

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 Community Affairs

BILL: SJR 170

INTRODUCER: Senator Brandes

SUBJECT: Renewable Energy Source Device

DATE: November 30, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.	Present	Yeatman	CA	Favorable
3.			FT	
4.			AP	

I. Summary:

SJR 170 proposes to amend sections 3 and 4 of Article VII of the State Constitution and to create section 34 of Article XII of the State Constitution. These changes would: exempt the assessed value of a renewable energy source device, or a component of such a device, from the tangible personal property tax; authorize the Legislature to prohibit the consideration of the installation of renewable energy source devices and related components in determining the assessed value of a property for the purpose of ad valorem taxation; and establish an implementation schedule under which the amendments would take effect January 1, 2017, and would expire on December 31, 2036, with the text of the amended sections reinstated at that time, with the exception of future amendments, which will be preserved.

II. Present Situation:

The State Constitution authorizes finance and taxation, including local government ad valorem taxes on real property and tangible personal property,¹ assessment of taxes,² and exemptions to these taxes.³ Among these provisions is authority for the Legislature to prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:

- Any change or improvement made for the purpose of improving the property's resistance to wind damage.
- The installation of a renewable energy source device.⁴

¹ Article VII, section 9, State Constitution.

² Article VII, section 4, State Constitution.

³ Article VII, section 3, State Constitution.

⁴ Article VII, section 4.(i), State Constitution.

The Legislature has implemented this prohibition in s. 193.624, F.S. The statute prohibits a property appraiser who is determining the assessed value of real property used for residential purposes from considering an increase in the just value of the property attributable to the installation of a renewable energy source device. The statute applies to a renewable energy source device installed on or after January 1, 2013, on new and existing residential real property. 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;
- Windmills and wind turbines;
- Wind-driven generators;
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy; and
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

A renewable energy source device may be installed on real property through two alternative methods of ownership: the property owner may purchase and install the device, in which case it becomes a part of the real property and subject to ad valorem tax, or the property owner may lease the device from another person, with it remaining separate and distinct property from the real property and subject to tangible personal property tax.

III. Effect of Proposed Changes:

This bill proposes amendments to the State Constitution to prevent the application of taxes to a renewable energy source device with either type of ownership. For a leased renewable energy source device, the bill amends section 3, Article VII of the State Constitution to require the Legislature to exempt the assessed value of a renewable energy source device, or a component of such a device, from the tangible personal property tax. For a purchased renewable energy source device, the bill amends section 4, Article VII of the State Constitution to authorize the Legislature to make two types of expansions of the existing prohibition against a property appraiser considering the installation of renewable energy source devices in determining property value for the purpose of ad valorem taxation. The first expansion is the application of the prohibition to real property used for any purpose, not just for residential purposes. The second expansion is the inclusion of any component of a renewable energy source device in the prohibition.

The bill also creates section 34 of Article XII of the State Constitution to provide a schedule of implementation. The amendments and addition to the State Constitution would take effect January 1, 2017, and would expire December 31, 2036. Upon expiration, the schedule of implementation (section 34 of Article XII, State Constitution) would be repealed and the text of the amended substantive sections (subsection (e) of section 3 of Article VII and subsection (i) of section 4 of Article VII of the State Constitution) would revert to that in existence on December 31, 2016, except that any amendments to such text otherwise adopted are preserved and shall continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in section 18 of Article VII of the Florida Constitution do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

A joint resolution must be passed by three-fifths of the membership of each house of the Legislature. It 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.⁵ 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, 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.⁶

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The proposed amendment, if approved by the voters, and implemented by the Legislature, would exempt the assessed value of a renewable energy source device, or a component of such a device, from the tangible personal property tax, and authorize the

⁵ Article XI, section 5(a), State Constitution.

⁶ Article XI, section 5(e), State Constitution.

Legislature to prohibit the consideration of the installation of renewable energy source devices and related components in determining the assessed value of a property for the purpose of ad valorem taxation. The tax benefits of these changes may confer to applicants who would not have received them otherwise.

B. Private Sector Impact:

The exemptions from tangible personal property tax and ad valorem tax may stimulate sales and leases of renewable energy source devices.

C. Government Sector Impact:

The Revenue Estimating Conference determined that a similar bill, HJR 193, would have a negative indeterminate impact or zero impact to local governments or the state. If the proposed amendment does not pass, there is no impact. However, if the proposed amendment does pass, there will be an impact associated with the provisions relating to tangible personal property which do not need any further implementing language.⁷

The Department of State provided the following information on the fiscal impact of the constitutionally required advertising and other notice requirements:

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments. The cost to advertise constitutional amendments for the 2014 general election was \$135.97 per word. Using 2014 rates, the cost to advertise this amendment for the 2016 general election could be \$349,578.87, at a minimum.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 3 and 4 of Article VII of the State Constitution.

This bill creates section 34 of Article XII of the State Constitution.

⁷ Revenue Estimating Conference, Renewable Energy Devices, 133 (November 6, 2015) available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact1106.pdf (last visited November 17, 2015).

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
