

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7113 PCB EUP 09-01 Assessment of Residential Property

SPONSOR(S): Finance & Tax Council; Energy & Utilities Policy Committee; Kreegel

TIED BILLS: None. IDEN./SIM. BILLS: None.

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Rows include Orig. Comm., 1) Finance & Tax Council, 2), 3), 4), 5).

SUMMARY ANALYSIS

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The amendment also repealed then-existing constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on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

The bill implements the constitutional amendment. Specifically, the bill 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 bill specifies that the provision applies to new and existing construction.

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

The bill has an effective date of July 1, 2009, and shall first apply to assessments on January 1, 2010.

This bill may be a Mandate requiring a 2/3ds vote of the membership. See Mandates section of the analysis.

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:

Background

In 1980, the following language became Section 3(d), Article VII, of the Florida Constitution:¹

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 device² 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

¹ Through SJR 15-E.

² Section 196.012(14), F.S., 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.

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.

Effect of Proposed Changes

The bill 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:
 - Improving the strength of the roof deck attachment.
 - Creating a secondary water barrier to prevent water intrusion.
 - Installing hurricane-resistant shingles.
 - Installing gable-end bracing.
 - Reinforcing roof-to-wall connections.
 - Installing storm shutters.
 - Installing impact-resistant glazing.
 - 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:
 - 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, conventional backup systems of any type are not included in this definition.
 - Windmills and wind turbines.
 - Wind-driven generators.
 - Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy.
 - Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

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

B. SECTION DIRECTORY:

Section 1. Creates s. 193.624, F.S., relating to definitions and assessment of residential property.

Section 2. Amends s. 196.012, F.S., deleting the definition of renewable energy source device.

Section 3. Amends s. 196.121, F.S., amending cross-references.

Section 4. Amends s. 196.1995, F.S., amending cross-references.

Section 5. Repeals s. 196.175, F.S., relating to the renewable energy source device property tax exemption.

Section 6. Provides an effective date of July 1, 2009, and first applies to assessments on January 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

3. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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 2/3ds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 15, 2009, the Finance and Tax Council adopted an amendment to the effective date of the bill to provide that the act shall first apply to assessments on January 1, 2010.