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Florida Solar Energy Subsidies and Personal Solar Use, Amendment 1 (2016)

The **Florida Solar Energy Subsidies and Personal Solar Use Initiative**, also known as **Amendment 1**, will be on the November 8, 2016, ballot in Florida as an initiated constitutional amendment.^[1]

A vote **"for"** Amendment 1 supports adding a section in the state constitution giving residents of Florida the right to own or lease solar energy equipment for personal use while also enacting constitutional protection for any state or local law ensuring that residents who do not produce solar energy can abstain from subsidizing its production.

A vote **"against"** Amendment 1 opposes constitutionalizing the right to own or lease solar equipment and the protection of laws preventing subsidization of solar energy, thereby, leaving the personal use of solar power protected as a right by state statute, and not by the constitution.

For a constitutional amendment to be approved in Florida, it must win a supermajority vote of 60 percent of those voting on the question, according to Section 5 of Article XI. This requirement was established via Amendment 3 in 2006.

Another solar energy-related amendment, Florida Amendment 4, was certified for the August 2016 ballot. Amendment 4 was referred to the ballot by the legislature and was written to provide property tax exemptions for solar power equipment. To read about how Amendments 1 and 4 relate to each other, [click here](#).

Overview

Initiative design

The two main components of this initiative are as follows:

1. The initiative would grant Florida residents the right to produce their own solar energy if they so choose.
2. The initiative would allow state and local governments to prevent people who do not choose to produce solar energy from being required to subsidize the production of solar energy.

Relationship between Amendment 1 and Amendment 4

Amendment 1 was one of two solar-related measures that Florida voters will decide on in 2016. The other measure, Amendment 4, was designed to provide property tax exemptions for solar power equipment.

Text of measure

Ballot title

The ballot title is:^[1]

“ Rights of Electricity Consumers Regarding Solar Energy Choice^[2] ”

Ballot summary

The ballot summary is:^[1]

“ This amendment establishes a right under Florida's constitution for consumers to own or lease solar equipment installed on their property to generate electricity for their own use. State and local governments shall retain their abilities to protect consumer rights and public health, safety and welfare, and to ensure that consumers who do not choose to install solar are not required to subsidize the costs of backup power and electric grid access to those who do.”^[2]

Constitutional changes

Florida Solar Energy Subsidies and Personal Solar Use, Amendment 1



Election date

November 8, 2016

Topic

Energy

Status

On the ballot

Type

Constitutional amendment

Origin

Citizens

2016 measures



August 30

Amendment 4

November 8

Amendment 1

Amendment 2

Amendment 3

Amendment 5

Campaign finance

Polls

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Section 29 – Rights of electricity consumers regarding solar energy choice. –

- (a) ESTABLISHMENT OF CONSTITUTIONAL RIGHT. Electricity consumers have the right to own or lease solar equipment installed on their property to generate electricity for their own use.
- (b) RETENTION OF STATE AND LOCAL GOVERNMENTAL ABILITIES. State and local governments shall retain their abilities to protect consumer rights and public health, safety and welfare, and to ensure that consumers who do not choose to install solar are not required to subsidize the costs of backup power and electric grid access to those who do.
- (c) DEFINITIONS. For purposes of this section, the following words and terms shall have the following meanings:
- (1) "consumer" means any end user of electricity regardless of the source of that electricity.
 - (2) "solar equipment," "solar electrical generating equipment" and "solar" are used interchangeably and mean photovoltaic panels and any other device or system that converts sunlight into electricity.
 - (3) "backup power" means electricity from an electric utility, made available to solar electricity consumers for their use when their solar electricity generation is insufficient or unavailable, such as at night, during periods of low solar electricity generation or when their solar equipment otherwise is not functioning.
 - (4) "lease," when used in the context of a consumer paying the owner of solar electrical generating equipment for the right to use such equipment, means an agreement under which the consumer pays the equipment owner/lessor a stream of periodic payments for the use of such equipment, which payments do not vary in amount based on the amount of electricity produced by the equipment and used by the consumer/lessee.
 - (5) "electric grid" means the interconnected electrical network, consisting of power plants and other generating facilities, transformers, transmission lines, distribution lines and related facilities, that makes electricity available to consumers throughout Florida.
 - (6) "electric utility" means any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system within the state.
- (d) EFFECTIVE DATE. This section shall be effective immediately upon voter approval of this amendment.^[2]

