SB4203

LRB10421817HLH37562b

104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB4203

Introduced 5/13/2026, by Sen. Sue Rezin

SYNOPSIS AS INTRODUCED:

20 ILCS 605/605-1025

Amends the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois. In provisions concerning data center incentives, provides that, as a condition of receiving and maintaining a data center certificate of exemption, the Department of Commerce and Economic Opportunity shall require that the qualified data center operator execute and comply with a community benefit agreement with the host community in which the qualified data center is located. Provides that the community benefit agreement shall require the qualified data center operator to make annual minimum payments to the host community. Provides that the amount of the minimum host community payments may exceed but shall be at least 10% of the property tax that would have been levied against the qualified data center property, irrespective of any exemptions, abatements, or exclusions applicable to the property, for the year immediately preceding the year in which the community benefit agreement is entered into. Provides that not less than 50% of the amounts received from the special payments shall be used to provide payments, credits, rebates, or other financial benefits to eligible homestead property owners for the purpose of offsetting residential tax burdens. Effective immediately.

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A BILL FOR

AN ACT concerning revenue.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

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

(20 ILCS 605/605-1025)

Sec. 605-1025. Data center investment.

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

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

(c) For purposes of this Section:

"Data center" means a facility: (1) whose primary

services are the storage, management, and processing of digital data; and (2) that is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems, (ii) systems for monitoring and managing infrastructure performance, (iii) Internet-related equipment and services, (iv) data communications connections, (v) environmental controls, (vi) fire protection systems, and (vii) security systems and services.

"Eligible homestead property" means residential property that receives the general homestead exemption under Section 15-175 of the Property Tax Code for the applicable tax year.

"Host community" means the municipality or county that exercises zoning, land use, or primary permitting authority over the location of a qualified data center project. If the project is located within a municipality, then the host community is the municipality in which the project is located. If the project is located within an unincorporated area of a county, then the host community is the county in which the project is located.

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

(1) is located in the State of Illinois;

(2) in the case of an existing data center, made a

capital investment of at least $250,000,000 collectively by the data center operator and the tenants of the data center over the 60-month period immediately prior to January 1, 2020 or committed to make a capital investment of at least $250,000,000 over a 60-month period commencing before January 1, 2020 and ending after January 1, 2020; or

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

(4) in the case of both existing and new data centers, results in the creation of at least 20 full-time or full-time equivalent new jobs over a period of 60 months by the data center operator and the tenants of the data center, collectively, associated with the operation or maintenance of the data center; those jobs must have a total compensation equal to or greater than 120% of the average wage paid to full-time employees in the county where the data center is located, as determined by the U.S. Bureau of Labor Statistics; and

(5) within 2 years after being placed in service, certifies to the Department that it is carbon neutral or has attained certification under one or more of the

following green building standards:

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

(B) ENERGY STAR;

(C) Envision;

(D) ISO 50001-energy management;

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

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

(G) UL 3223; or

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

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

"Qualified tangible personal property" means: electrical systems and equipment; climate control and

chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center. "Qualified tangible personal property" also includes building materials physically incorporated in to the qualifying data center.

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

(d) New and existing data centers seeking a certificate of exemption for new or existing facilities shall apply to the

Department in the manner specified by the Department. The Department shall determine the duration of the certificate of exemption awarded under this Act. The duration of the certificate of exemption may not exceed 20 calendar years. The Department and any data center seeking the exemption, including a data center operator on behalf of itself and its tenants, must enter into a memorandum of understanding that at a minimum provides:

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

(2) the number of new jobs created;

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

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

(5) the duration of the exemption; and

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

(d-5) As a condition of receiving and maintaining a certificate of exemption under this Section, the Department shall require, through a memorandum of understanding entered into under this Section, that the qualified data center operator execute and comply with a community benefit agreement with the host community in which the qualified data center is

located.

