

<b>Tab 1</b>	<b>SB 90</b> by <b>Brandes</b> ; Renewable Energy Source Devices
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<b>Tab 2</b>	<b>SB 144</b> by <b>Garcia</b> ; (Identical to H 0069) Use of Wireless Communications Devices While Driving
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The Florida Senate  
**COMMITTEE MEETING EXPANDED AGENDA**  
**COMMUNICATIONS, ENERGY, AND PUBLIC UTILITIES**  
**Senator Artiles, Chair**  
**Senator Montford, Vice Chair**

**MEETING DATE:** Tuesday, February 7, 2017  
**TIME:** 2:00—4:00 p.m.  
**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Artiles, Chair; Senator Montford, Vice Chair; Senators Broxson, Campbell, Clemens, Perry, Stargel, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 90</b> Brandes	Renewable Energy Source Devices; Revising the definition of the term "renewable energy source device"; prohibiting the consideration of just value of property attributable to a renewable energy source device in determining the assessed value of any real property; exempting a renewable energy source device from the tangible personal property tax, etc.  CU     02/07/2017 Favorable CA AFT AP	Favorable Yeas 5 Nays 0
2	<b>SB 144</b> Garcia (Identical H 69)	Use of Wireless Communications Devices While Driving; Providing for primary enforcement of the Florida Ban on Texting While Driving Law for drivers age 18 or younger; requiring deposit of fines into the Emergency Medical Services Trust Fund, etc.  CU     02/07/2017 Temporarily Postponed TR ATD AP	Temporarily Postponed
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.)

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

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BILL: SB 90

INTRODUCER: Senator Brandes

SUBJECT: Renewable Energy Source Devices

DATE: February 6, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	<b>Favorable</b>
2.			CA	
3.			AFT	
4.			AP	

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**I. Summary:**

SB 90 amends s. 193.624, F.S., which prohibits including the value of a renewable energy source device in assessing the value of real property for tax purposes, to:

- Expand the definition of “renewable energy source device”;
- Expand the prohibition to all real property, not just that used for residential purposes; and
- Apply the prohibition to devices without regard to the date of installation, as opposed to the current requirement that they be installed on or after January 1, 2013.

These amendments expire December 31, 2037, and the text of the amended subsections reverts to that in existence on December 31, 2017, with stated exceptions.

The bill creates s. 196.182, F.S., to exempt a renewable energy source device from tangible personal property tax. This new section expires December 31, 2037.

The bill takes effect January 1, 2018.

**II. Present Situation:**

The State Constitution authorizes local government ad valorem taxes on real property and tangible personal property,<sup>1</sup> provides conditions and limitations upon the assessment of property for tax purposes,<sup>2</sup> and provides several ad valorem tax exemptions.<sup>3</sup> Among the exemptions is authorization for the Legislature to prohibit the consideration of the installation of a renewable energy source device in the determination of the assessed value of real property used for residential purposes.<sup>4</sup>

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<sup>1</sup> FLA. CONST. art. VII, s. 9.

<sup>2</sup> FLA. CONST. art. VII, s. 4.

<sup>3</sup> FLA. CONST. art. VII, s. 3.

<sup>4</sup> FLA. CONST. art. VII, s. 4(i).

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

During the 2016 primary election, voters approved a constitutional amendment to expand the exemption discussed above. The amendment authorizes the Legislature to prevent ad valorem taxation of a solar or 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 solar or renewable energy source device taxed as tangible personal property, the amendment authorizes the Legislature to exempt the assessed value of a solar or renewable energy source device from the tangible personal property tax, subject to conditions, limitations, and reasonable definitions specified by general law.<sup>5</sup> For a solar or renewable energy source device owned by the real property owner and taxed as real property, the amendment authorizes the Legislature to prohibit the consideration of the installation of a solar or renewable energy source device for the purpose of ad valorem taxation of real property.<sup>6</sup>

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<sup>5</sup> FLA. CONST. art. VII, s. 3.

<sup>6</sup> FLA. CONST. art. VII, s. 4.

The bill also creates a schedule of implementation.<sup>7</sup> The amendments to the State Constitution take effect January 1, 2018, and will expire December 31, 2037. Upon expiration, the schedule of implementation will be repealed and the text of the amended substantive sections will revert to that in existence on December 31, 2017, except that any amendments to such text otherwise adopted are preserved and continue to operate to the extent that they are not dependent upon the portions of text which expire pursuant to the schedule.

