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## DIGEST

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HB 827 Reengrossed

2024 Regular Session

Turner

**Abstract:** Authorizes state and local sales and use tax rebates for purchases by, and other expenditures on, qualified data centers.

Present law provides that certain winning bidders in the Federal Communications Commission's Rural Digital Opportunity Fund Auction shall be eligible for a rebate of state and local sales and use taxes paid by those bidders on fiber-optic cable equipment used to distribute fixed and mobile broadband networks to eligible rural unserved areas in La. Establishes that the amount of the rebate is 50% of the sales and use tax paid by the bidder on fiber-optic cable equipment. Proposed law retains present law.

Proposed law institutes the terms "approved data center facility", "data center", "data center facility", and "data center equipment" and defines those terms for purposes of proposed law.

Proposed law authorizes a new state and local sales and use tax rebate for all of the following for entities certified by the Dept. of Economic Development, in accordance with proposed law, as approved data center facilities:

- (1) Sales and use tax paid on purchases of eligible data center equipment.
- (2) Sales and use tax paid on expenditures for development, acquisition, construction, lease, repair, refurbishment, expansion, and renovation of a qualified data center.

Proposed law provides that the new rebate established therein shall apply exclusively to qualifying purchases made on or after July 1, 2024.

Proposed law stipulates that in order to be certified as an approved data center by the Dept. of Economic Development, the data center facility operator shall provide a sworn attestation that the project will create a minimum of 50 new direct, permanent jobs in La. and intends to expend at least \$200,000,000 in new capital investment in La. on or after July 1, 2024, and before July 1, 2029.

Proposed law requires that each approved data center be issued a direct payment number in accordance with present law, thereby allowing those entities to remit sales tax on purchases directly to the state and to political subdivisions.

Proposed law requires facilities that have been certified as approved data center facilities to enter into an agreement with the Dept. of Economic Development that comports with the following

requirements:

- (1) It provides a term of rebate eligibility, with an initial term of 20 years.
- (2) It contains a list of all eligible recipients of the rebate.
- (3) It contains language that authorizes the state to terminate the agreement and recapture any rebates if the data center facility fails to fulfill, or the Dept. of Economic Development determines that the facility will be unable to fulfill, its statutory and contractual obligations.

Proposed law provides that upon the expiration of the initial term of rebate eligibility, the Dept. of Economic Development may renew the agreement for an additional ten years.

Proposed law authorizes the Dept. of Economic Development to include in agreements with approved data center facilities any additional conditions it deems appropriate.

Proposed law authorizes the Dept. of Revenue to utilize any collection remedy authorized by present law for any rebates subject to recapture based on termination of the agreement with the Dept. of Economic Development or a determination that a purchase did not qualify for a rebate. Requires that if a rebate is subject to recapture, the approved data center facility shall reimburse the Dept. of Revenue or its agent for any costs incurred.

Proposed law requires the Dept. of Revenue and the La. Uniform Local Sales Tax Board to promulgate rules for administering, respectively, the state tax rebate and the local tax rebate provided for in proposed law.

Effective July 1, 2024.

(Amends R.S. 47:305.73; Adds R.S. 47:303.1(B)(5))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Repeal present law authorizing a local sales and use tax rebate on the sale of certain communications equipment. Repeal corresponding provisions of present law relative to administration of the local sales and use tax rebate.
2. Repeal present law limiting eligibility for a sales and use tax rebate on purchases of certain communications equipment to winning bidders in the Rural Digital Opportunity Fund Auction held by the Federal Communications Commission.
3. Repeal from present law the defined term "fiber-optic cable equipment" and its corresponding definition.

