

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** Walter A. Stosch

2. **Bill Number** SB 130

3. **Committee** House Finance

House of Origin:

 Introduced

 Substitute

 Engrossed

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

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would expand the current exemption from the Retail Sales and Use Tax, beginning July 1, 2010 and ending June 30, 2020, 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 to include enabling software, chillers, and backup generators.

In order to be eligible for this exemption, the computer equipment and enabling software and hardware would need to be purchased or leased for use in a data center located in a Virginia locality that results in a new investment of at least \$150 million on or after January 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. Purchased or leased upgrades, additions to, or replacement of such equipment and enabling software would also be exempt.

This bill would also provide that persons qualifying for the proposed 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.

The effective date of this bill is not specified.

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

6a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2009-10	\$0	GF
	\$0	TTF
2010-11	\$1.04 million	VEDP
	(\$1.04 million)	GF
	\$0	TTF

2011-12

\$0

GF

\$0

TTF

7. Budget amendment necessary: Yes.

ITEM(S): Page 1, Revenue Estimates

114, Virginia Economic Development Partnership

The Introduced Executive Budget reflects a General Fund revenue reduction of \$2.38 million in Fiscal Year 2011 for the proposed Retail Sales and Use Tax exemption for qualifying data centers effective July 1, 2010, and for a refund provision for Retail Sales and Use Tax paid by such data centers on qualifying purchases made on or after July 1, 2009 and before July 1, 2010. As this bill would provide a grant of the Retail Sales and Use Tax paid by qualifying data centers instead of a refund, it would require an appropriation of an additional \$1.04 million to reimburse the taxpayer for the local and Transportation Trust Fund components of the Retail Sales and Use Tax.

8. Fiscal implications:

Administrative Costs Impact

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

Revenue Impact

Based on information provided by the Virginia Economic Development Partnership, it is estimated that data centers qualifying for the exemption will make qualifying purchases in Fiscal Year 2010 and 2011 that will result in \$3.42 million being paid in total state and local sales tax. Of that \$3.42 million, approximately \$2.38 million would be General Fund revenues, \$348,000 would be dedicated to the Transportation Trust Fund, and \$696,000 would be local sales tax revenue. Under this bill, qualifying data centers would be exempt from the Retail Sales and Use Tax on qualifying purchases after July 1, 2010 and eligible for a grant for Retail Sales and Use Tax paid on qualifying purchases on and after July 1, 2009 and before July 1, 2010. The Introduced Executive Budget reflects a General Fund revenue loss of \$2.38 million in Fiscal Year 2011 for the proposed Retail Sales and Use Tax exemption for qualifying data centers effective July 1, 2010, and the refund provision for Retail Sales and Use Tax paid by such data centers on qualifying purchases made on or after July 1, 2009 and before July 1, 2010. By providing a grant instead of a refund, General Fund revenues would not be reduced by approximately \$2.38 million in Fiscal Year 2011, as assumed in the Introduced Executive Budget, however, \$3.42 million would need to be appropriated to the Virginia Economic Development Partnership to fund the grant. The additional \$1.04 million appropriation would be required to reimburse qualifying data centers for the local and Transportation Trust Fund components of the Retail Sales and Use Tax.

It is estimated that the expansion of the existing Retail Sales and Use Tax exemption would result in a loss of total state and local tax revenue of an estimated \$0.41 million in Fiscal Year 2012, approximately \$0.28 million of that would be General Fund revenues.

The Introduced Executive Budget reflects the Fiscal Year 2012 impact of this bill. As a result, this bill would have no revenue impact in Fiscal Year 2012.

This revenue estimate only reflects the initial investment for one specific project. Given the uncertainty regarding the number of qualifying data centers in the future, as well as the amount of upgrades, replacements and expansions of the computer equipment and enabling software, the revenue impact of this bill in Fiscal Year 2013 and later years is unknown.

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia Economic Development Partnership

10. Technical amendment necessary: No.

11. Other comments:

Generally

Under current law, computer equipment purchased or leased by certain data centers beginning July 1, 2010 and ending June 30, 2020 for the processing, storage, retrieval or communication of data, including but not limited to servers, routers, connections and other enabling hardware are exempt from the Retail Sales and Use Tax. Purchased or leased upgrades, additions to, or replacement of the computer equipment in a qualifying facility would be 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.

However, the exemption provided under current law is not available until July 1, 2010 and has no refund provision for purchases made after July 1, 2009 and prior to July 1, 2010. The current exemption also does not specify that chillers, backup generators or enabling software are exempt. In addition, the current exemption is limited to data centers that result in a new investment of at least \$150 million on or after July 1, 2009, instead of January 1, 2009.

Proposal

This bill would expand the current exemption from the Retail Sales and Use Tax, beginning July 1, 2010 and ending June 30, 2020, 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 to include enabling software, chillers, and backup generators.

In order to be eligible for this exemption, the computer equipment and enabling software and hardware would need to be purchased or leased for use in a data center located in a Virginia locality that results in a new investment of at least \$150 million on or after January 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. Purchased or leased upgrades, additions to, or replacement of such equipment and enabling software would also be exempt.

This bill would also provide that persons qualifying for the proposed 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.

The effective date of this bill is not specified.

Similar Legislation

House Bill 302 is identical to this bill.

House Bill 1298 would provide that computer equipment and enabling hardware purchased or leased for use in a data center located in a Virginia 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 that creates at least 25 new jobs paying at least one and one-half the prevailing average wage in the locality on or after July 1, 2009 and results in a new investment of at least \$150 million on or after July 1, 2009 would be exempt from the Retail Sales and Use Tax.

cc : Secretary of Finance
Date: 2/23/2010 AM
DLAS File Name: SB130FE161