

1-1 By: Geren, Bohac (Senate Sponsor - Hancock) H.B. No. 2712
 1-2 (In the Senate - Received from the House May 13, 2015;
 1-3 May 13, 2015, read first time and referred to Committee on Finance;
 1-4 May 21, 2015, reported favorably by the following vote: Yeas 13,
 1-5 Nays 0; May 21, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22	X			

1-23 A BILL TO BE ENTITLED
 1-24 AN ACT

1-25 relating to the temporary exemption of certain tangible personal
 1-26 property related to large data center projects from the sales and
 1-27 use tax.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended
 1-30 by adding Section 151.3595 to read as follows:

1-31 Sec. 151.3595. PROPERTY USED IN CERTAIN LARGE DATA CENTER
 1-32 PROJECTS; TEMPORARY EXEMPTION. (a) In this section:

1-33 (1) "County average weekly wage" means the average
 1-34 weekly wage in a county for all jobs during the most recent four
 1-35 quarterly periods for which data is available, as computed by the
 1-36 Texas Workforce Commission, at the time a large data center project
 1-37 creates a job used to qualify under this section.

1-38 (2) "Large data center project" means a project that:

1-39 (A) is located in this state;

1-40 (B) is composed of one or more buildings
 1-41 comprising at least 250,000 square feet of space located or to be
 1-42 located on a single parcel of land or on contiguous parcels of land
 1-43 that are commonly owned or owned by affiliation with the qualifying
 1-44 operator;

1-45 (C) is specifically constructed or refurbished
 1-46 and actually used primarily to house servers and related equipment
 1-47 and support staff for the processing, storage, and distribution of
 1-48 data;

1-49 (D) is used by a single qualifying occupant for
 1-50 the processing, storage, and distribution of data;

1-51 (E) is not used primarily by a telecommunications
 1-52 provider to place tangible personal property used to deliver
 1-53 telecommunications services; and

1-54 (F) has an uninterruptible power source, a backup
 1-55 generator, a fire suppression and prevention system, and physical
 1-56 security that includes restricted access, video surveillance, and
 1-57 electronic systems.

1-58 (3) "Permanent job" means an employment position that
 1-59 will exist for at least five years after the date the job is
 1-60 created.

1-61 (4) "Qualifying job" means a full-time, permanent job

2-1 that pays at least 120 percent of the county average weekly wage in
 2-2 the county in which the job is based. The term includes a new
 2-3 employment position staffed by a third-party employer if a written
 2-4 contract exists between the third-party employer and a qualifying
 2-5 owner, qualifying operator, or qualifying occupant that provides
 2-6 that the employment position is permanently assigned to an
 2-7 associated qualifying large data center project.

2-8 (5) "Qualifying large data center project" means a
 2-9 large data center project that meets the qualifications prescribed
 2-10 by Subsection (d).

2-11 (6) "Qualifying operator" means a person who controls
 2-12 access to a qualifying large data center project, regardless of
 2-13 whether that person owns each item of tangible personal property
 2-14 located at the qualifying large data center project. A qualifying
 2-15 operator may also be the qualifying owner.

2-16 (7) "Qualifying owner" means a person who owns a
 2-17 building in which a qualifying large data center project is
 2-18 located. A qualifying owner may also be the qualifying operator.

2-19 (8) "Qualifying occupant" means a person who:

2-20 (A) contracts with a qualifying owner or
 2-21 qualifying operator to place, or cause to be placed, and to use
 2-22 tangible personal property at the qualifying large data center
 2-23 project; or

2-24 (B) in the case of a qualifying occupant who is
 2-25 also the qualifying owner and the qualifying operator, places or
 2-26 causes to be placed and uses tangible personal property at the
 2-27 qualifying large data center project.

2-28 (b) Except as otherwise provided by this section, tangible
 2-29 personal property that is necessary and essential to the operation
 2-30 of a qualifying large data center project is exempted from the taxes
 2-31 imposed by this chapter if the tangible personal property is
 2-32 purchased for installation at, incorporation into, or in the case
 2-33 of electricity, use in a qualifying large data center project by a
 2-34 qualifying owner, qualifying operator, or qualifying occupant, and
 2-35 the tangible personal property is:

2-36 (1) electricity;

2-37 (2) an electrical system;

2-38 (3) a cooling system;

2-39 (4) an emergency generator;

2-40 (5) hardware or a distributed mainframe computer or
 2-41 server;

2-42 (6) a data storage device;

2-43 (7) network connectivity equipment;

2-44 (8) a rack, cabinet, and raised floor system;

2-45 (9) a peripheral component or system;

2-46 (10) software;

2-47 (11) a mechanical, electrical, or plumbing system that
 2-48 is necessary to operate any tangible personal property described by
 2-49 Subdivisions (2)-(10);

2-50 (12) any other item of equipment or system necessary
 2-51 to operate any tangible personal property described by Subdivisions
 2-52 (2)-(11), including a fixture; and

2-53 (13) a component part of any tangible personal
 2-54 property described by Subdivisions (2)-(10).