### **III. Effect of Proposed Changes:**

The bill amends s. 193.624, F.S., to expand the definition of “renewable energy source device” to include:

- Power conditioning and storage devices in the context of solar energy equipment;
- Wiring, structural supports, and other components used as integral parts of a system; and
- Power conditioning and storage devices that store or use solar or geothermal energy.

The bill also expands the application of the existing prohibition against the consideration of renewable energy devices in determining the assessed value of real property. First, the prohibition currently applies to residential property only; the bill expands coverage to all real property. Second, the prohibition currently applies only to a device installed on or after January 1, 2013; under the bill, it will apply without regard to when installation occurred.

These amendments expire December 31, 2037, and the text of the amended subsections reverts to that in existence on December 31, 2017, except that any amendments to the text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.

The bill creates s. 196.182, F.S., to exempt a renewable energy source device from tangible personal property tax. This new section expires December 31, 2037.

The bill reenacts ss. 193.155 and 193.1554, F.S., to incorporate the amendments made to s. 193.624, F.S.

The bill takes effect January 1, 2018.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

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<sup>7</sup> FLA. CONST. art. XII, s. 34

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The exemptions will have a negative impact on local government revenues, which the Revenue Estimating Conference has not yet determined.

B. Private Sector Impact:

The exemptions from ad valorem tax on real property and tangible personal property tax: may stimulate sales and leases of renewable energy source devices; may encourage the development of renewable energy device leasing businesses; and will reduce taxes for electric utilities that install renewable energy devices to produce electricity.

C. Government Sector Impact:

The bill applies to all devices, whenever installed, and so it applies to renewable energy devices installed prior to the bill's effective date. The bill also appears to apply to electric utilities, some of which have pre-existing devices, some of which may have been installed in part based on incentive agreements with local governments. In such instances, the effect of the bill is uncertain, and depends largely on the provisions of any such agreement.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 193.624 of the Florida Statutes.

This bill creates section 196.182 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.

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

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By Senator Brandes

24-00198B-17

201790\_\_

A bill to be entitled

An act relating to renewable energy source devices; amending s. 193.624, F.S.; revising the definition of the term "renewable energy source device"; prohibiting the consideration of just value of property attributable to a renewable energy source device in determining the assessed value of any real property; deleting a provision relating to applicability as of a specified date; creating s. 196.182, F.S.; exempting a renewable energy source device from the tangible personal property tax; providing for expiration; reenacting ss. 193.155(4)(a) and 193.1554(6)(a), F.S., relating to homestead assessments and nonhomestead residential property assessments, respectively, to incorporate the amendment made to s. 193.624, F.S., in references thereto; providing that specified amendments made by the act expire on a certain date; providing an effective date.

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

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

193.624 Assessment of renewable energy source devices ~~residential property.~~

(1) As used in this section, the term "renewable energy source device" means any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

(a) Solar energy collectors, photovoltaic modules, power conditioning and storage devices, and inverters.

(b) Storage tanks and other storage systems, excluding

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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swimming pools used as storage tanks.

(c) Rockbeds.

(d) Thermostats and other control devices.

(e) Heat exchange devices.

(f) Pumps and fans.

(g) Roof ponds.

(h) Freestanding thermal containers.

(i) Pipes, ducts, wiring, structural supports, refrigerant handling systems, and other components ~~equipment~~ used as integral parts of ~~to interconnect~~ such systems; however, such equipment does not include conventional backup systems of any type or any equipment or structure that would be required in the absence of the renewable energy source device.

(j) Windmills and wind turbines.

(k) Wind-driven generators.

(l) Power conditioning and storage devices that store or use solar energy, wind energy, or energy derived from geothermal deposits to generate electricity or mechanical forms of energy.

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

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

~~(3) This section applies to the installation of a renewable energy source device installed on or after January 1, 2013, to new and existing residential real property.~~

Section 2. Section 196.182, Florida Statutes, is created to

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



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62 read:

63 196.182 Exemption of renewable energy source devices.-A  
 64 renewable energy source device, as defined in s. 193.624, which  
 65 is considered tangible personal property is exempt from ad  
 66 valorem taxation. This section expires December 31, 2037.

