

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1751**

**Bill Subtitle: TO DEFINE "RENEWABLE ENERGY EQUIPMENT"; AND TO ESTABLISH THE METHODS AND PROCEDURES FOR VALUATION OF RENEWABLE ENERGY EQUIPMENT FOR PROPERTY TAXATION.**

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### **Basic Change :**

**Sponsor: Rep. Ennett**

HB1751 adds a new section to the Arkansas Code, § 26-26-1126, regarding the valuation and taxation of renewable energy equipment. HB1751 defines "renewable energy equipment" as equipment that "harvests solar, wind, or other forms of renewable energy to produce a maximum peak output of twenty megawatts (20 MW) AC nameplate capacity."

HB1751 provides that renewable energy equipment includes all physical components of the installation, including mounting fixtures and hardware. Under HB1751, renewable energy equipment shall be assessed "according to the cost method," the value of which shall reflect the cost of the equipment less any discounts, rebates, refunds, tax credits or other reductions received by the owner. The assessed value shall be depreciated for tax purposes based on a useful life of ten years or less with a residual value of 10% or less thereafter. Renewable energy equipment affixed to real property are currently assessed as all other real property.

The act will be effective for assessment years beginning on or after January 1, 2021.

### **Revenue Impact :**

Undetermined revenue loss to collections of property taxes. Property taxes generally are utilized to fund public schools and local governments.

### **Taxpayer Impact :**

HB1755 will provide new procedures for assessment of renewable energy equipment. Taxpayers would be required to turn over financial records to the assessors office providing the information needed to make the assessment as required by the law.

### **Resources Required :**

None.

### **Time Required :**

HB1755 would be effective for the 2021 assessment year. The effective date of HB1751 may present difficulty for the Assessment Coordination Division (ACD) and county assessors to implement by the assessment deadline for appeals.

### **Procedural Changes :**

Assessors would require additional support in deciphering financial paperwork to determine the value of the property.

### **Other Comments :**

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None.

### Legal Analysis :

Under Ark. Const. Art. 16, § 5, all property shall be taxed according to its value, and no one species of property for which a tax may be collected shall be taxed higher than another species of property of equal value. HB1751 will set the value of renewable energy equipment, and that species of property would no longer be taxed according to its value.

HB1751 may be subject to legal challenge as a violation of the separation of powers doctrine and exceeding legislative authority to prescribe the duties of the county assessors, a constitutional office, Article 7, § 46. County assessors are the "primary valuer" of property for taxation purposes under the Arkansas Constitution. *Ark. Tax Comm. v. Ashby*, 217 Ark. 759, 766, 233 S.W.2d 361, 364 (1950). The General Assembly has plenary power to prescribe the manner in which property shall be assessed and to direct the assessors how to assess property for taxation, but the General Assembly cannot dictate the value of property for taxation, a duty the constitution vests with the assessor. *Id.* The office of county assessor "cannot be abolished nor made a sinecure and an entirely different scheme adopted" by the General Assembly. *Id.* HB1751 leaves no discretion to county assessors on how to assess renewable energy equipment and may impair the county assessor's duty as the primary valuer of property for tax purposes.

HB1751 may require a three-fourths ( $\frac{3}{4}$ ) supermajority to adopt the methods and procedures of valuation for property tax under Ark. Constitution Article 16, § 5.