 196.175, F.S., relating to the renewable energy source device property tax exemption.

**Section 5.** Provides that the act becomes effective upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

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<sup>7</sup> Article VII, Section 3(d), Florida Constitution.

<sup>8</sup> Article XII, Section 29, Florida Constitution.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require cities or counties to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

No rule-making authority is required to repeal this language from the statutes

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES