

SHB 2283 - H AMD 360

By Representative Santos

NOT CONSIDERED 04/26/2009

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW  
4 to read as follows:

5 (1) A partial exemption from the tax imposed by RCW 82.08.020 is  
6 provided in the form of a refund for sales or charges made to a  
7 qualifying business for:

8 (a) Tangible personal property used at an eligible computer data  
9 center;

10 (b) Labor and services rendered in respect to installing tangible  
11 personal property in an eligible computer data center;

12 (c) Tangible personal property that becomes an ingredient or  
13 component of an eligible computer data center in the constructing,  
14 altering, repairing, or improving of the data center; and

15 (d) Labor and services in respect to constructing, altering,  
16 repairing, or improving an eligible computer data center.

17 (2)(a) A qualifying business must establish within six years of the  
18 first day of the calendar quarter in which the business first receives  
19 a refund under this section that it has:

20 (i) Increased employment in the state by a minimum of thirty-five  
21 family wage jobs from the date the eligible computer data center first  
22 became operational. For purposes of this subsection, family wage jobs  
23 are new permanent employment positions requiring forty hours of weekly  
24 work, or their equivalent, on a full-time basis and paying a wage  
25 equivalent to or greater than one hundred fifty percent of the per  
26 capita personal income of the county in which the qualified project is  
27 located. The qualifying business must provide health insurance  
28 coverage for employees; and

29 (ii) Spent at least two hundred million dollars on qualifying  
30 expenditures before, on, or after the effective date of this act.

1 (b) All previously refunded sales and use taxes are immediately due  
2 and payable for a qualifying business that does not meet the  
3 requirements of (a) of this subsection.

4 (3) Before claiming an exemption under this section or section 2 of  
5 this act, a qualifying business must submit an application to the  
6 department and the department must approve the application. The  
7 application must include any information necessary, as required by the  
8 department, to allow the department to make a determination that a  
9 business is likely to meet the requirements of this section and qualify  
10 for the exemption under this section. The department must issue a  
11 decision on the application within ninety days of receipt. If the  
12 department fails to issue a decision, the application for the exemption  
13 is deemed to have been approved.

14 (4)(a) A qualifying business claiming an exemption under this  
15 section or section 2 of this act must first pay state and local sales  
16 or use tax on sales or uses eligible for exemption under this section  
17 or section 2 of this act and may then apply to the department for a  
18 refund of fifty percent of the tax paid. The fifty percent exemption  
19 provided in this section and section 2 of this act applies to both the  
20 state and local portions of sales and use taxes.

21 (b) A qualifying business claiming the exemption under this section  
22 or section 2 of this act must submit an application for a refund to the  
23 department, not more often than once per calendar quarter, in a form  
24 and manner as required by the department. The application must include  
25 the amount of exemption claimed, the purchases for which the exemption  
26 is claimed, and such other information that the department determines  
27 is necessary to determine eligibility for the exemption. A qualifying  
28 business claiming the exemption under this section or section 2 of this  
29 act must keep and preserve adequate records establishing the qualifying  
30 business's eligibility for the exemption. Pending or approved  
31 applications are subject to audit verification by the department.

32 (c) The department must, on a quarterly basis, refund exempted  
33 amounts to qualifying businesses that submitted applications during the  
34 previous quarter that were approved, in whole or in part, by the  
35 department. The department may not refund more than twenty million  
36 dollars of state taxes under this section and section 2 of this act.  
37 Once the twenty million dollar amount is reached, the department may  
38 not provide refunds for state and local sales and use taxes. The fifty

1 percent of state sales or use tax not refunded under this section or  
2 section 2 of this act must be deposited in the green industries jobs  
3 training account created in RCW 43.330.310. The department may not  
4 refund sales taxes under this section or use taxes under section 2 of  
5 this act before April 1, 2010. The department may not refund sales  
6 taxes under this section or use taxes under section 2 of this act to a  
7 qualifying business unless the eligible computer data center to which  
8 the sales or use tax applies has been granted a certificate of  
9 occupancy.

