

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** Anne B. Crockett-Stark

2. **Bill Number** HB 1298

3. **Committee** Senate Finance

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Retail Sales and Use Tax Exemption;
Computer Equipment for Data Centers

Second House:

☒ In Committee

☐ Substitute

☐ Enrolled

5. **Summary/Purpose:**

This bill would relax the job creation requirement, from 50 to 25 jobs, in order for a datacenter to qualify for the Retail Sales and Use Tax datacenter exemption if the datacenter is located in a locality that has an unemployment rate for the preceding year of at least 150 percent higher than the average statewide unemployment rate or is located in an enterprise zone.

The current exemption from the Retail Sales and Use Tax for computer equipment and enabling hardware purchased or leased for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections and other enabling hardware is available for data centers that create at least 50 new jobs paying at least one and one-half the prevailing average wage in the locality on or after July 1, 2009 and result in a new investment of at least \$150 million on or after July 1, 2009.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7. **Budget amendment necessary:** Yes.

ITEM(S): Page 1, Revenue Estimates

8. **Fiscal implications:**

Administrative Costs Impact

TAX would not incur any costs in the implementation of this bill.

Revenue Impact

To the extent that companies that do not currently qualify for the Retail Sales and Use Tax exemption for computer equipment and enabling hardware purchased or leased for use in a data center would qualify for the expanded exemption, this bill would result in an unknown loss of state and local revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia Economic Development Partnership
Localities with an unemployment rate 150 percent higher than the statewide average
Localities with enterprise zones

10. Technical amendment necessary: No.

11. Other comments:

Generally

Under current law, beginning July 1, 2010 and ending June 30, 2020, computer equipment purchased or leased by certain data centers for the processing, storage, retrieval or communication of data, including but not limited to servers, routers, connections and other enabling hardware is exempt from the Retail Sales and Use Tax. Purchased or leased upgrades, additions to, or replacement of the computer equipment in a qualifying facility are equally exempt. The exemption does not apply to separately sold computer software or general building improvements or fixtures.

In order to be eligible for this exemption, the data center must be located in a Virginia locality that results in a new investment of at least \$150 million on or after July 1, 2009 and that creates at least 50 new jobs paying at least one and one-half the prevailing average wage in the locality on or after July 1, 2009. The investment would need to be made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority.

Proposal

This bill would relax the job creation requirement, from 50 to 25 jobs, in order for a datacenter to qualify for the Retail Sales and Use Tax datacenter exemption if the datacenter is located in a locality that has an unemployment rate for the preceding year of at least 150 percent higher than the average statewide unemployment rate or is located in an enterprise zone.

The current Retail Sales and Use Tax datacenter exemption is available for data centers that create at least 50 new jobs paying at least one and one-half the prevailing average wage in the locality on or after July 1, 2009 and result in a new investment of at least \$150 million on or after July 1, 2009.

The effective date of this bill is not specified.

Similar Legislation

House Bill 302 is similar to this bill, except that it would provide a refund to qualifying data centers on or after July 1, 2010 of any Retail Sales and Use Tax paid for purchases or leases of such computer equipment and enabling software made on and after July 1, 2009, and before July 1, 2010.

Senate Bill 130 is similar to this bill, except that it would provide that persons qualifying for the data center exemption would be eligible for a grant after July 1, 2010 of any Retail Sales and Use Tax imposed and paid for purchases or leases of such computer equipment and enabling software made on and after July 1, 2009, and before July 1, 2010.

cc : Secretary of Finance

Date: 2/18/2010 AM
DLAS File Name: HB1298FE161