67 Section 3. For the purpose of incorporating the amendment  
 68 made by this act to section 193.624, Florida Statutes, in a  
 69 reference thereto, paragraph (a) of subsection (4) of section  
 70 193.155, Florida Statutes, is reenacted to read:

71 193.155 Homestead assessments.-Homestead property shall be  
 72 assessed at just value as of January 1, 1994. Property receiving  
 73 the homestead exemption after January 1, 1994, shall be assessed  
 74 at just value as of January 1 of the year in which the property  
 75 receives the exemption unless the provisions of subsection (8)  
 76 apply.

77 (4) (a) Except as provided in paragraph (b) and s. 193.624,  
 78 changes, additions, or improvements to homestead property shall  
 79 be assessed at just value as of the first January 1 after the  
 80 changes, additions, or improvements are substantially completed.

81 Section 4. For the purpose of incorporating the amendment  
 82 made by this act to section 193.624, Florida Statutes, in a  
 83 reference thereto, paragraph (a) of subsection (6) of section  
 84 193.1554, Florida Statutes, is reenacted to read:

85 193.1554 Assessment of nonhomestead residential property.-

86 (6) (a) Except as provided in paragraph (b) and s. 193.624,  
 87 changes, additions, or improvements to nonhomestead residential  
 88 property shall be assessed at just value as of the first January  
 89 1 after the changes, additions, or improvements are  
 90 substantially completed.

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201790\_\_

91 Section 5. The amendments made by this act to s. 193.624(2)  
 92 and (3), Florida Statutes, expire December 31, 2037, and the  
 93 text of those subsections shall revert to that in existence on  
 94 December 31, 2017, except that any amendments to such text  
 95 enacted other than by this act shall be preserved and continue  
 96 to operate to the extent that such amendments are not dependent  
 97 upon the portions of text which expire pursuant to this section.

98 Section 6. This act shall take effect January 1, 2018.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-7-17  
Meeting Date

90  
Bill Number (if applicable)

Topic \_\_\_\_\_

Name Richard Pinsky

Amendment Barcode (if applicable)

Job Title \_\_\_\_\_

Address 106 E College suite 1100

Phone 850 425-1608

Street

City

Tallahassee

FL

State

32301

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Solar Energy Industry 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.

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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2/7/17

Meeting Date

Topic SOLAR ENERGY IMPLEMENTING BILL Bill Number SB 90

Name JEFF SHARKEY Amendment Barcode \_\_\_\_\_ (if applicable)

Job Title PRES. CAPITOL ALLIANCE GROUP, INC (if applicable)

Address 100 E COLLEGE AVE Phone 850 224 1660

Street

City

PH FL 32301

State

Zip

E-mail JERRY SHARKEY

Speaking:  For  Against  Information

Representing ENERGY FREEDOM COALITION OF AMERICA / SOLAR CITY

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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Meeting Date \_\_\_\_\_

Bill Number (if applicable) \_\_\_\_\_

Topic SB 90

Name Mandy Hines

Job Title County Administrator / DeSoto County

Address 201 E OAK ST, Ste 201

Street

Arcadia

City

FL

State

34266

Zip

Phone 813-990-8575

Email M.hines@desotobcc.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Desoto County

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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2-7-2017

Meeting Date

Topic Amendment 4 implementation

Bill Number SB 90  
*(if applicable)*

Name Susan Glickman

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Florida Director

Address PO Box 310  
*Street*

Phone 727-742-9003

Indian Rocks Beach FL 33785  
*City State Zip*

E-mail susan@cleanenergy.org

Speaking:  For  Against  Information

*Waive Time in Support*

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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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)

2-7-17

Meeting Date

SB 90

Bill Number (if applicable)

Topic SB 90 RENEWABLE ENERGY SOURCE DEVICES

Amendment Barcode (if applicable)

Name LAURA YOUMANS

Job Title ASSOCIATE DIRECTOR OF PUBLIC POLICY

Address 100 N. MADROST

Street

Phone \_\_\_\_\_

TAL

City

FL

State

32701

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA ASSOCIATION OF COUNTIES

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

W  
90

Meeting Date \_\_\_\_\_

Bill Number (if applicable) \_\_\_\_\_

Topic \_\_\_\_\_

Amendment Barcode (if applicable) \_\_\_\_\_

Name JESS McCARTY

Job Title \_\_\_\_\_

Address 111 NW 1<sup>st</sup> St 2810

Phone 305-979-7110

Street MIAMI 33128

Email JMM2@MIAMIDADE.GOV

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing MIAMI-DADE COUNTY

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

2/7/2017  
Meeting Date

SB90  
Bill Number (if applicable)

