

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: SB 90

INTRODUCER: Senator Brandes

SUBJECT: Renewable Energy Source Devices

DATE: February 6, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.			CA	
3.			AFT	
4.			AP	

I. Summary:

SB 90 amends s. 193.624, F.S., which prohibits including the value of a renewable energy source device in assessing the value of real property for tax purposes, to:

- Expand the definition of “renewable energy source device”;
- Expand the prohibition to all real property, not just that used for residential purposes; and
- Apply the prohibition to devices without regard to the date of installation, as opposed to the current requirement that they be installed on or after January 1, 2013.

These amendments expire December 31, 2037, and the text of the amended subsections reverts to that in existence on December 31, 2017, with stated exceptions.

The bill creates s. 196.182, F.S., to exempt a renewable energy source device from tangible personal property tax. This new section expires December 31, 2037.

The bill takes effect January 1, 2018.

II. Present Situation:

The State Constitution authorizes local government ad valorem taxes on real property and tangible personal property,¹ provides conditions and limitations upon the assessment of property for tax purposes,² and provides several ad valorem tax exemptions.³ Among the exemptions is authorization for the Legislature to prohibit the consideration of the installation of a renewable energy source device in the determination of the assessed value of real property used for residential purposes.⁴

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).

The Legislature has 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.

Under current law, a renewable energy source device owned and installed on non-residential real property by the owner of the real property becomes a part of that real property and is taxable as real property. If a device is owned by someone other than the owner of the real property where it is installed, the device remains separate and distinct from the real property and the owner of the device is subject to tangible personal property tax on the device.

During the 2016 primary election, voters approved a constitutional amendment to expand the exemption discussed above. The amendment authorizes the Legislature to prevent ad valorem taxation of a solar or renewable energy source device whether it is owned by the owner of the real property on which it is installed or by another person. For a solar or renewable energy source device taxed as tangible personal property, the amendment authorizes the Legislature to exempt the assessed value of a solar or renewable energy source device from the tangible personal property tax, subject to conditions, limitations, and reasonable definitions specified by general law.⁵ For a solar or renewable energy source device owned by the real property owner and taxed as real property, the amendment authorizes the Legislature to prohibit the consideration of the installation of a solar or renewable energy source device for the purpose of ad valorem taxation of real property.⁶

⁵ FLA. CONST. art. VII, s. 3.

⁶ FLA. CONST. art. VII, s. 4.

The bill also creates a schedule of implementation.⁷ The amendments to the State Constitution take effect January 1, 2018, and will expire December 31, 2037. Upon expiration, the schedule of implementation will be repealed and the text of the amended substantive sections will revert to that in existence on December 31, 2017, except that any amendments to such text otherwise adopted are preserved and continue to operate to the extent that they are not dependent upon the portions of text which expire pursuant to the schedule.

III. Effect of Proposed Changes:

The bill amends s. 193.624, F.S., to expand the definition of “renewable energy source device” to include:

- Power conditioning and storage devices in the context of solar energy equipment;
- Wiring, structural supports, and other components used as integral parts of a system; and
- Power conditioning and storage devices that store or use solar or geothermal energy.

The bill also expands the application of the existing prohibition against the consideration of renewable energy devices in determining the assessed value of real property. First, the prohibition currently applies to residential property only; the bill expands coverage to all real property. Second, the prohibition currently applies only to a device installed on or after January 1, 2013; under the bill, it will apply without regard to when installation occurred.

These amendments expire December 31, 2037, and the text of the amended subsections reverts to that in existence on December 31, 2017, except that any amendments to the text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.

The bill creates s. 196.182, F.S., to exempt a renewable energy source device from tangible personal property tax. This new section expires December 31, 2037.

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

The bill takes effect January 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁷ FLA. CONST. art. XII, s. 34

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The exemptions will have a negative impact on local government revenues, which the Revenue Estimating Conference has not yet determined.

B. Private Sector Impact:

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

C. Government Sector Impact:

The bill applies to all devices, whenever installed, and so it applies to renewable energy devices installed prior to the bill's effective date. The bill also appears to apply to electric utilities, some of which have pre-existing devices, some of which may have been installed in part based on incentive agreements with local governments. In such instances, the effect of the bill is uncertain, and depends largely on the provisions of any such agreement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 193.624 of the Florida Statutes.

This bill creates section 196.182 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
