
SUBSTITUTE HOUSE BILL 3147

State of Washington

61st Legislature

2010 Regular Session

By House Finance (originally sponsored by Representatives Ormsby, Kessler, Pettigrew, Armstrong, Hinkle, Warnick, Condotta, and Kenney; by request of Department of Revenue)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to sales and use tax exemptions for certain
2 equipment and infrastructure contained in data centers; adding a new
3 section to chapter 82.08 RCW; adding a new section to chapter 82.12
4 RCW; creating a new section; providing an effective date; providing
5 expiration dates; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) It is the legislature's intent to
8 encourage immediate investments in technology facilities that can
9 provide an economic stimulus, sustain long-term jobs that provide
10 living wages, and help build the digital infrastructure that can enable
11 the state to be competitive for additional technology investment and
12 jobs.

13 (2) There is currently an intense competition for data center
14 construction and operation in many states including: Oregon, Arizona,
15 North and South Carolina, North Dakota, Iowa, Virginia, Texas, and
16 Illinois. Unprecedented incentives are available as a result of the
17 desire of these states to attract investments that will serve as a
18 catalyst for additional clusters of economic activity.

1 (3) Since the economic downturn, Washington has not succeeded in
2 attracting any private investments in these centers after siting six
3 major data centers between 2004 and 2007.

4 (4) Data center technology has advanced rapidly, with marked
5 increases in energy efficiency. Large, commercial-grade data centers
6 leverage the economies of scale to reduce energy consumption.
7 Combining digitized processes with the economies of scale recognized at
8 these data centers, today's enterprises can materially reduce the
9 energy they consume and greatly improve their efficiency.

10 (5) The legislature finds that a fifteen-month window that offers
11 an exemption for server and related electrical equipment and
12 installation will act as a stimulus to incent immediate investment.
13 This investment will bring jobs, tax revenues, and economic growth to
14 some of our state's rural areas.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW
16 to read as follows:

17 (1) An exemption from the tax imposed by RCW 82.08.020 is provided
18 for sales to qualifying businesses of eligible server equipment to be
19 installed, without intervening use, in an eligible computer data
20 center, and to charges made for labor and services rendered in respect
21 to installing eligible server equipment. The exemption also applies to
22 sales to qualifying businesses of eligible power infrastructure,
23 including labor and services rendered in respect to constructing,
24 installing, repairing, altering, or improving eligible power
25 infrastructure.

26 (2)(a) In order to claim the exemption under this section, a
27 qualifying business must submit an application to the department for an
28 exemption certificate. The application must include the information
29 necessary, as required by the department, to determine that a business
30 qualifies for the exemption under this section. The department must
31 issue exemption certificates to qualifying businesses. The department
32 may assign a unique identification number to each exemption certificate
33 issued under this section.

34 (b) A qualifying business claiming the exemption under this section
35 must present the seller with an exemption certificate in a form and
36 manner prescribed by the department. The seller must retain a copy of
37 the certificate for the seller's files.

1 (3)(a) A qualifying business must establish within six years of the
2 first day of the calendar quarter in which the business first receives
3 an exemption under this section or section 3 of this act that it has
4 increased employment in the state by a minimum of thirty-five family
5 wage jobs from the date the eligible computer data center first became
6 operational. For purposes of this subsection, family wage jobs are new
7 permanent employment positions requiring forty hours of weekly work, or
8 their equivalent, on a full-time basis and paying a wage equivalent to
9 or greater than one hundred fifty percent of the per capita personal
10 income of the county in which the qualified project is located. The
11 qualifying business must provide health insurance coverage for
12 employees.

13 (b) All previously exempted sales and use taxes are immediately due
14 and payable for a qualifying business that does not meet the
15 requirements of this subsection.

16 (4) A qualifying business claiming an exemption under this section
17 or section 3 of this act must complete an annual report with the
18 department as required under section 103, chapter . . . (Substitute
19 House Bill No. 3066), Laws of 2010.

20 (5) For purposes of this section the following definitions apply
21 unless the context clearly requires otherwise:

22 (a)(i) "Computer data center" means a facility comprised of one or
23 more buildings constructed or refurbished specifically, and used
24 primarily, to house working servers, where the facility has the
25 following characteristics: (A) Uninterruptible power supplies,
26 generator backup power, or both; (B) sophisticated fire suppression and
27 prevention systems; and (C) enhanced physical security, such as:
28 Restricted access to the facility to selected personnel; permanent
29 security guards; video camera surveillance; an electronic system
30 requiring passcodes, keycards, or biometric scans, such as hand scans
31 and retinal or fingerprint recognition; or similar security features.