Topic Solar

Amendment Barcode (if applicable)

Name Charles Hinson

Job Title VP Govt Relations

Address 2520 Chamberlin Dr

Phone 508-0758

Tallahassee FL 32308  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing TECO Energy

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

2.7.17

90

*Meeting Date*

*Bill Number (if applicable)*

Topic Renewable Energy Source Devices

*Amendment Barcode (if applicable)*

Name Greg Black

Job Title Attorney

Address 119 S. Monroe Street, Suite 200

Phone 8502059000

*Street*

Tallahassee

FL

32301

Email greg.black@mhdfirm.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Vote Solar/SEIA

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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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/7/17  
Meeting Date

SB 90  
Bill Number (if applicable)

Topic Renewable Energy Source Devices

Amendment Barcode (if applicable)

Name Shawn Foster

Job Title Lobbyist

Address 5957 Riviera Lane  
Street

Phone 727-808-4131

New Port Richey, FL 34655  
City State Zip

Email foster@scgroup.us

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Carolina Energy

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

W

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

2/7/17  
Meeting Date

SR 90  
Bill Number (if applicable)

Topic Renewable Energy Source Devices

Amendment Barcode (if applicable)

Name Jane Jordan

Job Title \_\_\_\_\_

Address 2932 Parrish Dr  
Street  
Tallahassee FL 32309  
City State Zip

Phone 850.591.2729

Email samsamcd84@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing League of Women Voters of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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W

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/7/14

Meeting Date

Topic Amendment 4 Implementation

Bill Number SB 90  
*(if applicable)*

Name Gerrit Van Lent

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Legislative Policy Coordinator

Address 919 Old Balmbridge rd

Phone 305-393-3465

Street

Jalisco FL 32301

City

State

Zip

E-mail gerrit@rethinkenergyflorida.org

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.*

W

THE FLORIDA SENATE  
APPEARANCE RECORD

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

2/7/17  
Meeting Date

90  
Bill Number (if applicable)

Topic RENEWABLE ENERGY SOURCE Dev Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title \_\_\_\_\_

Address 1674 UNIVERSITY PKWY # 296

Phone 941-323-2404

SARASOTA FL 34243  
City State Zip

Email cullenasp@aol.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing SIERRA CLUB FLORIDA

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.

**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.)

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

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BILL: SB 144

INTRODUCER: Senator Garcia

SUBJECT: Use of Wireless Communications Devices While Driving

DATE: February 6, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	<b>Pre-meeting</b>
2.			TR	
3.			ATD	
4.			AP	

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**I. Summary:**

SB 144 amends s. 316.305, F.S., to authorize enforcement of the ban on texting while driving as a primary offense when an operator of a motor vehicle is 18 years of age or younger. It also requires that all penalties collected for a violation of the ban be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health.

The bill takes effect July 1, 2017.

**II. Present Situation:**

**Florida Ban on Texting While Driving Law**

Section 316.305, F.S., is the “Florida Ban on Texting While Driving Law.” It bans a person from operating a motor vehicle while using a wireless communications device<sup>1</sup> in specified ways. Enforcement is permitted only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of chapter 316, chapter 320, or chapter 322, F.S.

More specifically, the statute bans operation of a motor vehicle either while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on such a device for the purpose of non-voice

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<sup>1</sup> The statute defines the term “wireless communications device” to mean any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15, F.S., and that allows text communications.

interpersonal communication.<sup>2</sup> The ban does not apply to a stationary motor vehicle or to a motor vehicle operator who is:

- Performing official duties as an operator of an authorized emergency vehicle,<sup>3</sup> a law enforcement or fire service professional, or an emergency medical services professional.
- Reporting an emergency or criminal or suspicious activity to law enforcement authorities.
- Receiving messages that are: related to the operation or navigation of the motor vehicle; safety-related information, including emergency, traffic, or weather alerts; data used primarily by the motor vehicle; or radio broadcasts.
- Using a device or system for navigation purposes.
- Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.
- Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.
- Operating an autonomous vehicle in autonomous mode.

