Florida Association of Counties
Review of Proposed Constitutional Amendment
Solar Power - Limiting Or Preventing Barriers to Local Solar Electricity Supply

Issue
On May 7, 2015, The Financial Impact Estimating Conference (FIEC) submitted the results of the required financial impact estimating conference regarding the proposed Solar Power constitutional amendment. The following information was derived from this report as submitted to the Secretary of State, the Honorable Ken Detzner. This review only contains a precursory analysis of those issues believed to have an impact, direct or indirect, on the financial well-being of counties.

Background
The proposed amendment, sponsored by Floridians for Solar Choice, Inc., prohibits state and local government regulation of local solar electricity suppliers with respect to rates, service, or territory, and prohibits electric utilities from discriminating against customers of local solar electricity suppliers with respect to rates, charges, and terms of service. It also limits or prevents barriers to the sale of electricity by local solar electricity suppliers to customers. The Florida Supreme Court has scheduled oral arguments for *September 1, 2015* to review the language of the proposed constitutional amendment on solar power, in order to ensure that it does not mislead the voters and that it addresses only a single subject.

Description of Potential Impact to Counties
Although the exact magnitude of the impact is unknown, the following revenue sources would be affected by the proposed amendment:

<u>Sales Tax</u>
The sale of electricity by the utility company to a customer is taxable. The sale of electricity generated by solar power is not. If the proposed amendment passes and is implemented potential increased sales or use of solar power could result in a reduction in the current (traditional electricity) taxable base and in sales tax revenue to state and local government.

<u>Ad Valorem</u>
The FIEC reports that the potential installation of more solar energy systems on non-residential (commercial) properties should initially increase ad valorem revenues at current millage rates.

<u>Franchise Fees</u>
County collections from electric utilities were $138,982,436 for fiscal year 2012-2013[1]. There are two scenarios in which the franchise fee revenues could be impacted. The first one would be a reduction in revenues due to changes in consumer preferences. If consumers choose solar energy over traditional forms of electricity, counties will not realize revenues from solar energy production since it is not part of the franchise agreement. The second potential impact to franchise fees revenues would come from the termination or renegotiation of the franchise fee agreement. Many franchise agreements have a "monopoly clause" in which the franchise company may choose to terminate the agreement if the county grants a franchise to another company or if legislation is passed at the federal or state level that threatens the company's monopoly. The franchise company reserves the right to renegotiate the agreement within a specific time frame established in the ordinance that grants the franchise.

[1] Florida Department of Financial Services, Division of Accounting and Auditing, Bureau of Local Governments

Public Service Tax

County collections of the Public Service Tax (PST) on the purchase of electricity were $224,108,346 for fiscal year 2012-2013[2]. The PST is a local option tax on utilities such as electricity, metered natural gas, liquefied petroleum gas either metered or bottled, manufactured gas either metered or bottled and water services authorized in section 166.231. Current law does not tax solar energy, and while it is plausible, it is uncertain with regard to the volume and rate of consumers that will transition from the use of electric to solar energy if the amendment passes. To the extent that consumers transition from a taxable activity to a non-taxable activity, local government PST revenues will decrease.

Conclusion

Within the summary of the FIEC summary of initiative financial information statement, the conference documents their belief that successful passage of the amendment will induce more solar electricity generation than would have occurred in its absence. The official FIEC Financial Impact Statement regarding the proposed amendment reads:

> Based on current laws and administration, the amendment will result in decreased state and local government revenues overall. The timing and magnitude of these decreases cannot be determined because they are dependent on various technological and economic factors that cannot be predicted with certainty. State and local governments will incur additional costs, which will likely be minimal and partially offset by fees.

The FIEC was not able to determine the fiscal impact of the amendment due to several factors. These factors included, but were not limited to:

- The extent and timing of the shift in electricity production from electric utilities to solar producers is uncertain;
- The continuation of federal solar investment tax credits;
- The methodology for determining the basis for the use tax on solar electricity;
- The pace of decline in solar energy production costs;
- The removal of technological barriers to greater deployment; and
- The future legislative or administrative action by state and local government to mitigate the revenue reduction

[2] Florida Department of Financial Services, Division of Accounting and Auditing, Bureau of Local Governments