32 (ii) For a computer data center comprised of multiple buildings,
33 each separate building constructed or refurbished specifically, and
34 used primarily, to house working servers is considered a computer data
35 center if it has all of the characteristics listed in (a)(i)(A) through
36 (C) of this subsection (5).

37 (b) "Electronic data storage and data management services" include,
38 but are not limited to: Providing data storage and backup services,

1 providing computer processing power, hosting enterprise software
2 applications, and hosting web sites. The term also includes providing
3 services such as e-mail, web browsing and searching, media
4 applications, and other online services, regardless of whether a charge
5 is made for such services.

6 (c) "Eligible computer data center" means a computer data center:

7 (i) Located in a rural county as defined in RCW 82.14.370;

8 (ii) Having at least twenty thousand square feet dedicated to
9 housing working servers, where the server space has not previously been
10 dedicated to housing working servers; and

11 (iii) For which the commencement of construction occurs after March
12 31, 2010, and before July 1, 2011. For purposes of this section,
13 "commencement of construction" means the date that a building permit is
14 issued under the building code adopted under RCW 19.27.031 for
15 construction of the computer data center. The construction of a
16 computer data center includes the expansion, renovation, or other
17 improvements made to existing facilities, including leased or rented
18 space. "Commencement of construction" does not include soil testing,
19 site clearing and grading, site preparation, or any other related
20 activities that are initiated before the issuance of a building permit
21 for the construction of the foundation of a computer data center.

22 (d) "Eligible power infrastructure" means all fixtures and
23 equipment necessary for the transformation, distribution, or management
24 of electricity that is required to operate eligible server equipment
25 within an eligible computer data center. The term includes electrical
26 substations, generators, wiring, and cogeneration equipment.

27 (e) "Eligible server equipment" means the original server equipment
28 installed in an eligible computer data center on or after April 1,
29 2010, and replacement server equipment. For purposes of this
30 subsection (5)(e), "replacement server equipment" means server
31 equipment that: (i) Replaces existing server equipment, if the sale or
32 use of the server equipment to be replaced qualified for an exemption
33 under this section or section 3 of this act; and (ii) is installed and
34 put into regular use before April 1, 2018.

35 (f) "Qualifying business" means a business entity that exists for
36 the primary purpose of engaging in commercial activity for profit and
37 that is the owner or lessee of an eligible computer data center. The
38 term does not include the state or federal government or any of their

1 departments, agencies, and institutions; tribal governments; political
2 subdivisions of this state; or any municipal, quasi-municipal, public,
3 or other corporation created by the state or federal government, tribal
4 government, municipality, or political subdivision of the state.

5 (g) "Server" means blade or rack-mount server computers used in a
6 computer data center exclusively to provide electronic data storage and
7 data management services for internal use by the owner or lessee of the
8 computer data center, for clients of the owner or lessee of the
9 computer data center, or both. "Server" does not include personal
10 computers.

11 (h) "Server equipment" means the server chassis and all computer
12 hardware and software contained within the server chassis. "Server
13 equipment" does not include the racks upon which the server chassis is
14 installed, and computer peripherals such as keyboards, monitors,
15 printers, mice, and other devices that work outside of the computer.

16 (6) This section expires April 1, 2018.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW
18 to read as follows:

19 (1) An exemption from the tax imposed by RCW 82.12.020 is provided
20 for the use by qualifying businesses of eligible server equipment to be
21 installed, without intervening use, in an eligible computer data
22 center, and to the use of labor and services rendered in respect to
23 installing such server equipment. The exemption also applies to the
24 use of power infrastructure, including labor and services rendered in
25 respect to installing, repairing, altering, or improving such
26 infrastructure.

27 (2) A qualifying business is not eligible for the exemption under
28 this section unless the department issued an exemption certificate to
29 the qualifying business for the exemption provided in section 2 of this
30 act.

31 (3) The definitions in section 2 of this act apply to this section.

32 (4) This section expires April 1, 2018.

33 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 April 1, 2010.

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