Any person who violates the ban commits a noncriminal traffic infraction. A first violation is punishable as a nonmoving violation, and a second or subsequent violation within 5 years after the date of a prior conviction is punishable as a moving violation.

A user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages are admissible as evidence in any proceeding to determine whether a violation of the ban has been committed only in the event of a crash resulting in death or personal injury.

### **Traffic Infraction Civil Penalties**

Section 318.18, F.S., provides for penalties for traffic infractions and establishes a penalty of \$30 for a nonmoving traffic violation and \$60 for a moving violation.

Section 318.21, F.S., requires that all traffic infraction civil penalties be paid monthly as follows:

- One dollar from every civil penalty shall be remitted to the Department of Revenue for deposit into the Child Welfare Training Trust Fund for child welfare training purposes.
- One dollar from every civil penalty shall be remitted to the Department of Revenue for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes.
- Of the remainder:
  - Fifty-six and four-tenths percent: shall be divided if the violation occurred within a municipality, with 50.8 percent paid to that municipality and 5.6 percent deposited into the fine and forfeiture trust fund for use by the clerk of the circuit court in performing court-related functions; shall be deposited into the fine and forfeiture fund for use by the clerk of the circuit court in performing court-related functions if the violation occurred

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<sup>2</sup> This includes but is not limited to texting, e-mailing, and instant messaging.

<sup>3</sup> The term "authorized emergency vehicle" is defined in s. 322.01(4), F.S., to mean a vehicle that is equipped with extraordinary audible and visual warning devices, that is authorized to display red or blue lights, and that is on call to respond to emergencies. The term includes, but is not limited to, ambulances, law enforcement vehicles, fire trucks, and other rescue vehicles; it does not include wreckers, utility trucks, or other vehicles that are used only incidentally for emergency purposes.

within the unincorporated area of a county; or shall be paid to a special improvement district of the Seminole Indian Tribe or Miccosukee Indian Tribe if the violation occurred there.

- Twenty and six-tenths percent shall be remitted to the Department of Revenue for deposit into the General Revenue Fund of the state, except that the first \$300,000 shall be deposited into the Grants and Donations Trust Fund in the Justice Administrative Commission for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels in a constitutional charter county.
- Seven and two-tenths percent shall be remitted to the Department of Revenue for deposit in the Emergency Medical Services Trust Fund.
- Five and one-tenth percent shall be remitted to the Department of Revenue for deposit in the Additional Court Cost Clearing Trust Fund for criminal justice purposes.
- Eight and two-tenths percent shall be remitted to the Department of Revenue for deposit in the Brain and Spinal Cord Injury Program Trust Fund.
- Two percent shall be remitted to the Department of Revenue and transmitted monthly to the Florida Endowment Foundation for Vocational Rehabilitation.
- Five-tenths percent shall be paid to the clerk of the court for administrative costs.

### **III. Effect of Proposed Changes:**

The bill authorizes enforcement of the ban as a primary offense when an operator of a motor vehicle is 18 years of age or younger.

It also requires that all penalties collected for a violation of the ban on texting while driving be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health. Currently, only seven and two-tenths percent of the penalties is deposited in this fund pursuant to s. 318.21, F.S.

The bill takes effect July 1, 2017.

### **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:**

None.

**B. Private Sector Impact:**

Operators of motor vehicles who are 18 years of age or younger will have increased likelihood of being cited for a violation of the ban on texting while driving, with increased likelihood of resulting penalties.

**C. Government Sector Impact:**

To the extent that the authorization to enforce violations as a primary offense results in an increase in penalties, the Emergency Medical Services Trust Fund of the Department of Health will receive a far greater percentage of those penalties, and the other current recipients will no longer receive any of these funds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 316.305 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 Garcia

36-00316-17

2017144\_\_

1                           A bill to be entitled  
2           An act relating to the use of wireless communications  
3           devices while driving; amending s. 316.305, F.S.;  
4           providing for primary enforcement of the Florida Ban  
5           on Texting While Driving Law for drivers age 18 or  
6           younger; requiring deposit of fines into the Emergency  
7           Medical Services Trust Fund; providing an effective  
8           date.

