

**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 Finance and Tax Committee

**BILL:** CS/SB 2454

**INTRODUCER:** Finance and Tax Committee and Senator Altman

**SUBJECT:** Implementation of Changes to the State Constitution

**DATE:** April 20, 2009                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	McKee	FT	<b>Fav/CS</b>
2.			CM	
3.			GA	
4.			WPSC	
5.			RC	
6.				

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

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:

- (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The amendment also repealed then-existing constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on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.

This committee substitute implements the constitutional amendment. Specifically, it defines “changes or improvements made for the purpose of improving a property’s resistance to wind damage” and “renewable energy source devices” and provides that in determining the assessed value of real property used for residential purposes, the property appraiser may not consider changes or improvements made for the purpose of improving a property’s resistance to wind damage or the installation and operation of a renewable energy source device. The committee substitute specifies that the provision applies to new and existing construction.

The Revenue Estimating Conference has determined that the committee substitute will reduce local government revenues by \$11.1 million in FY 2010-11, increasing to \$28.5 million in FY 2013-14.

This committee substitute substantially amends, ss. 196.012, 196.121, and 196.1995, F.S., and creates 193.624, F.S.

## **II. Present Situation:**

### **Background**

In 1980, the following language became Section 3(d), Article VII, of 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, 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 is installed and is being operated. However, the exemption expired after 10 years, as provided in the constitution. 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 options for calculating the amount of the exemption for properties with renewable energy source devices by limiting the exemption to the amount of the original

cost of the device, including the installation cost, but not including the cost of replacing previously existing property.

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:

- (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) Any change or improvement made for the purpose of improving the property's resistance to wind damage.
- (3) 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. This repealed language had provided the constitutional basis for the legislation passed in 1980.

### **Property Tax Appraisal**

According to Article VII, s. 4 of the Florida Constitution, all property, with some exceptions, are to be assessed at a just valuation for the purposes of ad valorem taxation. Section 193.011, F.S., lists factors to be taken into consideration when determining just valuation. They include the following:

- (1) The present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;
- (2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;
- (3) The location of said property;
- (4) The quantity or size of said property;
- (5) The cost of said property and the present replacement value of any improvements thereon;

(6) The condition of said property;

(7) The income from said property; and

(8) The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section, the property appraiser, for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments for household furnishings or other items of personal property.

### III. Effect of Proposed Changes:

The committee substitute provides that in determining the assessed value of real property used for residential purposes, for both new and existing construction, the property appraiser may not consider the following:

- Changes or improvements made for the purpose of improving a property's resistance to wind damage, which include any of the following:
  - o Improving the strength of the roof deck attachment.
  - o Creating a secondary water barrier to prevent water intrusion.
  - o Installing hurricane-resistant shingles.
  - o Installing gable-end bracing.
  - o Reinforcing roof-to-wall connections.
  - o Installing storm shutters.
  - o Installing impact-resistant glazing.
  - o Installing hurricane-resistant doors.
  
- The installation and operation of a renewable energy source device, which means any of the following equipment which collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:
  - o Solar energy collectors, photovoltaic modules, and inverters.
  - o Storage tanks and other storage systems, excluding swimming pools used as storage tanks.
  - o Rockbeds.
  - o Thermostats and other control devices.
  - o Heat exchange devices.
  - o Pumps and fans.
  - o Roof ponds.
  - o Freestanding thermal containers.
  - o Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, conventional backup systems of any type are not included in this definition.
  - o Windmills and wind turbines.

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

The committee substitute repeals the existing definition of renewable energy source device in s. 196.012(14), F.S., and repeals the obsolete ad valorem tax exemption in s. 196.175, F.S., that was nullified by passage of the constitutional amendment. Several cross-references are amended.

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

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

The mandates provision appears to apply because this bill reduces the authority that counties or municipalities have to raise revenues in the aggregate. The bill does not appear to qualify for an exemption. Therefore, the bill must have a 2/3rds vote of the membership of each house.

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

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

This committee substitute has the potential to reduce property taxes levied on residential property that has been changed or improved for the purpose of improving the property's resistance to wind damage or in which a renewable energy source device has been installed.

##### **B. Private Sector Impact:**

This provision may create an incentive for an owner of residential property to construct or strengthen property to resist wind damage or to install and operate a renewable energy source device. Changes or improvements made for the purpose of improving a property's resistance to wind damage may result in lower insurance rates and installation and operation of a renewable energy source device may lower energy costs.

C. **Government Sector Impact:**

The Revenue Estimating Conference has determined that the bill will reduce local government revenues by \$11.1 million in FY 2010-11, and the loss will increase to \$28.5 million in FY 2013-14.

VI. **Technical Deficiencies:**

The bill's effective date is July 1, 2009, but it does not say to what year's assessments it applies.

VII. **Related Issues:**

None.

VIII. **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 April 20, 2009:**

This committee substitute implements Constitutional Amendment 3, approved by the voters in November 2008. Specifically, it defines “changes or improvements made for the purpose of improving a property’s resistance to wind damage” and “renewable energy source devices” and provides that in determining the assessed value of real property used for residential purposes, the property appraiser may not consider changes or improvements made for the purpose of improving a property’s resistance to wind damage or the installation and operation of a renewable energy source device. The committee substitute specifies that the provision applies to new and existing construction.

B. **Amendments:**

None.