

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas


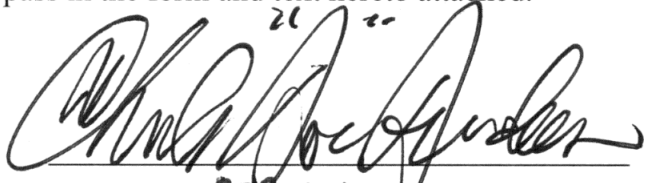
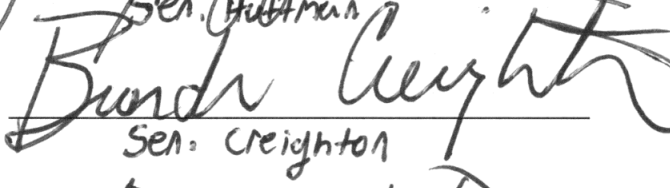
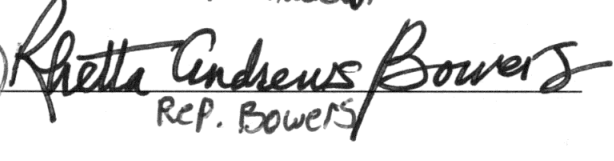
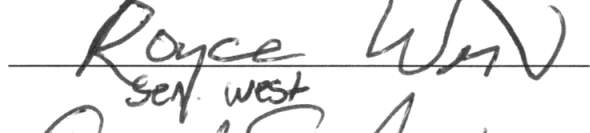
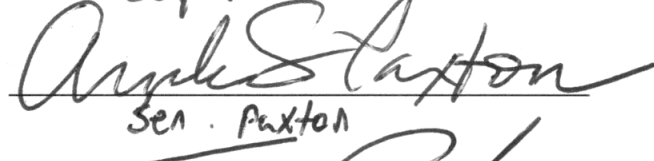
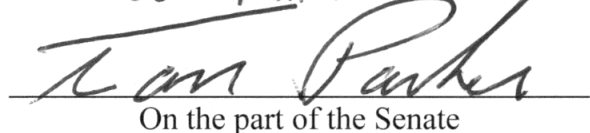
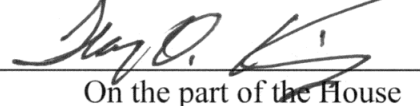
5/26/23
Date

Honorable Dan Patrick
President of the Senate

Honorable Dade Phelan
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill 3104 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

 Sen. Huffman	 Rep. Anderson
 Sen. Creighton	 Rep. Bowers
 Sen. West	 Rep. Creides
 Sen. Paxton	 Rep. Harris, Cody
 On the part of the Senate Sen. Parker	 On the part of the House Rep. Ming, Tracy O.

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 3104

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the temporary exemption of certain tangible personal
3 property related to certain connected data center projects from
4 sales and use taxes.

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

6 SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended
7 by adding Section 151.3596 to read as follows:

8 Sec. 151.3596. PROPERTY USED IN CERTAIN CONNECTED DATA
9 CENTER PROJECTS; TEMPORARY EXEMPTION. (a) In this section:

10 (1) "Affiliated group" has the meaning assigned by
11 Section 171.0001.

12 (2) "Connected data center project" means a project
13 that:

14 (A) is located in this state;

15 (B) is composed of one or more buildings:

16 (i) comprising at least 250,000 square feet
17 of space;

18 (ii) located or to be located on contiguous
19 or noncontiguous parcels of land that are commonly owned, owned by
20 affiliation with the qualifying operator, or leased by a common
21 qualifying operator; and

22 (iii) connected to each other:

23 (a) by fiber and associated equipment
24 required for operating a fiber transmission network between data

1 center buildings and upstream Internet peering points for the sole
2 use of the qualifying occupant; and

3 (b) for the purpose of providing
4 redundancy and resiliency for the data center services provided in
5 each building;

6 (C) is specifically constructed or refurbished
7 and primarily used to house servers and related equipment and
8 support staff for the processing, storage, and distribution of
9 data;

10 (D) is used by a single qualifying occupant for
11 the processing, storage, and distribution of data;

12 (E) is not used primarily by a telecommunications
13 provider to place tangible personal property used to deliver
14 telecommunications services; and

15 (F) has an uninterruptible power source, backup
16 electricity generation system, fire suppression and prevention
17 system, and physical security that includes restricted access,
18 video surveillance, and electronic systems.