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

11  
12           Section 1. Paragraph (d) of subsection (2) and subsection  
13           (5) of section 316.305, Florida Statutes, are amended, and  
14           subsection (6) is added to that section, to read:

15           316.305 Wireless communications devices; prohibition.—

16           (2) It is the intent of the Legislature to:

17           (d) Authorize law enforcement officers to stop motor  
18           vehicles and issue citations ~~as a secondary offense~~ to persons  
19           who are texting while driving.

20           (5) Enforcement of this section by state or local law  
21           enforcement agencies may be accomplished as a primary action  
22           when an operator of a motor vehicle is 18 years of age or  
23           younger. Otherwise, such enforcement must be accomplished only  
24           as a secondary action when an operator of a motor vehicle has  
25           been detained for a suspected violation of another provision of  
26           this chapter, chapter 320, or chapter 322.

27           (6) Notwithstanding s. 318.21, all proceeds collected  
28           pursuant to s. 318.18 for a violation of this section shall be  
29           remitted to the Department of Revenue for deposit into the  
30           Emergency Medical Services Trust Fund of the Department of  
31           Health.

32           Section 2. This act shall take effect July 1, 2017.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Subcommittee on Finance and Tax  
Appropriations Subcommittee on General Government  
Children, Families, and Elder Affairs  
Communications, Energy, and Public Utilities  
Community Affairs

### JOINT COMMITTEE:

Joint Administrative Procedures Committee

**SENATOR DAPHNE CAMPBELL**

38th District

February 6, 2017

Senator Frank Artiles, Chairman  
Committee on Communications, Energy, and Public Utilities  
Room 308 Senate Office Building  
404 South Monroe Street  
Tallahassee, Florida 32399-1100

Dear Chairman Artiles:

This letter is to request that I be excused from the Committee on Communications, Energy, and Public Utilities scheduled to meet on Tuesday, February 7, 2017. President-elect, Jovenel Moïse of the Republic of Haiti personally invited me to attend his Inauguration events this week.

Your consideration of this request would be very much appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Daphne Campbell".

Senator Daphne Campbell, District 38

cc: Diana Caldwell, Staff Director ✓

### REPLY TO:

☐ 218 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**

Agriculture, *Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Communications, Energy, and Public Utilities  
Community Affairs  
Regulated Industries

**JOINT COMMITTEE:**

Joint Administrative Procedures Committee

**SENATOR KEITH PERRY**

8th District

February 6, 2017

Dear Chair Artiles,

Unfortunately, I will not be able to attend the Communications, Energy, and Public Utilities Committee Meeting on Wednesday, February 8, at 2:00PM due to a funeral procession in my district. If you could please excuse my attendance that would be greatly appreciated.

Should you have any questions please feel free to contact me at any time.

Thank you in advance for your time and understanding.

Best regards,

A handwritten signature in black ink that reads "Keith Perry".

Senator Keith Perry  
District 8

REPLY TO:

- 4650 NW 39th Place, Suite C, Gainesville, Florida 32606 (352) 264-4040
- 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5008

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore

# CourtSmart Tag Report

**Room:** SB 301  
**Caption:** Senate Communications, Energy, and Public Utilities

**Case No.:**

**Type:**  
**Judge:**

**Started:** 2/7/2017 2:01:12 PM

**Ends:** 2/7/2017 2:08:24 PM **Length:** 00:07:13

<b>2:01:14 PM</b>	Roll Call
<b>2:02:10 PM</b>	SB 144 by Sen. Garcia - Use of Wireless Communication Devices While Driving is Temporarily Postponed
<b>2:02:24 PM</b>	SB 90 by Sen. Brandes - Renewable Energy Source Devices
<b>2:02:58 PM</b>	Question - Sen. Clemens
<b>2:03:35 PM</b>	Response - Sen. Brandes
<b>2:03:52 PM</b>	Question - Sen. Montford
<b>2:04:00 PM</b>	Response - Sen. Brandes
<b>2:05:40 PM</b>	Appearance Cards
<b>2:06:21 PM</b>	Mandy Hines - Desoto County
<b>2:07:05 PM</b>	Laura Youmans - Florida Association of Counties
<b>2:07:48 PM</b>	Roll Call Vote for SB 90
<b>2:08:06 PM</b>	SB 90 - Favorable
<b>2:08:12 PM</b>	Move to Adjourn