By: Perez of El Paso H.B. No. 732

A BILL TO BE ENTITLED

AN ACT

relating to the ineligibility of certain data centers for state and local economic development incentives.

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

ARTICLE 1. TAX ABATEMENT UNDER CHAPTER 312, TAX CODE

SECTION 1.01. Subchapter A, Chapter 312, Tax Code, is amended by adding Section 312.0022 to read as follows:

Sec. 312.0022. PROHIBITION ON TAX ABATEMENT FOR DATA CENTER. (a) In this section:

(1) "Data center" means any facility that primarily contains electronic equipment used to process, store, or transmit digital information. The term includes a facility used primarily for cryptocurrency mining or other distributed ledger or blockchain computation and a facility used primarily for the training or operation of an artificial intelligence model.

(2) "Data center" does not include:

(A) a facility owned and operated by this state, a political subdivision of this state, or an institution of higher education as defined by Section 61.003, Education Code;

(B) electronic equipment, or the space containing electronic equipment, that supports a manufacturing, health care, financial, retail, or other business operation conducted by the owner or operator of the equipment at the same site, if housing that equipment is not the primary use of the site;

or

(C) a facility used primarily by a telecommunications provider to place tangible personal property that is used to deliver telecommunications services.

(b) Notwithstanding any other provision of this chapter, a taxing unit may not enter into a tax abatement agreement under this chapter that provides for the exemption from taxation of all or part of the value of:

(1) real property on which a data center is located or is proposed to be located; or

(2) tangible personal property that is located or is to be located at a data center.

(c) The governing body of a municipality or county may not designate an area as a reinvestment zone under this chapter if the primary purpose of the designation is to enable a taxing unit to enter into an agreement prohibited by Subsection (b).

(d) A tax abatement agreement entered into in violation of this section is void.

ARTICLE 2. MUNICIPAL PROGRAMS UNDER CHAPTER 380, LOCAL GOVERNMENT CODE

SECTION 2.01. Chapter 380, Local Government Code, is amended by adding Section 380.005 to read as follows:

Sec. 380.005. PROHIBITION ON PROGRAM BENEFITING DATA CENTER. (a) In this section, "data center" has the meaning assigned by Section 312.0022, Tax Code.

(b) Notwithstanding any other provision of this chapter, a municipality may not establish or administer a program under this

chapter, and may not enter into an agreement under this chapter, that provides a loan, grant, rebate, refund, or other payment of public money to a person if the loan, grant, rebate, refund, or payment is made, computed, or conditioned wholly or partly on:

(1) the construction, expansion, operation, or location of a data center in the municipality or in the extraterritorial jurisdiction of the municipality; or

(2) the amount of ad valorem taxes, sales and use taxes, or other taxes or fees paid to the municipality by or attributable to a data center or the owner or operator of a data center.

(c) An agreement entered into in violation of this section is void.

(d) This section does not prohibit a municipality from providing a governmental service to a data center on the same terms on which the municipality provides that service to similarly situated commercial property.

ARTICLE 3. COUNTY PROGRAMS UNDER CHAPTER 381, LOCAL GOVERNMENT CODE

SECTION 3.01. Chapter 381, Local Government Code, is amended by adding Section 381.006 to read as follows:

Sec. 381.006. PROHIBITION ON PROGRAM BENEFITING DATA CENTER. (a) In this section, "data center" has the meaning assigned by Section 312.0022, Tax Code.

(b) Notwithstanding any other provision of this chapter, including Sections 381.004(g) and (h), the commissioners court of a county may not develop or administer a program under this chapter,

and may not enter into an agreement under this chapter, that provides a tax abatement, loan, grant, rebate, refund, or other payment of public money to a person if the abatement, loan, grant, rebate, refund, or payment is made, computed, or conditioned wholly or partly on:

(1) the construction, expansion, operation, or location of a data center in the county; or

(2) the amount of ad valorem taxes, sales and use taxes, or other taxes or fees paid to the county by or attributable to a data center or the owner or operator of a data center.

(c) An agreement entered into in violation of this section is void.

(d) This section does not prohibit a county from providing a governmental service to a data center on the same terms on which the county provides that service to similarly situated commercial property.

ARTICLE 4. TAX INCREMENT FINANCING UNDER CHAPTER 311, TAX CODE

SECTION 4.01. Chapter 311, Tax Code, is amended by adding Section 311.0102 to read as follows:

Sec. 311.0102. PROHIBITION ON USE OF TAX INCREMENT FOR DATA CENTER. (a) In this section, "data center" has the meaning assigned by Section 312.0022.

(b) Notwithstanding any other provision of this chapter, a municipality, a county, or the board of directors of a reinvestment zone may not:

(1) include in a project plan or reinvestment zone financing plan a project cost incurred primarily to benefit a data

center; or

(2) use money in the tax increment fund, or enter into an agreement to use money in the tax increment fund, to make a loan, grant, rebate, refund, or other payment to a person if the loan, grant, rebate, refund, or payment is made, computed, or conditioned wholly or partly on:

(A) the construction, expansion, operation, or location of a data center in the reinvestment zone; or

(B) the amount of ad valorem taxes, sales and use taxes, or other taxes or fees paid by or attributable to a data center or the owner or operator of a data center.

(c) This section does not prohibit the use of money in the tax increment fund for a public work or public improvement that serves the reinvestment zone generally and is not constructed primarily to serve a data center.

(d) An agreement entered into in violation of this section is void. A project plan or reinvestment zone financing plan, or an amendment to a plan, is void to the extent it violates this section.

ARTICLE 5. CONFORMING AMENDMENT TO THE TEXAS JOBS, ENERGY, TECHNOLOGY, AND INNOVATION ACT

SECTION 5.01. Section 403.602(8), Government Code, is amended to read as follows:

(8) "Eligible project":

(A) means a project:

(i) to construct or expand a new or existing facility that is:

(a) a manufacturing facility;

(b) a facility related to the provision of utility services, including an electric generation facility that is considered to be dispatchable because the facility's output can be controlled primarily by forces under human control;

(c) a facility related to the development of natural resources; or

(d) a facility engaged in the research, development, or manufacture of high-tech equipment or technology; or

(ii) to construct or expand critical infrastructure; and

(B) does not include a project to construct or expand a new or existing:

(i) nondispatchable electric generation facility; [~~or~~]

(ii) electric energy storage facility; or[~~,~~]

(iii) data center, as defined by Section 312.0022, Tax Code.

ARTICLE 6. TEXAS ENTERPRISE FUND

SECTION 6.01. Section 481.078, Government Code, is amended by adding Subsection (e-2) to read as follows:

(e-2) A project that consists of or includes the construction, expansion, equipping, or operation of a data center, as defined by Section 312.0022, Tax Code, is not an eligible project for purposes of this section. Notwithstanding any other provision

of this section, the governor may not award a grant under this section for such a project.

ARTICLE 7. TRANSITION; EFFECTIVE DATE

SECTION 7.01. (a) The changes in law made by this Act apply only to an agreement entered into, and to a project plan or reinvestment zone financing plan adopted or amended, on or after the effective date of this Act. An agreement entered into, or a plan adopted or amended, before the effective date of this Act is governed by the law in effect on the date the agreement was entered into or the plan was adopted or amended, and the former law is continued in effect for that purpose.

(b) For purposes of this Act, the renewal or extension of an agreement on or after the effective date of this Act, or an amendment of an agreement on or after that date that increases the amount or extends the duration of a benefit provided under the agreement, is considered the entering into of a new agreement on the date of the renewal, extension, or amendment.

SECTION 7.02. This Act takes effect September 1, 2027.