

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 172

INTRODUCER: Senator Brandes

SUBJECT: Renewable Energy Source Devices

DATE: November 17, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	<b>Favorable</b>
2.	Present	Yeatman	CA	<b>Pre-meeting</b>
3.			FT	
4.			AP	

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**I. Summary:**

SB 172 is the implementing legislation for SJR 170.

The bill expands the definition of “renewable energy source device” to include devices that store solar energy or energy derived from geothermal deposits and expands the current exemption for renewable energy source devices to include assessments of all real property rather than residential property only. The bill also creates s. 196.182, F.S., exempting renewable energy source devices, and any components thereof, from the tangible personal property tax.

These changes would take effect January 1, 2017, if the constitutional amendments proposed in SJR 170 or a similar joint resolution having substantially the same specific intent and purpose are passed by three-fifths of the membership of each house of the Legislature and are approved by vote of at least 60 percent of the electors voting on the measure at the next general election. If approved by the electors, the constitutional amendments proposed by SJR 170 will become effective 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.

Consistent with the implementation schedule established in 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- Section 196.182, F.S., as created by the bill expires and is automatically repealed on December 31, 2036.

## II. Present Situation:

The State Constitution authorizes finance and taxation, including local government ad valorem taxes on real property and tangible personal property,<sup>1</sup> assessment of taxes,<sup>2</sup> and exemptions to these taxes.<sup>3</sup> 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.<sup>4</sup>

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;
- 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:

SB 172 implements SJR 170, which would amend sections 3 and 4 of Article VII of the State Constitution 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 authorizes the Legislature to

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<sup>1</sup> Article VII, section 9, State Constitution.

<sup>2</sup> Article VII, section 4, State Constitution.

<sup>3</sup> Article VII, section 3, State Constitution.

<sup>4</sup> Article VII, section 4.(i), State Constitution.

prohibit 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. It would also create section 34 of Article XII of the State Constitution to establish an implementation schedule under which the amendments would take effect January 1, 2017, and would expire on December 31, 2036, with the text of the amended sections reinstated at that time, with the exception of future amendments, which will be preserved.

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 also expands the application of the existing exemption of renewable energy devices. The exemption previously applied to the appraisal of residential property only, but as of January 1, 2017, the exemption will apply to the appraisals of all real property.

The bill also exempts a renewable energy source device or any component of such a device which is installed on real property on or after January 1, 2017, 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 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 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. 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 proposed amendment, if approved by the voters, and implemented by the Legislature, would 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 prohibit 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 tax benefits of these changes may confer to applicants who would not have received them otherwise.

**B. Private Sector Impact:**

The exemptions from tangible personal property tax and ad valorem tax may stimulate sales and leases of renewable energy source devices.

**C. Government Sector Impact:**

The Revenue Estimating Conference determined that if a similar bill, HB 195, and the corresponding joint resolution, HJR 193, are passed, the combined school and non-school impact would reach a loss of \$21.2 million by 2020-21, the 5th year of implementation, holding the 2014 statewide average property taxes constant.<sup>5</sup>

**VI. Technical Deficiencies:**

None.

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<sup>5</sup> Revenue Estimating Conference, *Renewable Energy Devices*, 133-134 (November 6, 2015) available at [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/\\_pdf/Impact1106.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact1106.pdf) (last visited November 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.

**VII. Related Issues:**

This bill implements 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 reenacts sections 193.155 and 193.1554 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.