

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 23, 2015

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

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2506** by Parker (Relating to an exemption for certain tangible personal property related to medical data centers from the sales and use tax.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2506, As Introduced: a negative impact of (\$9,400,000) 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	(\$3,400,000)
2017	(\$6,000,000)
2018	(\$1,600,000)
2019	(\$9,300,000)
2020	(\$7,300,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from General Revenue Fund 1
2016	(\$3,400,000)
2017	(\$6,000,000)
2018	(\$1,600,000)
2019	(\$9,300,000)
2020	(\$7,300,000)

Fiscal Analysis

The bill would amend Chapters 151 and 313 of the Tax Code, to provide a sales tax exemption for certain property used in certain medical data centers.

The bill would amend Section 151.317(a) and (b) to exempt gas and electricity from taxes imposed by this chapter when used directly by a medical data center, as defined by the bill, that is certified by the Comptroller as a qualifying medical data center under proposed new Section 151.360.

The bill would add new Section 151.360 to provide that a medical data center and qualifying medical data center tenant would be exempt from sales and use taxes paid on the purchase, lease, or rental of certain tangible personal property beginning on the date the medical data center is certified by the Comptroller as a qualifying medical data center and expiring on the date that the medical data center ceases operating as a medical data center.

The bill would define a "qualifying operator," "qualifying owner," and "qualifying occupant," and provide that a medical data center may be certified by the Comptroller as a "qualifying medical data center" if, on or after September 1, 2015, a single qualifying occupant contracts to lease space from a qualifying owner or operator or occupies a space not previously used as a medical data center and the qualifying owner, operator, and occupant jointly or independently makes or agrees to make a capital investment, on or after September 1, 2015, of at least \$200 million in that particular medical data center over a five-year period beginning on the date the medical data center is certified as a qualifying medical data center.

The bill would exempt from tax tangible personal property that is necessary and essential to the operation of a qualifying medical data center if the property is purchased for installation at, incorporation into, or in the case of electricity for use in, a qualifying medical data center if the tangible personal property is: electricity; an electrical system; a cooling system; an emergency generator; hardware or a distributed mainframe computer or server; a data storage device; network connectivity equipment; a rack, cabinet, and raised floor system; a peripheral component or system; software; a mechanical, electrical, or plumbing system necessary to operate the foregoing property; any other item of equipment or system necessary to operate any of the foregoing, including a fixture; and a component part of any of the foregoing. Excluded from exemption would be: office equipment or supplies; maintenance or janitorial supplies or equipment; equipment or supplies used primarily in sales activities or in transportation activities; property for which a refund may be received under Section 151.429 (tax refunds for enterprise projects); tangible personal property not otherwise exempted that is incorporated into real estate or an improvement of real estate; tangible personal property that is rented or leased for a term of one year or less; or notwithstanding Section 151.3111, a taxable service that is performed on tangible personal property exempted under Section 151.360.

The exemption would not apply to the local sales and use taxes imposed under Chapters 321, 322 or 323 of the Tax Code.

A medical data center subject to an agreement limiting appraised value under Section 313.010 ("Certain Entities Ineligible") would not be eligible for exemption under Section 151.360, and an entity with a registration number under Section 151.360 would not be eligible to receive a limitation on appraisal under Chapter 313.

A registration number would have to be obtained from the Comptroller for each person eligible to claim the exemption and must be stated on the exemption certificate provided by the purchaser to the seller of tangible personal property eligible for the exemption. All registration numbers issued in connection with a qualifying medical data center would be revocable by the Comptroller upon determination that the requirements for qualification were not met, and each person whose registration number was revoked would be liable for taxes, including penalty and interest from the date of purchase, on purchases for which the person claimed exemption.

The bill would take effect September 1, 2015.

## **Methodology**

The principal differences between the standards required for qualification and benefits conferred under the proposed new Sec. 151.360 for qualifying medical data center and those required or conferred under the current Sec. 151.359 for qualifying data centers are: 1) a qualifying medical data center would have to occupy at least 75,000 square feet of space rather than 100,000 square feet; 2) a qualifying medical data center could be distributed over multiple buildings, and therefore distributed geographically, rather than consisting of only a single building or portion of a single building; and 3) the exemption from state sales and use tax for a qualifying medical data center would not expire after 10 years but would instead continue indefinitely.

This fiscal analysis assumes that at least one medical data center will qualify for exemption beginning in FY 2016 under proposed new Sec. 151.360, that will absorb data center expenditures that would otherwise occur and that could not be aggregated to qualify for exemption under current Sec. 151.359, with more to follow in subsequent years.

Data on the composition of data center infrastructure and electricity costs obtained from industry sources was used to model expected annual expenditures by data centers that would be subject to tax under current law but that would be exempt under the provisions of the bill.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** UP, KK, SD