10 (5) A qualifying business claiming an exemption under this section  
11 or section 2 of this act must complete an annual report with the  
12 department as required under section 103, chapter . . . (Substitute  
13 House Bill No. 1597), Laws of 2009.

14 (6) With respect to the construction of an eligible computer data  
15 center, a qualifying business claiming an exemption under this section  
16 or section 2 of this act must comply with the prevailing wage  
17 requirements of chapter 39.12 RCW and must also use apprentices for no  
18 less than fifteen percent of the labor hours required.

19 (7) The definitions in this subsection apply to this section.

20 (a) "Computer data center" means a facility comprised of one or  
21 more buildings constructed or refurbished specifically, and used  
22 primarily, to house servers, where the facility has the following  
23 characteristics: (i) Uninterruptible power supplies, generator backup  
24 power, or both; (ii) sophisticated fire suppression and prevention  
25 systems; and (iii) enhanced physical security, such as: (A) Restricted  
26 access to the facility to selected personnel; (B) permanent security  
27 guards; video camera surveillance; or an electronic system requiring  
28 passcodes, keycards, or biometric scans, such as hand scans and retinal  
29 or fingerprint recognition; or (C) security features similar to those  
30 in (a)(iii)(A) and (B) of this subsection (7).

31 (b) "Eligible computer data center" means a computer data center  
32 with at least twenty thousand square feet of floor space dedicated to  
33 housing working servers and located in a rural county as defined in RCW  
34 82.14.370(5).

35 (c) "Qualifying business" means a business entity that exists for  
36 the primary purpose of engaging in commercial activity for profit. For  
37 purposes of this definition, "business entity" means a corporation,  
38 other than a municipal, quasi-municipal, and public or other

1 corporation created by the state or federal government, tribal  
2 government, municipality, or political subdivision of the state;  
3 association; limited liability company; partnership, including general  
4 partnership, limited partnership, and limited liability partnership; or  
5 other legal entity. Consistent with this definition, "business entity"  
6 does not include the state or federal government or any of their  
7 departments, agencies, and institutions; tribal governments; and  
8 political subdivisions of this state.

9 (d) "Qualifying expenditure" means capital related expenditures of  
10 at least two hundred million dollars including, but not limited to,  
11 expenditures for: Land acquisition, land preparation, land  
12 improvement, facility design, facility construction, server and other  
13 equipment, and installation of server and other equipment.

14 (8) The joint legislative audit and review committee must complete  
15 a tax preference review under RCW 43.136.055 for this section and  
16 section 2 of this act by January 1, 2011.

17 (9) A qualifying business may not claim an exemption under this  
18 section or section 2 of this act for purchases made after June 30,  
19 2011, by a qualifying business for tangible personal property or labor  
20 and services otherwise qualifying for an exemption under this section.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW  
22 to read as follows:

23 (1) A partial exemption from the tax imposed under this chapter is  
24 provided in the form of a refund for uses by a qualifying business of:

25 (a) Tangible personal property used at an eligible computer data  
26 center;

27 (b) Labor and services rendered in respect to installing tangible  
28 personal property in an eligible computer data center;

29 (c) Tangible personal property that becomes an ingredient or  
30 component of an eligible computer data center in the constructing,  
31 altering, repairing, or improving of the data center; and

32 (d) Labor and services in respect to constructing, altering,  
33 repairing, or improving an eligible computer data center.

34 (2) All of the conditions, requirements, limitations, and  
35 definitions in section 1 of this act apply to this section."

36 Correct the title.

EFFECT: Extends the sales and use tax exemption to all tangible personal property and labor and services related to the construction, alteration, repair, or improvement of a data center. Specifies that the prevailing wage and apprenticeship requirements only apply to the construction of a data center. Clarifies that the statewide biennial cap on refunded state sales and use taxes is \$20 million. Makes technical corrections.

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