



Sen. Elgie R. Sims, Jr.

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10100SB1591sam001

LRB101 08762 HLH 59363 a

1 AMENDMENT TO SENATE BILL 1591

2 AMENDMENT NO. _____. Amend Senate Bill 1591 by replacing
3 everything from line 4 on page 1 through line 24 on page 5 with
4 the following:

5 "Section 3. The Department of Commerce and Economic
6 Opportunity Law of the Civil Administrative Code of Illinois is
7 amended by adding Section 605-1025 as follows:

8 (20 ILCS 605/605-1025 new)

9 Sec. 605-1025. Data center investment.

10 (a) The Department shall issue certificates of exemption
11 from the Retailers' Occupation Tax Act, the Use Tax Act, the
12 Service Use Tax Act, and the Service Occupation Tax Act, all
13 locally-imposed retailers' occupation taxes administered and
14 collected by the Department, the Chicago non-titled Use Tax,
15 the Electricity Excise Tax Act, and a credit certification
16 against the taxes imposed under subsections (a) and (b) of

1 Section 201 of the Illinois Income Tax Act to qualifying
2 Illinois data centers.

3 (b) For taxable years beginning on or after January 1,
4 2019, the Department shall award credits against the taxes
5 imposed under subsections (a) and (b) of Section 201 of the
6 Illinois Income Tax Act as provided in Section 229 of the
7 Illinois Income Tax Act.

8 (c) For purposes of this Section:

9 "Data center" means a building or a series of buildings
10 that is rehabilitated or constructed to house working
11 servers in one physical location or several sites.

12 "Qualifying Illinois data center" means a new or
13 existing data center that:

14 (1) is located in the State of Illinois;

15 (2) in the case of an existing data center, made a
16 capital investment of at least \$250,000,000
17 collectively by the data center operator and the
18 tenants of all of its data centers over the 60-month
19 period immediately prior to January 1, 2020 or
20 committed to make a capital investment of at least
21 \$250,000,000 over a 60-month period commencing before
22 January 1, 2020 and ending after January 1, 2020; or

23 (3) in the case of a new data center, makes a
24 capital investment of at least \$250,000,000 over a
25 60-month period; and

26 (4) in the case of both existing and new data

1 centers, results in the creation of at least 20
2 full-time or full-time equivalent new jobs over a
3 period of 60 months by the data center operator and the
4 tenants of the data center, collectively, associated
5 with the operation or maintenance of the data center;
6 those jobs must have a total compensation equal to or
7 greater than 120% of the median wage paid to full-time
8 employees in the county where the data center is
9 located, as determined by the U.S. Bureau of Labor
10 Statistics; and

11 (5) is carbon neutral or attains certification
12 under one or more of the following green building
13 standards:

14 (A) BREEAM for New Construction or BREEAM
15 In-Use;

16 (B) ENERGY STAR;

17 (C) Envision;

18 (D) ISO 50001-energy management;

19 (E) LEED for Building Design and Construction
20 or LEED for Operations and Maintenance;

21 (F) Green Globes for New Construction or Green
22 Globes for Existing Buildings;

23 (G) UL 3223; or

24 (H) an equivalent program approved by the
25 Department of Commerce and Economic Opportunity.

26 "Full-time equivalent job" means a job in which the new

1 employee works for the owner, operator, contractor, or
2 tenant of a data center or for a corporation under contract
3 with the owner, operator or tenant of a data center at a
4 rate of at least 35 hours per week. An owner, operator or
5 tenant who employs labor or services at a specific site or
6 facility under contract with another may declare one
7 full-time, permanent job for every 1,820 man hours worked
8 per year under that contract. Vacations, paid holidays, and
9 sick time are included in this computation. Overtime is not
10 considered a part of regular hours.