2-55 (c) The exemption provided by this section does not apply
 2-56 to:

2-57 (1) office equipment or supplies;

2-58 (2) maintenance or janitorial supplies or equipment;

2-59 (3) equipment or supplies used primarily in sales
 2-60 activities or transportation activities;

2-61 (4) tangible personal property on which the purchaser
 2-62 has received or has a pending application for a refund under Section
 2-63 151.429;

2-64 (5) tangible personal property not otherwise exempted
 2-65 under Subsection (b) that is incorporated into real estate or into
 2-66 an improvement of real estate;

2-67 (6) tangible personal property that is rented or
 2-68 leased for a term of one year or less; or

2-69 (7) notwithstanding Section 151.3111, a taxable

3-1 service that is performed on tangible personal property exempted
 3-2 under this section.

3-3 (d) A large data center project may be certified by the
 3-4 comptroller as a qualifying large data center project for purposes
 3-5 of this section if, on or after June 1, 2015:

3-6 (1) a single qualifying occupant:

3-7 (A) contracts with a qualifying owner or
 3-8 qualifying operator to lease space in which the qualifying occupant
 3-9 will locate a large data center project; or

3-10 (B) occupies a space that was not previously used
 3-11 as a data center in which the qualifying occupant will locate a
 3-12 large data center project, in the case of a qualifying occupant who
 3-13 is also the qualifying operator and the qualifying owner; and

3-14 (2) the qualifying owner, qualifying operator, or
 3-15 qualifying occupant, independently or jointly:

3-16 (A) creates at least 40 qualifying jobs in the
 3-17 county in which the large data center project is located, not
 3-18 including jobs moved from one county in this state to another county
 3-19 in this state;

3-20 (B) on or after May 1, 2015, makes or agrees to
 3-21 make a capital investment of at least \$500 million in that
 3-22 particular large data center project, the amount of which may not
 3-23 include a capital investment to replace personal property
 3-24 previously placed in service in that large data center project,
 3-25 over a five-year period beginning on the earlier of:

3-26 (i) the date the large data center project
 3-27 submits the application described by Subsection (e); or

3-28 (ii) the date the large data center project
 3-29 is certified by the comptroller as a qualifying large data center
 3-30 project; and

3-31 (C) agrees to contract for at least 20 megawatts
 3-32 of transmission capacity for operation of the large data center
 3-33 project.

3-34 (e) A large data center project that is eligible under
 3-35 Subsection (d) to be certified by the comptroller as a qualifying
 3-36 large data center project shall apply to the comptroller for
 3-37 certification and for the issuance of a registration number or
 3-38 numbers by the comptroller. The application must be made on a form
 3-39 prescribed by the comptroller and must include the information
 3-40 required by the comptroller. The application must include the name
 3-41 and contact information for the qualifying occupant, and, if
 3-42 applicable, the name and contact information for the qualifying
 3-43 owner and the qualifying operator who will claim the exemption
 3-44 authorized under this section. The application form must include a
 3-45 section for the applicant to certify that the capital investment
 3-46 required by Subsection (d)(2)(B) will be met independently or
 3-47 jointly by the qualifying occupant, qualifying owner, or qualifying
 3-48 operator within the time period prescribed by Subsection (d)(2)(B).

3-49 (f) The exemption provided by this section begins on the
 3-50 date the large data center project is certified by the comptroller
 3-51 as a qualifying large data center project and expires on the 20th
 3-52 anniversary of that date, if the qualifying occupant, qualifying
 3-53 owner, or qualifying operator, independently or jointly makes the
 3-54 capital investment of at least \$500 million as provided by
 3-55 Subsection (d)(2)(B).

3-56 (g) Each person who is eligible to claim an exemption
 3-57 authorized by this section must hold a registration number issued
 3-58 by the comptroller. The registration number must be stated on the
 3-59 exemption certificate provided by the purchaser to the seller of
 3-60 tangible personal property eligible for the exemption.

3-61 (h) The comptroller shall revoke all registration numbers
 3-62 issued in connection with a qualifying large data center project
 3-63 that the comptroller determines does not meet the requirements
 3-64 prescribed by Subsection (d). Each person who has the person's
 3-65 registration number revoked by the comptroller is liable for taxes,
 3-66 including penalty and interest from the date of purchase, imposed
 3-67 under this chapter on purchases for which the person claimed an
 3-68 exemption under this section, regardless of whether the purchase
 3-69 occurred before the date the registration number was revoked.

