

---

HOUSE BILL 2283

---

State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Santos, Armstrong, Condotta, Ericks, Ormsby, and Kelley

Read first time 02/23/09. Referred to Committee on Finance.

1            AN ACT Relating to providing sales and use tax exemptions to  
2 eligible data centers located in a rural county as defined in RCW  
3 82.14.370(5); adding a new section to chapter 82.08 RCW; and adding a  
4 new section to chapter 82.12 RCW.

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

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 82.08 RCW  
7 to read as follows:

8            (1) An exemption from the tax imposed by RCW 82.08.020 is provided  
9 for sales to qualifying businesses of server equipment, to be  
10 installed, in an eligible computer data center, and for sales of labor  
11 and services rendered in respect to installing such server equipment.  
12 The exemption also applies to the sales of temperature and climate  
13 control infrastructure and power infrastructure, including labor and  
14 services rendered in respect to constructing, installing, repairing,  
15 altering, or improving such infrastructure.

16            (2)(a) A person claiming the exemption under this section must  
17 present the seller with an exemption certificate in a form and manner  
18 prescribed by the department. The seller must retain a copy of the

1 certificate for the seller's files. A seller's failure to retain a  
2 copy of the certificate does not disqualify the buyer's exemption  
3 claim.

4 (b) In order to claim the exemption under this act, a qualifying  
5 business must submit an application to the department. The application  
6 must include the information necessary, as required by the department,  
7 to determine that a business qualifies for the exemption under this  
8 act. The department must issue a decision on the application within  
9 ninety days of receipt. If the department fails to issue a decision,  
10 the application for the exemption is deemed to have been approved.

11 (c) In the event that the person claiming the exemption did not  
12 claim the exemption in advance of the first qualifying purchase and  
13 paid the vendor the sales tax, the department must accept an  
14 application after the purchase for purposes of refunding the sales tax  
15 paid on the equipment and services described in subsection (1) of this  
16 section. The department must issue a decision on the application  
17 within ninety days of receipt. If the department fails to issue a  
18 decision, the application for the exemption is deemed to have been  
19 approved.

20 (3) A person who claims an exemption under this section must make  
21 an annual report to the department.

22 (a) This report must include:

23 (i) Information detailing employment, wages, and employer-provided  
24 health and retirement benefits per job;

25 (ii) Employment by the number of full-time and part-time positions;  
26 and

27 (iii) The cost of qualifying expenditures for the eligible computer  
28 data center.

29 (b) The first report filed under this subsection must include  
30 employment, wage, and benefit information for the twelve-month period  
31 immediately before the installation of any equipment described in  
32 subsection (1) of this section.

33 (c) Subsequent reports are due by March 31st following the year the  
34 eligible computer data center is first placed in commercial service or  
35 in the case of a computer data center placed into commercial service  
36 prior to the effective date of this act, then the report is due by  
37 March 31st following the year of the installation of any equipment  
38 described in subsection (1) of this section. The report must be filed

1 annually for the period the eligible computer data center, or the  
2 equipment described in subsection (1) of this section that was  
3 installed in a computer data center existing prior to the effective  
4 date of this act, remains in commercial service.

5 (d) Employment, wage, and benefit information is not subject to the  
6 confidentiality provisions of RCW 82.32.330 and may be disclosed to the  
7 public upon request.

8 (4) If a person fails to fulfill the requirements of this section,  
9 the department must declare the amount of taxes exempted under this  
10 section immediately due and payable. However, the department may not  
11 declare the amount of taxes immediately due and payable if the failure  
12 was the result of illness, death, natural disasters, or unforeseen  
13 computer system failures. Excise taxes payable under this section are  
14 subject to interest, as provided under this chapter. Requirements  
15 under this section exclusively include:

16 (a) The person must submit an annual report as required by  
17 subsection (3) of this section.

18 (b) The person must increase employment in the state by a minimum  
19 of thirty-five family wage jobs no later than six years after the  
20 installation of equipment of the computer data center. For purposes of  
21 the report required by this section, family wage jobs are new permanent  
22 employment positions requiring forty hours of weekly work, or their  
23 equivalent, on a full-time basis and paying a wage equivalent to or  
24 greater than one hundred fifty percent of the per capita personal  
25 income of the county in which the qualified project is located. The  
26 person must provide health insurance coverage for the employee.

27 This requirement does not apply to existing computer data centers  
28 if the equipment and services are those described in subsection (1) of  
29 this section and are for the purpose of refreshing, maintaining, or  
30 replacing existing equipment due to changes in technology,  
31 obsolescence, or defect.

32 (c) No later than six years following the date the eligible  
33 computer data center begins to provide commercial service, or the date  
34 the installation of the equipment is final, the person must document  
35 qualifying expenditures equal to or exceeding two hundred million  
36 dollars.

37 (5) For purposes of this section:

1 (a) "Commercial service" means the point at which the equipment  
2 described in subsection (1) of this section becomes operational for its  
3 intended purposes and excludes testing or other activities in  
4 preparation for the same to become operational.

5 (b) "Computer data center" means a facility comprised of one or  
6 more buildings constructed or refurbished specifically, and used  
7 primarily, to house servers and related equipment and support staff,  
8 where the facility has the following characteristics:

9 (i) Uninterruptible power supplies, generator backup power, or  
10 both;

11 (ii) Sophisticated fire suppression and prevention systems; and

12 (iii) Enhanced physical security, such as: (A) Restricted access  
13 to the facility to selected personnel; (B) permanent security guards;  
14 video camera surveillance; or an electronic system requiring passcodes,  
15 keycards, or biometric scans, such as hand scans and retinal or  
16 fingerprint recognition; or (C) security features similar to those in  
17 (b)(iii)(A) and (B) of this subsection (5). A computer data center  
18 includes, but is not limited to, a web search portal business.