11 "Qualified tangible personal property" means:
12 electrical systems and equipment; climate control and
13 chilling equipment and systems; mechanical systems and
14 equipment; monitoring and secure systems; emergency
15 generators; hardware; computers; servers; data storage
16 devices; network connectivity equipment; racks; cabinets;
17 telecommunications cabling infrastructure; raised floor
18 systems; peripheral components or systems; software;
19 mechanical, electrical, or plumbing systems; battery
20 systems; cooling systems and towers; temperature control
21 systems; other cabling; and other data center
22 infrastructure equipment and systems necessary to operate
23 qualified tangible personal property, including fixtures;
24 and component parts of any of the foregoing, including
25 installation, maintenance, repair, refurbishment, and
26 replacement of qualified tangible personal property to

1 generate, transform, transmit, distribute, or manage
2 electricity necessary to operate qualified tangible
3 personal property; and all other tangible personal
4 property that is essential to the operations of a computer
5 data center. "Qualified tangible personal property" also
6 includes building materials physically incorporated in to
7 the qualifying data center.

8 To document the exemption allowed under this Section, the
9 retailer must obtain from the purchaser a copy of the
10 certificate of eligibility issued by the Department.

11 (d) New and existing data centers seeking a certificate of
12 exemption for new or existing facilities shall apply to the
13 Department in the manner specified by the Department. The
14 Department and any data center seeking the exemption, including
15 a data center operator on behalf of itself and its tenants,
16 must enter into a memorandum of understanding that at a minimum
17 provides:

18 (1) the details for determining the amount of capital
19 investment to be made;

20 (2) the number of new jobs created;

21 (3) the timeline for achieving the capital investment
22 and new job goals;

23 (4) the repayment obligation should those goals not be
24 achieved and any conditions under which repayment by the
25 qualifying data center or data center tenant claiming the
26 exemption will be required; and

1 (5) other provisions as deemed necessary by the
2 Department.

3 (e) Beginning July 1, 2021, and each year thereafter, the
4 Department shall annually report to the Governor and the
5 General Assembly on the outcomes and effectiveness of this
6 amendatory Act of the 101st General Assembly that shall include
7 the following:

8 (1) the name of each recipient business;

9 (2) the location of the project;

10 (3) the estimated value of the credit;

11 (4) the number of new jobs and, if applicable, retained
12 jobs pledged as a result of the project; and

13 (5) whether or not the project is located in an
14 underserved area.

15 (f) New and existing data centers seeking a certificate of
16 exemption related to the rehabilitation or construction of data
17 centers in the State shall require the contractor and all
18 subcontractors to comply with the requirements of Section 30-22
19 of the Illinois Procurement Code as they apply to responsible
20 bidders and to present satisfactory evidence of that compliance
21 to the Department.

22 (g) New and existing data centers seeking a certificate of
23 exemption for the rehabilitation or construction of data
24 centers in the State shall require the contractor to enter into
25 a project labor agreement approved by the Department."; and

1 on page 5, immediately below line 24, by inserting the
2 following:

3 "Section 4. The Illinois Income Tax Act is amended by
4 adding Section 229 as follows:

5 (35 ILCS 5/229 new)

6 Sec. 229. Data center construction employment tax credit.

7 (a) For tax years beginning on or after January 1, 2019, a
8 taxpayer who has been awarded a credit by the Department of
9 Commerce and Economic Opportunity under Section 605-1025 of the
10 Department of Commerce and Economic Opportunity Law of the
11 Civil Administrative Code of Illinois is entitled to a credit
12 against the taxes imposed under subsections (a) and (b) of
13 Section 201 of this Act. The amount of the credit shall be 20%
14 of the wages paid during the taxable year to a full-time or
15 part-time employee of a construction contractor employed by a
16 certified data center if those wages are paid for the
17 construction of a new data center in a geographic area that
18 meets any one of the following criteria:

19 (1) the area has a poverty rate of at least 20%,
20 according to the latest federal decennial census;

21 (2) 75% or more of the children in the area participate
22 in the federal free lunch program, according to reported
23 statistics from the State Board of Education;

24 (3) 20% or more of the households in the area receive

1 assistance under the Supplemental Nutrition Assistance
2 Program (SNAP); or

3 (4) the area has an average unemployment rate, as
4 determined by the Department of Employment Security, that
5 is more than 120% of the national unemployment average, as
6 determined by the U.S. Department of Labor, for a period of
7 at least 2 consecutive calendar years preceding the date of
8 the application.

