

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 Committee on Communications, Energy, and Public Utilities

BILL: CS/SJR 400

INTRODUCER: Communications, Energy, and Public Utilities Committee and Senator Brandes

SUBJECT: Renewable Energy Source Device/Taxation

DATE: March 11, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clift/Wiehle	Caldwell	CU	Fav/CS
2.	_____	_____	CA	_____
3.	_____	_____	FT	_____
4.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SJR 400 proposes to amend Sections 3 and 4 of Article VII of the State Constitution, and to create Section 34 of Article XII of the State Constitution. These amendments to the State Constitution would exempt the assessed value of a renewable energy source device, or a component of such a device, from the tangible personal property tax. The bill also prohibits the consideration of the installation of renewable energy source devices and related components in determining the assessed value of a property for the purpose of ad valorem taxation.

The bill provides an effective date of January 1, 2017. It also provides an expiration date of December 31, 2036, for the amended sections of the Constitution, and reinstates the text of those sections that were amended, with the exception of future amendments, which will be preserved.

II. Present Situation:

The State Constitution authorizes finance and taxation, including local government ad valorem taxes on real property and tangible personal property,¹ assessment of taxes,² and exemptions to these taxes.³ Among these provisions is authority for the Legislature to prohibit the consideration

¹ Article VII, section 9.

² Article VII, section 4.

³ Article VII, section 3.

of the following in the determination of the assessed value of real property used for residential purposes:

- Any change or improvement made for the purpose of improving the property's resistance to wind damage.
- The installation of a renewable energy source device.⁴

The Legislature has implemented this prohibition in section 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.

III. Effect of Proposed Changes:

This bill proposes two amendments to the State Constitution. Both relate to the inclusion of the assessed value of a renewable energy source device in assessing a tax. The first relates to leased renewable energy source devices and would exempt the assessed value of a renewable energy source device, or a component of such a device, from the tangible personal property tax. The second relates to purchased renewable energy source devices and prohibits a property appraiser from considering the installation of renewable energy source devices and related components in determining property value for the purpose of ad valorem taxation. This proposed amendment changes the 2008 amendment by specifying that the exemption included both the renewable energy source device and a component of a device and by extending the exemption to all real property, not just real property used for residential purposes.

⁴ Article VII, section 4.(i).

The bill provides an effective date of January 1, 2017. It also provides an expiration date of December 31, 2036, for the amended sections of the Constitution, and reinstates the text of those sections that were amended, with the exception of future amendments, which will be preserved.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The fiscal impact of this bill on local government's ad valorem tax revenues is uncertain. If it passes both the Legislature and the electorate, and if SB 402 or other implementing legislation is passed and becomes law, and if renewable energy source devices are installed on nonresidential real property, then some local governments may lose an opportunity for an unknown amount of an increase in ad valorem tax revenues that they would have had in absence of this bill and implementing legislation.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

A proposed constitutional amendment such as this one must be passed by three-fifths of the membership of each house of the Legislature. A proposed constitutional amendment must be submitted to the electors at the next general election held more than 90 days after the joint resolution proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than 90 days after such filing. To pass, a proposed constitutional amendment must be approved by vote of at least 60 percent of the electors voting on the measure, and if passed, it becomes effective as an amendment on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

An indeterminate amount of tax revenue will be lost if renewable energy devices are exempted from taxation. Renewable energy sources are increasingly popular in Florida,⁵ and sales of such devices and their components is likely to increase in coming decades. These amendments, however, would create an incentive for property owners to purchase and utilize renewable energy sources, and would likely lead to an increase in such

⁵ <http://www.gainesville.com/article/20150208/ARTICLES/150209660/0/search?p=all&tc=pgall>

purchases for both residential and commercial properties. The natural increase in the popularity of renewable energy sources would create tax revenue if not for this exemption. However it is difficult account for the number of devices that will be installed specifically because of the incentive provided by these amendments. It is therefore difficult to determine the total loss of revenue that will be incurred if this legislation is implemented.

B. Private Sector Impact:

Property owners would not owe additional tangible personal property taxes or real property taxes for the installation of renewable energy source devices on their property. This would eliminate a disincentive to the use of renewable energy sources, and may make these methods more popular with property owners.

C. Government Sector Impact:

The bill may have some impact on the workload of property appraisers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 402 is the implementing bill for this proposed constitutional amendment.

VIII. Statutes Affected:

This bill substantially amends Sections 3 and 4 of Article VII of the State Constitution. This bill creates the section 34 of Article XII of the State Constitution.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Communications, Energy, and Public Utilities on March 10, 2015:

Provides for the expiration on December 31, 2036, of the amended sections of the Constitution, and reinstates the text of those sections that were amended, with the exception of future amendments, which will be preserved.

B. Amendments:

None.