

By: Parker

H.B. No. 2506

Substitute the following for H.B. No. 2506:

By: Button

C.S.H.B. No. 2506

A BILL TO BE ENTITLED

AN ACT

relating to an exemption for certain tangible personal property
related to medical data centers from the sales and use tax.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections [151.317](#)(a) and (b), Tax Code, are
amended to read as follows:

(a) Subject to Sections [151.359](#), [151.360](#), and [151.1551](#) 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 medical data center that is certified by the comptroller as a qualifying data center or qualifying medical data center under Section [151.359](#) or [151.360](#) 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)[7] are exempted from the taxes imposed by a municipality under Chapter 321 except as provided by Sections [151.359\(j\)](#), [151.360\(j\)](#), and [321.105](#).

SECTION 2. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.360 to read as follows:

Sec. 151.360. PROPERTY USED IN CERTAIN MEDICAL DATA

CENTERS; 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 data center creates a job used to qualify under this section.

(2) "Health care corporation" means a corporation whose primary business is the ownership and operation of hospitals and related health care facilities.

(3) "Medical data center" means at least 75,000 square feet of space in a single building or portion of a single building, or cumulatively in multiple buildings or portions of multiple buildings that are occupied by a single health care corporation, one or more of its subsidiaries, or both, which space:

(A) is located in this state;

(B) is actually used primarily by the health care corporation or a subsidiary of the corporation to house servers and related equipment and support staff for the processing, storage, and distribution of medical data, including electronic patient records, financial information, and business records;

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

(D) 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.

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

4 (5) "Primarily" means at least 50 percent.

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

8 (7) "Qualifying medical data center" means a medical
9 data center that meets the qualifications prescribed by Subsection
10 (d).

11 (8) "Subsidiary" has the meaning assigned by Section
12 1.002, Business Organizations Code.

13 (b) Except as otherwise provided by this section, tangible
14 personal property that is necessary and essential to the operation
15 of a qualified medical data center is exempted from the taxes
16 imposed by this chapter if the tangible personal property is
17 purchased for installation at, incorporation into, or, in the case
18 of Subdivision (1), use in a qualifying medical data center by a
19 health care corporation or a subsidiary of the corporation, and the
20 tangible personal property is:

21 (1) electricity;

22 (2) an electrical system;

23 (3) a cooling system;

24 (4) an emergency generator;

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

27 (6) a data storage device;

1 (7) network connectivity equipment;

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

3 (9) a peripheral component or system;

4 (10) software;

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

8 (12) any other item of equipment or system necessary
9 to operate any tangible personal property described by Subdivisions
10 (2)-(11), including a fixture; or

11 (13) a component part of any tangible personal
12 property described by Subdivisions (2)-(10).

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

15 (1) office equipment or supplies;

16 (2) maintenance or janitorial supplies or equipment;

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

19 (4) tangible personal property on which the purchaser
20 has received or has a pending application for a refund under Section
21 [151.429](#);

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

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

27 (d) Subject to Subsection (k), a medical data center may be

1 certified by the comptroller as a qualifying medical data center
2 for purposes of this section if, on or after September 1, 2015, a
3 health care corporation or a subsidiary of the corporation:

4 (1) builds, leases, or operates a medical data center;

5 (2) makes or agrees to make a capital investment, on or
6 after September 1, 2015, of at least \$200 million in that medical
7 data center over a five-year period beginning on the date the
8 medical data center is certified by the comptroller as a qualifying
9 medical data center; and

10 (3) creates at least 20 qualifying jobs in the county
11 in which the medical data center is located, not including a job
12 moved from one county in this state to another county in this state.

13 (e) A medical data center that is eligible under Subsection
14 (d) shall apply to the comptroller for certification as a
15 qualifying medical data center and for issuance of a registration
16 number or numbers by the comptroller. The application must be made
17 on a form prescribed by the comptroller and include the information
18 required by the comptroller. The application must include the name
19 and contact information for the health care corporation or the
20 subsidiary of the corporation that will claim the exemption
21 authorized under this section. The application form must include a
22 section for the applicant to certify that the capital investment
23 required by Subsection (d)(2) will be met by the health care
24 corporation or the subsidiary of the corporation within the time
25 period prescribed by Subsection (d)(2).

26 (f) The exemption provided by this section begins on the
27 date the medical data center is certified by the comptroller as a

1 qualifying medical data center and expires on the date that the
2 medical data center ceases operating as a medical data center.

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

8 (h) The comptroller shall revoke all registration numbers
9 issued in connection with a qualifying medical data center that the
10 comptroller determines does not meet the requirements prescribed by
11 Subsection (d). Each person who has the person's registration
12 number revoked by the comptroller is liable for taxes, including
13 penalty and interest from the date of purchase, imposed under this
14 chapter on purchases for which the person claimed an exemption
15 under this section, regardless of whether the purchase occurred
16 before the date the registration number was revoked.

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

19 (1) a qualifying medical data center;
20 (2) issuance and revocation of a registration number
21 required under this section; and

22 (3) reporting and other procedures necessary to ensure
23 that a qualifying medical data center complies with this section
24 and remains entitled to the exemption authorized by this section.

25 (j) The exemption in this section does not apply to the
26 taxes imposed under Chapter 321, 322, or 323.

27 (k) A medical data center is not eligible to receive an

1 exemption under this section if the medical data center is subject
2 to an agreement limiting the appraised value of the medical data
3 center's property under Subchapter B or C, Chapter 313.

4 SECTION 3. Section 313.010, Tax Code, as added by Chapter
5 1274 (H.B. 1223), Acts of the 83rd Legislature, Regular Session,
6 2013, is amended to read as follows:

7 Sec. 313.010. CERTAIN ENTITIES INELIGIBLE. An entity that
8 has been issued a registration number under Section 151.359 or
9 151.360 is not eligible to receive a limitation on appraised value
10 under this chapter.

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

13 Sec. 321.208. STATE EXEMPTIONS APPLICABLE. The exemptions
14 provided by Subchapter H, Chapter 151, apply to the taxes
15 authorized by this chapter, except as provided by Sections
16 151.359(j), 151.360(j), and 151.317(b).

17 SECTION 5. Section 323.207, Tax Code, is amended to read as
18 follows:

19 Sec. 323.207. STATE EXEMPTIONS APPLICABLE. The exemptions
20 provided by Subchapter H, Chapter 151, apply to the taxes
21 authorized by this chapter, except as provided by Sections
22 151.359(j), 151.360(j), and 151.317(b).

23 SECTION 6. The change in law made by this Act does not
24 affect tax liability accruing before the effective date of this
25 Act. That liability continues in effect as if this Act had not been
26 enacted, and the former law is continued in effect for the
27 collection of taxes due and for civil and criminal enforcement of

1 the liability for those taxes.

2 SECTION 7. This Act takes effect September 1, 2015.