9 If the taxpayer is a partnership, a Subchapter S
10 corporation, or a limited liability company that has elected
11 partnership tax treatment, the credit shall be allowed to the
12 partners, shareholders, or members in accordance with the
13 determination of income and distributive share of income under
14 Sections 702 and 704 and subchapter S of the Internal Revenue
15 Code, as applicable. The Department, in cooperation with the
16 Department of Commerce and Economic Opportunity, shall adopt
17 rules to enforce and administer this Section. This Section is
18 exempt from the provisions of Section 250 of this Act.

19 (b) In no event shall a credit under this Section reduce
20 the taxpayer's liability to less than zero. If the amount of
21 the credit exceeds the tax liability for the year, the excess
22 may be carried forward and applied to the tax liability of the
23 5 taxable years following the excess credit year. The tax
24 credit shall be applied to the earliest year for which there is
25 a tax liability. If there are credits for more than one year
26 that are available to offset a liability, the earlier credit

1 shall be applied first.

2 (c) No credit shall be allowed with respect to any
3 certification for any taxable year ending after the revocation
4 of the certification by the Department of Commerce and Economic
5 Opportunity. Upon receiving notification by the Department of
6 Commerce and Economic Opportunity of the revocation of
7 certification, the Department shall notify the taxpayer that no
8 credit is allowed for any taxable year ending after the
9 revocation date, as stated in such notification. If any credit
10 has been allowed with respect to a certification for a taxable
11 year ending after the revocation date, any refund paid to the
12 taxpayer for that taxable year shall, to the extent of that
13 credit allowed, be an erroneous refund within the meaning of
14 Section 912 of this Act."; and

15 on page 23, line 16, by replacing "Department" with "Department
16 of Commerce and Economic Opportunity"; and

17 on page 24, line 1, by replacing "Department" with "Department
18 of Commerce and Economic Opportunity"; and

19 on page 24, by replacing lines 3 and 4 with the following:

20 "Section 605-1025 of the Department of Commerce and Economic
21 Opportunity Law of the Civil Administrative Code of Illinois.";
22 and

1 on page 25, line 9, by replacing "Department" with "Department
2 of Commerce and Economic Opportunity"; and

3 on page 40, line 9, by replacing "Department" with "Department
4 of Commerce and Economic Opportunity"; and

5 on page 40, line 20, by replacing "Department" with "Department
6 of Commerce and Economic Opportunity"; and

7 on page 40, by replacing lines 22 and 23 with the following:
8 "Section 605-1025 of the Department of Commerce and Economic
9 Opportunity Law of the Civil Administrative Code of Illinois.";
10 and

11 on page 42, line 2, by replacing "Department" with "Department
12 of Commerce and Economic Opportunity"; and

13 on page 55, line 15, by replacing "Department" with "Department
14 of Commerce and Economic Opportunity"; and

15 on page 55, line 26, by replacing "Department" with "Department
16 of Commerce and Economic Opportunity"; and

17 on page 56, by replacing lines 2 and 3 with the following:
18 "Section 605-1025 of the Department of Commerce and Economic
19 Opportunity Law of the Civil Administrative Code of Illinois.";

1 and

2 on page 57, line 8, by replacing "Department" with "Department
3 of Commerce and Economic Opportunity"; and

4 on page 78, line 17, by replacing "Department" with "Department
5 of Commerce and Economic Opportunity"; and

6 on page 79, line 3, by replacing "Department" with "Department
7 of Commerce and Economic Opportunity"; and

8 on page 79, by replacing lines 5 and 6 with the following:

9 "Section 605-1025 of the Department of Commerce and Economic
10 Opportunity Law of the Civil Administrative Code of Illinois.";

11 and

12 on page 80, line 12, by replacing "Department" with "Department
13 of Commerce and Economic Opportunity".