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 Community Affairs Committee

BILL:	SB 156
INTRODUCER:	Senator Latvala
SUBJECT:	Assessment of Residential and Nonhomestead Real Property
DATE:	September 16, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Pre-meeting**
2.			CU	
3.			BC	
4.				
5.				
6.				

I. Summary:

In the November 2008 General Election, Florida voters approved a constitutional amendment placed on the ballot by the Taxation and Budget Reform Commission. This 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.[1]

The amendment also repealed then-existing constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on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 bill implements the 2008 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." The bill provides that, in determining the assessed value of real property used for residential purposes, the property appraiser may not consider the just value of 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

[1] FLA. CONST. art. VII, s. 4.

specifies that these provisions apply to both new and existing construction used for residential purposes.

In addition, the bill addresses how changes made to the assessed value of a parcel via an informal conference with a property appraiser are reviewed. The bill also clarifies the meaning of "placed on the tax roll" and "combining and dividing parcels" as they relate to the 10 percent limitation on assessed value of nonhomestead property resulting from a reassessment.

This bill may require a two-thirds vote of the membership of each house of the Legislature for passage.

The bill substantially amends the following sections of the Florida Statutes: 193.114, 193.155, 193.1554, 193.1555, 196.012, 196.121, and 196.1995.

This bill creates section 193.624, F.S., and repeals section 196.175, F.S.

II. Present Situation:

Property Tax Assessments

Article VII, section 4 of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.[2] Section 193.011, F.S., requires property appraisers to consider eight factors in determining the property's just valuation.[3]

Exceptions to the just valuation requirement exist for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes. Each of these property categories may be assessed solely on the basis of their character or use.[4] Tangible personal property that is held as inventory may be assessed at a specified percentage of its value or may be totally exempted.[5] The State Constitution also limits the amount by which the assessed value may increase in a given year for certain classes of property.[6]

Article VII, sections 3 and 6 of the Florida Constitution permit a number of ad valorem tax exemptions. These include exemptions for homesteads and for charitable, religious, or literary properties, as well as tax limitations under the Save Our Homes provisions. After calculating the assessed value of the property, the appraiser subtracts the value of any applicable exemptions to determine the property's taxable value.

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[2] *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).
[3] *See* s. 193.011(5), F.S.
[4] FLA. CONST. art. VII, s. 4.
[5] Section 196.185, F.S.
[6] *See* FLA. CONST. art. VII, s. 4(d) and (g) (stating that the assessed value of homestead property may not increase over the prior year's assessment more than 3 percent or the percentage change in the Consumer Price Index, and levies for non-school tax purposes, the assessment of residential real property and non-residential real property may not increase more than 10 percent over the prior year.).

Objections to Assessments: Informal Conferences

Florida property owners who disagree with the taxable value of their property have the right to appeal via s. 194.011(2), F.S., by:

- asking for an informal conference with the county property appraiser,
- filing a petition with the local Value Adjustment Board, or
- filing a lawsuit in circuit court.

A request for an informal conference is not a prerequisite to administrative or judicial review of property assessments. The informal conference process is outlined as follows:

> Upon receiving the request, the property appraiser, or a member of his or her staff, shall confer with the taxpayer regarding the correctness of the assessment. At this informal conference, the taxpayer shall present those facts considered by the taxpayer to be supportive of the taxpayer's claim for a change in the assessment of the property appraiser. The property appraiser or his or her representative at this conference shall present those facts considered by the property appraiser to be supportive of the correctness of the assessment. However, nothing herein shall be construed to be a prerequisite to administrative or judicial review of property assessments.[7]

Should an assessment revision occur as a result of an informal conference, s. 193.114(4), F.S., provides that the changes made to the assessed or taxable value of a parcel on the tax roll must be documented by the property appraiser in a manner acceptable by the Department of Revenue (DOR).

