



Rep. Mark L. Walker

Filed: 5/14/2021

10200SB2182ham001

LRB102 16377 JWD 26541 a

1 AMENDMENT TO SENATE BILL 2182

2 AMENDMENT NO. _____. Amend Senate Bill 2182 by replacing
3 everything after the enacting clause with the following:

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

7 (20 ILCS 605/605-1025)

8 Sec. 605-1025. Data center investment.

9 (a) The Department shall issue certificates of exemption
10 from the Retailers' Occupation Tax Act, the Use Tax Act, the
11 Service Use Tax Act, and the Service Occupation Tax Act, all
12 locally-imposed retailers' occupation taxes administered and
13 collected by the Department, the Chicago non-titled Use Tax,
14 and a credit certification against the taxes imposed under
15 subsections (a) and (b) of Section 201 of the Illinois Income
16 Tax Act to qualifying Illinois data centers.

1 (b) For taxable years beginning on or after January 1,
2 2019, the Department shall award credits against the taxes
3 imposed under subsections (a) and (b) of Section 201 of the
4 Illinois Income Tax Act as provided in Section 229 of the
5 Illinois Income Tax Act.

6 (c) For purposes of this Section:

7 "Data center" means a facility: (1) whose primary
8 services are the storage, management, and processing of
9 digital data; and (2) that is used to house (i) computer
10 and network systems, including associated components such
11 as servers, network equipment and appliances,
12 telecommunications, and data storage systems, (ii) systems
13 for monitoring and managing infrastructure performance,
14 (iii) Internet-related equipment and services, (iv) data
15 communications connections, (v) environmental controls,
16 (vi) fire protection systems, and (vii) security systems
17 and services.

18 "Qualifying Illinois data center" means a new or
19 existing data center that:

20 (1) is located in the State of Illinois, is
21 located within a 5-mile geographic radius, and is
22 connected by common infrastructure;

23 (2) in the case of an existing data center, made a
24 capital investment of at least \$250,000,000
25 collectively by the data center operator and the
26 tenants of the data center over the 60-month period

1 immediately prior to January 1, 2020 or committed to
2 make a capital investment of at least \$250,000,000
3 over a 60-month period commencing before January 1,
4 2020 and ending after January 1, 2020; or

5 (3) in the case of a new data center, or an
6 existing data center making an upgrade, makes a
7 capital investment of at least \$250,000,000 over a
8 60-month period beginning on or after January 1, 2020;
9 and

10 (4) in the case of both existing and new data
11 centers, results in the creation of at least 20
12 full-time or full-time equivalent new jobs over a
13 period of 60 months by the data center operator and the
14 tenants of the data center, collectively, associated
15 with the ~~operation or maintenance of the~~ data center;
16 all jobs associated with a qualifying data center
17 meeting its job creation requirements ~~those jobs~~ must
18 have a total compensation equal to or greater than
19 120% of the average wage paid to full-time employees
20 in the county where the data center is located, as
21 determined by the U.S. Bureau of Labor Statistics; and

22 (5) within 2 years ~~90 days~~ after being placed in
23 service, certifies to the Department that it is carbon
24 neutral or has attained certification under one or
25 more of the following green building standards:

26 (A) BREEAM for New Construction or BREEAM

1 In-Use;

2 (B) ENERGY STAR;

3 (C) Envision;

4 (D) ISO 50001-energy management;

5 (E) LEED for Building Design and Construction
6 or LEED for Operations and Maintenance;

7 (F) Green Globes for New Construction or Green
8 Globes for Existing Buildings;

9 (G) UL 3223; or

10 (H) an equivalent program approved by the
11 Department of Commerce and Economic Opportunity,
12 except that entering into an agreement with an
13 independent business or entity unrelated to the
14 data center for the purchase, sale, or transfer of
15 carbon credits that would not result in carbon
16 neutral outcomes at the actual site of the data
17 center shall not qualify as an eligible program
18 for the purposes of this Section.

19 "Full-time equivalent job" means a job in which the
20 new employee works for the owner, operator, contractor, or
21 tenant of a data center or for a corporation under
22 contract with the owner, operator or tenant of a data
23 center at a rate of at least 35 hours per week. An owner,
24 operator or tenant who employs labor or services at a
25 specific site or facility under contract with another may
26 declare one full-time, permanent job for every 1,820 man

1 hours worked per year under that contract. Vacations, paid
2 holidays, and sick time are included in this computation.
3 Overtime is not considered a part of regular hours.

