

BILL ANALYSIS

C.S.H.B. 2096
By: Button
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recent legislation authorized a state sales tax exemption for data centers of a certain size located in Texas, but omits, interested parties note, multi-user data centers, despite many other states currently providing significant sales tax exemptions for multi-user data centers. As a result, the parties continue, Texas is missing an opportunity to attract multi-user data center projects. The purpose of C.S.H.B. 2096 is to attract the multi-user data center market, which could result in job creation and increased tax revenue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2096 amends the Tax Code to exempt from the state sales and use tax certain tangible personal property that is necessary and essential to the operation of a qualifying multi-user data center if the tangible personal property is purchased for installation at, incorporation into, or in the case of electricity, use in a qualifying multi-user data center by a qualifying owner, qualifying operator, or qualifying occupant. The bill identifies the tangible personal property that is eligible for the exemption and that is specifically excluded from the exemption.

C.S.H.B. 2096 defines "multi-user data center" as all or part of a new or redeveloped facility that is located in Texas; is composed of a building or a series of buildings and related improvements located on a parcel of land or on parcels of land that are in close proximity to each other; is specifically constructed or refurbished, repaired, restored, remodeled, or otherwise modified and actually used primarily to house servers and related equipment and support staff for the processing, storage, and distribution of data; is designed for use by one or more qualifying occupants for the processing, storage, and distribution of data; is not used primarily by a telecommunications provider to place tangible personal property that is used to deliver telecommunications services; and has an uninterruptible power source, generator backup power, a sophisticated fire suppression and prevention system, and enhanced physical security that includes restricted access, video surveillance, and electronic systems.

C.S.H.B. 2096 defines "qualifying occupant" as a person who contracts with a qualifying owner or qualifying operator for at least 1,000 kilowatts of critical IT load capacity per month for a period of at least two years and to place, or cause to be placed, and to use tangible personal property at the qualifying multi-user data center, or, in the case of a qualifying occupant who is also the qualifying owner and the qualifying operator, places or causes to be placed and uses

tangible personal property at the qualifying multi-user data center. The bill defines "qualifying operator" as a person who controls access to a qualifying multi-user data center, regardless of whether that person owns each item of tangible personal property located at the qualifying multi-user data center and defines "qualifying owner" as a person who owns the building or buildings in which a qualifying multi-user data center is located. The bill specifies that the qualifying operator and the qualifying owner may be the same person.

C.S.H.B. 2096 authorizes a multi-user data center to be certified by the comptroller of public accounts as a qualifying multi-user data center for the purposes of the exemption if, on or after September 1, 2015, the qualifying owner, qualifying operator, or qualifying occupants of the multi-user data center, independently or jointly create at least five permanent, full-time jobs paying at least the county average weekly wage in the county in which the multi-user data center is located, not including jobs moved from one Texas county to another Texas county, and make or agree to make, on or after September 1, 2015, a capital investment of at least \$100 million in that particular multi-user data center over a five-year period beginning on the date the multi-user data center is certified by the comptroller as a qualifying multi-user data center. The bill requires an eligible multi-user data center to apply to the comptroller for certification and for the issuance of a registration number or numbers. The bill requires the application to be made on a form prescribed by the comptroller and sets out information to be included on the form.

C.S.H.B. 2096 authorizes a person who is not listed as a qualifying occupant on a filed application to submit an application to the comptroller for a registration number in relation to a certified qualifying multi-user data center on a form prescribed by the comptroller. The bill requires the comptroller to issue the registration number to the applicant on receipt of information sufficient to determine that the applicant is a qualifying occupant of the certified qualifying multi-user data center. The bill establishes that the tax exemption begins on the date the multi-user data center is certified as a qualifying multi-user data center and expires on the 10th anniversary of that date, if the qualifying owner, qualifying operator, or qualifying occupants, independently or jointly, make a capital investment of at least \$100 million but less than \$150 million or on the 15th anniversary of that date, if the qualifying owner, qualifying operator, or qualifying occupants, independently or jointly, make a capital investment of \$150 million or more.

