

By: Gonzales

H.B. No. 3689

A BILL TO BE ENTITLED

AN ACT

relating to the temporary exemption of certain tangible personal property related to a data center from the state sales and use tax.

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

SECTION 1. Section 151.359(a)(2), Tax Code, is amended to read as follows:

(2) "Data center" means at least 50,000 [~~100,000~~] square feet of space in a single building or portion of a single building, which space:

(A) is located in this state on or after September 1, 2013;

(B) is specifically constructed or refurbished and actually used primarily to house servers and related equipment and support staff for the processing, storage, and distribution of data;

(C) is used by a single qualifying 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.

1 SECTION 2. Sections 151.359(d) and (f), Tax Code, are
2 amended to read as follows:

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

6 (1) a single qualifying occupant:

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

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

14 (2) the qualifying owner, qualifying operator, or
15 qualifying occupant, jointly or independently:

16 (A) creates at least 15 [~~20~~] qualifying jobs in
17 the county in which the data center is located, not including jobs
18 moved from one county in this state to another county in this state;
19 and

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

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

1 (1) on the 10th anniversary of that date, if the
2 qualifying occupant, qualifying owner, or qualifying operator
3 independently or jointly makes a capital investment of at least
4 \$100 [~~\$200~~] million but less than \$250 million as provided by
5 Subsection (d)(2)(B); or

6 (2) on the 15th anniversary of that date, if the
7 qualifying occupant, qualifying owner, or qualifying operator
8 independently or jointly makes a capital investment of \$250 million
9 or more as provided by Subsection (d)(2)(B).

10 SECTION 3. The change in law made by this Act does not
11 affect tax liability accruing before the effective date of this
12 Act. That liability continues in effect as if this Act had not been
13 enacted, and the former law is continued in effect for the
14 collection of taxes due and for civil and criminal enforcement of
15 the liability for those taxes.

16 SECTION 4. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2015.