4 "Qualified tangible personal property" means:
5 electrical systems and equipment; climate control and
6 chilling equipment and systems; mechanical systems and
7 equipment; monitoring and secure systems; emergency
8 generators; hardware; computers; servers; data storage
9 devices; network connectivity equipment; racks; cabinets;
10 telecommunications cabling infrastructure; raised floor
11 systems; peripheral components or systems; software;
12 mechanical, electrical, or plumbing systems; battery
13 systems; cooling systems and towers; temperature control
14 systems; other cabling; and other data center
15 infrastructure equipment and systems necessary to operate
16 qualified tangible personal property, including fixtures;
17 and component parts of any of the foregoing, including
18 installation, maintenance, repair, refurbishment, and
19 replacement of qualified tangible personal property to
20 generate, transform, transmit, distribute, or manage
21 electricity necessary to operate qualified tangible
22 personal property; and all other tangible personal
23 property that is essential to the operations of a computer
24 data center. "Qualified tangible personal property" also
25 includes building materials physically incorporated in to
26 the qualifying data center.

1 "Tenant" means an entity that leases, subleases, or
2 licenses with the owner or operator of a qualified data
3 center that is certified under this Section to use or
4 occupy all or part of the data center for a period of at
5 least one year.

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

9 (d) New and existing data centers seeking a certificate of
10 exemption for new or existing facilities shall apply to the
11 Department in the manner specified by the Department. The
12 Department shall determine the duration of the certificate of
13 exemption awarded under this Act. The duration of the
14 certificate of exemption may not exceed 20 calendar years. The
15 Department and any data center seeking the exemption,
16 including a data center operator on behalf of itself and its
17 tenants, must enter into a memorandum of understanding that at
18 a minimum provides:

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

21 (2) the number of new jobs created;

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

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

1 exemption will be required;

2 (5) the duration of the exemption; and

3 (6) other provisions as deemed necessary by the
4 Department.

5 A data center and an associated tenant may also enter into
6 an ancillary memorandum of understanding, as prescribed by the
7 Department, for purposes of receipt of the exemption.

8 (e) Beginning July 1, 2021, and each year thereafter, the
9 Department shall annually report to the Governor and the
10 General Assembly on the outcomes and effectiveness of Public
11 Act 101-31 that shall include the following:

12 (1) the name of each recipient business;

13 (2) the location of the project;

14 (3) the estimated value of the credit;

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

17 (5) whether or not the project is located in an
18 underserved area.

19 (f) New and existing data centers seeking a certificate of
20 exemption related to the rehabilitation or construction of
21 data centers in the State shall require the contractor and all
22 subcontractors to comply with the requirements of Section
23 30-22 of the Illinois Procurement Code as they apply to
24 responsible bidders and to present satisfactory evidence of
25 that compliance to the Department.

26 (g) New and existing data centers seeking a certificate of

1 exemption for the rehabilitation or construction of data
2 centers in the State shall require the contractor to enter
3 into a project labor agreement approved by the Department.
4 Within 180 days after the effective date of this amendatory
5 Act of the 120nd General Assembly, all new and existing data
6 centers seeking a certificate of exemption under this Section
7 shall require the contractor to enter into a labor peace
8 agreement with any union representing workers who operate and
9 maintain a critical system or equipment used or maintained by
10 the data center. For purposes of this subsection, "critical
11 system or equipment" includes, but is not limited to, pumps,
12 chillers and coolers, fire line safety equipment, backup power
13 generators, building automation system controls, and water
14 treatment systems.

15 (h) Any qualifying data center issued a certificate of
16 exemption under this Section must annually report to the
17 Department the total data center tax benefits that are
18 received by the business. Reports are due no later than May 31
19 of each year and shall cover the previous calendar year. The
20 first report is for the 2019 calendar year and is due no later
21 than May 31, 2020.

22 To the extent that a business issued a certificate of
23 exemption under this Section has obtained an Enterprise Zone
24 Building Materials Exemption Certificate or a High Impact
25 Business Building Materials Exemption Certificate, no
26 additional reporting for those building materials exemption

1 benefits is required under this Section.

2 Failure to file a report under this subsection (h) may
3 result in suspension or revocation of the certificate of
4 exemption. Factors to be considered in determining whether a
5 data center certificate of exemption shall be suspended or
6 revoked include, but are not limited to, prior compliance with
7 the reporting requirements, cooperation in discontinuing and
8 correcting violations, the extent of the violation, and
9 whether the violation was willful or inadvertent.

10 (i) The Department shall not issue any new certificates of
11 exemption under the provisions of this Section after July 1,
12 2029. This sunset shall not affect any existing certificates
13 of exemption in effect on July 1, 2029.

14 (j) The Department shall adopt rules to implement and
15 administer this Section.

16 (k) The Department is authorized to conform existing
17 memorandums of understanding with the provisions of this
18 Section.

19 (Source: P.A. 101-31, eff. 6-28-19; 101-604, eff. 12-13-19.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."