C.S.H.B. 2096 requires each person eligible to claim an exemption to hold a registration number issued by the comptroller and requires the registration number to be stated on the exemption certificate provided by the purchaser to the seller of tangible personal property eligible for the exemption. The bill requires the comptroller to revoke all registration numbers issued in connection with a qualifying multi-user data center that the comptroller determines does not meet the prescribed requirements. The bill makes each person whose registration number is revoked by the comptroller liable for sales and use tax, including penalty and interest from the date of purchase, on purchases for which the person claimed an exemption, regardless of whether the purchase occurred before the date the registration number was revoked. The bill requires the comptroller to adopt rules consistent with and necessary to implement the bill's provisions providing for the exemption.

C.S.H.B. 2096 establishes that, except as otherwise provided, the exemption provided by the bill does not apply to the taxes imposed under the Municipal Sales and Use Tax Act, the County Sales and Use Tax Act, or statutory provisions governing sales and use taxes for special purpose taxing authorities. The bill makes a multi-user data center ineligible to receive the exemption if the data center is subject to an agreement limiting the appraised value of the data center's property under certain provisions of the Texas Economic Development Act. The bill authorizes a qualifying owner, qualifying operator, or qualifying occupant of a qualifying multi-user data center to apply to the comptroller for a refund of sales and use tax paid on the purchase of an item of tangible personal property that qualifies for the exemption that occurred before the date the qualifying multi-user data center is certified by the comptroller if the item was purchased after the earlier of the date the multi-user data center submits the application to be certified or the 180th day before the date the multi-user data center is certified by the comptroller.

C.S.H.B. 2096 authorizes a data center that was certified as a qualifying data center with regard to an existing sales and use tax exemption for certain data centers between January 1, 2014, and December 31, 2014, and that otherwise meets the qualifications for certification as a qualifying multi-user data center to elect, on written notice to the comptroller, to become a certified qualifying multi-user data center. The bill requires any capital investment made, and any qualifying jobs created, by the certified qualifying data center before the date the data center provides written notice to the comptroller to be considered in determining whether the data center meets the prescribed qualifications, regardless of whether the investment was made, or the jobs created, before September 1, 2015. The bill specifies that the date on which a qualifying data center was certified as a qualifying data center by the comptroller is considered to be the date on which the qualifying multi-user data center is certified as a certified qualifying multi-user data center. The bill limits the applicability of its provisions relating to the tax exemption for qualifying multi-user data centers to a multi-user data center that becomes a qualifying multi-user data center on or after the bill's effective date, an occupant of a multi-user data center that becomes a qualifying occupant on or after the bill's effective date, or a certified qualifying data center that elects to become a certified qualifying multi-user data center as provided by the bill.

C.S.H.B. 2096 includes use in a qualifying multi-user data center among the uses for which gas and electricity, if sold for such use, are exempted from sales and use tax. The bill authorizes the governing body of a municipality with a population of 35,000 or less by ordinance to provide that the sales and use tax exemption for a qualifying multi-user data center applies to municipal sales and use tax imposed by the municipality.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2096 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 151.359(a)(2), (3), (5), (7), and (8), Tax Code, are amended to read as follows:

No equivalent provision. *(But see Section 151.3591(a), Tax Code, below.)*

(2) "Data center" means all or part of a new or redeveloped facility that [~~at least 100,000 square feet of space in a single building or portion of a single building, which space~~]:

- (A) is located in this state;
- (B) is composed of one or more buildings and related improvements specifically constructed or refurbished, repaired, restored, remodeled, or otherwise modified and actually used primarily to house servers and related equipment and support staff for the processing, storage, and distribution of data;
- (C) is designed for use [~~used~~] by one or more [~~a single~~] qualifying occupants [~~occupant~~] for the processing, storage, and distribution of data;

(D) is not used primarily by a telecommunications provider to place tangible personal property that is used to deliver telecommunications services; and

(E) has an uninterruptible power source, generator backup power, a sophisticated fire suppression and prevention system, and enhanced physical security that includes restricted access, video surveillance, and electronic systems.