4. Institute the terms "broadband communications service", "communications provider", and "equipment used to provide broadband communications service" and define those terms for purposes of proposed law.
5. Authorize a rebate of state sales and use taxes paid by communications providers on purchases of equipment used to provide broadband communications services.
6. Increase the rebate amount authorized in present law from 50% of state sales taxes paid on eligible purchases to 100% of state sales taxes paid on such purchases.
7. Revise a prohibition in present law on rebates for purchases of fiber-optic cable equipment that are paid for with state or federal funds, except in cases where the state or federal funds are reported as taxable income or are structured as repayable loans. Provide instead for a general prohibition on rebates for purchases of equipment paid for with state or federal funds.
8. Revise present law relative to administration of the state sales tax rebate by the Dept. of Revenue to require that the method for processing and paying rebate claims be established in administrative rules of the department. Authorize the department to provide for a first-come, first-served system or other method which the department, in its discretion, may find beneficial for administration of the rebate.
9. Provide that in any fiscal year, the total amount of state sales and use tax rebates paid pursuant to proposed law shall not exceed \$15,000,000.
10. Stipulate that within the \$15,000,000 per fiscal year limit on rebates established by proposed law, the amount of rebates paid for purchases of equipment used to provide broadband communications service outside of an unserved area shall not exceed \$3,000,000 in any fiscal year. Provide that the purpose of this limitation is to reserve up to 80% of the total amount of authorized rebates as incentives for communications providers to furnish broadband communications service in unserved areas.
11. Stipulate that if the total amount of rebates requested for a fiscal year exceeds the \$15,000,000 limit or \$3,000,000 limit provided in proposed law, the excess shall be treated as having been requested on the first day of the subsequent fiscal year.
12. Prohibit the payment of any rebate authorized by proposed law after June 30, 2027.
13. Provide that proposed law shall become effective on July 1, 2024.
14. Make technical changes.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Restore present law providing for the defined terms "fiber-optic cable equipment" and "unserved area".
2. Restore present law authorizing both a state sales and use tax rebate and a local sales and use tax rebate on the sale of fiber-optic cable equipment to certain purchasers. Restore present law providing that the amount of this rebate shall equal 50% of the sales and use tax paid on the fiber-optic cable equipment.
3. Restore present law limiting eligibility for the sales and use tax rebate on purchases of fiber-optic cable equipment to winning bidders in the Rural Digital Opportunity Fund Auction held by the Federal Communications Commission. Restore present law providing other limitations and restrictions applicable to this rebate.
4. Restore present law requiring that requests for the rebate of local sales and use taxes authorized by present law and proposed law be processed by the appropriate local taxing authority.
5. Restore present law authorizing the La. Uniform Local Sales Tax Board to promulgate administrative rules as necessary for implementation of the local sales and use tax rebate on purchases of fiber-optic cable equipment.
6. Delete from proposed law the defined terms "broadband communications service", "communications provider", and "equipment used to provide broadband communications service" and their corresponding definitions.
7. Delete proposed law authorizing a rebate of state sales and use taxes paid by certain communications providers on purchases of equipment used to provide broadband communications services.
8. Institute the terms "approved data center facility", "data center", "data center facility", and "data center equipment" and define those terms for purposes of proposed law.
9. Authorize a new state and local sales and use tax rebate for all of the following for entities certified as approved data center facilities by the Dept. of Economic Development in accordance with proposed law:
  - a. Sales and use tax paid on purchases of eligible data center equipment.
  - b. Sales and use tax paid on expenditures for development, acquisition, construction, lease, repair, refurbishment, expansion, and renovation of a qualified data center.
10. Provide that the new rebate established by proposed law shall apply exclusively to qualifying purchases made on or after July 1, 2024.

11. Stipulate that in order to be certified as an approved data center by the Dept. of Economic Development, the data center facility operator shall provide a sworn attestation that the project will create a minimum of 50 new direct, permanent jobs in La. and intends to expend at least \$200,000,000 in new capital investment in La. on or after July 1, 2024, and before July 1, 2029.
12. Require that each approved data center be issued a direct payment number in accordance with present law, thereby allowing those entities to remit sales tax on purchases directly to the state and to political subdivisions.
13. Require facilities that have been certified as approved data center facilities to enter into an agreement with the Dept. of Economic Development that comports with the following requirements:
  - a. It provides a term of rebate eligibility, with an initial term of 20 years.
  - b. It contains a list of all eligible recipients of the rebate.
  - c. It contains language that authorizes the state to terminate the agreement and recapture any rebates if the data center facility fails to fulfill, or the Dept. of Economic Development determines that the facility will be unable to fulfill, its statutory and contractual obligations.
14. Provide that upon the expiration of the initial term of rebate eligibility, the Dept. of Economic Development may renew the agreement for an additional ten years.
15. Authorize the Dept. of Economic Development to include in agreements with approved data center facilities any additional conditions it deems appropriate.
16. Authorize the Dept. of Revenue to utilize any collection remedy authorized by present law for any rebates subject to recapture based on termination of the agreement with the Dept. of Economic Development or a determination that a purchase did not qualify for a rebate. Require that if a rebate is subject to recapture, the approved data center facility shall reimburse the Dept. of Revenue or its agent for any costs incurred.
17. Require the Dept. of Revenue and the La. Uniform Local Sales Tax Board to promulgate rules for administering, respectively, the state tax rebate and the local tax rebate provided for in proposed law.
18. Delete proposed law establishing a monetary cap on rebates to be paid annually pursuant to proposed law.
19. Delete proposed law requiring that a certain percentage of the overall amount of rebates be reserved annually for purchases of equipment used to provide broadband communications service in unserved areas.

20. Delete termination provisions of proposed law which would have prohibited the payment of any rebate authorized by proposed law after June 30, 2027.
21. Make technical changes.