Based on reporting from the 2010 final tax roll, the DOR estimates that approximately 250,000 to 260,000 informal changes are made annually by property appraisers as a result of informal conferences.[8] DOR does not currently perform reviews of individual parcels or reviews of changes to the taxable assessed value of an individual parcel to settle a question of whether the change complies with the law.[9]

Review of Late-Filed Property Exemption Applications

Section 196.011(1), F.S., requires every person or organization with legal title to real or personal property entitled to an exemption from taxation to file an application for the exemption with the county property appraiser on or before March 1 of each year.[10] Any applicant who is qualified to receive a property tax exemption and who fails to file an application by March 1 must file an application with the county property appraiser no later than 25 days after the property appraiser mails the Truth in Millage (TRIM) notice. The applicant must show that she or he was unable to

[7] Section 194.011(2), F.S.
[8] Department of Revenue, *Senate Bill 156 Bill Analysis* (Sep. 20, 2011) (on file with the Senate Committee on Community Affairs).
[9] *Id.*
[10] Section 196.011(1), F.S.

timely apply for the exemption due to extenuating circumstances, at which point the property appraiser has the discretion to grant the exemption.[11]

If the applicant is unable to show extenuating circumstances for his or her untimely application, as judged by the property appraiser, s. 196.011(8), F.S., allows the applicant to file a petition with the Value Adjustment Board (VAB), requesting that the exemption be granted. The petition must be filed no later than 25 days after the property appraiser mails the Truth in Millage notice, and the applicant must pay a nonrefundable $15 fee upon filing the petition. If the VAB determines that the person is qualified to receive the exemption, and demonstrates extenuating circumstances to warrant granting the petition, then the VAB may grant the property tax exemption for the current year.[12]

Assessment of Nonhomestead Residential and certain Residential and Nonresidential Property

Florida Amendment One, passed by Florida voters in 2008, amended the Save Our Homes property tax cap by, among other things, creating a 10 percent annual cap on nonhomestead property.[13] The assessment of nonhomestead residential property and certain residential and nonresidential property is addressed in sections 193.1554 and 193.1555, F.S., respectively. These sections include provisions for placing property on the tax roll and how combining and dividing a parcel affects just value assessments.

Placed on the Tax Roll

Subsections 193.1554 (2) and (3), F.S., govern nonhomestead residential property placement on tax rolls, requirements for annual reassessments and limits on the amounts that assessed values may increase as a result of reassessments.

> (2) For all levies other than school district levies, nonhomestead residential property shall be assessed at just value as of January 1, 2008. Property placed on the tax roll after January 1, 2008, shall be assessed at just value as of January 1 of the year in which the property is placed on the tax roll.
> (3) Beginning in 2009, or the year following the year the property is placed on the tax roll, whichever is later, the property shall be reassessed annually on January 1. Any change resulting from such reassessment may not exceed 10 percent of the assessed value of the property for the prior year.[14]

Subsections 193.1555(2) and (3), F.S., apply these same nonhomestead residential parameters to certain residential and nonresidential real property.

The Department of Revenue has interpreted "placed on the tax roll" as meaning "became eligible for the 10 percent assessment increase limitation."[15] In December 2010, the Ninth Judicial

[11] Section 196.011(8), F.S.
[12] *Id.*
[13] *See* FLA. CONST. art. VII, s. 4(d) and (g).
[14] Section 193.1554(2) and (3), F.S.
[15] Department of Revenue, *Senate Bill 156 Bill Analysis* (Sep. 20, 2011) (on file with the Senate Committee on Community Affairs).

Circuit Court in Orange County decided a case where, as of January 1, 2008, a property owner owned and resided in a property as their homestead.[16] During 2008, the property owner vacated the property, yet retained ownership of it. As of January 1, 2009, the Orange County Property Appraiser reclassified the property as nonhomestead residential and reassessed the property at full market value. The court found that the 10 percent assessment cap on nonhomestead property applied in this instance to the *previous* assessment *without a reassessment* at just value.

Combining or Dividing Parcels

Subsection 193.1554(7) governs how nonhomestead residential property is assessed when parcels are merged or split.

> (7) Any increase in the value of property assessed under this section which is attributable to combining or dividing parcels shall be assessed at just value, and the just value shall be apportioned among the parcels created.[17]

Subsection 193.1555(7) applies the same nonhomestead residential consideration to certain residential and nonresidential real property.