(3) "Permanent job" means an employment position that will exist for at least three [~~five~~] years after the date the job is created.

(5) "Qualifying job" means a full-time, permanent job that pays at least [~~120 percent of~~] the county average weekly wage in the county in which the job is based.

(7) "Qualifying owner" means a person who owns the building or buildings in which a qualifying data center is located. A qualifying owner may also be the qualifying operator.

(8) "Qualifying occupant" means a person who:

(A) contracts with a qualifying owner or qualifying operator:

(i) for at least one megawatt of critical IT load per month for a period of at least two years; and

(ii) to place, or cause to be placed, and to use tangible personal property at the qualifying data center; or

(B) in the case of a qualifying occupant who is also the qualifying owner and the qualifying operator, places or causes to be placed, and uses tangible personal property at the qualifying data center.

SECTION 2. Section 151.359, Tax Code, is amended by amending Subsections (c), (d), (e), and (f) and adding Subsections (e-1) and (l) to read as follows:

(c) The exemption provided by this section does not apply to:

(1) office equipment or supplies;

(2) maintenance or janitorial supplies or equipment;

(3) equipment or supplies used primarily in sales activities or transportation activities;

(4) tangible personal property on which the purchaser has received or has a pending application for a refund under Section 151.429;

(5) tangible personal property not otherwise exempted under Subsection (b) that is incorporated into real estate or into an

No equivalent provision. (But see Section 151.3591(c), Tax Code, below.)

improvement of real estate;

(6) tangible personal property that is rented or leased for a term of one year or less; or

(7) notwithstanding Section 151.3111, a taxable service that is performed on tangible personal property exempted under this section, other than a charge for labor to install or maintain tangible personal property described by Subsection (b) that is separately itemized.

(d) Subject to Subsection (k), a data center may be certified by the comptroller as a qualifying data center for purposes of this section if, on or after September 1, 2013, [:

~~(1) a single qualifying occupant:~~

~~[(A) contracts with a qualifying owner or qualifying operator to lease space in which the qualifying occupant will locate a data center; or~~

~~[(B) occupies a space that was not previously used as a data center in which the qualifying occupant will locate a data center, in the case of a qualifying occupant who is also the qualifying operator and the qualifying owner; and~~

~~[(2) the qualifying owner, qualifying operator, or qualifying occupants of the data center [occupant], jointly or independently:~~

~~(1) create [(A) creates] at least five [20] qualifying jobs in the county in which the data center is located, not including jobs moved from one county in this state to another county in this state; and~~

~~(2) make or agree [(B) makes or agrees] to make a capital investment, on or after September 1, 2013, of at least \$100 [\$200] million in that particular data center over a five-year period beginning on the date the data center is certified by the comptroller as a qualifying data center.~~

(e) A data center that is eligible under Subsection (d) to be certified by the comptroller as a qualified data center shall apply to the comptroller for certification as a qualifying data center and for issuance of a registration number or numbers by the comptroller. The application must be made on a form prescribed by the comptroller and include the information required by the comptroller. The application must include the name and contact information for each [the] qualifying occupant, if any, as of the date on which the application is filed with the comptroller, and ~~[, if applicable,]~~ the name and contact information for the qualifying owner and, if applicable, the

No equivalent provision. (But see Section 151.3591(d), Tax Code, below.)

No equivalent provision. (But see Section 151.3591(e), Tax Code, below.)

qualifying operator who will claim the exemption authorized under this section. The application form must include a section for the applicant to certify that the capital investment required by Subsection (d)(2) [~~Subsection (d)(2)(B)~~] will be met independently or jointly by the [~~qualifying occupant,~~] qualifying owner, [or] qualifying operator, or qualifying occupants within the time period prescribed by that subsection [~~Subsection (d)(2)(B)~~].