19 (3) "County average weekly wage" means the average
20 weekly wage in a county for all jobs during the most recent four
21 quarterly periods for which data is available, as computed by the
22 Texas Workforce Commission, at the time a connected data center
23 project creates a job used to qualify under this section. If the
24 connected data center project is located in more than one county,
25 the county average weekly wage for each county in which the project
26 is located may be calculated by averaging the county average weekly
27 wages of all counties in which the project is located.

1 (4) "Permanent job" means an employment position that
2 will exist for at least five years after the date the job is
3 created.

4 (5) "Qualifying connected data center project" means a
5 connected data center project that meets the qualifications
6 prescribed by Subsection (d).

7 (6) "Qualifying job" means a full-time, permanent job
8 that pays at least 120 percent of the county average weekly wage in
9 the county in which the job is based. The term includes a new
10 employment position staffed by a third-party employer if a written
11 contract exists between the third-party employer and a qualifying
12 owner, qualifying operator, or qualifying occupant that provides
13 that the employment position is permanently assigned to an
14 associated qualifying connected data center project. The term does
15 not include a job that is moved from one county in this state to
16 another county in this state.

17 (7) "Qualifying occupant" means a person who contracts
18 with a qualifying owner or qualifying operator to place, or cause to
19 be placed, and to use tangible personal property at the qualifying
20 connected data center project or, in the case of a qualifying
21 occupant who is also the qualifying owner and the qualifying
22 operator, who places or causes to be placed and uses tangible
23 personal property at the qualifying connected data center project.
24 The term includes a member of the person's affiliated group.

25 (8) "Qualifying operator" means a person who controls
26 access to a qualifying connected data center project, regardless of
27 whether that person owns each item of tangible personal property

1 located at the qualifying connected data center project. The term
2 includes a member of the person's affiliated group. A qualifying
3 operator may also be the qualifying owner.

4 (9) "Qualifying owner" means a person who owns one or
5 more buildings in which a qualifying connected data center project
6 is located. The term includes a member of the person's affiliated
7 group. A qualifying owner may also be the qualifying operator.

8 (10) "Virtual currency" has the meaning assigned by
9 Section 12.001, Business & Commerce Code.

10 (11) "Virtual currency mining facility" means a
11 facility dedicated to using electronic equipment to add virtual
12 currency transactions to a distributed ledger.

13 (b) Except as otherwise provided by this section, tangible
14 personal property that is necessary and essential to the operation
15 of a qualifying connected data center project is exempted from the
16 taxes imposed by this chapter if the tangible personal property is
17 purchased for installation at, incorporation into, or in the case
18 of electricity, use in a qualifying connected data center project
19 by a qualifying owner, qualifying operator, or qualifying occupant,
20 and the tangible personal property is:

21 (1) electricity;

22 (2) an electrical system;

23 (3) a cooling system;

24 (4) a backup electricity generation system;

25 (5) hardware or a distributed mainframe computer or
26 server;

27 (6) a data storage device;

1 (7) network connectivity equipment;

2 (8) a rack, cabinet, and raised floor system;

3 (9) a peripheral component or system;

4 (10) software;

5 (11) a mechanical, electrical, or plumbing system that
6 is necessary to operate any tangible personal property described by
7 Subdivisions (2)-(10);

8 (12) any other item of equipment or system necessary
9 to operate any tangible personal property described by Subdivisions
10 (2)-(11), including a fixture; and

11 (13) a component part of any tangible personal
12 property described by Subdivisions (2)-(10).