19 (c) "Store or manage electronic data" includes, but is not limited  
20 to: Providing data storage and backup services, providing computer  
21 processing power, and hosting enterprise software applications. The  
22 term also includes hosting web sites that provide free or subscription  
23 services such as e-mail, web browsing and searching, media  
24 applications, and other related online services.

25 (d) "Eligible computer data center" means a physical location in  
26 the state consisting of a single parcel of real property or adjacent  
27 parcels of real property owned by the same taxpayer, acquired or  
28 improved through construction of a computer data center with at least  
29 twenty thousand square feet of floor space dedicated to housing working  
30 servers and located in a rural county as defined in RCW 82.14.370(5).

31 (e) "Installation of equipment" means when the first piece of  
32 equipment described in subsection (1) of this section is installed at  
33 the site and ordering the equipment, preparing the equipment for  
34 installation, or other activities in preparation for the installation  
35 of such equipment.

36 (f) "Power infrastructure" means all fixtures, equipment, and  
37 facilities necessary for the transformation, distribution, or  
38 management of electricity at an eligible data center. The term

1 includes, but is not limited to, exterior taxpayer-owned electrical  
2 substations, generators, wiring, back-up power generation systems,  
3 battery systems, and related infrastructure and cogeneration equipment.

4 (g)(i) "Qualifying business" means a business entity that: Exists  
5 for the primary purpose of engaging in commercial activity for profit;  
6 and purchases server equipment, power infrastructure, or temperature  
7 and climate control infrastructure on or after July 1, 2011, for use in  
8 a computer data center.

9 (ii) For purposes of this definition, "business entity" means a  
10 corporation, other than a municipal, quasi-municipal, and public or  
11 other corporation created by the state or federal government, tribal  
12 government, municipality, or political subdivision of the state;  
13 association; limited liability company; partnership, including general  
14 partnership, limited partnership, and limited liability partnership; or  
15 other legal entity. Consistent with this definition, "business entity"  
16 does not include the state or federal government or any of their  
17 departments, agencies, and institutions; tribal governments; and  
18 political subdivisions of this state.

19 (h) "Qualifying expenditure" means an investment in real and  
20 personal property of two hundred million dollars for capital expenses  
21 including, but not limited to, land acquisition, preparation, and  
22 improvement, facility design, engineering and construction, and  
23 installation of server equipment, temperature and climate control  
24 infrastructure, and power infrastructure. Expenditures made prior to  
25 July 1, 2011, are deemed qualifying expenditures for purposes of  
26 determining eligibility of a computer data center for the exemption  
27 offered under this chapter.

28 (i) "Server" includes:

29 (i) Blade or rack-mount servers and means a computer that is used  
30 in a computer data center solely to store or manage electronic data, to  
31 provide internet access, navigation, or search functions for the owner  
32 or lessee of the computer data center, or for clients of the owner or  
33 lessee of the computer data center, or both; or

34 (ii) Computers used for research and development to support  
35 capabilities to store or manage electronic data or provide internet  
36 access, navigation, or search functions.

37 (j) "Server equipment" means the server chassis and all computer  
38 hardware and software contained within the server chassis. Consistent

1 with this definition, "server equipment" includes the racks upon which  
2 the server chassis is installed, cables, and computer peripherals such  
3 as keyboards, monitors, printers, mice, and other devices that work  
4 outside of the computer.

5 (k) "Temperature and climate control infrastructure" means all  
6 fixtures, equipment, and facilities necessary for controlling the  
7 temperature and humidity at an eligible computer data center. The term  
8 includes heating, ventilation, and air conditioning fixtures and  
9 equipment; cooling systems; cooling towers; temperature sensors;  
10 humidity sensors; fans; and perforated floor tiles.

11 (l) "Web search portal business" means an entity among whose  
12 primary business is to provide a content and search portal to organize  
13 information; to access, search, or navigate the internet, including  
14 researching or developing technologies to support capabilities to  
15 organize information; and to provide internet access, navigation, and  
16 search functionalities.

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

19 (1) An exemption from the tax imposed by RCW 82.12.020 is provided  
20 for sales to qualifying businesses of server equipment, to be  
21 installed, in an eligible computer data center, and to charges made for  
22 labor and services rendered in respect to installing such server  
23 equipment. The exemption also applies to the sales of temperature and  
24 climate control infrastructure and power infrastructure, including  
25 labor and services rendered in respect to constructing, installing,  
26 repairing, altering, or improving such infrastructure. However, this  
27 exemption does not apply if the server equipment is withdrawn from an  
28 eligible computer data center and not reused in an eligible computer  
29 data center. Such item must be taxed at its fair market value at the  
30 time of first taxable use in Washington.

31 (2) In order to claim the exemption under this act, a qualifying  
32 business must submit an application to the department. The application  
33 must include the information necessary, as required by the department,  
34 to determine that a business qualifies for the exemption under this  
35 act. The department must issue a decision on the application within  
36 ninety days of its receipt. If the department fails to issue a

1 decision, the application for the exemption is deemed to have been  
2 approved.

3 (3) The definitions in section 1 of this act apply to this section.

4 (4) If a person fails to fulfill the requirements of section 1 of  
5 this act, all taxes exempt under this section become immediately due  
6 and payable. Excise taxes payable under this section are subject to  
7 interest, as provided under this chapter.

--- END ---