Based on the language in s. 193.1554(7), F.S. and s. 193.1555(7), F.S., the DOR has held that parcels created by combining and dividing parcels do not lose their eligibility for the 10 percent assessment increase limitation.[18]

Early Efforts at Renewable Energy Source Incentives

Property tax incentives for renewable energy in Florida date back over 30 years. In 1980, Florida voters added the following ad valorem tax exemption authorization to article VII, section 3(d) 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, for the period of time fixed by general law not to exceed ten years.[19]

During that same year, the Legislature enacted s. 196.175, F.S. to implement the constitutional amendment.[20] The legislation limited the ad valorem exemption to the lesser of:

- The assessed value of the property less any other exemptions applicable under the chapter;

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[16] *Sommers & Sommers v. Orange County Prop. Appraiser & Orange County Tax Collector,* Case No. 2010-CA-012489-O (Fla. 9th Jud. Cir. 2010) *pending appeal,* Case No. 5D11-240 (Fla. 5th DCA).
[17] Section 193.1554(7), F.S.
[18] Department of Revenue, *Senate Bill 156 Bill Analysis* (Sep. 20, 2011) (on file with the Senate Committee on Community Affairs).
[19] FLA. CONST. art. VII, s. 3.
[20] Section 196.175, F.S.

- 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.

The statute granting the exemption mirrored the 10-year time limit in the constitution. Specifically, the exemption period authorized was from January 1, 1980, through December 31, 1990. Therefore, any exemptions granted in December 1990 became, 10 years later in December 2000, the last exemptions to expire. At this point, the statute was rendered inoperative and article VII, section 3(d) of the Florida Constitution unimplemented.

2008: Legislative Action and Constitutional Amendment 3

On April 30, 2008, the Legislature enacted ch. 2008-227, Laws of Florida, (HB 7135) to remove the expiration date of the property tax exemption for renewable energy source devices. This allowed property owners to again apply for the exemption effective January 1, 2009, and once more bounded it by a 10-year life span. The bill also revised the means for calculating the exemption limit. The exemption was longer capped at 8 percent of assessed value. Instead it was limited to the original cost of the renewable energy device, including the installation cost, but excluding the cost of replacing previously existing property.[21]

In November 2008, Florida voters approved the following constitutional amendment placed on the ballot by the Florida Tax and Budget Reform Commission (TBRC):

> (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.[22]

The amendment was permissive and therefore did not require the Legislature to enact implementing legislation. The 2008 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. Although the constitutional provisions granting the ad valorem tax exemptions were repealed in 2008, the implementing language is still part of the Florida Statues.[23]

Since then, bills have been introduced to implement the renewable energy source device changes made to the constitution; however, no legislation has passed.[24] Currently, there are no statutory provisions in place to execute the constitutional provisions passed by Florida voters in 2008.

[21] Section 196.175, F.S.
[22] FLA. CONST. art. VII, s. 4.
[23] In 2010, the Florida House of Representatives filed HB 7005 repealing the obsolete language in ss. 196.175 and 196.12(14), F.S. This legislation passed the House on March 10, 2010, but died in messages.
[24] During the 2009 Regular Session, SB 2454 and HB 7113 were filed; in 2010, SB 1164, HB 151, SB 1410, and SPB 7020; in 2011 SB 434, SB 732 and HB 531. CS/CS/HB 531 passed the House but died in messages.

Wind Resistance Incentives

Florida Statutes currently do not provide property tax incentives for changes or improvements that seek to improve a structure's ability to withstand wind damage, as permitted by the 2008 Constitutional Amendment.[25] Legislation was filed during the 2009, 2010 and 2011 Regular Sessions to implement the changes made to the constitution in 2008 with respect to improvements in a property's resistance to wind damage; however, no legislation was passed.[26]