(e-1) A person who is not listed as a qualifying occupant on an application filed under Subsection (e) may submit an application to the comptroller for a registration number in relation to a certified qualifying data center on a form prescribed by the comptroller. The comptroller shall issue the registration number to the applicant on receipt of information sufficient for the comptroller to determine that the applicant is a qualifying occupant of the certified qualifying data center.

(f) The exemption provided by this section begins on the date the data center is certified by the comptroller as a qualifying data center and expires:

(1) on the 10th anniversary of that date, if the qualifying owner, qualifying operator [~~occupant, qualifying owner~~], or qualifying occupants, [operator] independently or jointly, make [makes] a capital investment of at least \$100 [~~\$200~~] million but less than \$150 [~~\$250~~] million as provided by Subsection (d)(2) [~~Subsection (d)(2)(B)~~]; or

(2) on the 15th anniversary of that date, if the qualifying owner, qualifying operator [~~occupant, qualifying owner~~], or qualifying occupants, [operator] independently or jointly, make [makes] a capital investment of \$150 [~~\$250~~] million or more as provided by Subsection (d)(2) [~~Subsection (d)(2)(B)~~].

(1) A qualifying owner, qualifying operator, or qualifying occupant of a qualifying data center may apply to the comptroller for a refund of the taxes imposed by this chapter paid on the purchase of an item of tangible personal property described by Subsection (b) that occurred before the date the qualifying data center is certified by the comptroller if the item was purchased after the earlier of:

(1) the date the data center submits the application described by Subsection (e); or
(2) the 180th day before the date the data center is certified by the comptroller.

No equivalent provision. (But see Section 151.3591(f), Tax Code, below.)

No equivalent provision. (But see Section 151.3591(g), Tax Code, below.)

No equivalent provision. (But see Section 151.359(a), Tax Code, above.)

SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3591 to read as follows:

Sec. 151.3591. PROPERTY USED IN CERTAIN MULTI-USER DATA CENTERS; TEMPORARY EXEMPTION.

(a) In this section:

(1) "County average weekly wage" means the average weekly wage in a county for all jobs during the most recent four quarterly periods for which data is available, as computed by the Texas Workforce Commission, at the time a multi-user data center creates a job used to qualify under this section.

(2) "Multi-user data center" means all or part of a new or redeveloped facility that:

(A) is located in this state;

(B) is composed of a building or a series of buildings and related improvements located on a parcel of land or on parcels of land that are in close proximity to each other;

(C) is specifically constructed or refurbished, repaired, restored, remodeled, or otherwise modified and actually used primarily to house servers and related equipment and support staff for the processing, storage, and distribution of data;

(D) is designed for use by one or more qualifying occupants for the processing, storage, and distribution of data;

(E) is not used primarily by a telecommunications provider to place tangible personal property that is used to deliver telecommunications services; and

(F) has an uninterruptible power source, generator backup power, a sophisticated fire suppression and prevention system, and enhanced physical security that includes restricted access, video surveillance, and electronic systems.

(3) "Permanent job" means an employment position that will exist for at least three years after the date the job is created.

(4) "Qualifying job" means a full-time, permanent job that pays at least the county average weekly wage in the county in which the job is based.

(5) "Qualifying multi-user data center" means a multi-user data center that meets the qualifications prescribed by Subsection (d).

(6) "Qualifying occupant" means a person who:

(A) contracts with a qualifying owner or qualifying operator:

(i) for at least 1,000 kilowatts of critical IT load capacity per month for a period of at least two years; and

(ii) to place, or cause to be placed, and to use tangible personal property at the qualifying multi-user data center; or

(B) in the case of a qualifying occupant who is also the qualifying owner and the qualifying operator, places or causes to be placed and uses tangible personal property at the qualifying multi-user data center.

