LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 6, 2015

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2096** by Button (Relating to the temporary exemption of certain tangible personal property related to a data center from the state sales and use tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2096, As Introduced: a negative impact of ($29,500,000) through the biennium ending August 31, 2017.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	($11,000,000)
2017	($18,500,000)
2018	($26,000,000)
2019	($33,500,000)
2020	($33,600,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *General Revenue Fund* 1
2016	($11,000,000)
2017	($18,500,000)
2018	($26,000,000)
2019	($33,500,000)
2020	($33,600,000)

Fiscal Analysis

The bill would amend Section 151.359 of the Tax Code, relating to data centers that may qualify for exemption of certain items from sales and use tax.

The definition of "data center" would be amended to refer to all or part of a redeveloped facility without condition as to size, to provide that it may consist of one or more buildings and related improvements, and to provide that it may include more than one qualifying tenant.

The permanent job creation requirement would be reduced from jobs that exist for at least five years to three years and the wage requirement would be reduced from 120 percent of the average weekly wage in the county of location to the average weekly wage. The job creation requirement would be reduced from 20 qualifying jobs to 5 qualifying jobs.

A "qualifying occupant" would be someone who contracts for at least one megawatt of critical IT load per month for a period of at least two years.

The capital investment requirement would be reduced from $200 million to $100 million in a particular data center over a five year period. The capital investment requirement to qualify for exemption for 15 years rather than 10 years would be reduced from $250 million to $150 million.

A provision would be added for refunds of tax paid by a qualifying owner, operator, or occupant before certification by the Comptroller that a data center is a qualifying data center.

The bill would take effect September 1, 2015, but its provisions would apply for any data center located in the state on or after September 1, 2013 regardless of whether its certification as a qualifying data center occurred before, on, or after the effective date of the bill.

Methodology

Data obtained from industry sources on the composition of data center expenditures on infrastructure and electricity costs, as well as the recent volume of deal activity in the multi-tenant data center market for tenants contracting for one megawatt or more of capacity, was used to model expected annual expenditures by data centers that would be subject to tax under current law but would be exempt under provisions of the bill. The estimate below is based on an assumption of 30 megawatts of new commitments for capacity per year in the one to ten megawatt level that could meet the $100 million capital investment requirement over a five year period, whether on a single occupancy or multi-tenant basis.

While the exemption policy proposed in this bill might foster more data center development in the state, the incremental state sales tax revenues from the additional centers would be limited for the most part to tax on building materials for the shell, while there would be significant reductions in state sales tax revenues from expenditures on power and communications equipment, servers, and electricity pursuant to data center demand that would occur without the exemption. Additional data center development might also result in significant increments to school property tax bases; however, the extent to which that may result in savings to the state in costs for the Foundation School Program is not estimated in this fiscal note and would have to be recognized in the appropriations process.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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