By: Vasut H.B. No. 681

A BILL TO BE ENTITLED

AN ACT

relating to the repeal of the exemptions from sales and use taxes for property used in certain data centers and large data center projects.

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

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

(a) Subject to Section [~~Sections~~] 151.1551[~~, 151.359, and 151.3595~~] 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 large data center project that is certified by the comptroller as a qualifying data center under Section 151.359 or a qualifying large data center project under Section 151.3595 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

(10) [~~(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 Section [~~Sections 151.359(j) and~~] 321.105.

(d) To qualify for the exemptions in Subsections (a)(2)-(8)

[~~(a)(2)-(9)~~], the gas or electricity must be sold to the person using the gas or electricity in the exempt manner. For purposes of this subsection, the use of gas or electricity in an exempt manner by an independent contractor engaged by the purchaser of the gas or electricity to perform one or more of the exempt activities identified in Subsections (a)(2)-(8) [~~(a)(2)-(9)~~] is considered use by the purchaser of the gas or electricity.

SECTION 2. 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 Section [~~Sections 151.359(j) and~~] 151.317(b).

SECTION 3. 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 Section [~~Sections 151.359(j) and~~] 151.317(b).

SECTION 4. The following provisions of the Tax Code are repealed:

(1) Section 151.359;

(2) Section 151.3595; and

(3) Section 313.009.

SECTION 5. (a) The repeal by this Act of Sections 151.359 and 151.3595, Tax Code, does not affect the ability of a data center or large data center project certified by the comptroller of public

accounts as a qualifying data center or qualifying large data center project before the effective date of this Act to continue to receive the exemption from sales and use taxes provided under Section 151.359 or 151.3595, Tax Code, as applicable, until the data center's or large data center project's exemption period provided under the applicable section expires, subject to any limitation provided by the applicable section, and the former law is continued in effect for that purpose.

(b) An application submitted to the comptroller of public accounts for certification as a qualifying data center or qualifying large data center project that is pending on the effective date of this Act is considered to be denied and may not be approved by the comptroller.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2027.