

# SENATE BILL REPORT

## 2ESB 5873

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As Passed Senate, March 8, 2012

**Title:** An act relating to the sales and use tax exemption for qualifying businesses of eligible server equipment.

**Brief Description:** Amending the sales and use tax exemption for certain equipment used in computer data centers.

**Sponsors:** Senators Prentice, Parlette, Hewitt, Murray, Harper, Holmquist Newbry, Chase, Zarelli, Hobbs, King, Fain, Honeyford, Tom, Kilmer and McAuliffe.

**Brief History:**

**Committee Activity:** Ways & Means: 3/16/11, 5/05/11, 5/11/11 [DP, DNP, w/oRec].  
Passed Senate: 5/12/11, 41-1; 3/08/12, 48-1.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Baumgartner, Baxter, Conway, Hatfield, Hewitt, Honeyford, Keiser, Pflug, Schoesler and Tom.

**Minority Report:** Do not pass.

Signed by Senators Kastama and Rockefeller.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Regala.

**Staff:** Dean Carlson (786-7305)

**Background:** Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and digital products and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the property, digital products, or services were acquired by the user, then use taxes apply to the value of most tangible personal property and digital products and some services when used in this state. The state sales and use tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 3.0 percent, depending on the location.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

In 2010 ESSB 6789 provided a sales and use tax exemption for eligible server equipment and power infrastructure for eligible computer data centers. The exemption expires on April 1, 2018. In order to qualify a data center must:

- be located in a rural county;
- have at least 20,000 square feet dedicated to housing servers; and
- have commenced construction between April 1, 2010, and before July 1, 2011.

Additionally, within six years of construction a qualifying business must have created 35 family wage employment positions or three family wage jobs per 20,000 square feet of space.

Commencement of construction means the date that a building permit is issued under the building code for construction of a computer data center. Construction of a data center includes the expansion, renovation, or other improvements made to existing facilities, including leased or rented space.

Eligible server equipment is the original server equipment installed in an eligible data center after April 1, 2010, and replacement server equipment which replaces servers originally exempt under this law and is installed prior to April 1, 2018.

**Summary of Second Engrossed Bill:** The time is extended for eligible data centers and qualifying tenants of data centers to qualify for the sales and use tax exemption, from those that commenced construction prior to July 1, 2011, to those that have commenced construction between April 1, 2012 and July 1, 2015.

The time is extended for eligible replacement server equipment to qualify for the sales and use tax exemption from April 1, 2018, until April 1, 2020, for new data centers and qualifying tenants. Qualifying businesses that are already using the exemption may still receive the exemption until 2018.

The requirement that a lessee lease 20,000 square feet of space is eliminated.

The definition of server equipment is modified and a definition for qualifying tenants is provided.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2012.

**Staff Summary of Public Testimony:** PRO: The data centers have been locating in Eastern Washington. In 2009 other states have been getting more competitive. Since the exemption passed last year we have started to see many more data centers being built again. These data centers pay a lot of property taxes. The Port of Quincy would like to see this extended longer. We have over 200,000 worker hours so far since the bill passed last year. We would like to see this expanded so that credit unions may take advantage. A year ago business and

labor came together to help pass the incentive last year. Since, the Department of Revenue has approved seven projects to go forward with an investment of 1 to 2 billion dollars. Construction workers that have been drawing unemployment now have jobs. The construction unemployment in Central Washington is now about zero. We had two years with no activity prior to the incentive being passed. We have had two potential tenants decide not to locate here due to the fact the incentive is set to end. The property taxes raised is millions of dollars a year to support schools and other government programs. This is economic development and job creation that works.

CON: We would like to raise the message that every dollar we spend on tax exemptions is a dollar less than can be spent on important programs.

**Persons Testifying:** PRO: Pat Boss, Port of Quincy; Terry Tilton, Washington State Building Construction Trades Council; Mark Minickieuo, Northwest Credit Union Association; John Sabey, Sabey Corporation.

CON: Nick Federici, Protecting our Economic Future Coalition.