Hurricane Mitigation Discounts and Premium Credits

Section 627.0629(1), F.S., requires insurers to provide premium credits or discounts "to consumers who install or implement windstorm damage mitigation techniques, alterations, or solutions to their properties to prevent windstorm losses." To facilitate insurer compliance with the windstorm mitigation discounts required by statute, the Department of Community Affairs (now the Department of Economic Opportunity), in cooperation with the Department of Insurance, contracted with Applied Research Associates, Inc., for a public domain study to provide insurers data and information on estimated loss reduction for wind resistive building features in single-family residences. The study, titled *Development of Loss Relativities for Wind Resistive Features of Residential Structures,* was completed in 2002. The study's mathematical results, termed "wind loss relativities," were the basis for calculating the specific mitigation discount amount on the wind premium for mitigation features contained by the property.[27]

Mitigation discounts were initially given at 50 percent of the actuarial value of the discount.[28] In 2006, the Legislature amended s. 627.0629(1)(a), F.S., to require the Office of Insurance Regulation (OIR) to reevaluate the mitigation discounts and require insurers to give full actuarial value for them.[29] Thereafter, the OIR amended the mitigation discount administrative rule to require insurers to provide mitigation discounts in an amount equal to 100 percent of the mitigation discount amount as determined by the loss relativities in the 2002 study done by Applied Research Associates, Inc.[30] In 2008, the OIR obtained a new study evaluating the appropriate mitigation discount amounts; however, the OIR has not changed the mitigation discount amounts or mitigation discount administrative rule due to the results of the 2008 study.

Policyholders are typically responsible for substantiating the existence of loss mitigation features that qualify for a mitigation discount to their insurers. In 2007, the Financial Services

[25] FLA. CONST. art. VII, s. 4(i)(1).

[26] During the 2009 Regular Session, SB 2454 and HB 7113 were filed; in 2010, SB 1164, HB 151, SB 1380, and SPB 7022; in 2011 SB 434, SB 732 and HB 531. CS/CS/HB 531 passed the House but died in messages.

[27] The relativities applied only to the portion of a policy's wind premium associated with the dwelling, its contents, and loss of use.

[28] In an Informational Memorandum, issued on January 23, 2003, the Office of Insurance notified insurance companies of its suggested mitigation credits for new and existing construction based on its analysis of a 2002 study completed by Applied Research Associates. However, the OIR tempered the mitigation credits derived from the study by 50 percent. As stated by the OIR in the memorandum, the 50 percent tempering of the credits was due to the large rate decreases that could result from application of the credits, the approximations needed to produce practical results, and the potential for differences in results using different hurricane models. The OIR cautioned in the memorandum that the tempering implemented would be curtailed in the future.

[29] Section 14, Chapter 2006-12, L.O.F.

[30] The rule allowed insurance companies to modify the mitigation discounts if the insurer provided detailed alternate studies supporting the modification and allowed the OIR to review all assumptions used in the studies supporting the modification. To date, no insurer has used an alternate wind mitigation discount study to set mitigation discounts.

Commission adopted a uniform mitigation verification form to be used by all insurers to corroborate a property's mitigation features. An updated form was approved by the Financial Services Commission on March 9, 2010. The mitigation verification form must be signed by one of the following:

- a hurricane mitigation inspector certified by the My Safe Florida Home Program;
- a building code inspector;
- a general, building, or residential contractor;
- a professional engineer meeting specified criteria;
- a professional architect; or
- any other individual or entity acceptable to the insurance company.

A form that is certified by the Department of Financial Services must also be accepted by the insurer.

2009 Senate Interim Report

In 2009, the Senate Committee on Finance and Tax issued an interim report evaluating the 2008 Constitutional Amendment.[31] The report reviewed proposed legislation that was filed during the 2009 Regular Session to implement the constitutional amendment. It also discussed property tax incentives that are provided in other states for installing renewable energy equipment or improving disaster resistance.[32]

According to the interim report, the following states have enacted property tax incentives for renewable energy equipment[33]:

- California does not include construction or addition of an active solar energy system as new construction (through 2015-16);
- Colorado has a local option sales or property tax credit or rebate for a residential or commercial property owner who installs a renewable energy fixture on his or her property;
- Connecticut municipalities may exempt the value added by a solar heating or cooling system for 15 years after construction or the value of a renewable energy source installed for electricity for private residential use or the addition of a passive solar hybrid system to a new or existing building;
- Illinois provides for special valuation for realty improvements equipped with solar energy heating or cooling systems;
- Louisiana exempts equipment attached to any owner-occupied residential building or swimming pool as part of a solar energy system;

[31] Comm. on Finance and Tax, The Florida Senate, *Assessment of Renewable Energy Devices and Improvements That Increase Resistance to Wind Damage – Implementation of Constitutional Amendment Approved in November 2008*, (Interim Report 2010-116) (Oct. 2009).
[32] *Id. citing State Tax Guide Volume 2*, Commerce Clearing House (Chicago, IL).
[33] This list does not include incentives for public utilities.