13 (c) The exemption provided by this section does not apply
14 to:

15 (1) office equipment or supplies;

16 (2) maintenance or janitorial supplies or equipment;

17 (3) equipment or supplies used primarily in sales
18 activities or transportation activities;

19 (4) tangible personal property on which the purchaser
20 has received or has a pending application for a refund under Section
21 151.429;

22 (5) tangible personal property not otherwise exempted
23 under Subsection (b) that is incorporated into real estate or into
24 an improvement of real estate;

25 (6) tangible personal property that is rented or
26 leased for a term of one year or less; or

27 (7) notwithstanding Section 151.3111, a taxable

1 service that is performed on tangible personal property exempted
2 under this section.

3 (d) Subject to Subsection (j), a connected data center
4 project may be certified by the comptroller as a qualifying
5 connected data center project for purposes of this section if, on or
6 after September 1, 2023:

7 (1) a single qualifying occupant:

8 (A) contracts with a qualifying owner or
9 qualifying operator to lease space in which the qualifying occupant
10 will locate a connected data center project; or

11 (B) occupies a space that was not previously used
12 as a data center in which the qualifying occupant will locate a
13 connected data center project, in the case of a qualifying occupant
14 who is also the qualifying operator and the qualifying owner; and

15 (2) the qualifying owner, qualifying operator, or
16 qualifying occupant, jointly or independently:

17 (A) creates at least 40 qualifying jobs in the
18 county or counties in which the connected data center project is
19 located;

20 (B) makes or agrees to make a capital investment,
21 on or after September 1, 2023, of at least \$500 million in that
22 particular connected data center project, the amount of which may
23 not include a capital investment to replace personal property
24 previously placed in service in that connected data center project,
25 over a five-year period beginning on the earlier of:

26 (i) the date the connected data center
27 project submits the application described by Subsection (e); or

1 (ii) the date the connected data center
2 project is certified by the comptroller as a qualifying connected
3 data center project; and

4 (C) agrees to contract for at least 20 megawatts
5 of transmission capacity for the operation of the connected data
6 center project.

7 (e) A connected data center project that is eligible under
8 Subsection (d) to be certified by the comptroller as a qualifying
9 connected data center project shall apply to the comptroller for
10 certification as a qualifying connected data center project and for
11 the issuance of a registration number or numbers by the
12 comptroller. The application must be made on a form prescribed by
13 the comptroller and include the information required by the
14 comptroller. The application must include the name and contact
15 information for the qualifying occupant, and, if applicable, the
16 name and contact information for the qualifying owner and the
17 qualifying operator who will claim the exemption authorized under
18 this section. The application form must include a section for the
19 applicant to certify that the capital investment required by
20 Subsection (d)(2)(B) will be met independently or jointly by the
21 qualifying occupant, qualifying owner, or qualifying operator
22 within the time period prescribed by Subsection (d)(2)(B).

23 (f) The exemption provided by this section begins on the
24 date the connected data center project is certified by the
25 comptroller as a qualifying connected data center project and
26 expires on the 20th anniversary of that date, if the qualifying
27 occupant, qualifying owner, or qualifying operator, independently

1 or jointly makes a capital investment of \$500 million or more as
2 provided by Subsection (d)(2)(B).

3 (g) Each person who is eligible to claim an exemption
4 authorized by this section must hold a registration number issued
5 by the comptroller. The registration number must be stated on the
6 exemption certificate provided by the purchaser to the seller of
7 tangible personal property eligible for the exemption.

8 (h) The comptroller shall revoke all registration numbers
9 issued in connection with a qualifying connected data center
10 project that the comptroller determines does not meet the
11 requirements prescribed by Subsection (d). Each person who has the
12 person's registration number revoked by the comptroller is liable
13 for taxes, including penalty and interest from the date of
14 purchase, imposed under this chapter on purchases for which the
15 person claimed an exemption under this section, regardless of
16 whether the purchase occurred before the date the registration
17 number was revoked.