Support

Consumers for Smart Solar is leading the Yes on 1 for the Sun support campaign for Amendment 1.^{[3][4]}
^[5]

Supporters

Individuals

- Jim Kallinger, former state representative and co-chair of Consumers for Smart Solar^[6]
- Dick Batchelor, former state representative and co-chair of Consumers for Smart Solar
- Kevin Doyle, executive director of Consumer Energy Alliance - Florida^[7]
- Julio Fuentes^[3]

Organizations

The majority of support for Amendment 1 has been provided by electric utility companies.^[8]

- 60 Plus Association^[9]
- PACE^[9]
- National Black Chamber of Commerce^[9]
- Florida Council for Safe Communities^[9]
- Floridians for Government Accountability^[9]
- National Congress of Black Women^[9]
- NAACP^[9]
- Florida State Hispanic Chamber of Commerce^[9]

Arguments



Sarah Bascom, spokeswoman for Consumers for Smart Solar, said the Smart Solar Amendment would:^[10]

“...promote the increased use of solar power in Florida by protecting our rights to own solar equipment, providing consumer protections and ensuring that all citizens are treated fairly whether they choose to put solar panels on their home or not.”^[2]

Dick Batchelor, a former Democratic member of the Florida House of Representatives, said:^[11]

“[I]n looking at ways to increase the amount of our energy that comes from the sun, it is essential that we do so in a way that safeguards consumers – particularly our seniors – with commonsense consumer protection rules that benefit every consumer, and that we have all come to expect. Amendment 1 is a straightforward plan for the future of solar energy in Florida.”^[2]

Matthew Carter, a former Public Service Commissioner, said:^[11]

“Read Amendment 1 – and you will see that it was not written to benefit any one industry. It is written to benefit consumers. It establishes a framework in our constitution that cements important rights and protections with regard to solar energy, so that they cannot be weakened or ignored by special interests or policy makers...In fact, while Amendment 1 doesn't preclude any other approach to solar energy in Florida, it merely makes certain that in this ever-changing world of solar, individual citizens will always have the right to generate their own electricity from their own solar equipment. And, it allows state and local governments to continue their current role of ensuring safe and reliable energy, while ensuring that consumers are dealt with fairly by companies that provide energy services.”^[2]

Amendment 1 - Easy C...



Ad paid for by Consumers for Smart Solar

Opposition

Opponents

The group Floridians for Solar Choice, who failed to get a competing measure on the ballot, is leading the opposition campaign for Amendment 1.^[12]



Organizations

- Florida Solar United Neighborhoods^[13]

Arguments

David Guest, managing attorney for the Florida office of Earthjustice, said:^[14]

“What makes it so insidious is that they are trying to extend their monopoly for burning fossil fuels to the sun...But the sun is not theirs.”^[2]

Debbie Dooley, a Tea Party activist, said that Consumers for Smart Solar:^[15]

“...claims to support a free-market principle, but they are taking an anti-free-market position by siding with monopolies to stop competition from solar.”^[2]

Stephen A. Smith, the executive director of the Southern Alliance for Clean Energy and a board member of the group that attempted to put a competing measure on the ballot, Floridians for Solar Choice, said:^[11]

“The only people their proposed amendment would protect are utility shareholders. Period. This amendment seeks to limit non-utility solar options in Florida by enshrining the status quo and providing the utilities with leverage to continue to control their customers.”^[2]

Neville Williams argued the following in opposition to Amendment 1 in a guest commentary for the *Naples Daily News*:^[16]

“Here's what Amendment No. 1 would do, if passed: Under the guise of stating that consumers will have the constitutional right to own or lease solar (they already have the right), the amendment would allow state and local government to impose all manner of fees and regulations on solar users to prevent "consumers who do not choose to install solar" from subsidizing the



"backup power and grid access to those who do." This is complete nonsense. Nowhere in the U.S. is grid-tied, net-metered solar power threatening any utility or power network. In reality, decentralized rooftop solar electricity provides net benefits by reducing the stress on the grid during the daytime, cutting expenditures on fossil fuels, and making privately funded clean energy available to all. The proposal also claims it will "protect consumer rights," but solar customers are already protected by state and local building regulations, electrical codes, installer licensing, certified solar practitioners and state-sanctioned utility "interconnect" agreements.^[2]

