

Legislative Analysis



EXEMPT ENTERPRISE DATA CENTERS FROM SALES AND USE TAXES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5127 (proposed substitute H-3)
Sponsor: Rep. Bronna Kahle

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5128 (proposed substitute H-3)
Sponsor: Rep. Rebekah Warren

Committee: Commerce and Tourism
Revised 11-6-19

SUMMARY:

House Bills 5127 and 5128 would amend the Use Tax Act and the General Sales Tax Act, respectively, to exempt an *enterprise data center* from sales and use taxes by including them in the exemption currently applied to data center equipment that is sold to, or used by, a qualified data center.¹ The bills would also extend the qualified data center exemption for twenty more years, to expire in 2055 rather than 2035.

Under the bills, *enterprise data center* would mean a facility composed of one or more buildings located in Michigan that meets all of the following requirements:

- The facility is composed of one or more buildings located in the same county, township, city, or village.
- The facility is owned and operated by an entity operating a group of networked computers to centralize data storage and processing of the entity's own data.
- The *initial capital investment* in the facility is at least \$250.0 million. (*Initial capital investment* would mean the investment in a facility in this state that is in excess of any or all investment that the facility maintained in this state before the facility's creation or expansion.)
- The facility creates and maintains at least 30 *qualified new jobs* at wage rates that exceed 120% of the average annual wage for the county where the facility is located, based on the most recent data made available by the Michigan Bureau of Labor Market Information and Strategic Initiatives. (*Qualified new jobs* would mean full-time jobs created by the facility in this state that are in excess of the number of full-time jobs that the facility maintained in this state before the facility's creation or expansion.)

The bills would amend the definition of "qualified data center" to include an enterprise data center beginning on the effective date of the applicable bill, thus entitling an enterprise data center to the same exemption for data center equipment sold to or used by a qualified data center.

¹ This exemption was added by 2015 PAs 251 and 252. See: <http://legislature.mi.gov/doc.aspx?2015-SB-0616>

In addition, the bills would extend the sunset (expiration date) of the exemption for qualified data centers from December 31, 2035, to December 31, 2055.

In order for the exemption under each act to continue to apply, local economic development centers must certify and report information in 2022 and 2026 on the number of jobs created by qualified data centers since January 1, 2016, to determine whether the qualified data centers are meeting certain employment requirements. The bills would also require the information gathered and reported to include information regarding the wages paid for these jobs.

Each bill would take effect 90 days after its enactment.

MCL 205.94cc (HB 5127) and MCL 205.54ee (HB 5128)

FISCAL IMPACT:

To the extent that an entity qualifies as an enterprise data center, sales and use tax revenue would decline relative to current law. However, without knowing the amount of capital investment that would qualify under the bills, the extent of the revenue loss cannot be determined. Purely as a frame of reference, 6% of \$250 million is \$15 million.

About 73% of sales tax revenue is earmarked to the School Aid Fund, and an additional 10% is dedicated to constitutional revenue sharing. The remainder accrues to the general fund. Similarly, one-third of use tax revenue is earmarked to the School Aid Fund, while the remainder accrues to the general fund. It is anticipated that most of the revenue loss would be sales taxes as opposed to use taxes.

The stipulation that wages must exceed the average county wage by at least 120% is unlikely to have a significant economic impact. The highest average county wage in 2018 was just under \$63,000 (Oakland County), the lowest was just under \$26,000 (Keweenaw County), and the overall average was \$53,800. In contrast, the statewide average wage in 2018 for computer systems analysts was \$83,900, almost 30% higher than 120% of the average statewide annual wage. While some specific employees might benefit from this provision, it would not be expected to have wide-ranging effects.

Legislative Analyst: Nick Kelly
Fiscal Analyst: Jim Stansell

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.