18 (i) The comptroller shall adopt rules consistent with and
19 necessary to implement this section, including rules relating to:

20 (1) a qualifying connected data center project,
21 qualifying owner, qualifying operator, and qualifying occupant;

22 (2) issuance and revocation of a registration number
23 required under this section; and

24 (3) reporting and other procedures necessary to ensure
25 that a qualifying connected data center project, qualifying owner,
26 qualifying operator, and qualifying occupant comply with this
27 section and remain entitled to the exemption authorized by this

1 section.

2 (j) A connected data center project is not eligible to
3 receive an exemption under this section if the connected data
4 center project is:

5 (1) subject to an agreement limiting the appraised
6 value of the connected data center's property under former
7 Subchapter B or C, Chapter 313, or a substantially similar program
8 that authorizes a temporary limit on the value of the connected data
9 center's property for school district maintenance and operations ad
10 valorem tax purposes; or

11 (2) a virtual currency mining facility.

12 SECTION 2. Section 151.317(a), Tax Code, is amended to read
13 as follows:

14 (a) Subject to Sections 151.1551, 151.359, [~~and~~] 151.3595,
15 and 151.3596 and Subsection (d) of this section, gas and
16 electricity are exempted from the taxes imposed by this chapter
17 when sold for:

18 (1) residential use;

19 (2) use in powering equipment exempt under Section
20 151.318 or 151.3185 by a person processing tangible personal
21 property for sale as tangible personal property, other than
22 preparation or storage of prepared food described by Section
23 151.314(c-2);

24 (3) use in lighting, cooling, and heating in the
25 manufacturing area during the actual manufacturing or processing of
26 tangible personal property for sale as tangible personal property,
27 other than preparation or storage of prepared food described by

1 Section 151.314(c-2);

2 (4) use directly in exploring for, producing, or
3 transporting, a material extracted from the earth;

4 (5) use in agriculture, including dairy or poultry
5 operations and pumping for farm or ranch irrigation;

6 (6) use directly in electrical processes, such as
7 electroplating, electrolysis, and cathodic protection;

8 (7) use directly in the off-wing processing, overhaul,
9 or repair of a jet turbine engine or its parts for a certificated or
10 licensed carrier of persons or property;

11 (8) use directly in providing, under contracts with or
12 on behalf of the United States government or foreign governments,
13 defense or national security-related electronics, classified
14 intelligence data processing and handling systems, or
15 defense-related platform modifications or upgrades;

16 (9) use directly by a data center, ~~[or]~~ large data
17 center project, or connected data center project that is certified
18 by the comptroller as a qualifying data center under Section
19 151.359, ~~[or]~~ a qualifying large data center project under Section
20 151.3595, or a qualifying connected data center project under
21 Section 151.3596 in the processing, storage, and distribution of
22 data;

23 (10) a direct or indirect use, consumption, or loss of
24 electricity by an electric utility engaged in the purchase of
25 electricity for resale; or

26 (11) use in timber operations, including pumping for
27 irrigation of timberland.

1 SECTION 3. The change in law made by this Act does not
2 affect tax liability accruing before the effective date of this
3 Act. That liability continues in effect as if this Act had not been
4 enacted, and the former law is continued in effect for the
5 collection of taxes due and for civil and criminal enforcement of
6 the liability for those taxes.

7 SECTION 4. This Act takes effect September 1, 2023.

House Bill 3104
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3596. Among other provisions, Subsections (a) and (j) are added as follows:

(a) In this section:

(1)

(2) "Connected data center project" means a project that:

(A) is located in this state;

(B) is composed of one or more buildings:

(i) comprising at least 250,000 square feet of space;

(ii) located or to be located on contiguous or noncontiguous parcels of land *that are commonly owned, owned by affiliation with the qualifying operator, or leased by a common qualifying operator*; and

(iii) connected to each other:

(a) by fiber and associated equipment required for operating a fiber transmission network between data center buildings and upstream Internet peering points for the sole use of the qualifying occupant; and

(b) for the purpose of providing redundancy and resiliency for the data center services provided in each building;

(C) is specifically constructed or refurbished and primarily used to house servers and related equipment and support staff for the processing, storage, and distribution of data;

(D) is used by a single qualifying occupant for the processing, storage, and distribution of data;

SENATE VERSION (IE)

SECTION 1. Same as House version except as follows:

(a) In this section:

(1) Same as House version.