Barbara Pariente, a Florida Supreme Court justice, wrote the following in her dissent for the case that allowed Amendment 1 to reach the ballot:^[17]

“Masquerading as a pro-solar energy initiative, this proposed constitutional amendment, supported by some of Florida's major investor-owned electric utility companies, actually seeks to constitutionalize the status quo.”^[2]

David Guest and others argue that Amendment 1 could potentially get rid of net metering, the practice that requires electric companies to purchase excess electricity from solar homes. Amendment 1 states that state and local governments would have the authority "to ensure that consumers who do not choose to install solar are not required to subsidize the costs of backup power and electric grid access to those who do." The amendment could allow utilities to argue that net metering is a "subsidy" for solar, and lawmakers could prohibit the use of net metering.^[15]

Campaign finance

As of July 29, 2016, the support campaign had a total of about \$16.3 million in contributions, roughly eight times the amount that the opposition campaign group, Floridians for Solar Choice, had raised.^{[20][21]}

Support

The *Tampa Bay Times* reported on December 16, 2015, that the solar energy committee leading the support campaign for Amendment 1, Consumers for Smart Solar, surpassed Gov. Rick Scott's PAC, Let's Get to Work, in fundraising amounts. As of December 16, 2015, Scott's committee had raised \$4.2 million. As of July 29, 2016, the group had raised about \$16.3 million in contributions.^[22]

The Consumers for Smart Solar committee raised \$7.2 million between July 2015 and February 2016. The committee raised \$235,000 in February 2016 alone and had \$445,000 in cash on hand. In March 2016, the group spent \$268,000 on public opinion research and legal fees to defend Amendment 1 from a lawsuit. Although the campaign only raised \$35,000 in March from the Gulf Power Company, the group had raised over \$7 million as of the beginning of April 2016. The group raised more than \$8.5 million in April 2016, representing their largest fundraising month of 2016. Nearly \$7.7 million of the April contributions came from Florida Power & Light, Duke Energy, Tampa Electric Company, and Gulf Power Company. The group also reported expenditures of \$74,606 in April 2016. Fundraising for Consumers for Smart Solar decreased dramatically in May 2016, with only \$5,000 in contributions. However, the group spent over \$6.5 million of their cash reserves on media buys in May, bringing expenditures to over \$13.5 million.^{[23][24][25][5][26][27][28]} The group raised \$300,000 during the months of June and July, and spent more than \$1,000,000 during that period.^[20]

Committee info:

PAC	Amount raised	Amount spent
Consumers for Smart Solar	\$16,374,245.00	\$15,619,300.57
Total	\$16,374,245.00	\$15,619,300.57

Top contributors:

Donor	Amount
Florida Power and Light Company	\$4,145,000
Duke Energy	\$3,987,000
Tampa Electric Company	\$2,352,675.00
Gulf Power Company	\$1,659,450
60 Plus Association, Inc.	\$1,440,000

Total campaign cash^[18]

as of July 29, 2016^[19]



Support:

\$16,374,245.00



Opposition:

\$2,123,729.00

The following is a list of those who contributed \$100,000 or more to the campaign supporting the initiative. As of the end of July 2016, Gulf Power Company, Duke Energy, Tampa Electric Company, and Florida Power and Light had contributed \$13.5 million of the \$16.3 million raised by the campaign.^{[23][5]}

- Tampa Electric Company
- Gulf Power Company
- Partnership for Affordable Clean Energy
- Let's Preserve the American Dream
- National Black Chamber of Commerce
- PowerSouth Energy Cooperative
- Florida Power and Light Company
- Duke Energy
- 60 Plus Association, Inc.
- Checks and Balances
- National Rural Electric Cooperative Association
- Floridians for a Stronger Democracy
- Florida Faith and Freedom Coalition Inc.
- Florida Prosperity Fund

Opposition

According to the Florida campaign finance report activity, the group leading the opposition campaign for Amendment 1, Floridians for Solar Choice, received the largest amount of contributions in October 2015, raising almost \$500,000 and spending almost \$400,000 during that period. As of July 29, 2016, the group had raised a total of about \$2.1 million in contributions.^[21]