- Maryland exempts solar energy property, defined as equipment installed to use solar energy to heat or cool a structure, generate electricity, or provide hot water for use in the structure;
- Massachusetts provides a 20-year exemption for solar or wind-powered devices used to heat or supply energy for taxable property;
- Minnesota exempts solar panels used to produce or store electricity;
- Nevada exempts the value added by a solar energy system or facility for production of electricity from recycled material or wind or geothermal devices;
- New Hampshire municipalities may exempt, with voter approval, realty with wind, solar, or wood-heating energy systems;
- New York provides a 15-year exemption for realty containing solar or wind energy systems constructed before January 1, 2011, but only to the extent of any increase in value due to the system;
- North Carolina exempts up to 80 percent of the appraised value of a solar energy electric system. Buildings equipped with solar heating or cooling systems are assessed as if they had conventional systems;
- North Dakota exempts solar, wind, and geothermal energy systems in locally assessed property;
- South Dakota provides property tax credits for a commercial or residential property owner who attaches or includes a renewable energy resource system, valued at no less than the cost of the system for residential property and 50 percent of the cost for commercial property. The credit applies for 6 years, decreasing in value for the last 3 years, and it may not be transferred to a new owner;
- Texas exempts the value of assessed property arising from the construction or installation of any solar or wind-powered energy device on the property primarily for onsite use;
- Virginia allows a local option exemption or partial exemption for solar energy equipment; and
- Wisconsin exempts solar and wind energy systems.[34]

Although the interim report noted that tax incentives for improvements relating to disaster preparedness are less common, the report articulated that the following states have enacted property tax incentives for improvements dealing with disaster preparedness:

- California does not consider the construction or installation of seismic retrofitting improvements or earthquake hazard mitigation technology in existing buildings as new construction, contingent upon the property owner filing required documents; California also provides that improvement or installation of a fire sprinkler system may not trigger a property tax increase;
- Oklahoma exempts a qualified storm shelter (tornado protection) that is installed or added as an improvement to real property; and
- Washington exempts the increase in value attributable to the installation of automatic sprinkler systems in nightclubs installed by December 31, 2009.[35]

[34] Comm. on Finance and Tax, *supra* note 21, at 4.
[35] *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 193.114(4) F.S., to limit the review of changes in the assessed value of real property resulting from an informal conference with the taxpayer to a review by the Department of Revenue.

Section 2 creates s. 193.624, F.S., to provide that, when determining the assessed value of real property used for residential purposes for both new and existing construction, the property appraiser may not consider the just value of the following:

- Changes or improvements made for the purpose of improving a property's resistance to wind damage, which may include any of the following:
  - Improving the strength of the roof-deck attachment;
  - Creating a secondary water barrier to prevent water intrusion;
  - Installing wind-resistant shingles;
  - Installing gable-end bracing;
  - Reinforcing roof-to-wall connections;
  - Installing storm shutters; or
  - Installing opening protections.

- The installation and operation of a renewable energy source device, which means 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, 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; or
  - Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

The section provides that a parcel of residential property may not be assessed pursuant to this section unless an application is filed on or before March 1 of the first year the property owner claims the assessment reduction for renewable energy source devices or changes or improvements made for the purpose of improving the property's resistance to wind damage.

The section allows the property appraiser to require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish the just value of the renewable energy source devices, or changes or improvements made for the purpose of improving the property's resistance to wind damage.