(2) "Connected data center project" means a project that:

(A) is located in this state;

(B) is composed of one or more buildings:

(i) comprising at least 250,000 square feet of space;

(ii) located or to be located on contiguous or noncontiguous parcels of land;

(iii) that are commonly owned, owned by affiliation with the qualifying operator, or leased by a common qualifying operator; and

(iv) connected to each other:

(a) by fiber and associated equipment required for operating a fiber transmission network between data center buildings and upstream Internet peering points for the sole use of the qualifying occupant; and

(b) for the purpose of providing redundancy and resiliency for the data center services provided in each building;

[FA2(2)]

(C) is specifically constructed or refurbished and primarily used to house servers and related equipment and support staff for the processing, storage, and distribution of data;

(D) is used by a single qualifying occupant for the processing, storage, and distribution of data;

CONFERENCE

SECTION 1. Same as House version except as follows:

(a) In this section:

(1) Same as House version.

(2) Same as House version.

House Bill 3104
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

(E) is not used primarily by a telecommunications provider to place tangible personal property used to deliver telecommunications services; and

(F) has an uninterruptible power source, backup electricity generation system, fire suppression and prevention system, and physical security that includes restricted access, video surveillance, and electronic systems.

(3)-(9)

No equivalent provision.

No equivalent provision.

(j) A connected data center project is not eligible to receive an exemption under this section if the connected data center project is subject to an agreement limiting the appraised value of the connected data center's property under former Subchapter B or C, Chapter 313.

SECTION 2. Section 151.317(a), Tax Code, is amended.

SENATE VERSION (IE)

(E) is not used primarily by a telecommunications provider to place tangible personal property used to deliver telecommunications services; and

(F) has an uninterruptible power source, backup electricity generation system, fire suppression and prevention system, and physical security that includes restricted access, video surveillance, and electronic systems.

(3)-(9) Same as House version.

() "Virtual currency" has the meaning assigned by Section 12.001, Business & Commerce Code. [FA2(1)]

No equivalent provision.

(j) A connected data center project is not eligible to receive an exemption under this section if the connected data center project is:

(1) subject to an agreement limiting the appraised value of the connected data center's property under former Subchapter B or C, Chapter 313, *or a substantially similar program that authorizes a temporary limit on the value of the connected data center's property for school district maintenance and operations ad valorem tax purposes; or*
(2) used for the mining and staking of virtual currency.
[FA2(3)]

SECTION 2. Same as House version.

CONFERENCE

(3)-(9) Same as House version.

(10) Same as Senate version.

(11) "Virtual currency mining facility" means a facility dedicated to using electronic equipment to add virtual currency transactions to a distributed ledger.

(j) Same as Senate version except replaces the reference in Subdivision (2) to a connected data center project that is used for the mining and staking of virtual currency with a reference to a connected data center project that is **a virtual currency mining facility**.

SECTION 2. Same as House version.