Committee info:

PAC	Amount raised	Amount spent
Floridians for Solar Choice	\$2,123,729.09	\$1,581,632.20
Total	\$2,123,729.09	\$1,581,632.20

Top contributors:

Donor	Amount
SACE Action Fund	\$1,436,685.32
Barbara Stiefel Trust	\$100,000.00
Conservatives for Energy Freedom	\$25,000.00
Infinite Energy	\$25,000.00
Lynn F. Leverett	\$10,000.00

The following is a list of those who contributed \$100,000 or more to the campaign supporting the initiative. As of the end of July 2016, SACE-Action Fund, Barbara Stiefel Trust, Conservatives for Energy Freedom, Infinite Energy, and Lynn F. Leverett had contributed \$1.5 million of the \$2.1 million raised by the campaign.^[21]

- Barbara Stiefel Trust
- SACE-Action Fund

Media editorials

Support

Ballotpedia has not found media editorials supporting Amendment 1. If you are aware of an editorial, please email it to ballotmeasures@ballotpedia.org (mailto:ballotmeasures@ballotpedia.org).

Opposition

- **Tampa Bay Times** said:^[29]
- “ The wording of this solar energy measure financed by the utilities is deceptive, and the justices should not allow it to go on the fall ballot. The amendment is an attempt to block the private market for solar in Florida — not to expand consumer choice — and voters should not be confronted with this sneak attack.^[2]
- **Ocala Star Banner**, referencing state supreme court Justice Barbara Pariente's dissenting opinion from a lawsuit over Amendment said:^[30]
- “ If you support solar energy, or even just greater individual freedom, heed Justice Pariente's observation of the proposed amendment's effect: 'Clearly, this is an amendment geared to ensure nothing changes with respect to the use of solar energy

in Florida — it is not a 'pro-solar' amendment,' she wrote. 'Let the pro-solar energy consumers beware.' Beware indeed.^[2]

- **Bradenton Herald** said:^[31]

“ The Consumers for Smart Solar amendment proposal comes from the utility companies, not consumers. It does nothing but enshrine current law into the Constitution, continuing the utilities unjust tight grip on the power market. It does nothing to broaden consumer choice. It does nothing to advance competitive pricing or free market doctrine. The amendment title, however, proved persuasive enough to deceive plenty of Floridians as petition drives amassed more than a million signatures in less than five months -- thanks to an outsized infusion of money from the utilities. This blatant manipulation worked, and the power industry's servants ballyhoo the "strong support from every demographic." Be forewarned and forearmed with knowledge and clarity on this ballot measure. Approval is only in the best interests of the utilities.^[2]

Other

- The **Sun Sentinel** expressed concern over the language of Amendment 1 and its place in the constitution, saying:^[32]

“ We'll listen to their arguments in the coming months. But the Florida Supreme Court opinion barely approving the ballot language — as well as the history of how this proposed amendment came into being — leave us for the time being in the Highly Skeptical category. We are skeptical that the high court should have approved the amendment's ballot language. And we are skeptical that the substance of the amendment — if it should become state policy at all — belongs in the state Constitution rather than in statute.^[2]

The **Orlando Sentinel**, which is owned by the same company that owns the Sun Sentinel, Tribune Publishing, also said:^[33]

“ OK. We'll listen to their arguments. But the Florida Supreme Court's divided opinion on the ballot language, and the history of how this proposed amendment came into being, leave us skeptical for the time being. And we aren't convinced at this point that the substance of the amendment — even if it is a worthy policy — belongs in the state constitution rather than in law.^[2]

Background

Solar energy was the focus of several ballot measures in Florida in 2015 and 2016. Another competing citizen initiated amendment petition was circulated in 2015, but was withdrawn due to a shortage of signatures. That initiative would have given businesses and individuals the constitutional right to produce up to two megawatts of solar energy that could be sold to others at the same or contiguous property. The support campaign for that measure, Floridians for Solar Choice, now leads the opposition campaign for Amendment 1. In addition to these citizen initiatives, the Florida Legislature approved a measure to appear on the ballot in August 2016 as Amendment 4, which provides property tax exemptions for renewable energy devices.

