

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: SPB 7020

INTRODUCER: For consideration by the Finance and Tax Committee

SUBJECT: Assessment of Residential Property

DATE: January 19, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	McKee		Pre-meeting
2.				
3.				
4.				
5.				
6.				

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 of the Florida Constitution:

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The amendment also repealed then-existing constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on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

This proposed bill implements the renewable energy portion of the constitutional amendment. Specifically, it defines "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 the installation and operation of a renewable energy source device. The bill specifies that the provision applies to new and existing construction.

This proposed bill substantially amends, ss. 196.012, 196.121, and 196.1995, F.S., creates 193.624, F.S., and repeals s. 196.175, 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. Each exemption expired after 10 years, as provided in the constitution, and the legislation also provided for the expiration of the the exemption statute in 10 years. 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, ch. 2008-227, L.O.F., (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 allowing an exemption equal to the amount of the original cost of the device, including the installation cost, but not including the cost of replacing previously existing property.

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 - (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 and reenacted in 2008.

Property Tax Appraisal

According to Article VII, s. 4 of the Florida Constitution, all property, with some exceptions, is 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 proposed 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 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 proposed bill repeals the existing definition of renewable energy source device in s. 196.012(14), F.S., and repeals the ad valorem tax exemption in s. 196.175, F.S., constitutional authority for which removed by passage of the constitutional amendment. Several cross-references are amended.

The property tax assessment non-consideration created by this proposed bill differs significantly from the exemption for renewable energy source devices that is repealed.

- The assessment non-consideration applies only to property used for residential purposes, while the exemption applies to all real property.
- The effect of assessment non-consideration on a parcel's taxable value is uncertain, because one cannot predict how much the installation and operation of a renewable energy device would otherwise increase fair market value. It is often the case that improvements to real property do not increase the property's market value by the cost of the improvement. The exemption, on the other hand, is equal to the amount of the original cost of the device, including the installation cost, but not including the cost of replacing previously existing property.
- Each exemption is limited to 10 years, while the assessment non-consideration has no time limit.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

This proposed bill may reduce the authority that counties or municipalities have to raise revenues in the aggregate. Since the enactment of a bill to implement this constitutional provision is at the discretion of the Legislature, the mandates provision under Section 18(b) of Art. VII of the State Constitution would apply if the bill is determined to reduce local revenue-raising authority significantly. In that case, the bill would have to be approved by a 2/3ds 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:**

The Revenue Estimating conference has not determined the impact of this bill. In 2008, the recurring impact ch. 2008-227, L.O.F., of was estimated to be -\$3.8 million, beginning in fiscal year 2010-11.

B. Private Sector Impact:

This proposed bill may encourage owners and builders of residential property to add renewable energy resource devices since such devices will not increase the assessed value of the property. Repeal of the existing exemption for renewable energy devices may discourage the installation of such devices by owners of non-residential property.

C. Government Sector Impact:

The impact of this proposed bill on local governments is indeterminate, since potential revenue losses from non-consideration of renewable energy source devices for residential property will be offset to some extent by the repeal of s. 196.175, F.S., which applies an exemption for such devices.

VI. Technical Deficiencies:

None.

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.)

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.