House Bill 3104
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
<i>No equivalent provision.</i>	SECTION __. Section 151.359(a), Tax Code, is amended by adding Subdivision (9) to read as follows: <u>(9) "Virtual currency" has the meaning assigned by Section 12.001, Business & Commerce Code. [FA2(4)]</u>	Same as House version.
<i>No equivalent provision.</i>	SECTION __. Section 151.359(k), Tax Code, is amended to read as follows: (k) A data center is not eligible to receive an exemption under this section if the data center is: (1) subject to an agreement limiting the appraised value of the data center's property under <u>former</u> Subchapter B or C, Chapter 313, <u>or a substantially similar program that authorizes a temporary limit on the value of the data center's property for school district maintenance and operations ad valorem tax purposes; or</u> (2) <u>used for the mining and staking of virtual currency.</u> [FA2(4)]	Same as House version.
<i>No equivalent provision.</i>	SECTION __. Section 151.3595(a), Tax Code, is amended by adding Subdivision (9) to read as follows: <u>(9) "Virtual currency" has the meaning assigned by Section 12.001, Business & Commerce Code. [FA2(4)]</u>	Same as House version.
<i>No equivalent provision.</i>	SECTION __. Section 151.3595(j), Tax Code, is amended to read as follows: (j) A data center is not eligible to receive an exemption under this section if the data center is: (1) subject to an agreement limiting the appraised value of the data center's property under <u>former</u> Subchapter B or C, Chapter 313, <u>or a substantially similar program that authorizes a temporary limit on the value of the data center's</u>	Same as House version.

House Bill 3104
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

property for school district maintenance and operations ad valorem tax purposes; or
(2) used for the mining and staking of virtual currency.
[FA2(4)]

No equivalent provision.

SECTION __. Sections 151.359(k) and 151.3595(j), Tax Code, as amended by this Act, apply only to a data center or large data center project that applies to the comptroller for certification as a qualifying data center or qualifying large data center project on or after the effective date of this Act.
[FA2(4)]

Same as House version.

No equivalent provision.

SECTION __. The comptroller of public accounts may adopt rules necessary to implement and administer this Act.
[FA2(4)]

Same as House version.

SECTION 3. Transition provision.

SECTION 3. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Effective date.

SECTION 4. Same as House version.

SECTION 4. Same as House version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 27, 2023

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3104 by Anderson (Relating to the temporary exemption of certain tangible personal property related to certain connected data center projects from sales and use taxes.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3104, Conference Committee Report : an impact of \$0 through the biennium ending August 31, 2025.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Revenue (Loss) from Cities</i>	<i>Probable Revenue (Loss) from Transit Authorities</i>	<i>Probable Revenue (Loss) from Counties & Special Districts</i>
2024	(\$3,950,000)	(\$1,310,000)	(\$900,000)
2025	(\$1,760,000)	(\$580,000)	(\$400,000)
2026	(\$6,460,000)	(\$2,140,000)	(\$1,470,000)
2027	(\$2,940,000)	(\$970,000)	(\$670,000)
2028	(\$8,590,000)	(\$2,850,000)	(\$1,950,000)

Fiscal Analysis

This bill would amend Chapter 151 of the Tax Code, to add Section 151.3596 to provide for exemption from sales and use taxation of certain tangible personal property related to connected data center projects.

The bill defines a “connected data center project” as a project that is located in this state; is composed of one or more buildings comprising at least 250,000 square feet of space; located or to be located on contiguous or noncontiguous parcels of land that are commonly owned and connected to each other by fiber and associated equipment required for operating a fiber transmission network for the sole use of the qualifying occupant; for the purpose of providing redundancy and resiliency for the data center services provided in each building is specifically constructed or refurbished and primarily used to house servers and related equipment and support staff for the processing, storage, and distribution of data; is used by a single qualifying occupant for the

processing, storage, and distribution of data; and has an uninterruptible power source, backup electricity generation system, fire suppression and prevention system, and physical security that includes restricted access, video surveillance, and electronic systems.

A connected data center would not include a data center used primarily by a telecommunications provider to place tangible personal property used to deliver telecommunications services.

The bill would define a "qualifying operator," "qualifying owner," and "qualifying occupant," and provide that a data center may be certified by the Comptroller as a "qualifying connected data center project" if, on or after September 1, 2023, a single qualifying occupant contracts to lease space from a qualifying owner or operator or occupies a space not previously used as a data center and the qualifying owner, operator, and occupant jointly or independently: a) create at least 40 full-time, permanent jobs that pay at least 120 percent of the county average weekly wage in the county in which the job is based; b) makes or agrees to make a capital investment, on or after September 1, 2023, of at least \$500 million in that particular large data center project over a five-year period; and c) will contract for at least 20 megawatts of transmission capacity for operations of the large data center project.