Main arguments

Supporters argue that the first component of Amendment 1 would encourage the expansion of solar power by providing an explicit constitutional right to solar energy production, and that the second component would allow consumers to be treated fairly by preventing them from being forced to subsidize solar energy. Nearly 75 percent of campaign contributions in support of Amendment 1 were provided by electric companies.

Opponents argue that the second component of this initiative, which authorizes the government to ensure that people who decline to produce solar energy do not have to subsidize solar energy production costs, could be used to limit solar energy production and strengthen the power of utility companies. Specifically, opponents expressed concern that lawmakers might be induced to prohibit the practice of net metering, which requires utilities to purchase surplus electricity generated from solar-powered homes. Opponents also argue that the right of Florida residents to solar energy production is already protected by various regulations and agreements, making the first component of this amendment unnecessary. Some critics claim that Amendment 1 proponents included the provision protecting the right to solar energy production to make Amendment 1 look like a pro-solar measure even though it could reduce the use of solar power.

Relationship between Amendments 1 and 4

Amendment 4, which appeared on the August 2016 ballot, was legislatively referred to the ballot. **Amendment 1**, which will appear on the November 2016 ballot, was put on the ballot through a citizen-initiated signature collection. Amendment 1 was designed to (1) constitutionalize the right to personal solar equipment—a right which is currently protected in state statute—and (2) constitutionally protect any law against requiring residents to subsidize solar power.

Though the measures appeared on different ballots and are not directly related to each other, some argue that aspects of the two amendments are in conflict. Amendment 4 was designed to provide property tax exemptions for solar power equipment. In other words, property owners—both private and commercial—would not have to pay additional property taxes when property values increased through the addition of solar power equipment, making it cheaper for private property owners and businesses to install solar equipment. According to Amendment 1 opponents, Amendment 1 could be used to restrict access to the power grid from residents and small businesses seeking to sell solar power, which could reduce incentives to install and generate solar power.

Solar power in Florida

See also: Energy in Florida

Despite Florida's nickname as the Sunshine State, the majority of the renewable energy produced there comes from biomass, not solar. Solar energy accounted for 5 percent of all the energy generated from renewable sources in 2014. The use of solar energy is expected to increase in the coming years, however; according to the U.S. Energy Information Administration, photovoltaic (PV) solar is expected to account for almost one-third of Florida's new renewable energy capacity by 2023.^[34]

In 1980, voters approved Amendment 1, which instituted an ad valorem tax exemption for renewable energy source devices and "real property on which a renewable energy source device is installed."

In 2012, H.B. 7117 established a renewable energy tax credit program, which is set to expire in 2017. The credit equals one cent per kilowatt hour of electricity produced and sold during a tax year for taxpayers using renewable energy, including solar power. According to the Florida Solar Energy Industries Association, it is illegal for any entity, including homeowner associations, from banning the installation of solar panels on buildings in the state. These entities can, however, have an approval process. Florida does not have a Renewable Portfolio Standard (RPS). It does, however, have other incentive programs to increase renewable energy facilities, including net metering program. Net metering is a billing system where customers who generate their own electricity—usually using renewable sources such as solar panels—are able to sell their excess electricity back to the grid.^{[35][36][37][38]}

Net metering

According to the Database of State Incentives for Renewables and Efficiency, "net metering is required by law in most U.S. states, but state policies vary widely."^[39] While many energy experts support net metering, there is debate over the price at which those generating excess power should be compensated. In some states, consumers are compensated at the retail rate, while other states compensate individual producers at the wholesale rate. Retail electricity rates are the final prices paid by consumers and include the costs of that electricity from generation to delivery. Wholesale electricity rates "include the cost of the fuel used to generate electricity and the cost of buying the power," but do not include the costs of transporting or delivering electricity.^{[36][40]}

Proponents of net metering argue the system is beneficial because it promotes renewable energy and incentivizes consumers to produce their own electricity—a practice that proponents argue is more efficient. Consumers are often drawn to this program because they can save money by generating their own electricity (as opposed to buying it from a utility company), and they can even receive credit back on their electricity bill for the excess electricity they generated.^[41]

