

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 Appropriations

BILL: CS/CS/SB 172

INTRODUCER: Finance and Tax Committee; Community Affairs Committee; and Senators Brandes and Hutson

SUBJECT: Renewable Energy Source Devices

DATE: March 2, 2016 **REVISED:** _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|-----------------------|-----------|--------------------|
| 1. | <u>Wiehle</u> | <u>Caldwell</u> | <u>CU</u> | Favorable |
| 2. | <u>Present</u> | <u>Yeatman</u> | <u>CA</u> | Fav/CS |
| 3. | <u>Fournier</u> | <u>Diez-Arguelles</u> | <u>FT</u> | Fav/CS |
| 4. | <u>Fournier</u> | <u>Kynoch</u> | <u>AP</u> | Pre-meeting |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 172 is the implementing legislation for CS/SJR 170.

The bill creates section 196.182, Florida Statutes, exempting renewable energy source devices from the tangible personal property tax. It also expands to all real property the current provision that excludes consideration of the value of renewable energy source devices in assessing residential real property for property tax purposes. The bill also expands the definition of “renewable energy source device” to include devices that store solar energy or energy derived from geothermal deposits. It clarifies the definition by providing that it includes wiring, structural supports, and other components used as integral parts of such systems, but does not include any equipment or structures that would be required in the absence of the renewable energy source device

These changes would take effect January 1, 2017, if the constitutional amendments proposed in CS/SJR 170, or a similar joint resolution having substantially the same specific intent and purpose, are approved at the next general election.

Consistent with the implementation schedule established in CS/SJR 170, the amendments made by the bill to section 193.624, Florida Statutes, expire December 31, 2036, and the text of the section reverts to that in existence on December 31, 2016, except that any amendments to such

text enacted other than by this bill are preserved and continue to operate to the extent that such amendments are not dependent upon the portion of text scheduled to expire, and section 196.182, Florida Statutes, as created by the bill expires and is automatically repealed on December 31, 2036.

Contingent upon approval of CS/SJR 170, this bill reduces ad valorem tax revenue from renewable energy source devices that would otherwise be taxed as tangible person property. The combined school and non-school reduction in ad valorem revenue would reach \$21.0 million in Fiscal Year 2020-2021, holding statewide average property tax rates constant.

This bill may be a mandate under Article VII, section 18 of the State Constitution, and may require a two-thirds vote of the membership of each house of the Legislature. (This issue is discussed more fully in Constitutional Issues: Municipality/County Mandates Restrictions, below.)

II. Present Situation:

The State Constitution authorizes 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 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 implemented this prohibition in s. 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;

¹ FLA. CONST. art. VII, s. 9.

² FLA. CONST. art. VII, s 4.

³ FLA. CONST. art. VII, s. 3.

⁴ FLA. CONST. art. VII, s. 4(i).

- 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 amends s. 193.624, F.S., to expand the definition of “renewable energy source device” to include devices that use solar energy and energy derived from geothermal deposits and devices that store energy from solar energy, wind energy, or energy derived from geothermal deposits. It clarifies the definition by providing that it includes wiring, structural supports, and other components used as integral parts of such systems, but does not include any equipment or structures that would be required in the absence of the renewable energy source device. It also expands the application of the existing prohibition against the consideration of renewable energy devices in determining the assessed value of real property. The prohibition previously applied to residential property only, but as of January 1, 2017, it will apply to all real property.

The bill also exempts a renewable energy source device from tangible personal property tax.

The bill takes effect January 1, 2017, if SJR 170 or a similar joint resolution having substantially the same specific intent and purpose, is approved by the electors at the general election to be held in November 2016 or at an earlier special election specifically authorized by law for that purpose. Consistent with the implementation schedule established in CS/SJR 170:

- The amendments made by the bill to s. 193.624, F.S., expire December 31, 2036, and the text of the section reverts to that in existence on December 31, 2016, except that any amendments to such text enacted other than by this bill are preserved and continue to operate to the extent that such amendments are not dependent upon the portion of text scheduled to expire, and
- Section 196.182, F.S., as created by the bill expires and is automatically repealed on December 31, 2036.

The bill also reenacts ss. 193.155 and 193.1554, F.S., to incorporate the amendments made to s. 193.624, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill would implement the constitutional amendments proposed in CS/SJR 170. When the Legislature is *required* to implement a constitutional provision, the mandate provisions do not apply; when it is *authorized* to implement a constitutional provision, mandate provisions do apply. CS/SJR 170 would *require* the Legislature to exempt the assessed value of a renewable energy source device, or a component of such a device,

from the tangible personal property tax and *authorize* the Legislature to expand the existing prohibition against a property appraiser considering the installation of renewable energy source devices in determining property value for the purpose of ad valorem taxation. As such, mandate provisions do not apply to the provisions in this bill relating to tangible personal property tax, but do apply to the provisions on ad valorem real property taxes.

Section 18, Article 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that if a similar bill, HB 195, and the corresponding joint resolution, HJR 193, are passed, the combined school (\$8.4 million) and non-school (\$12.6 million) reduction in ad valorem revenue would reach \$21.0 million by 2020-21, the fifth year of implementation, holding the 2014 statewide average property tax rates constant.⁵ Almost three-quarters of this revenue reduction (\$15.5 million) is the result of exempting tangible personal property owned by electric utilities and is not subject to the constitutional mandates restrictions.

B. Private Sector Impact:

The exemptions from tangible personal property tax and ad valorem tax on real property may stimulate sales and leases of renewable energy source devices, and encourage the development of renewable energy device leasing businesses. The bill also reduces property taxes for electric utilities that install renewable energy devices to produce electricity.

⁵ Revenue Estimating Conference, *Renewable Energy Devices*, 133-134 (Nov. 6, 2015) available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact1106.pdf (last visited Nov. 17, 2015). However, if a component can be interpreted broadly to include electrical generation and delivery for all connected up-stream and down-stream equipment, then the impact would be at least 10 times greater than the current estimate.

C. **Government Sector Impact:**

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

This bill implements CS/SJR 170.

VIII. **Statutes Affected:**

This bill substantially amends section 193.624 of the Florida Statutes.

This bill creates section 196.182 of the Florida Statutes.

This bill re-enacts the following sections of the Florida Statutes: 193.155 and 193.1554.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Finance and Tax on January 11, 2016:

The CS/CS adds “wiring, structural supports, and other components used as integral parts of (renewable energy source device) systems” to the statutory definition of “renewable energy source device” and removes all other references to components of renewable energy source devices from the bill. It also removes a requirement that a renewable energy source device be installed on real property on or after January 1, 2017, in order to qualify for a property tax exemption.

CS by Community Affairs on December 1, 2015:

Inserts the linked bill, SJR 170, into the effective date of the bill.

B. **Amendments:**

None.