

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 Appropriations

BILL: CS/SJR 170

INTRODUCER: Finance and Tax Committee and Senator Brandes and Hutson

SUBJECT: Renewable Energy Source Device

DATE: March 2, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	Favorable
2.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
3.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
4.	<u>Fournier</u>	<u>Kynoch</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 170 amends Article VII, section 3 of the State Constitution to exempt the assessed value of a renewable energy source device from the tangible personal property tax. It also amends section 4 to extend, from residential property to all property, the current provision regarding consideration of the installation of renewable energy source devices for the purpose of ad valorem taxation. It creates Article XII, section 34 of the State Constitution to establish an implementation schedule under which the amendments would take effect January 1, 2017, and expire on December 31, 2036, with the text of the amended sections reinstated at that time.

If approved by vote of at least 60 percent of the electors voting on the measure, SJR 170 will reduce ad valorem tax revenue from renewable energy source devices that would otherwise be taxed as tangible person property. If the Legislature also enacts legislation implementing the amendment's provisions relating to real property, the combined school and non-school reduction in ad valorem revenue would reach \$21.0 million in Fiscal Year 2020-2021, holding statewide average property tax rates constant.

II. Present Situation:

The State Constitution authorizes local government ad valorem taxes on real property and tangible personal property,¹ and provides conditions and limitations upon the assessment of property for tax purposes.² It also provides several ad valorem tax exemptions.³

The Legislature is authorized 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

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.

Under current law, a renewable energy source device owned and installed on non-residential real property, by the owner of the real property, is taxable as real property. If a device is owned by someone other than the owner of the real property where it is installed, the device remains

¹ FLA. CONST. art. VII, s. 9.

² FLA. CONST. art. VII, s. 4.

³ FLA. CONST. art. VII, s. 3.

⁴ FLA. CONST. art. VII, s. 4(i).

separate and distinct from the real property and the owner of the device is subject to tangible personal property tax on the device.

III. Effect of Proposed Changes:

CS/SJR 170 amends the State Constitution to prevent ad valorem taxation of a renewable energy source device whether it is owned by the owner of the real property on which it is installed or by another person. For a renewable energy source device not owned by the real property owner, the bill amends Art. VII, s. 3, of the State Constitution to require the Legislature to exempt the assessed value of a renewable energy source device from the tangible personal property tax. For a renewable energy source device owned by the real property owner, the bill amends Art. VII, s. 4 of the State Constitution to authorize the Legislature to expand to all real property the existing prohibition against a property appraiser considering the installation of renewable energy source devices in determining the value of property used for residential purposes

The bill also creates Art. XII, s. 34 of the State Constitution to provide a schedule of implementation. The amendments to the State Constitution would take effect January 1, 2017, and would expire December 31, 2036. Upon expiration, the schedule of implementation (Art. XII, s. 34 of the State Constitution) would be repealed and the text of the amended substantive sections (Art. VII, s. 3(e) and Art. VII, s. 4(i) 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 Art. VII, s. 18 of the State 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 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 Revenue Estimating Conference determined that a similar bill, HJR 193, would have an indeterminate negative 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 provision relating to tangible personal property which does not need any further implementing language.

Assuming the Legislature also passes an implementing bill for the real property provision of the amendment, HJR 193 is estimated to reduce school and non-school ad valorem tax revenue by \$21.0 million in Fiscal Year 2020-21, the fifth year of implementation, based on the 2014 statewide average ad valorem millage rate.

B. Private Sector Impact:

CS/SJR 170 may stimulate sales and leases of renewable energy source devices, and encourage the development of renewable energy device leasing businesses. The bill also reduces property taxes for electric utilities that install renewable energy devices to produce electricity.

C. Government Sector Impact:

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 will be \$349,578.87.

VI. Technical Deficiencies:

None.

⁵ FLA. CONST. art. XI, s. 5(a).

⁶ FLA. CONST. art. XI, s. 5(e).

VII. Related Issues:

None.

VIII. Statutes Affected:

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

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

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 Finance and Tax on January 11, 2016:

The CS removes references to “components” of renewable energy source devices for purposes of preventing taxation of these devices.

- B. **Amendments:**

None.