The host community shall administer any benefit program established under this subsection and shall coordinate, as necessary, with affected taxing districts; provided, however, that the host community shall retain sole authority to establish the structure, methodology, and distribution of the program to the extent permitted by law.

The community benefit agreement shall require the qualified data center operator to make annual minimum payments to the host community in each taxable year in which the certificate of exemption under this Section is in effect. Those payments shall be in addition to, and shall not be credited against, any property taxes or other taxes or fees otherwise owed by the qualified data center or its operator.

Subject to the limitations set forth in this subsection, the amount of the community benefit payment shall be established in the community benefit agreement. It may be a fixed amount for the duration of the incentive period or it may be subject to adjustment based on factors memorialized in the community benefit agreement, including an annual rate adjustment equal to the annual percentage change in the Consumer Price Index, if negotiated.

The amount of the minimum host community payments may exceed but shall be at least 10% of the property tax that would have been levied against the qualified data center property, irrespective of any exemptions, abatements, or exclusions

applicable to the property, for the year immediately preceding the year in which the community benefit agreement is entered into.

The memorandum of understanding shall require the qualified data center operator to provide documentation sufficient to demonstrate compliance with this subsection. Failure to comply with the requirements of this subsection or the applicable community benefit agreement shall constitute a violation of the memorandum of understanding.

All host community payments received pursuant to this subsection shall be deposited into a segregated fund maintained by the host community and shall not be commingled with general corporate funds except as expressly authorized. Any host community payments negotiated in addition to those required under this subsection shall be similarly deposited into the segregated fund.

Not less than 50% of the amounts deposited into the fund in each fiscal year, and any greater percentage specified in the community benefit agreement, shall be used exclusively to provide payments, credits, rebates, or other financial benefits to eligible homestead property owners, funded from revenues other than property taxes, for the purpose of offsetting residential tax burdens.

The benefits to eligible homestead property owners under this subsection shall be provided pursuant to a program established and administered by the host community. Those

benefits may take the form of rebates, credits, direct payments, or other mechanisms authorized by law that are funded from revenues other than property taxes and that do not alter assessed valuation, tax rates, or equalization factors under the Property Tax Code.

Benefits shall be distributed in a uniform and nondiscriminatory manner among all owners of eligible homestead property within the jurisdiction on a consistent basis. The host community shall adopt an ordinance or resolution establishing the program no later than 180 days after the first host community payment is received under this subsection.

Nothing in this subsection shall be construed to impose, authorize, or modify any property tax, classification of property for taxation, or the levy, extension, or collection of property taxes under the Property Tax Code.

Failure to comply with this subsection or the applicable community benefit agreement shall be grounds for suspension, revocation, or recapture of the certificate of exemption, in whole or in part, consistent with this Section and the memorandum of understanding.

Each host community that receives payments under this subsection shall prepare and make publicly available an annual report and shall file those reports with the Department in the form and manner prescribed by the Department by rule.

(e) Beginning July 1, 2021, and each year thereafter, the

Department shall annually report to the Governor and the General Assembly on the outcomes and effectiveness of Public Act 101-31 that shall include the following:

(1) the name of each recipient business;

(2) the location of the project;

(3) the estimated value of the credit;

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

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

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

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

(h) Any qualifying data center issued a certificate of exemption under this Section must annually report to the Department the total data center tax benefits that are received by the business. Reports are due no later than May 31 of each year and shall cover the previous calendar year. The

first report is for the 2019 calendar year and is due no later than May 31, 2020.

To the extent that a business issued a certificate of exemption under this Section has obtained an Enterprise Zone Building Materials Exemption Certificate or a High Impact Business Building Materials Exemption Certificate, no additional reporting for those building materials exemption benefits is required under this Section.

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

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

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

(Source: P.A. 101-31, eff. 6-28-19; 101-604, eff. 12-13-19; 102-427, eff. 8-20-21; 102-558, eff. 8-20-21.)

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