Consistent with current law, the section provides the opportunity to file a late application with the property appraiser within 25 days following the mailing of the TRIM notice. If the property appraiser denies the exemption, the applicant may file a petition with the VAB, pursuant to s. 194.011(3), F.S. Upon filing the petition, the applicant must pay a non-refundable fee of $15.00. Upon reviewing the petition, if the property is qualified to be assessed under this section and the property owner demonstrates particular extenuating circumstances judged by the property appraiser or the VAB to warrant granting assessment under this section, the property appraiser shall calculate the assessment in accordance with the new section created by this bill (s. 193.624, F.S.).

Section 3 amends cross-references in s. 193.155, F.S., relating to homestead assessments to incorporate changes made within the bill

Section 4 amends s. 193.1554, F.S., to define "placed on the tax roll" as the year any property, as of January1, becomes eligible for assessment under this section and either becomes a nonhomestead property or a property that has been combined or divided.

The section also provides that any property that is combined or divided after January 1 and included as a combined or divided parcel on the tax notice shall receive any current assessment limitation on the newly combined parcel or parcels or have any current assessment limitation apportioned among the newly created parcel or parcels, and the property may not be considered combined or divided for purposes of this section until the following January 1, when the parcel or parcels shall be considered placed on the tax roll as a combined or divided parcel or parcels.

The section deletes language which states that an increase in the value of property which is attributable to combining or dividing parcels shall be assessed at just value and amends cross references to incorporate changes made within the bill.

Section 5 amends s. 193.1555, F.S., in the same manner as **Section 4** amends s. 193.1554, F.S.

Section 6 amends s. 196.012, F.S., to delete the existing definition for renewable energy source devices provided in subsection (14).

Section 7 amends cross-references in s. 196.121, F.S., relating to homestead exemption forms to incorporate changes made within the bill.

Section 8 amends cross-references in s. 196.1995, F.S., relating to economic development ad valorem tax exemptions to incorporate changes made within the bill.

Section 9 repeals the obsolete provisions in s. 196.175, F.S., which implemented the constitutional tax exemption for renewable energy source devices that was removed from the Florida Constitution by the voters in 2008.

Section 10 provides that this act shall take effect on July 1, 2012, and shall apply to assessments beginning January 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18, Art. VII, State Constitution, provides that except upon approval by two-thirds of the members of each house, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989. By reducing the tax base upon which counties and municipalities raise ad valorem revenue, this bill reduces their revenue-raising authority and may require a two-thirds vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

B. Private Sector Impact:

This bill may provide incentives for residential property owners and home builders to add renewable energy source devices to their property or make changes and improvements to increase the property's wind resistance, since such devices and improvements will not increase the assessed value of the property.

C. Government Sector Impact:

The DOR estimated that approximately 250,000-260,000 informal changes are made annually by property appraisers as a result of informal conferences. The Department would annually review a sample of this population based on risk. A 5 percent sample of the population would yield approximately 13,000 parcels to review by DOR staff annually. Based on previous DOR procedural reviews, the Department estimates that 13 FTEs with the skills and experience of an Appraiser II would be needed to complete the reviews. DOR estimates total expenditures of $853,534 in FY12-13 to administer the

reviews, and recurring total expenditures of $803,044 in FY 13-14, FY 14-15 and FY 15-16.[36]

The Revenue Estimating Conference (REC) has not yet determined the fiscal impact of this bill though it is scheduled to do so. For similar legislation filed in 2011 (CS/SB 434, HB 531), the REC estimated that renewable energy devices and wind damage improvements would reduce total local revenue by $4.1 million in FY 2012-13 with the school impact representing $1.7 million of that figure. The estimate for recurring local revenue reduction totaled $11.6 million with a school impact of $4.8 million.[37]

Property appraisers may incur additional costs relating to implementing the provisions of this bill.

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.

[36] Department of Revenue, *Senate Bill 156 Bill Analysis* (Sep. 20, 2011) (on file with the Senate Committee on Community Affairs).
[37] Office of Economic and Demographic Research, The Florida Legislature, *Revenue Estimating Conference for 2011 Regular Session – Wind Damage Improvements; Renewable Energy Source Devices* (March 4, 2011) *available at* http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2011/pdf/page104-107.pdf last visited October 13, 2011).