(7) "Qualifying operator" means a person who controls access to a qualifying multi-user data center, regardless of whether that person owns each item of tangible personal property located at the qualifying multi-user data center. A qualifying operator may also be the qualifying owner.

(8) "Qualifying owner" means a person who owns the building or buildings in which a qualifying multi-user data center is located. A qualifying owner may also be the qualifying operator.

No equivalent provision.

(b) Except as otherwise provided by this section, tangible personal property that is necessary and essential to the operation of a qualifying multi-user data center is exempted from the taxes imposed by this chapter if the tangible personal property is purchased for installation at, incorporation into, or in the case of electricity, use in a qualifying multi-user data center by a qualifying owner, qualifying operator, or qualifying occupant, and the tangible personal property is:

(1) electricity;

(2) an electrical system;

(3) a cooling system;

(4) an emergency generator;

(5) hardware or a distributed mainframe computer or server;

(6) a data storage device;

(7) network connectivity equipment;

(8) a rack, cabinet, and raised floor system;

(9) a peripheral component or system;

(10) software;

(11) a mechanical, electrical, or plumbing system that is necessary to operate any tangible personal property described by Subdivisions (2)-(10);

(12) any other item of equipment or system necessary to operate any tangible personal property described by Subdivisions (2)-(11), including a fixture; and

(13) a component part of any tangible

No equivalent provision. (But see Section 151.359(c), Tax Code, above.)

No equivalent provision. (But see Section 151.359(d), Tax Code, above.)

No equivalent provision. (But see Section 151.359(e), Tax Code, above.)

personal property described by Subdivisions (2)-(10).

(c) The exemption provided by this section does not apply to:

(1) office equipment or supplies;

(2) maintenance or janitorial supplies or equipment;

(3) equipment or supplies used primarily in sales activities or transportation activities;

(4) tangible personal property on which the purchaser has received or has a pending application for a refund under Section 151.429;

(5) tangible personal property not otherwise exempted under Subsection (b) that is incorporated into real estate or into an improvement of real estate;

(6) tangible personal property that is rented or leased for a term of one year or less; or

(7) notwithstanding Section 151.3111, a taxable service that is performed on tangible personal property exempted under this section.

(d) Subject to Subsection (l), a multi-user data center may be certified by the comptroller as a qualifying multi-user data center for purposes of this section if, on or after September 1, 2015, the qualifying owner, qualifying operator, or qualifying occupants of the multi-user data center, independently or jointly:

(1) create at least five qualifying jobs in the county in which the multi-user data center is located, not including jobs moved from one county in this state to another county in this state; and

(2) make or agree to make, on or after September 1, 2015, a capital investment of at least \$100 million in that particular multi-user data center over a five-year period beginning on the date the multi-user data center is certified by the comptroller as a qualifying multi-user data center.

(e) A multi-user data center that is eligible under Subsection (d) to be certified by the comptroller as a qualifying multi-user data center shall apply to the comptroller for certification and for the issuance of a registration number or numbers by the comptroller. The application must be made on a form prescribed by the comptroller and must include the information required by the comptroller. The application must include the name and contact information for each qualifying occupant, if any, as of the date on which the application is filed with the

No equivalent provision. (But see Section 151.359(e-1), Tax Code, above.)

No equivalent provision. (But see Section 151.359(f), Tax Code, above.)

No equivalent provision.

No equivalent provision.

comptroller, and the name and contact information for the qualifying owner and, if applicable, the qualifying operator who will claim the exemption authorized under this section. The application form must include a section for the applicant to certify that the capital investment required by Subsection (d)(2) will be met independently or jointly by the qualifying owner, qualifying operator, or qualifying occupants within the time period prescribed by that subsection.

(f) A person who is not listed as a qualifying occupant on an application filed under Subsection (e) may submit an application to the comptroller for a registration number in relation to a certified qualifying multi-user data center on a form prescribed by the comptroller. The comptroller shall issue the registration number to the applicant on receipt of information sufficient for the comptroller to determine that the applicant is a qualifying occupant of the certified qualifying multi-user data center.