Opponents of net metering argue that customers who sell their electricity back to the grid at the full electricity price are not paying for the fixed costs associated with power generation—such as wires, poles, meters, and other infrastructure—and that these costs are shifted onto customers without net metering. According to these opponents, consumers producing their own energy are often still using power supplied by a utility company when their own generation isn't sufficient. For example, on cloudy days, those with solar panels must rely on the grid system for electricity. Instead, opponents argue that consumers should be paid the wholesale price for electricity.^[36]

Polls

See also: Polls, 2016 ballot measures

Florida Amendment 1 (2016) [hide]					
Poll	Support	Oppose	Other	Margin of Error	Sample Size
Hill Research Consultants Poll (http://www.sun-sentinel.com/business/consumer/fl-utility-backed-solar-group-new-poll-20160229-story.html) 2/16/2016 - 2/18/2016	73%	15%	12%	+/-4.0	607

Mason-Dixon Polling & Research (http://www.theledger.com/article/20160311/NEWS/160319857/1002/sports?Title=Poll-Marijuana-solar-energy-amendments-have-strong-support) 3/7/16 - 3/9/16	64%	18%	18%	+/-4.0	625
AVERAGES	68.5%	16.5%	15%	+/-4	616
<i>Note: A "0%" finding means the candidate was not a part of the poll. The polls above may not reflect all polls that have been conducted in this race. Those displayed are a random sampling chosen by Ballotpedia staff. If you would like to nominate another poll for inclusion in the table, send an email to editor@ballotpedia.org (mailto:editor@ballotpedia.org)</i>					

Path to the ballot

See also: Laws governing the initiative process in Florida

On November 24, 2015, the initiative was sent to the Florida Supreme Court for review to ensure that the amendment was unambiguous, covered a single topic, and that the ballot summary ran no more than 75 words. Supporters needed to collect at least 683,149 valid signatures by February 1, 2016, to qualify the measure for the 2016 ballot. Petitioners submitted 720,395 valid signatures on February 3, 2016, according to the secretary of state. The measure was then certified and given a ballot number.^[1]

Lawsuit

Floridians for Solar Choice, a group that had submitted a competing measure for the 2016 ballot, announced on January 11, 2016, that they had filed a brief against Amendment 1 with the Florida Supreme Court. The brief claimed that Consumers for Smart Solar's measure is misleading, that it promises solar energy rights for voters that the state constitution already provides, and lures voters into thinking it will increase access to rooftop solar when it will actually reduce solar options. On February 15, 2016, the Florida Supreme Court granted permission for oral arguments to be heard on May 5, 2016. On February 24, 2016, the court rescheduled oral arguments for March 7, 2016.^{[42][43][44][45]}

On March 31, 2016, the Florida Supreme Court ruled that Amendment 1 was not misleading and approved it to remain on the November ballot. In a 4-3 decision, the court stated that the measure was clearly worded and was compliant with the state's single-subject requirement for constitutional amendments. In the dissenting opinion, Justice Barbara Pariente wrote that Amendment 1 was "masquerading as a pro-solar initiative."^[46]

State profile



Florida's population in 2014 was 19,893,297.

Florida's population in 2014 was 19,893,297, according to the United States Census Bureau. This estimate represented a 5.8 percent increase from the bureau's 2010 estimate. The state's population per square mile was 350.6 in 2010, exceeding the national average of 87.4.

Florida experienced a 3 percent increase in total employment from 2011 to 2012, exceeding the 2.2 percent increase at the national level during the same period.^[47]

Demographics

Florida fell below the national average for residents who attained at least bachelor's degrees, according to data from 2009 to 2013. The United States Census Bureau found that 26.4 percent of Florida residents aged 25 years and older attained bachelor's degrees, compared to 28.8 percent at the national level.

The median household income in Florida was \$46,956 between 2009 and 2013, compared to a \$59,836 national median income. Census information showed a 17 percent poverty rate in Florida during the study period, compared to a 14.5 percent national poverty rate.^[47] **To expand the boxes below, click [show] on the right side of each box.**

Racial Demographics, 2013^[47][\[show\]](#)

Presidential Voting Pattern, 2000-2012^{[48][49]}[\[show\]](#)

Note: Each column will add up to 100 percent after removing the "Hispanic or Latino" percentage, although rounding by the Census Bureau may make the total one- or two tenths off. Read more about race and ethnicity in the Census here.^[50]

Related measures