

SUBJECT: Creating a temporary sales tax exemption for qualifying large data centers

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 10 ayes — D. Bonnen, Bohac, Button, Darby, Martinez Fischer, Murphy,
Parker, Springer, C. Turner, Wray

0 nays

1 absent — Y. Davis

WITNESSES: For — John Kennedy, Texas Taxpayers and Research Association;
(*Registered, but did not testify*: Matt Geske, Fort Worth Chamber of
Commerce; James LeBas, Rackspace; Stephen Minick, Texas
Association of Business)

Against — Dick Lavine, Center for Public Policy Priorities

On — (*Registered, but did not testify*: Brad Reynolds and Eric Stearns,
Comptroller of Public Accounts; Jon Hockenyos)

BACKGROUND: Tax Code, sec. 151.359 provides for a 15-year sales tax exemption for
certain tangible personal property used in a qualifying data center project.
A qualifying data center must:

- be at least 100,000 square feet;
- create at least 20 permanent, full-time jobs; and
- have a capital investment by the owner or operator of at least \$200 million.

DIGEST: CSHB 2712 would create a 20-year sales tax exemption for certain
tangible personal property used in qualifying large data centers, subject to
most of the same provisions as the current data center exemption. A data
center could be classified as a qualifying large data center project if it:

- is at least 250,000 square feet;
- creates at least 40 permanent, full-time jobs;
- is subject to a capital investment of \$500 million from the owner or operator, made or agreed to on or after May 1, 2015; and
- is contracted to receive at least 20 megawatts of power transmission capacity.

The comptroller would be required to adopt rules to implement these provisions.

This bill would not affect tax liability accruing before its effective date.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 2712 would bring in a large amount of economic activity and solidify Texas as the preferred state for data center constructions. Large data centers are often multibillion-dollar projects, creating thousands of construction jobs and hundreds of highly paid, high-tech jobs.

The nature of data centers makes this bill particularly important. Data centers tend to group together so that they can communicate with each other faster. If Texas can establish more data center clusters in the state, even more will come, bringing billions in capital investment and thousands of jobs.

This bill would put Texas on a more even playing field with many other states, which offer similar, if not more aggressive incentives. Although Texas has many natural advantages, a tax system can be a strong incentive — or disincentive. This bill could make Texas a premier destination state for data centers.

**OPPONENTS
SAY:**

CSHB 2712 would give corporations that already have decided to locate in Texas an unnecessary additional tax break, draining state coffers to provide businesses higher future profit margins. This bill would not

necessarily be about attracting investment that would have gone to other states. Provisions in the bill specifically apply exemptions to investments made after May 1, 2015, which would be before the bill's enactment. The bill would be tantamount to subsidizing an industry.

Texas already has a wide variety of innate advantages for data centers over other states. Because the state is close to the geographical center of the United States, it is an optimal location for quick communication to both coasts. Texas also has greater access to a highly educated and growing workforce than many other states. Because of these factors, several large data centers have located in Texas in the past few years. In short, the bill would not attract investment that would not have come to Texas anyway without the exemption.

NOTES:

The Legislative Budget Board's fiscal note indicates that the bill would not have a negative effect on general revenue for several biennia, as any qualifying large data centers would already qualify for the 15-year data center exemption.