(g) The exemption provided by this section begins on the date the multi-user data center is certified by the comptroller as a qualifying multi-user data center and expires:

(1) on the 10th anniversary of that date, if the qualifying owner, qualifying operator, or qualifying occupants, independently or jointly, make a capital investment of at least \$100 million but less than \$150 million as provided by Subsection (d)(2); or

(2) on the 15th anniversary of that date, if the qualifying owner, qualifying operator, or qualifying occupants, independently or jointly, make a capital investment of \$150 million or more as provided by Subsection (d)(2).

(h) Each person who is eligible to claim an exemption authorized by this section must hold a registration number issued by the comptroller. The registration number must be stated on the exemption certificate provided by the purchaser to the seller of tangible personal property eligible for the exemption.

(i) The comptroller shall revoke all registration numbers issued in connection with a qualifying multi-user data center that the comptroller determines does not meet the requirements prescribed by Subsection (d). Each person who has the person's registration number revoked by the comptroller is liable for taxes, including

No equivalent provision.

penalty and interest from the date of purchase, imposed under this chapter on purchases for which the person claimed an exemption under this section, regardless of whether the purchase occurred before the date the registration number was revoked.

(j) The comptroller shall adopt rules consistent with and necessary to implement this section, including rules relating to:

(1) a qualifying multi-user data center, qualifying owner, qualifying operator, and qualifying occupant;

(2) issuance and revocation of a registration number required under this section; and

(3) reporting and other procedures necessary to ensure that a qualifying multi-user data center, qualifying owner, qualifying operator, and qualifying occupant comply with this section and remain entitled to the exemption authorized by this section.

No equivalent provision.

(k) Except as provided by Section 321.211, the exemption provided under this section does not apply to the taxes imposed under Chapter 321, 322, or 323.

No equivalent provision.

(l) A multi-user data center is not eligible to receive an exemption under this section if the data center is subject to an agreement limiting the appraised value of the data center's property under Subchapter B or C, Chapter 313.

No equivalent provision.

(m) A qualifying owner, qualifying operator, or qualifying occupant of a qualifying multi-user data center may apply to the comptroller for a refund of the taxes imposed by this chapter paid on the purchase of an item of tangible personal property described by Subsection (b) that occurred before the date the qualifying multi-user data center is certified by the comptroller if the item was purchased after the earlier of:

(1) the date the multi-user data center submits the application described by Subsection (e); or

(2) the 180th day before the date the multi-user data center is certified by the comptroller.

No equivalent provision.

(n) Notwithstanding any other law, a data center that was certified as a qualifying data center under Section 151.359 between January 1, 2014, and December 31, 2014, and that otherwise meets the qualifications for certification as a qualifying multi-user data center prescribed by Subsection (d), may elect, on written notice to the comptroller, to become a certified

qualifying multi-user data center subject to this section. Any capital investment made, and any qualifying jobs created, by the certified qualifying data center before the date the data center provides written notice to the comptroller under this section shall be considered in determining whether the data center meets the qualifications prescribed by Subsection (d), regardless of whether the investment was made, or the jobs created, before September 1, 2015. For purposes of Subsections (g) and (m), the date on which a qualifying data center was certified as a qualifying data center by the comptroller under Section 151.359 is considered to be the date on which the qualifying multi-user data center is certified as a certified qualifying multi-user data center for purposes of this section.

No equivalent provision.

