

# SB3167



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3167

Introduced 2/6/2024, by Sen. Patrick J. Joyce

### SYNOPSIS AS INTRODUCED:

20 ILCS 605/605-1025

Amends the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois. Provides that certain reports concerning data centers are due no later than June 15 (currently, May 31) of each year. Effective immediately.

LRB103 37386 HLH 67507 b

A BILL FOR

1 AN ACT concerning regulation.

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

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.

17 (b) For taxable years beginning on or after January 1,  
18 2019, the Department shall award credits against the taxes  
19 imposed under subsections (a) and (b) of Section 201 of the  
20 Illinois Income Tax Act as provided in Section 229 of the  
21 Illinois Income Tax Act.

22 (c) For purposes of this Section:

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

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

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

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

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

22 (3) in the case of a new data center, or an  
23 existing data center making an upgrade, makes a  
24 capital investment of at least \$250,000,000 over a  
25 60-month period beginning on or after January 1, 2020;  
26 and

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

12           (5) within 2 years after being placed in service,  
13 certifies to the Department that it is carbon neutral  
14 or has attained certification under one or more of the  
15 following green building standards:

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

18                   (B) ENERGY STAR;

19                   (C) Envision;

20                   (D) ISO 50001-energy management;

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

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

25                   (G) UL 3223; or

26                   (H) an equivalent program approved by the

1 Department of Commerce and Economic Opportunity.

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

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

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

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

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

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

25 (2) the number of new jobs created;

26 (3) the timeline for achieving the capital investment

1 and new job goals;

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

6 (5) the duration of the exemption; and

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

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

13 (1) the name of each recipient business;

14 (2) the location of the project;

15 (3) the estimated value of the credit;

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

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

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

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

5 (h) Any qualifying data center issued a certificate of  
6 exemption under this Section must annually report to the  
7 Department the total data center tax benefits that are  
8 received by the business. Reports are due no later than June 15  
9 ~~May 31~~ of each year and shall cover the previous calendar year.  
10 The first report is for the 2019 calendar year and is due no  
11 later than May 31, 2020.

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

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

26 (i) The Department shall not issue any new certificates of



1 exemption under the provisions of this Section after July 1,  
2 2029. This sunset shall not affect any existing certificates  
3 of exemption in effect on July 1, 2029.

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

6 (Source: P.A. 101-31, eff. 6-28-19; 101-604, eff. 12-13-19;  
7 102-427, eff. 8-20-21; 102-558, eff. 8-20-21.)

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