The bill would exempt from tax tangible personal property that is necessary and essential to the operation of a connected data center if the property is purchased by a qualifying tenant for installation at, incorporation into, or in the case of electricity for use in, a connected data center if the tangible personal property is: electricity; an electrical system; a cooling system; a backup electricity generation system; hardware or a distributed mainframe computer or server; a data storage device; network connectivity equipment; a rack, cabinet, and raised floor system; a peripheral component or system; software; a mechanical, electrical, or plumbing system necessary to operate the foregoing property; any other item of equipment or system necessary to operate any of the foregoing, including a fixture; and a component part of any of the foregoing.

Excluded from exemption would be: office equipment or supplies; maintenance or janitorial supplies or equipment; equipment or supplies used primarily in sales activities or in transportation activities; property for which a refund may be received under Section 151.429 (tax refunds for enterprise projects); tangible personal property not otherwise exempted that is incorporated into real estate or an improvement of real estate; tangible personal property that is rented or leased for a term of one year or less; or notwithstanding Section 151.3111 (services on certain exempted personal property), a taxable service that is performed on tangible personal property exempted under Section 151.3596.

The exemption would expire on the twentieth anniversary of the date a connected data center project was certified as qualifying by the Comptroller for capital investments of at least \$500 million.

A registration number would have to be obtained from the Comptroller for each tenant eligible to claim the exemption and must be stated on the exemption certificate provided by the purchaser to the seller of tangible personal property eligible for the exemption. All registration numbers issued in connection with a connected data center would be revocable by the Comptroller upon determination that the requirements for qualification were not met, and each tenant whose registration number was revoked would be liable for taxes, including penalty and interest from the date of purchase, on purchases for which the tenant claimed exemption.

The bill would prohibit a virtual currency mining facility, as defined by the bill, from receiving an exemption under this Section. The bill would also prohibit a connected data center project that has an agreement under former Chapter 313 or a substantially similar successor program from receiving an exemption.

This bill would take effect September 1, 2023.

Methodology

Because a connected data center meeting the single occupancy, capital investment, and jobs criteria to be a qualifying connected data center project under the proposed new Section 151.3596 would surpass the commitment necessary to qualify, depending on configuration, as two or more single building qualified data centers under current Section 151.359, no fiscal implication for the state would be expected before the tenth year after certification as a qualifying connected data center project.

From the tenth, or depending on extent of investment, fifteenth year after certification, through the twentieth year when an exemption under the bill's proposed Section 151.3596 would expire, there would be a reduction in state sales tax revenues relative to the current Section 151.359.

Local Government Impact

In contrast to a certification under current Section 151.359 (exemption of state tax only), certification under proposed new Section 151.3596 would exempt a qualifying data center from local sales and use taxes, as well.

Consequently, there would be fiscal implications for local sales taxing jurisdictions immediately following certification under the proposed new section, while, as previously noted, fiscal implications to the state would be delayed until either the tenth or fifteenth anniversary of certification, depending on scale of investment. The estimates indicated for the first five years after effective date of the bill assume certification of one new connected data center opening every two years.

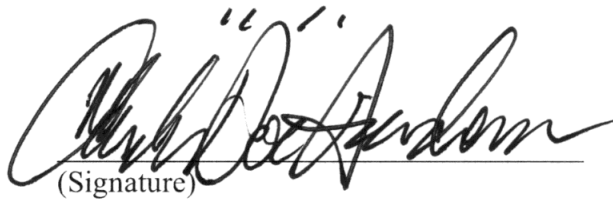
Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, SD

**Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order.

I certify that a copy of the conference committee report on HR 3104 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before paper copies of the report were submitted to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.


(Signature)

5/26/23
(Date)