

BILL ANALYSIS

Senate Research Center
83R3308 CJC-F

S.B. 730
By: Deuell
Finance
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 730 provides a 10-year sales tax exemption for new a data center facility that meet certain criteria.

The comptroller of public accounts of the State of Texas will be required to adopt and publish rules to implement this legislation. This bill is not intended to cover existing data center facilities, unless the existing facility is expanded in such a manner as to meet the criteria.

This bill seeks to exempt unique materials and equipment necessary for construction of a data center, including but not limited to specialized electrical systems and equipment; specialized cooling systems; specialized fire suppression systems; and power generation equipment (generators).

This section does not apply to office equipment or supplies or equipment or supplies used in sales or distribution activities or in transportation activities of such a facility.

As proposed, S.B. 730 amends current law relating to the temporary exemption of certain tangible personal property related to data centers from the sales and use tax.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to comptroller of public accounts of the State of Texas in SECTION 1 (Section 151.357, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter H, Chapter 151, Tax Code, by adding Section 151.357, as follows:

Sec. 151.357. PROPERTY USED IN CERTAIN DATA CENTERS; TEMPORARY EXEMPTION. (a) Defines "county average weekly wage," "data center," "permanent job," "qualifying data center," "qualifying data center tenant," and "qualifying job."

(b) Provides that the following items, except as otherwise provided by this section, beginning on the date a data center or a data center tenant becomes a qualifying data center or qualifying data center tenant and is issued a registration number and ending on the 10th anniversary of that date, are exempted from the taxes imposed by this chapter if sold, leased, or rented to a qualifying data center or a qualifying data center tenant:

(1) tangible personal property necessary to manage or operate the data center, including an electrical system, a cooling or environmental control system, a generator, hardware or a distributed mainframe computer or server, a data storage device, and network connectivity equipment; and

(2) any component part of tangible personal property described by Subdivision (1).

(c) Provides that this section does not apply to office equipment or supplies, or equipment or supplies used in sales or distribution activities or transportation activities.

(d) Provides that a data center is eligible to be a qualifying data center for purposes of this section if, on or after September 1, 2013, the data center creates at least 25 qualifying jobs in the county in which the data center is located, and certifies in writing to the comptroller of public accounts of the State of Texas (comptroller) that the data center will invest at least \$150 million in the data center facility over a five-year period beginning on the date the data center becomes a qualifying data center.

(e) Authorizes a data center to apply to the comptroller for qualification as a qualifying data center and for issuance of a registration number issued by the comptroller. Requires the application to be made on a form prescribed by the comptroller and include the information required by the comptroller. Provides that the application may include information relating to colocation tenants or a colocation tenant may apply separately to the comptroller for qualification as a qualifying colocation tenant and for issuance of a registration number.

(f) Provides that a registration number issued under this section expires on the 10th anniversary of the date of issuance, unless revoked at an earlier time by the comptroller as provided by Subsection (h).

(g) Requires that the registration number issued by the comptroller be stated on the exemption certificate provided by the purchaser of the item to claim an exemption under this section.

(h) Requires the comptroller to revoke and prohibits the comptroller from reinstating:

(1) a registration number issued to a qualifying data center if the data center fails to comply with the requirements prescribed by Subsection (d); and

(2) a registration number issued to a qualifying data center tenant if:

(A) the data center tenant no longer meets the qualifications prescribed by Subsection (a)(5) (defining "qualifying data center tenant"); or

(B) the comptroller revokes the registration number of the qualifying data center with whom the data center tenant contracts.

(i) Provides that a qualifying data center or a qualifying data center tenant whose registration number is revoked for a reason specified by Subsection (h) is liable for payment of the taxes imposed under this chapter on the purchase price of each taxable item the data center or data center tenant purchased and claimed an exemption for under this section, regardless of whether the purchase occurred before the date the registration number was revoked.

(j) Requires the comptroller to adopt rules necessary to implement this section, including rules relating to the qualification of a data center and a data center tenant for the exemption under this section, issuance and revocation of a registration number issued under this section, and reporting and other procedures necessary to ensure that a qualifying data center and a qualifying data center tenant comply with this section and remain entitled to the exemption authorized by this section.

SECTION 2. Provides that the change in law made by this Act does not affect tax liability accruing before the effective date of this Act. Provides that tax liability accruing before the effective date of this Act continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. Effective date: September 1, 2013.