

SENATE BILL REPORT

SB 5414

As of February 9, 2021

Title: An act relating to providing a tax preference for data centers in counties with a certain population.

Brief Description: Providing a tax preference for data centers in counties with a certain population.

Sponsors: Senators Gildon, Conway, Fortunato and Wilson, C..

Brief History:

Committee Activity: Business, Financial Services & Trade: 2/09/21.

Brief Summary of Bill

- Establishes a sales and use tax exemption for data centers in counties with a certain population.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Staff: Kellee Gunn (786-7429)

Background: Current law provides a retail sale and use tax exemption for qualifying businesses operating data centers and qualifying tenants of those data centers. The exemption includes purchases of eligible server equipment and power infrastructure, labor, and services for installing eligible server equipment, and for constructing, installing, repairing, altering, or improving eligible power infrastructure.

To qualify and maintain an exemption, a facility must meet certain criteria regarding employment and facility size, be in a rural county, and commence construction during a certain period. Limits under current law on the number of data centers receiving an incentive have been met.

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

Within six years of being issued an exemption certificate, an eligible data center must show it has established or increased family wage employment positions by an amount dependent on the size of the data center. Family wage employment positions are defined as new permanent full-time jobs with employer-provided health care, requiring 40 hours of work and with a wage that is 150 percent of the per capita personal income of the county where the center is located. If the number of family wage jobs has not increased or been met within those six years, all previously exempted sales and use taxes are immediately due and payable.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): An exemption to the sales and use tax is established for qualifying businesses and tenants of eligible data centers. To qualify, a business must be in a county with a population between 900,000 and 1 million people as determined in the April 1, 2020, population estimate provided by the Office of Financial Management. Pierce County meets that population criteria.

An application must be made to the Department of Revenue (DOR) for the exemption certificate. A qualifying business must submit records of available power for customers at the time of application, which demonstrates it has a minimum of 1.5 megawatts of available power. A tenant must contract for a minimum electrical capacity of 150 kilowatts for server and computer equipment in a qualifying business.

The exemption certificate is effective on the date the application is received by DOR, which is deemed its date of issuance. No new exemption certificates may be issued by DOR on or after July 1, 2027, and the exemptions fully expire July 1, 2037. The exemption certificate may be used to build, repair, or refurbish a data center. The number of exemption certificates is limited to two the first year, and one per year for years three through six. The certificate is available on a first-in-time basis.

Construction must commence within two years of certificate issuance. Within six years, the qualifying business or tenant must show it has increased or established at least three jobs per 20,000 square feet of space. The amount of family wage jobs the qualifying tenant must have created may be based on the proportion of the space they occupy in the data center.

Family wage jobs are defined similarly to the current law program except the wage must be at least 125 percent of the per capita personal income of the county where the project is located.

Certificate holders may transfer their certificate with consent of DOR if certain requirements are met.

Tax Performance Statement and Review. A tax preference performance statement is established. The specific public policy objective of this tax preference is to:

- improve industry competitiveness;
- increase, create, or retain jobs in the county that meets the population criteria, thereby increasing family wage jobs; and
- increase the county tax base because of the construction, leasing, and other investment of eligible computer data centers.

The Joint Legislative Audit and Review Committee (JLARC) will perform the tax preference review. If JLARC finds the tax preference increases the tax base of the county because of the construction, leasing, and other investment of eligible computer data centers, the Legislature intends to extend the expiration date and expand the preference to the entire state of Washington.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony On Proposed Substitute: PRO: This is about economic development. Though we have a current rural tax preference bill, this bill is not competing with it. This puts us on even footing with the data centers down in Oregon. Washington has all the characteristics to attract data centers except for in urban areas. The state is losing data center investments and technology development to Oregon and other states. The state needs a tax incentive. The data center in Pierce County that would benefit from this bill would enhance broadband access and allow for small and medium businesses to have a full-on data center in their community. This will create jobs off site. Contractors will come into the area and spend taxable dollars into the local community. This will help break the digital divide by providing more access to information and technology infrastructure.

Even prior to the COVID-19 pandemic, there was an increased need for data to be stored and processed. No single configuration of a data center can serve every need. This bill will serve smaller data centers and facilities. This is a market segment that works in urban settings. Washington is missing out on attracting these data centers to urban communities because other states make it more attractive to locate there. The proposed substitute before committee, without the language regarding project labor agreements, is supported. Data centers are proven job creators. These are family wage jobs. This bill will give Washington a chance to compete in the smaller data center market. Pierce County has infrastructure needs around broadband and this data center will help provide this service to disadvantaged areas.

OTHER: Sabey is one of the largest data center developers in the nation and is in Tukwila.

This proposal is not a consensus bill. This bill offers significant incentive to one center in one market. This program should be made statewide and include the entire urban market.

Persons Testifying: PRO: Senator Chris Gildon, Prime Sponsor; Rob Allen, Pierce County; Dave Vranizan, Centeris; Tom Pierson, Tacoma Pierce County Chamber; Michael Transue, Tacoma Pierce County Chamber; Christine Brewer, Associated General Contractors of Washington; Matthew Hepner, IBEW/CEWW; Mark Martinez, Pierce County Construction and Building Trades.

OTHER: Rob Makin, Sabey Data Centers.

Persons Signed In To Testify But Not Testifying: No one.