SECTION 2. Sections 151.317(a) and (b), Tax Code, are amended to read as follows:

(a) Subject to Sections 151.1551, 151.359, and 151.3591 [~~151.1554~~] and Subsection (d) of this section, gas and electricity are exempted from the taxes imposed by this chapter when sold for:

- (1) residential use;
- (2) use in powering equipment exempt under Section 151.318 or 151.3185 by a person processing tangible personal property for sale as tangible personal property, other than preparation or storage of prepared food described by Section 151.314(c-2);
- (3) use in lighting, cooling, and heating in the manufacturing area during the actual manufacturing or processing of tangible personal property for sale as tangible personal property, other than preparation or storage of prepared food described by Section 151.314(c-2);
- (4) use directly in exploring for, producing, or transporting, a material extracted from the earth;
- (5) use in agriculture, including dairy or poultry operations and pumping for farm or ranch irrigation;
- (6) use directly in electrical processes, such as electroplating, electrolysis, and cathodic protection;
- (7) use directly in the off-wing processing, overhaul, or repair of a jet turbine engine or its parts for a certificated or licensed carrier of persons or property;
- (8) use directly in providing, under contracts

with or on behalf of the United States government or foreign governments, defense or national security-related electronics, classified intelligence data processing and handling systems, or defense-related platform modifications or upgrades;

(9) use directly by a data center or multi-user data center that is certified by the comptroller as a qualifying data center under Section 151.359 or a qualifying multi-user data center under Section 151.3591 in the processing, storage, and distribution of data;

(10) a direct or indirect use, consumption, or loss of electricity by an electric utility engaged in the purchase of electricity for resale; or

(11) use in timber operations, including pumping for irrigation of timberland.

(b) The sale, production, distribution, lease, or rental of, and the use, storage, or other consumption in this state of, gas and electricity sold for the uses listed in Subsection (a), are exempted from the taxes imposed by a municipality under Chapter 321 except as provided by Sections 151.359(j), 151.3591(k), and 321.105.

No equivalent provision.

SECTION 3. Section 313.010, Tax Code, as added by Chapter 1274 (H.B. 1223), Acts of the 83rd Legislature, Regular Session, 2013, is amended to read as follows:

Sec. 313.010. CERTAIN ENTITIES INELIGIBLE. An entity that has been issued a registration number under Section 151.359 or 151.3591 is not eligible to receive a limitation on appraised value under this chapter.

No equivalent provision.

SECTION 4. Section 321.208, Tax Code, is amended to read as follows:

Sec. 321.208. STATE EXEMPTIONS APPLICABLE. The exemptions provided by Subchapter H, Chapter 151, apply to the taxes authorized by this chapter, except as provided by Sections [~~151.359(j) and~~] 151.317(b), 151.359(j), and 151.3591(k), and subject to Section 321.211.

No equivalent provision.

SECTION 5. Subchapter C, Chapter 321, Tax Code, is amended by adding Section 321.211 to read as follows:

Sec. 321.211. MULTI-USER DATA CENTER EXCEPTION. The governing body of a municipality with a population of

35,000 or less may by ordinance provide that the exemption provided by Section 151.3591 applies to the taxes imposed by the municipality under this chapter.

No equivalent provision.

SECTION 6. Section 323.207, Tax Code, is amended to read as follows:

Sec. 323.207. STATE EXEMPTIONS APPLICABLE. The exemptions provided by Subchapter H, Chapter 151, apply to the taxes authorized by this chapter, except as provided by Sections [~~151.359(j) and~~] 151.317(b), 151.359(j), and 151.3591(k).

No equivalent provision.

SECTION 7. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability 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. The changes in law made by this Act apply to a data center certified as a qualifying data center by the comptroller of public accounts, regardless of whether the certification occurred before, on, or after the effective date of this Act.

SECTION 8. Section 151.3591, Tax Code, as added by this Act, applies only to:

- (1) a multi-user data center that becomes a qualifying multi-user data center on or after the effective date of this Act;
- (2) an occupant of a multi-user data center that becomes a qualifying occupant on or after the effective date of this Act; or
- (3) a certified qualifying data center under Section 151.359 that elects to become a certified qualifying multi-user data center under Section 151.3591(n), Tax Code, as added by this Act.

SECTION 4. This Act takes effect September 1, 2015.

SECTION 9. Same as introduced version.